

Proposed District Plan
Strategic Planning and Policy
Far North District Council
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Attention: District Planning Team

19 October 2022

SUBMISSION ON PROPOSED FAR NORTH DISTRICT PLAN

Clause 6 of Schedule 1 of the Resource Management Act 1991 (RMA)

To: Far North District Council

Name of submitter: **Whale Bay Limited** (Lot 15 Owners – Mataka Station)

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INTRODUCTION

1. This is a submission on the Proposed District Plan for the Far North District (**Proposed Plan**).
2. I am a member of the Mataka Residents Association and owner of a Lot within the Mataka subdivision.
3. The Mataka Residents' Association Inc (**the Association**) is a collective of landowners with properties at Mataka Station. Mataka Station is an ecological farm estate on the Purerua Peninsula in the Far North District (**the Site**).
4. Figure 1 below identifies the Site, which Figure 2 further below, identifies the proposed Overlays from the Proposed District Plan (addressed below) and the existing Operative District Plan Rural Production zone/General Coastal zone boundary. The Proposed District Plan proposes the removal of the General Coastal zone, the rezoning of all the Purerua Peninsula to Rural Production zone and the implementation of the Coastal Environment overlay to effectively 'replace' the operative Coastal Environment zone. Additional overlays are also proposed over the Purerua Peninsula, including the High Natural Character overlay and the Outstanding Natural Landscape overlay.

5. The Proposed Plan, if approved, will directly affect members of the Association by imposing undue restrictions on the construction of residential dwellings on the Site through the application of specified overlays and rules.
6. The Association could not gain an advantage in trade competition through this submission.
7. The Association makes this submission in relation to all relevant provisions affecting the Purerua Peninsula, including but not limited to the following:
 - (a) The proposed Coastal Environment (**CE**) overlay, overview, objectives, policies and rules applying to the Site;
 - (b) The proposed Outstanding Natural Landscape (**ONL**) overlay, overview, objectives, policies and rules applying to the Site; and
 - (c) The proposed High Natural Character (**HNC**) overlay, overview, objectives, policies and rules applying to the Site.
 - (d) The proposed Rural Production zone overview, objectives, policies and rules applying to the Site.
8. The specific provisions of the Proposed Plan that this submission relates to are:
 - (a) the overview, objectives, policies and rules applying to land that is subject to a CE overlay (set out under *Part 2 – District Wide Matters: General District-Wide Matters - Coastal environment* of the Proposed Plan);
 - (b) the overview, objectives, policies and rules applying to land that is subject to an ONL overlay (set out under *Part 2 – District Wide Matters: Natural environmental values - Natural features and landscapes* of the Proposed Plan); and
 - (c) the overview, objectives, policies and rules applying to land that is subject to a HNC overlay (set out under *Part 2 – District Wide Matters: Natural environmental values – Natural character* of the Proposed Plan).
 - (d) The overview, objectives, policies and rules applying to land that is subject to The Rural Production zone (set out under *Part 3 – Area Specific Matters: Rural Zones* of the Proposed Plan).

OVERVIEW OF MATAKA STATION

Ownership and operating structure

9. Mataka Station comprises a 30-lot residential development with an operational sheep and cattle farm and a large private conservation estate totalling 1150ha.
10. The Site is administered by the Association through a body corporate ownership structure. Land owners hold the titles making up the whole of Mataka Station reserving use of their residential site and leasing to the Association the balance of their lots for farming and conservation uses.

11. Land Covenants are registered on the Certificates of Title to all properties on Mataka Station. The Land Covenants and associated rules govern features such as common access, the maintenance of roads and other common facilities. Each owner is required to belong to the Association and to comply with its rules. Those rules are comprehensive and establish a private management scheme for Mataka Station.
12. A key requirement of the covenant-based management scheme for Mataka Station is that all new buildings on the Site must comply with strict Design Guidelines, which include a condition that approval must be sought from the Design Committee prior to altering the location of an identified building platform.

Mataka scheme

13. Since 2000, a number of resource consent applications (**the resource consents**) have been sought and granted to enable the subdivision of the Site into its current configuration with 30 residential allotments (**the Mataka Scheme**). To date, ten dwellings have been constructed and an additional 20 dwellings are anticipated by the Mataka Scheme.
14. When the original application was made for the resource consents, the intention was for the Mataka Scheme to be consented in full. The conditions of consent specifically enable this, including the establishment of dwellings. Condition 11 of resource consent 2030467 provides for the following:

Condition 11

One (1) dwelling house together with accessory buildings including water storage facilities may be established on each Lot in the subdivision, except as may be provided by a subsequent resource consent or where the District Plan provisions allow as a permitted activity. The dwelling houses and accessory buildings shall be located as shown on the plan of subdivision 5670/12 and shall be consistent with the relevant design criteria in the Transitional and Proposed District Plans.

Note: This condition does not include Lots 19 and 23 which are subject to a separate Condition 17A.

Condition 17A

Development on Lots 19 and 23 shall be limited to one building only and shall be within the identified building area and shown on the survey plan. The building on Lots 19 and 23 shall be located below the ridgeline behind the building site and shall not exceed a height of 5m above natural ground level or finished ground level, whichever results in the height of the building being lesser when measured above sea level. Any parking areas shall be located landward of the building. The exterior appearance of any buildings shall be visually unobtrusive by the use of appropriate design, materials and exterior colours. All such details of the building and its location (within and Outstanding Landscape Area) being below the ridgeline shall be provided with any building consent application or resource consent application (if required) and shall be to the satisfaction of the Resource Consent Manager following an independent peer review at the applicant's expense.

