BEFORE THE INDEPENDENT HEARINGS PANEL

I MUA NGĀ KAIKŌMIHANA MOTUHAKE I TE KAUNIHERA O TE HIKU O TE IKA

UNDER	the Resource Management Act 1991 ("**RMA**")
IN THE MATTER OF	the Proposed Far North District Plan ("**PDP**") – Hearing 10 – Māori Purpose & Treaty Settlement Land Overlay.

STATEMENT OF EVIDENCE OF MAKARENA EVELYN TE PAEA DALTON ON BEHALF OF TE AUPŌURI

PLANNING

10 MARCH 2025

1. SUMMARY OF EVIDENCE

1.1 This evidence has been prepared on behalf of Te Aupōuri Commercial Development Ltd ("**TACDL**") as it relates to its submission (#339) and further submission (#FS409) on the PDP - Hearing Stream 10. My evidence focuses on responses to the recommendations in the Māori Purpose Zone ("**MPZ**") and Treaty Settlement Land Overlay ("**TSL Overlay**") Section 42A Hearing Report's ("**s42A**").

1.2 In summary, I consider that the Reporting Officer for Far North District Council (**Council**) on this topic has made a number of constructive recommendations that agree in part with the relief sought in Te Aupōuri's submission. Despite this, a number of areas remain where I disagree with the recommendations of the Reporting Officer, and consider that further amendments or analysis are required. These specifically relate to:

(a) A lack of clear integration between the TSL Overlay and the RPROZ there is sufficient policy direction to effectively and efficiently enable the use of Treaty Settlement Land while managing the primary production purpose of the underlying zone.

(b) To address this, I consider a number of consequential amendments are required to the RPROZ, TSL Overlay and MPZ which I consider to be the most appropriate, because the effectively balance the enabling the use and development of Treaty Settlement Land while maintaining the rural environment.

(c) Spatially capturing all relevant Treaty Settlement Land within the TSL Overlay.

2. INTRODUCTION

2.1 My full name is Makarena Evelyn Te Paea Dalton. I am a Consultant Planner (Senior Associate) at Barker and Associates ("**B&A**"), a planning and urban design consultancy with offices across Aotearoa New Zealand. I am based in the Kerikeri office, but undertake planning work throughout the country, although primarily in Te Taitokerau Northland.

2.2 I whakapapa to Ngāpuhi-Nui-Tonu and Ngāti Kahu-ki-Whangaroa in the Far North, and to hapū including Te Hikutū, Ngāti Ueoneone, Ngāti Rangi, Ngātirangimatamamoe and Ngātirangimatakakaa in Hokianga, Kaikohe and Otangaroa.

Qualifications and experience

2.3 I have a Bachelor of Arts with double majors in Māori Studies and Political Studies and a Master of Planning Practice from the University of Auckland. I am an Intermediate Member of the New Zealand Planning Institute.

2.4 I have 10 years' experience in planning. During this time, I have been employed in various resource management positions in local government and private companies within New Zealand. Relevant experience includes:

(a) Resource consent planning in the Northland and Auckland regions, including in the Far North, Whangārei and Kaipara districts. Of particular relevance, my experience includes processing, including for the Far North District Council ("**Council**"), and the preparation of resource consent applications under operative Far North District Plan ("**ODP**"). This includes preparation of resource consent applications for papakāinga developments on Māori Freehold Land, General Freehold Land and land that has been returned to iwi as part of their Treaty Settlements.

(b) Formulation of policy and policy advice for Kaipara and Far North District council's and private clients throughout Northland and Auckland (Plan Change 78 – Intensification and Plan Change 105: Waitomokia Precinct).

(c) Providing planning advice, and engaging in consultation with and on behalf of iwi organisations and hapū.

2.5 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. I have complied with the Code of Conduct in preparing this statement of evidence. Unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

2.6 B&A staff have previously provided assistance to Council on the Proposed Far North District Plan ("**PDP**"). This related to assistance with the formulation of section 32 evaluations for a number of topics prior to the notification of the PDP. That engagement did not carry forward post notification of the PDP. I confirm the following:

(a) B&A is an independent planning consultancy providing planning and resource management advice and services. B&A act on behalf of a number of private and public clients throughout the country;

(b) Prior to my employment at B&A I was employed by Council as a Policy Planner for 4 years and contributed to the preparation of the Draft Far North District Plan; and

(c) I contributed to the section 32 evaluation of the Special Zones (Airport, Horticulture Processing Facilities, Kororāreka Russell Township, and Orongo Bay), Noise, Signs, Light, Earthworks and reviewed the section 32 evaluation for the Heritage topics, and confirm that these are not relevant to Te Aupōuri's submission.

2.7 I was not involved in the preparation of provisions, the section 32 evaluation or any advice following notification for the MPZ or TSL Overlay Topics that are part of Hearing Stream 10.

2.8 Noting the above, I have no conflict of interest to declare with respect of the hearing of Te Aupōuri's submission within the PDP review.

Involvement with the PDP on behalf of Te Aupōuri

2.9 I have been engaged by Te Aupōuri since September 2022 to provide independent planning advice and evidence on the PDP, including:

(a) Assisting with preparing Te Aupōuri's original submission on the PDP;

(b) Assisting with preparing Te Aupōuri's further submission on the PDP; and

(c) Ongoing planning advice associated with those submissions and the hearings relating to those submissions which is summarised below:

(i) Advice to Mr Tipene Kapa-Kingi on behalf of Te Aupōuri presented at Hearing 1 stream, this was supported by a presentation which provides useful context for Te Aupōuri's submissions on the PDP[1];

(ii) Preparation and presentation of planning evidence to Hearing Stream 4 Natural Environments.

2.10 I confirm that I have reviewed the MPZ and TSL Overlay s42A reports and recommended amendments to the MPZ, TSL Overlay and General Approach Chapter's.

2.11 I confirm I am familiar with Te Aupōuri's landholdings and wider aspirations and functions as a Post Settlement Group Entity ("**PSGE**") having provided planning advice on various development projects. In particular, I have visited their one of their farms, Te Raite Station, on

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[1] A copy of Mr Kapa-Kingi's presentation can be viewed on Council's website for Hearing 1 - https://www.fndc.govt.nz/__data/assets/pdf_file/0029/28379/7a6af4595a0eb37ca70a6343b8abd9240cfabe3d.pdf

several occasions, and have prepared a resource consent to establish a papakāinga comprising 30 residential units, a kohanga and community facility on a portion of this site.

Scope of evidence

2.12 My evidence is presented on behalf of Te Aupōuri and relates to the relevant planning matters associated with PDP Hearing Stream 10: MPZ and TSL Overlay.

2.13 This addresses the submission (#339) and further submission (#FS409) by Te Aupōuri on the PDP Hearing Topic: MPZ and TSL Overlay, including any consequential amendments required to address Te Aupōuri's relief.

2.14 My evidence is structured as follows:

(a) Te Aupōuri Context (section 3);

(b) Te Aupōuri Land and PDP Context (section 4);

(c) Statutory Context (section 5);

(d) Lack of Integration Between TSL Overlay and RPROZ (section 6);

(e) TSL Overview (section 7);

(f) TSL Overlay Objectives (section 8);

(g) TSL Overlay and MPZ Policies (section 9);

(h) TSL Overlay and MPZ Rules (section 10);

(i) Spatial Extent of TSL Overlay (section 11);

(j) Section 32AA Evaluation;

(k) Conclusion

2.15 **Attachment 1** sets out my recommended amendments to TSL Overlay.

