



## **SECTION 42A REPORT**

Officer's written right of reply 17 July 2025

### **Hearing 10 – Māori Purpose Zone and Treaty Settlement Land Overlay**

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**Appendix 1: Officer's Recommended Amendments to Māori Purpose Zone Chapter**

**Appendix 2: Officer's Recommended Amendments to Treaty Settlement Land Overlay Chapter**

**Appendix 3: Peer Review Civil Engineering**



## **1 Introduction**

### **1.1 Background**

1. My full name is Theresa Annetta Burkhardt, I am the writer of the original Section 42A Reports for Hearing 10 on the Proposed District Plan: Māori Purpose Zone (MPZ) and Treaty Settlement Land Overlay (TSLO) chapters.
2. In the interests of succinctness, I do not repeat the information contained in Section 2.1 of the Section 42A reports for the Māori Purpose Zone and the Treaty Settlement Overlay and request that the Hearings Panel ("the Panel") take this as read.

## **2 Purpose of Report**

3. The purpose of this report is primarily to respond to the evidence of the submitters and provide my right of reply to the Panel. In this Report I also seek to assist the Panel by providing responses to specific questions that the Panel directed to me during the hearing, under the relevant heading.

## **3 Consideration of evidence recieved**

4. The submitters who presented evidence at the hearing are as follows:
  - a) Te Aupōuri Commercial Development Ltd - Makarena Dalton (Planner) and Tipene Kapa-Kingi (Pou Whakahaere, Te Rūnanga Nui o Te Aupōuri).
  - b) Tapuaetahi Incorporation Ltd – Steven Sanson (Planner) and Mariaio Hohaia (Executive Manager, Tapuaetahi Incorporation).
  - c) Trustees of Jet #2 Trust – Stuart Ryan, Barrister.
  - d) Radio New Zealand – did not present.
5. I have only addressed those sections and evidence where I consider additional comment is required. I have grouped these matters into the following headings:

### **Māori Purpose Zone**

- e) Overview Māori Purpose Zone
- f) Policies – Māori Purpose Zone
- g) Rules – Māori Purpose Zone

### **Treaty Settlement Land Overlay**

- h) Treaty Settlement Land Overlay - Overview
- i) Treaty Settlement Land Overlay - Objectives
- j) Treaty Settlement Land Overlay - Policies
- k) Treaty Settlement Land Overlay – Rules and Standards
- l) Treaty Settlement Land Overlay – Mapping
- m) Treaty Settlement Land Overlay – General / Plan Content/Miscellaneous



- n) Additional Information
- 6. In order to distinguish between the recommendations made in the s42A Report and my revised recommendations contained in Appendix 1 of this report:
  - a) Section 42A Report recommendations are shown in black text (with underline for new text and ~~striketrough~~ for deleted text); and
  - b) Revised recommendations from this Report are shown in red text (with red underline for new text and ~~striketrough~~ for deleted text)
- 7. For all other submissions not addressed in this report, I maintain my position set out in my original s42A Report.

### 3.1 Overview - Māori Purpose zone

#### Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 1 – Overview – Māori Purpose
Evidence in chief Tapuaetahi Incorporation [Steven Sanson]	From Paragraph 19 to 21 in relation to the MPZ Overview section

#### Matters raised in evidence

- 8. The matter raised in evidence with respect to the Māori Purpose Zone Overview section was to include the word “or” as follows:

*Māori land is categorised into either:*

*Māori Purpose zone - Urban, where the land adjoins the General Residential zone and /or is residential in character...’*

#### Analysis

- 9. In section 5.2.1 paragraph 61 of the s42A report I considered that the request to include the word “or” in the overview categorisation of Māori Purpose zone – Urban could result in a significant change in meaning to the categorisation of the zone. My view on this remains unchanged. As there is a significant amount of Māori Purpose zone land in the district and the majority of it is Māori Purpose zone – Rural I consider that it could amount to a significant change on a district wide basis insofar as it could apply to other Māori Purpose Zone – Rural land and result in pockets of urban zoning within rural environments in the district. As discussed in the s42A it would enable sites that are “residential in character” but not serviced and in a rural context to meet the criteria for Māori Purpose – Urban, which was not the intention.
- 10. To further illustrate this point I have considered the matter in the table below:



Options	Implications	Costs	Benefits
<b>Option 1:</b> Retain Overview as notified i.e: <i>Māori land is categorised into either:</i> <i>Māori Purpose zone – Urban, where the land adjoins the General Residential zone and is residential in character ...”</i>	MPZ- Urban zoning is only applied to land where it adjoins a Residential zone and is residential in character.		It is clear that MPZ-Urban zoning adjoins the General Residential zone and is residential in character.
<b>Option 2:</b> Amend Overview i.e: <i>Māori land is categorised into either:</i> <i>Māori Purpose zone – Urban, where the land adjoins the General Residential zone and /or is residential in character ...”</i>	Any Māori Purpose zone land that is residential in character becomes MPZ-Urban	<ul style="list-style-type: none"> <li>• High risk of impacts on rural character and amenity.</li> <li>c) Result in isolated pockets of urban zoning across the district.</li> <li>• District wide implications and unintended consequences</li> </ul>	More enabling provisions and additional development potential as a permitted activity

11. As such I recommend the above-mentioned requested changes are not accepted.
12. Tapuaetahi Inc have requested the same treatment of the Tapuaetahi landholdings as has been provided to Matauri X Inc landholdings and to reconsider the Māori Purpose Zone – Rural zoning of the sites that are currently zoned Coastal Residential under the Far North Operative District Plan.
13. Tapuaetahi Inc provided evidence in the form of a High Level Civil Engineering Assessment prepared by Vision Consulting Engineers to support their request specific to the Tapuaetahi Inc land at Tapuaetahi which has



been peer reviewed by Haigh Workman Ltd. While this advice assists and I attach, I consider it may be prudent to recommend that this matter be included in the Re-zoning Hearing – 15A and considered at the same time as the consideration of the re-zoning.

14. In response to this request I consider that the most appropriate zoning for this site and the request for re-zoning should be deferred and considered in more detail in the Re-zoning Hearing – 15A.

### Section 32AA Evaluation

As I am not recommending any changes to the Overview of the Māori Purpose zone, no section 32AA evaluation is required.

