

**Part 1**  
**Proposed Plan Changes 85, 85 A – D,  
86 A & B, 87, 102 and 114**  
**General Topics**

**Section 42A Hearing Report**

**AUTHOR**

Melissa McGrath  
Team Leader, District Plan  
2 June 2017

## Table of Contents

<b>1.0</b>	<b>Introduction</b> .....	<b>3</b>
<b>2.0</b>	<b>Description of the Plan Changes as Notified</b> .....	<b>3</b>
<b>3.0</b>	<b>Section 42A Hearing Report Structure</b> .....	<b>6</b>
<b>4.0</b>	<b>Background</b> .....	<b>7</b>
<b>5.0</b>	<b>Statutory Considerations</b> .....	<b>9</b>
<b>6.0</b>	<b>Purpose of Report</b> .....	<b>12</b>
<b>7.0</b>	<b>Structure of the Report</b> .....	<b>13</b>
<b>8.0</b>	<b>Consideration of Submissions</b> .....	<b>14</b>
A.	Consultation Process .....	15
B.	General Support .....	16
C.	General Opposition/Private Property Rights .....	17
D.	Notification Rules .....	18
E.	Activity Status and Eligibility Rules .....	19
F.	Use of Management Plan Technique and Comprehensive Development Plan Provisions .....	21
G.	Cross Referencing and Direction to Applicants .....	22
H.	Noise and Vibration (NAV) .....	23
I.	Temporary Military Training Activities (TMTA) .....	26
J.	Historic Heritage .....	28
K.	General Biodiversity/Pests/Fencing of Waterways/Wetlands .....	31
L.	Transport and Transport Infrastructure .....	35
M.	Network Utilities.....	38
N.	General Infrastructure and Environmental Engineering Standards .....	41
O.	Definitions.....	44
P.	Strategic Direction .....	56
Q.	General Landscape, Ridgeline Protection and Amenity .....	58
R.	Relocatable Buildings.....	59
S.	Miscellaneous.....	59
T.	Hazardous Substances .....	60
<b>9.0</b>	<b>Conclusions and Recommendations</b> .....	<b>62</b>

## Attachments

- 1 Submission Tracking Spreadsheet
- 2 Recommended WDP text – Chapters LAN, MIN, CA, RA, RPE, SRIE, RVE, RLE and RUEE
- 3 Recommended Consequential Amendments to WDP
- 4 Recommended WDP Planning Maps
- 5 Section 32 Evaluation – Notification Summary Booklet
- 6 Technical Report, Marshall Day Response to Submissions

## Appendices (Available Online)

- A Section 32 Evaluation Report and Appendices
- B Notified Version of Plan Changes 85 A- D, 86 A & B, 87, 102 and 114
- C Submissions and Further Submissions
- D Summary of Submissions
- E Notified Version of WDP Environment Maps [Available Online via Intramaps]

## 1.0 Introduction

1. This is Part 1 of the section 42A (**s42A**) evaluation report. This part should be read in conjunction with the other Parts 2 – 12.
2. This report has been prepared in accordance with s42A of the Resource Management Act 1991 (**RMA**) and forms part of the Hearing Report for the Whangarei District Council's (**WDC**) Proposed Plan Changes 85, 85A – D, 86 A & B, 87, 102 and 114. This report provides an introduction to the s42A Hearing Reporting and consideration of the proposed provisions and recommendations in relation to submissions based upon general topics across all of the proposed plan changes. Where appropriate, the report cross-references the Section 32 Evaluation (**s32**), further expert evidence, analysis of any background material and legislative discussions.
3. This s42A report has been prepared by Melissa Ivy McGrath. I am a qualified planner. I hold a Masters in Resource Management and am a Full Member of the New Zealand Planning Institute. I have worked within the district plan team at WDC for the past nine years, being the District Plan Team Leader for the past three years.
4. I have been employed in various resource management positions in local government and private companies since 2003. My predominant experience has been in statutory policy and resource consent planning in the Whangarei and Auckland regions. My experience includes processing and reporting on resource consent applications, district plan formulation and policy advice for the Far North District and Whangarei District Councils, preparation of Assessment of Environmental Effects, monitoring and compliance of consent conditions.
5. I confirm that the evidence on planning matters that I present is within my areas of expertise and I am not aware of any material facts which might alter or detract from the opinions I express. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. I have also read and am familiar with the Resource Management Law Association / New Zealand Planning Institute "Role of Expert Planning Witnesses" paper. The opinions expressed in this evidence are based on my qualifications and experience, and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position.
6. I own a property at 171 Tatton Road, Maungatapere, proposed to be zoned Rural Production Environment. I have not made any submissions to PC85A nor have any submissions been received by WDC in direct relevance to this property. I have no vested interest in the outcome of PC85A nor any conflict of interest to declare.

## 2.0 Description of the Plan Changes as Notified

7. WDC has notified the following 10 individual plan changes to the Operative District Plan (**WDP**):

### **Plan Change 85 – Rural Area (PC85)**

PC85 proposes to identify the environmental expectations and outcomes for rural areas through the proposed Rural Area (RA) objectives, policies and performance standards (which apply to all of the proposed Rural Environments).

### **Plan Change 85A – Rural Production Environment (PC85A)**

PC85A proposes to replace the existing Coastal Countryside Environment and Countryside Environment with the Rural Production Environment (RPE). The RPE seeks to provide primarily for the productive use and development of rural land and resources.

### **Plan Change 85B – Strategic Rural Industries Environment (PC85B)**

PC85B proposes to replace WDP Scheduled Activities 14, 15 and 16 with the Strategic Rural Industries Environment (SRIE). The SRIE seeks to recognise and provide for the retention and managed expansion of established industries of strategic significance located in rural areas.

### **Plan Change 85C – Rural Village Environment (PC85C)**

PC85C proposes to replace existing Living 1 and 3, and Business 2, 3 and 4 Environments in existing rural and coastal villages with Rural Village Environment (RVE) and three Sub-Environments: Rural Village Residential (RVRE), Rural Village Centre (RVCE), and Rural Village Industry (RVIE). The RVE seeks to provide for a range of activities which support village communities, while also protecting the amenity values within each Sub-Environment.

### **Plan Change 85D – Rural Living Environment (PC85D)**

PC85D proposes to rezone clusters of rural lifestyle development from Countryside Environment to Rural Living Environment (RLE). The RLE seeks to provide opportunities for the on-going development of land for rural living activities in locations that have an existing density compatible with lifestyle development.

### **Plan Change 86A - Rural (Urban Expansion) Environment (PC86A)**

PC86A proposes to rezone clusters of rural residential development in close proximity to Whangarei City from Countryside Environment to Rural (Urban Expansion) Environment (RUEE). Together with proposed Living 1 and Living 3 Environment rezoning (PC86B) the RUEE seeks to provide for the future urban growth of Whangarei City in areas that are contiguous with urban development.

