

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2018-AKL-

IN THE MATTER

of the Whangarei District Plan and
the Resource Management Act 1991
(RMA)

AND

IN THE MATTER

of an appeal under Clause 14(1) of
Schedule 1 of the RMA

AND

IN THE MATTER

of Plan Changes 85, 85 A – D, 86A &
B, 87, and 114 to the Whangarei
District Plan

BETWEEN

Dennis John Scott

Appellant

AND

Whangarei District Council

Respondent

NOTICE OF APPEAL

1st March 2018

To: The Registrar Environment Court Auckland

1. I, **Dennis John Scott** appeal against a decision (or part of a decision) of the Whangarei District Council (the **Council**) on Plan Changes 85, 85 A – D, 86A & B, 87 and 114 (**Plan Changes**) to the Whangarei District Plan.
2. Dennis John Scott made a submission to the plan changes (Submission No: 195).
3. Dennis John Scott is not a trade competitor for the purposes of section 308D of the RMA.
4. Dennis John Scott received notice of the decision on **17 January 2018**.
5. The decision was made by the **Whangarei District Council**.
6. It is noted that this appeal notice has taken the Hearings Panel Recommendation Report(s) as the **“Decision”** as adopted by the Whangarei District Council Planning and Development Committee on Wednesday 13th December 2017 at meeting minute number 4.4:

“That the Planning and Development Committee:

a. adopts the report and recommendations of the Hearing Panel dated 23 November 2017 on proposed Plan Changes PC102, PC114, PC87, PC 85 A – D and PC86A & B, in accordance with Clause 10 of Part 1 of Schedule 1 of the Resource Management Act 1991; and

b. resolves to publicly notify, on 17 January 2018, Council’s decision on PC102, PC114, PC87, PC 85 A – D and PC86A & B, in accordance with Clauses 10 and 11 of Part 1 of Schedule 1 of the Resource Management Act 1991.”

7. The decisions that Dennis John Scott appeals are:
 - I. Decision Report References:
 - i. Part 1 – General Topics
D. Notification Rules
F. Use of Management Plan Technique and Comprehensive Development Plan Provisions
P. Strategic Direction
 - ii. Part 7
J. Submission 195 - Dennis Scott – ‘Rural Production’ vs ‘Countryside’
 - II. Decisions
 - i. Part 1
D. Notification Rules

Paragraph 33. *“The Hearings Panel recommend that Council **accept** submission points 195/8 and 250/18 and 29.”*

F. Use of Management Plan Technique and Comprehensive Development Plan Provisions

Paragraph 57." *The Hearings Panel recommends to Council to **reject** submission points 24/1, 195/6, 428/2 430/2 and 480/2."*

P. Strategic Direction

Paragraph 309. "*The Hearings Panel recommends to Council to **accept in part** submissions 80/1 and 2 195/1 – 4, 423/35-38 and 431/1 – 6 to the extent that we have recommended a number of changes to the suite of plan changes which go some way to addressing the concerns of these submitters."*

ii. Part 7

J. Submission 195 - Dennis Scott – 'Rural Production' vs 'Countryside'

Paragraph 196. "*The Hearings Panel recommends that the Council **accept in part** submission 195 and that the amendments be made to the plan as set out in the revised plan provisions for PC85A."*

8. I provide the following general overview on the relief sought by this appeal:

- A review of the primary strategic approach of the Plan Change 85A Rural ~~Production~~ Countryside Environment that promotes and encourages only productive land use activities and discourages further rural living and other diverse activities to establish.
- A review of the decision version of Plan Change 85A Rules – RPCE.1 Rural ~~Production~~ Countryside Environment and the re-introduction of a reviewed version of the Operative Whangarei District Plan Environmental Benefit Subdivision Rule – 73.3.2.
- Provision for expanded opportunities for use of the Operative Whangarei District Plan MPT.1 – Management Plan Technique in Plan Change 85 to the following:
 - Plan Change 85A – Rural Production Environment
 - Plan Change 85C – Rural Village Environment
 - Plan Change 85D – Rural Living Environment
 - Plan Change 87 – Coastal Area
 - Plan Change 114 – Landscapes
- Review of the Proposed Plan Change 85A Notification Rules

9. I provide the following specific comments:

THE RPCE.1 RURAL ~~PRODUCTION~~ COUNTRYSIDE ENVIRONMENT RULES AND APPEAL RELIEF SOUGHT

10. This section of the appeal notice relates to:

Part 1
P. Strategic Direction

Paragraph 309. *“The Hearings Panel recommends to Council to **accept in part** submissions 80/1 and 2 195/1 – 4, 423/35-38 and 431/1 – 6 to the extent that we have recommended a number of changes to the suite of plan changes which go some way to addressing the concerns of these submitters.”*

And,

Part 7
J. Submission 195 - Dennis Scott – ‘Rural Production’ vs ‘Countryside’

Paragraph 196. *“The Hearings Panel recommends that the Council **accept in part** submission 195 and that the amendments be made to the plan as set out in the revised plan provisions for PC85A.”*

11. The specific appeal relief sought is for further review of the primary strategic approach to RPCE.1 including the Description and Expectations, Objective, Policy and Rule formulation as attached at **Appendix 1 – RPCE.1 Rural ~~Production~~–Countryside Environment**. (Within the WDC decision version text it is noted that the **Yellow Highlights** are where the appeal relief is specifically identified, where council ~~stricken through text~~ is restored and/or with Council decision version text underlined and/or ~~stricken through~~.)

Reasons for appeal:

12. It is considered that any provisions and rules that apply to the Plan Change 85A - Rural ~~Production~~ Countryside Environment (**RPCP.1**) have to be supportive of rural production activities only to the extent that:

- The rural production activities themselves do not create adverse effects on that environment, and
- A balance of rural production, biodiversity and ecosystem services can be achieved, that in turn
- Enhance rural production

13. To achieve this paradigm:

- Recognition of existing complex RPCP settlement and activity pattern arrangements, intensity and diversity and
- Changes to current rural production settlement and activity pattern arrangements, intensity and diversity will need to be
- Promoted and accommodated by way of

- Innovative conservation-driven use, development and subdivision incentives

14. The above matters in 12 and 13 above are stated in the context of:

- Local and global market forces
- Responsible access to those markets
- Capability/capacity of the Whangarei District land and environmental resource
- Appropriate (and ‘best’) use and management of the land and associated activities
- Recognition of current and potential future dynamic economic, social and environmental realities (RMA part 2 s5)

15. It is noted that the same principles apply to:

- Plan Change 85 - Rural Area (**RA.1**)
- Plan Change 85C – Rural Village Environment (**RVE**)
- Plan Change 85D – Rural Living Environment (**RLE**)
- Plan Change 87 – Coastal Area (**CA**)
- Plan Change 114 – Landscapes (**LAN**)

ENVIRONMENTAL BENEFIT RULE (EBR) RESPONSE AND APPEAL RELIEF SOUGHT

16. This section of the appeal notice relates to:

Part 1
P. Strategic Direction

Paragraph 309. *“The Hearings Panel recommends to Council to **accept in part** submissions 80/1 and 2 195/1 – 4, 423/35-38 and 431/1 – 6 to the extent that we have recommended a number of changes to the suite of plan changes which go some way to addressing the concerns of these submitters.”*

And,

Part 7
J. Submission 195 - Dennis Scott – ‘Rural Production’ vs ‘Countryside’

Paragraph 196. *“The Hearings Panel recommends that the Council **accept in part** submission 195 and that the amendments be made to the plan as set out in the revised plan provisions for PC85A.”*

17. The specific appeal relief sought is for a further review and extension of the Environmental Benefit Rule (EBR) provisions as attached at **Appendix 1 – RPCE.3 Subdivision: RPCE.3.4 and RPCE.3.5**. (Within the WDC decision version text it is noted that the **Yellow Highlights** are where the appeal relief is specifically identified, where council ~~stricken through text~~ is restored and/or with Council decision version text underlined and/or ~~stricken through~~.)

Reasons for appeal:

18. A planning and design methodology is required to prepare a comprehensive 'Environmental Benefit' driven development and/or subdivision programme and/or project. This needs to be underpinned by a holistic spatial approach to land management and land use allocation.
19. The ecological quality of an existing area of remnant and/or regenerating native bush may not be the sole reason for the underlying strategy to promote and utilize the EBR. The plan change decision version *Policy RPCE.1.3.12* and *Policy RPCE.1.12.13* and *Subdivision RPCE.3.4.4* and *Discretionary Activity Information Requirement RCE.3.5.1* are inadequate provisions to achieve the sustainable management of the RPCE area.
20. Rather, the proactive promotion of:
 - i. Retirement and/or revegetation of currently degraded and/or marginal productive land holdings. These may be currently in low producing pastureland or forestry land use and/or in a partial and/or transitional stage of retirement and reversion to:
 - Exotic shrubland
 - Mixed exotic and native shrubland
 - Native shrubland, and/or
 - Various stages of advanced regenerating native bush
 - ii. Enhancement, regeneration, rehabilitation and protection of:
 - Steep, unstable and erosion prone and/or eroding slopes
 - Existing indigenous bush patches
 - River, stream, estuary and wetland margins
 - Wetland recovery areas, and
 - Coastal and estuarine margins
 - Heritage sites (natural and archeological sites and areas)
 - iii. Multiple-functional and diverse land use options (as opposed to mono-cultural land uses). This includes intensive production activities and provision for appropriately scaled settlement, education, recreational, visitor/tourist facilities and home services and industries associated with a conservation-driven outcome. These land-uses can all co-exist to significantly enhance integrated environmental, social and economic community development and sustainability.
 - iv. Partial subdivision of larger existing productive holdings to assist the economic and social viability and continuance of the current land-use. The EBR can serve to release

capital by way of diversifying land use (e.g. settlement) to support the underlying land use activity and also retire, regenerate and protect the often degraded critical environmental features, elements and patterns, that are better retired from productive to conservation use, as outlined above.