2.16 **Attachment 2** summarises the TSL Overlay, MPZ and RPROZ rules.

3. TE AUPŌURI CONTEXT

3.1 As set out by the Corporate evidence of Mr Kapa-Kingi, Te Aupōuri Iwi is a settled iwi and operates as a PSGE having settled their Treaty of Waitangi claims in 2015. Te Aupōuri's organisational structure comprises four entities made up of Te Rūnanga Nui o Te Aupōuri ("**Te Rūnanga**"), TACDL, Te Aupōuri Fisheries Management Ltd ("**TAFML**") and Te Aupōuri Iwi Development Trust ("**TAIDT**")[2]. Each of these entities are set up with different functions to

[2] Refer to paragraph 5.2 of Mr Kapa-Kingi's Corporate Evidence Statement.

support and deliver outcomes across their social, economic, cultural and environmental priorities[3], which are detailed by Mr Kapa-Kingi as being to:

(a) Te Pou Tāngata (Social): Enable, empower and realise wellbeing for our people;

(b) Te Pou Tikanga (Cultural): Increased access and understanding of Aupōuri kōrero and whakapapa;

(c) Te Pou Taiao (Environmental): Protect and revitalize Aupōuri areas of significance; and

(d) Te Pou Tōnui (Economic): Grow the Aupōuri asset base and generate wealth and revenue.

3.2 In undertaking these functions, Te Aupōuri as a PSGE are representing the collective interests of approximately 12,000 and seeking to generate outcomes that support the wellbeing of its people. The overarching structure and function of Te Aupōuri is important, as it represents the holistic and wide-ranging priorities of an iwi. Importantly, it highlights the importance of their commercial assets as the primary source of revenue to support their social, cultural and environmental wellbeing and prosperity as a people.

4. TE AUPŌURI LAND AND PDP CONTEXT

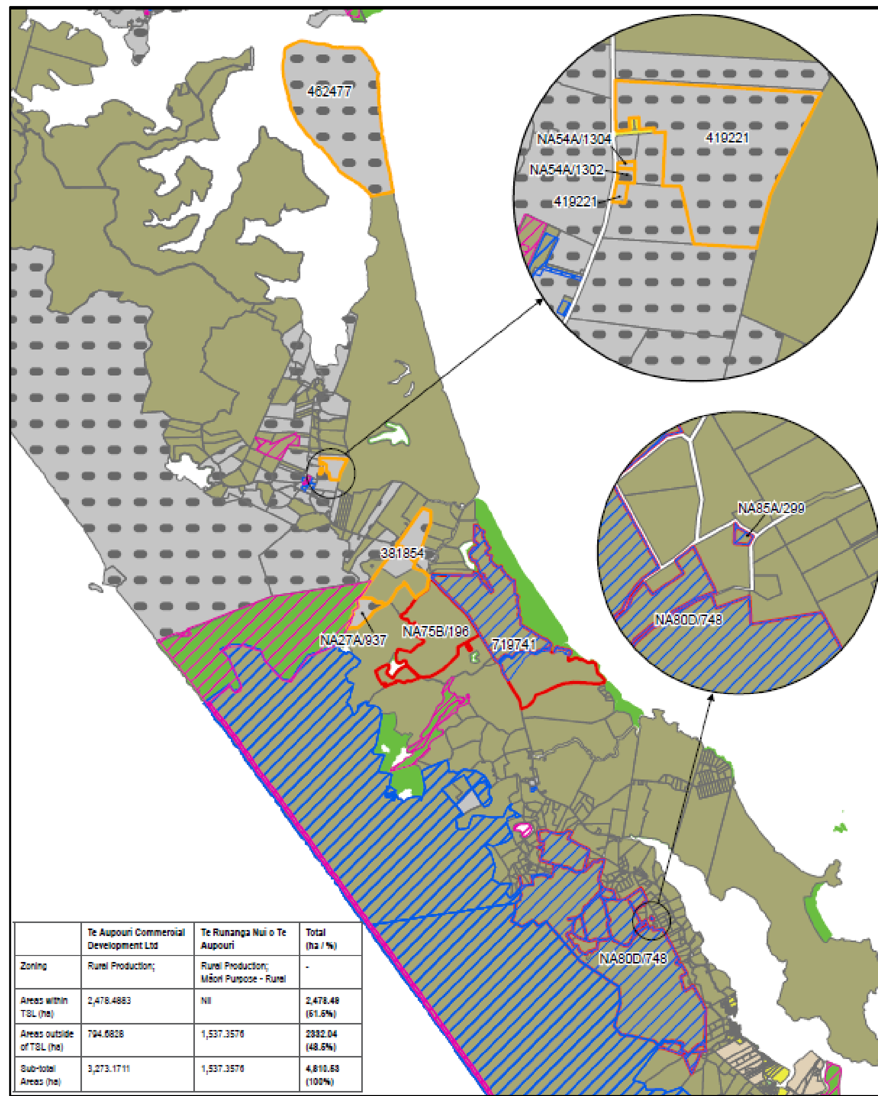
4.1 **Attachment 1** of Mr Kapa-Kingi's Corporate evidence spatially depicts and summarises Te Aupoūri's treaty settlement lands and interests.

4.2 Te Aupōuri's maps visually Illustrate:

(a) **Figure 1** – Te Aupōuri's landholdings, distinguishing between land owned by Te Rūnanga and TACDL. The map also shows the relevant PDP zones and shows the TSL Overlay, also distinguishing between cultural (pink hash) and commercial (blue hash) redress land. This depicts that the majority of Te Aupōuri's commercial treaty settlement lands are proposed to be zoned Rural Production ("**RPROZ**") and is subject to the TSL Overlay, while their cultural treaty settlement land is a proposed to be zoned a combination of Conservation Zone ("**CZ**") or MPZ and is not always identified within the TSL Overlay.

(b) **Figure 2** – Depicts, at a high-level, the relationship of the PDP's TSL Overlay in relation to Te Aupōuri's treaty settlement properties.

4.3 As summarised in **Figure 1**, Te Aupōuri has approximately 4,810ha; comprising 1,537ha of cultural redress land owned by Te Rūnanga and 3,273ha of commercial redress land owned by TACDL.



	Te Aupouri Commercial Development Ltd	Te Runanga Nui o Te Aupouri	Total (ha / %)
Zoning	Rural Production;	Rural Production; Māori Purpose - Rural	-
Areas within TSL (ha)	2,478.4883	Nil	2,478.49 (51.5%)
Areas outside of TSL (ha)	794.6828	1,537.3576	2332.04 (48.5%)
Sub-total Areas (ha)	3,273.1711	1,537.3576	4,810.53 (100%)

Figure 1: Te Aupōuri Land in Relation to PDP Zones and TSL Overlay (Source: Attachment 1 of Mr Kapa- Kingi Corporate Evidence).