### **Plan Change 86B – Rural (Urban Expansion) Living Environment Zoning (PC86B)**

PC86B proposes to rezone specific locations in close proximity to Whangarei City from Countryside Environment to Living 1 and Living 3 Environments. These proposed new residential areas will provide for projected population growth in the Whangarei district.

### **Plan Change 87 - Coastal Area (PC87)**

PC87 proposes to protect the values of the coastal environment through a new Coastal Area (CA) Resource Area overlay in the WDP. Parts of the CA are also identified as High and Outstanding Natural Character Areas. PC87 seeks to implement the Northland Regional Policy Statement 2016 (RPS) by mapping the “coastal environment” and High and Outstanding Natural Character Areas. The CA and High and Outstanding Natural Character Areas (together with the Rural Production Environment) replace the Coastal Countryside Environment.

### **Plan Change 102 – Minerals (PC102)**

PC102 proposes a Minerals Chapter. The Minerals Chapter seeks to manage mineral resources and Mineral Extraction Areas (nationally and regionally significant mineral extraction) to avoid, remedy and mitigate adverse effects on the environment from mineral extraction, and to protect significant mineral resources from constraints by conflicting land use.

#### **Plan Change 114 – Landscapes (PC114)**

PC114 proposes a Landscapes Chapter. The Landscapes Chapter seeks to implement the RPS, Outstanding Natural Landscapes and Features mapping as a Resource Area overlay, and to protect Outstanding Natural Landscapes and Features.

8. Each plan change is individual, with separate s32 evaluation reports. For ease of processing and reporting, submissions to all 10 plan changes have been numbered, grouped and summarised together. All 10 plan changes will be heard together to ensure consistent recommendations.

#### **Rural Plan Changes – PC85 A- D and PC86 A & B**

9. The Whangarei District Growth Strategy, Sustainable Futures 30/50 (**30/50**) was adopted by Council on 22 September 2010. 30/50 sets the direction for growth, being a managed, consolidated development path based upon a structured five tier settlement pattern. The rural plan changes seek to implement this growth pattern. These plan changes are inter-related and dependent upon each other. The approach to the Environments has stemmed from Council's Rural Development Strategy [2013] (**RDS**) which took the strategic direction set by 30/50 down to a lower level for rural development over the next 20 years particularly looking at zoning options. Key methods used in the rural plan changes:

- Clear zoning criteria, described in policy.
- Introduction of Rural Area objectives and policies.
- Development and growth capacity spread across Environments, some enabling others limiting.
- Dealing with effects with the increased control of activities.
- Direction of residential/lifestyle growth to identified locations.
- Prioritization of rural production activities over residential, commercial, and industrial activities.
- Management of potential reverse sensitivity effects via separation of activities in zoning.

#### **Resource Area Plan Changes – PC87, PC102 and PC114**

10. The proposed Resource Areas apply district wide, each plan change reviews and proposes district wide policy for each topic, Coast, Minerals and Landscapes. Key methods used in the resource area plan changes include:

- Clear identification criteria and Resource Area mapping.
- Strong protection of defined physical Resource Areas.
- Increased control of activities, which are inconsistent with the management objectives for the Resource Areas.

#### **Coastal Area – PC87**

11. PC87 proposes changes to the planning maps to replace the Coastal Countryside Environment with a new Coastal Area Overlay (**CA**). Within the new CA, areas of High Natural Character (**HNCA**) and Outstanding Natural Character (**ONCA**) are identified. The extent of these areas were identified in the RPS which was made (partly) operative in May 2016. The plan change also introduces new provisions to give effect to the RPS with land use and subdivision rules that apply to the coastal area and the HNCA and ONCA. These provisions are proposed to replace Chapter 10 – the Coast (objectives and policies for the coastal environment), and Chapters 38 and 73 which contain land use and subdivision rules respectively for the Coastal Countryside Environment in the WDP.

12. The proposed CA covers a range of WDP Environments (zones) including Countryside Environment and Coastal Countryside Environment (proposed to be replaced through PC 85A-D and PC87) and the Open Space, Living and Business Environments. The proposed CA overlay applies to all underlying zones except where specified in a rule.

**Minerals – PC102**

13. PC102 proposes to address the WDP framework for managing minerals and mineral extraction in the district. It also includes identification and management of nationally and regionally significant mineral resources, referred to in the WDP as Mineral Extraction Areas (**MEA**). PC102 proposes to consolidate and update the existing objectives, policies and rules in the WDP, by combining Chapter 18 (policy) and Chapter 64 (provisions) within a single chapter in line with the new WDP structure. The contents of this chapter will also be reformatted to fit with the new WDP format that has been progressively adopted through Council’s WDP rolling review. There are no new nationally and regionally significant MEA proposed by PC102.

**Landscapes – PC114**

14. PC114 proposes the introduction of a new Landscape chapter, revising and consolidating existing natural landscape and natural feature provisions within the WDP. Emphasis is mainly on issues surrounding the management of outstanding natural landscapes (“**ONL**”) and outstanding natural features (“**ONF**”) as identified in the RPS.

### **3.0 Section 42A Hearing Report Structure**

15. The s42A hearing report for the plan changes has been split in to ‘parts’ to streamline reporting. Each ‘part’ has been prepared by difference planners as expert witnesses. S42A hearing report parts are as follows:

Part 1	General Report Plan Changes 85, A-D, 86 A&B, 87, 102 and 114
Part 2	Landscapes PC114
Part 3	Minerals PC102
Part 4	Coastal Area PC87
Part 5	Rural Area PC85
Part 6	Zoning PC85, A-D and PC86 A & B
Part 7	Rural Production Environment PC85A
Part 8	Strategic Rural Industry Environment PC85B
Part 9	Rural Village Environment PC85C
Part 10	Rural Living Environment PC85D
Part 11	Rural Urban Expansion Environment PC86A
Part 12	Rural Urban Expansion Environment (Living Rezoning) PC86B

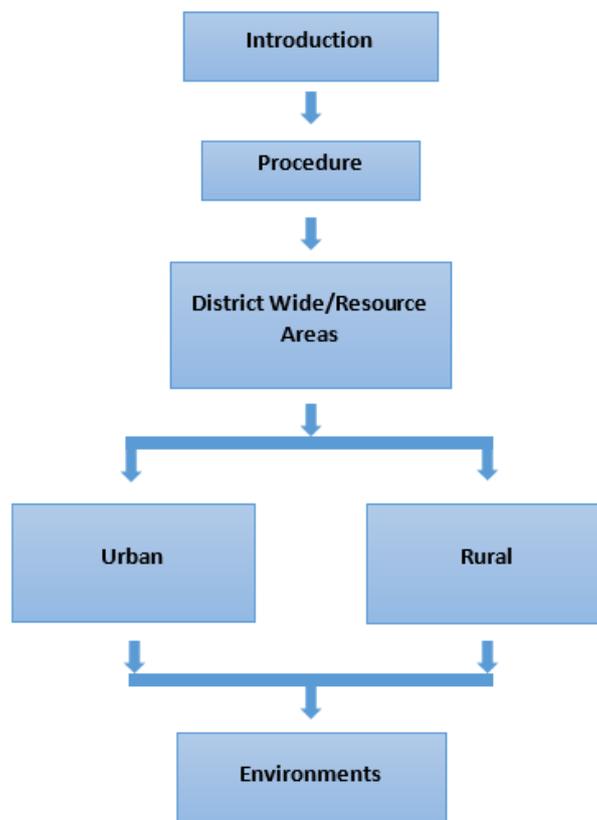
16. Report attachments that are consistency across all plan changes have been included within Part 1.

