

**BEFORE HEARINGS COMMISISONERS APPOINTED
BY THE FAR NORTH DISCRIT COUNCIL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions on the Proposed
Far North District Plan

SUBMITTER Waipapa Pine Limited and Adrian Broughton Trust
[Novated to Fletcher Building Limited]

HEARING TOPIC: Hearing 6/7 – General District-Wide Matters and
GMO's

STATEMENT OF PLANNING EVIDENCE OF ANDREW CHRISTOPHER MCPHEE

7 October 2024

INTRODUCTION

1. My name is Andrew Christopher McPhee. I am a Director / Consultant Planner at Sanson and Associates Limited and Bay of Islands Planning (2022) Limited.
2. I have been engaged by Waipapa Pine Limited¹ (**WPL**) to provide evidence in support of its submission to the Proposed Far North District Plan (**PDP**). WPL is a wholly owned subsidiary of Fletcher Building Limited.
3. Waipapa Pine Limited and Adrian Broughton Trust transferred representation rights to Fletcher Building in a letter to Council on 4 September 2024, following a sale and purchase of the business agreement (see Attachment 1).
4. I note that while the Environment Court Code of Conduct does not apply to a Council hearing, I am familiar with the principles of the code and have followed these in preparing this evidence.

QUALIFICATIONS AND EXPERIENCE

5. I graduated from The University of Auckland in 2007 with a Bachelor of Planning (Honours).
6. I began my planning career with Boffa Miskell, where I was a graduate planner until 2009. The same year I joined the Auckland Regional Council in the Policy Implementation Team. When the Auckland Councils amalgamated in 2010, I worked in a number of planning roles, leaving in 2015 as a Principal Planner in the Central and Island Planning Team.
7. I joined the Far North District Council (**FNDC**) in 2015 as a Senior Policy Planner working principally on the review of the district plan. I left FNDC in December 2023 and joined Sanson and Associates Limited and Bay of Islands Planning (2022) Limited with my co-director Steven Sanson.
8. I have been involved in a number of plan change and resource consent hearing processes in my time at Auckland Council, including as the planning lead for a number of topics for the Auckland Unitary Plan process. At FNDC I project managed private plan change 22 and was the portfolio lead for a number of topics for the PDP.
9. I am a full member of the New Zealand Planning Institute and a member of the Resource Management Law Association. In February 2024, I was certified with excellence as a commissioner under the Ministry for the Environment's Making Good Decisions programme.

¹ Submission 342 was originally lodged by Waipapa Pine Limited and Adrian Broughton Trust

SCOPE OF EVIDENCE

10. Hearing 6/7 addresses submission points relating to the PDP - General District-Wide Matters and GMO topics. The s42A reports splits these matters into five reports in line with the structure of the PDP.
 - a) Earthworks
 - b) Light and Noise
 - c) Signs
 - d) Temporary Activities
 - e) Genetically Modified Organisms
11. I have been asked by WPL to provide expert planning evidence arising from their submission relating to Noise as it applies to the Heavy Industrial zone. Specifically, the change in approach proposed by the s42 officer's recommended amendments to the Noise chapter in relation to 'NOISE-S1 – General noise rules applying to noise emitted from all zones and overlays (unless provided for by a specific standard elsewhere)'.
12. Consideration of NOISE-S1 stems from the application of 'NOISE-R1 - Emission of noise (not otherwise provided for in this chapter)'.
13. In preparing this evidence, I have reviewed the s42A report Noise and Lighting, along with the supplementary report prepared by Marshall Day² [Report 2]. I have adhered to the instructions of hearing Minute 1 'take a lead from the s42A Report in terms of content of evidence, specifically that evidence highlights areas of agreement and disagreement with the s42A Report, outlines any changes in Plan wording proposed (along with the rationale for these changes) together with an assessment pursuant to S32AA of the RMA'.

PDP FRAMEWORK FOR NOISE

14. The Noise chapter in the PDP acknowledges in the Overview that *"It is important that noise and noise-generating activities are managed to a level that is appropriate and of a level that is generally accepted across different environments. There is a tension between enabling noise-generating activities and those activities that are sensitive to noise. The noise controls and standards focus on noise limits that are appropriate for each zone and for specific activities."*
15. The objectives and policies in the Noise chapter provide a framework for the rules that follow and importantly recognise the following outcomes through the objectives:

²Far North District Council – Proposed District Plan Review of Submissions 20 June 2024

- That the noise effects generated are compatible with the role, function and character of each zone;
- That noise sensitive activities are designed and/or located to minimise conflict and reverse sensitivity effects.

