



➤ Te Aupōuri Context

❖ Treaty Settlement and PSGE Structure – Roles, functions and responsibilities

❖ Overview of Te Aupōuri and the PDP

➤ Key Issues / Te Aupōuri Relief:

➤ Lack of integration between the PDP RPROZ and TSL Overlay provisions

➤ Recommended Amendments – TSL Overlay Objectives, Policies, and Rules

➤ Conclusions / Recommendations

## Te Rūnanga Nui o Te Aupōuri

(Te Rūnanga)

Manages cultural redress, conservation, resource management, community resilience, infrastructure and manages the protection of their rights as mana whenua.

### Te Aupōuri Commercial Development Ltd & Te Aupōuri Fisheries Management Ltd

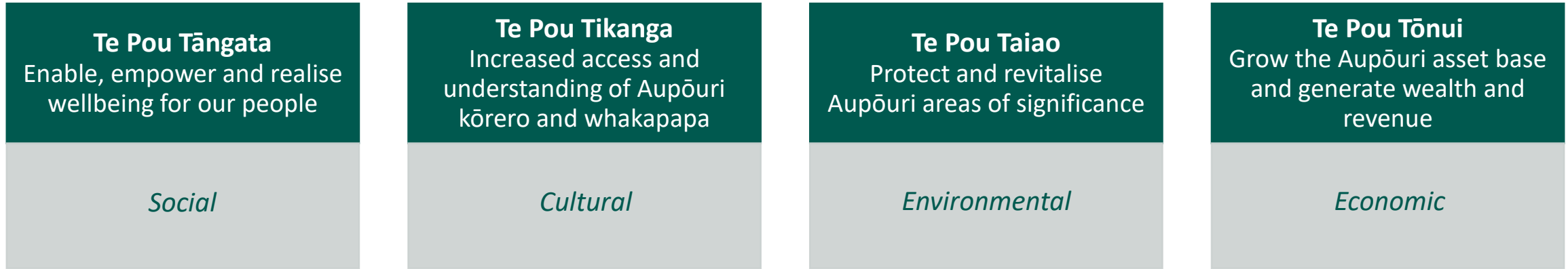
(TACDL & TAFML)

Manages commercial redress. The key objective is to generate sustainable returns, grow/enhance the value of capital assets and generate adequate cash flow required to meet the distribution and operational requirements of the Rūnanga

### Te Aupōuri Iwi Development Trust

(TAIDT)

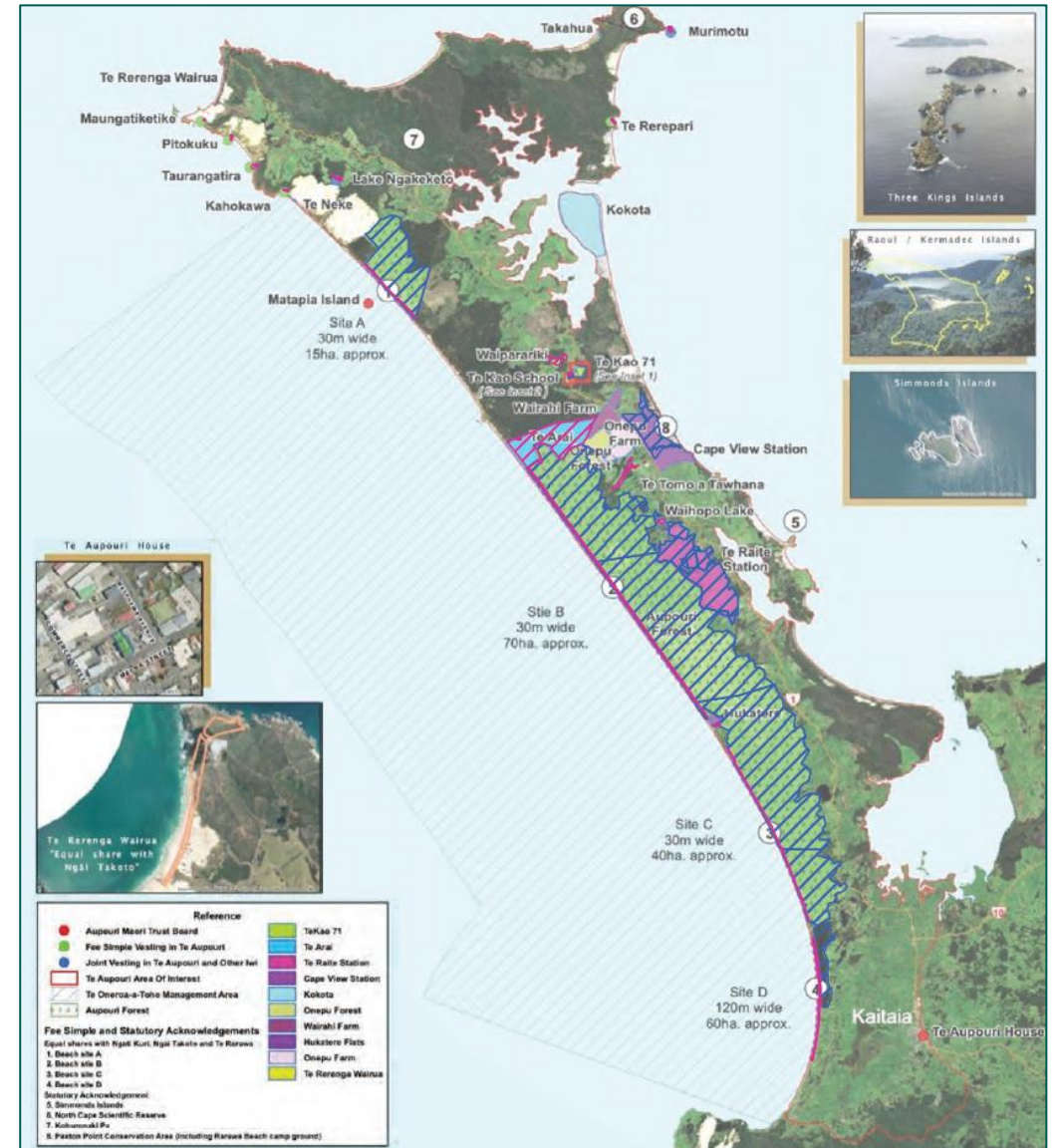
Wholly owned subsidiary of Te Rūnanga and invests in the cultural and social prosperity of Aupōuri people. TAIDT delivers funding support for the advancement of its people in education, spiritual, economic, social and cultural wellbeing