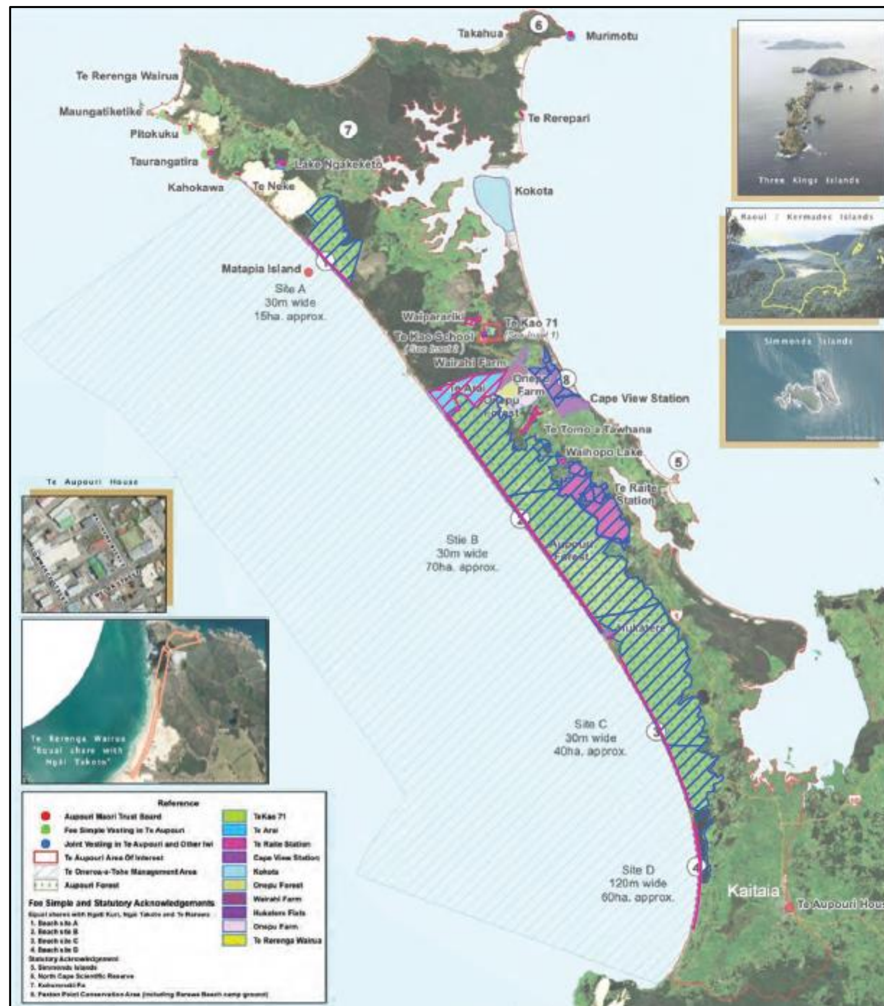


Figure 2: Full Extent of Te Aupōuri Treaty Settlement Lands and Interests and Relationship to PDP TSL Overlay (Source: Attachment 1 of Mr Kapa-Kingi Corporate Evidence Statement).

4.4 Te Aupōuri's landholdings are largely localised to Te Hiku peninsula, north of Kaitaia. Of note, approximately 2,478ha or 51.5% of Te Aupōuri lands are located within the TSL overlay which predominantly aligns with their landholdings that are owned by TACDL and in this regard, the underlying zoning is primarily proposed to be RPROZ.

5. STATUTORY CONTEXT

5.1 Section 4 of the MPZ and TSL Overlay s42A Reports address the statutory context for these provisions and the Reporting Officer (who is the same author) considers the Tangata Whenua Section 32 Report ("**s32 Report**") adequately addresses the statutory context. I have reviewed the s32 Report, and generally agree with the Reporting Officer that the relevant statutory context has been identified and note the following additional comments in relation to Māori Land and Treaty Settlement Land:

(a) Under Section 5 of the RMA, sustainable management is to manage use, development and protection of natural 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. Sustainable management requires a balanced approach to the use, development and protection of natural resources.

(b) As a matter of national importance, section 6(e) recognises and provides for the relationship of Māori, their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. In this regard, Māori and Treaty Settlement Land, in my opinion, is both ancestral lands and 'taonga tuku iho', which to put it simply, means: a Māori cultural heirloom or cultural property (tangible or intangible) that is handed down.

5.2 Of particular note, the s32 Report does not identify or assess the statutory context in relation to the rural environment or identify how the use and development of Māori and Treaty Settlement Land is to be balanced alongside the appropriate use and development of rural environment, except as it relates to the National Policy Statement on Highly Productive Land ("**NPS-HPL**") where it states:

> *"The total extent of "Highly Productive Land2" within the Far North District is 65,054 ha. Approximately 0.6% of this "Highly Productive Land" is Māori land tenure, and approximately 0.16% is Treaty Settlement Land. Because the proposed tangata whenua provisions3 only cover a very small portion of the Districts "Highly Productive Land", and the majority of "Highly Productive land" is available for use for primary production activities, the proposed provisions are considered to give effect to the Proposed NPSHPL."*[4]

6. LACK OF INTEGRATION BETWEEN THE TREATY SETTLEMENT LAND OVERLAY TO UNDERLYING ZONES

6.1 Te Aupōuri's relief sought amendments to clarify the relationship between the TSL Overlay, the underlying zone and other district-wide matters. In both instances, Te Aupōuri sought that the TSL Overlay provisions prevail when conflicts arise. The reason for this, is the TSL Overlay is inherently tied to the underlying zone meaning that the provisions of both the RPROZ and TSL Overlay must be assessed and considered when undertaking use and development on Treaty Settlement Land. I consider there to be a lack of integration between the TSL Overlay and RPROZ for the following reasons:

(a) The RPROZ overview, objectives and policies do not recognise or provide for Treaty Settlement Land, despite the majority of this land being located within the RPROZ zones. In fact, they do not refer to Treaty Settlement Land.

(b) The TSL Overlay does establish a 'link' to the underlying zone within TSL-P3 by requiring development to demonstrate that is compatible with surrounding activities and will not compromise the underlying zone or their intended purpose.

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4 At section 3.2.2 on page 2 of the s32 Report.

6.2 In responding to Te Aupoūri's submission, the Reporting Officer considers the intention of the TSL Overlay is to be '**enabling'**[5] and recommends the following amendment to the notified 'How the Plan Works' Chapter[6]:

> "In the case of the Treaty Settlement Land overlay, as Note 3 in the chapter identifies, the provisions of the underlying zone apply unless otherwise specified. The rules provide that where the activity for the relevant zone provides for the same activity, or where there is conflict between a rule or standard in the underlying zone chapter, the less restrictive rule **or standard** applies"

6.3 I consider the helpful, but I do not consider this to effectively or efficiently address the lack of integration between the RPROZ and TSL Overlay. I consider that additional consequential amendments are necessary within the RPROZ and TSL Overlay chapters to be more appropriate to effectively and efficiently establish the relationship between the provisions.

6.4 Typically, the 'overview' section of the chapter provides a description of the overall purpose, context, natural and physical resources, and expected land use and development outcomes that are managed within a plan chapter. I consider the 'overview' section of both the TSL Overlay and RPROZ do not effectively or efficiently establish a relationship between Treaty Settlement Land and the rural environment which I consider to have been done elsewhere in the PDP for example within the NOSZ as detailed below:

> "**Overview:**
>
> The Natural Open Space zone generally applies to public land that is administered by government agencies and includes a variety of parks and historic reserves. In most cases these areas have a high degree of biodiversity requiring active management.
>
> These are spaces the community values and some are open to the public for limited use where people can relax and enjoy passive recreation and customary activities. Some of these areas are used for cultural activities and are rich in historic heritage and cultural values. **Some Natural Open Space land may be subject to treaty settlement claims and may be returned to tangata whenua. If this occurs Council will initiate a plan change to amend the zoning**."

