

**SUBMISSION ON THE PROPOSED FAR NORTH DISTRICT PLAN CHANGE 2022 BY
DAVID LESLEY PENBERTHY AND ELENA LVOVNA BELYAKOVA**

TO: Far North District Council

Private Bag 752

Kaikohe 0400

FROM: David Lesley Penberthy and Elena Lvovna Belyakova, and Ors

110 Waipapa West Road

Waipapa

DAVID LESLEY PENBERTHY AND ELENA LVOVNA BELYAKOVA, AND ORS at the address for service set out below makes the following submission on the Proposed Far North District Plan Change 2022.

Legal Description	Address
Lot 2 DP 488591	110 Waipapa West Road

David Lesley Penberthy and Elena Lvovna Belyakova, and Ors do not consider they can gain an advantage in trade competition through this submission. In any event, David Lesley Penberthy and Elena Lvovna Belyakova, and Ors are directly affected by an effect of the subject matter of the submission that:

- Adversely affects the environment; and
- Does not relate to trade competition or the effects of trade competition.

This submission letter provides an overview of the matters of interest to David Lesley Penberthy and Elena Lvovna Belyakova, and Ors, with **Attachment A** providing the detail of the properties to which this submission relates.

The "...and Ors" relates to the following properties which are visually shown on Attachment B:

- 130 Waipapa West Road, Waipapa: Lot 1 DP 488591: Andrew Paul Murdoch and Louise Joanna Murdoch;
- 138 Waipapa West Road, Waipapa: Lot 1 DP 161039: Eric Lee Jordon and Rachel Hope Jordan;
- 109 Waipapa West Road, Waipapa: Lot 1 DP 502290: Malcolm Liddington Enterprises Limited;

- 19A Ness Road, Waipapa: Lot 2 P 207539: Michael William Penney and Suzanne Marie Penney;
- 109 Waipapa West Road, Waipapa: Lot 1 DP 502290: Malcolm Liddington Enterprises Limited.

Background

The proposed plan change proposes to replace the existing operative zones in the Far North District with new zones. The Foreword of the Proposed Plan states that “The sustainable management role of the Far North District Plan gains importance when viewed against this backdrop of unique natural and cultural resources along with meeting the wellbeing needs of communities that face economic challenges and opportunity.

The preparation of the Plan has brought these matters together into an integrated set of objectives, policies and rules to ensure that the needs of both current and future generations are well met.”

1. Ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the District.

Current Operative Zoning	Current Proposed Zoning	Relief Sought
Rural Production	Horticulture	Proposed new Zone; or amended subdivision rules SUB-R3 and SUB-S1, and amend Special Purpose Zone – Horticulture rules HZ-R3; and any consequential amendments to objectives and policies.

2. This submission focuses on the Far North Proposed District Plan - Plan Change, particularly the Horticulture Special Purpose Zone (HZ) and District Wide Subdivision Chapter, as well as the notified Definitions Chapter.

Scope of Submission

3. The submission relates to the Proposed District Plan Change as a whole.

Site Context

4. The site is located on the northern side of Waipapa West Road, and is predominately grass covered with flat topography. The site is bounded by a 1ha site to the north, a 3.2ha site to the east, 0.34ha and 0.59ha sites to the west, and Waipapa West Road on the southern boundary.
5. Map showing the existing rural production zoning:



6. The subject site has an area of 1.2624 hectares as shown below:



7. A summary of the existing allotments of Waipapa West Road is as below, based on the proposed provisions:

Size	N.o of allotments	Potential additional lots/Growth
20ha plus	0	0
10ha – 20ha	1 (13.3ha)	CA – 0 DA - 2
4ha – 10ha	7 (range 4.0 - 6.9ha)	CA – 0 DA – 0
1.5ha – 4ha	14	0
Less than 4000m ²	22	0
	44 lots	2 possible additional allotments

8. The site has no mapped Outstanding Landscape, Outstanding Landscape Feature, nor Outstanding Natural Character.

The specific provisions of the plan change that this submission relates to are:

Proposed District Plan

9. The Proposed Plan Change seeks to outline Strategic Directions that should ensure the interpreting and implementation of the Plan is achieved in a manner consistent with the identified Strategic Directions. The Strategic Directions are intended to demonstrate:
1. *Commitment to, and articulation of Council's partnership with tangata whenua;*
 2. *Alignment with Council's aspirations for the development and environmental quality of the District as expressed through Far North 2100 - an 80 year strategy for the district;*
 3. *Integrated management through the grouping of environmental considerations which combine to achieve strategic outcomes; and avoiding strategic objectives becoming isolated within various chapters of the District Plan;*
 4. *Achievement of particular aspects of the use, development, or protection of natural and physical resources that have been elevated to matters of national importance by the Resource Management Act and those matters of national and regional significance by National and Regional Policy Statements;*
 5. *A prosperous economy through enabling a wide range of rural and urban business activities in the right locations; and*
 6. *The management of urban growth integrating existing and future infrastructure, providing sufficient land, or opportunity to meet growth demands for housing and business.*
10. This submission seeks amendment to the specific provisions listed above, or any consequential amendments to achieve the relief sought.

