Hearing 9

Far North Proposed District Plan

Written Evidence of Lynley Newport, as presented to Hearings Panel on 4th December 2024.
Submission numbers S99, S100, S102-106 inclusive; S112; S121 & FS24
Also speaking to the submission of Denis Thomson – submission numbers S190, S197, S199, S200.

INTRODUCTION:

Thank you for the opportunity to present to you today, and thank you for showing some flexibility in accommodating my request for a different speaking slot to that originally assigned – much appreciated.

I will present my evidence by topic, focusing on matters that I am passionate about and to which I don't believe I have received a reasonable or logical response in the 42A Report and its recommendations.

I am both a rural land owner and a professional resource planner, being a full member of the NZPI and having been involved in both plan making and plan administering for 25 years plus. My area of particular expertise is subdivision and land use within the rural environment.

RURAL PRODUCTION ZONE OBJECTIVES AND POLICIES

Submission point S102.001 on RPROZ-O2 – addressed in 42A report on pg 111-113.
(Also submission point S197.001 by Denis Thomson)

1. My submission requested a simple change – to introduce the word "primarily" so that RPROZ-O2 reads *"The Rural Production Zone is used* <u>*primarily*</u> *for primary production activities, ancillary activities that support primary production and other compatible activities that have a functional need to be in a rural environment"*.

2. My rationale was equally simple. The Objective is written in the 'absolute' and basically excludes any activity other than those listed in the objective as being an acceptable land use within the zone. This is contrary to the rules and standards applying to the zone, where residential units and minor residential units are permitted; where visitor accommodation is permitted; where a home business is permitted; where small scale educational facilities are permitted; where conservation and recreational activities are permitted; where catteries and dog boarding kennels are permitted; where cemeteries/urupa are permitted; where mineral prospecting is permitted.

3. These permitted activities are not primary production, are not necessarily ancillary to supporting primary production and do not have a 'functional' need to be in a rural environment such that they cannot locate somewhere else. So why have an objective that does not support or provide for permitted activities?

4. It is this 'absolute protection' of the zone for only primary production purposes that has also been submitted on by Federated Farmers – something I lodged a further submission in support of. The zone covers an enormous area of land, hugely diverse land in terms of its physical, cultural and social characteristics, with much of the zone not highly productive (in fact marginally productive at all) and better suited for uses other than primary production.

5. The objective is contrary to the 42A report and the information contained within it and I find the logic used in the 42A Report to retain the objective's wording and not incorporate the word "primarily" to be narrow thinking and flawed.

6. The 42A report states that the aim of the objective is *"establishing an intended outcome for the zone going forward and should only reference the activities that are enabled by this objective and that new activities seeking to establish in the zone that*

are not listed in this objective will likely have a more stringent activity status". How can permitted activities be a 'more stringent activity status'??? The objective 'enables' only limited uses, yet the rules enable a whole lot more. I find this argument totally illogical and unacceptable. Elsewhere in the 42A report it is stated that it is important to enable Council to protect the rural production zone for use "*primarily by primary production activities*" (pg 122 being one such example, but there are others). That having been stated more than once in the 42A report leads me to request again that RPROZ-O2 must be amended to include the word 'primarily'.

My Submission point S103.001 in regard to RPROZ-P2 – addressed in 42A report, pg 118. (Also submission point S199.001 by Denis Thomson)

7. My submission sought the inclusion of an additional clause to RPROZ-P2 so that the policy was not so punitive and restrictive, basically for similar reasons as wanting RPROZ-O2 amended. The objectives and policies for this zone are written so as to exclude and definitely discourage any activity other than primary production activities, ancillary activities in support of rural production and activities with a functional need to locate in a rural zone. Yet there are permitted activities listed in the zone that are none of these things, there are existing uses that sit quite comfortably in the zone, and there are activities that can take place without adversely affecting the ability of the land to be used for primary production. I mention this later, but only 11% of the Rural Production Zone falls within the current definition of 'highly productive land' and only a third of the zone is LUC class 1-4, class 4 not being 'highly productive'. The zone can and should accommodate uses other than primary productive.