15. Further resource consents and consent notices contain contained similar provisions. The resource consents are therefore for the subdivision of the Site and to enable construction of a residential dwelling on each of the identified building platforms.

16. This is reflected in the level of reports that were provided to the Council in support of the original application and the conditions of resource consent that were imposed by the Council when the Mataka Scheme was authorised. In particular, one of the conditions of resource consent provides for one dwelling to be established on each lot in the location identified on the subdivision plan in accordance with specified design requirements and screening and landscape mitigation measures for sensitive house sites.
17. The Association submits that the applications and decisions for Mataka Station treated the resource consents as an integrated long-term scheme or precinct. Its members, who are landowners, purchased lots in reliance on their ability to construct a residential dwelling within buildable areas identified on the consented Mataka Scheme.
18. The Proposed Plan fails to recognise or provide for residential development in accordance with the consented Mataka Scheme. Therefore, the Association seeks amendments to the Proposed Plan to protect its member's interests in relation to the Site. Reliance on the King Salmon decision as the basis for requiring non-complying activity resource consents for any development within the Outstanding Natural Landscape overlay fails to recognise existing regulatory consents within the overlay, which is a distinguishing factor from the King Salmon decision.

REASONS FOR SUBMISSION

19. The Proposed Plan will restrict the ability of members of the Association to construct a residential dwelling on the consented building platforms identified in the Mataka Scheme through the application of CE, ONL and/or HNC overlays and rules.
20. The Association's primary concerns relate to the following provisions:
 - (a) Pursuant to rule NFL-R1 and NFL Standards of the Proposed Plan, the construction of a new building/dwelling on land that is within the coastal environment and subject to an ONL will require resource consent as a non-complying activity if permitted development standards cannot be met.
 - (b) Pursuant to rule CE-R1 and CE Standards of the Proposed Plan, the construction of a new building/dwelling on land that is within the coastal environment and subject to a high natural character area will require resource consent as a discretionary activity if permitted development standards cannot be met.
 - (c) Pursuant to the RPROZ rules and standards of the Proposed Plan, the construction of a new building/dwelling on land that is within the rural production zone on an existing lot where the rules and standards are not met.
 - (d) The relevant overview, objectives and policies relating to the Coastal Environment overlay, High Natural Character overlay, Outstanding Natural Character overlay and Rural Production zone
21. The proposed default to non-complying activity status is particularly problematic as it would require a wholesale reassessment of the appropriateness to build on an approved building platform on the Site. It imposes considerable unnecessary cost and risk to current and future owners who have purchased lots in reliance on the consented Mataka scheme.

22. The Association submits that the application of non-complying and/or discretionary activity status to the construction of a residential dwelling on an authorised building platform that has been subject to extensive landscape and visual analysis amounts to an excessive constraint on residential activity on the Site.
23. The Association **opposes** the application of specified overlays and associated rules to the Site on the basis that those provisions:
- (a) fail to provide for residential activity in accordance with the consented Mataka Scheme;
 - (b) will impose undue restrictions on residential activity that is anticipated by the consented Mataka Scheme to the detriment of members of the Association;
 - (c) do not represent the most appropriate way of exercising the Council's functions, having regard to the efficiency and effectiveness of the provisions, and in particular the assessment of the benefits and costs of the environmental, economic and social effects that are anticipated from the implementation of the provisions; and
 - (d) will not promote the sustainable management of natural and physical resources and are not the most appropriate way to achieve the purpose of the Resource Management Act 1991 (**RMA**).
24. The Association submits that provisions of the Proposed Plan should be amended to enable the construction of a residential dwelling within buildable areas, as authorised by the Mataka Scheme.

DECISIONS SOUGHT

25. The Association seeks the following decision from Far North District Council: Accept the Proposed Plan but with the following amendments:
- (a) Insert a new Special Purpose Zone for "Mataka Station Precinct" under 'Part 3 – Area Specific Matters' of the Proposed Plan; and include appropriate objectives, policies and rules to enable residential activity and buildings as a permitted activity where they are in accordance with the Mataka Scheme and located on the consented House Site location as identified on Plan 5670/14 and to enable farming, conservation, recreation and common facilities where they are in accordance with the Mataka Scheme. The Precinct will also need to include other activities appropriate for this locality including farming and other Rural Production activities.
 - (b) Include appropriate permitted activity standards, including but not limited to the following:
 - (i) The dwelling shall be located on the House Site location
 - (ii) Maximum height = 12m above existing ground level
 - (iii) Building or structure coverage = 12.5%
 - (c) Include an overview, objectives and policies for the new Special Purpose zone that address the matters raised above in this submission and any

S233.001

further standards and/or design criteria that are consistent with the resource consents granted to date.

- (d) Amend the Overview, Objectives and Policies of the Coastal Environment Overlay, High Natural Character Overlay, Outstanding Natural Landscape overlay and Rural Production zone to give recognise the proposed Mataka Station Precinct provisions and the existing resource consent which provides for dwellings and buildings/structures on the Lots within the Mataka Scheme as well as the continuation of farming activities. **S233.002, S233.003, S233.004, S233.005, S233.006, S233.007,**
- (e) In the alternative, any other provisions including alternative activity status rules, matters for discretion and assessment criteria that give effect to this submission. **S233.008, S233.009, S233.010,**
- (f) Any other consequential relief required to give effect to this submission. **S233.011, S233.012, and, S233.013**

26. The Association wishes to be heard in support of its submission.

27. It does not want to present the submission via Microsoft Teams.

28. If others make a similar submission, the Association will consider presenting a joint case with them at a hearing.

David Hovey
On behalf of the owner