- Te Aupōuri as a PSGE represents the collective interests and aspirations of approximately 14,000 descendants.
- Wide range of priorities to support Te Aupōuri whānau across a range of strategic pou to support the wellbeing and prosperity of their people.
- 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.

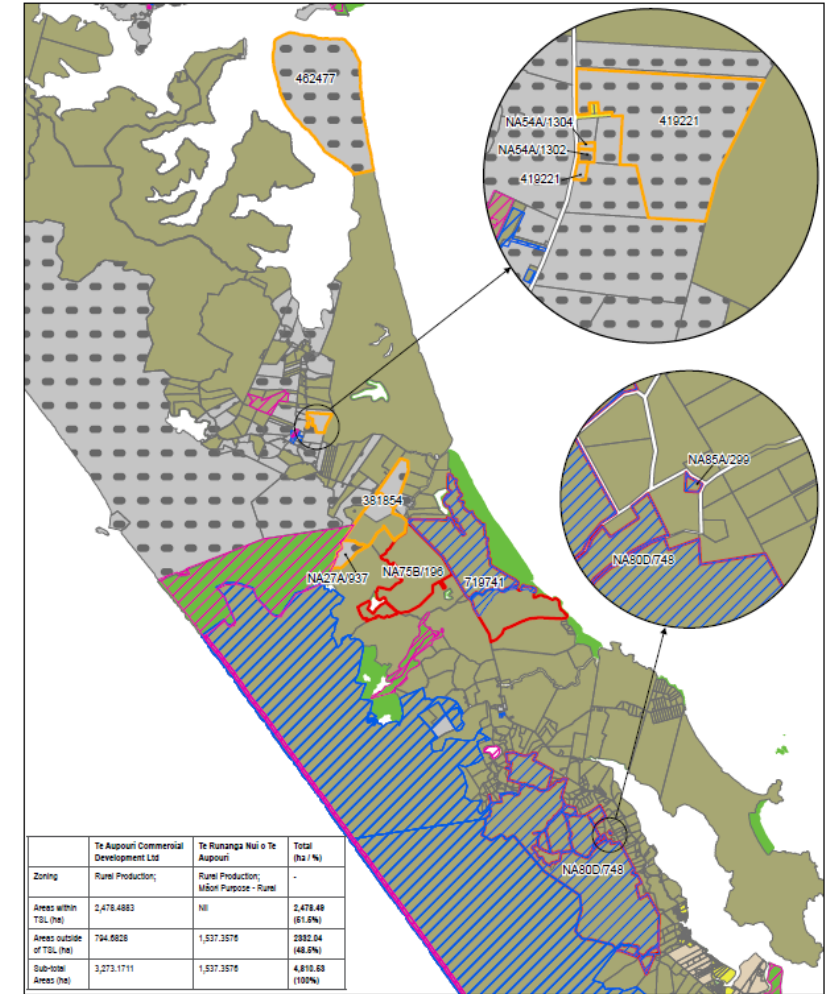


- Collectively, Te Aupōuri owns approximately 4,810ha of which 1,370ha is cultural redress lands and 3,273ha is commercial redress lands.
- Typically, cultural redress is in the ownership (or vested to) of Te Rūnanga while the commercial lands are in the ownership of TACDL.
- Te Aupōuri also shares ownership or joint management over a number of cultural and commercial redress properties with other Te Hiku Iwi, Ngāi Takoto
- Te Aupōuri's landholdings are largely localised to Te Hiku peninsula, north of Kaitaia.