16. As notified, NOISE S1 controls the maximum noise levels from specific zones. In respect of the Heavy Industrial zone, noise limits specified must not exceed limits within the General Residential zone, or within the notional boundary of any noise sensitive activity within the Rural Production, Rural Lifestyle, Rural Residential, Settlement, Horticulture, or Māori Purpose zones. The limits as notified are:

Heavy Industrial zone

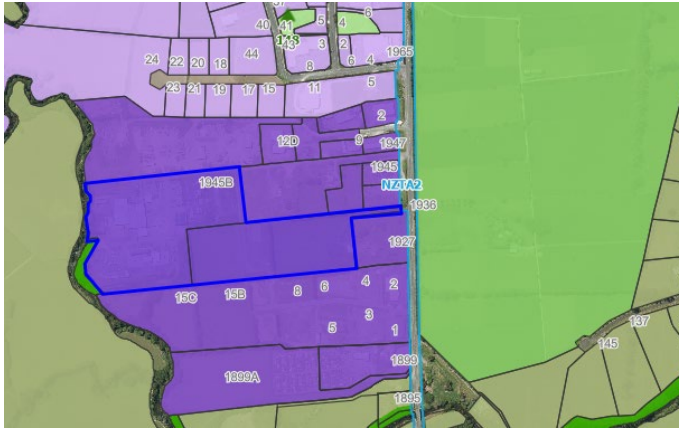
**Horticulture
Processing zone**

1. Noise generated by any activity shall not exceed the following limits at any point within another site in the zone:
 - a. All times - 75 dB L_{Aeq} (15min)
2. Noise generated by any activity shall not exceed the following limits at any point within the boundary of any sites in the General Residential zone, or the notional boundary of any noise sensitive activity within the Rural Production, Rural Lifestyle, Rural Residential, Settlement, Horticulture, or Māori Purpose zones:
 - a. 7.00 am to 10.00 pm - 55 dB L_{Aeq} (15min);
 - b. 10.00 pm to 7.00 am - 40 dB L_{Aeq} (15 min); and
 - c. 10.00 pm to 7.00 am - 75 dB L_{Amax}.

SECTION 42A RECOMMENDATIONS

17. The section 42A report accepts the recommendations of the Marshall Day Report³ [Report 2] which applies noise limits on receiving boundaries and notional boundaries to a larger suite of zones than previously notified in the PDP, including the Open Space zone and the Sport and Active Recreation zone.
18. The change in approach, through the inclusion of the Open Space zone and Sport and Active Recreation zone, has a direct effect on the land owned by WPL as well as other landowners within the Heavy Industrial zoned land in Waipapa:
- On the western boundary of the WPL owned land, Open Space zone (isolated); and
 - On the opposite side of State Highway 10 to the east, Sport and Active Recreation zone.

³ Ibid



INCONSISTENCIES IN THE S42A REPORT

19. The s42A Report [para 122] states that the report writer concurs with the technical advice provided by Mr Ibbotson as it relates to NOISE-S1 [Report 2]. In relation to the Heavy Industrial zone, there are inconsistencies in the s42A Report with the recommendations from the Marshall Day Report⁴ for NOISE-S1 (Highlighted yellow).

NOISE-S1	Marshall Day Report	S42 Report
<p>Receiving zone</p> <p>General Residential, Maori Purpose – Urban, Kororareka Russell Township, Hospital, Quail Ridge, Natural Open Space</p>	<p>c) Noise generated in the Hospital or Heavy Industrial zones or Mineral Extraction Overlays:</p> <p>Noise shall not exceed the following rating noise levels at any point within the receiving property boundary:</p> <p>7.00 am to 10.00 pm (daytime): 55 dB LAeq</p> <p>10.00 pm to 7.00 am (night-time): 45 dB LAeq and 75 dB LAFmax</p>	<p>c) Noise generated in the Hospital or Heavy Industrial zones or Mineral Extraction Overlays:</p> <p>Noise shall not exceed the following rating noise levels at any point within the receiving property boundary:</p> <p>7.00am to 10.00pm (daytime): 55 dB LAeq</p> <p>10.00pm to 7.00am (night-time): 46 db LAeq and 75 db LAFmax</p>
<p>Receiving zone</p> <p>Rural Production, Rural Lifestyle, Maori Purpose – Rural, Horticulture, Moturoa Island, Kauri Cliffs, Ngawha Innovation and Enterprise Park, Settlement</p>	<p>f) Noise generated in the Hospital or Heavy Industrial zones or in Mineral Extraction Overlays:</p> <p>Noise shall not exceed the following rating noise levels within the notional boundary</p>	<p>f) Noise generated in the Hospital or Heave Industrial zones or in Mineral Extraction Overlays:</p> <p>Noise shall not exceed the following rating noise levels within the notional boundary of</p>