21. The recognition of above (i) – (iv) items and their reimagined management are considered a significant and valid purpose and reason to promote and encourage innovative settlement pattern transformation of RPCE areas and the use of the EBR to facilitate this.
22. This appeal requests a broader review and expansion of the specific provisions EBR to include bonus and incentives for subdivision and development beyond the protection of already existing high quality indigenous bush patches and/or areas.
23. It is a fundamental land use management issue in the RPCE that marginal and degraded areas and critical landscape elements such as remnant bush patches, regenerating shrubland areas, steep erosion prone slopes, river, stream and wetland, estuarine and coastal margins and natural and cultural heritage features are retired from production, rehabilitated where necessary and protected in perpetuity. This is the only strategy available to ensure that ecosystem service delivery functions are woven throughout our productive landscapes. This constructed, yet natural 'green infrastructure' in turn enhances the rural productivity of the district.
24. It is considered that the approach and relief sought by this appeal requires urgent attention and implementation in the coastal catchments, particularly those comprising the east coast Whangarei District estuarine systems.
25. It is important to note that the EBR has been an incentive subdivision and development provision (73.3.2) in the Operative Whangarei District Plan for at least a decade. For another decade prior to becoming included in the operative plan, the evolution of the EBR was also a hard-won affair with weighty public and landowner input.
26. While currently a restricted discretionary activity, this appeal considers the removal of the provision to be a serious 'down zoning' of many properties. Many people have been implementing noteworthy regenerative programs on properties across the Whangarei District. Some of these programs are now up to and more than 40 years+ into the process.

27. In addition, it is considered that the EBR is an important planning provision to partner the application of the Management Plan Technique (MPT.1).

MANAGEMENT PLAN TECHNIQUE (MPT.1) and APPEAL RELIEF SOUGHT

28. This section of the appeal notice relates to:

Part 1

F. Use of Management Plan Technique and Comprehensive Development Plan Provisions

Paragraph 57." *The Hearings Panel recommends to Council to **reject** submission points 24/1, 195/6, 428/2 430/2 and 480/2.*"

29. This appeal considers that the Operative Whangarei District Plan MPT.1 (**MPT.1**) remains as an important technique. It needs to be extended and applied to all of the zones/environments. This suite of proposed Plan Changes is the prime opportunity to extend the application of the MPT1. to:

- Plan Change 85A – Rural Production Environment
- Plan Change 85C – Rural Village Environment
- Plan Change 85D – Rural Living Environment
- Plan Change 87 – Coastal Area
- Plan Change 114 – Landscapes

30. The specific relief sought by this appeal is to reintroduce MPT.1 to the decision version of the plan changes as outlined in **Appendix B – REVISED MPT.1**

Reasons for Appeal and Relief Sought

31. This appeal considers that MPT.1 technique is a critical component of the Proposed Plan Changes. If applied as a fundamental process to the facilitation of flexible and innovative development and subdivision, and used in partnership with the EBR, this combination would go a long way to providing the solution to liberate the opportunities that the broad proposed plan change zone/environment strategies are seeking to constrain.

THE ~~R~~PC.1 RURAL ~~PRODUCTION~~ COUNTRYSIDE ENVIRONMENT NOTIFICATION RULES AND APPEAL RELIEF SOUGHT

32. This section of the appeal notice relates to:

Part 1

D. Notification Rules

Paragraph 33. "The Hearings Panel recommend that Council **accept** submission points 195/8 and 250/18 and 29."

33. The appeal seeks clarification of the above Hearing Panel Recommendation (Decision).
34. The specific appeal relief sought for a review of the decision version Notification Rules is attached at **Appendix 1 – RPCE.1 Rural ~~Production~~ Countryside Environment**. (Within the WDC decision version text it is noted that the **Yellow Highlights** are where the appeal relief is specifically identified, where council ~~stricken through text~~ is restored and/or with Council decision version text underlined and/or ~~stricken through~~.)

Reasons for appeal:

35. It is considered that any Notification Rule provisions that apply to the Plan Change 85 suite of amendments and in particular Plan Change 85A - Rural ~~Production~~ Countryside Environment (**RPCE.1**) have to be supportive of an accessible process for the residents and ratepayers of the Whangarei District.
36. The Whangarei District rural communities are the key respondents of any planning provisions and it is their welfare that needs to dominate the purpose and intent of the proposed suite of Plan Change 85 provisions. It is through extant community management efforts that wider societal (environmental and economic) benefits are generated.
37. People/communities need to be supported by council with encouraging compliance processes.

APPEAL AND RELIEF SOUGHT SUMMARY:

38. The relief sought by this appeal is as follows:
- A review of the primary strategic approach of the Plan Change 85A Rural ~~Production~~ Countryside Environment that promotes and encourages only productive land use activities and discourages further rural living and other diverse activities to establish.
 - A review of the decision version of Plan Change 85A Rules – RPCE.1 Rural ~~Production~~ Countryside Environment and the re-introduction of a reviewed version of the Operative Whangarei District Plan Environmental Benefit Subdivision Rule – 73.3.2.

- Provision for expanded opportunities for use of the Operative Whangarei District Plan MPT.1 – Management Plan Technique in Plan Change 85 to the following:
 - Plan Change 85A – Rural Production Environment
 - Plan Change 85C – Rural Village Environment
 - Plan Change 85D – Rural Living Environment
 - Plan Change 87 – Coastal Area
 - Plan Change 114 – Landscapes

- Review of the Proposed Plan Change 85A Notification Rules

39. The relief sought by this appeal is specifically identified in the **Appendix 1 and Appendix 2 Yellow Highlighted** decision version text. These are provided on the understanding and basis that similar outcomes may be able to be reached during negotiated Environment Court Mediation processes prior to formal Environment Court Hearing fixtures.

40. The decision version plan changes do not represent a sustainable management outcome for the Whangarei District rural areas.

41. The decision version plan change subject to this appeal fail to implement the purpose of the Resource Management Act 1991 (the **Act**) particularly Part 2 section 5 and section 6.

42. Absent from the decision version of the plan change is particular regard to the New Zealand Coastal Policy Statement 2010 and New Zealand Fresh Water Policy Statement 2014 (Amended). Specifically, this is in respect of the use and development of rural land use in whole catchments influencing the interactions between land, fresh water, associated ecosystems and the Whangarei District coastline and associated estuarine environments.

43. The council has failed to provide appropriate s32 reporting for the decisions made by the Hearing Panel.

44. Accordingly, I respectfully recommend that the decision version plan change be amended in accordance with the **Appendix 1 and Appendix 2** provisions attached to this appeal, subject to any modifications considered by the Court to be necessary and appropriate.

45. The following documents are attached to this notice:

1. A copy of the original submission 195 (written and extended attached documentation)

2. A copy of the Hearing Submission of submission 195 and Attachments and tabled submission notes.
3. A copy of the Notification of decision on the Plan Change
4. A copy of the decision, including:
 - a. Whangarei District Council Minute Note 4.4
 - b. Decision References from the Hearing Recommendation Report(s)
5. A list of the names and addresses of persons to be served with a copy of this notice

Dennis John Scott



(Signature of appellant (being person authorized to sign on behalf of appellant))

1st March 2018

Date

Address for service of appellant: Dennis John Scott
PO Box 49
Whitford
Auckland 2149

Telephone: (09) 530 8149 or (027) 492 2855

Email: dennis@djscott.co.nz

Contact person: **Dennis Scott**

Appendix A – REVISED PLAN CHANGE 85A
RPE.1 Rural ~~Production~~ Countryside Environment

~~RPCE.1 Rural Production~~ Countryside Environment

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~~RPCE.1 Rural Production~~ Countryside Environment

RPCE.1.1 Description and Expectations

RPCE.1.2 Objectives

RPCE.1.3 Policies

RPCE.1.4 Guidance Note

~~RPCE.2 Landuse~~

RPCE.2.1 Eligibility Rules

RPCE.2.2 Notification Rules

RPCE.2.3 Discretionary Activities

~~RPCE.3 Subdivision~~

RPCE.3.1 Eligibility Rule

RPCE.3.2 Notification Rules

RPCE.3.3 Controlled Activities

RPCE.3.4 Discretionary Activities

RCE.3.5 Discretionary Activity Information Requirement

~~RPCE.1.1 Description and Expectations~~

The Rural ~~Production~~ Countryside Environment (RPCE) encompasses a large area of the Whangarei District. The Environment hosts a wide range of rural land use activities and a varied array of landforms. The purpose of the RPCE is to sustainably manage the natural and physical resources of the Rural Area in order to sustain, protect and promote rural production activities as well as those activities that support rural communities, and protecting areas of significant ecological and biodiversity values (such as indigenous bush and wetlands).

The Environment comprises a varied array of topography, landforms, landscapes, soil types, biodiversity and catchments. It is important that the ecological and landscape values of the RCE are recognised and where possible protected. These values contribute significantly to the rural character and distinctiveness of Whangarei District. Parts of the RPCE are located within the coastal environment. The values of the coastal environment are managed by the District Plan's Coastal Area provisions as well as the provisions in this section.

The interplay of historical land use and values has resulted in the environmental character that exists in the RPCE today. This character is made up of the varied natural landforms and natural features, openness as well as an existing subdivision and development pattern. It ~~The RPE~~ is mostly characterised by a working/living environment, with the noises, odours and visual effects associated with a wide range of farming, horticultural, forestry and mineral extraction activities. There is an expectation that rural production activities will be able to continue to operate without onerous or restrictive intervention in the RPCE. This is only possible where due cognizance and encouragement is given to the implementation of environmental protection and enhancement management practices. This may include the transformation of significant areas by retirement and restoration of marginal land, steep eroding hill country slopes, riparian margins and protection of heritage (archaeological) sites.

Rural production activities ~~such as dairy farming, horticulture and forestry~~ are important contributors to the Whangarei and Northland economy. The RPCE includes most of the productive rural land areas of the District. It is important that these areas are not compromised for rural production. It is expected that a diverse range of rural production/productive rural land use activities will continue to operate and new activities will establish in the RPCE. Changing demands for existing produce and new markets establishing mean that the provisions for the RPCE need to be flexible to accommodate current and future production needs together with associated emerging settlement and activity opportunities.

The RPCE provides for commercial and industrial activities that have a functional need to service rural production activities and/or rural communities or provide location based recreation or tourist activity.

Conflicting land use and reverse sensitivity effects must be carefully managed where the RPCE interfaces with sensitive activities including habitable buildings in other Rural Environments and Living Environments, Tourist Activities and Visitor Accommodation, Educational Facilities and with Business, and Industrial and Home Industry Environments. Where the RPCE is traversed by existing major infrastructure services, land use conflicts must be managed. Parts of the RPE are located within the coastal environment. The values of these areas will be managed by way of the Coastal Area in the District Plan. The coastal areas are considered to now be extremely sensitive to continued broad scale rural production activities. Their future lies in conservation-driven settlement patterns, including a range of residential, recreational, tourism and visitor service activities together with a diversity of other associated service activities.

