



Remember
submissions
close at 5pm,
Friday 21
October 2022

Proposed District Plan submission form

Clause 6 of Schedule 1, Resource Management Act 1991

Feel free to add more pages to your submission to provide a fuller response.

Form 5: Submission on Proposed Far North District Plan

TO: Far North District Council

This is a submission on the Proposed District Plan for the Far North District.

Full Name:	Robert Keith Beale		
Company / Organisation Name: (if applicable)			
Contact person (if different):			
Full Postal Address:	476 Kerikeri Rd, RD, Kerikeri, 0293		
Phone contact:	Mobile: 0204798324	Home:	Work:
Email (please print):	robbeale2@gmail.com		

1. Submitter details:

2. (Please select one of the two options below)

- I could not gain an advantage in trade competition through this submission
 I could gain an advantage in trade competition through this submission

If you could gain an advantage in trade competition through this submission, please complete point 3 below

3. I am directly affected by an effect of the subject matter of the submission that:
 _____ (A) Adversely affects the environment; and
 _____ (B) Does not relate to trade competition or the effect of trade competition
- I am not directly affected by an effect of the subject matter of the submission that:
 _____ (A) Adversely affects the environment; and
 _____ (B) Does not relate to trade competition or the effect of trade competition

Note: if you are a person who could gain advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991

The specific provisions of the Plan that my submission relates to are:

(please provide details including the reference number of the specific provision you are submitting on)

See attached

Confirm your position: Support Support in part Oppose
 (please tick relevant box)



My submission is:

The proposed amendments do not reflect a realistic measure of zoning that applies to 476 Kerikeri Rd and its inclusion as a Horticultural Zone rather than being included as part of any Residential zoning.

Any amendments I am seeking are included in attachments that follow

See attached

Horticultural and Commercial zone PDF

I seek the following decision from the Council:*A rezoning of Status as it applies to 476 Kerikeri Rd to be included as part of Residential Zoning*

See attached

Rural Residential KK Rd West stream Boundary PDF

I wish to be heard in support of my submission

I do not wish to be heard in support of my submission

(Please tick relevant box)

If others make a similar submission, I will consider presenting a joint case with them at a hearing

Yes

No

Do you wish to present your submission via Microsoft Teams?

Yes

No

Signature of submitter:

Robert Keith Beale

Date: 21/10/2022

(A signature is not required if you are making your submission by electronic means)

Important information:

1. The Council must receive this submission before the closing date and time for submissions (5pm 21 October 2022)
2. Please note that submissions, including your name and contact details are treated as public documents and will be made available on council's website. Your submission will only be used for the purpose of the District Plan Review.



3. Submitters who indicate they wish to speak at the hearing will be emailed a copy of the planning officers report (please ensure you include an email address on this submission form).

Send your submission to:

Post to: Proposed District Plan
Strategic Planning and Policy, Far North District Council
Far North District Council,
Private Bag 752
KAIKOHE 0400

Email to: pdp@fndc.govt.nz

Or you can also deliver this submission form to any Far North District Council service centre or library, from 8am – 5pm Monday to Friday.

Submissions close 5pm, 21 October 2022

Please refer to pdp.fndc.govt.nz for further information and updates.

Please note that original documents will not be returned. Please retain copies for your file.

Note to person making submission

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least one of the following applies to the submission (or part of the submission):

- It is frivolous or vexatious
- It discloses no reasonable or relevant case
- It would be an abuse of the hearing process to allow the submission (or the part) to be taken further
- It contains offensive language
- It is supported only by material that purports to be independent expert evidence but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

SUBMISSION NUMBER

Delete Horticulture Zone

Relief Sought

1. That FNDC delete the proposed Horticulture Zone in its entirety, rezoning areas Rural Production, General Rural, Commercial or Rural Residential zones as appropriate. S475.001

Reason

The Horticulture Zone is not an appropriate zone for the following reasons:

- a. The Horticulture Zone does not achieve the purpose of the RMA insofar as it does not promote the sustainable management of natural and physical resources;
- b. The Horticulture Zone fails to give effect to the National Planning Standards and the National Policy Statement for Highly Productive Land (**NPS-HPL**);
- c. The Horticulture Zone section 32 evaluation is incomplete and flawed:
 - i. The evaluation does not provide sufficient level of detail that corresponds to the scale and significance of creating a special purpose zone;
 - ii. The evaluation fails to consider the full range of zoning options and identify reasonably practicable options to achieve objectives;
 - iii. The evaluation fails to evaluate appropriate zone criteria and boundaries;
- d. The PDP does not provide strategic direction or policy support for the suite of rural zones proposed, nor does it support the Horticultural Zone;
- e. The Horticulture Zone has only been proposed within the Kerikeri area; and
- f. The Horticulture Zone provisions are not sufficiently different from the Rural Production Zone (and in some instances are more permissive).

The proposed Horticulture Zone fails to give effect to the National Planning Standards and does not comply with the zone framework standard 8, mandatory direction 3. While FNDC have proposed the Horticulture Zone as a “special purpose zone”, the proposed Horticulture Zone does not comply with all of the special purpose zone criteria¹ as required under mandatory direction 3:

- a. *Are significant to the district, region or country*

Comment:

The proposed Horticulture Zone has been applied selectively to the Kerikeri area and has not been mapped throughout the district despite there being other areas of current or future intensive horticulture.

- b. *Are impracticable to be managed through another zone*

Comment:

Horticultural land could be managed via both the Rural Production zone or the General Rural Zone. The purpose of the Rural Production Zone is to provide for areas predominantly used for primary production activities², whilst the General Rural Zone is to provide for primary production activities and a range of activities that support primary

² National Planning Standards, Zone Framework Standard

production. Council has not utilised the General Rural Zone, nor has section 32 evaluation been undertaken to consider this option.

c. Are impractical to be managed through a combination of spatial layers.

Comment:

A review of the proposed Rural Production Zone and Horticulture Zone provisions has confirmed that there is very little difference between the provisions of the two zones, therefore it is entirely possible to manage horticultural land by way of a zone (and a spatial layer if there is section 32 justification for a spatial response).

FNDC have established zone criteria to support the mapping and identification of the Horticulture Zone³ including that the land must be located within the Kerikeri/Waipapa area. This criterion is contrary to the NPS-HPL. Whilst it is acknowledged that the NPS-HPL was released following the PDP notification for submission, Council must give effect to the NPS-HPL and this policy statement sufficiently provides for the protection of highly productive land, rendering the Horticulture Zone defunct.

Under the National Planning Standards, the strategic direction provisions are key to understand the balance and trade-offs between often conflicting matters of national, regional and local importance. The proposed Strategic Direction objectives and policies are silent with respect to the proposed rural zones. The Overview Section 32 evaluation does not include any evaluation of the proposed objectives⁴. The National Planning Standards provide a number of rural zone options⁵ which have not been evaluated within the Rural Environment section 32. In the absence of complete section 32 evaluation, it is not possible to understand why Council have chosen the suite of zones proposed.

The purpose of the Horticulture Zone is to manage land fragmentation and reverse sensitivity effects and achieve greater protection of highly productive land⁶. The proposed Horticulture Zone (particularly that west of Kerikeri Road) is already fragmented not only by existing residential and commercial activities, but by smaller allotments.

The Horticulture Zone includes land that is not viable for horticulture due to factors such as soil type, lot sizes, and proximity of rural residential neighbours restricting the ability to spray (reverse sensitivity).

³ Section 32 Rural Environment – page 26

⁴ Proposed objectives against section 32(1)(a) of the RMA to determine the extent to which the objectives are the most appropriate way to achieve the purpose of the RMA.