⁴ Ibid

	of any noise sensitive activity within the receiving property: 7.00 am to 10.00 pm (daytime): 55 dB LAeq 10.00 pm to 7.00 am (night-time): 45 dB LAeq and 75 dB LAFmax	any noise sensitive activity within the receiving property: 7.00am to 10.00pm (daytime): 55 dB LAeq and 75 dB LAFmax
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20. Generally, the nighttime noise levels (10pm to 7am) in the s42A Report have been amended, or corrected, to align with the recommended levels in Report 2. It is noted that the notified NOISE-S1 provisions had a nighttime noise level on receiving environments of 40dB LAeq (10pm to 7am), which was inconsistent with the recommended levels in the Marshall Day Report⁵ of 45dB LAeq (10pm to 7am). The change to 45 dB LAeq for nighttime noise levels (10pm to 7am) in part satisfies the submission of WPL.

SUBMISSION 342 – WAIPAPA PINE LIMITED AND ADRIAN BROUGHTON TRUST

21. The submission addresses the objectives, policies, rules and standards within the Noise chapter. The submission contends that “A balance needs to be struck between enabling heavy industrial activities to be able to operate effectively and efficiently within the Zone, whilst ensuring that the potential effects do not go over and beyond limits set under the PDP and within the s16 RMA 1991.” And that careful consideration needs to be given to the provisions within the Heavy Industrial zone as the zones intent clearly describes that it will create some objectionable effects.
22. WPL currently operate within the parameters of a resource consent for their timber mill, and in respect of noise, manage the effects between themselves, adjoining sites and beyond.

ROLE AND FUNCTION OF THE HEAVY INDUSTRIAL ZONE

23. The Heavy Industrial zone in the PDP seeks to manage and protect industrial activities, in particular from land sterilisation and reverse sensitivity effects resulting from other zones containing sensitive activities.
24. The overview in the Heavy Industrial zone chapter of the PDP recognises that it accommodates a range of activities which contribute to the economic wellbeing of the district, but may produce offensive or objectionable environmental effects including odour, dust or noise. Furthermore, the zone is not required to focus on pedestrian access or amenity or provide public spaces.

⁵ FNDC Proposed District Plan Revision Noise and Vibration Review: 30 June 2020

25. The Heavy Industrial zoned land in Waipapa represents the extent of Heavy Industrial zoned land in the Kerikeri/Waipapa area. As such, it is important that the activities provided for in this zone are enabled to continue relatively unencumbered.
26. HIZ-P1 directs to 'enable' the development and operation of heavy industrial activities in the Heavy Industrial zone. WPL run a timber mill within this zone (which falls under the definition of an 'industrial activity'), and while existing consents allow for the continuation of its operation, the intent of the zone is to ensure that these types of activities are either permitted or controlled in terms of activity status, through the word 'enable'.
27. Finding appropriate land to zone Heavy Industrial is often a challenge as it has to be located sufficiently away from sensitive activities and has to be appropriately serviced by infrastructure. It is therefore important that these areas are managed and protected from surrounding land uses that can sterilise activities designed to be undertaken in this zone.
28. The objectives and policies in the Noise chapter appear to go some way in recognising this by conceding that noise effects are compatible with the role, function and character of the zone. The role of the Heavy industrial zone is to enable odorous and noisy activities otherwise inappropriate in other zones across the district.