## 3.2 Policies – Māori Purpose zone

### Overview

Relevant Document	Relevant Section
Section 42A Report	<b>Key Issue 3: Policies – Māori Purpose zone</b>
Evidence in chief Tapuaetahi Incorporation [Steven Sanson]	<b>Policy MPZ-P2</b> From paragraph 38 and 39 in relation to policy MPZ-P2
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	From paragraph 9.13 in relation to rule MPZ-R4 Residential Activities (Except for Papakāinga)
Evidence in chief Tapuaetahi Incorporation [Steven Sanson]	From paragraph 29 in relation to rule MPZ-R5 Papakāinga

### Matters raised in evidence

15. The issue raised in evidence by Tapuaetahi Inc in respect to policy MPZ-P2, is that the recommended amendment in the s42A report does not reflect the amendment in Appendix 1 – Officers Recommended Amendments to the Māori Purpose zone chapter.

### Analysis

16. Mr Sanson is correct in pointing out the inconsistency between the S42A report and Appendix 1. This is due to a drafting error on the part of the s42A report writer. Paragraph 88 of the s42A report is as follows:

*"In terms of submission S396.002, rule MPZ-R15 Commercial activity, permits commercial activity up to 250m2 and therefore anything over and above this requires resource consent and anything below this can be considered "small scale". I consider that the removal of the words "small scale" may have the perverse outcome of being less enabling. Therefore,*



*I recommend retaining the words "small scale" and inserting the words "and other" to achieve the enabling outcome sought. Therefore, I recommend the submission be accepted in part.<sup>4</sup>*

17. As outlined above it was considered that the removal of the words "small scale" may have the perverse outcome of being less enabling insofar as it would not reflect the permitted activity threshold provided for by MPZ-R15 Commercial activity which permits commercial activity up to a GBA of 250m<sup>2</sup>. The policy needs to be consistent with this level of commercial activity, therefore the retention of the words 'small scale' provide for this. Beyond that, it was considered that the inclusion of the words 'and other' in the policy means that commercial activity beyond that scale, while it may require a resource consent, will not preclude it and still provide enablement. The intention of the report writer was to retain the words "small scale" and insert the words "and other" and for the policy to read as follows:

Policy MPZ-P2	Enable a range of activities on Māori land in the Māori Purpose zone including marae, papakāinga, customary use, cultural and small-scale <u>and other</u> commercial activities where the adverse effects can be avoided, remedied or mitigated.
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18. Therefore, I recommend the amendments to policy MPZ-P2 as outlined in the s42A report and with the corrections made to **Appendix 1**, as outlined above, be retained.

## **Section 32AA Evaluation**

### ***Effectiveness and efficiency***

I consider that the amended policies will be effective and efficient in achieving the purpose of the RMA.

The recommended amendments clarify the intent of the provisions and achieve consistency across the plan.

### ***Costs/Benefits***

I consider that the amended policies will be effective and efficient in achieving the purpose of the RMA.

The recommended amendments clarify the intent of the provisions and achieve consistency across the plan.

### ***Costs/Benefits***

The inclusion of additional text provides more context and aids with interpretation which will reduce time/cost/uncertainty for plan users and lead to more consistent outcomes.

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<sup>1</sup> Section 42A Report Māori Purpose Zone – s88, p.19.



### ***Risk of acting or not acting***

There is no risk in accepting the recommended amendments to the version recommended in the Section 42A report as the amendments provide more clarity, but do not change, the intent of the provisions.

### ***Decision about most appropriate option***

The recommended amendments are more appropriate in achieving the purpose of the RMA and the PDP objectives than the notified version of the PDP and the section 42A report recommendations.

## **3.3 Rules and Standards - Māori Purpose zone**

### **Overview**

<b>Relevant Document</b>	<b>Relevant Section</b>
Section 42A Report	Key Issue 4: Rules – Māori Purpose zone Key Issue 5: Standards – Māori Purpose zone
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule MPZ-R2 Impermeable Surface and standard MPZ-S5 Building or Structure Coverage</b> From paragraph 9.4 to 9.6 in relation to rule MPZ-R2 Impermeable Surfaces and standard MPZ-S5 Building or Structure Coverage
Evidence in chief Tapuaetahi Incorporation [Steven Sanson]	<b>Rule MPZ-R4 Residential activity (except for papakāinga)</b> From paragraph 22 in relation to rule MPZ-R4 Residential activity (except for papakāinga)
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule MPZ-R4 Residential activity (except for papakāinga)</b> From paragraph 9.13 in relation to rule MPZ-R4 Residential activities (except for papakāinga)
Evidence in chief Tapuaetahi Incorporation [Steven Sanson]	<b>Rule MPZ-R5 Papakāinga</b> From paragraph 29 in relation to rule MPZ-R5 Papakāinga
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule MPZ-R6 Visitor accommodation</b> From paragraph 9.24 in relation to rule MPZ-R6 Visitor accommodation
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule MPZ-R14 Educational Facility</b> From paragraph 9.24 in relation to rule MPZ-R14 Educational facility



Relevant Document	Relevant Section
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule MPZ-R15 Commercial activity</b> From paragraph 9.24 in relation to rule MPZ-R15 Commercial activity
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule MPZ-R16 Rural tourism activity</b> From paragraph 9.38 in relation to rule MPZ-R16 Rural tourism activity
Evidence in chief Radio New Zealand (Chapman Tripp)	<b>Standard MPZ-S1-Maximum Height</b> From paragraph 3 RNZ wishes to record its support for recommendations on key matters in the s42A report on the MPZ.

### Matters raised in evidence

19. The matters raised in evidence relate to the rules and standards in the MPZ chapter. These are identified in the Overview table above and further explained below:
- a) Rule MPZ-R2 Impermeable surface and standard MPZ-S5 Building or structure coverage. The request is that MPZ-S5 be amended to reduce the combined building or structure coverage of the site to from 50% to 35% or similar.
  - b) Rule MPZ-R4 Residential activity (except for papakāinga). The request is that MPZ-R4 be amended to provide for residential activities at a permitted activity threshold of one residential unit per 12ha or up to a maximum total of 6.
  - c) Rule MPZ-R5 Papakāinga. The request is that MPZ-R5 be amended to provide for papakāinga development at a permitted activity threshold of 10 residential units per site or one residential unit per 12ha.
  - d) Rule MPZ-R6 Visitor accommodation. The request is that MPZ-R6 be amended to increase the occupancy from six guests per night to 10 guests per night.
  - e) Rule MPZ-R14 Educational facility. The request is that MPZ-R14 be amended to provide for kura kaupapa as a permitted activity.
  - f) Rule MPZ-R15 Commercial activity. The request is that MPZ-R15 be amended to replace GBA with GFA.
  - g) Rule MPZ-R16 Rural tourism activity. The request is that MPZ-R16 be amended to replace GBA with GFA.