8. It is simply flawed logic to continue to state that objectives and policies can be written so as to only enable the activities so listed in those objectives and policies, and yet have permitted activities listed in the plan that are none of those activities, and to continue to suggest that 'other activities' (which would include permitted activities) can be tested via other policies. We know that permitted activities don't need to be assessed against objectives and policies, because no consent is required. Yet activities of the same scale and intensity, taking up the same amount of land, producing the exact same effects as the permitted activities, will need to be assessed against objectives and policies that state they should not be allowed to be established in the zone.

9. In regard to RPROZ-P2, it is potentially the use of the word "enable" in my requested change that meets with the 42A report's resistance, given that the policy already uses "enabling" in its clauses (a) and (b). For activities other than primary production, or compatible activities that support primary production activities (which includes a number of the zone's permitted activities) then perhaps a new clause (c) would be added, re-worded slightly differently from what I proposed:
   "*(c) consider activities other than primary production or that support primary production but only where they do not adversely affect the ability to continue utilising the land for primary production.*"

My Submission point S103.002 (RPROZ-P5) – addressed in 42A report, pg 121.
(Also submission point S199.002 by Denis Thomson)

10. As a professional planner I abhor the use of the word "avoid" in isolation in any policy or objective unless it refers to activities that absolutely must be avoided and cannot be done by way of prohibited activity status. A policy can certainly provide direction as to what type of activity might be unacceptable within a zone, unless that activity can prove to the contrary. However, rather than the tiresome negativity woven throughout the PDP – the "avoid", the "unless", the "not" the "no" – the language that knocks the stuffing out of people – why can't things be written in the "positive" and the "flexible". Try the "allow if" approach for a change as opposed to the "avoid unless".

11. It is in regard to commentary on RPROZ-P5 that the 42A report states that it is an important policy to enable Council to protect the zone for use *"primarily by primary production activities"* – not exclusively or only by primary production activities. I might be reading from a different play book, but some of the activities listed as permitted for the zone are not primary production and do not appear either ancillary to primary production or as having a functional need to be in the zone (as opposed to any other zone). Yet the 42A report states that an activity unable to meet the tests of RPROZ-P5 should locate in another zone – this is as good as saying that an activity permitted in the zone should locate out of the zone???

12. The normal assumption made is that a permitted activity is considered consistent with the objectives and policies of the zone in which is it located. This holds true even if the activity is not one enabled by the objectives and policies. So planning logic, in compliance with the Resource Management Act, would then suggest that activities other than permitted activities, but with the same impact and effect, should also be able to be consistent with objectives and policies in the zone.... an argument I will likely have to put forward repeatedly to the Council if the objectives and policies as currently written are adopted.

13. I remain opposed to the use of the word 'avoid' in a policy. I am not opposed to a policy providing *direction* as to what activities are encouraged, hence my preferred wording of the policy. Why not turn the policy on its head – change from the so repetitive negative and inflexible language found in this zone in particular, to the positive flexible wording that would ensure a vibrant and productive rural zone and ongoing economic and financial viability for the land owner.

"Allow land use that:

a. *Is compatible with the purpose, character and amenity of the Rural Production Zone;*
b. *That has a functional need to locate in the zone and is not more appropriately located in another zone;*
c. *That does not result in an overall reduction of productive capacity of highly productive land within the site;*
d. *That does not exacerbate natural hazards;*
e. *That provides appropriate on-site infrastructure*."

My Submission point S103.003 related to RPROZ-P6 – addressed in 42A report, pg 125. (Also submission point S199.003 by Denis Thomson)

14. The 42A report writer missed an essential component of my submission on RPROZ-P6 which was that a policy relating to subdivision should probably sit in the subdivision chapter. Oh but wait – there already ARE objectives and policies in the subdivision chapter dealing with protecting highly productive land and enabling primary production as a prioritised use. Having written a seemingly infinite number of planning reports and AEE's in my time, I am completely fed up with repetition and confusing duplication. All my clients wonder out loud why there is so much repetition when assessing a proposal against objectives and policies – and I can't justify it to them. It is a problem in the current plan and it seems the Council's policy writers have inherited a passion for over indulgence in repetitious objective and policy writing. So why not simply delete the subdivision policy RPROZ-P6 from the zone provisions and move on.