NATIONAL PLANNING STANDARDS

29. The National Planning Standards (**NPS**) direct that noise provisions must sit within the General matters section of a district plan⁶.
30. The Heavy Industrial zone is described within Section 8 of the NPS as

“Areas used predominantly for industrial activities that generate potentially significant adverse effects. The zone may also be used for associated activities that are compatible with the potentially significant adverse effects generated from industrial activities.”
31. It is clear from the NPS that a Heavy Industrial zone anticipates effects that may be significant. As stated above, one of those effects anticipated from a Heavy Industrial zone is noise.

MARSHAL DAY REPORTS⁷

32. Marshall Day prepared a report that was appended to the Section 32 for Noise when the PDP was notified, titled 'FNDC Proposed District Plan Revision Noise and Vibration Review' [Report 1].

⁶ 7. District-wide Matters Standard - 33

⁷ FNDC Proposed District Plan Revision Noise and Vibration Review: 30 June 2020 & Far North District Council – Proposed District Plan Review of Submissions 20 June 2024

33. Section 6.3.3 of Report 1 addressed Heavy Industrial noise matters. The following recommendation was expressed in the report:

“the most stringent control that should apply between heavy industrial zones is increased to at least 75 dB L_{Aeq} at any point within the site boundary of any other site within the zone. We do not recommend that an L_{AFmax} noise limit is applied.”

34. Report 1 went on to say that “we consider that the proposed approach of providing higher noise limits to noise from Heavy Industrial zones that is received in residential and rural zones is pragmatic and appropriate”⁸.

35. The controls in NOISE-S1 recommended in Report 1 for the notified PDP were:

- 75dB L_{Aeq} within the Heavy Industrial zone
- 55dB L_{Aeq} (7am to 10pm) measured at or within the boundary of any site in the Residential Zone, Māori Purpose Zone, Rural Living Zone, Rural Production Zone, Rural Lifestyle and Rural Settlement Zone.
- 45dB L_{Aeq} (10pm to 7am) measured at or within the boundary of any site in the Residential Zone, Māori Purpose Zone, Rural Living Zone, Rural Production Zone, Rural Lifestyle and Rural Settlement Zone.

36. It is not clear through the Section 32 Report why the notified noise levels recommended in Report 1 were not the same. Notably the noise levels in Per-2 below between 10pm and 7am (40dB L_{Aeq}).

Heavy Industrial zone

**Horticulture
Processing zone**

1. Noise generated by any activity shall not exceed the following limits at any point within another site in the zone:
 - a. All times - 75 dB L_{Aeq} (15min)
2. Noise generated by any activity shall not exceed the following limits at any point within the boundary of any sites in the General Residential zone, or the notional boundary of any noise sensitive activity within the Rural Production, Rural Lifestyle, Rural Residential, Settlement, Horticulture, or Māori Purpose zones:
 - a. 7.00 am to 10.00 pm - 55 dB L_{Aeq} (15min);
 - b. 10.00 pm to 7.00 am - 40 dB L_{Aeq} (15 min); and
 - c. 10.00 pm to 7.00 am - 75 dB L_{AFmax} .

37. The Marshall Day Report⁹ [Report 2] noted that the PDP set lower limits than recommended in Report 1 that supported the Section 32 Report for Noise between 10pm and 7am.

38. In response to submissions, Marshall Day recommends a broader suite of receiving zones to be included within NOISE – S1 than notified, including the Open Space zone and the Sport and Active Recreation zone.

⁸ FNDC Proposed District Plan Revision Noise and Vibration Review: 30 June 2020 [Page 19]

⁹ Far North District Council – Proposed District Plan Review of Submissions 20 June 2024

Receiving zone	Noise rule
Open space Sport and Active Recreation	<i>j) Noise generated in all zones</i> Noise shall not exceed the following rating noise levels at any point within the receiving property boundary: All times: 55 dB L_{Aeq}

39. This recommendation was accepted in the s42A Report.

THE OPEN SPACE ZONE AND SPORT AND RECREATION ZONE

40. The recommendations in the s42A Report introduce a significant imposition not just for WPL but for the Heavy Industrial zone in Waipapa as a whole.
41. The isolated Open Space zoning directly on the western boundary of the WPL site has no practical purpose as an area for the public to enjoy, as it is currently not accessible. As drafted, the recommended receiving noise level on this piece of land is 55 dB L_{Aeq} 24 hours a day, which is significantly less than the permitted level within the Heavy Industrial zoned land of 75 dB L_{Aeq} .
42. Te Pūawaitanga – Bay of Islands Sports Hub on the opposite side of State Highway 10 (east of the Heavy Industrial zoned land) is zoned Sport and Active Recreation. The recommended receiving noise level in the s42A report is also 55 dB L_{Aeq} 24 hours a day.
43. While the increase in noise level between 10pm and 7am is welcomed, I consider that the daytime (7am to 10pm) noise level significantly inhibits the ability of the Heavy Industrial zone in Waipapa to function as intended.