⁵ General Rural Zone, Rural Production Zone, Rural Lifestyle Zone

⁶ Section 32 Rural Environment - page 9

Review Commercial Zones

Relief Sought

1. That FNDC review the suite of commercial zones proposed and rezone Kerikeri town centre to Town Centre Zone (or similar commercial zone) that appropriately reflects commercial development and activities within Kerikeri township; or \$475.002
2. If relief 1 is not accepted that FNDC amend the Mixed Use Zone provisions to provide for an increased range of commercial and community activities.

Reason:

The Mixed Use Zone is not the most appropriate zone for Kerikeri town centre for the following reasons:

- a. The Mixed Use Zone does not give effect to objective 1 and policy 1 of the National Policy Statement on Urban Development (**NPS-UD**);
- b. The Section 32 Evaluation – Urban Environments incomplete and flawed:
 - i. The evaluation does not provide sufficient level of detail that corresponds to the scale and significance of due to the importance of the zone being the only commercial zone proposed within the District;
 - ii. The evaluation fails to consider the full range of commercial zoning options and identify reasonably practicable options to achieve objectives;
 - iii. The evaluation fails to evaluate appropriate zone criteria and boundaries;
- c. The PDP does not provide strategic direction or policy support for the suite of urban zones proposed;
- d. The Mixed Use Zone provisions do not sufficiently enable a range of commercial activities.

The PDP does not provide alternative commercial zones, providing only a Mixed-Use Zone. The Section 32 Evaluation – Urban Environment does not provide any justification for this approach nor does it evaluate options utilising the full range of National Planning Standard commercial zones⁷. The PDP does not include any form of direction by way of mapping or provisions to set a clear hierarchy of centres. This lack of strategic direction will hinder the ability to achieve a sustainable and compact urban form.

The approach to commercial zoning within the PDP has resulted in the inability to utilise the Mixed Use Zone as intended by the National Planning Standards. This approach has led to ineffective and inefficient methods in the PDP, which does not provide for the sustainable development and use of business land.

⁷ Neighbourhood Centre Zone, Local Centre Zone, Commercial Zone, Large Format Retail Zone, Mixed Use Zone, Town Centre Zone, Metropolitan Centre Zone, City Centre Zone