6.5 The NOSZ also provides policy direction in NOSZ-O1 and NOS-P1 to provide for cultural heritage. I consider this approach to be more effective and efficient to manage the use and development of Treaty Settlement Land in relation to an underlying zone.

6.6 In my opinion, both the RPROZ and TSL Overlay are lacking when it comes to establishing this connection between the different environments. I consider it is appropriate to make consequential amendments to the 'Overview' chapter of both TSL Overlay and RPROZ provide for the presence of Treaty Settlement Land within the rural environment and vice versa as detailed below:

(a) For the TSL Overlay 'Overview' section:

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5 Refer to paragraph 259 and 260 of the s42A Report for the TSL Overlay.

6 Refer to Appendix 1.2 of the s42A Report for the TSL Overlay.

"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) For the RPROZ 'Overview' section:

"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."

6.7 I consider that this aligns with the overarching purpose of the TSL Overlay and reflects the activities provided by these provisions. I consider that the recommended amendments assist to clarify the relationship of the TSL Overlay and underlying zones.

6.8 Additionally, I consider a minor amendment to paragraph two of the TSL Overlay Overview section of the Chapter to reflect the consistent language used to describe the commercial redress Treaty Settlement Land. The minor amendment is detailed below:

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

6.9 In summary, I support the amendments recommended by the Reporting Officer and recommend additional amendments to the TSL Overlay chapter overview section to further clarify the 'enabling' purpose and anticipated outcomes on Treaty Settlement Land and how this relates to the RPROZ and other zones. In my opinion, the amendments are consistent with the intentions of the provisions, align with the relevant statutory framework that applies to Treaty Settlement Land, and describes the purposes and anticipated outcomes for the TSL Overlay which is consistent with other chapters of PDP.

7. TREATY SETTLEMENT LAND OVERLAY OBJECTIVES

7.1 Originally, Te Aupōuri supported the intentions of the TSL Overlay objectives and sought that they be retained as notified subject to the relationship between the TSL Overlay and underlying zone being clarified. Taking account of the lack of integration issues described above, I consider that further evaluation of appropriateness of the TSL Overlay objectives TSL-O2 and TSL-O3 is required.

TSL-O2 and TSL-O3

7.2 As notified, TSL-O2 supports social, cultural and economic development of Treaty Settlement Land. While TSL-O3 provides for the ongoing relationship of tangata whenua with their land.

7.3 Te Aupōuri's original relief supported the TSL Overlay objectives subject to minor amendments to TSL-O2 to include reference to 'environmental' to align with the overall sustainable management purpose of the RMA. The Reporting Planner has addressed and agrees this amendment is appropriate as it gives effect to Part 2 of the RMA[7].

7.4 Notwithstanding the above, I consider minor amendments are needed to remove unnecessary references to 'commercial' and 'cultural' redress within the notified objectives TSL-O2 and TSL-O3 shown below[8] (my **emphasis** added):

> "TSL-O2: Treaty Settlement Land returned as **commercial redress** supports social, cultural, and economic development.
>
> TSL-O3: Treaty Settlement Land returned as **cultural redress** provides for the on-going relationship tangta-whenua has with their land."

7.5 TSL-O2 supports social, cultural, environmental and economic development of Treaty Settlement Land. TSL-O3 provides for the ongoing relationship of tangata whenua with their land. The s32 Report does addresses the various forms of treaty settlement redress, and the following exert describes the difference (my **emphasis** added):

> *"**Cultural Redress** land has **cultural and/or spiritual meaning** to iwi. Commercial Redress recognises the losses suffered by iwi from breaches by the Crown of its Treaty obligations. The financial and **commercial redress is** aimed at providing iwi with resources to assist them to **develop their economic and social wellbeing**."*[9]

7.6 To my understanding of the Treaty Settlement process, redress lands (cultural or commercial) are returned to an iwi (or hapū) within an area that reflects their historic areas of occupation and interest. In other words, it reflects an area that an iwi or tupuna (or ancestors) of an iwi would have exercised 'tino rangatiratanga' or authority over. Cultural redress can be specific places where significant or important events may have occurred, while commercial redress typically corresponds with lands located within an area previously occupied by an iwi or its tupuna. Therefore, I consider both commercial and cultural redress lands provides for the ongoing relationship of Māori / tangata whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga for the same reasons that Māori Freehold land does. Importantly, I do not consider the use, development or protection of Treaty Settlement Land to be 'mutually exclusive' to the type of treaty settlement redress and that both types of redress can provide for the ongoing relationship of Māori / tangata whenua to their land to support their social, cultural and economic wellbeing.

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7 At paragraph 70 -72 of the s42A Report.

8 Refer to Appendix 1.1 of the Reporting Officers TSL Overlay s42A Report.

9 Refer to page 21, section 4.1.4 of the Tangata Whenua Section 32 Report.

7.7 Additionally, I consider amendments are required to address the integration issues outlined at section 6 above, in particular, to clarify the 'enabling' purpose of the TSL Overlay in relation to TSL-O3.

7.8 Therefore, to address the matters raised above, I consider the following amendments to TSL-O2 and TSL-O3 to be appropriate:

(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 ~~tangta~~ tangata whenua has with their land.

7.9 I consider the above amendments to me the most appropriate because they more effectively and efficiently provide from the relationship of tangata whenua to their land for the following reasons:

(a) I consider that tangata whenua have a relationship to Treaty Settlement Land irrespective of whether it is cultural or commercial redress. I consider the amendments above more effectively and efficiently recognise this.

(b) The spatial mapping and subsequent TSL Overlay provisions do not distinguish between commercial and cultural redress land. Therefore, I consider the removal of this language ensures the proceeding provisions more effectively and efficiently align with the objectives.

(c) The inclusion of 'enabling' more effective and efficient to ensure Treaty Settlement land is provided for.

(d) I consider the amendments above are more consistent with the MPZ-O1 and MPZ-O2, and therefore consider the amendments ensure consistent outcomes across both Māori and Treaty Settlement Land.

7.10 In relation to section 32AA, and for the reasons outline above, I consider the amendments above to be the more appropriate than the notified objectives because they effectively and efficiently provide for the use and development of Treaty Settlement land by Māori / tangata whenua to provide for their social, economic and cultural wellbeing.

8. TREATY SETTLEMENT LAND MĀORI PURPOSE ZONE OVERLAY POLICIES

8.1 TSL Overlay policies are addressed at Key Issue 2 of the TSL Overlay s42A Report. Te Aupōuri's relief sought amendments to TSL Overlay policies TSL-P1, TSL-P2 and TSL-P3.

8.2 The MPZ policies are addressed at Key Issue 3 of the MPZ s42A Report. Te Aupōuri's relief sought amendments to the policies to:

(a) Enable the occupation, use and development of whenua Māori;

(b) Provide for the relationship of Māori to the lands, water, sites, taonga and wāhi tapu; and

(c) Ensures tangata whenua can occupy, use and develop their land in accordance with tikanga and mātauranga Māori.

8.3 These matters are concurrently addressed below.

TSL-P1

8.4 Te Aupōuri's relief sought the following amendments to TSL-P1:

> "~~Provide for~~ **Enable** the **occupation,** use and development of Treaty Settlement Land **in accordance with iwi, hapū and whanau aspirations outlined in their environment, economic, cultural and social plans and strategies**."

