

BEFORE HEARINGS COMMISSIONERS APPOINTED

BY THE FAR NORTH DISTRICT 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 9 – Rural, Horticulture & Horticulture
Processing

STATEMENT OF PLANNING EVIDENCE OF ANDREW CHRISTOPHER MCPHEE

18 November 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 further submission to the Proposed Far North District Plan (**PDP**). WPL is a wholly owned subsidiary of Fletcher Building Limited.
3. WPL 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 Further submission 374 was originally lodged by Waipapa Pine Limited

SCOPE OF EVIDENCE

10. Hearing 9 addresses submission points relating to the PDP - Rural, Horticulture & Horticulture Processing topics. The s42A reports splits these matters into six reports in line with the structure of the PDP.
 - a) Rural Production
 - b) Rural Lifestyle
 - c) Rural Residential
 - d) Settlement
 - e) Horticulture Processing Facilities
 - f) Horticulture
11. I have been asked by WPL to provide expert planning evidence arising from their further submission in support of the Northland Regional Council (**NRC**) submission² relating to the inclusion of stronger reverse sensitivity provisions, particularly in relation to limiting the intensity of noise sensitive activities near the Heavy Industrial zone.
12. I note that the WPL site is located south of the existing Industrial zone in Waipapa and is currently zoned Rural Production. Through the notified PDP the WPL site is proposed to be rezoned Heavy Industrial. The rezoning hearings are scheduled for October 2025.
13. In preparing this evidence, I have reviewed the s42A report Rural Wide Issues and the Rural Production zone. 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'.

PRIMARY PRODUCTION

14. 'Primary Production' is defined in the PDP and is sourced from the National Planning Standards:

"means:

- a. any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and*
- b. includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a);*
- c. includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but*

² Submission 359.019 to 359.022

d. excludes further processing of those commodities into a different product.

15. I consider that the operation of the timber mill does in part fit within the definition of primary production in so far that raw timer products from forestry activities are received and 'initially processed' at the WPL site in Waipapa.
16. The operation goes on to produce high-quality sawn timber products, which through clause d. then falls outside the definition of primary production.

PDP FRAMEWORK FOR SENSITIVE ACTIVITIES

17. I acknowledge that the Rural Production zone is principally concerned with the effects of sensitive activities within the zone itself. The overview states that *“primary production activities should be able to operate without experiencing reverse sensitivity effects based on complaints about noise, dust, heavy traffic and light spill (which may be temporary or seasonal in nature) that should be anticipated and tolerated in a rural environment”*
18. Similarly to the Rural Production zone, the Heavy Industrial zone in the PDP seeks to manage and protect industrial activities from reverse sensitivity effects. 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.
19. The Mineral Extraction zone is another zone where a range of activities are anticipated that may produce a number of offensive or objectionable environmental effects. Similarly to the Rural Production zone and the Heavy Industrial zone, the Mineral Extraction zone acknowledges that reverse sensitivity issues can negatively impact on the zones ability to undertake anticipated activities.
20. The Rural Production zone chapter addresses reverse sensitivity issues within the Rural Production zone and for the Mineral Extraction zone by requiring setbacks through the application of the following standards:

RPROZ-S7	Sensitive activities setback from boundaries of a Mineral Extraction <u>Zone</u> overlay ⁷¹	
Rural Production zone	Sensitive activities (excluding non habitable accessory buildings) must be setback at least 100m from the boundary of an Mineral Extraction <u>Zone</u> Overlay	Where the standard is not met, matters of discretion are restricted to: <ol style="list-style-type: none"> a. noise, disturbance and vibrations; b. scale and type of mineral extraction activity; c. the frequency and nature of any blasting or extraction method to obtain the mineral resource; d. hours of operation of the mineral extraction activity e. design of the building; f. whether there are alternative options for the location of the building; and g. temporary effects.