## 4.0 Background

### *Rolling Review: New District Plan Architecture*

17. S79 of the RMA sets councils' the requirement to review district plan provisions within a 10 year time period. Following a review of provisions, the local authority must notify a plan change whether the local authority considers that the provisions require alteration or considers that no alteration is required.
18. To meet this requirement a rolling review method has been adopted by WDC. As the review progresses the architecture of the WDP is evolving. Outcomes sought<sup>1</sup> in the WDP are:
  - District Plan shall be streamlined and simplified.
  - Policy and rules shall direct consenting process to provide certainty.
  - Comprehensive policy and objectives shall reflect the sustainable management outcomes sought for the respective District Plan Environments and Policy Areas.
  - District Plan shall address resource management matters only and will cross reference to external legislation as required.
  - Some methods shall only be utilised where expressly stated in the relevant Environment Rules Chapter.
19. The new WDP format introduces a third level of policy direction, seen as previously missing from the WDP:

### NEW DISTRICT PLAN STRUCTURE



<sup>1</sup> WDP Part B, Chapter 2

20. Progress of the rolling review has been determined by budget and resourcing availability. Many plan changes are in active drafting phase now with differing anticipated notification dates. These plan changes are described below and their relationship with the 10 plan changes is discussed within the individual s42A reports where necessary.

**Draft form preparing for notification mid/late 2017:**

- PC90 Coastal Hazards – Implementation of Northland Regional Council (**NRC**) hazard mapping and proposed rules to give effect to the RPS.
- PC91 Hazardous Substances – Review of the management of hazardous substances at a district wide level and consequentially replace all provisions relating to hazardous substances in the WDP.
- PC82 Signs and Lighting - Review of WDP signs and lighting rules and introduction of district wide provisions.
- PC129 Notable Trees – Review of WDP heritage trees rules and introduction of district wide provisions.
- PC134 Designations – Review and update of WDP designations.

**Draft form preparing for notification 2018:**

- PC109 Transport – Review of transport provisions, chapter 22 Road Transport policy, updating the road hierarchy, parking standards and Environmental Engineering Standards.
- PC88 Urban – Review of all urban zoning, residential and business for Whangarei City and Ruakaka.
- PC115 Open Space – Review of open space zoning and WDP provisions, chapter 15 Open Space policy, introduction of more specific conservation, recreation, active and passive Environments.
- PC100 Sites of Significance – Review of sites of significance to Māori as a district wide Resource Area.

**Draft form preparing for notification 2019:**

- PC127 Biodiversity and Significant Natural Areas – Review of WDP provisions, chapters 17 and 12 policies and implementation of RPS.

21. Due to the nature of the rolling review, since the 10 plan changes were notified, the following plan changes have progressed:

- **PC94B: Papakāinga** – The hearing for PC94B closed on 16 December 2016. PC94B sought to include new rules that give effect to the existing objectives and policies in the WDP and facilitate greater flexibility for papakāinga developments in the District. The Commissioners' decision and final recommended provisions were presented to the Planning Committee on 16<sup>th</sup> March 2017. The provisions were accepted and the appeal period subsequently opened on 22 March 2017. At the time of writing this report, the appeal period had not closed and one appeal had been received.
- **PC113: Ruakaka Racecourse (private plan change)** – PC113 became operative on 7 December 2016. This private plan change relates to 50ha of land owned by the Whangarei Racing Club introduced a new Ruakaka Equine Environment (REE) zone that provides forequine (horse)

activities as well as residential and other non-equine related activities such as educational activities, visitor accommodation and events.

- **PC131: Genetically Modified Organisms (GMOs)** – PC131 proposes the creation of a district wide chapter on the management of GMOs and new definitions in the WDP. The hearing for PC131 and PC18 (concurrent Far North District Council plan change) was held in June 2016 prior to the notification of the Rural Plan Changes. The Commissioners decision was provided to WDC and FNDC on 31<sup>st</sup> July 2016. PC131 is currently under appeal awaiting Environment Court hearing dates.
- **PC135: GNLC Limited (Private Plan Change)** – this private plan change was lodged after the Rural Plan Changes were notified and requests changes to the Noise and Vibration (NAV) and Marsden Primary Centre (MPC) Chapters of the WDP. Further submissions on PC135 closed on 13 March 2017 with a hearing to be held on 31 May 2017 (after the date that the s42A reports were drafted).

## 5.0 Statutory Considerations

### *Section 32 Evaluation*

22. WDC completed an evaluation of the 10 plan changes in accordance with s32 of the RMA [Appendix A]. S32(1) states that an evaluation must:
  - a. examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
  - b. examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—
    - i. identifying other reasonably practicable options for achieving the objectives; and
    - ii. assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
    - iii. summarising the reasons for deciding on the provisions; and
  - c. contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.
23. An assessment under subsection s32(1)(b)(ii) must—
  - a. identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—
    - i. economic growth that are anticipated to be provided or reduced; and
    - ii. employment that are anticipated to be provided or reduced; and
  - b. if practicable, quantify the benefits and costs referred to in paragraph (a); and
  - c. assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
24. Evaluation in terms of s32 is ongoing, and must be undertaken to confirm the appropriateness of each plan change. Where required, recommendations in this report which differ from the notified provisions are supported by further evaluation in terms of S32AA of the RMA.
25. The S32 Evaluation Reports included an evaluation with regard to Part 2 of the RMA which includes:
  - The purpose of the Act as contained in s5;

- S6 - Matters of National Importance that are required to be recognised and provided for;
- S7 - Other Matters that require particular regard in achieving the purpose of the Act; and
- S8 - Treaty of Waitangi.

26. The s32 Evaluation Reports also considered s31 of the RMA which sets out the functions of territorial authorities in giving effect to the purpose of the RMA.

#### ***Northland Regional Policy Statement***

27. The Northland Regional Policy Statement (RPS) was made operative on 9 May 2016, except for the provisions that relate to the use of genetic engineering and the release of genetically modified organisms to the environment, as they are still subject to legal challenge. At the time of notification the plan changes were considered to give effect to the Proposed RPS. Having reviewed the now Operative RPS I am of the opinion that the recommended proposed provisions of the plan changes give effect to the RPS.

#### ***Iwi and Hapu Management Plans***

28. S74(2A) of the RMA requires territorial authorities to take into account any relevant planning document recognised by an iwi authority to the extent that its content has a bearing on the resource management issues of the district.