8.5 The Reporting Officer considers that Te Aupōuri's relief is consistent with the intended enabling outcome of the TSL Overlay, however, rejects Te Aupōuri's relief and considers the suggested amendment:

> *"…may go beyond the intention of the TSL overlay by including the terms hapū and whānau and result in unintended consequences"*[10].

8.6 The s42A Report does not elaborate on the potential 'unintended consequences' of Te Aupōuri's relief. To my understanding of Te Ao Māori social structures, iwi are made up of hapū (one or more) and hapū are in tern made up of whānau groupings that share common tupuna. In my experience, Treaty Settlements can be with either iwi or hapū. In both cases, those PSGE's and treaty settlement lands are commonly utilised to support the wellbeing of whānau. For these reasons, I disagree with the Reporting Officer's reasons to reject Te Aupōuri's relief. However, I accept that the RMA does not include definitions corresponding with 'whānau' but does include a definition for the term 'tangata whenua'.

8.7 With respect to 'provide' versus 'enable', I consider these both to be positive policy language. In this instance, I consider 'enable' is more appropriate to achieve the recommended amendments to the objective detailed at section 7 above.

8.8 In terms of the other amendments sought by Te Aupōuri's relief, I consider the provision for consideration of iwi and hapū plans to be an appropriate factor to in achieving the overarching provisions of the TW Chapter. TW-P2 provides for active participation in the management of ancestral lands and taonga through the recognition of the Māori worldview, acknowledgement of mātauranga Māori and iwi/hapū management plans. Therefore, I consider it appropriate to recognise and provide for iwi / hapū plans or strategies to support the use and development of Treaty Settlement Land. As such, I consider that Te Aupōuri's relief can be clarified to remove any potential 'unintended consequences' by amending TSL-P1 as follows:

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10 Refer to paragraphs 106 – 108 of the TSL Overlay s42A Report.

> "~~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.**"

8.9 In accordance with section 32AA, I consider the above recommended amendments are more appropriate in giving effect to Te Aupōuri's recommended objectives, and that they are more effective and efficient in to achieve the strategic objectives sought in the TW Chapter and that consideration can be given to any iwi or hapū plans or strategies that support the environmental, economic, cultural and social wellbeing of tangata whenua.

TSL-P2 and MPZ-P2

8.10 MPZ-P2 and TSL-P2 are virtually the same except as they reference Māori and Treaty Settlement Land. The policies enable a range of activities on Māori and Treaty Settlement Land. The Reporting Officer for the MPZ and TSL Overlay accepts submissions from Te Aupōuri[11] and Matauri X Inc[12] and recommends the deletion of 'small-scale' from MPZ-P2 and TSL-P2.

8.11 In my opinion, the Reporting Officers recommended amendments to MPZ-P2 and TSL-P2 effectively and efficiently achieve the objectives MPZ-O2, and my recommended amendment to TSL-O2 respectively. Therefore, I agree with the amendments of the Reporting Officer as it is my opinion that the amended policies more effectively and efficiently achieve the objectives.

TSL-P3 and MPZ-P3

8.12 In relation to TSL-P3, the Reporting Officer rejects[13] all submissions and recommends it is retained as notified. The Reporting Officer considers that the intended outcomes of the TSL Overlay need to be balanced with the intended outcomes of the underlying and surrounding zones.

8.13 Te Aupōuri's submission sought the deletion of TSL-P3 clauses (a) and (c) to seek maximum flexibility to develop Treaty Settlement Land in order to enable the economic and social wellbeing of its people as follows:

> "Provide for **the occupation, use and** development on Treaty Settlement Land where it is demonstrated that:
> **~~(a) it is compatible with surrounding activities~~**;
> (b) it will not compromise the occupation, development and use of Treaty Settlement Land;
> **~~(c) it will not compromise the underlying zone, adjacent land or other zones to be efficiently or effectively used for their intended purpose;~~**
> (d) any values identified through cultural redress are maintained;
> (e) it maintains the character and amenity of surrounding area;
> (f) it provides for community wellbeing, health and safety;
> (g) it can be serviced by onsite infrastructure or reticulated infrastructure where this is available; and

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11 Refer to paragraphs 113 of the TSL Overlay s42A Report.
12 Refer to paragraph 88 of the MPZ s42A Report.
13 Refer to paragraph 130 of the TSL Overlay s42A Report.

> (h) any adverse effects can be avoided, remedied or mitigated."

8.14 TSL-P2(a) relates to compatibility effects, while TSL-P2(c) relates to maintaining the intended purpose of the underlying, adjacent land and surrounding zones.

8.15 Compatibility effects can arise when activities with different types of effects establish in the same environment. This is typically managed through an underlying zone and I consider has already been done through the TSL Overlay, as it typically only provides for the same or similar activities as is already provided for in the predominant underlying zones (RPROZ and NOSZ). As such, I do not consider it is necessary to duplicate this within TSL-P4.

8.16 Further, I highlight submissions S486.083, S498.070 and S390.069 from Te Rūnanga o Whaingaroa ("**TROW**"), Te Rūnanga Ā Iwi O Ngāpuhi ("**TRAION**") and Te Rūnanga o NgaiTakoto Trust ("**TRON Trust**") which also sought clause (a), (b) and (c) of TSL-P3 be deleted as they considered that they place unnecessary constraints on development of Treaty Settlement Land.

8.17 In responding to these matters, The Reporting Officer considers that development of Treaty Settlement Land needs to be balanced with the intended outcomes of the underlying zone, and specifically references the RPROZ and NOSZ[14] and goes on to state:

> "In cases where the activities are similar and both the TSL overlay and underlying zone then a more enabling framework is provided. It is therefore considered that the TSL-P3 should be retained as notified and therefore the submissions be rejected."

8.18 As I have detailed above, I have concerns that the outcomes of the TSL Overlay are fundamentally linked to the purpose and intended outcomes of the RPROZ. As notified, I consider that TSL-P4(c) has the potential to 'tip' the scale of 'appropriate' use and development of the TSL Overlay in favour of the underlying zone. Primarily, I consider this is due to the lack of policy direction within the RPROZ to recognise Treaty Settlement Land is typically located within the rural environment, and therefore has a functional purpose (i.e., there is little to no choice of what land is returned) for being in this location and therefore forms part of the rural environment. I do not consider the NOSZ has the same issues, as there is policy direction in the zone chapter to appropriately provide direction that recognises cultural heritage.

8.19 For the reasons outlined above, I consider Te Aupōuri's original relief to be the most appropriate as I consider that it is effectively and efficiently balances the use and development objectives of Treaty Settlement Land, while managing potential effects of the surrounding environment through the remaining policy criteria. Taking account of the policy alignment between the TSL Overlay and MPZ chapter, I consider consequential amendments are also appropriate for notified MPZ-P3 to align with Te Aupōuri's relief.

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[14] At paragraph 123 of the s42A Report.

9. TREATY SETTLEMENT OVERLAY RULES

9.1 To inform this part of my evidence, I have collated a table of the TSL Overlay, MPZ and RPROZ rules which is enclosed at **Attachment 2.** This highlights the key differences and similarities between the respective zones and overlay provisions. For the purpose of this exercise, Attachment 2 includes the Reporting Planners recommended amendments.