RPROZ-SX	Sensitive activities setback from intensive indoor and outdoor primary production activities⁷²	
Rural Production zone	<u>All buildings and structures used for new sensitive activities will be setback 300m from any hardstand areas, treatment systems, buildings housing animals and any other structures associated with an intensive indoor or outdoor primary production activity located on an adjoining site under separate ownership.</u>	Where the standard is not met, matters of discretion are restricted to: a. <u>Potential reverse sensitivity effects and measures taken to mitigate these effects, such as landscaping or screening</u> b. <u>Whether there are alternative options for the location of the sensitive activity</u>
RPROZ-SY	Sensitive activities setback from buildings or structures used to house, milk or feed stock (excluding buildings or structures used for an intensive indoor or outdoor primary production activity)⁷³	
Rural Production zone	<u>All buildings and structures used for new sensitive activities will be setback 100m from any buildings or structures used to house, milk or feed stock (excluding buildings or structures used for an intensive indoor or outdoor primary production activity) located on an adjoining site under separate ownership.</u>	Where the standard is not met, matters of discretion are restricted to: a. <u>Potential reverse sensitivity effects and measures taken to mitigate these effects, such as landscaping or screening</u> b. <u>Whether there are alternative options for the location of the sensitive activity</u>

21. As I have intimated above, there is a correlation between the Mineral Extraction zone and the Heavy Industrial zone in terms of the types of effects generated in those zones. Parallels can also be drawn in respect of the limited quantum of land zoned Mineral Extraction and Heavy Industrial in the district, and that both zones invariably abut the Rural Production zone.
22. The provisions proposed in the Rural Production zone go some way to strengthening reverse sensitivity provisions but falls short of doing so for neighbouring industrial zoned land.

ROLE AND FUNCTION OF THE HEAVY INDUSTRIAL ZONE

23. It is important to note that the Heavy Industrial zone is a new zone promoted through the PDP. In respect to Waipapa, the proposed Heavy Industrial zone is currently Rural Production land where industrial activities have been lawfully established.
24. While broached in my evidence relating to Hearing 6/7 for Noise, it is important to reiterate that the Heavy Industrial zone in the PDP seeks to manage and protect industrial activities, in particular from land sterilisation and reverse sensitivity effects.
25. 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.
26. 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.

27. 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.
28. The provision of sensitive activities on neighbouring zones can have a direct effect on the ability of the Heavy Industrial zone to function as intended.

SUBMISSION 359 – NRC

29. The submission points subject to the WPL further submission are S359.019 to S359.022:

“Reverse sensitivity is also a concern in Rural Production areas – from NRC’s perspective agrichemical use, burning / smoke and odour are frequent issues. We recommend FNDC consider strengthening reverse sensitivity provisions, especially where lifestyle / rural residential development occurs within or adjoins Rural Production, mineral extraction, Industrial zones and significant infrastructure. Provisions to consider requiring greater setbacks of potentially up to 100m for habitable buildings within production zones, appropriate visual and physical screening and limitations on intensity of noise sensitive activities.
30. The WPL further submission supports the NRC submission points. The NRC submission provides scope for strengthening reverse sensitivity provisions where lifestyle / rural residential development occurs and adjoins the Heavy Industrial Zone.

SECTION 42A RECOMMENDATIONS

31. The s42A Report Table at Appendix 2 notes that the Officer recommendation is to ‘accept in part’ the further submission by WPL in respect of strengthening reverse sensitivity provisions.
32. The commentary on the submission by NRC³ is found in paragraph 84 of the s42A Report. This commentary does not acknowledge the wider scope of the submission by NRC to include the consideration of the Mineral Extraction zone and the Industrial zones.
33. The focus of the analysis that follows from paragraph 103 in the s42A Report focuses on the National Policy Statement for Highly Productive Land (NPS-HPL).
34. I note that the NRC submission does not link its relief sought in its submissions 359.019 to 359.022 to the giving effect to the NPS-HPL. Not all land zoned Rural Production is subject to the NPS-HPL.
35. The analysis in paragraph 113 of the s42A Report only seeks to ensure that reverse sensitivity provisions are strong enough to give effect to clause 3.13 of the NPS-HPL. Further, the Recommendations in paragraphs 138 to 140 do not address the matters subject to the NRC submission and WPL further submission. Specifically, giving

³ Submission 359.019

consideration to noise sensitive activities undertaken in the Rural Production zone and the reverse sensitivity effects on the Mineral Extraction zone and Industrial zones.