Mineral Extraction Quarrying Resource Areas apply over the RPCE and Strategic Rural Industry Environments are surrounded by the RPCE. Providing for mineral extraction activities and strategic rural industries to occur and avoidance of conflicting land use activities is important for their on-going operation.

A history of varied ad-hoc rural living subdivision density and rural living and development has resulted in inconsistent a diversity of allotment size, and a This scattered and ad-hoc pattern of development across the Rural Area now reflects the complex environment and variable and limited land use capacity and capability for sustainable productive activities. Many of these areas are marginal productive environments and are in various stages of retirement. The coastal catchments comprising the important estuarine systems of East Coast Whangarei are examples of these landscapes. They are no longer suited to intensive production and are better utilised as mixed living, tourism, education and small scale production/home industrial and service activities.

Where the Rural Area abuts Whangarei City RPCE will apply, areas. Areas for future urban growth, land use and subdivision development is spatially managed by the Rural (Urban Expansion) Environment to maintain options for the continued growth of the City.

Where a rural number of rural living clusters have reached significant density and lifestyle character they have been identified as the Rural Living Environment to manage the actual and potential reverse sensitivity effects associated with rural living activities occurring in close proximity to rural production activities. These can be expanded as the district moves and transforms towards the inevitable post-colonial rural settlement and activity realities.

The RPCE will not is able to support an increased level of clustered rural living development. The RPCE is an essential part of the emerging alternative living and environmental/landscape management strategy. This trend accepts and encourages increased levels of rural living development.

However, consistent with a consolidated pattern of development residential, rural residential and rural living activities are directed to should be contained, where possible and in preference within identified rural villages, the Rural (Urban Expansion) Environment or the Rural Living Environment to protect the productivity, biodiversity and rural character of the RPCE. This will assist to protect the productivity, biodiversity and rural character of these areas.

In parts of the RPCE urban and rural residential types of development can erode support the viability of rural productivity. and can In other parts, more intensive development may create reverse sensitivity impacts on productive uses through the visual effect of large scale buildings and ancillary structures, increased traffic generation, and loss of amenity including privacy, rural outlook, spaciousness, and quietness, particularly when a new incompatible activity is located near an existing activity, with resulting

conflicts.

However, future productive systems will also necessarily involve more intensive settlement and built form populating the RPCE. In addition, it is also recognized that the RPCE is such a large and generalized environment that new and alternative patterns of land use and management will emerge and indeed are necessary, if the district is to meet long term environmental management imperatives that also underpin the dynamic adaption realities of changing social and economic needs and preferences.

Flexible development incentives are therefore needed to create opportunities where there are areas that can provide for compatible, useful and functional alternatives to intensive production activities in the RPCE.

The interplay of historical land use complexity and values has resulted in the environmental character that exists in the RPCE today. It is important that the current ecological and landscape values attributes and the condition and state of the environment of the RPCE are recognised, enhanced and where possible protected.

It is critical that every effort is now given to maximizing production capacity on the appropriate land while integrating strong environmental ~~possible-protected~~ protection and enhancement policies and programmes for those degraded and sensitive parts of the rural area. ~~These values~~ Only then can the RPCE be considered to be contributing ~~contribute~~ significantly to the rural character and distinctiveness of Whangarei District. ~~These values contribute significantly to the rural character, and distinctiveness and productive capacity of Whangarei District.~~

RPCE.1.2 Objectives

1. Identify and protect productive rural land resources for a diverse range of productive rural production land-use activities.

2. Provide incentives for settlement and diverse small-scale activity development in areas where the primary and urgent need is for permanent conservation, biodiversity and ecosystem service delivery functions.

~~1-2-3~~ Enable a wide range of productive rural production land-use activities and provide for the functional commercial and industrial activities that support rural production activities and/or rural communities including conservation-driven settlement patterns, recreation and tourist based activities to establish and operate in the RCE to contribute to the District's economy.

~~2-3-4~~ Recognise, maintain and where appropriate protect the rural character and amenity and functional integrity of the RPCE, acknowledging that character is formed through a combination of values attributes, as ecology values, openness, topography ecosystem service delivery and heritage.

~~3-4-5~~ Avoid adverse effects on productive rural and land resources from inappropriately located rural living land use ad-hoc residential, subdivision and development in the RPCE that does not contribute to enhanced environmental and landscape outcomes.

~~4-6~~ Support the range of amenity values-attributes associated with the RPCE.

~~5-7~~ Minimise the fragmentation Rationalise settlement patterning of rural land and promote allotment sizes to create opportunities that facilitate productive rural production activities and settlement land uses other and than to that encourage associated environmental/landscape enhancement programmes to protect significant ecological and biodiversity values attributes.

~~6-8~~ Enable and encourage a wide range of productive rural land use and complementary activities to

establish and operate to contribute to the District's economy.

7.6- 9. Provide for limited rural production activities that are compatible with the Coastal Area and promote the transformation to a residential, recreational, tourism and visitor service dominated environment set within a conservation landscape framework.

RPCE.1.3 Policies

1. To ~~protect~~ ~~transform~~ rural productive land, rural character and amenity and to encourage consolidation of activities within Whangarei City by:

a. ~~preventing~~ Only providing for the operation of commercial and industrial activities in the RPCE. where it is demonstrated that the activity:

i. Concurrently encourages activities that promote and establish environmental and landscape enhancement

i. Has a direct connection with the rural resource and supports rural production activities and/or rural communities, including recreation and tourist based activities.

ii. Requires a rural location for its operational function.

iii. ~~not increase~~ Minimises the potential for reverse sensitivity effects between incompatible land use activities.

iv. Will contain and manage adverse effects on-site.

v. Will contribute positively to the economy of the District.

vi. Can meet and fund local infrastructure requirements.

b. Not directly regulating outdoor agricultural and horticultural activities, excluding intensive livestock farming.

c. Permitting farming and activities ancillary to farming, forestry or Strategic Rural Industry.

d. Requiring larger allotments sizes to retain productive rural options.

2. To create and protect significant ecological and biodiversity values by enabling subdivision where those values are enhanced and protected.

1.3. To manage reverse sensitivity effects ~~a~~ ~~Avoiding reverse sensitivity effects~~ by preventing the establishment of sensitive activities within close proximity to ~~Mineral Extraction~~ Quarrying Resource Areas, ~~s~~Strategic ~~r~~Rural ~~i~~Industries, ~~intensive farming activities~~ intensive livestock farming or other rural production activities that are ~~legally~~lawfully established and where adverse effects are not to be contained within site boundaries.

2.4. To reduce the potential of exposure to noise, dust and health risks by requiring a minimum separation for residential units from unsealed roads. **OPPOSE in PART**

3.5. To maintain rural amenity, ~~privacy, openness~~ and rural character by ensuring that all new buildings and rural land uses:

a. Are of a scale and character appropriate to the RPCE.

b. Are sited in a location sufficiently setback from site boundaries to enable privacy, the retention of openness and access to sunlight.

c. Avoid ribbon development.

d. ~~Avoid a~~ Promote clustering of built development at a scale and character compatible to the receiving environment and landscape setting of the RPCE of the Rural Living Environment.

e. Recognize emerging and critical land use and environmental/landscape management initiatives.

4.6. To preserve openness, rural character and amenity by limiting the density of residential units promoting design-led outcomes for development.

5.6. To avoid inappropriate subdivision and development in areas required for future urban growth by identifying 'setback buffers' between the RPCE and living environments (Living 1, 2 and 3 Environments, Urban Transition Environment, Rural Urban Interface Environment, Rural Living Environment and Rural Village Residential Sub-Environment).

6. To protect/enhance the distinctive character and amenity values/outcomes of the RPCE including but not limited to:

- a. A working rural environment.
- b. Seasonal activities.
- c. A low intensity of development, involving a combination of domestic and rural buildings.
- d. Varying levels of noise associated with seasonal and intermittent rural production activities.
- e. A high degree of privacy.
- f. Sufficient access to daylight and sunlight.
- g. Odours, noise and dust typical of rural activities.
- h. Generally low levels of vehicle traffic with seasonal fluctuations.

- a. A working and settled rural environment.
- b. Encouraging innovative settlement and complementary activities
- c. Seasonal activities.
- c. A low intensity of development, involving a combination of domestic, ~~and~~ rural and visitor accommodation buildings.
- d. Varying levels of noise associated with seasonal and intermittent rural production activities.
- e. A high degree of privacy.
- f. Sufficient access to daylight and sunlight.
- g. Odours, noise and dust typical of rural activities.
- h. Generally low levels of vehicle traffic with seasonal fluctuations.
- i. Introducing guidance on rural land use intensification and expected environmental/landscape management practices.

7. To protect the productive function of the RPCE while providing for a range of productive land uses by:

a. ~~Not directly regulating outdoor agricultural and horticultural activities, excluding intensive farming.~~

a. Not directly regulating, but at least providing environmental/landscape management guidance to outdoor agricultural and horticultural activities, excluding intensive farming.

b. Regulating extensive farming

~~b. c. Permitting farming and activities ancillary to farming.~~

~~c. d. Discouraging commercial and industrial activities and rural living development.~~

d.a. Requiring larger flexible and appropriate allotments sizes to retain productive rural options and rationalizing those required to accommodate emerging innovative and diverse rural futures.

8. To enable the flexible subdivision of rural land into diverse allotments of 20ha or more less, where the following has been provided for:

- a. Efficient and effective on-site servicing.
- b. Avoidance of erosion, subsidence, slippage, flooding or inundation from any source.
- c. Stability of land and its suitability to provide a foundation for the erection of buildings, vehicle access and parking areas.
- d. Enhanced biodiversity and ecosystem service delivery.

9. To avoid/encourage the subdivision of land into allotments less than 20ha unless where it is demonstrated that all of the following criteria are achieved matters are addressed:

- a. It is not for the primary purpose of creating a rural residential or rural lifestyle allotment associated with conservation outcomes.

- a.b. The subdivision of rural land and associated buildings does not inhibit or restrict the productive potential or reasonably anticipated productive potential of rural production activities and is for the purpose of supporting an existing farm, forestry or horticultural enterprise associated with rural production and/or complementary enterprise associated with rural production and conservation initiatives.
- b.c. The size, shape and arrangement of allotments is a practical size for compatible to associated rural productive and/or complementary land use activities and does not restrict the range of options for the use of production land.
- c.d. The viability of the existing rural production and/or complementary land use activity is not compromised and the existing rural production activity farm, forestry or horticultural enterprise can continue to operate efficiently at the subdivided scale.
- d.e. The subdivision and subsequent development will not result in significant adverse effects on the operation and viability of any adjoining farm, forestry or horticultural rural production activity.
- f. The land and buildings have greater and/or diversified potential for the production of primary products, forestry or crops and/or complementary activities as a result of the subdivision.
- f.g. The subdivision and subsequent development will not require connection to the District's reticulated sewer or an extension or upgrading of any service or road, except where it is in the economic interest of the District and will not compromise the efficient functioning of the District's infrastructure network.