Impermeable Surface and Building Coverage

9.2 Te Aupōuri's original submissions sought the deletion of TSL-R2 as it considered that stormwater to be appropriately managed by standard TSL-S5. The s42A Report rejects Te Aupōuri's submission, stating that there is no clear reason to change the approach[15].

9.3 TSL-R2 and TSL-S5 (as notified) is copied below:

TSL-R2: Permitted where: PER-1: The impermeable surface coverage of any site is no more than 35%. Except that: On sites less than 5000m^2 containing marae, the impermeable surface coverage is no more than 50%.	**TSL-S5** Building or structure coverage: The combined building or structure coverage of the site is no more 50 %.

9.4 In my opinion, TSL-R2 and TSL-S5 conflict with each other as TSL-S5 proposes a higher building area coverage threshold than the total impermeable surface coverage threshold permitted by TSL-R2. Functionally, the development standard cannot comply with the rule. I highlight MPZ-R2 and MPZ-S5 has the same drafting issue and consider consequential to these development standards are also required.

9.5 Given TSL-S5 primarily relates to the management of built form, I consider that stormwater effects would not be appropriately be managed. As such, I consider that TSL-R2 should be retained subject to consequential amendments to TSL-S5 to maintain a consistent approach set out by other chapters in the PDP. As such, it is my recommendation that a consistent approach is taken to the building or structure thresholds in TSL-S5 and MPZ-S5, and these should be amended as follows:

(a) TSL-S5 amended to 35% or similar.

(b) MPZ-S5 amended to 25% or similar.

9.6 I consider the recommended amendments above to be most effective and efficient to give effect to the respective policies, in particular to ensure use and development and potential adverse effects are managed.

Residential Activities (Not Papakāinga)

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15 Refer to paragraph 157 of the TSL s42A Report.

9.7 Residential activities that are not papakāinga are provided as permitted activities in the notified RPROZ, MPZ and TSL overlay as summarised below:

RPROZ-R3 provides as a permitted activity for:	**MPZ-R3** provides as permitted activity for:	**TSL-R3** provides as a permitted activity:
• PER-R1: One unit per 40ha. • PER-R2: up to a maximum of 6 units per site. • Noting that a minor residential unit can be established as a permitted activity in accordance with RPROZ-R20.	• PER-R1: Urban - 1 residential unit or multi-unit development per $600m^2$. • PER-R2: Rural: One unit per 40ha, • PER-R3: up to a maximum of 6 units per site.	• PER-R1: For sites that are $1{,}200m^2$ or less: 1 residential unit or one multiunit development per $600m^2$, on sites that are less than 1200m2. • PER-R2: For all other sites, up to a maximum of 6 residential units per site.

9.8 In all instances, where compliance is not achieved with the permitted activity standards, resource consent is required as a discretionary activity.

9.9 Te Aupōuri's relief sought that TSL-R3 be deleted. The Reporting Officer rejects this as they consider that not all residential activities undertaken on Treaty Settlement Land will be papakāinga. In addressing the density threshold, the Reporting Officer appears to align the reasoning of this to the thresholds of the underlying RPROZ-R3 and does not link this to the serviceability of a site. Overall, the Reporting Officer considers that TSL-R4 sufficiently provides for papakāinga activities and more permissive residential density thresholds may result in the fragmentation of rural land, increased reverse sensitivity and loss of rural amenity[16].

9.10 In considering the relevant objectives for the TSL Overlay and MPZ, these provisions seek to enable a range of social, cultural, economic and environmental development that provides for the relationship of tangata whenua with their land (TSL-O2, TSL-O3 and MPZ-O3). With respect to servicing capacity, TSL-O4 and MPZ-O3 direct that use and development reflect the servicing capacity of the land and surrounding environment. I highlight there are no objectives for the management of rural land, reverse sensitivity or rural amenity in the relevant MPZ or TSL Overlay objectives.

9.11 I consider the density thresholds in MPZ-R4-PER 2 and Per 3, TSL-R3-PER-2 for residential activities to be overly restrictive to provide for the appropriate use and development of Māori and Treaty Settlement land does not align with the servicing capability of the site, as directed by objectives TSL-O4 and MPZ-O3. I consider that that the proposed MPZ and TSL Overlay provisions are almost identical to those provided in the RPROZ which, in my opinion, fails to provide any additional 'enablement' as stipulated by the s32 Report and s42A Report's. In fact, I consider TSL-R3 and MPZ-R4 is more restrictive in practice than RPROZ-R3 as applications under these provisions would be required to prepare and provide a costly Site Suitability Report (or equivalent)[17] which would not be required to support permitted residential activities within

16 At paragraph 171 of the TSL Overlay s42A Report.

17 Taking into account the Reporting Planners recommended amendments to MPZ-S6 and TSL-S6 Servicing standards.

the RPROZ. For these reasons, I do not consider TSL-R3 and MPZ-R4 to appropriate in terms of achieving the objectives of the MPZ and TSL Overlay.

9.12 These are likely unintended consequences of these provisions. The cost-benefit analysis of the status quo and PDP options does not specifically deal with residential activities[18]. I have reviewed the operative Rural Production zone provisions[19] for residential activities, and in my opinion, the permitted activity thresholds of the ODP provide a helpful baseline for establishing density threshold for residential activities in the TSL Overlay and MPZ chapters and in my experience are sufficiently large to provide for onsite servicing.

9.13 As such, it is my opinion, that TSL-R3 and MPZ-R4 (Rural) be amended to provide for residential activities (whichever is higher):

(a) at a rate of one residential unit per 12ha; or

(b) up to a maximum total of 6.

9.14 In my opinion, Te Aupōuri's amended relief strikes the balance between enabling traditional residential activities in accordance with TSL-O2 and MPZ-O2, while managing potential conflicts with the surrounding environment. The thresholds provide an element of flexibility to provide for both large and small sites. Regarding the potential effects on the natural and physical environment, I consider the amended development standards of the MPZ and TSL Overlay provisions can be relied on to appropriately manage the potential adverse effects of bulk, scale and location of buildings. Therefore, I consider the recommended amendments outlined in **Appendix 1** of my evidence are the most appropriate the objectives of the TSL Overlay and MPZ and effectively and efficiently manage the development and use of residential activities.

Papakāinga Activities

9.15 Papakāinga is defined in the notified PDP as (my **emphasi**s added):

> "means an activity undertaken to **support traditional Māori cultural living** for tangata whenua residing in the Far North District on: (a) Māori land; (b) Treaty Settlement Land; (c) Land which is the subject of proceedings before the Māori land court to convert the land to Māori land; or (d) General land owned by Māori where it can be demonstrated that there is an ancestral link identified.
>
> **Papakāinga may include (but is not limited to) residential, social, cultural, economic, conservation and recreation activities, marae, wāhi tapu and urupā**."

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18 At Section 8.4 of the s32 Report.

19 Refer to Rule 8.6.5.1.1 Residential Intensity of the ODP.

9.16 I note the definition excludes educational facilities which are typically established as part or in association with papakāinga development. These are addressed later in this statement.

