

**BEFORE HEARING COMMISSIONERS DELEGATED BY FAR NORTH DISTRICT
COUNCIL / TE KAUNIHERA O TE TAI TOKERAU KI TE RAKI
AT KAIKOHE**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions on the Proposed Far North District
Plan

**STATEMENT OF EVIDENCE OF ROCHELLE ASHLEY JACOBS (PLANNING) FOR
WAITANGI LIMITED (SUBMITTER 503)**

HEARING NINE – RURAL, HORTICULTURE & HORTICULTURE PROCESSING

18 November 2024

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1. INTRODUCTION

- 1.1 My name is Rochelle Ashley Jacobs. I am a Director and Senior Planner at Northland Planning & Development 2020 Limited.
- 1.2 My evidence is given on behalf of Waitangi Limited (Submitter 503) in relation to the Proposed Far North District Plan.
- 1.3 Waitangi Limited's submission relates solely to the Waitangi National Trust Estate (**Estate**) that is subject to three different zones in the Proposed Far North District Plan (as notified) (**PDP**) (Rural Production, Mixed Use and Sport and Active Recreation). The Estate contains the historic Waitangi Treaty Grounds / Te Pitowhenua (**Treaty Grounds**) which is mapped as both a site of cultural significance to Maori and an area of Outstanding Landscape in the PDP. The Estate also contains two Outstanding Natural Features (a rocky outcrop to the North of the Treaty Grounds and Haruru Falls), and four Historic Buildings and Objects (Hobsons Memorial, the Whare, the flagpole and the Treaty house) under the PDP. Waitangi Limited is responsible for managing the day-to-day operations at the Estate.

2. QUALIFICATIONS AND EXPERIENCE

- 2.1 I have the following qualifications and experience relevant to the evidence I shall give:
 - (a) I hold a Bachelor of Resource and Environmental Planning from Massey University.
 - (b) I am an Intermediate Member of the New Zealand Planning Institute.
 - (c) I have more than 15 years' experience as a planner in New Zealand with the majority of my planning career being in the Far North.
 - (d) In 2020, I joined Northland Planning and Development 2020 Limited as a part owner. In this role, I regularly advise and assist corporate and private individuals with the preparation of resource consent applications under the Resource Management Act 1991 (**RMA**), including subdivision applications, land use resource consents, and coastal permits in the coastal marine area.
 - (e) Throughout my planning career, I have processed resource consent applications on behalf of the Far North District Council (**Council**) for activities on the Estate and have also compiled resource consent applications for proposed activities at the Estate on behalf of Waitangi Limited. As a result of my experiences, I have a good understanding of the planning issues that exist in respect of the Estate.

- (f) As I have been working with Waitangi Limited for a number of years, I am also well aware of the range of activities, including everyday operations and maintenance activities, that occur on the Estate.

3. CODE OF CONDUCT

- 3.1 While this hearing is not before the Environment Court, I acknowledge that I have read the Environment Court's Code of Conduct for Expert Witnesses (contained in the 2023 Practice Note) and agree to comply with it. Except where I rely on the evidence of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise, and I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

4. BACKGROUND AND ROLE

- 4.1 I am the consultant planner for Waitangi Limited. I work closely with and advise Waitangi's Chief Transformation Officer (Ralph Johnson) and Head of Operations and Infrastructure Officer (Nicole Wihongi) on planning related matters, including proposed changes to the Operative Far North District Plan (**Operative Plan**) and how these proposals are likely to impact the Estate. I have been advising Waitangi Limited on the Council's plan review since 2022.

- 4.2 In particular, I have:

- (a) advised Waitangi Limited of the changes proposed by the Council through its review of its Operative Plan;
- (b) prepared a submission on behalf of Waitangi Limited on the PDP;
- (c) prepared analysis and carried out initial work drafting provisions for a special purpose zone (within the meaning of the National Planning Standards (November 2019)) for the Estate; and
- (d) liaising with other consultants in respect of this work.

- 4.3 For Waitangi Limited, I have previously given evidence at PDP hearings that include the following topics:

- (a) **Hearing 4** - Natural character, natural features and landscapes coastal environment and ecosystems & indigenous biodiversity; and
- (b) **Hearing 6/7** – General District-wide matters – earthworks, light, noise, signs and temporary activities and genetically modified organisms.