Te Aupōuri Treaty Settlement Land – with PDP TSL Overlay

- TACDL's sites (shown in red) are within the RPROZ with 2478.5ha or 51.5% located within the TSL Overlay.
- Te Rūnanga's land (shown in orange) is a combination of RPROZ and MPZ and none of the sites are subject to the TSL Overlay.
- Approximately 795ha of TACDL's land is outside the TSL Overlay, and none of Te Rūnanga's land is within the TSL Overlay. The reasons for these discrepancies for TSL Overlay are unclear.



**Legend**

Te Aupouri Commercial Development Ltd	General Residential	Rural Lifestyle
Te Rūnanga Nui o Te Aupouri	Māori Purpose - Rural	Rural Production
Commercial	Natural Open Space	Rural Residential
Cultural	Open Space	Settlement
		Sport And Active Recreation

**Te Aupōuri Mapping**  
For Hearing 10  
Maori Purpose & Treaty Settlement  
**DRAFT**  
6 March 2025

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TACDL and Te Rūnanga owned Land with PDP Zones & TSL Overlay

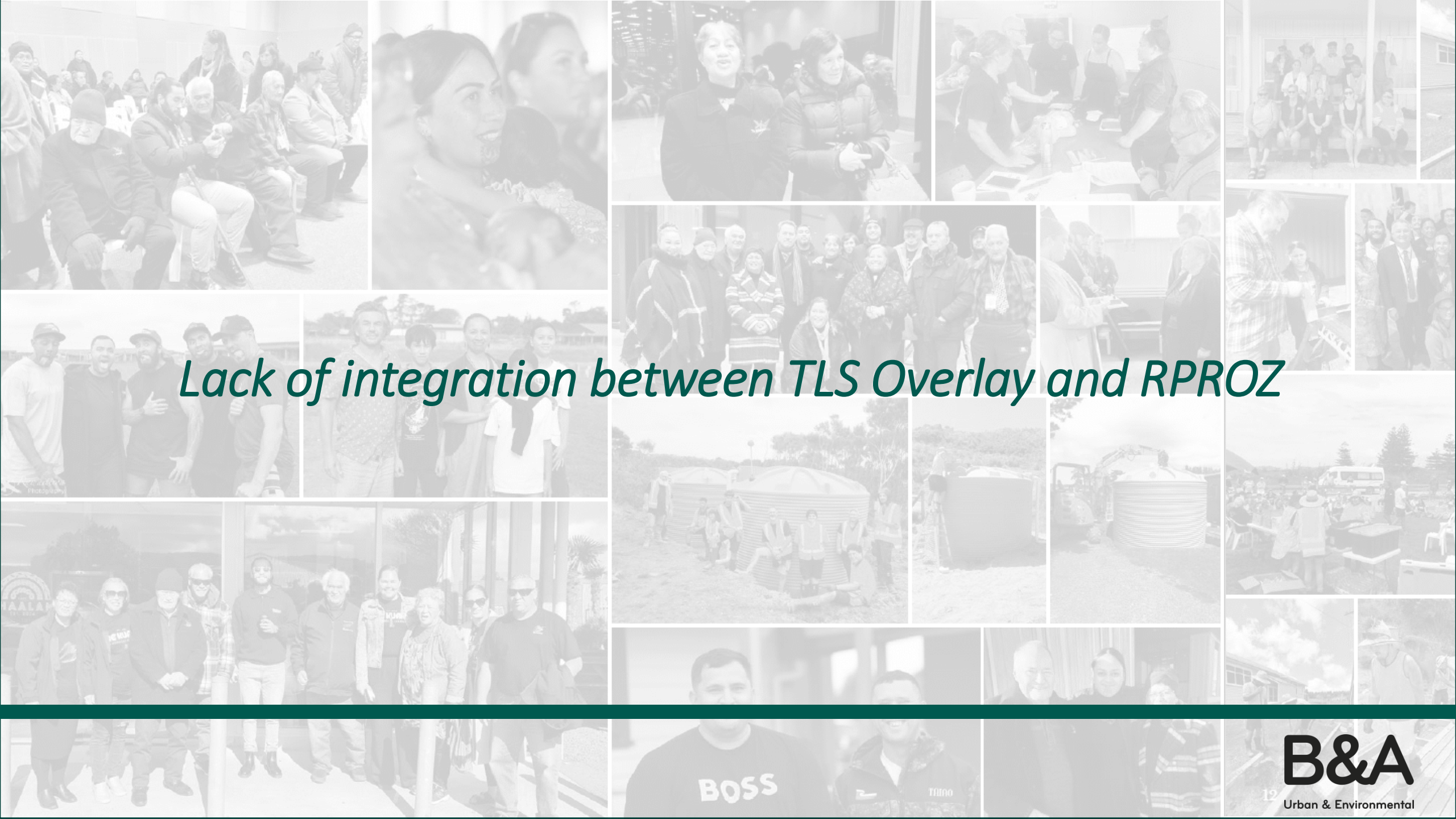
- Examine the extent to which the **objectives** of the proposal are the most appropriate way to achieve the purpose of the Act
- Examine whether **the provisions in the proposal** are the most appropriate way to achieve the objectives

- I generally agree with the Reporting Officer that the s32 Report for the Tangata Whenua topic assesses the relevant statutory context for Māori and Treaty Settlement Land. IN particular:

*“The total extent of “Highly Productive Land<sup>2</sup>” 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 provisions<sup>3</sup> 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.”<sup>4</sup>*

- Despite this conclusion, the PDP does not effectively or efficiently address the integration issues between the TSL Overlay and the underlying RPROZ .
- However, TSL-P3 does establish a ‘link’ to the underlying zone by requiring development within the TSL Overlay to demonstrate that is compatible with surrounding activities and will not compromise the underlying zone or their intended purpose.
- Importantly, the RPROZ does not mention, 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.