10.9. To provide for limited subdivision of rural land creating a new allotment for a surplus existing residential existing residential unit where the balance area of the farm is large and of sufficient dimensions of for the new allotment can accommodate the existing onsite services and provide for efficient access.

11.10. To locate and design subdivision and associated land development to avoid urban form and character, maintain rural character and amenity values and protect and enhance environmental features by:

- a. Designing subdivisions to respond to the topography and characteristics of the land being developed.
- b. Identifying building platforms that respond to site topography and environmental characteristics.
- c. Locating access ways, services, utilities and building platforms where these can be provided for by way of sensitive without the need for significant earthworks, retaining, benching or site contouring.
- d. Locating access ways, services, utilities and building platforms where the location is sensitive to and responds to environmental features of the site.
- e. Ensuring that the subdivision will not create reverse sensitivity effects with respect to existing lawfully established activities.

11. To design subdivision and development to avoid, remedy or mitigate adverse effects to ensure that subdivision and development is compatible with the Coastal Area and promotes tourism, education visitor industry services and high quality living environments and settlement patterns.

12. To provide for environmental benefit lot subdivisions by considering sites:

- I. With significant indigenous vegetation or significant indigenous habitat where the features:
 - a. Are assessed to be an acceptable quality by a qualified and experienced ecologist;
 - b. Are predominantly indigenous vegetation;
 - c. Are a threatened or rare habitat type or contain indigenous or endemic taxa that are threatened or are rare in Northland;
 - d. Contribute to ecological connectivity within the District; and
 - e. Are either
 - i. Indigenous vegetation with a minimum size of 1ha and minimum width of

50m; or

ii. Located in a LENZ Acutely or Chronically Threatened Environment; or

iii. An intact and functioning indigenous wetland.

II. Are marginal and degraded environments in need of land-use repair and rehabilitation management and:

- a. Are design-led proposals.
- b. Are able to benefit from a significant revegetation programme.
- c. Comprehensively address the positive and integrated management of critical landscape elements including:
 - a. Existing remnant bush patches
 - b. Regenerating shrubland
 - c. Steep eroding slopes
 - d. Stream and wetland riparian margins
 - e. Wetland recovery and rehabilitation
 - f. Other natural and cultural heritage features
- d. Contribute to ecological connectivity within the District

13. To design environmental benefit lot subdivision in a manner that ensures:

a. All of the significant indigenous vegetation or significant indigenous habitat or revegetated areas on the site are protected in perpetuity as part of the subdivision.

b. Subdivision boundaries are laid out in such a way that policy RCE 1.3.1011 is clearly met.

RCPE.1.4 Guidance Note:

1. The following shall form the basis for resource consent application in the RCPE:

- a. The objectives, policies and provisions for the Rural Area in the District Plan.
- b. The objectives, policies and provisions for Resource Areas in the District Plan.
- c. The District Wide objectives, policies and provisions in the District Plan.
- d. The provisions of MPT.1 Management Plan technique (Revised)

PPCE.2 Landuse

PPCE.2.1 Eligibility Rules

~~1. Commercial and industrial activities are non-complying activities.~~

1. More than one minor household unit per allotment is a non-complying restricted discretionary activity.

2. Mineral extraction activities within the Mining Area of a ~~Mineral-Extraction~~ Quarry Resource Area are exempt from ~~RPE.2.1.3~~, ~~PPCE.2.3.43~~ (a) and (b) and will be assessed by applying the ~~Mineral-Extraction~~ Quarry Resource Area Chapter provisions.

~~3. Mineral extraction activities is a non-complying activity if the activity:~~

~~a. Extracts over 5,000m³ in any 12 month period on the site.~~

~~b. Undertakes blasting.~~

~~c. Establishes within 500m of an existing sensitive activity on an adjacent site.~~

4.3. Intensive livestock farming activities that are closer than within 250m to of the boundary of a separate site containing a sensitive activity ~~are~~ is a non-complying activity.

5. Any activity ancillary to farming or plantation forestry that operates within a building with a GFA and/or from an outdoor area larger than 500m² is a non-complying activity Controlled Activity.

6.4. Any other activity not requiring consent as a discretionary or non-complying activity is a permitted activity.

PPCE.2.2 Notification Rules

1. All land use activities are subject to the notification tests of the RMA. **OPPOSE and insert....**

All Land use activities are subject to a range of tests. Notification tests of the RMA are avoided where possible and/or used sparingly.

PPCE.2.3 Restricted Discretionary Activities

1. Commercial and Industrial activities.
- 1.2. Any sensitive activity (excluding non-habitable buildings):
 - a. Within 500m of:
 - i. The Mining Area of a ~~Mineral Extraction~~ Quarry Resource Area,
 - ii. A Strategic Rural Industry Environment or a Business Environment.
 - b. Within ~~100m~~ 30m of an unsealed metal road.
 - c. Within 30m of an existing plantation forestry on a separate site.
 - d. Within 250m of:
 - i. ~~An e~~ Existing intensive livestock ~~farming activity~~ on a separate site.
 - ii. An existing activity ancillary to farming, ~~or plantation~~ forestry or Strategic Rural Industry on a separate site.
- 2.3. Any residential unit resulting in more than ~~4~~ 7 residential units per 20ha of net site area. **It is noted that -** More than one dwelling per 20ha is provided for as a restricted discretionary activity provided that one the dwelling and one minor household unit is permitted on an allotment of any size.
Any minor household unit. RETAIN
- 3.4. Any building:
 - a. That exceeds a maximum height of 10m.
 - b. Within 8m of a site boundary.
 - c. That results in site coverage exceeding 20% of the net site area.
 - d. Within 27m of mean high water springs (excluding bridges, culverts and fences).
 - e. Within 27m of the top of the bank of any river that has a width exceeding 3m (excluding bridges, culverts and fences).
- ~~4. The destruction of any indigenous wetland.~~
5. The destruction or clearance of indigenous vegetation that forms a contiguous area of 1ha or more where the maximum area of destroyed or cleared indigenous vegetation per site exceeds 500m² in any 24 month period, with the exception of vegetation clearance associated with: ~~an area exceeding 500m² 250m² of predominately indigenous vegetation that forms a contiguous area of 1ha or more.~~
 - a. Routine maintenance within 3m of existing buildings, or
 - b. Operation, maintenance and repair of existing tracks, lawns, gardens, fences, drains and other lawfully established activities, or
 - c. Pest plant removal and biosecurity works, or
 - d. Vegetation removal for customary rights, or
 - e. Conservation planting, including planting for ecological restoration purposes. **All PERMITTED (a-e)**
6. Any activity ancillary to farming, ~~or plantation~~ forestry or Strategic Rural Industry that operates within 250m of an existing sensitive activity on a separate site.
7. Any place of assembly
8. Any building associated with emergency service.
9. Any frost protection fan:
 - a. That exceeds a maximum height of 20m.
 - b. Within 8m of a site boundary.
10. Any crop support structure or artificial crop protection structure: **CONTROLLED ACTIVITY**
 - a. That exceeds a maximum height of 10m.
 - b. Within 1m of a site boundary.
 - c. Within 27m of mean high water springs (excluding bridges, culverts and fences).
 - d. Within 27m of the top of the bank of any river that has a width exceeding 3m (excluding bridges, culverts and fences).
11. Any health care facility.
12. Any retirement village.
13. Farm quarry if the activity:
 - a. Extracts over 5,000m³ in any 12 month period on the site.
 - b. Undertaking blasting.
 - c. Establishes within 500m of an existing sensitive activity on an adjacent site.

14. Any activity ancillary to farming, or plantation forestry or Strategic Rural Industry that operates:
a. Within buildings with a cumulative GFA exceeding 2000m² per site.
b. From an outdoor area (excluding water storage and/or treatment ponds and irrigators) larger than 500m². **CONTROLLED ACTIVITY**

15. Any intensive livestock farming activity that operates within buildings with a cumulative GFA exceeding 2000m² per site.

16. Any commercial or industrial activity that:

- a. Exceeds 50m² GFA.
b. Is not ancillary to a lawfully established rural production activity.
Any emergency service.

17. Settlement proposals developed as part of the MPT.1 Management Plan Technique

18. Complementary small-scale rural commercial and industrial activities

19. Visitor accommodation is a restricted discretionary activity where it promotes positive environmental/landscape outcomes

20. Any activity that promotes significant and permanent environmental/landscape enhancement with corresponding permanent protection of that environmental/landscape feature/system and/or area are restricted discretionary activities.

Note: Refer to RA.4.2 for Assessment of Discretionary Activities.

RCE.2.4 Discretionary Activity Information Requirement

1. Any application under rule RCE.2.3.2 must include a transport assessment statement which:
a) Establishes the current and predicted transport environments/traffic volumes along the road from which the sensitive activity will be setback.
b) Establishes the likelihood of changes to the nature, scale and intensity of land uses and their traffic generating potential within the catchment served by the road.

RPCE.3

Subdivision

RPCE.3.1 Eligibility Rule

1. Subdivision of a minor residential unit from a ~~principal~~ residential unit is a **prohibited activity restricted discretionary activity**
2. Any ~~activity~~ subdivision not requiring consent as a controlled or **restricted discretionary activity** is a non-complying activity.

RPCE.3.2

Subdivision Notification Rules

1. All land use activities are subject to the notification tests of the RMA. **OPPOSE**

RPCE.3.3 Controlled Activities

1. Subdivision where every proposed allotment:
- a. Has a minimum net site area of 20ha.
- b. Can accommodate a minimum 100m² building area on which a residential unit can be built so that there is compliance as a permitted activity with the relevant rules in the District Plan.
- c. Demonstrates that management of water supply, stormwater and wastewater can be achieved within the proposed allotments in accordance with Whangarei District Council's Environmental Engineering Standards 2010.