5. SCOPE OF EVIDENCE

- 5.1 Waitangi Limited is seeking, as its primary relief, the application of a special purpose zoning to the Estate. This is sought as an alternative to the general land use zones and spatial overlays in the PDP. The circumstances of the Estate strongly support special purpose zoning in line with guidance provided in the National Planning Standards and for the reasons explained in my Hearing 4 evidence.
- 5.2 While special purpose zoning remains Waitangi Limited's primary objective, Waitangi Limited has also asked for secondary relief as a fall back if a special purpose zoning is not accepted by the Hearings Panel. The matter of special purpose zoning has been set down to be heard by the Hearings Panel at Hearing 15B between 1 to 4 September 2025.
- 5.3 My evidence responds to matters relating to Waitangi Limited's secondary 'fall-back' relief as it relates to this hearing. These matters relate directly to the application of the Rural Production Zone (**RPROZ**) to the Estate and the implications of enabling existing and future land use activities at the Estate.
- 5.4 Evidence I provided for Hearing Four is relevant to this evidence [and is attached Appendix 1], particularly the 'Overview of the Estate', 'The Effect of the Proposed Plan and Need for a Special Purpose Zone', and 'Proposed Waitangi Special Zone' sections.

6. MATTERS SPECIFIC TO HEARING NINE

- 6.1 In this section, I respond to matters relating to Waitangi Limited's secondary 'fall-back' relief as it relates to this hearing, including responding to Council reports prepared under section 42A of the RMA.
- 6.2 Waitangi Limited made a total of 40 secondary relief submissions on PDP rules, with an additional seven secondary relief points sought in regard to definitions. Waitangi Limited's submission points applicable to the Hearing 9 'Rural Wide Issues and the Rural Production Zone included:
- (a) S503.004 – definition of 'Rural Tourism Activity'
 - (b) S503.030 – RPROZ-R3 – number of residential units on a site
 - (c) S503.031 – RPROZ-R4 – as the visitor accommodation rule might be applied to a 'marae'.
 - (d) S503.032 – RPROZ-R6 – as the educational facilities rule might apply to a museum, marae or other similar facility.

- (e) S503.033 – RPROZ-R22 – the matter for discretion with reference to how a proposed rural tourism activity might be linked to the rural environment and whether the activity can occur on any other site.
- (f) S503.034 – RPROZ-R24 – the number of rural industry activities that may occur on a site.

Proposed Zoning

- 6.3 As described above, under the PDP, the majority of the Estate has been mapped as RPROZ, with the exception of one golf course allotment (Sport and Active Recreation Zone), and the Copthorne (Mixed Use Zone). The purpose of the RPROZ does not align with that of the Treaty Grounds or wider Estate. This misalignment is most obvious in relation to the Treaty Grounds, but also extends to the remainder of the Estate. Put simply, the Estate, including but not only the Treaty Grounds, is not a rural production environment.
- 6.4 It remains the submitter's view, as expressed in hearing four, that the Waitangi Estate has been inappropriately zoned RPROZ and that this has resulted in there being a limited consenting pathway for existing or proposed activities that Waitangi Limited is required to undertake on the site to protect and manage the Treaty Grounds, associated nationally historic heritage resources, and the surrounding Estate. This is largely because the Waitangi Estate is a destination location for visitors to a national heritage site and that activities on the site are tourism related rather than for rural production. The Waitangi Estate lands are managed under the Waitangi National Trust Board Act 1932 (**Trust Board Act**) and were gifted to the inhabitants of New Zealand as '*a place of historic interest, recreation, enjoyment and benefit in perpetuity*'. The site has a fixed location that attracts thousands of visitors every year to the place where the Treaty of Waitangi was signed in 1840. Many of the existing activities on the site have a tourism or recreation focus. There are also supporting facilities on the site, such as visitor accommodation provided by the Copthorne Hotel.
- 6.5 The purpose of the RPROZ and the accompanying objectives and policies is to enable primary production activities and supporting activities that have a functional need to be located in the rural environment.¹ Priority for rural production type activities are reflected in the zone rules that would also restrict the location of activities relative to their status as 'highly productive land' under the National Policy Statement for Highly Productive Land 2022 (amended August 2024) (**NPS-HPL**) and the PDP. As mapped in the 'Land cover and landuse' map set on Far North Maps, (which is sourced from Manaaki Whenua