OBJECTIVE AND POLICY CASCADE

36. The NRC submission appropriately groups rural production, mineral extraction and industrial zones and the need to ensure that strengthened reverse sensitivity provisions are applied to protect those activities. Objective 3.6 of the Regional Policy Statement for Northland (**RPS**) addresses Economic activities in respect of reverse sensitivity and sterilisation. The objective seeks to ensure “*The viability of land and activities important for Northland’s economy is protected from the negative impacts of new subdivision, use and development, with particular emphasis on either:*

(a) *Reverse sensitivity for existing:*

- (i) *Primary production activities;*
- (ii) *Industrial and commercial activities;*
- (iii) *Mining*;* or
- (iv) *Existing and planned regionally significant infrastructure; or*

(b) *Sterilisation of:*

- (i) *Land with regionally significant mineral resources; or*
- (ii) *Land which is likely to be used for regionally significant infrastructure.*

**Includes aggregates and other minerals.”*

37. Policy 5.1.3 of the RPS adds the requirement to “*avoid the adverse effects, including reverse sensitivity effects of new subdivision, use and development, particularly residential development on the following:*

- (iii) *Primary production activities in primary production zones (including within the coastal marine area);*
- (iv) *Commercial and industrial activities in commercial and industrial zones;*
- (v) *The operation, maintenance or upgrading of existing or planned regionally significant infrastructure; and*
- (vi) *The use and development of regionally significant mineral resources”*

38. The PDP is required to give effect to the RPS in accordance with section 75(3) of the Resource Management Act 1991.

39. There is no clear cascade within the Rural Production zone provisions to provide for the relief sought by the NRC submission or the WPL further submission. However, I do note that Objective RPROZ-O2 acknowledges that the Rural Production zone is used for lawfully established activities.

40. The WPL site operates a timber mill that has been lawfully established in the Rural Production zone. The site is currently zoned Rural Production and is subject to a rezoning hearing in October 2025, where FNDC has signalled a change of zone in the PDP to Heavy Industrial.
41. Direction 8 in the National Planning Standards (Point 4.) states “*Provisions developed for each zone must manage the use, development, and protection of natural and physical resources in it, in accordance with Part 2 of the RMA.*”
42. This direction requires a zone to manage the use, development and protection of natural and physical resources within the zone, it does not preclude the ability to protect natural and physical resources outside of the zone. As such, the objective and policy cascade in the Heavy Industrial zone chapter can be utilised to implement a Standard in the Rural Production chapter to manage the use, development and protection of natural and physical resources in the Heavy Industrial zoned land.
43. This is a logical conclusion with respect to reverse sensitivity effects in zones such as the Mineral Extraction and Heavy Industrial, where land use on neighbouring zones (in this case Rural Production) will be directly affected by any offensive or objectionable environmental effects of land use in those zones.
44. The objective and policy cascade to protect land use from reverse sensitivity effects within the Heavy Industrial zone:
- HIZ-O1 - The Heavy Industrial zone is utilised for the efficient operation of heavy industrial activities and is managed to ensure its long-term protection, including from:
- a. land fragmentation;
 - b. land sterilisation; and
 - c. reverse sensitivity effects.
- HIZ-P1 - Enable the development and operation of heavy industrial activities in this zone.
- HIZ-P3 - Avoid the establishment of activities that do not support the function of the Heavy Industrial zone, including:
- a. residential activities;
 - b. retirement villages;
 - c. education facilities;
 - d. recreational activities; and
 - e. commercial activities not ancillary to the on-site heavy industrial use.
- HIZ-P4 - Require heavy industrial activities to internalise adverse effects on-site as far as practicable, particularly along the interface of surrounding zones.

- 45. HIZ-P4 acknowledges that adverse effects from Heavy Industrial activities cannot always be internalised, by nature of the activities enabled and provided for within the zone, by including ‘as far as practicable’.
- 46. Presumably the same rationale above has been applied for the inclusion of a Standard in the Rural Production zone to manage any adverse effects on sensitive activities for the Mineral Extraction zone.
- 47. It is noted that the s42A Reports for Rural Lifestyle zone, Rural Residential zone and the Horticulture zone have all recommended the introduction of a Standard (commensurate with RPROZ-S7) addressing sensitive activities setback from the boundaries of the Mineral Extraction zone.

RECOMMENDED CHANGES

- 48. I consider that a provision similar to that for the Mineral Extraction zone (RPROZ-S7) is an efficient way of delivering protection from reverse sensitivity effects in the Heavy Industrial activities within the Rural Production chapter. The amendments are shown in ~~strikethrough~~ and underline.