15. No? well then at least remove the word "Avoid" and go with the positive approach suggested earlier:

    "Allow subdivision that:

    a. Does not result in the loss of ....;

    b. Does not fragment land into parcel sizes ......

    c. Creates lots for rural lifestyle living but only where there is an environmental benefit."

16. I am horrified to see the suggested introduction of proposed (c)(ii) requiring someone to take into account the potential loss of LUC 4 land that is, or has the potential to be , highly productive. There is absolutely no mandate to require this and it is pre-emptive in the extreme when the NPS HPL does not require it and the NRC has not yet made any determination as to what is highly productive land and even when they do there will be a public process to go through. I believe the 42A writer to be premature in making such a recommendation, and to be well outside of any current legislative requirements to justify including this in a policy. Do not add(c)(ii).

My Submission point S104.001 in regard to RPROZ-R3 (residential intensity) – addressed in 42A report, pg 143; and
Denis Thomson submission point S200.001 on same page.

In conjunction with my submission point S112.001 (subdivision minimum lot sizes in the RP Zone) – addressed on pg 194 and Denis Thomson submission point S190.001 on pg 195.

17. Whilst I can see that it might have appeared logical to hear submissions on residential intensity and subdivision at the same time given the relationship between the two, I think Council has erred in doing so in Hearing 9. Subdivision is a district wide subject matter, whereas the rural environment's residential intensity provisions are relating to a specific zone. It is frustrating to have to address one small part of the entire subdivision chapter out of context to the remainder of that district wide section of the plan.

18. I believe it would have been better use of the submitters' and Hearing panel's time and consideration, to defer addressing any submissions on residential intensity thresholds until the subdivision hearings, rather than bringing forward a small part of the subdivision chapter to be heard with submissions on residential intensity. Subdivision consists of a whole suite of provisions applying across the district and should be considered as that entire 'suite', not in bits. However, we have to work with what we've got.

19. My first point is this – only 11% of the Rural Production Zone falls within the definition of 'highly productive land'. And only a third of the zone is LUC 1, 2, 3 or 4 soils. And yet the subdivision and rural production zone rules, and the objectives and policies around rural land treat all rural land the same and promote productive use of the land *above all else*. This is telling owners of the nearly 90% of rural land that is not highly productive to do something productive with it. Get real. One size does not fit all. To impose the straight jacket that is currently proposed says there is only one size and type of straight jacket so wear it. This is lazy policy writing.

20. My point is simple – the minimum lot sizes in the PDP provide no ability to exercise flexibility where land is not highly productive (or even productive), or where existing lot sizes and land uses make continued attempts at rural production unviable and inviting additional reverse sensitivity effects. A host of other circumstances might apply. I am not suggesting that highly productive land should not be protected at all – of course it should. However, I find the currently proposed provisions far too absolute and inflexible.

21. The 42A report agrees that not all land in the Rural Production zone is the same – see pg 198, paragraph 756 – "*I also recognise that the [zone] covers a large percentage of the Far North District and is by no means homogenous with respect to land productivity, access to water, hazard constraint, lot size or land use patterns. I can appreciate that the 'one size fits all' minimum lot sizes set out in SUB-S1 will not necessarily be fit for purposes for all parts of the [zone].*"

22. I had some hope when I read those words and got quite excited, only to read on and find that the 42A states that it is considered that SUB-S1 is an appropriate "*<u>starting point</u>*" – a starting point to what? but that they [the Council staff and consultants I presume?] *"do not have sufficient information to engage in a more fine grained analysis of the [zone] to identify areas that may benefit from a more nuanced approach to subdivision at this point of the PDP process"*.