¹ PDP Rural Production Zone overview statement

Landcare Research), LUC class 2 and 3 soils cover a large proportion of the northern and eastern parts of the Estate and some land in the west adjacent to Haruru Falls Road (see figure 1 below):

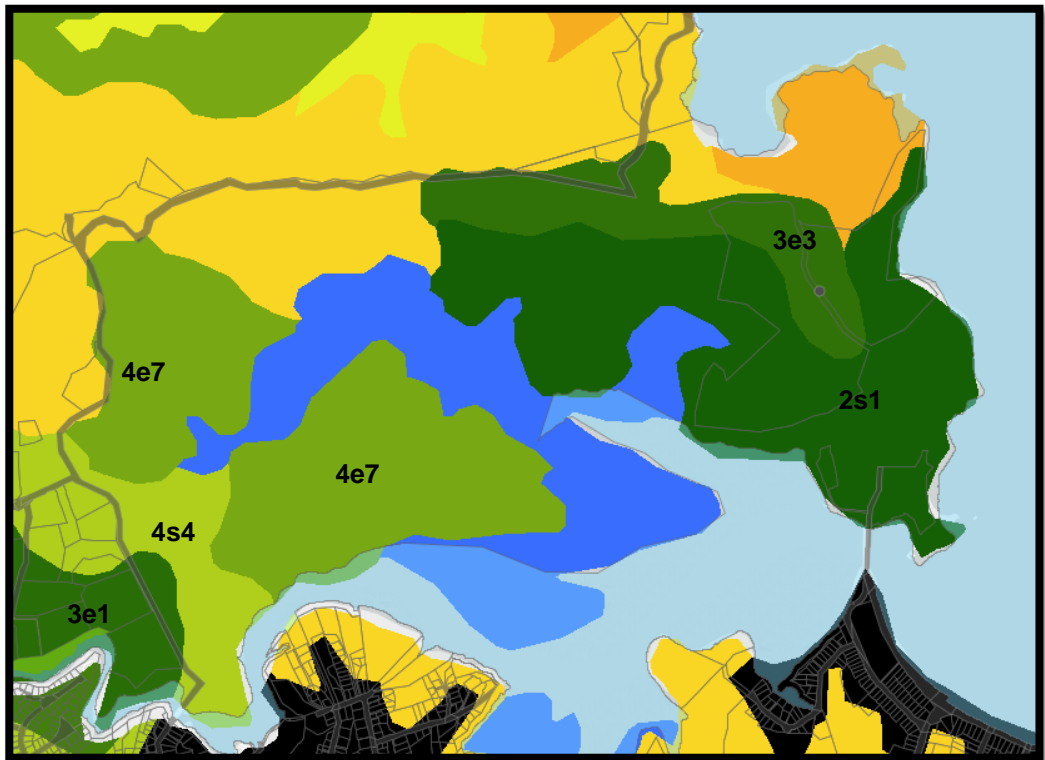


Figure 1 – Extent of mapped LUC soils on the Waitangi Estate

- 6.6 The non-productive nature of existing land use activities on the Waitangi Estate is such that those existing activities and any proposed new activities would likely always be classified as ‘Discretionary’ under the activity rules. Such proposals would be assessed against the objectives and policies of the RPROZ that give priority to rural production type activities and other compatible activities that have a functional need to be in the rural environment. While ‘functional need’ due to the physical location might apply to the Waitangi Treaty Grounds heritage site and the associated visitor facilities, it is less certain how this would be interpreted for other activities that Waitangi Limited undertakes across the wider Estate.
- 6.7 I support the proposed change to RPROZ-P1 (c) in the Council's section 42A report as it relates to existing activities as that would enable the maintenance, operation of upgrade of any lawfully established activities, provided that any loss of highly productive land from those activities is minimised as this aligns with the intent of Clause 3.11 of the NPS-HPL. Rule amendments proposed in respect of highly productive land are discussed further in paragraph 6.22-6.27 below.