RECOMMENDED CHANGES

44. I generally agree that there needs to be controls in the PDP that address noise levels for the General Residential zone and noise sensitive activities in particular zones, as recommended in Report 1 supporting the notified provisions for the Noise chapter in the PDP.
45. I acknowledge that the use of land and buildings by members of the community for recreational and sporting activities falls under the definition of ‘Community Facility’, and that community facilities fall under the definition of ‘noise sensitive activities’. However, I do not consider that the effects of noise from Heavy Industrial activities on walking tracks and sports fields are comparable to effects on residential, education and health facilities. Users of walking tracks and sporting facilities are only present on the site for a limited quantum of time, and periodically through a week/month.
46. The imposition of the recommended changes appear to have little regard to the wider implications for land use activities in the Heavy Industrial zone. The location of the Open

Space zone, and to a slightly lesser extent, the Sport and Active Recreation zone, renders the permitted noise levels on the WPL site in the Heavy Industrial zone to:

- 5 dB _{Leq} higher than the daytime level (7am to 10pm) within the Residential zone; and
- The same daytime noise level (7am to 10pm) within the Mixed Use zone, Rural Production zone, Rural Lifestyle zone and Settlement zone.

47. A balance needs to be struck in terms of the Heavy Industrial zone being able to undertake activities anticipated within the zone and the reasonable effects on surrounding environs. By way of example, a timber mill would be expected to be undertaken within the Heavy Industrial zone.

48. I believe that the noise levels originally recommended by Marshall Day in Report 1 for Noise strike an appropriate balance. As such, I suggest the following amendments to NOISE-S1:

<p>Receiving zone</p> <p>Open Space</p> <p>Sport and Active Recreation</p>	<p>Noise rule</p> <p>j) Noise generated in all zones</p> <p>Noise shall not exceed the following rating noise levels at any point within the receiving property boundary:</p> <p>All times: 55dB LAeq</p>	<p>Matters of discretion if compliance not achieved:</p> <p>a. ambient noise levels and any special character noise from any existing activities; the nature and character of any changes to the sound received at any receiving site and the degree to which such sounds are compatible with the surrounding activities;</p> <p>b. type, scale and location of the activity in relation to any noise sensitive activities; to outdoor activities within the zone;</p> <p>c. hours of operation and duration of activity;</p> <p>d. the temporary or permanent nature of any adverse effects;</p> <p>e. the ability to internalise and/or minimise any conflict with adjacent activities;</p> <p>f. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation); and</p>
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SECTION 32AA EVALUATION

Effectiveness and Efficiency

49. Providing for heavy industrial activities along with their recognised effects will appropriately provide for the districts Heavy Industrial zones. The removal of noise standards as they relate to the Open Space and Sport and Active Recreation Zone are more effective and efficient in achieving the purpose of the RMA, in comparison to that now recommended.

Costs/Benefits

50. The economic and social benefits of appropriately providing for Heavy Industrial zones are potentially significant given the contribution they make to the districts economy and their need to be located away from sensitive activities.
51. The PDP zones Heavy Industrial land to accommodate activities that are likely to have significant effects. Activities within the Heavy Industrial zone need to continue relatively unencumbered while ensuring that effects on noise sensitive activities in surrounding zones are considered. Compliance costs could be increased through the now recommended approach, which can affect the only area of Heavy Industrial zoned land in Kerikeri / Waipapa.

Risk of Acting or not Acting

52. The risk of not acting is that there is the potential for a loss in the significant benefits provided by the Heavy Industrial zone. If the zone is too heavily restricted by surrounding zones and activities then the zone will not be able to function as intended. True heavy industrial activities may not locate here and instead seek other landholdings [i.e in the Rural Production zone].