23. I have to ask - why doesn't Council have sufficient information? It has taken years to get to this point and I would have thought that the zone that covers the most land area in the district warranted a bit more attention to enable a 'more nuanced approach'. The Far North District is a rural district with a few towns, not an urban district with a few farms and open areas. Submissions closed two years ago. The message in a large number of submissions was strong – all about that more nuanced approach being needed. If there is an admission that we only have a 'starting point' then why has the Council not taken action to carry out that more fine grained analysis for a more nuanced approach (I love those words). The Council has already indicated that variations to the PDP are an acceptable approach to introducing changes. It is disappointing that there is no clear indication from the Council that it will consider introducing a Variation in regard to the rural environment provisions. Why hasn't an effort been made to re-visit and show a bit more finesse and flexibility in regard to the subdivision and use of rural land?

24. In my submission I put forward some examples of how a restricted discretionary activity category could be re-introduced. This goes against the 'format' in the PDP in terms of subdivision minimum lot sizes (where we see only controlled and discretionary categories) but not in the PDP as a whole, which abounds with restricted discretionary activity categories – something that is totally consistent with the Act. I have suggested 12ha as a minimum lot size, along with a limited option to take off smaller lots of between 4000m2 and 8,000m2 provided there is at least 12ha balance and where the total area of the smaller lots does not exceed 2ha (minimising the portion of the

underlying title that might support built environment). I also suggest the discretionary activity minimum lot size should be 4ha, not 8ha – as did a host of other submitters.

25. I do not accept that there should not be restricted discretionary options – the Act provides for this and given the ability to specify matters to which the council restricts its discretion, I see no adverse environmental result. One such matter of discretion can include whether the land is (or is partially) highly productive land or not.

26. Many people assume all farming is the same when we know it is not. For instance dairy farming is a vastly different operation to a low density dry stock beef farming enterprise. The risk of reverse sensitivity effects arising from the various types of farming is similarly different and varied depending on the intensity and type of the farming. Putting a limited number of residential homes in an area supporting low density dry stock grazing does not create a big risk of adverse reverse sensitivity issues arising. People like to live in the rural area to experience the "ruralness". It is difficult enough to make ends meet if you own a dry stock farm, without being stopped at every point from being able to diversify and/or subdivide. I have clearly forgotten my place in the community – I am to only grow things for people to eat and to keep the rural environment looking green and pretty. But can I at least have some recognition of that service and a reward in the form of being able to do at least some diversification of land use and at least some subdivision.

27. I do not accept that it is possible to establish an arbitrary minimum area of land across the entire rural zone considered to the size where productive use is optimised. The 42A report acknowledges the vast differences across the zone. So I do not accept the rationale offered in the 42A report to retain 8ha as the discretionary minimum lot size. Instead it should be a minimum of 4ha with assessment criteria, objectives and policies enabling the council's consents planners to exercise discretion and judgement over whether the land in question can and should accommodate that lot size. For instance where a property or parts of a property do not support productive soils or where there are constraints in terms of productive use, then there is nothing wrong with 4ha lots, in fact nothing wrong with smaller sized lots – perhaps the smaller the better in some instances.

28. In short that 'nuanced approach' I referred to earlier, and quoted directly from the 42A Report, needs to be investigated and introduced into the PDP, the sooner the better.

29. Returning to residential intensity provisions, of course if the subdivision discretionary minimum lot size moves to 4ha, then so too should the discretionary residential intensity.

I do take issue with an assumption that has long been made by the Council's policy planners, and repeated in the 42A report. There is a belief that in allowing 'sporadic' and 'uncoordinated' development in the rural area (and by that I assume it means large lot / residential / lifestyle development) that a demand for council infrastructure will follow. In my own experience, including my work experience, people seek to live in the country side in order to get away from towns, and the traffic, and the services. They do not expect reticulated 3 water services, they prefer self sufficiency. There is a growing trend towards alternative power and satellite telecoms. And whilst we rural dwellers might like the road maintained and fixed from time to time, we are long over expecting anything of the sort. So no, it does not put pressure on infrastructure. I am not talking wholesale chopping up of land, nor the creation of mini-villages – I am talking about making provision for a limited number of smaller lots where I very much doubt there would be any 'expectation' that the Council should extend their services to.