*Lack of integration between TLS Overlay and RPROZ*

- Te Aupōuri's relief sought amendments to the PDP to **clarify the relationship between the TSL Overlay, underlying zone(s) and other district-wide matters** and that the **TSL Overlay provisions prevail** when the same or similar rule applies across the various chapters.
- The notified PDP approach relies on the 'Notes' provisions within the TSL Overlay to clarify this, with only one corresponding policy (TSL-P3) that establishes a relationship between the overlay and the underlying zone.

- The Reporting Officer considers that the **TSL Overlay is intended to be “enabling”** and recommends the following amendment to the ‘How the Plan Works’ Chapter:

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 applies.<sup>1</sup>

- As set out in my evidence, I support the amendments recommended by the Reporting Officer.
- However, I consider a number of additional amendments to the PDP RPROZ and TSL Overlay chapters is required to address the integration issues between the overlay and zone to ensure the provisions appropriately give effect to the sustainable management purpose of the RMA, while providing for the effective and efficient use and development of Māori and Treaty Settlement Land.

- 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.
- Neither ‘overview’ section for the RPROZ or TSL Overlay acknowledge that there is an inherent spatial relationship between the provisions, despite almost 50% of the TSL Overlay land being located within the RPROZ zone.
- Conversely, the Natural Open Space Zone (NOSZ) acknowledges this in the ‘overview’, objective NOSZ-O1 and NOSZ-P1 as shown 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.**"



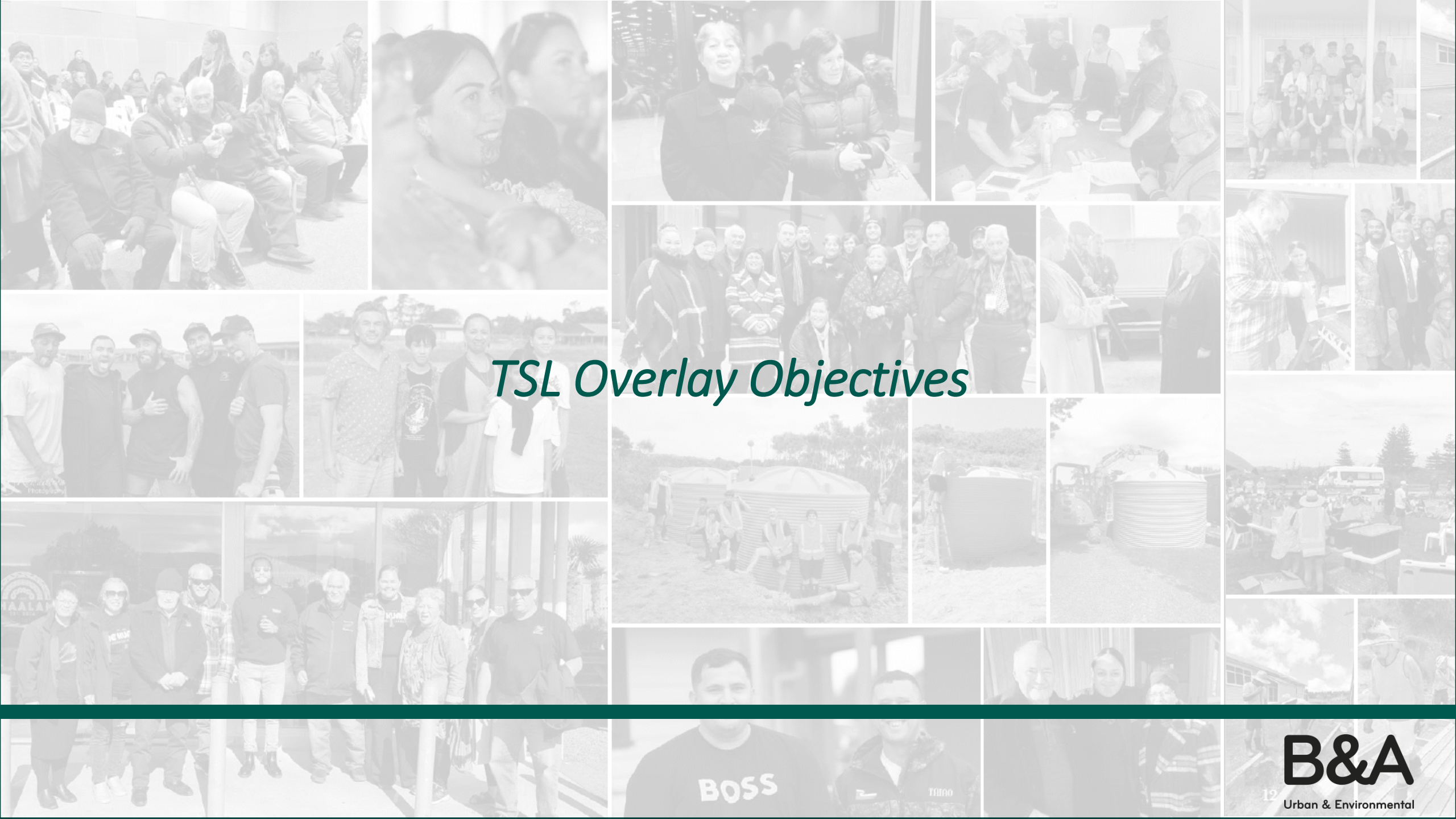
➤ Recommended amendments to the ‘overview’ section of the TSL Overlay :