29. Iwi and Hapu Management Plans were referenced in the s32 Evaluation Reports. However, one additional hapu management plan has subsequently been formally recognised by WDC. For completeness, a list of the formally recognised iwi / hapu management plans for the Whangarei District is provided below:

- Ngatiwai – “Te Iwi o Ngatiwai: Iwi Environmental Policy Document 2007”
- Ngati Hine – “Ngati Hine Iwi Environmental Management Plan 2008”
- Patuharakeke – “Patuharakeke Hapu Environmental Management Plan 2014”
- Ngati Hau – “Hapu Environmental Management Plan 2016”
- Te Uriroroi Hapu Environmental Management Plan Whatiriri Hapu Environment Plan 2016.

30. Having reviewed each document and taking into account all of the provisions I consider that the proposed provisions of the 10 plan changes are generally consistent with, and in some respects will help achieve the outcomes sought in these documents.

#### ***Resource Legislation Amendment Act 2017***

31. On 18 April 2017 the Resource Legislation Amendment Act 2017 (RLAA) made comprehensive amendments to the RMA. Amendments of relevance to the 10 plan changes are discussed below:

#### **Section 6 Matters of National Importance**

32. A new matter of national importance has been inserted “*h, the management of significant risks from natural hazards*”. The WDP contains district wide, Resource Area provisions to manage natural hazard risks (Chapters 19 and 56), all activities are required to consider the district wide policy and Resource Area provisions in addition to the provisions proposed in the 10 plan changes. In my opinion the 10 plan changes recognise and provide for the management of significant risks from natural hazards.

### **Section 11**

33. Section 11 has been amended so that subdivision is now a permitted activity unless expressly restricted by rules in a district plan or national environmental standard. The 10 plan changes contain rules that specify what activity status subdivision shall have, this maintains consistency with the RLAA.

### **Section 31 Functions of territorial authorities under this Act**

34. WDC is now required to establish, implement and review objectives, policy and methods to ensure that there is “*sufficient development capacity in respect of housing and business land to meet the expected demands of the district*”. The 10 plan changes include the rezoning of land for residential and business purposes, in particular large areas of land surrounding Whangarei City have been rezoned Living 1 and 3 to meet projected population growth. As part of the rolling review of the WDP the urban plan changes will review the two major urban areas (Whangarei City and Ruakaka) with regard to the need for further development capacity.
35. Section 31(1)(b)(ii) has been repealed and WDC no longer has a mandatory function to control the of hazardous substances. Councils still have a broad function of achieving integrated management, and may use this function to place extra controls on hazardous substance use under the RMA, if existing Hazardous Substances and New Organisms Act 1996 (**HSNO**) or Worksafe controls are not adequate to address the environmental effects of hazardous substances. These regulations are still in development stage with outcomes anticipated in December 2017.
36. The WDP contains rules relating to hazardous substances and the rural plan changes have proposed consequential amendments to these rules to reflect the proposed Environments. Any changes to the WDP hazardous substances rules will require a plan change with supporting section 32 evaluation and option consideration, Council is waiting for the outcome of the HSNO and Worksafe regulations to support plan change preparation.

### **Section 87 - Boundary Activities, Marginal or Temporary Non-compliance Process**

37. Amendments to Section 87 require councils to treat boundary activities as permitted if written approval is given by the relevant neighbour(s), and certain information is given to Council. Discretionary power is granted to WDC to treat an activity as permitted if there is only a marginal or temporary rule breach. These amendments will need to be considered by the WDC resource consent department when processing applications, the rules proposed in the 10 plan changes maintain appropriate setback and daylight infringement (boundary activities).

### **Sections 95-95F Notification of Resource Consent Applications**

38. Sections 95 -95F have been amended to limit the ability to publicly notify certain applications. An application cannot be publicly notified if:
- a rule or national environmental standard (NES) precludes notification
  - the application is for one or more of the following, but no other, activities:
    - a controlled activity
    - a restricted-discretionary or discretionary application for:
      - a subdivision of land
      - a residential activity (defined in new section 95A(6))
    - a boundary activity (defined in section 87AAB)
    - an activity prescribed in regulations.

39. Residential activity is defined as:

*“means an activity that requires resource consent under a regional or district plan and that is associated with the construction, alteration, or use of 1 or more dwellinghouses on land that, under a district plan, is intended to be used solely or principally for residential purposes”.*

40. It is my opinion that Living 1 – 3 Environments, Urban Transition Environment, RVRE, RUEE and RLE are zoned for land intended to be used solely or principally for residential purposes, therefore the new notification provisions will apply.

### ***National Policy Statement on Urban Development Capacity 2016 (NPS-UDC)***

41. The NPS-UDC came into effect on 1 December 2016. The policy statement recognises the national significance of “a. urban environments and the need to enable such environments to develop and change; and b. providing sufficient development capacity to meet the needs of people and communities and future generations in urban environments”.

42. Whangarei District has been identified as a high-growth urban area. At the time of writing this report WDC was seeking guidance from the Ministry for Environment to establish its implementation requirements.

43. The proposed plan changes introduce significant development capacity. In particular large areas of land surrounding Whangarei City have been rezoned Living 1 and 3 to meet projected population growth. Very limited change to business capacity has been proposed in the 10 plan changes within the RVE and SRIE. As part of the rolling review of the WDP the urban plan changes will review the two major urban areas (Whangarei City and Ruakaka) with regard to the need for further development capacity. These plan changes will include capacity and feasibility studies required to implement the NPS-UDC.

## **6.0 Purpose of Report**

44. This report considers submissions received in relation to General Topics across all 10 plan changes. It has been prepared in accordance with s42A of the RMA to assist the Commissioners with deliberations on submissions and further submissions.

45. The report includes recommendations to the Commissioners to accept, accept in part or reject individual submissions. Where appropriate, it also includes recommended changes to the plan change provisions. In response to submissions, I have in every instance considered efficiency, effectiveness and appropriateness and our recommendations represent the most appropriate response in accordance with section 32AA of the RMA (s32AA). Depending on the complexity of the change proposed, the s32AA assessment then follows in a separate table underneath or an overall discussion. In accordance with section 32AA(1)(c), the assessment of each change has been undertaken at a level of detail that corresponds to the scale and significance of the proposed changes.

46. When making its decision, WDC is required under clause 10 of the First Schedule of the RMA to give reasons for allowing or not allowing any submissions (grouped by subject matter or individually). The decisions of the council may also include consequential alterations arising out of submissions and any other relevant matters it considered relating to matters raised in submissions.