- 6.8 Waitangi Limited accepts that the merits of the proposed RPROZ as applied to the Estate will be addressed in the rezoning hearings scheduled for the second half of 2025 and for this reason, my commentary on the zone provisions is limited to changes sought to rules that would benefit the submitter should the request for a special zone be rejected.

Rules

- 6.9 In respect of proposed rules, Waitangi Limited sought changes to the following activity rules:
- (a) Residential Activity (RPROZ-R3)
 - (b) Visitor Accommodation (RPROZ-R4)
 - (c) Educational Facility (RPROZ-R6)
 - (d) Rural Tourism (RPROZ-R22)
 - (e) Rural Industry (RPROZ-R24).
- 6.10 With respect to proposed amendments sought to the residential activity, visitor accommodation, educational facility and rural industry rules, I accept the rationale given by the reporting planner for rejecting the requested changes.

Visitor Accommodation and Educational Facilities

- 6.11 It has been clarified that the definition for visitor accommodation, which is derived from the National Planning Standards would not include a marae because the activity involves a tariff payment. As payment (other than a koha) is generally not taken for marae stays, this type of accommodation would be excluded. Similarly, the definition of 'educational facility' would not exclude land and buildings, such as those at Waitangi that are used by schools and tertiary education providers as teaching facilities.

Residential Activity

- 6.12 Regarding the definition of 'residential activity', while I am still of the view that it would be reasonable to allow a greater number of residential units on a site to cater for staff accommodation, I accept that the requested change would apply generally to all land in the RPROZ as an exemption for the Waitangi Estate was not specifically sought in Waitangi Limited's submission.
- 6.13 It is likely that Waitangi Limited will still seek an exception for additional residential units on the Estate for the purpose of providing staff accommodation on the basis that the site can be distinguished from a general rural farm property where concerns about

fragmentation, increasing residential development and reverse sensitivity effects on productive land are more valid.² As the main site Lot 1 DP 326610 (that includes the Treaty Grounds) is 411 hectares, it could be entitled to up to 10 residential units without the PER-2 six-unit constraint. There is currently housing located on this site within the Treaty Grounds, just north of the Waitangi boat ramp, and on the adjacent Lot 2 DP 152502. This accommodation provides housing for both the Copthorne Hotel and Waitangi Treaty Grounds staff.

Rural Tourism

- 6.14 In its submission, Waitangi Limited sought amendments to the listed matters for discretion as they would be applied to a restricted discretionary 'rural tourism activity' under RPROZ-22 RDIS-1. Specifically, in addition to 'rural environment', Waitangi Limited sought to have 'rural tourism activities' included under item (b) and a reference to 'and / or the site'. With the amendments sought, clause (b) would read:

'(b) the link between the tourism activity and the rural environment and / or site.'

- 6.15 Waitangi Limited also sought an additional matter for discretion, being (m) *'whether the tourism activity could be operated on another site.'* The recommendation of the reporting officer is that both of these changes be rejected.³

- 6.16 The rationale for the requested change was based on my interpretation of the definition of 'rural tourism' which I understood to mean any tourism activity located in the rural environment, rather than a rural activity tourism per se. This was also the basis of the Waitangi Limited's request to amend the wording of the definition to include a reference to the underlined wording, *'means the use of land or buildings for people to visit and experience tourism activities within the rural environment'*. The reporting officer has accepted this change and agreed that this change would make it clear that the use of land or buildings is covered specifically for tourism related activities located within the rural environment.⁴

- 6.17 While the activity is worded 'Rural Tourism Activity' in the PDP, the notified definition is worded as follows:

'means the use of land or buildings for people to visit and experience the rural environment. It does not include:

² Refer Section 42A Rural Wide Issues and the Rural Production Zone Hearing Report analysis para 537-545

³ Section 42A Rural Wide Issues and the Rural Production Zone Hearing Report analysis para 667

⁴ Section 42A Rural Wide Issues and the Rural Production Zone Hearing Report analysis para 294

(a) Rural production retail

(b) Rural production manufacturing

(c) visitor accommodation

(d) home business'

- 6.18 Regarding the request to amend clause (b) of the RPROZ-22 RDIS-1 matters for discretion, and despite the agreed amendments to the definition, it is clear that the reporting officer and I differ in our interpretation of 'rural tourism activity'. I remain of the view that the definition includes all tourism activities that have a rural location. However, as stated in paragraph 667 of the reporting officer's report that discretion item (b) *'is purposefully focused on how the tourism activity relates to its rural setting'*. It therefore appears that the officer considers rural tourism to be tourism activities that are rural related, rather than just any tourism activity that is located in a rural location. This is further informed by the officers' statement that *'there may be other tourism activities that do not rely on visitors visiting and experiencing the rural environment, but these types of tourism activities would not be captured by the definition of 'rural tourism activity' and instead would be considered as a discretionary activity in the RPROZ under RPROZ-R31 Activities not otherwise listed in this chapter. For the same reasons I do not agree with the insertion of a new matter of discretion relating to whether the tourism activity could be operated on another site.'*
- 6.19 Where this becomes problematic for tourism activities at Waitangi, is the fact that the existing activities and potential future activities are located on the site because of its historic features, rather than its rural setting. While I may be misunderstanding the officers' interpretation of rural tourism activity, I am concerned that, for Waitangi, it may render all tourism activities on the Estate to be Discretionary and therefore subject to a more onerous consenting pathway under the PDP. For example, if Waitangi were to propose an extension to its existing museum facilities on the Treaty Grounds or introduce new tourism activities on the wider Estate that had a more ecological or ecotourism focus, would they still be considered 'rural tourism activities' under RPROZ-22, or default to Discretionary Activity rule RPROZ-R31 'Activities not otherwise listed in this chapter'.
- 6.20 Primarily, this was the reason Waitangi Limited sought the above amendments because often tourism activities are initiated around natural or historic site features that just happen to be located in the rural environment. Other examples outside of the Estate would include activities undertaken at the Wairere Boulders at Horeke and the Kawiti glow worm caves near Kawakawa. By including the additional words *'and / or site'*, there is an opportunity for the Council to consider the reason for the tourism activity being

located on a particular site. The proposed addition of (m) would give further opportunity to decline a proposal where no linkage was established and where clearly there was an opportunity to locate the activity somewhere other than the rural environment. In my opinion, these are appropriate and helpful additions to the matters of discretion and would be enabling of tourism activities in rural locations that support the overall economic and social wellbeing of Far North communities.

Rural Industry

- 6.21 Waitangi Limited submission point S503.034 sought that the rule restricting the number of rural industry activities to one per site be deleted (RPROZ-R24). This was on the basis of larger rural properties such as Waitangi Estate that might have multiple rural industry activities operating at one time. Again, this is of interest to Waitangi Limited as a means to enable activities on the Estate that make productive use of the land where appropriate (including to meet the purpose of the Trust Board Act), and where potential effects can be internalised within the Estate boundaries.
- 6.22 The Section 42A reporting officer has recommended that this request be rejected because it is intended to apply to larger scale rural industry activities and not to small-scale rural produce or manufacturing type activities that may otherwise be enabled under other permitted rules. I accept this view and consider that opportunities for smaller-scale rural production type activities on the Waitangi Estate exist under other proposed permitted rules in the PDP.

National Policy Statement – Highly Productive Land (NPS-HPL)

- 6.23 It is evident from the Section 42A officers report, that their analysis has included ensuring that the PDP rural provisions align with the directives of the NPS-HPL. This has resulted in additions to the permitted and restricted discretionary rural activity rules that preclude their location on 'highly productive land' (within the meaning of the NPS-HPL), including the rural tourism activity rule discussed above. I support the alignment of the PDP and the NPS-HPL. However, I do not consider that the NPS-HPL applies to the Estate.
- 6.24 As stated above, it remains the intention of Waitangi Limited to pursue a special purpose zoning to be applied to the Estate. In my opinion, given the purpose of the Waitangi Estate established under the Trust Board Act, the NPS-HPL would not apply as the rezoning intention is for the protection of this heritage site as a matter of National Importance under Section 6 of the RMA and is not for urban purposes.

Rochelle Jacobs

18 November 2024

APPENDIX 1 – HEARING FOUR PLANNING EVIDENCE