9.17 Papakāinga as notified in the RPROZ, MPZ and TSL overlay as summarised below:

RPROZ – R20: Restricted Discretionary where:	**MPZ-R5 provides as permitted activity for:**	**TSL-R4 provides as a permitted activity:**
• RDIS-R1: Residential units do not exceed 10 per site • RDIS-R2: There is a legal mechanism in place to ensure that the land will stay in communal ownership and continue to be used in accordance with ancestral cultural practices.	• PER-R1: Urban: ○ The site is at least 600m^2; and ○ The number of residential units on a site does not exceed three. • PER-R2: Rural: The greater threshold of: ○ One unit per 40ha; or ○ Up to a maximum of 10. • PER-R3: Any commercial activity associated with the papakāinga does not exceed a GBA of 250m^2	• PER-R1: Residential units at a density that this the greater threshold of either: ○ One unit per 40ha; or ○ Up to a maximum of 10. • PER-R2: Any commercial activity associated with the papakāinga does not exceed a GBA of 250m^2

9.18 Te Aupōuri's submission sought:

(a) TSL-R4: the deletion of PER-1 and that density be determined based on the servicing capability of the land, and amendments to the PER-2 to increase the Gross Business Area ("**GBA**") threshold for commercial activities to align with the building coverage thresholds for the overlay.

(b) MPZ-R5: relief was not specified, however, sought amendments be made to enable the use and occupation of Māori land; provide for the relationship of tangata whenua to their ancestral lands.

9.19 The Reporting Officer rejects Te Aupōuri's relief and considers reliance of 'adequate servicing' is too broad[20]. I note that Te Aupōuri's relief to amend the GBA thresholds of the TSL-R4 PER-2 has not been addressed by the s42A Report. I address this later under 'commercial activities'.

Residential units / activities

9.20 As notified, the TSL Overlay and MPZ (Rural) provisions provide as a permitted activity for up to 10 residential units per site or one residential unit per 40ha (whichever is greater). For the same reasons outlined at paragraphs 9.7-9.14 above, I consider this approach to be fundamentally flawed as it appears that the promoted density thresholds are largely based on those established by the RPROZ. I consider that the intended outcomes of the TSL Overlay and MPZ provisions cannot be inherently linked to the 'intended purpose' of the RPROZ as this

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[20] Refer to paragraph at paragraphs 188 and 191 of the TSL Overlay s42A Report.

will act as a handbrake for enabling the use and development of Māori and Treaty Settlement Land.

9.21 With respect to infrastructure servicing, I consider the Reporting Officer's recommended amendments to TSL-S6 and MPZ-S6 partially address the relief sought be Te Aupōuri's original submission in line with the clear policy directives of TSL-P3 and TSL-O4, and MPZ-P3 and MPS-O3 respectively.

9.22 Notwithstanding the above, I support the PDP's approach to provide a minimum of 10 residential units (papakāinga) as a permitted with the potential to provide more where there is sufficient land available. In line with my recommendations above, it is my opinion that the ODP permitted activity density thresholds of one residential unit per 12ha of land promotes an acceptable density threshold that will effectively and efficiently strike the balance between enabling the use and development of Māori and treaty settlement land while managing potential conflicts with other activities in the surrounding environment. With respect to managing the bulk, scale and location of buildings, it is my opinion that these can be successfully, effectively and efficiently managed through the implementation of development standards.

9.23 Therefore, I consider the recommended amendments at Attachment A to be the most appropriate for achieving the objectives of the TSL Overlay and MPZ. I consider the recommended amendments balance the use and development of Māori and Treaty Settlement Land, while effectively and efficiently managing the rural environment of the RPROZ.

Visitor Accommodation

9.24 As detailed in **Attachment 2**, RPOZ-R4 provides for visitor accommodation with an occupancy of up to 10 guests per night as a permitted activity, whereas MPZ-R6 and TSL-R5 are limited to 6 guests per night.

9.25 The s32A Report provides no clear reason or justification as to why the MPZ and TSL Overlay has a more restrictive limit for guest occupancy than that of the RPROZ. In order to achieve the overarching enabling purpose of the TSL Overlay and MPZ and in line with the RPROZ, I consider that amendments are required MPZ-R6 and TSL-R5 to increase the minimum occupancy rates from 6 guest to 10 guests in line with the RPROZ.

9.26 I consider the amendments to be appropriate, as they are consistent with the RPROZ and that they effectively and efficiently provide for the use and development of Māori and Treaty Settlement land to enable communities to provide for their economic wellbeing.

Educational Facility

9.27 As notified, the MPZ, TSL Overlay and RPROZ provide for Educational Facilities[21] as summarised below:

RPROZ – R6: Permitted where:	**MPZ-R14 provides as permitted activity Where**:	**TSL-R11 provides as a permitted activity: Where**

• PER-1: The educational facility is within a residential unit, accessory building or minor residential unit.
• PER-2: Hours of operation are between;
  ○ (1) 7am-8pm Monday to Friday.
  ○ (2) 8am-8pm Weekends and public holidays.
• PER-R6: The number of students attending at one time does not exceed four, excluding those who reside onsite.
	• PER-1: The educational facility is within a residential unit or accessory building.
	• PER-2 The number of persons attending at any one
	• time does not exceed four, excluding those who reside on site.
	• These standards do not apply to: Kōhanga reo activities.
		• PER-1: The educational facility is within a residential unit or accessory building.
		• PER-2 The number of persons attending at any one
		• time does not exceed four, excluding those who reside on site.
		• These standards do not apply to: Kōhanga reo activities.

9.28 Te Aupōuri sought TSL-R11 be amended to provide for kōhanga reo and kura kaupapa as a permitted activity, these are not provided for elsewhere in the plan. Te Ao Māori education facilities are designed to deliver a Te Ao Māori centered education system that incorporates mainstream education standards with te reo, tikanga and mātauranga Māori knowledge. These institutions support the social and cultural wellbeing of tangata whenua, and in my opinion, should be appropriately provided for within TSL Overlay and MPZ.

9.29 The Reporting Officer groups Te Aupōuri's submission with other 'similar' submissions that seek amendments that clarify kōhanga reo and kura kaupapa are excluded from the TSL-R11. This does not address the relief sought by Te Aupōuri as the Reporting Officer's recommended amendment clarifies that kōhanga reo and kura kaupapa are not provided for in this rule[22].

9.30 It is possible that kohanga reo / kura kaupapa are provided for as a 'Community Facility' which are enabled as a permitted activity (TSL-R7). Community Facility is defined by the PDP to mean (my **emphasis** added):

> "… **land and buildings used by members of the community** for recreational, sporting, **cultural**, safety, health, welfare, or worship **purposes**. It includes provision for any ancillary activity that assists with the operation of the community facility."

9.31 If this is the case, then this may be an acceptable outcome subject to a note being added to clarify this.

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21 Refer to PDP Definitions Chapter: means land or buildings used for teaching or training by child care services, schools, and tertiary education services, including any ancillary activities.

22 Refer to Reporting Officers Recommended Amendments for TSL-R11.

9.32 If this is not the case, kohanga reo / kura kaupapa would default to 'Educational Facility' activities. Subject to the amendments recommended by the Reporting Planner, TSL-R11 would not apply to kōhanga reo or kura kaupapa and my understanding of the relationship between the TSL Overlay and the underlying zone, is that these activities for default to RPROZ – R6 (being the less restrictive). This may have been an unintended consequence of the provisions.

9.33 In any case, for the reasons outlined above, I consider Te Aupōuri's relief can be resolved by either of the following:

(a) Amend TSL-R11 by adding a clause that provides for kohanga reo / kura kaupapa as a permitted activity; or

(b) Amending TSL-R7 by including a note that specifies that kohanga reo / kura kaupapa are included in this provision.