### Analysis

20. I have considered each matter and determined the following:





- a) Regarding rule MPZ-R2 Impermeable Surfaces and standard MPZ-S5 Building or Structure Coverage, the evidence acknowledges the different effects the rule and standard controls, i.e: the effects of stormwater and built form, respectively. The evidence also points to a functional discrepancy between the rule and the standard. However, I consider that standard MPZ-S5 is one of several standards which provide permitted thresholds. The standard is intended to be enabling, and therefore I do not consider there is a need reduce the threshold proposed in the standard. In addition, there is one submission relating to standard MPZ-S5 Building or Structure Coverage in support of its retention. Therefore, I recommend the standard be retained as notified.
- b) Regarding rule MPZ-R4 Residential activity (except for papakāinga) the evidence from Tapuaetahi Inc contends that the framework of the MPZ is a blunt tool in comparison to the controls in the Far North Operative District Plan (FNODP). And while exempting the landholdings owned by the Tapuaetahi Incorporation at Te Tii may not be appropriate, a request to amend the activity status of MPZ-R4, where the permitted standards are not met, from discretionary to restricted discretionary, is made.
- c) Also, regarding rule MPZ-R4 the evidence from TACD Ltd contends that the density thresholds in the MPZ to be overly restrictive and the provisions to fail to provide any additional enablement. In addition, it is contended that the permitted activity thresholds of the FNODP provide a helpful baseline for establishing density thresholds. The request is that rule MPZ-R4 Residential Activities (Except for Papakāinga) be amended to provide for at one residential unit per 12ha or up to a maximum total of 6.
- d) However, at this juncture until the matter of exempting the landholdings is fully considered at another hearing I consider the rule and the activity status of the rule should remain unchanged.
- e) Regarding rule MPZ-R6 Visitor Accommodation, the evidence contends that the occupancy limit for the TSLO should be in line with the Rural Production Zone rule. And in turn the occupancy rate for the MPZ should be in line with the TSLO. I agree with this contention and as there is an original submission, S214.015, from Airbnb which requested an amendment to standardise the occupancy rate across the zones therefore, I recommend that the rule be amended as follows:

<b>MPZ-R6</b>	<b>Visitor accommodation</b>
<b>Māori Purpose zone – Urban</b>	<b>Activity status: Permitted</b>
<b>Māori Purpose zone – Rural</b>	<b>Where:</b>
	<b>PER-1</b>
	The occupancy does not exceed <u>six</u> <u>ten</u> guests per night.



	<b>Note:</b> PER-1 does not apply to marae provided for under MPZ-R7.
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- f) Regarding rule MPZ-R14 Educational Facility, the evidence contends that the recommended change in the s42A report did not provide for the requested amendment. The initial request made was grouped with similar submission requests, as such the amendment recommended may not have addressed the relief sought which is to provide for kohanga reo and kura kaupapa as a permitted activity. The recommended amendment below is to expressly provide for Kohanga Reo, Kura Kaupapa and Whare Wananga as a permitted activity. In addition, to be consistent with other drafting conventions in the PDP I recommend the amendment as follows:

<b>MPZ-R14</b>	<b>Educational facility</b>
<b>Māori Purpose zone - Urban</b>	<b>Activity status: Permitted</b>
<b>Māori Purpose zone - Rural</b>	<b>Where:</b>
	<b>PER-1</b>
	The educational facility is within a residential unit or accessory building.
	<b>PER-2</b>
	The number of persons attending at any one time does not exceed four, excluding those who reside on site.
	<b>Note: <del>These standards</del> <u>PER-1 and PER-2 do not apply to: Kōhanga Reo, Kura Kaupapa and Whare Wānanga activities.</u></b>

- g) Regarding rule MPZ-R14 Commercial Activity, the evidence contends that it is more appropriate to use the term Gross Floor Area (GFA) in the rule rather than the term Gross Business Area (GBA) as it is most commonly used to manage the size and scale of an activity, it is a commonly understood term and is a term defined under the National Planning Standards. I consider that as the intention of the rule is to manage the size and scale of the buildings which house the commercial activity. In addition to this the use of the GFA would be consistent with other parts of the PDP such as the Transport Chapter. The section 42A report writer for the Transport Chapter, Melissa Pearson, has corrected an error under clause 16 of the RMA to change the measurement for the size of a commercial activity in TRAN-Table 11 from



GBA to GFA as applying a GBA threshold to commercial activities was an error.<sup>2</sup> I recommend the amendment as follows:

<b>MPZ-R15</b>	<b>Commercial activity</b>
<b>Māori Purpose zone - Urban</b>	<b>Activity status: Permitted</b>
<b>Māori Purpose zone - Rural</b>	<b>Where:</b>
	<b>PER-1</b>
	The commercial activity does not exceed a <del>GBA</del> <u>GFA</u> of 250m <sup>2</sup> .

- h) Regarding rule TSL-R13 Rural Tourism Activity, the evidence contends for the same reasons outlined above in relation to commercial activity and I concur with the reasoning. I recommend the amendment be made as follows:

<b>MPZ-R16</b>	<b>Rural tourism activity</b>
<b>Māori Purpose zone - Urban</b>	<b>Activity status: Permitted</b>
<b>Māori Purpose zone - Rural</b>	<b>Where:</b>
	<b>PER-1</b>
	The rural tourism activity does not exceed a <del>GBA</del> <u>GFA</u> of 250m <sup>2</sup> .

21. I consider that some of the requested changes to these MPZ rules and standards to have merit and have made these amendments to the provisions which are reflected in **Appendix 1** to this Report.

## **Section 32AA Evaluation**

### ***Effectiveness and efficiency***

I consider that the amended provisions will be effective and efficient in achieving the purpose of the RMA.