“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.”

- Recommended amendments to the ‘overview’ section of the RPROZ:

“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.”



# *TSL Overlay Objectives*

**B&A**

Urban & Environmental

- 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 (see below, **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 tangata-whenua has with their land.”

- Te Aupōuri’s original relief supported the TSL Overlay objectives subject to minor amendments to TSL-O2 to include reference to ‘environmental’. The Reporting Planner has addressed and agrees this amendment is appropriate as it gives effect to Part 2 of the RMA.

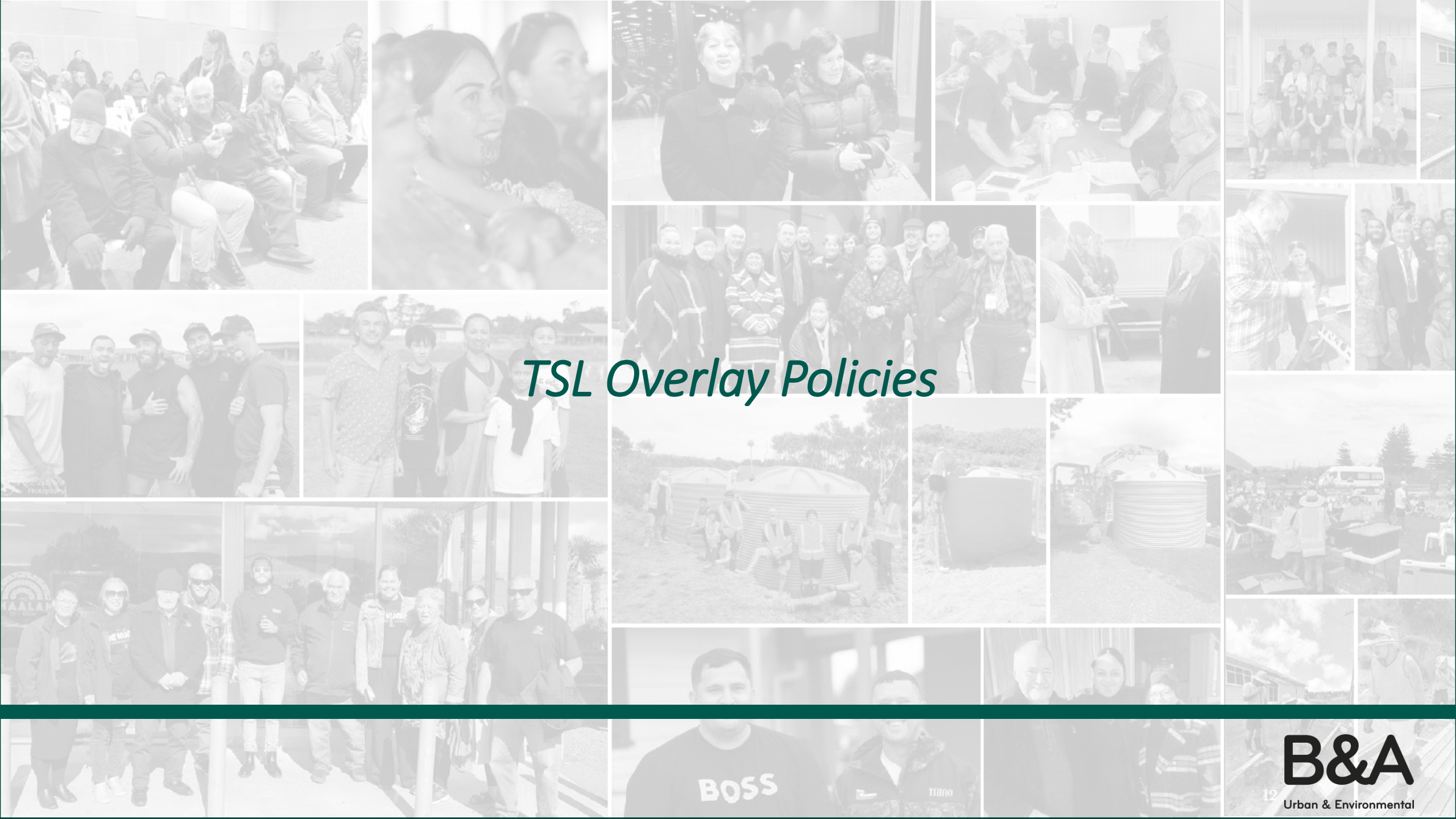


- Notwithstanding, I consider additional minor amendments are needed to remove unnecessary references to ‘commercial’ and ‘cultural’ redress within the notified objectives TSL-O2 and TSL-O3.
- To my understanding, Treaty Settlement Land (commercial or cultural) is returned to an iwi (or hapū) that reflects their historic areas of occupation and interest where the iwi (or tupuna) would have exercised ‘tino rangatiratanga’ or authority over.
- Importantly, the use, development or protection of Treaty Settlement Land is not ‘mutually exclusive’ to the type of treaty settlement redress. Both commercial and cultural redress land provide for the ongoing relationship of Māori / tangata whenua to their land, and can be used or developed in a manner that provides for the social, cultural, environmental and economic wellbeing.

- Recommended amendments to TSL Overlay objectives TSL-O2 and TSL-O3:

TSL-O2: Treaty Settlement Land ~~returned as commercial redress supports~~ **enables a range of** social, cultural, environmental and economic development.

TSL-O3: Treaty Settlement Land ~~returned as cultural redress~~ provides for the on-going relationship ~~tangata~~ tangata whenua has with their land.



# *TSL Overlay Policies*

**B&A**

Urban & Environmental

- Te Aupōuri's relief sought amendments to TSL-P1, TSL-P2 and TSL-P3 to:
  - ❖ Amend TSL-P1 to align with traditional Te Ao Māori social structures which comprise, whānau, hapū and iwi.
  - ❖ Amend TSL-P2 to remove 'small-scale' to ensure an appropriate level of commercial development is provided for on Treaty Settlement Land.
  - ❖ Amend TSL-P3 to remove references to the underlying zone to ensure use and development of Treaty Settlement land is appropriately enabled to provide for social, cultural, environment and economic development.



- 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.**”

- The Reporting Officer rejects Te Aupōuri’s relief and recommends TSL-P1 be retained as notified and considers that this may go beyond the intentions of the TSL Overlay by including the terms ‘hapū and whānau’ and may result in unintended consequence.

- As set out in my evidence, I disagree with the Reporting Officer, and consider amendments are appropriate for the following reasons:
  - ❖ While I accept that ‘whānau’ is not commonly used within the RMA context, and may not be appropriate, I disagree with the Reporting Planner that the use of hapū is inappropriate as it is commonly referenced within the RMA.
  - ❖ Within the TSL Overlay context, Treaty Settlements can be with either iwi or hapū and I consider it appropriate to recognise within these provisions.
  - ❖ PDP TW-P2 policy 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.
- As such, I consider it appropriate to recognise and provide for iwi / hapū plans or strategies to support the use and development of Treaty Settlement Land and consider Te Aupōuri’s relief can be clarified to remove any potential ‘unintended consequences’ by amending TSL-P1 as follows:

**“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.”**

- Te Aupōuri's relief sought amendments to TSL-P2 to remove 'small-scale' to ensure an appropriate level of commercial development is provided for on Treaty Settlement Land.
- The Reporting Officer has recommended to delete 'small-scale' and I agree with this amendment.

➤ Te Aupōuri’s relief sought to delete TLS-P3 criteria (a) and (c) as detailed below:

“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;