David Lesley Penberthy and Elena Lvovna Belyakova, and Ors Submission is:

11. David Lesley Penberthy and Elena Lvovna Belyakova, and Ors oppose the Proposed District Plan Changes, for the reasons set out below.
12. Provided that the relief sought below and attached is granted:
- (a) The Proposed District Plan Changes will be in accordance with the purpose and principles of the Resource Management Act 1991 ("**the Act**") and will be appropriate in terms of section 32 of the Act; and
 - (b) The potential adverse effects that might arise from activities allowed by the Proposed District Plan Change will have been addressed appropriately.
13. In the absence of the relief sought, the Proposed District Plan Changes:
- (a) Are contrary to the sustainable management of natural and physical resources and is otherwise inconsistent with Part 2 of the Act;

- (b) Will in those circumstances impact significantly and adversely on the ability of people and communities to provide for their social, economic and cultural wellbeing.
14. In particular, but without limiting the generality of the above:
15. The current proposed horticulture zoning does not recognise that the site currently sits at a size significantly less than that anticipated under the Subdivision Rule as a Controlled activity, and further significantly less than even than that anticipated as a Discretionary Activity, currently isn't suitable for undertaking productive horticulture activities, and therefore additional ability for residential purposes would not result in a loss of versatile soils.
16. The site has a current operative rural zoning, and this submission supports – in part – the aim of having a level of continuation of horticultural activities within the wider area. The submission advances though that the current allotment area provisions are not suitable for a large area of land with a high degree of variance in current allotment sizes.

The reasons for this submission are:

Proposed Plan Change

17. The Executive Summary, at page 4, of the s32 report overview states that “the PDP will guide the sustainable management of natural and physical resources in the District to provide for the well-being of current and future generations. It is a forward-looking document that manages use and development of the natural and physical resources, while protecting the interests and opportunities of current and future generations to utilise those resources in a sustainable way”. This is important in relation to this submission as it is advanced that the proposed zoning is not forward looking in regards to providing a supply of land for predicted future growth of the Waipapa area over the short, medium or long term.
18. Section 7.3.8 ‘Rural Environment’, at page 44 of the Section 32 Overview states that the strategic objectives are “...SD-RE-02 Protection of highly productive land from inappropriate development to ensure its production potential for generations to come”. The proposed Horticulture Zone is supported by this statement, but needs to apply to suitable allotments when considering whether the sites currently hold any production potential.

19. The Section 32 for the Rural Environment states that a way in which the HZ differs from the ODP is that it creates a “subdivision framework that provides for smaller lots compared to the Rural Production Zone...reflecting the existing fragmented land pattern and the fact that horticulture activities can still be productive and economically viable on smaller land parcels.
20. Further the s32 for the Rural Environment states “A 4ha lot is considered to be the absolute minimum lot size that can still be a productive parcel (in some circumstances), which is why a discretionary activity is appropriate to determine whether creating a smaller 4ha lot in productive use is feasible”. The inclusion of a bespoke rule for allotments less than 1.5 hectares at the operative date of the proposed Plan would ensure this is achieved but would also allow for increased development on allotments which are well below a horticulturally productive size while still ensuring objectives and policies relate to an reverse sensitivity matters.
21. David Lesley Penberthy and Elena Lvovna Belyakova, and Ors seek amendments to the Far North Proposed District Plan Change which are set out in further detail in this submission and set out in:
 - (a) **Attachment A** – detail of possible provisions;

Relief Sought

22. The primary relief sought is the re-drafting of the Subdivision minimum allotment table to recognise allotments which are under 1.5 hectares in size at the Operative date of the Plan Change have subdivisional provision to 5000m² as a Controlled Activity and 3000m² as a Non-Complying Activity, or other consequential zoning and provision amendments to achieve this relief. S474.001
23. Such further or other relief, or other consequential or other amendments, as are considered appropriate and necessary to address the concerns set out herein.

Conclusion

24. The site has a current rural zoning (Rural Production), yet is used for residential purposes having a residential unit and a minor residential unit. This submission proposes to maintain the proposed Horticulture (Special Purpose) Zoning but to modify Standard SUB-S1 to recognise those allotments that are currently significantly less than that anticipated and those that currently have no horticultural productivity; while ensuring reverse sensitivity effects are appropriately considered and provided for.

25. David Lesley Penberthy and Elena Lvovna Belyakova, and Ors do not consider they can gain an advantage in trade competition through this submission.
26. David Lesley Penberthy and Elena Lvovna Belyakova, and Ors wish to be heard in support of this submission.
27. If others make a similar submission, David Lesley Penberthy and Elena Lvovna Belyakova, and Ors would be willing to consider presenting a joint case with them at hearing.

Dated this 18th day of October 2022

David Lesley Penberthy and Elena Lvovna Belyakova, and Ors by its duly authorised agents Lands and Survey Ltd



Kelly Ryan

ADDRESS FOR SERVICE:

Lands and Survey Ltd Attn: Kelly Ryan, 164 Bank Street, Whangarei 0112
(ph) 022 658 4023, (email) kelly@landsandsurvey.co.nz

Attachment A:

Standards				
SUB-R1	Minimum allotment sizes			
	Controlled Activity	Rest. Discretionary	Discretionary Activity	Non-Complying Activity
Horticulture – where parent site is or exceeds 1.5ha	10ha		4ha	
Horticulture – where the parent site is less than 1.5ha		5000m ²		3000m ²

Attachment B:

