

Memorandum

To: Mark Farnsworth – Hearing Panel Chair.
From: Anna Turner– Section 42A reporting officer for the Public Access topic.
Date: 11 May 2026.
Subject: Response to evidence received on the Public Access topic.

This memorandum has been prepared to summarise the evidence and hearing statements received from submitters on the Public Access topic. The Public Access hearing is scheduled to be heard at Hearing 12 for the Proposed Kaipara District Plan (**PDP**) on 18 May 2026.

This memorandum has been prepared in lieu of a formal addendum to my Section 42A report, as the material received from submitters has not altered my recommendations on the Public Access provisions. The purpose of this memorandum is to assist the Hearing Panel in understanding the evidence filed and locate where I have responded to the relevant matters in my Section 42A report in advance of the hearing.

This memorandum also notes a minor correction identified to the Section 42A report's supporting appendices.

Evidence/hearing statements received

The Department of Conservation (**DOC**) and Federated Farmers of New Zealand, Northland Province (**Federated Farmers**) filed hearing statements in response to the Public Access Section 42A report. The New Zealand Defence Force (**NZDF**) filed evidence, requesting this be tabled with the Hearing Panel. No other hearing statements or evidence has been received.

Director General of Conservation [S304 and FS45]

DOC tabled a hearing statement dated 28 April 2026 confirming the Director-General of Conservation wishes to withdraw their right to be heard at the hearing. DOC notes my agreement with its submission requesting Policy PA-P2 (Activities within public access corridors) must give effect to Policies 13 and 15 of the New Zealand Coastal Policy Statement (**NZCPS**). DOC further highlights my recommended amendments to Policy PA-P2 to better align this policy with Policies 13 and 15 of the NZCPS and the policies in the Coastal Environment and Natural Features and Landscapes chapters in Part 2 – District Wide Matters of the PDP.

DOC confirms it supports recommended Policy PA-P4 (Restriction of public access), noting the policy will ensure protections are provided for threatened indigenous species, as well as other sensitive values and/or areas in accordance with Policy 19(3) of the NZCPS. Regarding DOC's request to amend Policy PA-P2 to recognise and provide for section 6(c) of the Resource Management Act (**RMA**), DOC considers recommended Policy PA-P4 (Restriction of public access) will ensure access is restricted where necessary to protect threatened indigenous species.

DOC does not oppose or seek amendments to my recommendations. Accordingly, I maintain my analysis and recommendations in response to DOC's primary submissions and further submissions as set out in my s42A report as follows:

- a. Topic 1: Natural environment values and public access (paragraphs 68-73)
- b. Topic 2: Public Access Restrictions (paragraphs 86-91)
- c. Topic 3: Managing adverse effects (paragraphs 99-104)

Federated Farmers [136 and FS47]

Federated Farmers submitted a hearings statement via email on 23 April 2026 confirming it does not wish to attend the hearing in person. Federated Farmers partially accept the recommendations in my Section 42A report, but do not specify which recommendations are accepted.

Federated Farmers note the following regarding my Section 42A report:

- a. *"The concerns over public access relate specifically to the public seeking access over privately owned land.*
- b. *For farming, the issue of public access onto farmland brings with it issues associated with biosecurity risk through the potential of cross contamination from people coming from one area to another without taking safety precautions such as washing their footwear before entering another area.*
- c. *Access also raises issues of health and safety as technically the landowner is responsible for people entering their land and while those people are on their land.*
- d. *Public access to land also has security issues associated with it with members reporting that people have access their property and not followed any safety warning or notices."*

Analysis

I acknowledge that there is no general right of public access across private land, and that farmers may have legitimate reasons to refuse access. Private landowners have the right to exclusive occupation and enjoyment of their land, and I understand that this right is enforceable under the Trespass Act 1980.

Restricting public entry onto private land, where no public access mechanism such as an esplanade reserve or strip is in place is beyond the scope of the PDP. I consider that more effective methods exist to inform the community of these requirements and address these concerns which are beyond the scope of the PDP, for example the use of "no trespassing" signage.

Accordingly, I maintain my position at paragraph 92 of the Section 42A report in response to the relief sought by Federated Farmers [S136.89]. I consider it inappropriate to include a user note in the Overview Statement to recognise public access provisions do not override the legal rights of landowners in relation to access. As stated at paragraph 92 of my Section 42A report, in my view the objectives and policies of the chapter do not override the key RMA requirements that enable public access through landowner and council agreement as follows:

- a. Access strips can be established at any time by agreement between the landowner and Council under s273B of the RMA and can be cancelled at any time when agreed by the landowner and Council.

- b. An esplanade strip for example, can include provisions to exclude access by the public during certain times or under certain conditions (for example, to restrict public access during calving or cropping) (as prescribed in Form 31, in Schedule 1: Forms of the RMA).
- c. Esplanade strips can be varied or cancelled by a territorial authority subject to the procedure set out in s234 of the RMA. Similarly, where a condition applies, an esplanade strip can be changed, reviewed and cancelled under s127-132 of the RMA.

As noted at paragraph 93 of my Section 42A report, Policy 19 (3)(e) of the NZCPS¹ allows for a restriction on public access to the coastal marine area and waterbodies to protect public health or safety. I recommend amendments to the Overview Statement and Policy PA-P4 (Restriction of public access) to give effect to the NZCPS and ensure Policy PA-P4 is clear that a restriction on public access to protect public health or safety can be imposed where necessary. Policy PA-P4 will ensure a restriction on public access to the coastal marine area² and waterbodies across privately owned farmland can be imposed to protect public health and safety where necessary.