2. Boundary relocation subdivision of sites which are existing at **[Operative Date]** that:
 - a. Results in the same number of **allotments** sites, except sites held together under section 80 of the Building Act 2004.
 - b. ~~Creates no new allotment/s with a new site area less than 4ha.~~ **2,000m²**
 - c. ~~Results in no additional vehicle accesses.~~
 - d. ~~Results in every proposed allotment being able to accommodate a minimum 100m² building area on which a residential unit can be built so that there is compliance as a permitted activity with the relevant rules in the District Plan.~~
 - e. ~~Demonstrate that management of water supply, stormwater and wastewater can be achieved within the proposed allotments in accordance with Whangarei District Council's Environmental Engineering Standards 2010.~~
 - f. ~~Results in the ability to construct or locate residential units not exceeding a density of 7 residential units per net site area of 20ha.~~

Note: Refer to RA.4.1 for Matters of Control.

RPCE.3.4 Restricted Discretionary Activities

1. Boundary relocation subdivision that does not comply with any standard in RPCE.3.3.2.
2. Subdivision of existing lawfully established residential units:
 - a. With a minimum net site area of 2,000m² or less that are able to accommodate onsite servicing of wastewater disposal in accordance with Whangarei District Council's Environmental Engineering Standards 2010.
 - b. ~~Resulting in no more than one additional title from the parent title within any 10 year period.~~ **DELETE**
 - c. ~~Providing a balance allotment equal to or greater than 80ha in net site area.~~ **DELETE**
3. Subdivision where any proposed allotment is unable to accommodate a minimum 100m² building area on which a residential unit can be built so that there is compliance as a permitted activity with the relevant rules in this Plan.
4. Subdivision where an environment benefit lot is proposed in-situ and where:
 - a) Additional allotments do not exceed the following:
 - i. 1 allotment for and up to 10ha **4Ha** of protected indigenous vegetation, **2 Ha** of revegetation or up to **500m²** **250m²** of protected indigenous wetland or constructed wetland
 - ii. 5 allotments for 10-20ha of protected indigenous vegetation and/or 10 Ha of revegetation or over 500m² **250m²** of protected indigenous wetland and/or constructed wetland
 - iii. 3 **8** allotments over 20ha of protected indigenous vegetation and/or revegetation
 - b) All of the following are shown to be met or how they are to be met.
 - i. An existing feature (or features) of high ecological value is present and/or can be created and developed by way of a managed revegetation programme over time.
 - ii. The feature(s) are protected at the time of application or secured by management plan and performance bond.
 - iii. Protection is to be provided in perpetuity on the relevant certificate of title.
 - iv. The full extent of all features located within the site are to be legally protected.
 - v. That secure and permanent stock exclusion is or will be provided (only if stock grazing is retained).
 - vi. That invasive plant pests are or will be eradicated.
 - vii. The animal pests are or will be controlled.
 - viii. Whether domestic pets need to be excluded or controlled.

Note: Refer to RA.4.2 for Assessment of **Restricted** Discretionary Activities.

RCE.3.5 Restricted Discretionary Activity Information Requirement

1A. Any application for an 'SEA quality' environment benefit subdivision shall be accompanied by a report from a qualified ecologist which addresses (as a minimum):

- a. Size and extent of the features
- b. The ecological quality of the feature(s), including but not limited to:
 - i. Function
 - ii. Structure
 - iii. Integrity
 - iv. Long term viability
- c. The underlying physical characteristics of the features(s), including but not limited to:
 - i. Soil type
 - ii. Topography
 - iii. Aspect
 - iv. LENZ classification
 - v. PNAP classification
- d. The effects of the potential development of the feature(s), including but not limited to:
 - i. Building platforms
 - ii. Access
 - iii. Earthworks
 - iv. Services:
 1. Storm-water
 2. Reticulated sewer or septic tanks
 3. Reticulated freshwater or water tanks
 4. Telecommunications networks
 5. Energy (electricity or gas) networks
- e. The potential effects of pets on the feature(s).
- f. The potential effects of farmed animals on the feature(s).
- g. An on-going management plan for the feature(s) including but not limited to:
 - i. Weed control
 - ii. Pest animal control
 - iii. Pest organism control
 - iv. Pet (including cat and dog) control
 - v. Re-vegetation and restoration opportunities
 - vi. Fencing plan

NB. It is noted that this level of natural feature and/or SEA quality feature and/or wetland feature is unlikely to exist on private land in the WDC.

Therefore, the existing Operative 73.3.2 wording (and density regime) is offered as an alternative to the above, as follows:

1.B Environmental Benefit Operative 73.3.2 reintroduced)

This rule is an addition to Rule RCE 3.5 and does not need to be complied with for every subdivision.

There is no controlled activity subdivision.

Notwithstanding the allotment area requirements of Rule 73.3.1 subdivision is a restricted discretionary activity if:

- a) **In the Rural Countryside Environment:**

- i. A new allotment with a minimum net site area of ~~4000.0m²~~ **2,000m²** is created in accordance with iii below; and
- ii. There is a balance area with a minimum net site area of ~~4.0ha~~ **2.0Ha** created for each allotment created under (i); and
- iii. An 'Environmental Benefit' as specified in c) and d) is obtained;

b) An Environmental Benefit is the permanent protection of a significant natural feature where

- i. The feature is currently unprotected and for the purposes of this rule "unprotected" means that at the time of subdivision the feature is not already permanently protected by means of either the rules of the district Plan or other legal protection such as a covenant, wildlife refuge or reserve registered against the title.
- ii. The feature contributes in a significant manner to the natural character of the Whangarei District **and/or an appropriately designed revegetation project is proposed: and**
- iii. The boundaries of all allotments are drawn relative to the feature to be protected to ensure that the whole feature is entirely within one of the allotments produced by the subdivision **(preferably the parent Lot)**; and
- iv. The feature shall be protected in perpetuity by means of a covenant, declaration, reservation or other similar instrument registered against the Certificate of Title; and
- v. A building area of at least 500.0m² and vehicular access to the building area is shown on the plan of subdivision for each site to be created. The building and access areas will be shown to not to reduce the significance of the natural feature to be protected; and
- vi. The feature to be protected and the proposed allotments to be created as an Environmental Benefit are within the boundaries of the same Certificate of Title or adjoining Certificates of Title, such to be in common ownership;
- vii. The extent of the feature to be protected must encompass all of the area assessed to be significant.

For the purposes of this rule, each of the following are considered to be individual types of feature able to be considered individually against the Environmental Benefit Criteria:

- Stands of indigenous vegetation or indigenous fauna habitat, including indigenous wetlands;
- **Areas of appropriately designed indigenous re-vegetation or enhancement and/or constructed wetlands**

d) An application for subdivision submitted under this rule shall be accompanied by all necessary information, to demonstrate to the Council the authenticity and significance (quality) of the feature for protection. This information shall be in the form of a detailed report from a suitably qualified and/or experienced expert and shall assess those matters over which discretion is reserved. A vegetation or habitat feature shall include an assessment ~~against~~, **and be in accordance with best practice horticultural re-**

vegetation programmes and be accompanied by a Revegetation Planting Management Plan (e.g. Refer/see Appendix 16 AUPOiP 2016)

Discretion is restricted to:

- i. The size of the feature to be protected;
- ii. The quality of the feature proposed to be protected;
- iii. The quality of the revegetation proposal
- iv. The contribution the feature will make long-term to the enhancement of ecosystem service delivery and thus the support to the rural production area generally
- v. The location of the feature and its surrounding environment e.g. whether it forms part of an outstanding landscape or adjoins/buffers an existing protected area or extends connectivity of other features;
- vi. The significance of the feature to the natural character of the Whangarei district;
- vii. The rarity of the feature;
- viii. The extent to which the feature proposed for protection has been modified and the impact this has had on its significance;
- ix. The type of permanent protection proposed;
- x. The future management of the feature, once implemented and protected;
- xi. The need for any enhancement of the feature, for example, by revegetation, fencing, weed/pest control or eradication;
- xii. Identification of any other features on the site and the contribution (positive or negative) these make to the significance of the feature proposed to be protected;
- xiii. The ability of the protected feature to offset and/or complement the effects of the allotment proposed to be subdivided;
- xiv. Effects, including reverse sensitivity effects, due to the location and/or size of the allotments proposed to be created;
- xv. The need for a bond or covenant, or both, to ensure performance or compliance with any conditions imposed;
- xvi. The need for restrictions on future, land use/development within proximity (but still within the boundary of the property prior to the subdivision) of the protected feature, in order to maintain its quality and significance.

OR

c) An Environmental Benefit is the permanent protection of a significant natural feature of revegetated land area where the following outcomes are promoted and enabled:

i. Retirement and/or revegetation of currently degraded and/or marginal productive landholdings. These may be currently in low producing pastureland or forestry land use and/or in a partial and/or transitional stage of retirement and reversion to:

- Exotic shrubland
- Mixed exotic and native shrubland

- Native shrubland, and/or
 - Various stages of advanced regenerating native bush
- ii. Enhancement, regeneration, rehabilitation and protection of:
- Steep, unstable and erosion prone and/or eroding slopes
 - Existing bush patches
 - River, stream, estuary and wetland margins
 - Wetland recovery areas, and
 - Coastal and estuarine margins
 - Heritage sites (archeological sites and areas)
- iv. Multiple-functional and diverse land use options (as opposed to mono-cultural land uses). This includes intensive production activities and provision for appropriately scaled settlement, education, recreational, visitor/tourist facilities and home services and industries associated with a conservation-driven outcome. These land-uses can all co-exist to significantly enhance integrated environmental, social and economic community development and sustainability.
- v. Partial subdivision of larger existing productive holdings to assist the economic and social viability and continuance of the current land-use. The EBR can serve to release capital by way of diversifying land use (e.g. settlement) to support the underlying land use activity and also retire, regenerate and protect the often degraded critical environmental features, elements and patterns, that are better retired from productive to conservation use, as outlined above.

d) Subdivision creating an environmental Benefit under c) above, but which does not meet the standard of a) or b) above (as applicable), including the number and size of lots, is a discretionary activity. The matters that the Council will consider in its assessment of an application for a discretionary activity consent under this rule include, but are not limited to:

- The areas and/or the value of the significant natural or historical feature, or features, to be protected; and
- The matters to which discretion is restricted under the restricted discretionary activity rule above; and
- The effects of the extra environment benefit lots and their subsequent development in terms of visual effect, effects on natural character and effect on sustainable management of natural and physical resources.

e) In addition, retention of the existing Boundary Adjustment Provision

Boundary Adjustment.