The recommended amendments clarify the intent of the provisions and achieve consistency across the plan.

### ***Costs/Benefits***

The inclusion of additional text provides more context and aids with interpretation which will reduce time/cost/uncertainty for plan users and lead to more consistent outcomes.

<sup>2</sup> Section 42A Report Transport Chapter - para 151



### ***Risk of acting or not acting***

There is no risk in accepting the recommended amendments to the version recommended in the Section 42A report as the amendments provide more clarity, but do not change, the intent of the provisions.

### ***Decision about most appropriate option***

The recommended amendments are more appropriate in achieving the purpose of the RMA and the PDP objectives than the notified version of the PDP and the section 42A report recommendations.

## **3.4 Treaty Settlement Land Overlay - Overview**

### **Overview**

<b>Relevant Document</b>	<b>Relevant Section</b>
Section 42A Report	Key Issue 7: Treaty Settlement Land overlay – Notes and Applications Subject to Multiple Provisions’ in Part 1 Introduction and General Provisions / How the Plan Works / General Approach
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>TSLO - Overview</b> From paragraph 6.6(a) in relation to the TSLO Overview section.
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	From paragraph 6.8 in relation to the TSLO Overview section
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	From paragraph 6.6(b) in relation to the RPROZ - Overview section

### **Matters raised in evidence**

22. The issue raised in evidence with respect to the TSLO in the PDP was the lack of integration between the TSLO and the underlying zones.
23. Ms Dalton, on behalf of Te Aupōuri Commercial Development Ltd (TACDL) considers that there is a lack of integration between the TSLO and the underlying zones and considers it appropriate to make amendments to the Overview sections of both the TSLO and the Rural Production Zone (RPROZ).



24. The contention is that "...the overview sections of both the TSLO and the RPROZ chapters do not effectively or efficiently establish a relationship with Treaty Settlement Land and the rural environment ..."<sup>3</sup>

25. The amendments requested are as follows:

a) Amendments for the TSLO - Overview section:

The Treaty Settlement Overlay recognises the importance of Treaty Settlement claims and the cultural and commercial redress lands that are returned to iwi entities as kaitiaki and custodians on behalf of tangata whenua.

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

b) Minor amendment to TSL Overlay – Overview section

The land included in this overlay has been returned through the settlement process either as cultural or ~~economic~~ commercial redress...

c) Amendments to the RPROZ chapter - Overview section (see below).

A significant portion of Treaty Settlement land is located in the Rural Production Zone that is also subject to the Treaty Settlement Land Overlay, which enables a range of activities including marae, papakāinga, customary use, cultural and commercial activities. Treaty Settlement Overlay is intended enable use and development land to support Māori in providing for their social, economic, cultural and environmental wellbeing.

## Analysis

26. I have considered each matter and determined the following:

a) I consider that some of the requested changes to the TSLO Overview section have merit, however minor changes are required for accuracy and consistency and have made the following amendments to the provisions which are reflected in Appendix 2 to this Report.

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

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<sup>3</sup> Statement of Evidence of Makarena Evelyn Te Paea Dalton on behalf of Te Aupōuri, 10 March 2025 – p9.



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

- b) I consider that the requested minor amendments to the TSLO Overview section outline in paragraph 17b above to have merit and have made the amendments in two places in the Overview for consistency, this is reflected in Appendix 2 to this report.
- c) I acknowledge that a significant portion of Treaty Settlement land is in the Rural Production Zone, and is subject to the Treaty Settlement Land Overlay, which enables a range of activities including marae, papakāinga, customary use, cultural and commercial activities. The Treaty Settlement Overlay is intended to enable use and development land to support Māori in providing for their social, economic, cultural and environmental wellbeing. Ms Dalton's suggestion has been discussed with the reporting planner for the Rural topic, Melissa Pearson, and her view is that the most appropriate location to explain the relationship between the Treaty Settlement Overlay is in the Treaty Settlement chapter, not the Rural Production Zone chapter. Her reasoning is as follows:

*The Rural Production Zone chapter does not mention the relationship between the zone rules and any other overlays, except to signpost to plan users where there may be confusion as to where to find a rule e.g. setbacks from waterbodies being located in the Natural Character and Coastal Environment chapters rather than the zone chapter; and Note 1 above the Rural Production Zone rule table already signals that there may be other rules in Part 2- District-Wide Matters of the District Plan that apply to a proposed activity, in addition to the rules in the zone chapter. The note also directs plan users to the how the plan works chapter to determine the activity status of a proposed activity where resource consent is required under multiple rules.*

- d) It is Ms Pearson's view that the signpost in Note 1 is sufficient to direct plan users to where they can have the relationship between the Treaty Settlement Overlay rules and the Rural Production Zone rules explained. She also considers that specific mention of the Treaty Settlement Overlay in the overview of the Rural Production Zone would not be a balanced approach, given that no other overlays that apply to the Rural Production Zone are mentioned in this way.
27. 'I agree with Ms Pearson and consider the amendments I am recommending to the Treaty Settlement Overlay and the How the Plan works chapter are sufficient to address Ms Dalton's concerns, on behalf of TACDL.



28. I consider that some of the requested changes to the TSLO Overview to have merit and have made these amendments to the provisions which are reflected in **Appendix 2**.

### **Section 32AA Evaluation**

#### ***Effectiveness and efficiency***

I consider that the amended provisions will be effective and efficient in achieving the purpose of the RMA.

The recommended amendments clarify the intent of the provisions and achieve consistency across the plan.

#### ***Costs/Benefits***

The inclusion of additional text provides more context and aids with interpretation which will reduce time/cost/uncertainty for plan users and lead to more consistent outcomes.

#### ***Risk of acting or not acting***

There is no risk in accepting the recommended amendments to the version recommended in the Section 42A report as the amendments provide more clarity, but do not change, the intent of the provisions.

#### ***Decision about most appropriate option***

The recommended amendments are more appropriate in achieving the purpose of the RMA and the PDP objectives than the notified version of the PDP and the section 42A report recommendations.