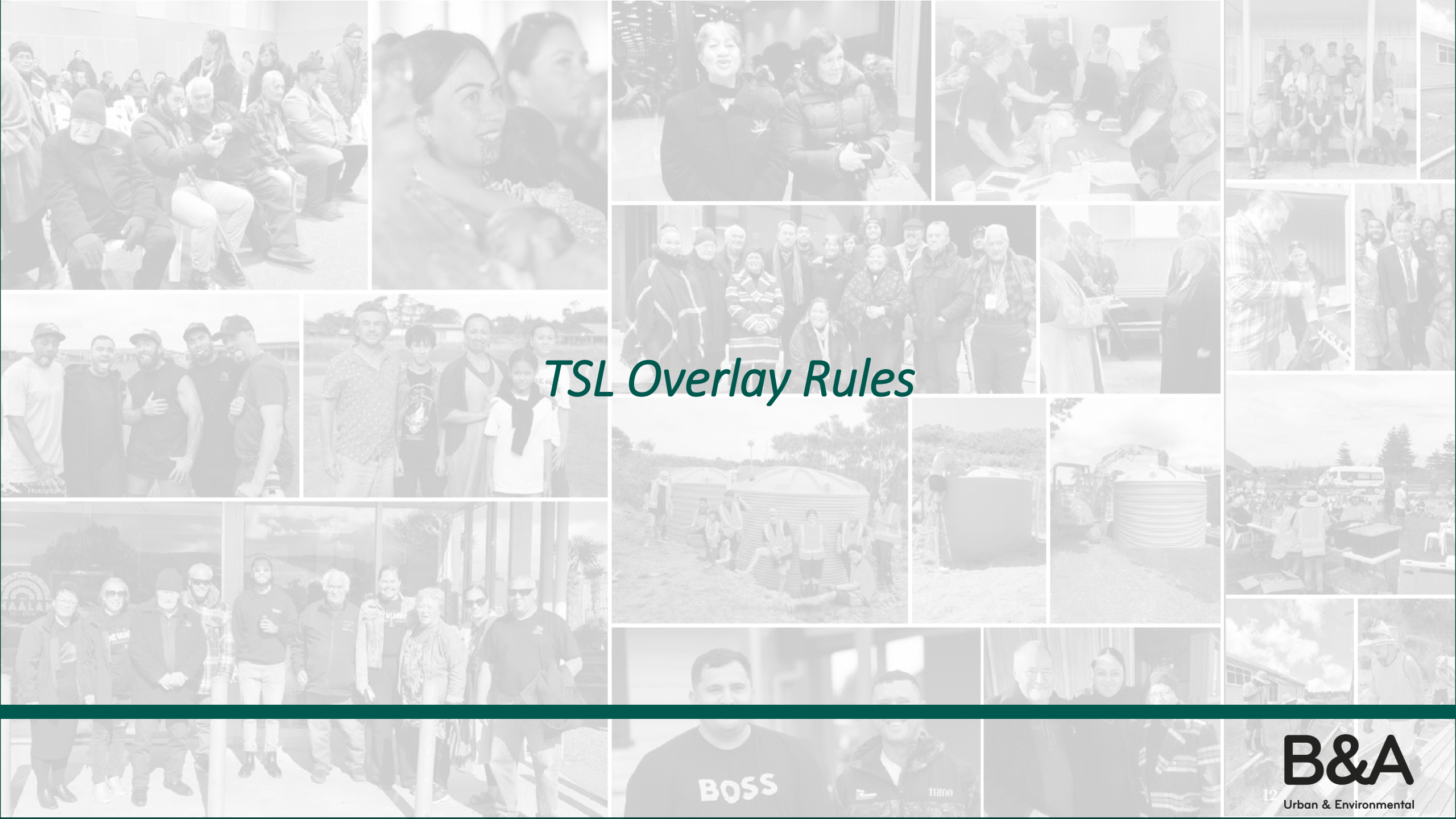
(g) it can be serviced by onsite infrastructure or reticulated infrastructure where this is available;  
and

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



- This relates directly to the ‘integration’ issues raised earlier. When a resource consent is required and recourse to the policy framework is necessary, the provisions require consideration of the objectives and policies of both the PDP RPROZ and TSL Overlay.
- As highlighted earlier, the RPROZ makes no reference to Treaty Settlement Land and has very directive objectives and policies that relate to maintaining the primary production purpose and function of the zone.
- While the TSL Overlay is enabling, there is a disconnect between the activities that are provided as permitted or restricted discretionary activities, and those that will require discretionary activity resource consent.
- Discretionary activities will need to consider the provisions of both the PDP RPROZ and TSL Overlay, and neither chapter provide direction on how these matters can be resolved.

- I have fundamental concerns that the outcomes of the TSL Overlay are linked to the purpose and intended outcomes of the RPROZ.
- 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.



*TSL Overlay Rules*



- Te Aupōuri's relief sought a number of amendments to rules as summarised below:
  - ❖ Impermeable surfaces – Delete TSL-R2 Impermeable Surfaces and rely on TSL-S5 Building or structure coverage
  - ❖ Residential activities (except papakāinga) – Delete the density threshold from TSL-R3-PER-2
  - ❖ Papakāinga – Delete TSL-R4-PER-1 to remove the density thresholds and amend PER-2 to increase the size of commercial activities.
  - ❖ Education Facility – Amend TSL-R11 to provide for kōhanga reo and kura as a permitted activity.
  - ❖ Commercial activity – Amend TSL-R12 to increase the permitted activity thresholds for commercial activities.
  - ❖ Rural Tourism – Delete TSL-R12-PER-1 to move the GBA threshold and enable rural tourism as a permitted activity.

- Te Aupōuri's relief sought a number of amendments to rules as summarised below:
  - ❖ Impermeable surfaces – Retain TSL-R2 Impermeable Surfaces and update to align with the Building or structure coverage standard.
  - ❖ Residential activities (except papakāinga) – Amend density threshold to align with ODP.
  - ❖ Papakāinga – Amend density thresholds and delete reference to GBA for commercial activities.
  - ❖ Education Facility – Amend TSL-R11 to provide for kōhanga reo and kura as a permitted activity.
  - ❖ Commercial activity – Amend TSL-R12 to delete reference to GBA.
  - ❖ Visitor Accommodation – Amend to align with RPROZ.
  - ❖ Rural Tourism – Delete TSL-R12-PER-1 to move the GBA threshold and enable rural tourism as a permitted activity.