Note: Any activity that does not comply with a standard for a controlled activity will be assessed against rule xxx

1. Subdivision is a controlled activity if:

a) In the (RPCE)Countryside Environment;

- i. The boundaries of two or more adjacent allotments are adjusted; and
- ii. The minimum net site area of any proposed allotment created by the boundary adjustment is 4000.0m²; and
- iii. No additional allotments will be created; and
- iv. The net site area of any proposed allotment created by the boundary adjustment is the same as, or does not differ by more than 10.0% of, the net site area of that allotment as it existed prior to the boundary adjustment; or

2. For the purposes of this rule, “existing allotment” is defined as an allotment which:

- a) Has a separate Certificate of Title; or
- b) Is shown on a plan of subdivision which has been certified by the Council pursuant to section 223, and has not elapsed pursuant to section 224 of the Resource Management Act 1991.

Control is reserved over:

The matters listed in Rule xxxx for controlled activities.

MPT.1 Description and Expectations

The purpose of the Management Plan Technique is to facilitate subdivision and development in a flexible manner while ensuring the sustainable management of natural and physical resources in an integrated way. Management Plan Technique is one subdivision and development method available in the District Plan and is an alternative method to traditional forms.

Site specific design provides the opportunity for integrated subdivision or development which results in superior outcomes to more traditional forms of subdivision, use or development. When subdivision and development are designed where the location, form and scale of the proposal complements sustainable environmental management, consistent with the protection of natural character, landscape, amenity, heritage, and cultural values, opportunity for subdivision and development is increased.

The management plan technique provides flexibility to create innovative proposals. The degree of flexibility will be proportional to the level of certainty provided upon resource consent application to encourage alternative solutions and thinking outside the box. Process of compliance with the District Plan flexibility, will be available where a management plan achieves desired environmental outcomes.

Provision for management plan development will be provided within Environments and at a scale where detailed site specific design is appropriate. Environmental outcomes achieved by management plan development are directly reliant upon prescriptive policy description within the District Plan. Council must undertake a plan change to make eligibility of the Management Plan Technique available to other areas in the District. Any such plan change(s) will require consideration of:

- a. Eligibility criteria, is Management Plan Technique the best method to achieve sustainable management under the Resource Management Act or should it be an alternative method;*
- b. Prescriptive policy within Environment and/or Policy Area provisions to direct environmental outcomes of management plan development and give effect to MPT.1.3.*
- c. Matters of assessment or information requirements for applications (MPT2.8 Particular Matters to be Assessed) utilising the Management Plan Technique to ensure consistency with the relevant Environment, Policy Area and District Wide provisions;*
- d. Notification provisions and criteria to ~~ensure transparency of public participation.~~ **prevail on a restricted discretionary and local interest basis only.***

~~Rolling review of the District Plan will increase prescriptive policy. The management plan technique will only be available as and when policy prescription is appropriate. Delete~~

MPT.1.2 Eligibility Rule

Management plan technique is a type of approach to development design and consent. The content within this section relates to the technical technique of management plan. Eligibility to use the management plan technique is strictly controlled.

The Management Plan Technique shall only be considered where provided for in the development eligibility statement for the relevant Environment and/or Policy Area. The Management Plan Technique is available in the following Environments and/or Policy Areas:

- a. Urban Transition Environment.
- b. Rural Area
- c. Rural Production Environment (Now Rural Countryside Environment)
- d. Rural Village Environment
- e. Rural Living Environment
- f. Rural (Urban Expansion) Environment
- g. Rural (Urban Expansion) Living Environment
- h. Coastal Area
- i. Landscapes

Use of the Management Plan Technique outside these Environments and/or Policy Areas shall be a non-complying activity.

MPT.1.3 Objectives

1. Opportunities are provided for flexible and innovative subdivision and development to achieve holistic outcomes.
2. Integrated manage of effects between subdivision and land use to result in superior outcomes to more traditional forms of subdivision, use and development.

MPT.1.4 Explanation

Management Plan Technique provides direction for the release of the technique and sets out matters for Council consideration when preparing the relevant Plan Change.

MPT.2 Management Plan Application

MPT.2.1 Description and Expectations

The purpose of management plan development is to facilitate subdivision and development in a flexible manner while ensuring the sustainable management of natural and physical resources in an integrated way.

To achieve sustainable management of natural and physical resources, and a holistic approach to site specific design, development shall recognise and avoid incompatible land use. Where appropriate the potential for reverse sensitivity effects should be avoided, remedied or mitigated. To reduce cumulative or ad-hoc development, the Management Plan Technique should be a one off method for site specific design.

In rural and coastal areas subdivision, use and development shall preserve and where possible enhance, restore and rehabilitate the character of the applicable Environment (zone) in regard to section 6 matters of the Resource Management Act 1991, and shall avoid adverse effects as far as practicable by using techniques including:

- a. clustering or grouping development within areas where there is the least impact on natural character and its elements such as indigenous vegetation, landforms, rivers, streams and wetlands, and coherent natural patterns;*
- b. minimising the visual impact of buildings, development, and associated vegetation clearance and earthworks, particularly as seen from public land and the coastal marine area;*
- c. providing for, through siting of buildings and development and design of subdivisions, legal public right of access to and use of the foreshore and any esplanade areas;*
- d. through siting of buildings and development, design of subdivisions, and provision of access that recognise and provide for the relationship of Maori with their culture, traditions and taonga including concepts of mauri, tapu, mana, wehi and karakia and the important contribution Maori culture makes to the character of the District;*
- e. providing planting of indigenous vegetation in a way that links existing habitats of indigenous fauna and provides the opportunity for the extension, enhancement or creation of habitats for indigenous fauna, including mechanisms to exclude pests;*
- f. protecting historic heritage through the siting of buildings and development and design of subdivisions.*

g. Introduce a reference to RCE.34 abnd RCE.3.56 and/or the revised Environmental Benefit Rule 73.3.2 (new clause to be established) here (as a Restricted Discretionary Activity)

In urban areas and built environments subdivision, use and development shall avoid adverse effects as far as practicable by using techniques including:

- a. Urban design principles developed in accordance with the New Zealand Urban Design Protocol.*

b. Planning infrastructure framework incorporating alternative engineering solutions, where practicable, for:

- Roading;*
- Wastewater;*
- Stormwater;*
- Water;*
- Public open space.*

Note: Management plans established and implemented under the provisions outlined in this chapter are different to Mineral Extraction Management Plans as provided for in Chapter 64 of the District Plan.

MPT.2.2 Eligibility Rule

Any resource consent application utilising the Management Plan Technique shall comply with provisions MPT.2.4 to MPT.2.8.

MPT.2.3 Explanation

Management Plan Application provides direction for the assessment of resource consent applications utilising the Management Plan Technique and sets out matters for Council consideration.

MPT.2.4 General Policies

- 1. To avoid physical site constraints when designing subdivision and development on a site specific basis, where mitigation and remediation will not result in sustainable management.*
- 2. To provide for flexible and innovative, implementation of subdivision and development to achieve superior outcomes.*
- 3. To ensure that the management plan will provide for the ongoing management of the sites to achieve sound resource management.*
- 4. To integrate the management of effects between subdivision and land use, via management plan conditions.*
- 5. To require robust preparation and assessment process of integrated subdivision and development.*
- 6. To ensure that all matters relating to infrastructure servicing and engineering shall be designed consistent with the outcomes sought by Environmental Engineering Standards 2010.*
- 7. To recognise, maintain and enhance the unique characteristics and attributes of the surrounding environment as indicated by way of Overlay and Policy Areas on the Planning Maps.*
- 8. To ensure subdivision and development of land is provided for in such a way as will be consistent with the District wide provisions and purpose of the various Environments in the Plan.*

9. To ensure subdivision and development recognise and provide for any relevant structure plan.
10. To ensure subdivision and development has particular regard to adjacent land development activities.
11. Subdivision and development of land undertaken on a site specific basis shall recognise and avoid the potential for reverse sensitivity effects.

MPT.2.5 Type of Consent

Management Plan Technique is a type of approach to development design and consent. Resource consent applications made under the Management Plan Technique provisions shall be considered as a land use consent, unless combined land use and subdivision consent is expressly requested.

Activity status of any resource consent application made under the Management Plan Technique provisions shall be determined by the relevant District Wide, Environment and/or Policy Area provisions. Resource consent granted under the Management Plan Technique shall be considered to be 'given effect to' when the Council approved management plan is registered against the Certificate of Title of the subject site. Once a land use consent has been approved by Council under the Management Plan Technique any future subdivision of the subject site will require separate approval from Council. The future subdivision shall be considered as a permitted activity subject to Certificate of Compliance certification in accordance with section 139 of the Resource Management Act 1991 where the subdivision is in accordance with a Council approved management plan, registered against the Certificate of Title.

Any proposed activity that does not comply with an approved Management Plan that has been given effect to, is a non-complying activity and will require resource consent approval under the relevant District Wide, Environment and/or Policy Area provisions.

MTP.2.6 Info Requirements

All applications for consent using the management plan technique shall include, in addition to the standard information required under Schedule 4 of the Resource Management Act 1991, the following information:

1. Any information required to assess the proposal against relevant development eligibility, objectives and policies.
2. Draft Management Plan, completed in the Council's prescribed form and manner (to be finalised in accordance with the conditions of consent) setting out, the extent relevant to the proposal;
 - a. The objectives of the proposal (managing expectations);

- b. The mechanisms to ensure that the management plan applies to and binds future owners;*
 - c. Proposals for staging of development including, where a subdivision is to be staged, arrangements for vesting any reserves, access facilities (vehicle and pedestrian) or public utilities required by the resource consent and located in subsequent stages.*
- 3. Any additional information Council may require on aspects of the proposal.*

MPT.2.7 General Matters to be Assessed

All applications for consent using the management plan technique shall be assessed against the following general matters:

- 1. Adequacy of compliance with the prescribed management plan form.*
- 2. Adequacy of the management plan including and not limited to the:*
 - On-going compliance provisions prescribed within the management plan;*
 - Method of registration proposed to give effect to the management plan;*
 - Extent to which physical site constraints have been taken into account;*
 - Development proposal and consent timing and/or staging;*
 - Method of compliance provisions prescribed within the management plan to meet requirements of sections, 108, 220, 223 and 224 of the Resource Management Act, where future subdivision is considered.*
 - Clarification of development flexibility within the realm of the management plan (triggers to alternative consent requirements).*
- 3. Compliance with the management plan development eligibility requirement for the relevant Environment and/or Policy Area.*
- 4. Fulfillment of the development standards for the relevant Environment and/or Policy Area and District Wide Rules.*
- 5. Fulfillment of any relevant District Wide, Environment and/or Policy Area objectives and policies.*
- 6. Consideration of the provisions of any relevant structure plan that has been prepared for the locality.*
- 7. Consideration of and cognizance with provisions and proposals of other management plan on an adjoining property.*
- 8. Whether bonds are necessary to assist in achieving the management plan.*
- 9. The extent to which information and proposed management measures are provided by suitably qualified persons.*
- 10. The extent to which reverse sensitivity effects on existing environment are avoided, remedied or mitigated.*

11. Consideration of designations, including where applicable, written approvals pursuant to section 176 of the Resource Management Act.