## **3.5 Treaty Settlement Land Overlay - Objectives**

### **Overview**

<b>Relevant Document</b>	<b>Relevant Section</b>
Section 42A Report	Key Issue 1 – Objectives TSL-02 and TSL-03
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Objective TSL-02</b> From paragraph 7.8(a) in relation to objective TSL-02
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Objective TSL-03</b> From paragraph 7.8(b) in relation to objective TSL-03

### **Matters raised in evidence**

29. The issue raised in evidence was the perceived unnecessary references to cultural and commercial redress in objectives TSL-02 and TSL-03.

30. Ms Dalton, on behalf of TACDL considered that tangata whenua have a relationship with treaty settlement land returned irrespective of whether it is returned as cultural or commercial redress. In addition, the mapping and provisions do not distinguish between and cultural and commercial redress. Finally, the inclusion of the term 'enabling' speaks directly to the purpose of the TSLO.

31. The amendments sought are as follows:

- a) TSL-O2: *Treaty Settlement Land ~~returned as commercial redress supports~~ enables a range of social, cultural, environmental and economic development.*
- b) TSL-O3: *Treaty Settlement Land ~~returned as cultural redress~~ provides for the on-going relationship tangata whenua has with their land.*

### Analysis

32. I consider that some of the requested changes to the TSLO Objectives section have merit and have made the amendments to the provisions which are reflected in **Appendix 2** to this Report.

### Section 32AA Evaluation

#### ***Effectiveness and efficiency***

I consider that the amended objectives will be effective and efficient in achieving the purpose of the RMA.

The recommended amendments clarify the intent of the provisions.

#### ***Costs/Benefits***

The removal of unnecessary text provides more clarity and aids with interpretation which will reduce time/cost/uncertainty for plan users and lead to more consistent outcomes.

#### ***Risk of acting or not acting***

There is no risk in accepting the recommended amendments to the version recommended in the Section 42A report as the amendments provide more clarity, but do not change, the intent of the provisions.

#### ***Decision about most appropriate option***

The recommended amendments are more appropriate in achieving the purpose of the RMA and the PDP objectives than the notified version of the PDP and the section 42A report recommendations.

## 3.6 Treaty Settlement Land Overlay – Policies

### Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 2 – Policies TSL-P1, TSL-P2, TSL-P3



Relevant Document	Relevant Section
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Policy TSL-P1</b> From paragraphs 8.3 to 8.8 in relation to policy TSL-P1
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Policy TSL-P2</b> From paragraphs 8.10 and 8.11 in relation to policy TSL-P2.
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Policy TSL-P3</b> From paragraph 8.12 to 8.19 in relation to TSL-P3

### Matters raised in evidence

33. The issue raised in evidence is the unnecessary references to cultural and commercial redress in policies TSL-P1, TSL-P2 and TSL-P3.
34. The amendments sought are as follows:
- a) TSL-P1: *Provide for Enable the occupation, use and development of Treaty Settlement Land, and where appropriate, take into account any iwi or hapū plans or strategies that support the environmental, economic, cultural and social wellbeing of tangata whenua.*
  - b) TSL-P3: *Provide for the occupation, use and development on Treaty Settlement Land where it is demonstrated that:*
    - it is compatible with surrounding activities;*
    - it will not compromise the occupation, development and use of Treaty Settlement Land;*
    - it will not compromise the underlying zone, adjacent land or other zones to be efficiently or effectively used for their intended purpose;*
    - any values identified through cultural redress are maintained;*
    - it maintains the character and amenity of surrounding area;*
    - it provides for community wellbeing, health and safety;*
    - it can be serviced by onsite infrastructure or reticulated infrastructure where this is available; and*
    - any adverse effects can be avoided, remedied or mitigated.*

### Analysis

35. In response to questions of clarification from staff at the hearing, Mr Kapa-Kingi explained that, in his view, the term occupation has a broad meaning that was based in the te ao Māori concept of ahi kā.



36. I have considered each matter and determined the following:

- a) In respect to policy TSL-P1, I consider that the replacement of the words "Provide for" with the word "Enable" and the insertion of the word "occupation" to have merit and therefore recommend the policy be amended as follows:

Policy TSL-P1	<del>Provide for</del> <u>Enable</u> the <u>occupation</u> , use and development of Treaty Settlement Land.
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- b) However, I consider that the inclusion of the additional clause in the policy to be unnecessary as the taking into account of Iwi and hapū environmental plans is provided for in primary legislation.
- c) In respect to policy TSL-P2, I consider the reasoning and amendments as recommended to policy MPZ-P2 as outlined above in paragraph 16 to be relevant to policy TSL-P2 and therefore I recommend the same amendments as follows:

Policy TSL-P2	Enable a range of activities on Treaty Settlement Land including marae, papakāinga, customary use, cultural and small-scale <u>and other</u> commercial activities where the adverse effects can be avoided, remedied or mitigated.
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- d) In respect to policy TSL-P3, I consider that the insertion of the words "occupation, use and" to have merit for consistency with policy TSL-P1 and therefore recommend the policy be amended as follows:

Policy TSL-P3	<p>Provide for <u>occupation, use and</u> development on Treaty Settlement Land where it is demonstrated that:</p> <ol style="list-style-type: none"> <li>it is compatible with surrounding activities;</li> <li>it will not compromise the occupation, development and use of Treaty Settlement Land;</li> <li>it will not compromise the underlying zone, adjacent land or other zones to be efficiently or effectively used for their intended purpose;</li> <li>any values identified through cultural redress are maintained;</li> <li>it maintains the character and amenity of surrounding area;</li> <li>it provides for community wellbeing, health and safety;</li> <li>it can be serviced by onsite infrastructure or reticulated infrastructure where this is available; and</li> <li>any adverse effects can be avoided, remedied or mitigated.</li> </ol>
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- e) However, I consider that the removal of clauses (a) and (c) to be unnecessary. In my view, there is some degree of overlap between the two clauses. The first (a) addresses existing (off site) uses, irrespective of



whether they are intended in that zone. The provision could be more targeted to existing activities where those activities anticipated on the underlying zone. Where as (c) addresses both the underlying and surrounding land/ zones.

