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The Directors
Lucklaw Farm Limited
690 Rangiputa Road,
Karikari Peninsula

1 October 2025

Hearing 15C – Rezoning – Proposed Far North District Plan

1. You have asked me to provide advice in relation to evidence produced by two further submitters, Ross Morley (FS286) and Michael Morse (FS98), who in support of their submissions have tabled a letter from the chairperson of the Haititaimarangai Marae Trust, and have tabled a letter by barrister, Mr Aiden Cameron dated 26 September 2025.

2. The statement for the Marae Trust was not presented by the chairperson of the Marae Trust but by Nina Rohohuru at the afternoon's session of the day 2 hearing for hearing 15C held on 30 September 2025.

3. I have considered that material and have viewed the video recording on the hearing yesterday before the Hearings Panel, and make the following comments and observations.[1]

4. I agree that it is necessary for the relief sought to fall within the submissions s 551, 552, and 553. The relief sought must fall generally and reasonably within the original submission, the plan as notified, or somewhere in between.[2] It will be contended for the submitters that the relief sought is within the scope of the submissions.

5. The reference to rezoning being "*subject to master planning*" was referred to in the relief sought in submission for Lucklaw Farm Limited but was omitted in the submissions by the Trustees for the Taranaki Trust (S552) and Ms Sturgess (S553). Since the relief sought in the three submissions is substantially the same, it is sufficient, in my view, that the Lucklaw submission (551) refers to master planning. It is necessary for the submitters to address in evidence on the merits how the 'preliminary spatial strategy' (PSS) attached to the evidence of Ms Gilbert has equated to a 'master planning' exercise, however so described.

6. Mr Cameron is critical of what is said to be a lack of consultation with mana whenua and raises natural justice concerns, citing section 27(1) of the New Zealand Bill of Rights Act 1990.[3] However as Mr Cameron identifies (at para [32]) there is no legal obligation on any submitter, or applicant, to consult with tangata whenua or any other person.

7. As advised to me, Mr and Mrs Sturgess have had engagement with who have represented themselves as having authority at the Marae, and who have previously represented the

[1] https://www.youtube.com/watch?v=gjUvpluSViA
[2] Mr Cameron, para [10], citing *Gock v Auckland Council* [2019] NZHC 276 at [45], citing *In re Vivid Holdings* (1999) 5 ELRNZ 264 (EnvC) at 271.
[3] At para [26], Mr Cameron.

Marae on other local matters. This is intended to be the subject of evidence at the hearing by Mr Sturgess.

8. There are express mandatory duties in the first schedule of the RMA for local authorities to consult with the tangata whenua of the area during the preparation of a proposed policy statement or plan.[4] This obligation is limited to consultation by the local authority.

9. In recognition that there is no express mandatory duty on submitters to consult,[5] the hearing directions from the Panel do not mandate consultation, but instead direct submitters to report on "*any consultation undertaken with key stakeholders or tangata whenua in relation to the rezoning request*".[6]

10. Once the proposed plan is notified, the structure of the RMA then any person may make a submission as provided for in clause 6 of Schedule 1, and persons representing a relevant aspect of the public interest, or having a greater interest than the general public, may make a further submission as provided for in clause 8(1) of Schedule 1.

11. The concerns raised about process should, in my view, be viewed by the Hearings Panel in context:

    a. The Marae Trust have not been a submitter or further submitter over land of Lucklaw Farm or related family interests.

    b. The zoning of land behind Puwheke Beach is not identified as being of cultural significance in the proposed plan or in the primary submission of the Marae Trust.[7]

    c. The Marae Trust has been an active submitter on other aspects affecting the development of land elsewhere on Karikari peninsula (for example, in relation to the Carrington Resort).

    d. The Marae Trust did not participate or submit at earlier hearings which addressed issues said now to be of substantive concern to the Marae Trust. This includes the hearing relating to the Rangiputa wastewater treatment plant (designations hearing 11) or the hearing on the coastal environment (hearing 4).

    e. Strictly, issues of cultural values now raised for the Marae Trust go beyond the scope of the further submitters, Mr Morley (FS286) and Mr Morse (FS98). For instance, the further submitters do not raise any issue over the protection of wahi tapu or cultural landscapes. These are issues that go beyond the scope of matters raised in the further submissions.

    f. In public law terms, a complaint of a breach of the New Zealand Bill of Rights Act is not an attractive proposition when the RMA provides for wide rights of standing to be

[4] clause 3(1)(d) and (e) Schedule 1 RMA
[5] *Waikato Tainui Te Kauhanganui Inc v Hamilton City Council* [2010] NZRMA 285 (HC)

[6] Minute 14, rezoning criteria and process.
[7] S394.061

heard by making submissions, and those rights have not been exercised by the Marae Trust.

12. The approach adopted by the Hearings Panel at the hearing on 30 September 2025 was to allow the for the Marae Trust to be heard, without addressing issues of mandate or whether matters of evidence raised by the representative for the Marae Trust went beyond the scope of the further submissions.

13. In all the circumstances, it is a matter for the Hearings Panel as to what weight should be given to the evidence for the Marae Trust under the auspices of the further submissions (FS 98 and FS 286) which do not expressly raise issues in relation to Maori cultural values.

Yours faithfully

Stuart Ryan
Barrister