## 7.0 Structure of the Report

47. The report has been structured to provide an assessment of the submissions and further submissions received by WDC, arriving at a recommendation to the Commissioners.
48. All submissions received have been categorised based on which plan change they are most applicable to. Once allocated to a plan change, each submission point has then been grouped thematically based on topic. As some submissions relate to multiple topics, cross references are included to the discussion and recommendation sections of other topics. Topic headings for the submissions assessed within this General Topic report are as follows:
- A. Consultation Process
  - B. General Support
  - C. General Opposition/Private Property Rights
  - D. Notification Rules
  - E. Activity Status and Eligibility Rules
  - F. Use of Management Plan Technique and Comprehensive Development Plan Provisions
  - G. Cross Referencing and Direction to Applicants
  - H. Noise and Vibration (NAV)
  - I. Temporary Military Training Activities (TMTA)
  - J. Historic Heritage
  - K. General Biodiversity/Pests/Fencing of Waterways/Wetlands
  - L. Transport and Transport Infrastructure
  - M. Network Utilities
  - N. General Infrastructure and Environmental Engineering Standards
  - O. Definitions
  - P. Strategic Direction
  - Q. General Landscape, Ridgeline Protection and Amenity
  - R. Relocatable Buildings
  - S. Miscellaneous
  - T. Hazardous Substances
49. While all submitters have been acknowledged in the submission tracking spreadsheet [**Attachment 1**], due to the similarity of relief sought and reasons given along with the volume of submissions, responses have not necessarily been written for each individual submission point. Responses have been written for individual submissions that raise matters that differ from other submissions within the same thematic group or that request specific amendments to the plan change provisions.
50. Responses have not been written for all further submission because the further submissions generally:
- Sought to emphasise the content of the corresponding original submission;
  - Did not present new or additional evidence.
  - Stated either support or opposition to the original submissions of other submitters.

51. Where further submissions present additional evidence these have been dealt with within the report where the primary submission point has been addressed.

52. The assessment of submissions generally follows the following format:

Submission information – Matters raised in the submissions with a brief outline of relief sought and reasons for relevant submissions.

Discussion – discusses responses to the relief sought.

Recommendation – outlines a recommendation to the Commissioners in response to the relief sought.

53. Any recommended changes to the notified text as a result of submissions are attached to this report [see **Attachment 2**]. Any recommended additions to the notified text are shown as underlined and deletions as strike-through.

## 8.0 Consideration of Submissions

54. Table 1 below outlines a chronology of events relevant to the proceedings of the plan changes.

Table 1 – Chronology of Events	
Event	Date
Date of public notification of plan change for submissions	10 August 2016
Closing date for submissions	4 October 2016
Date of public notification for further submissions	23 November 2016
Closing date for further submissions	20 December 2016
Hearing commences	3 July 2017

55. Pursuant to s37 of the RMA, WDC resolved to double the submission period from 20 working days to 40 working days and the further submission period from 10 working days to 20 working days. Council sent the summary of submissions directly to not only the original submitters but also to any rate payer who may have been affected by a submission seeking rezoning of their land.

56. 530 submissions and 708 further submissions were received on the 10 plan changes. Please refer to **Appendix C** for submissions and further submissions, **Appendix D** for a summary of submissions.

57. Due to the electronic processing of submissions, submission numbering is not consecutive and there are vacant submission numbers due to duplication.

58. A large number of further submitters are not original submitters; this is expected due to the nature of the process and the scope of the further notification.

Withdrawn Submissions:

59. The following submissions have been withdrawn:
- Scott Fratcher – further submissions X153, X246 and X247.
  - Grant and Donna Thompson – submission 199.

Invalid or Blank Submissions:

60. The following submissions contain insufficient information to interpret the submission or the form is blank:

Charlotte Sutherland - 16	Blank form
Roberta Jones – 88	Submission form incorrect – submission against the draft regional coastal plan.
Oue Nam Kang – 348	Blank form
Hye Seong Hwang & Sun Mi Choi – 368	Blank form
Allison Thompson and Scott Fratcher - X127	Blank form
Mike and Hazel Smith - X105	Blank form
Neil and Moira Dobbs - X146	Submitter clarified that this was additional information to an original submission, sent to consultant but not a "further submission" as such.

61. It is recommended that the Commissioners reject this invalid submissions.
62. Due to volume of submissions Council has not closely tracked receipt of submissions, no original submissions where received significantly late past the close of notification. It is recommended that the Commissioners accept late submissions.
63. Council actively informed landowners of the further submission period by way of direct notification many of the further submissions received are from submitters who did not make original submissions I recommend that these further submissions are accepted by the Commissioners under Schedule 1 Clause 8 of the RMA on the basis that the submitters have greater interests than the general public.

## **A. Consultation Process**

Submission Information

64. Numerous submissions<sup>2</sup> were made about the topic of the consultation process. These submissions generally oppose the plan changes as submitters believe that Council has not undertaken adequate consultation on the plan changes, or has not provided sufficient time for submitters to make submissions.
65. Relief sought either requests that WDC declines all the plan changes in their entirety or provide more time to consider the plan changes.

---

<sup>2</sup> 97/1, 118/7, 119/7, 138/2, 164/1, 180/2, 258/2, 262/2, 290/1, 399/1, 411/1, 419/2, 457/2, 478/1, 491/1 and 523/4.

### Discussion

66. Complete details of consultation undertaken prior to formal notification on plan changes 85 A – D, 86 A & B and 87 is detailed in Section 32 Report section 3. PC102 is detailed in sections 5 of it's Section 32 Report, and PC114 is detailed in section 5 it's Section 32 Report [see **Appendix A**].
67. The 10 plan changes were notified together. This included letters and summary booklet (**Attachment 5**) being posted to 21,000 directly affected landowners, plus the standard newspaper notice and on-going information in the newspaper. Full details of the plan changes are available on the WDC website and have been since the 10 plan changes were notified. During the submission and further submission period Policy staff were available answering calls and providing a drop-in service for customers<sup>3</sup>. WDC also extended the formal notification periods to provide additional time for submitters to consider the plan changes and make considered submissions.
68. WDC identified properties directly affected by submissions requesting specific rezoning. Letters were sent to these owners informing them of the proposed plan changes and submissions recieved and the opportunity to make a further submission.
69. In my opinion, the consultation on the proposed plan changes has been comprehensive, including pre-consultation prior to the formal notification of the plan changes going well above the minimum requirements of the RMA.

### Recommendation

70. I recommend that the Commissioners **reject** submission points 97/1, 118/7, 119/7, 138/2, 164/1, 180/2, 258/2, 262/2, 290/1, 399/1, 411/1, 419/2, 457/2, 478/1, 491/1 and 523/4.

## **B. General Support**

### Submission Information

71. Numerous submissions points<sup>4</sup> were made in general support of various sections and provisions of the plan changes. Relief sought is generally unspecified.

### Discussion

72. I acknowledge and generally support the above submissions supporting the various sections and provisions of the proposed plan changes. However, changes to the notified plan change wording and zoning have been recommended in response to other submissions requesting amendments.

### Recommendation

73. I recommend that the Commissioners **accept in part** submission points 161/3, 183/1, 183/13, 194/3, 241/1, 409/5 and 6, 414/1, 485/4 and 23/2.

---

<sup>3</sup> Phone and meeting log is available should the Commissioners wish to view it.