- f) In my view, there would have to be highly significant effects from an activity to compromise a zone or its ability to be used for its intended purpose. I would not anticipate this occurring in many instances. However, it is appropriate to manage that effect in my opinion. However, I would note that, in my opinion, there is a slim distinction between an activity compromising adjoining zones and land, and doing so for land underlying the TSLO. There may be significant and broad scale adverse effects on third parties in the first scenario, but not so much so in the latter. While I state I am less concerned about effects on the zones under the TSLO, if the intended uses is such a significant departure then a change of zone may be appropriate to consider the appropriateness of the underlying zone in the first instance .
  - g) Therefore, I recommend retaining (c) as it relates to adverse effects that would likely be significantly large and broad in scale on third parties, but note that it would be a high bar to reach. While I have some sympathy around possible amendments to remove the requirement from the underlying zone for sites with a TSO layer, I believe that the better approach would be to review the appropriateness of the underlying zone.
37. I consider that some of the requested changes to these TSLO policies to have merit and have made these amendments to the provisions which are reflected in **Appendix 2** to this Report.

## **Section 32AA Evaluation**

### ***Effectiveness and efficiency***

I consider that the amended policies will be effective and efficient in achieving the purpose of the RMA.

The recommended amendments clarify the intent of the policies.

### ***Costs/Benefits***

The removal of unnecessary text provides more clarity and aids with interpretation which will reduce time/cost/uncertainty for plan users and lead to more consistent outcomes.

### ***Risk of acting or not acting***

There is no risk in accepting the recommended amendments to the version recommended in the Section 42A report as the amendments provide more clarity, but do not change, the intent of the provisions.

### ***Decision about most appropriate option***

The recommended amendments are more appropriate in achieving the purpose of the RMA and the PDP objectives than the notified version of the PDP and the section 42A report recommendations.



### 3.7 Treaty Settlement Land Overlay – Rules and Standards

#### Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 3 – Rules Key Issue 4 - Standards
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule TSL-R2 Impermeable Surface and standard TSL-S5 Building or Structure Coverage</b> From paragraphs 9.2 to 9.6 in relation to TSL-R2 and TSL-S5
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule TSL-R3 Residential Activities (Except for Papakāinga)</b> From paragraph 9.7 to 9.14 in relation to TSL-R3
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule TSL-R4 Papakāinga Activities</b> From paragraphs 9.15 to 9.23 in relation to TSL-R4
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule TSL-R5 Visitor Accommodation</b> From paragraphs 9.24 to 9.26 in relation to TSL-R5
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule TSL-R11 Educational Facility</b> From paragraphs 9.26 to 9.34 in relation to TSL-R11
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule TSL-R12 Commercial Activity</b> From paragraphs 9.35 to 9.37 in relation to TSL-R12
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Rule TSL-R13 Rural Tourism Activity</b> Paragraph 9.38 in relation to TSL-R13

#### Matters raised in evidence

38. The matters raised in evidence relate to the rules and standards in the TSLO chapter. These are identified in the Overview table above and further explained below:

- a) Rule TSL-R2 Impermeable Surface and standard TSL-S5 Building or Structure Coverage. The request is that TSL-S5 be amended to reduce the combined building or structure coverage of the site to from 50% to 35% or similar.
- b) Rule TSL-R3 Residential Activities (Except for Papakāinga). The request is that TSL-R3 be amended to provide for residential activities at a permitted



activity threshold of one residential unit per 12ha or up to a maximum total of 6.

- c) Rule TSL-R4 Papakāinga Activities. The request is that TSL-R4 be amended to provide for papakāinga development at a permitted activity threshold of 10 residential units per site or one residential unit per 12ha.
- d) Rule TSL-R5 Visitor Accommodation. The request is that TSL-R5 be amended to increase the occupancy from six guests per night to 10 guests per night.
- e) Rule TSL-R11 Educational Facility. The request is that TSL-R11 be amended to provide for kura kaupapa as a permitted activity.
- f) Rule TSL-R12 Commercial Activity. The request is that TSL-R12 be amended to replace GBA with GFA.
- g) TSL-R13 Rural Tourism Activity. The request is that TSL-R13 be amended to replace GBA to GFA.

### **Analysis**

39. I have considered each matter and determined the following:

- a) Regarding rule TSL-R2 Impermeable Surfaces and standard TSL-S5 Building or Structure Coverage, the evidence acknowledges the different effects the rule and standard controls, i.e: the effects of stormwater and built form, respectively. The evidence also points to a functional discrepancy between the rule and the standard. However, I consider that as the standard is one of several standards which provide permitted thresholds for new buildings and structures and extensions to existing buildings and structures, and is designed to be enabling, there is no need reduce the threshold proposed in the standard. In addition, there are no submissions relating to standard TSL-S5 Building or Structure Coverage. Therefore, I recommend the standard be retained as notified.
- b) Regarding rule TSL-R3 Residential Activities (Except for Papakāinga), the evidence contends that the density thresholds in the TSLO to be overly restrictive and the provisions to fail to provide any additional enablement. In addition, it is contended that the permitted activity thresholds of the Far North Operative District Plan (FNODP) provide a helpful baseline for establishing density thresholds. The request is that rule TSL-R3 Residential Activities (Except for Papakāinga) be amended to provided for at one residential unit per 12ha or up to a maximum total of 6. The Tangata Whenua section 32 report identifies that 31% of Treaty Settlement Land parcels are 40ha or more in size. It is considered that the increased permitted standard across a significant portion of treaty settlement land may have unintended consequences and that the maximum total of 6 residential units as a permitted standard is appropriate and the effects anything beyond that should be assessed at time of resource consent. Therefore, I consider that the rule should be retained as notified.
- c) Regarding rule TSL-R4 Papakāinga Activities, the evidence contends that the intensity threshold should be increased. As per the previous paragraph



The Tangata Whenua section 32 report identifies that 31% of Treaty Settlement Land parcels are 40ha or more in size. It is considered that the increased permitted standard across a significant portion of treaty settlement land may have unintended consequences and that the maximum total of 10 residential units as a permitted standard is appropriate and the effects anything beyond that should be assessed at time of resource consent. Therefore, I consider that the rule should be retained as notified.

- d) Regarding rule TSL-R5 Visitor Accommodation, the evidence contends that the occupancy limit for the TSLO should be in line with the MPZ and Rural Production Zone rule. I agree with this contention and as there are no original submissions that preclude this amendment, I recommend that the rule be amended as follows:

<b>TSL-R5</b>	<b>Visitor accommodation</b>
<b>Treaty Settlement Land overlay</b>	<b>Activity status: Permitted</b> <b>Where:</b>  <b>PER-1</b> The occupancy does not exceed <del>six</del> <u>ten</u> guests per night.  <b>Note:</b> PER-1 does not apply to marae provided for under TSL-R6.