30. As for compromising future urban use (presumably meaning towns) and threatening the efficiency of how those towns can be developed – well all I can say to that is the council struggles to adequately provide infrastructure within its existing urban boundaries so I'm afraid I cannot see how allowing for limited residential use of rural land poses any threat whatsoever. One would think the Council would be pleased to see more self sufficiency and less demand on its infrastructure.

31. There needs to be substantially more work done on a sensible and pragmatic subdivision framework for the rural land in the district. As stated in my submission:

    Restricting subdivision across the entire rural production zone, to the degree proposed, will have serious negative impact on the rural community of the district:

    - It will prevent the ability for farmers to 'retire' in their existing homes with a small area of land;
    - It will prevent farmers and their families from creating small blocks for younger family members to build on and enter the property market;
    - It will reduce the ability of farmers to decrease debt burdens; and
    - It will discourage diversification and vibrancy.

32. I did lodge a submission suggesting more land be identified for zoning as Rural Lifestyle. Council acknowledges that it hasn't really looked to any part of the district outside of Kerikeri for that zone – and it needs to do so. There are some parts of the Rural Production Zone that are no longer suitable for rural productive use and should be re-zoned Rural Lifestyle, or even Rural Residential in some cases, for example where there

are existing enclaves of smaller blocks and the land is no longer suitable for productive use and where it would in fact increase the risk of reverse sensitivity effects arising from encouraging primary production use. Where land is not highly or even moderately productive land and would be better suited for low intensity residential/lifestyle use, then it should be zoned accordingly. This would all be part of that 'nuanced approach' that is so dreadfully lacking at the moment.

My Submission points S105.001, 002 and 003 - RPROZ-R19 in regard to Minor Residential Units addressed in 42A report, pg 166.

33. This submission is in regard the Minor Residential Unit rule, which generally speaking I am in favour of. And I scored one out of three with the 42A report writer at least. That 'one' being that they agree that not meeting the separation distance should default to discretionary status, not non complying. However, that's as good as it gets for me.

34. A 15m separation distance is an 'in your face' scenario where the inhabitants of both the principal and minor residential units need greater space between the buildings to at least achieve a degree of privacy and independence. I have seen numerous scenarios where home owners build their sheds and sleep outs more than 15m away from the principal dwelling for that very reason, yet all buildings are still 'associated'.

35. And reducing the minimum property size down to 5000m^2 from the proposed 1ha has sound logic to it. The impact of a second (minor) residential unit on a small 5000m^2 lot in the rural zone, already retired from any kind of primary production reliant on the soil, has less impact than on a 1ha or larger lot. Isn't it preferable to allow the intensification of land already unavailable for productive use? I would have thought the smaller the lot to accommodate a minor residential unit, the better.

36. The 42A writer's commentary is simply not logical. And I note this is yet another section of the report where they use the phrase "the *primary* purpose of the zone being to ensure its availability for primary production." The writer acknowledges that minor residential units may be desirable for a host of reasons – housing elderly or disabled family members, accommodate farm workers, provide a second income stream, small scale visitor accommodation – in other words an acceptance that minor residential units are provided for and need not be related to primary production activity.

37. As to maintaining amenity – I believe this is achieved through design and landscaping and not through separation distance or size of lot. I repeat my request that the separation distance be increased to be no more than 30m and that the minimum size property able to support a MRU be reduced to 5000m^2.

38. For the same reasons as outlined above, I repeat my submission request for RLZ-R11 – minor residential unit in the Rural Lifestyle Zone. Increase separation distance to 30m and change minimum lot size to 5000m^2. My submission points S099-001 & 002 are addressed on pg 19, paragraph 89 of the 42A report addressing the Rural Lifestyle Zone.

In conclusion, I thank you for the opportunity to speak today and put forward some of my thoughts.

Lynley Newport