<sup>4</sup> 161/3, 183/1, 183/13, 194/3, 241/1, 409/5 and 6, 414/1, 485/4, 23/2

## C. General Opposition/Private Property Rights

### Submission Information

74. Numerous submission points<sup>5</sup> are made in general opposition of various sections and provisions of the plan changes. Relief sought is generally unspecified. Reasons provided range from:
- Does not achieve the purpose of the RMA.
  - WDC deals with provisions and rules in an arbitrary and extremely prejudicial manner.
  - Confusing and long winded.
  - Creates unnecessarily complex web of rules, resulting in uncertainty and additional compliance costs.
  - S32 is incomplete.
  - Plan changes do not comply fully with Part 2 of the RMA.
  - Rates reduction equal to the percentage of land confiscated.
  - Not all rural land should be blanketed with one subdivision plan. Landowners wishing to subdivide should have an individual say in the decision of their land.
  - Changing the rural landscapes, increased subdivision, loss of farms, increased traffic and urban sprawl.
75. Additional points of submission, oppose the plan changes on the specific basis that the plan changes reduce the private property rights of landowners. Relief sought generally requests that the plan changes be declined in their entirety.

### Discussion

76. I acknowledge the opposition raised in the above submissions, however it is my opinion that the proposed plan changes are appropriate and have been adequately evaluated in accordance with s32.
77. The RMA governs the environmental effects of the use of land, water and other natural resources, but not the use itself. When imposing restrictions on private property rights a balance between individual property rights and the environmental effects must be struck and I consider that these matters would have been considered in the drafting of the RMA.
78. RMA s85(1) generally provides that an interest in land shall be deemed not to be taken or injuriously affected by reason of any provision in a plan unless otherwise provided for in the Act. However, s85(2) states that:

*Notwithstanding subsection (1), any person having an interest in land to which any provision or proposed provision of a plan or proposed plan applies, and who considers that the provision or proposed provision would render that interest in land incapable of reasonable use, may challenge that provision or proposed provision on those grounds—*

---

<sup>5</sup> 2/1, 20/1, 134/1, 156/1, 172/1, 359/2, 375/1, 278-284/1, 439/1, 473/1, 510/1, 527/1, 535/2 51/1, 72/1, 118/8 and 9, 119/8 and 9, 153/1, 274/1, 79/1, 132/1, 150/1, 80/1 and 2, 274/1 and 488/1

- (a) in a submission made under Part 1 of Schedule 1 in respect of a proposed plan or change to a plan; or
- (b) in an application to change a plan made under clause 21 of Schedule 1.

79. S85(1) makes clear that the regulation of the use of private property via planning provisions, in the case of the proposed plan changes, does not amount to injurious affection. The outcome of an appeal or application brought under s85(2) is that the plan provisions may be amended rather than providing compensation for the affected landowner.
80. In my opinion, the thrust of the RMA is, however, to enable persons to make use of their land in a reasonable manner in accordance with the sustainable management purpose in s5 and the wider values provided in Part 2 of the Act. I consider that the proposed plan changes have been established in accordance with the requirements of the RMA. In my view the proposed provisions (and subsequent recommended changes) meet the requirements of the RMA and enable people to make use of their land in a reasonable manner.

#### Recommendation

81. I recommend that the Commissioners reject submission points 2/1, 20/1, 134/1, 156/1, 172/1, 278-284/1, 359/2, 375/1, 439/1, 473/1, 510/1, 527/1, 535/2, 51/1, 72/1, 118/8 and 9, 119/8 and 9, 153/1, 274/1 and 488/1.

### **D. Notification Rules**

#### Submission Information

82. Dennis Scott<sup>6</sup> has requested that the notification requirements for all plan changes be reviewed with no reasons stated.
83. GBC Winstone (**GBC**)<sup>7</sup> requests the deletion of all notification rules in the SRIE and RUEE, seeking that the Council adopt the notification provisions in s95A of the RMA.

#### Discussion

84. The use of notification rules has been explained and evaluated within the s32 Report<sup>8</sup>. WDC 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.
85. It is my opinion that this approach is not invalid or illegal because the s77A of the RMA allows the use of a prohibited activity status in district Plans. The s32 evaluation reports considered the use of the prohibited activity statuses and determined that in each case the activity status was the most efficient and effective method to achieve the proposed objectives. In my view, no new evidence has been presented in the submissions for me to disagree with the position reached in the s32 evaluations and I considered that as notified the use of the prohibited activity status in the proposed plan changes is appropriate.

---

<sup>6</sup> 195/8

<sup>7</sup> 250/18 and 29

<sup>8</sup> Appendix A, Section 32 Evaluation Report, Part 1, sections 4 and 6

### Recommendation

86. I recommend the Commissioners **reject** submission points 195/8 and 250/18 and 29.

## **E. Activity Status and Eligibility Rules**

### Submission Information

87. The following are generic or multi-plan change submission points on activity status. Submissions relating to specific plan changes are dealt with separately within each relevant s42A Hearing Report.
88. Northland Regional Council (**NRC**)<sup>9</sup> identifies the use of Prohibited Activity status rules throughout the proposed provisions stating that Prohibited Activity status is a tool that is generally reserved for activities with known (or very likely) significant effects. Relief sought is to ensure that the use of prohibited activity status is clearly justified. Further submissions generally support the relief sought.
89. GBC<sup>10</sup> requests that restricted discretionary activity status be used in the WDP, reasoning that the use of discretionary activity status is inappropriate if the Council is seeking to provide for the appropriate use and development of regionally significant activities and that Council has changed the activity status for some existing restricted discretionary activities in the WDP to discretionary activity which appears to not have not been addressed in the Section 32 Evaluation Report.
90. Three submitters<sup>11</sup> state that a restructure of provisions is required to include restricted discretionary activities and specific assessment criteria as an alternative to full discretionary status, particularly in respect to effects based rules (i.e. those relating to building bulk and location, traffic movements, signage). Or alternative relief with similar effect, including changes to other parts of PC85A-D, 86 and 87 to provide a consistent format.
91. Note: Commercial and industrial activity status in the RPE has been addressed in **Part 7** s42A Report, Topic I.

### Discussion

92. The use of activity status rules have been explained and evaluated within the s32 Report<sup>12</sup>. WDC 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 and the limited use of controlled and restricted discretionary Activities.
93. The use of prohibited activity rules has only been applied in situations where an activity will clearly be contrary to the outcomes of the proposed Environment or Resource Area and would result in significant adverse environmental effects. The following table summarises the use of prohibited activity status in the various proposed plan changes:

---

<sup>9</sup> 190/5

<sup>10</sup> 250/1

<sup>11</sup> 309/7, 327/7 and 336/7

<sup>12</sup> Appendix A, Section 32 Evaluation Report, Part 1, sections 4 and 6

Table 2 – Proposed Prohibited Activities in the Plan Changes	
RPE	Subdivision of minor residential units.
RVCE	Industrial Activities <sup>13</sup> .
RVRE	Industrial Activities, Minor Residential Units without reticulated services, Mineral Extraction Activities, Intensive Livestock Farming.
RVIE	Sensitive Activities.
RLE	Industrial Activities and Mineral Extraction Activities.
RUEE	Industrial Activities and Mineral Extraction Activities.
LAN	LAN.5.1 – certain activities within specified Outstanding Natural Features

94. It is my opinion that this approach is not invalid or illegal because the s77A of the RMA allows the use of a prohibited activity status in district plans. The s32 evaluation reports considered the use of the prohibited activity statuses and considered that in each case the activity status was the most efficient and effective method to achieve the proposed objectives. In my view, no new evidence has been presented in the submissions for me to disagree with the position reached in the s32 evaluations and I consider that as notified the use of the prohibited activity status in the proposed plan changes is appropriate.