CONCLUSION

53. In conclusion, I am of the opinion that recommendations in the Marshall Day Report¹⁰ [Report 2] go a step too far in accommodating ‘noise sensitive activities’ in the Open Space zone and the Sport and Active Recreation zone. I consider that there is a difference between walkways and sports fields compared to residential, educational and health facilities.
54. There is limited Heavy Industrial zoned land in the vicinity of Kerikeri and Waipapa. The recommendation to include Open Space zone and Sport and Active Recreation zone in the daytime (7am – 10pm) noise level of 55 dB_{Laq} for the adjacent Heavy Industrial zone renders the land in a similar capacity, in terms of allowable noise, as a number of ‘noise sensitive’ zones in the district. These are fundamentally different activities.
55. The recommended changes in the s42A Report to NOISE-S1 places the Heavy Industrial zone at risk of being managed by the surrounding zones and land use, which is at odds

¹⁰ Far North District Council – Proposed District Plan Review of Submissions 20 June 2024

with the purpose of the Heavy Industrial zone in terms of managing and protecting it from reverse sensitivity.

56. I consider that the recommendations in the original Marshall Day Report¹¹ [Report 1] appropriately manage the effects of the Heavy Industrial zone on surrounding zones and land use.

<p>(7) Heavy Industrial Zone</p>	<p>1. Noise generated by any activity within the Heavy Industrial zone shall not exceed the following noise limits at any point within any other side in the zone:</p> <p>a. All times – 75 dB L_{Aeq} (15 min)</p>	<p>Matters of discretion if compliance not achieved:</p> <p>1. Those set out in NOISE-R1</p>
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<p>(2) Heavy Industrial Zone Horticultural Processing</p>	<p>1. Noise generated by any activity within the Horticultural Processing or Heavy Industrial zone shall not exceed the following limits when measured at any point within the boundary of any site in the Residential zone, or within the notional boundary of any noise sensitive activity within the Māori Purpose zone, Horticultural zone, Rural Living zone, Rural Production zone or Rural Lifestyle zone:</p> <p>a. 7 am to 10 pm - 55 dB L_{Aeq} (15 min)</p> <p>b. 10 pm to 7 am - 45 dB L_{Aeq} (15 min)</p> <p>c. 10 pm to 7 am - 75 dB L_{AFmax}</p>	<p>Matters of discretion if compliance not achieved:</p> <p>2. Those set out in NOISE-R1</p>
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57. While likely unintentional, the current recommendations risk sterilising much of the land use enabled and provided for within the Heavy Industrial zone in the location of Kerikeri and Waipapa.

¹¹ FNDC Proposed District Plan Revision Noise and Vibration Review: 30 June 2020

Attachment 1 - Representation Transfer

4 September 2023

Far North District Council

5 Memorial Avenue

Private Bag 752

Kaikohe 0440

Re: Waipapa Pine Limited and Adrian Broughton Trust Submission No 342"

Waipapa Pine Ltd entered into a sale and purchased agreement with Fletcher Building Ltd, for the sale of 100% of Waipapa Pine Ltd shares to Fletcher Building Ltd. The sales transaction, and share transfer, was completed on the 9th of June 2023

This letter serves to notify FNDC that the previous Directors of Waipapa Pine Ltd are transferring representation rights to Fletcher Building Ltd, with regards to submission No 342

A handwritten signature in black ink, appearing to read "Grant Arnold". The signature is written in a cursive style with a large initial 'G' and 'A'.

Grant Arnold

Previous Director

Waipapa Pine Ltd

4 September 2023

Far North District Council

5 Memorial Avenue

Private Bag 752

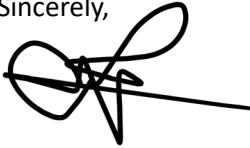
Kaikohe 0440

Re: Waipapa Pine Limited and Adrian Broughton Trust Submission No 342”

The Adrian Broughton Trust entered into a sale and purchase agreement with Fletcher Building Ltd for the sale of land & buildings related to submission No 342. The purchase was completed on the 9th of June 2023.

This letter serves to notify FNDC that the trustees of The Adrian Broughton Trust are transferring representation rights to Fletcher Building Ltd, with regards to submission No 342

Yours Sincerely,

A handwritten signature in black ink, appearing to be 'Adrian Broughton', with a long horizontal line extending to the right.

Adrian Broughton

The Adrian Broughton Trust