- e) Regarding rule TSL-R11 Educational Facility, the evidence contends that the recommended change in the s42A report did not provide for the requested amendment. The initial request was grouped with similar submission requests, as such the amendment recommended may not have addressed the relief sought which was to provide for what was intended, which was to expressly provide for Kohanga Reo, Kura Kaupapa and Whare Wananga as a permitted activity. The recommended amendment below is to expressly provide for Kohanga Reo, Kura Kaupapa and Whare Wananga as a permitted activity. In addition, to be consistent with other drafting conventions in the PDP I recommend the amendment as follows:

<b>TSL-R11</b>	<b>Educational facility</b>
<b>Treaty Settlement Land overlay</b>	<b>Activity status: Permitted</b> <b>Where:</b> <b>PER-1</b>



	<p>The educational facility is within a residential unit or accessory building.</p> <p><b>PER-2</b></p> <p>The number of persons attending at any one time does not exceed four, excluding those who reside on site.</p> <p><b>Note: <del>These standards</del> PER-1 and PER-2 do not apply to: Kōhanga Reo, Kura Kaupapa and Whare Wānanga activities.</b></p>
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- f) Regarding rule TSL-R12 Commercial Activity, the evidence contends that it is more appropriate to use the term Gross Floor Area (GFA) in the rule rather than the term Gross Business Area (GBA) as it is most commonly used to manage the size and scale of an activity, it is a commonly understood term and is a term defined under the National Planning Standards. I consider that as the intention of the rule is to manage the size and scale of the buildings which house the commercial activity. In addition to this the use of the GFA would be consistent with other parts of the PDP such as the Transport Chapter. The section 42A report writer for the Transport Chapter, Melissa Pearson, has corrected an error under clause 16 of the RMA to change the measurement for the size of a commercial activity in TRAN-Table 11 from GBA to GFA as applying a GBA threshold to commercial activities was an error. I recommend the amendment as follows:

<b>TSL-R12</b>	<b>Commercial activity</b>
<b>Treaty Settlement Land overlay</b>	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b></p> <p>The commercial activity does not exceed a <del>GBA</del> <u>GFA</u> of 250m<sup>2</sup>.</p>

- g) Regarding rule TSL-R13 Rural Tourism Activity and the use of GFA in lieu of GBA, for the same reasons outlined above in relation to commercial activity I recommend the amendment be made as follows:

<b>TSL-R13</b>	<b>Rural tourism activity</b>
<b>Treaty Settlement Land overlay</b>	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b></p>



	The rural tourism activity does not exceed a <del>GBA</del> -GFA of 250m <sup>2</sup> .
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40. I consider that some of the requested changes to these TSLO rules and standards to have merit and have made these amendments to the provisions which are reflected in **Appendix 2** to this Report.

## Section 32AA Evaluation

### *Effectiveness and efficiency*

I consider that the amended rules will be effective and efficient in achieving the purpose of the RMA.

The recommended amendments clarify the intent of the rules.

### *Costs/Benefits*

The removal of unnecessary text provides more clarity and aids with interpretation which will reduce time/cost/uncertainty for plan users and lead to more consistent outcomes.

### *Risk of acting or not acting*

There is no risk in accepting the recommended amendments to the version recommended in the Section 42A report as the amendments provide more clarity, but do not change, the intent of the provisions.

### *Decision about most appropriate option*

The recommended amendments are more appropriate in achieving the purpose of the RMA and the PDP objectives than the notified version of the PDP and the section 42A report recommendations.

## 3.8 Treaty Settlement Land Overlay – Mapping

### Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 6 – Mapping
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Paragraph 10.2(a)(i)</b> Apply TSLO to: <b>Record of Title: NA85A/299</b> – Owned by TACDL, the property is legally described as Section 40 Block X Houhora East Survey District and measures 4,856m <sup>2</sup> . The property was transferred on 17.12.2015 by 10154300.2 pursuant to section 139 of the Te Aupouri Claims Settlement Act 2015.
Evidence in chief Te Aupōuri Commercial Development Ltd	<b>Paragraph 10.2(a)(ii)</b> Apply TSLO to:





Relevant Document	Relevant Section
[Makarena Dalton]	<b>Record of Title: 719741</b> – Owned by TACDL, the property is legally described as Section 2, 4-5 Survey Office Plan 65969 and Section 33 Survey Office Plan 61229 and Section 34 Block I Houhora East Survey District and measures 915.272ha. The property was transferred by 10154300.2 pursuant to section 139 of the Te Aupouri Claims Settlement Act 2015.
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Paragraph 10.2(a)(iii)</b> Apply TSLO to: <b>Record of Title: NA75B/196</b> – Owned by TACDL, the property is legally described as Section 6-7 Block IV Houhora West Survey District 11/24900 Survey District and measures 489.91ha. The property was transferred on 17.12.2015, transfer 10062806.3.
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Paragraph 10.2(a)(iv)</b> Apply TSLO to: <b>Record of Title NA80D/748</b> – Owned by TACDL, the property is legally described as Section 1-9 Survey Office Plan 65943 and measures 1849.3 ha. The property was transferred by 10154300.2 pursuant to section 139 of the Te Aupouri Claims Settlement Act 2015.
Evidence in chief Te Aupōuri Commercial Development Ltd [Makarena Dalton]	<b>Paragraph 10.3</b> Te Rūnanga’s landholding as identified in Figure 1: Te Aupōuri Treaty Settlement Landholdings – Commercial and Cultural Redress.

### Matters raised in evidence

41. The matters raised in evidence relate to the application of the TSLO to all land returned Te Aupōuri as part of the Te Aupōuri Claims Settlement Act 2015, as shown in Map in Appendix 1 of Mr Kapa-Kingi’s evidence. These are identified in the Overview table above.
42. The submitter explains that the inclusion of the mapping issues in this hearing was not anticipated and requested that any rezoning regarding the landholdings of Te Rūnanga a Iwi o Te Aupōuri be deferred and considered in the re-zoning Hearings 15A-15D. However, as the TSLO is not a zone it is considered that the inclusion of any additional properties to the TSLO be considered at this time.