In my view, the provisions of the Public Access chapter as amended by my recommendations are appropriate and consistent with the outcomes sought by the higher order policy direction of the RMA, NZCPS and Northland Regional Policy Statement (**RPS**), which enables the provision of public access to be determined on a case-by case basis through the subdivision process.

For the reasons above, I maintain my analysis and recommendations in response to Federated Farmers submissions as set out in Topic 2: Public Access Restrictions (paragraphs 92-95) of the Section 42A report.

New Zealand Defence Force [284]

NZDF submitted evidence via email on 5 May 2026. This evidence was received a day after submitter evidence was due to be filed on 4 May 2026, 12 noon as set out in the PDP Notice of Hearing for the Public Access topic dated 10 April 2026.

On 5 May 2026 the Hearings Panel issued a memorandum confirming that having given due consideration to the requirements as set in section 37A(1) of the RMA, the Panel has come to the view that the NZDF evidence should be accepted. The Hearings Panel consider it is in the best interests of the community in achieving the adequate assessment of the PDP. As the Hearings Panel have waived compliance with the evidence deadline, I consider the NZDF evidence below.

Analysis.

NZDF confirms it does not wish to attend the hearing in person. NZDF reiterates its relief sought and reasons as set out in submission point 284.20. It submits that temporary restrictions on public access may be required for health and safety reasons or where public access could conflict with temporary military training

¹ NZCPS: Policy 19(3) *“Only impose a restriction on public walking access to, along or adjacent to the coastal marine area where such a restriction is necessary: ... (e) to protect public health or safety...”*

² Note the Regional Plan for Northland manages the area around Northland's coast from Mean High-Water Springs (MHWS) to the 12 nautical mile limit of New Zealand's territorial sea including the air space above this area.

activities. To address these concerns, NZDF requests provision for such restrictions within the policy framework, either through amendments to PA-P1 (Providing public and customary access) or the inclusion of a new policy.

NZDF accepts in part my recommendation to include new Policy PA-P4 (Restriction of public access). NZDF considers the proposed policy appropriately includes restrictions for health and safety reasons and where access would conflict with defence activities and temporary military training activities.

NZDF recognises the recommended wording of Policy PA-P4 aligns with Policy 19(3) of the NZCPS, however it requests amendments to the wording to clarify the application of the policy. It considers Council would not necessarily be the party imposing restrictions for Defence purposes (or for other listed activities such as temporary activities or events or for the purposes of a resource consent). NZDF considers the District Plan should enable NZDF to restrict public access where necessary.

NZDF also seeks amendments to PA-P4 to remove what it considers is a suggestion of an additional Council approval process or the need for a mechanism to restrict public access to better give effect to its submission. NZDF considers its requested amendments meet the intent of the NZCPS while being specific to the District Plan context.

NZDF request the below amendments to new Policy PA-P4 (requested additional text is shown as underlined and deletions ~~struck-through~~):

PA-P4 Restriction of public access

Only ~~impose a restriction~~ restrict on public walking access to, along or adjacent to the coastal marine area and waterbodies where such a restriction is necessary to:

1. Protect threatened indigenous species; or
2. Protect dunes, estuaries and other sensitive natural areas or habitats; or
3. Protect sites and activities of cultural value to Māori; or
4. Protect historic heritage; or
5. Protect public health or safety; or
6. Avoid or reduce conflict between public uses of the coastal marine area and its margins; or
7. For temporary activities or special events; or
8. For defence purposes in accordance with the Defence Act 1990; or
9. Ensure a level of security consistent with the purpose of a resource consent; or
10. In other exceptional circumstances sufficient to justify the restriction.

Before restricting public access ~~imposing any restriction for the purposes~~ listed above, consider and where practicable provide for alternative routes that are available to the public free of charge at all times.

I disagree with NZDF that its requested amendments to the recommended wording of Policy PA-P4 meet the intent of Policy 19(3) of the NZCPS. As pointed out by NZDF, the wording of recommended Policy PA-P4 appropriately restricts public access for health and safety reasons where access would conflict with defence activities.

I disagree with NZDF that the recommended wording of Policy PA-P4 suggests an additional 'Council approval process' or 'mechanism' to restrict public access. Where a restriction on public walking access to, along or adjacent to the coast is necessary for the reasons specified in PA-P4, resource consent conditions can be used to impose a restriction on public access.

In my view replacing "impose a restriction" with "restrict" removes the emphasis on the decision-maker's action to impose a restriction on public access where necessary in alignment with the terminology of Policy 19(3) of the NZCPS. The PDP must give effect to the NZCPS in accordance with Section 75(3)(b) of the RMA. In my view the requested wording amendments are inconsistent with the terminology used in Policy 19(3) of the NZCPS and I consider that introducing wording inconsistencies between the NZCPS and recommended Policy PA-P4 may result in confusion for plan users and decision makers.

For the reasons above, and as set out in the s42A report, I maintain my analysis and recommendations in response to NZDF submission point 284.20 as set out in Topic 2: Public Access Restrictions (paragraphs 86-88) of the Section 42A report.

Minor Correction to Section 42A Appendix C

I note Section 3 Restricting Public Access of Appendix C -Section 32AA Evaluation for Public Access refers to 'new Policy PA-P3', this is a numbering error, and the correct reference is new recommended Policy PA-P4.