9.34 I consider my recommendations above are more effective and efficient in providing for social and cultural development in line with amended TSL-O2.

Commercial Activity

9.35 Te Aupōuri supported the inclusion of Commercial Activities within the TSL Overlay subject to amendments to increase the GBA to align with the permitted impermeable surface coverage thresholds for the TSL Overlay. The Reporting Officer considers that the GBA and impermeable surface coverage rule manage different effects and considers that there may be unintended consequences if this approach was adopted[23]. I agree with Reporting Officer insofar as impermeable surface coverage typically relates to manging effects associated with the overall size and scale of buildings and stormwater management effects, whereas GBA, to my understanding has its origins transport effects. The origin of GBA is from Plan Change 20 Traffic, Parking and Access (now within the ODP), a plan change promulgated by the Council that sought to amend the provisions relating to traffic generation and car parking[24]. I have not come across this term in any other district plans around the country.

9.36 The exact nature of the potential 'unintended consequences' is not clear; however, it is accepted that a percentage may not be appropriate in this case. To address this, I have reviewed the RPROZ and note that provisions (RPOZ-R17, RPROZ-R16, RPROZ-R11, RPROZ-R10) interchangeably refer to GBA and Gross Floor Area ("**GFA**") but most commonly utilises GFA to manage the size and scale of an activity. I consider that GFA is more commonly understood term and provides an element of certainty to both Council and applicants for the overall size and scale of activities. Also, GFA is a defined term under the National Planning Standards – Mandatory Direction 14. For these reasons, I consider it is more appropriate to

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23 At paragraph 214 and 216 of the TSL Overlay s42A Report.

24 Refer to Council's Plan Update Schedule at: https://www.fndc.govt.nz/__data/assets/pdf_file/0022/18832/full-plan-update-schedule.pdf

utilise GFA to provide greater certainty for plan users a to be more consistent with other provisions in the PDP.

9.37 For the reasons outlined above, it is my opinion that TSL-R4 PER-2 and TSL-R11 would be effective by replacing 'GBA' with 'GFA'. I consider this to be more appropriate for managing use development under the policies of the TSL Overlay.

Rural Tourism

9.38 The TSL Overlay provides for Rural Tourism at TSL-R13 and Te Aupōuri's relief sought the deletion of TSL-R13-PER-1. For the same reasons detailed in above, I consider amendments are appropriate to replace 'GBA' with 'GFA'. I consider that TSL-R13-PER-1 would be more appropriate for providing for the use and development of Treaty Settlement land by

> *"…*
>
> ***PER-1***
>
> *The rural tourism activity does not exceed a ~~GBA~~ **GFA** of 250m^2."*

Development Standards

9.39 I have undertaken a review of the TSL Overlay development standards has been undertaken in relation to the MPZ and RPROZ (as detailed in **Attachment 2**). I consider the standards to outline the relevant bulk, scale and location controls for built form, which are largely consistent across the RPROZ, MPZ and TSL Overlay with the exception of infrastructure servicing (TSL-S6 and MPZ-S6). In this regard, the RPROZ does not include a development standard for infrastructure servicing.

9.40 I addressed TSL-S5 'Building / Structure Coverage' above and have recommended amendments to align the specified threshold with the 'impermeable surfaces' threshold outline in TSL-R2.

9.41 I highlight to the Reporting Officer that the notified MPZ-S3 Setbacks (Rural) does not specify a setback distance in clause (iii). This could be addressed by aligning with TSL-R3 clause (ii) which specifies a setback distance of 3m.

10. SPATIAL EXTENT OF TSL OVERLAY

10.1 Key Issue 6 of the TSL Overlay s42 Report has addresses submissions regarding the spatial extent of TSL Overlay. The inclusion of these matters as part of Hearing Stream 10 was not anticipated. Panel Minute's 8 and 14 from issued on 9 September and 2 December 2024 respectively revised the hearing schedule for 'rezoning' hearing stream. Unfortunately, it was missed that the TSL Overlay was excluded from these timetabling changes and it was assumed that submissions on spatial changes would be heard in as part of the 'Rezoning' Hearing Stream (15A – 15D). For these reasons, there has been insufficient time for Te Aupōuri to gather all necessary supporting information.

10.2 Based on the information available to Te Aupōuri at this time, the following information is provided in support of their submission to include all relevant Treaty Settlement Land within the TSL Overlay:

(a) Apply TSL Overlay to all land that was returned to Te Aupōuri as part of their Treaty Settlement as shown in Map 1 at **Appendix 1** of Mr Kapa-Kingi's evidence. In summary, this includes the following properties:

(i) **Record of Title: NA85A/299 –** Owned by TACDL, the property is legally described as Section 40 Block X Houhora East Survey District and measures 4,856m^2. The property was transferred on 17.12.2015 by 10154300.2 pursuant to section 139 of the Te Aupouri Claims Settlement Act 2015.

(ii) **Record of Title: 719741 –** 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.

(iii) **Record of Title: NA75B/196** – 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 be transfer 10062806.3.

(iv) **Record of Title NA80D/748** – 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.

10.3 In relation to Te Rūnanga's landholding, it is respectively requested that any rezoning regarding these properties be deferred to Hearing Stream 15A – 15D to allow sufficient time to collate any necessary supporting information.

11. SECTION 32AA EVALUATION

11.1 Section 32AA of the RMA provides that further evaluation is required when changes are made to a plan since the original evaluation was completed. I have recommended a number of amendments to the provisions above that warrant consideration pursuant to section 32AA. I have assessed the recommendations set out in my evidence in accordance with section 32AA and I consider that the amendments to the provisions that I outline above will be the most appropriate because they more efficiently and effectively provide for the relationship of Māori and their culture and traditions to their ancestral lands and taonga to enable use and

development of their land to support their social, cultural and economic wellbeing, while balancing the need to manage the amenity values and quality of the rural environment.

12. CONCLUSIONS

12.1 In conclusion, I consider that there are a number of issues outstanding from Te Aupōuri's submissions that need to be addressed by the Hearing's Panel. In my opinion, the TSL Overlay and MPZ inadequately provide the 'enabling' planning framework and that they continue to be hampered by the overly restrictive RPROZ provisions.

12.2 In my opinion, the enabling purpose of the TSL Overlay and MPZ are fundamentally founded on an entirely different statutory planning framework than the RPROZ and this is reflected in the outcomes sought by the objectives of the respective chapters. While there is an obvious relation between the TSL Overlay and any underlying zone, namely the RPROZ and NOSZ, it is important to recognise that the chief objective of the TSL Overlay and MPZ is to recognise and provide for the relationship of tangata whenua to their culture, traditions, lands and other taonga as opposed to maintaining the primary production or open space purpose of another zone.

12.3 Furthermore, it is my opinion that Te Aupōuri's amended relief continues to reflect the most appropriate provisions in achieving the resource management purpose of the RMA and I consider it strikes the balance in promoting the use and development of Māori and treaty settlement land to support the social, cultural, economic wellbeing of its people while managing the environment.

Makarena Evelyn Te Paea Dalton

Date: 10 March 2025

Attachment 1 – Te Aupōuri Recommended Amendments to TSL Overlay

Attachment 2 – Comparative Analysis of the TSL Overlay in Relation to RPROZ and MPZ