MPT.2.8 Particular Matters

All applications for consent using the management plan technique shall be assessed against the following particular matters:

1. Urban Transition Environment:

- a. Appropriateness of UTE.2.1 Discretionary Activities;*
- b. Appropriateness of commercial or industrial activities.*
- c. The effects of the development on existing local roads and State highways, including intersections, by way of a Traffic Impact Assessment.*

2. Any other Environment that is deemed to be appropriately included as a result of the current suite of PC 85,86,87 & 114 procedures

3. Any other particular and relevant matters that emerge out of the application of the MPT.1 Management Plan Technique to the Identified current 2016 suite of WDC Rural Plan Change matters and provisions

MPT 2.9 Notification Rules

- 1. All land use activities and subdivision are a Restricted Discretionary Activity under the Management Plan Technique**

The Decision:

- a. Whangarei District Council Minute Note 4.4
- b. Decision References from the Hearing Recommendation Report(s)

Planning and Development Committee Meeting Minutes

Date: Wednesday, 13 December, 2017
Time: 9:00 a.m.
Location: Council Chamber
Forum North, Rust Avenue
Whangarei

In Attendance	Cr Greg Innes (Chairperson) Her Worship the Mayor Sheryl Mai Cr Crichton Christie Cr Vince Cocurullo Cr Tricia Cutforth Cr Shelley Deeming Cr Sue Glen Cr Phil Halse Cr Cherry Hermon Cr Greg Martin Cr Sharon Morgan Cr Anna Murphy Gavin Benney
Not in Attendance	Cr Stu Bell

1. **Declarations of Interest**

Item 4.4 – Minerals, Landscape, Coast and Rural Plan Change Decision

2. **Apology**

Cr Stu Bell

Moved By Cr Greg Innes

Seconded By Cr Greg Martin

That the apology be sustained.

Carried

4.4 Minerals, Landscape, Coast and Rural Plan Change Decision

Moved By Cr Greg Innes

Seconded By Her Worship the Mayor Sheryl Mai

That the Planning and Development Committee:

- a. adopts the report and recommendations of the Hearing Panel dated 23 November 2017 on proposed Plan Changes PC102, PC114, PC87, PC 85 A – D and PC86A & B, in accordance with Clause 10 of Part 1 of Schedule 1 of the Resource Management Act 1991; and
- b. resolves to publicly notify, on 17 January 2018, Council's decision on PC102, PC114, PC87, PC 85 A – D and PC86A & B, in accordance with Clauses 10 and 11 of Part 1 of Schedule 1 of the Resource Management Act 1991.

Carried

Cr Deeming declared a conflict of interest and withdrew from the table taking no part in discussions or voting on Item 4.4.

Cr Halse declared an interest and withdrew from voting on Item 4.4.

Decision References

Part 1 – General Topics

D. Notification Rules

F. Use of Management Plan Technique and Comprehensive Development Plan Provisions

P. Strategic Direction

Part 7

J. Submission 195 - Dennis Scott – ‘Rural Production’ vs ‘Countryside’

Decisions

D. Notification Rules

Paragraph 33. “The Hearings Panel recommend that Council **accept** submission points 195/8 and 250/18 and 29”.

F. Use of Management Plan Technique and Comprehensive Development Plan Provisions

Paragraph 57. “The Hearings Panel recommends to Council to **reject** submission points 24/1, 195/6, 428/2 430/2 and 480/2”.

P. Strategic Direction

Paragraph 309. “The Hearings Panel recommends to Council to **accept in part** submissions 80/1 and 2 195/1 – 4, 423/35-38 and 431/1 – 6 to the extent that we have recommended a number of changes to the suite of plan changes which go some way to addressing the concerns of these submitters.”

Part 7

J. Submission 195 - Dennis Scott – ‘Rural Production’ vs ‘Countryside’

Paragraph 196. “The Hearings Panel recommends that the Council **accept in part** submission 195 and that the amendments be made to the plan as set out in the revised plan provisions for PC85A”.

Hearings Panel Reports – “Decision” Extracts

D. Notification Rules

Submission Information

27. Dennis Scott¹ has requested that the notification requirements for all plan changes be reviewed with no reasons stated.

28. GBC8 requested the deletion of all notification rules in the SRIE and RUEE, seeking that the Council adopt the notification provisions in s95A of the RMA.

¹ 195/8

29. Ms Clarke on behalf of GBC and others highlighted the risk of rules proposed not achieving outcomes sought particularly with RMA changes. Ms Clarke preferred to rely upon the notification provisions of the RMA.

Discussion

30. The use of notification rules as proposed were explained and evaluated within the s32 Report⁹. WDC, in the notified version of the plan changes has taken a deliberate approach to the rolling review of the District Plan to create a stronger policy driven plan. This approach includes the use of notification rules.

31. The Hearings Panel was persuaded by the evidence that the Plan Changes should rely on notification 'tests' in the RMA. Those tests enable each case to be considered on its merits, to determine if the effects on the environment are more than minor or not. The notified provisions would also not enable consideration of whether "limited notification" was more appropriate, where it could be assessed that only identified persons are adversely affected. In some cases the notified plan stated that any non-complying activity must be publicly notified, or if a building is over a certain height. As is sometimes the case, applications become 'technically' non-complying, or may due to typographical issue become over height, but that additional height has no impact beyond the site or only affects the adjoining site. In these circumstances it is appropriate to provide discretion whether an application needs to be publicly notified, or notified only to affected persons.

32. In section 32 and 32AA terms we find, based on the evidence presented to us that the cost and associated time delay of requiring notification is neither efficient nor effective. We have recommended throughout the plan changes that all consent applications be subject to the RMA notification tests.

Recommendation

33. The Hearings Panel recommend that Council **accept** submission points 195/8 and 250/18 and 29.

F. Use of Management Plan Technique and Comprehensive Development Plan Provisions

Submission Information

50. Dennis Scott², André & Robin LaBonté³ and WFH Properties Ltd⁴ requested the provision for the use of Management Plan Technique (MPT) and Comprehensive Development Plan (CDP) be included within the proposed plan change rules within the RCE and RLE to allow for flexible subdivision.

51. Mr Scott presented a statement about the usability of the MPT, in his opinion the WDP provisions are a useful tool that could be used with some careful amendments. Mr Scott described his preference to provide for case by case assessment of site capacity and constraints to determine development opportunities. Mr Scott highlighted his previous experience with MPT provisions in other district plans such as the Far North District Plan.

52. Bruce Weir⁵ sought the inclusion of a Comprehensive Development Rule that allows more intensive residential development with a minimum lot size of 250m² as a limited discretionary activity.

53. Kakariki Ltd⁶ requested that the RCE be amended to include a provision that the MPT be a discretionary option to accommodate appropriate dwellings on multiple owned land.

² 195/6

³ 430/2

⁴ 480/2

⁵ 24/1

⁶ 428/2

54. Further submissions supported in part, stating that benefits to natural values arise from the use of environmental benefit and management plan provisions, however, such provisions must be carefully designed, stating the submissions lack detail to ensure such results would be achieved.

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Discussion

55. MPT and CDP are methods existing within the WDP that allow for site specific design of development outside the standard provisions of the underlying Environment. Use of MPT was considered in the s32 Evaluation Report²³ with the option being rejected. Recent Environment Court decisions and declarations²⁴ indicate that methods such as MPT and CDP are not vires where activity status attaches to a management plan rather than a specified activity or effect. Ms McGrath for the Council confirmed that WDC is required to review the MPT and CDP provisions as part of the WDP rolling review, and for the reasons in the s32 and the s42A report has adopted the approach of not including them.

56. The Hearings Panel finds that due to the uncertainty and potential vires issues associated with the implementation of the WDP MPT and CDP provisions, it is not appropriate to extend the use of these methods to the RCE and RLE. While this is our finding, we note we have recommended a suite of changes to the plan provisions, in particular to the Rural Production Environment (re-named Rural Countryside Environment) to be more enabling in terms of the activities and subdivisions provided for. This should go some way to addressing the concerns of these submitters.

Recommendation

57. The Hearings Panel recommends to Council to **reject** submission points 24/1, 195/6, 428/2 430/2 and 480/2.

P. Strategic Direction

Submission Information

290. Landowners Coalition⁷ and Dennis Scott⁸ sought a complete review of the strategic direction of the rural plan changes. Mr Scott opposed PC85A requesting that Council reconsider the merge of Countryside and Countryside Living Environments into a single RCE as he considered that this would adversely impact already existing and established appropriate land-use management regimes and how current and future generations will live and work in the rural areas. He considered that the plan as notified would not achieve the purpose of the RMA.

291. Hort NZ124 supported in part the relief sought, seeking that Council reassess the zoning framework based on work undertaken as part of the Rural Plan Changes. The submitter sought that some RLE areas be reviewed to ensure that high value production is not located in RLE.

292. FFNZ125 opposed the relief sought by Hort NZ, considering that the framework generally strikes an appropriate balance between protecting the RCE and providing for future urban expansion.

⁷ 122431/1 – 6
123195/1 – 4
124X408
125X622
126X546
12780/1 and 2
128253/27
129423/35 - 38

293. DoC126 opposed the relief sought by Hort NZ, considering that it is not sound resource management practice to include rural production and rural lifestyle activities into one zone.

294. Te Reo Hau127 requested that Council change policy to enable subdivision where land is identified by hapu as a significant area to enable the return of land to hapu control. There are areas of significance to hapu within rural farm land. The intent of this policy makes it difficult for the return of these areas to hapu where an agreement is made between farm owners and hapu.

295. FFNZ128 would like to see RPS policy 5.1.1(f) requiring that plan changes and subdivision in primary production zones do not materially reduce the potential for soils based primary production on land with highly versatile soils, specifically recognised and addressed in the WDP.