Rezone Kerikeri Fringe to Enable Commercial Activities

Relief Sought

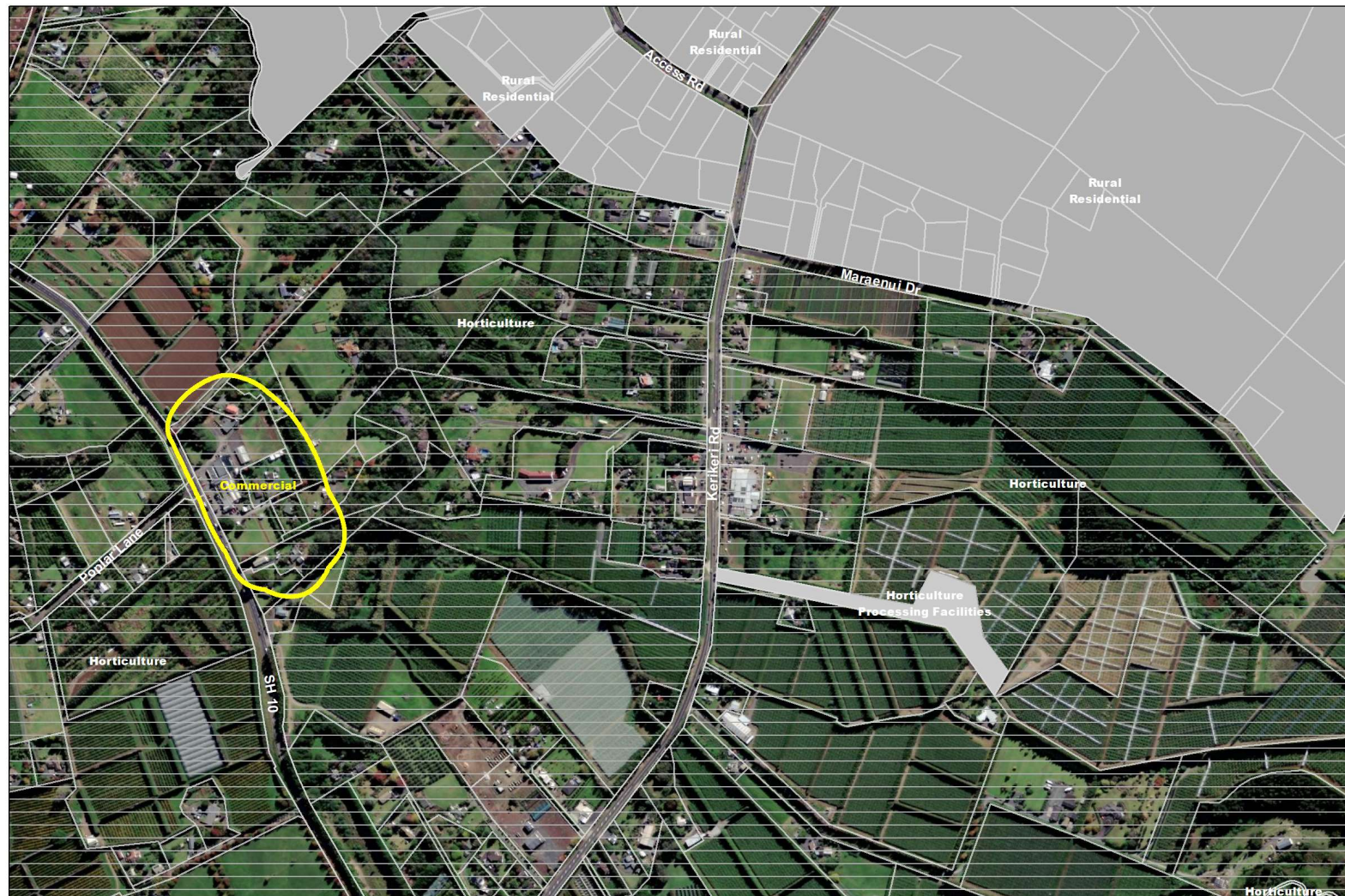
3. That FNDC:
 - a. Review the notified Mixed Use Zone boundary around the Kerikeri town centre and main commercial strip and change to reflect the existing commercial activities and establish logical zone boundaries to enable appropriate business land capacity and development opportunity; and
 - b. Rezone land to an appropriate commercial or mixed use zone to legitimise and enable tourist and horticulture based commercial activities to occur: S475.003
 - a. along both sides of Kerikeri Road from the roundabout with State Highway 10 to Kerikeri town centre; and
 - b. at the Redwoods in accordance with the map in Appendix 1.
4. If relief sought 3(b) is not accepted, that FNDC establish an overlay/precinct or similar, or amend the provisions of the applicable zone, to legitimise and enable tourist and horticulture based commercial activities to occur:
 - a. along both sides of Kerikeri Road from the roundabout with State Highway 10 to Kerikeri town centre; and
 - b. at the Redwoods in accordance with the map in Appendix 1.

Reason:

The Section 32 Evaluation – Urban Environment does not include any specified zone criteria; as such it is unclear as to why the Mixed Use Zone boundaries have been established as notified for Kerikeri town centre. The proposed Kerikeri Mixed Use Zone mapped area extends west along Kerikeri Road, stopping short of The Ridge and Ranui Avenue. The proposed Mixed Use Zone boundary does not follow a logical defensible boundary, nor does it include existing lawfully established commercial activities located along Kerikeri Road or at the Redwoods.

Commercial activities, particularly tourist and horticulturally based commercial activities, are well established along Kerikeri Road and at the Redwoods. These activities contribute to the vibrancy, character and amenity of the introduction to Kerikeri town centre. The PDP should provide for and enable these activities along Kerikeri Road and at the Redwoods.

Appendix 1



**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.
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