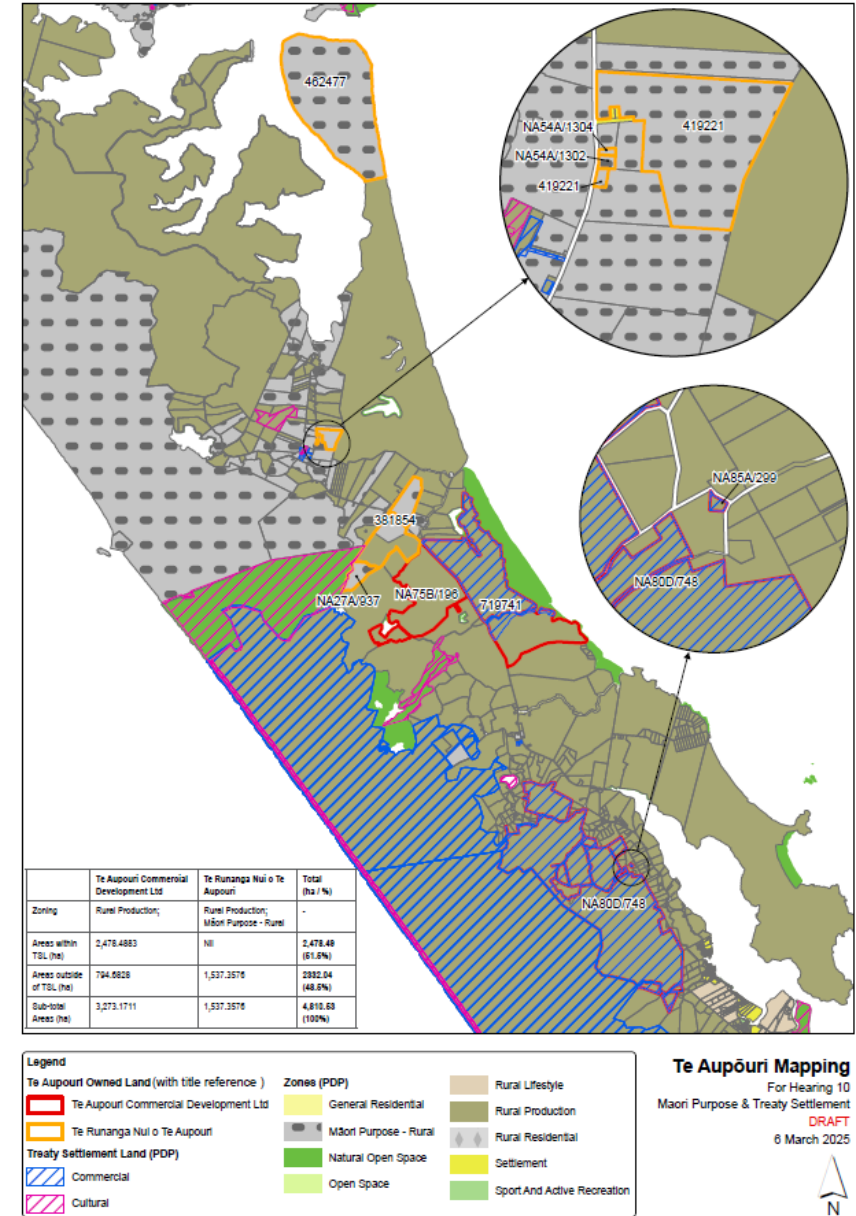


*TSL Overlay – Spatial Extent*

**B&A**

Urban & Environmental

- There is a clear discrepancy between Te Aupōuri’s landholdings and the PDP TSL Overlay extent. As shown in this map, only half of Te Aupōuri’s properties owned by TACDL are within the TSL Overlay and none of Te Rūnanga’s land is within the TSL Overlay.
- At a minimum, it is considered that all of TACDL’s properties should be mapped within the TSL Overlay, and more time is required for Te Aupōuri to consider whether Te Rūnanga’s properties should also be included within the TSL Overlay.
- What this shows is that the PDP mapping is incomplete and Council has failed to appropriately work with settled iwi to ensure their land is accurately mapped.



## TSL Overlay Spatial Extent

- The TSL Overlay and MPZ inadequately establish the 'enabling' planning framework intended by the PDP and will continue to be hampered by the overly restrictive RPROZ provisions, as they are founded on a fundamentally different statutory planning framework.
- In particular, the overarching objective of both 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 purpose of another zone.
- This has resulted in a lack of integration between the TSL Overlay and RPROZ provisions and perversely results in a planning framework that is potentially more restrictive than the operative district plan, particularly for establishing papakāinga development.
- I consider my recommended amendments are the most appropriate in achieving the sustainable management purpose of the RMA because they more efficiently and effectively provide for the relationship of Māori and their culture and traditions to their ancestral lands and taonga to use and develop 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.
- Given there are only two experts involved in this hearing stream I consider that it would be beneficial to the Hearings Panel if the Reporting Planner and the other planning experts for Treaty Settlement and Māori Land undertake expert caucusing on these provisions. Particularly, the rules relevant to papakāinga and residential intensity to narrow the issues and differences.

# Barker & Associates

Kerikeri | Whangārei | Auckland | Hamilton | Napier | Wellington | Christchurch | Queenstown