296. Hort NZ129 requested alteration to policies within WDP chapter 6 Built Form and Development on the basis that there is benefit in taking into account rural matters. Hort NZ supported the identification and protection of the district's highly productive and versatile soils. Relief sought includes:

- Amend WDP policy 6.4.1 future growth to include 'rural production activities'.
- Retention of WDP policy 6.4.10 or inclusion of a new policy in RA.
- Retain WDP policy 6.4.2 iii.
- Retain WDP Chapter 6, Anticipated Environmental Results bullet point 5.
-

297. Mr Day, Mr Trewin and Mr Payne presented evidence on behalf of NRC. We sought their expert opinion with regard to the identification and protection of high class soils in the proposed plan changes and the direction in the RPS. Mr Payne confirmed that the RPS does not contain specific provisions that require explicit identification and protection, stating in his opinion soils are too variable.

298. Mr Newman presented evidence on behalf of the Landowners Coalition. He reiterated their request for the plan changes to be reviewed striking a more balanced approach with respect to private property rights, with the removal of what he considered to be a significant number of draconian and unnecessary provisions. He considered that the Council's approach was over-regulatory and confusing.

299. Ms Hicks spoke to her submission and presented a written statement. Ms Hicks expanded upon her original submission raising concern in relation to the lack of consideration of climate change and the necessity to review the Ruakaka structure plan and zoning of land.

300. Mr Scott had provided a very extensive and detailed submission about why he considered the Council's approach was too narrow, prescriptive and did not reflect the reality of the rural areas of Whangarei (in that much of the land was not "productive" as set out in the Rural Production Environment). It was his view that the Plan needed to recognise that the rural area was a place where a significant number of people lived, that much of the land was not 'production land' as described in the RCE, and that the plan needed to be more enabling of 'lifestyle' and other forms of production and living to both support rural and coastal communities but also to rehabilitate past poor land management practices. He presented a statement of evidence setting out his concerns regarding the structure of the rural Environments in support of his submission opposing the strategic direction.

Discussion

301. These submitters, in various ways, have opposed the broader strategic direction and approach to the rural plan changes. In terms of the Council's s32 approach, it has sought to give effect to the strategic direction of 30/50 and the Rural Development Strategy, and the options for zoning had emerged from that process.

302. The Hearings Panel acknowledges that there are many differing approaches that can be adopted to sustainably manage the rural and coastal resources of the District. The Council has 'justified' its approach based on its strategic planning documents, and addressed this through the required section 32 process

303. A number of submitters, as set out above, have sought a very different approach to the

management of this area. If the approach suggested by Mr Scott and Mr Newman, in particular, were to be accepted, the amendments sought would considerably change the outcomes of the proposed plan changes; would likely be unrecognisable from the notified plan changes, and in our view would require a complete re-write and re-notification of the plan changes. We do not find that this is justified by the submissions or evidence. Notwithstanding this, in light of these submissions, and a large number of others who presented to us, we do find, and recommend, that some significant changes need to be made to make the plan more enabling (where appropriate) and to better reflect the reality of the rural environment.

304. The detail and explanation of these recommended changes are addressed in the other recommendation reports, and in the redrafted plan provisions. However, an overview of some of these changes to the RA policy direction include:

- Refocusing the RCE to one recognising that rural production is not the sole function; that much of the land is not productive in the way expressed in the zone, that a significant number of people live and work in this environment (often on small blocks); and that it has areas of significant ecological values. As part of this 're-focus' the name has been changed to Rural Countryside Environment (RCE) to better reflect its purpose (i.e. not necessarily production. Also a number of the objectives and policies have changed, or have been added and deleted to reflect the re-focused RCE.
- Re-introducing Environmental Benefit Lot subdivisions, where (mainly) indigenous bush and wetlands can be protected and subdivided from the parent lot, and including an objectives and policies to 'support' this activity.
- Providing for industrial and commercial activities in RCE (and other zones) where they support or are ancillary to rural productive activities and/or support rural communities. This includes recreation and tourism based activities.
- Permitting minor dwelling units and home occupations (with some conditions) in RCE (and other zones).
- Providing additional areas to be re-zoned Rural Village and Rural Living Environment - where we were persuaded by submitters it was appropriate to do so based on the established inclusion/exclusion criteria.
- Changing the notification requirements so that the 'standard tests' of the RMA apply rather than mandatory public notification with its inherent time and cost delays.

305. It is the Panel's view that in section 32AA terms, the combined effect of the all the recommended changes will better provide for the sustainable management of the rural and coastal areas. The 'package' of controls recommended, we think address, to at least some degree, the concerns raised by a number of submitters including Mr Scott and Mr Newman. As mentioned the detail of all of the changes are set out in the other recommendation reports and the redrafted plan provisions.

306. With respect to the Te Reo Hau submission, Ms McGrath confirmed that WDC is working with hapu to review the WDP provisions including the identification of Sites of Significance to Māori as draft Plan Change 100 (PC100). There will be an opportunity in PC100 to consider the incentivisation of subdivision to protect a Site of Significance. The Hearings Panel finds that the plan changes provide sufficient provision for consideration of subdivision enabling the protection of Sites of Significance to Māori, noting that district wide policy of Chapters 7 and 8 of the WDP also apply.

307. FFNZ has requested that the plan changes recognise and address RPS Policy 5.1.1(f). The Hearings Panel finds that the package of plan changes appropriately recognise and address RPS Policy 5.1.1(f). The proposed rural Environments direct lifestyle and residential development to locations within the RLE, RUEE and RVE where productive potential has already been materially compromised. The RCE has very limited ability to subdivide and intensify residential density limiting the future compromise of soil based production, combined with very strong policy direction in the RCE and RA.

308. Hort NZ requested specific amendments to the WDP - district wide Chapter 6 Built Form and Development. Amendments to Chapter 6 were considered in the s32 report. Given the officers' opinions in the section 42A report and their reply and the evidence heard we do not support the relief sought as set out below, other than acknowledging that a number of changes have been recommended in the RCE provisions to address the concerns of Hort NZ and a number of other submitters:

- Policy 6.4.1 Future Growth is limited to the urban area “to zone land within urban areas”. Urban and rural areas have been defined through these plan changes. The Hearings Panel finds that it is not necessary to include reference to ‘rural production activities’ within a policy limited to urban areas.
- Policy 6.4.10 Productive Soils consistent with discussion above the plan changes work together to protect productive land. The Hearings Panel finds that the rural plan changes, with the changes we have recommended, provide sufficient policy direction.
- Policy 6.4.2.iii Consolidated Development, is seeking to consolidate urban development, the Hearings Panel finds that the rural plan changes provide strong direction with regard to the direction of urban development.

Hearings Recommendation

309. The Hearings Panel recommends to Council to **accept in part** submissions 80/1 and 2 195/1 – 4, 423/35-38 and 431/1 – 6 to the extent that we have recommended a number of changes to the suite of plan changes which go some way to addressing the concerns of these submitters.

J. Submission 195 - Dennis Scott – ‘Rural Production’ vs ‘Countryside’

Submission Information

187. Dennis Scott has written a comprehensive submission opposing the architecture and strategic direction of the proposed rural plan changes⁷². This submission fundamentally opposed the introduction of the RPE and sought amendments to completely rework the proposed provisions. Key reasoning can be summarised as:

⁷²Section 42A, Topic P

- Generalised approach
- Specifically promoting a production dominant environment is an out-moded colonial perception of the world.
- Underlying reality is that much of the existing CE is inappropriate for production activities.
- Mosaics of class V, VI, VII and VIII soils dominate this environment and landscape.
- Significant areas of the countryside have already been retired from production activities.

188. Relief sought:

- Review of PC85 in particular PC85A to reconsider the split of Countryside and Countryside Living Environments into a single RCE and their associated plan change identity(s) as a single Environment.
- A review of the primary strategic approach of the RCE that promotes and encourages only productive land use activities and discourages further rural living activities.
- A complete review of the range of proposed Environments and their appropriate identification and mapping in terms of dynamics of land use realities.
- A reintroduction of the Environmental Benefit Lot Rule.
- Provisions for expanded opportunities for the use of the WDP Management Plan Technique.
- Review of all proposed plan change notification requirements.

189. A significant number of submitters presented evidence seeking rezoning from RCE to RVE, RLE, RUEE or Living Environment raising concerns that the RCE is too strongly oriented towards production, claiming that their land is not productive.

190. Mr Newman on behalf of Landowners Coalition presented evidence expressing his opinion that the RCE was not appropriate to apply to the coastal environment, where land is non-productive.

191. Mr Scott presented evidence to expand upon his written submission. He highlighted that there is a lot in a name, expressing in his opinion that Countryside Environment was a more appropriate name for RCE due to the variable landscapes and catchments. Mr Scott supports a more positive and encouraging approach, identifying that conservation and preservation are important.

192. Dr Bellingham presented evidence on behalf of the Hazel Tynan Trust, considering that PC85A does not consider the CE area at Landowners Lane and that the area no longer fits with the objectives and policies of the new RCE.

193. Ms Miller presented evidence on behalf of Witten-Hannah supporting the rezoning of a site from RCE to RVE highlighting the strong RCE policy direction, and raising concern that the provisions do not provide for alternative land uses as permitted or controlled activities.

Discussion

194. We find that many of the concerns raised by Mr Scott and Mr Newman in particular and others are valid and have been addressed, in part at least, by our recommended changes to PC85 and 85A. These changes include:

- Refocusing the Rural Production Environment to one recognising that rural production is not the sole function; that much of the land is not productive in the way expressed in the zone, that a significant number of people live and work in this environment (often on small blocks); and that it has areas of significant ecological values. As part of this 're-focus' the name has been changed to Rural Countryside Environment (RCE) to better reflect its purpose (i.e. not necessarily production). Also a number of the objectives and policies have changed, or have been added and deleted to reflect the re-focused RCE.
- Re-introducing Environmental Benefit Lot subdivisions, with a graduated scale for the number of lots able to be created, where (mainly) indigenous bush and wetlands can be protected and subdivided from the parent lot. As part of this objectives and policies have been added to 'support' this subdivision provision.
- Providing for appropriate industrial and commercial activities in RCE (and other zones) where they support or are ancillary to rural productive activities and/or support rural communities. This includes recreation and tourism based activities.
- Permitting minor dwelling units and home occupations (with some conditions) in RCE (and other zones).

195. It is the Panel's view that in section 32AA terms, the combined effect of all the recommended changes will better provide for the sustainable management of the rural and coastal areas. The 'package' of controls recommended, we think address, to at least some degree, the concerns raised by a number of submitters including Mr Scott and Mr Newman. As mentioned the detail of all of the changes are set out in the other recommendation reports and the redrafted plan provisions.

Recommendation

196. The Hearings Panel recommends that the Council **accept in part** submission 195 and that the amendments be made to the plan as set out in the revised plan provisions for PC85A.

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