### Analysis

43. As such, I have investigated each title and determined the following:



- a) **Record of Title: NA85A/299.** This property has TSLO applied to it in the PDP. Therefore, no changes are required to TSLO mapping in respect to this property.
- b) **Record of Title: 719741.** This property should have had TSLO applied to it at the time the PDP was notified. However, due to a GIS mapping issue this did not occur. The land has been identified as requiring a future plan change to correct this mapping error. Therefore, as both FNDC and Te Aupōuri have identified the property as needing to be included in the spatial extent of the TSLO, it is considered prudent that this change be made at this time.
- c) **Record of Title: NA75B/196.** This property was the subject of a submission which was rejected at time of s42A report. The submitter was invited to bring evidence to the hearing, but this has not been provided. However, the options that could be discussed to progress this request are as follows:
- To join Hearing 17 – General / Miscellaneous / Sweep Up in November 2025
  - To deal with the issue as a Joint Witness Statement.
- d) **Record of Title NA80D/748.** This property has TSLO applied to it in the PDP. Therefore, no changes are required to TSLO mapping in respect to this property.
44. I consider that some of the requested changes to these TSLO mapping to have merit and have made these amendments to the provisions which will be reflected in the GIS mapping.

### **Section 32AA Evaluation**

#### ***Effectiveness and efficiency***

I consider that the mapping amendments will be effective and efficient in achieving the purpose of the RMA.

The recommended amendments ensure the spatial extent of the Treaty Settlement Land overlay in respect to Te Aupōuri land holdings is accurate.

#### ***Costs/Benefits***

The inclusion of an additional property in the TSLO at this stage of the process will reduce time/cost/uncertainty of a future plan change and lead to more consistent outcomes.

#### ***Risk of acting or not acting***

There is no risk in accepting the recommended amendments to the version recommended in the Section 42A report as the amendments provide more clarity, but do not change, the intent of the provisions.



### ***Decision about most appropriate option***

The recommended amendments are more appropriate in achieving the purpose of the RMA and the PDP objectives than the notified version of the PDP and the section 42A report recommendations.

## **3.9 Treaty Settlement Land Overlay - General / Plan Content / Miscellaneous Overview**

<b>Relevant Document</b>	<b>Relevant Section</b>
Section 42A Report	Key Issue 5: General / Plan content / Miscellaneous
Evidence in chief Trustees of Jet#2 Trust [Stuart Ryan-Barrister]	Paragraphs 8 and 16

### **Matters raised in evidence**

45. The matters raised in evidence by Mr Ryan on behalf of Jet#2 Trust contend that the Treaty Settlement overlay chapter *"provides for substantial exemptions or departures from the general scheme of the district plan in a way that may give rise to buildings and structures appearing in the landscape, in a manner that is not anticipated by the community. For example, there may be substantial buildings and structures adjacent to or adjoining to outstanding landscapes – in a way that is not authorised for landowners who are not post settlement governance entities"*.<sup>4</sup>
46. The submitter considers that general activity classifications and bulk and location standards should be applied consistently to avoid the risk of incoherent planning responses over the life of the plan.
47. The submitter also considers it preferable to adopt papakāinga zones, settlement zones, special purpose zones and precincts to provide opportunities for use and development of treaty settlement land in a planned and coherent way.
48. The submitter requests that the Treaty Settlement Land Overlay to be limited to an information rule and that the overlay is retained for information purposes only.

### **Analysis**

49. I have considered the matters which relate to the main issue of the legal submission to the more enabling provisions for the use and development of land identified by the Treaty Settlement Land overlay. I consider that this approach is supported by several provisions of the Resource Management Act 1991 (RMA). I have outlined these provisions below:

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<sup>4</sup> Legal Submissions for Trustees of Jet#2 Trust - p.1



- a) Part 2, section 5(2) Purpose of the RMA which defines sustainable management as meaning the “use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety ...”.<sup>5</sup> This to includes tāngata whenua broadly and post settlement governance entities established through treaty settlement claims legislation.
  - b) Part 2, section 8 Treaty of Waitangi, requires the principles of the Treaty to be taken into account. This includes the principle of acting in good faith and actively protecting Māori interests.
  - c) Part 4, section 32(2) requires an assessment of the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment.
  - d) Part 5, section 74(2A), requires that a territorial authority, when changing a district plan, must take into account any relevant planning document recognised by an Iwi authority and lodged with a territorial authority. There are six settled Iwi in the Far North District, four of which have Iwi Environmental Management Plans. These plans broadly seek land use planning which enables existing and future development.
  - e) Part 5, section 75(3), requires that a district plan give effect to the relevant provisions in a regional policy statement. The Northland Regional Policy Statement includes objectives and policies relating to Māori land and returned treaty settlement assets which require district councils to support tāngata whenua to have a kaitiaki role in the management of their land resources and other taonga.
50. I consider that the above provisions in the RMA provide for broad support for the inclusion of more enabling provisions for the use and development of treaty settlement land.
51. I also consider that while there are some rules and standards that are more permissive than the underlying zone rules and standards i.e: permitted standard rules for the activities such as Impermeable Surfaces, Residential Activities (except for papakāinga), Papakāinga, Community facility, Commercial activity, Building or structure coverage. There are also some rules and standards that are the same or less permissive than the underlying zone. I consider the rules and standards are appropriate to support the intention of the overlay.
52. Finally, I recommend the requested changes are not accepted.

### **Section 32AA Evaluation**

53. As I am not recommending any changes as a result of this evidence on the Treaty Settlement Land overlay, no section 32AA evaluation is required.

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<sup>5</sup> RMA 1991



### **3.10 Additional Information / Questions from the Hearing Panel**

54. The panel has asked in regard to the MPZ and TSLO, if there is a 'streamlined' process if an activity does not meet the permitted standard and a resource consent is required. In response to this, it is considered that a practise note will need to be developed and attention will need to be paid to the national direction on papakāinga which is currently being developed. Minister Bishop's speech to the NZPI conference in March of this year, in which he outlined his plans for the replacement RMA legislation. He also confirmed that most (not all) of the Phase 2 RMA national direction will progress as planned this year. The NES - Papakāinga is one of the instruments that will progress. Materials to support the public consultation process are being developed and finalised currently. The consultation is to take place in June or July this year.