Recommendation

95. I recommend that the Commissioners **reject** submission points 190/5, 250/1, 390/7, 327/7 and 336/7.

Permitted Activities – Submission Information

96. Within each proposed chapter the eligibility rules state that “any activity not requiring consent as a discretionary or non-complying activity is a permitted activity”. FNDC<sup>14</sup> has expressed concern that defaulting to permitted activity status where no consent is explicitly required may enable unanticipated activities by accidentally omitting them from discretionary or non-complying status.

97. New Zealand Defence Force (NZDF)<sup>15</sup> supports the use of rules permitting any activity in the RPE or the SRIE that is not identified as requiring consent as a discretionary or non-complying activity.

Permitted Activities – Discussion

98. I support the proposed eligibility rules which default to permitted activity status as this is consistent with the structure of the other recently reviewed sections of the WDP (e.g. the Kamo Walkability Environment, Urban Transition Environment and Historic Heritage plan changes). However, I do acknowledge that

<sup>13</sup> Note: Mr Burgoyne recommends the activity status be amended to non-complying refer to Section 42A Part 9

<sup>14</sup> 410/6, 26, 37, 48 & 53

<sup>15</sup> 450/2 and 3

there is risk that unintended activities may be enabled if the activity is not addressed in other rules. It is necessary to ensure the provisions address all activities as intended and that the activity status of activities is clear to users of the WDP. The s32 Evaluation<sup>16</sup> addressed the activity status rules for activities. Changes recommended improve clarity.

99. After reviewing the notified provisions, I consider that there is some lack of clarity regarding 'intensive livestock farming' as defined in the WDP (see WDP Chapter 4 definition below). In preparation of the plan changes, this activity was omitted from the RLE and RUEE provisions, and is permitted. I consider that it is not the intention of the plan changes to permit intensive livestock farming. To most effectively and efficiently achieve the purpose of the RLE and RUEE objectives, I consider it appropriate to include additional provisions within these chapters so that intensive livestock farming is not a permitted activity.

#### **Intensive Livestock Farming**

means any intensive farming of animals or/and includes fungi (mushrooms), dependent on a high input of food or fertiliser from beyond the site and which is predominantly carried out in buildings or outdoor enclosures where the stocking density precludes the maintenance of pasture or ground cover and includes pig farming and cattle feedlots. Poultry farming is excluded if it is considered free range in accordance with the relevant minimum standards outlined in the MAF Animal Welfare (Layer Hens) Code of Welfare 2005.

#### Permitted Activities – Recommendation

100. I recommend that the Commissioners **accept in part** submission points 410/6, 26, 37, 48 & 53 and recommend that the following changes are made:

RLE.2.1

Commercial activities and intensive livestock farming are non-complying activities in the RLE.

RUEE.2.1

2. Commercial activities (other than home occupations) and intensive livestock farming are non-complying activities.

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

### Submission Information

101. Dennis Scott<sup>17</sup>, André & Robin LaBonté<sup>18</sup> and WFH Properties Ltd<sup>19</sup> request 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 RPE and RLE to allow for flexible subdivision.

<sup>16</sup> Appendix A – Section 32 PC85 – Part 1

<sup>17</sup> 195/6

<sup>18</sup> 430/2

<sup>19</sup> 480/2

102. Bruce Weir<sup>20</sup> seeks the inclusion of a Comprehensive Development Rule that allows more intensive residential development with a minimum lot size of 250m<sup>2</sup> as a limited discretionary activity.
103. Kakariki Ltd<sup>21</sup> request that the RPE be amended to include a provision that the MPT be a discretionary option to accommodate appropriate dwellings on multiple owned land.
104. Further submissions support 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.

#### Discussion

105. 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 Report<sup>22</sup> with the option being rejected. Recent Environment Court decisions and declarations<sup>23</sup> 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. WDC is required to review the MPT and CDP provisions as part of the WDP rolling review.
106. It is my opinion, due to the uncertainty and potential vires issues associated with the implementation of the WDP MPT and CDP provisions, that it is not appropriate to extend the use of these methods to the RPE and RLE.

#### Recommendation

107. I recommend that the Commissioners reject submission points 24/1, 195/6, 428/2 430/2 and 480/2.

### **G. Cross Referencing and Direction to Applicants**

#### Submission Information

108. Several points of submission have been received from FNDC<sup>24</sup> raising concern that the provisions do not provide sufficient guidance and direction to applicants. The submitter identifies a risk that applicants may only look at the objectives, policies and rules and may overlook other matters than need to be addressed in their application, increasing the potential for applications to be rejected pursuant to s88 of the RMA. Federated Farmers of New Zealand (**FFNZ**)<sup>25</sup> opposes in part this submission, supporting the structure of the notified plan change to the extent that it avoids imposing unnecessary compliance costs on farmers.
109. WDC Infrastructure and Services Department (**WDC I&S**)<sup>26</sup> have requested that the proposed provisions provide further guidance to applicants in respect of provision RA.3.3.1(g). It is suggested that the plan

---

<sup>20</sup> 24/1

<sup>21</sup> 428/2

<sup>22</sup> Appendix A, Section 32 Evaluation Report, Part 3, Section 5.4

<sup>23</sup> Auckland City Council Declaration [2016] NZEnvC 56 and Queenstown Airport Corp Ltd v Queenstown Lakes District Council [2014] NZEnvC 93

<sup>24</sup> 410/25, 36 and 47

<sup>25</sup> X612

<sup>26</sup> 479/5

change include further guidance on matters to be demonstrated on the subdivision scheme plan or application to satisfy this rule.

110. Several submitters<sup>27</sup> have requested additional cross referencing provisions between chapters to provide assessment guidance.

#### Discussion

111. Cross references between each chapter are contained within the proposed Guidance Note provisions (numbered .1.4 within the proposed chapters). This approach to chapter cross referencing is consistent across every operative chapter created in the WDP rolling review.
112. All resource consent applications are subject to the requirements of schedule 4 of the RMA, and all applications are checked upon receipt by WDC against s88 of the RMA for completeness. Provision 1.4 across the various chapters is a guidance note and is intended to provide additional direction to applicants about what level of information / assessment Council would expect. Irrespective of these notes, they are guidance notes and s88 and the 4th schedule of the RMA still apply.
113. It is my opinion that applications should be prepared by a technical expert who has sufficient knowledge of the WDP and RMA to understand what matters must be addressed within a resource consent application. Chapters 1 and 2 of the WDP provide guidance and direction as to how to interpret the new format of the WDP.
114. Ministry for the Environment and WDC provide separate guidance material. WDC provides a free duty planner service where applicants can discuss applications with the duty planner. It is my opinion that the WDP should be a policy document and should not be used to provide general guidance, as amending the WDP requires lengthy plan change processes.