RPROZ-R1	New buildings or structures, relocated buildings or extensions or alterations to existing buildings or structures	
Rural Production zone	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p>The new building or structure, relocated building, or extension or alteration to an existing building or structure, will accommodate a permitted, controlled or restricted discretionary activity.</p> <p>PER-2</p> <p>The new building or structure, relocated building or extension or alteration to an existing building or structure complies with standards:</p> <p>RPROZ-S1 Maximum height;</p> <p>RPROZ-S2 Height in relation to boundary;</p> <p>RPROZ-S3 Setback (excluding from MHWS or wetland, lake and river margins);</p> <p>RPROZ-S5 Building or structure coverage;</p>	<p>Activity status where compliance not achieved with PER-2: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <p style="padding-left: 40px;">a. the matters of discretion of any infringed standard</p> <p>Activity status where compliance not achieved with PER-1: Discretionary</p>

<p>RPROZ-S6 Buildings or structures used to house, milk or feed stock (excluding buildings or structures used for an intensive indoor primary production activity)); and</p> <p>RPROZ-S7 Sensitive activities setback from boundaries of the Mineral Extraction Zone.</p> <p>RPROZ-SX Sensitive activities setback from intensive indoor and outdoor primary production activities; and</p> <p>RPROZ-SY Sensitive activities setback from buildings or structures used to house, milk or feed stock (excluding buildings or structures used for an intensive indoor or outdoor primary production activity).</p> <p><u>RPROZ-SZ Sensitive activities setback from boundaries of a Heavy Industrial Zone</u></p> <p>Note: RPROZ-R1 does not apply to artificial crop protection structures and crop support structures.</p>	
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RPROZ-SZ	<u>Sensitive activities setback from boundaries of a Heavy Industrial Zone</u>	
<u>Rural Production zone</u>	<p><u>Sensitive activities (excluding non-habitable accessory buildings) must be setback at least 100m from the boundary of an Heavy Industrial Zone</u></p>	<p><u>Where the standard is not met, matters of discretion are restricted to:</u></p> <ul style="list-style-type: none"> a. <u>noise, disturbance and vibrations;</u> b. <u>scale and type of industrial activity;</u> c. <u>hours of operation of the industrial activity;</u> d. <u>design of the building;</u> e. <u>whether there are alternative options for the location of the building; and</u> f. <u>temporary effects</u>

SECTION 32AA EVALUATION

Effectiveness and Efficiency

49. Protecting activities enabled and provided for within the Heavy Industrial zone from sensitive activities establishing on surrounding zones is an effective and efficient method in achieving the purpose of the RMA.

Costs/Benefits

50. The economic and social benefits of appropriately providing for Heavy Industrial zones are significant given the contribution they make to the districts economy and their need to be located away from sensitive activities. The Heavy Industrial zone coverage across the PDP is limited to certain areas and contains stronger provisions to ensure activities locate in the correct zone. This places more onus on ensuring that the zone is not potentially sterilised.
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 surrounding zones are considered.
52. Compliance issues/complaints associated with the activities enabled and provided for in the Heavy Industrial zone may increase, which can affect the only area of Heavy Industrial zoned land in Kerikeri / Waipapa.

Risk of Acting or not Acting

53. The risk of not acting is that there is the potential for a loss in the benefits provided by the Heavy Industrial zone. If the zone is restricted by sensitive activities being established in surrounding zones then the zone will not be able to function as intended, and could be potentially sterilised.
54. True heavy industrial activities may not locate here and instead seek other landholdings (i.e the Rural Production zone). This would be inconsistent with the direction set by the PDP.

CONCLUSION

55. I am of the opinion that the Rural Production zone needs to make provision for neighbouring Heavy Industrial zones to protect the activities being undertaken in the Heavy Industrial zone from reverse sensitivity effects.
56. A standard has been applied in the Rural Production zone requiring sensitive activities to be setback from the Mineral Extraction zone. Further, the s42A Reports for Rural Lifestyle zone, Rural Residential zone and the Horticulture zone have also recommended the introduction of a Standard (commensurate with RPROZ-S7) addressing sensitive activities setback from the boundaries of the Mineral Extraction zone. I consider that a

commensurate Standard applying to the Heavy Industrial zone is also appropriate in the Rural Production zone.

57. There is limited Heavy Industrial zoned land proposed in the PDP in the vicinity of Kerikeri and Waipapa (and across the Far North District). The introduction of the Heavy Industrial zone within the PDP signals where Council wants activities that may produce offensive and objectionable environmental effects to locate. As such, it is important for activities supported in the Heavy Industrial zone to remain unencumbered and not sterilised by surrounding land use.

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

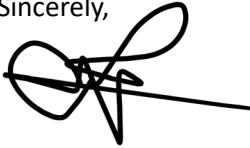
Kaikohe 0440

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