#### Recommendation

115. I recommend that the Commissioners reject these submission points.

## **H. Noise and Vibration (NAV)**

#### Submission Information

116. K Salmon<sup>28</sup> supports the proposed plan changes as notified including the consequential changes to the Noise and Vibration Chapter, stating "We support stronger controls on noise and pollution".
117. Fonterra Limited<sup>29</sup> supports the inclusion of the specific noise provisions for the Kauri Strategic Rural Industry and seek the retention of Rules NAV.6.1 and NAV.6.5 as notified and seeks the retention of the outer control noise boundary.
118. Because of the new Environments proposed within the plan changes, changes to the NAV Chapter of the WDP have been proposed. Many submitters<sup>30</sup> have requested changes to NAV.6.1 Noise Arising from Activities within Environments to ensure that the proposed RLE will have a daytime noise limit consistent with that proposed for the RPE. These submitters state that RLE areas are still part of the

---

<sup>27</sup> 248/6, 12 – 14, 17, 20, 26 and 31, 453/5 and 9.

<sup>28</sup> 194/4

<sup>29</sup> 414/20 - 22

<sup>30</sup> 181/9, 185/9, 186/9, 191/9, 203/9, 219/9, 233/9, 235/9, 244/9, 260/9, 261/9, 277/9, 314/9, 406/9, 423/31 and 32 and 426/9

RA and rural production activities are still undertaken within the zone, therefore the appropriate amenity for the RLE is that which pertains to the RPE.

119. The same group of submitters<sup>31</sup> have requested changes to NAV.6.11 Bird Scaring Devices and NAV. 6.13 Frost Fans. Changes seek to include RLE within the provisions to allow the operation of these activities, because RLE areas are still part of the RA and rural production activities are still undertaken within the zone.
120. Vita and Max Badran<sup>32</sup> state that the WDP should specify that noise levels measured at boundaries of residential sites in RVCE should not exceed 50dB LAeq during daytime 0700 to 2200, and 40dB LAeq at night, because the proposed levels of noise are not compatible with residential activities. In particular, outdoor living areas would lose much of their amenity if exposed to increased noise levels. Not being able to open windows due to noise is also stated to have a significant negative effect on the enjoyment of property. NZDF<sup>33</sup> oppose this submission point on the basis that the noise levels sought in this submission are all below what could be expected during Temporary Military Training Activities (**TMTA**). TMTA noise standards have been addressed through NZDF's submission on PC110 – Noise and Vibration (**NAV**) dated 3 February 2015.
121. GBC<sup>34</sup> seek consequential amendment to NAV.6.1 to ensure that NAV.6.1 shall not apply if the activity under consideration is a mineral extraction activity included in the MIN Chapter MEA Appendix 1 "Schedule of Existing MEAs". Where this occurs, the limits and stated timeframes in MEA Appendix 1 are sought to apply.
122. Philip Dodson<sup>35</sup> has requested that WDC make sensible provisions for rural villages and amend the noise limits as most residents have boats and outboard motors.
123. David Murray<sup>36</sup> requests that WDC ensure any permitted activities that are potentially noise emitting are strictly monitored and controlled. Further submissions<sup>37</sup> oppose this point of submission stating that noise from existing rural production activities should be recognised as being appropriate.

### Discussion

124. These submissions have been considered by Mr Peter Ibbotson of Marshall Day Acoustics, refer to **Attachment 6** I rely on his technical expertise and opinion when responding to the above submissions.
125. I acknowledge the support from K Salmon and Fonterra Limited.
126. Submitters, in particular, Horticulture New Zealand (**Hort NZ**), have strongly opposed the proposed locations of and zoning criteria for RLE (refer to **Part 10** of the s42 report), on the basis that RLE should avoid locations suitable for horticultural activities. These submitters have also requested various

---

<sup>31</sup> 181/10 & 11, 185/10 & 11, 186/10 & 11, 191/10 & 11, 203/10 & 11, 219/10 & 11, 233/10 & 11, 235/10 & 11, 244/10 & 11, 260/10 & 11, 261/10 & 11, 277/10 & 11, 314/10 & 11, 406/10 & 11, 423/33 & 34 and 426/10 & 11

<sup>32</sup> 221/3

<sup>33</sup> X082

<sup>34</sup> 250/58

<sup>35</sup> 407/3

<sup>36</sup> 511/5

<sup>37</sup> X640 and X472

changes to the RLE provisions to reduce the potential limitations to proposed horticultural activities (refer to **Part 10** of the s42 report).

127. I concur with Mr Cook's position with regard to the appropriateness of the RLE zone criteria. The proposed RLE is located within areas already established with lifestyle development, containing higher numbers of dwellings compared to the RPE. The RLE inherently has a different level of amenity to that of RPE. The proposed provisions for RLE do not actively prevent the operation of horticultural activities. Mr Ibbotson<sup>38</sup> states that in his opinion the proposed noise limit rules for both RLE and RPE would work acceptably within the RLE. Mr Ibbotson further considers that the appropriateness of the rules should be evaluated against the objectives and policies for each Environment and the expected level of amenity. It is my opinion that the RLE is expected to predominately be a lifestyle development zone and it has a different level of amenity to that of the RPE. With reliance upon Mr Ibbotson's technical opinion that the noise levels are appropriate, I do not support the request to amend the RLE noise limits to reflect those of the RPE.
128. Several submitters raise concerns in regard to the RVCE noise limits and the potential effects on adjoining RVRE. I note that Mr and Mrs Badran have also requested that their site be zoned RVRE rather than the proposed RVCE or alternative provisions be inserted into RVCE<sup>39</sup>. Mr Ibbotson recognises the submitters concern noting that "*mixed use zones inevitably require compromise on both residential and commercial land uses. It is not possible to provide a high level of residential amenity while allowing for unrestricted business to occur*". Mr Dodson also raises concern that the noise limits for rural villages are not sensible. In Mr Ibbotson's opinion the noise limits proposed for RVE are appropriate.
129. RVCE is proposed to be a flexible, mixed use Environment to provide opportunity for a mix of activities typical within Rural Villages. With reliance upon Mr Ibbotson's technical opinion that the noise levels are appropriate, I do not support the request to amend the RVCE noise limits.
130. GBC<sup>40</sup> have supported the notified noise limits of the Mineral Extraction Activities (**MEA**) chapter, including no changes to noise limits specified in the notified MEA Appendix 1. I support the basic premise of this relief sought that the noise limits for the existing MEA are accepted as being appropriate having been established via resource consent process.
131. GBC however, have also requested within their submission, amendments to the WDP definitions to introduce a new definition of 'overburden area':
- Overburden Area means that part of the MEA which is outside the Mining Area which facilitates the placement of overburden, rather than the full range of mineral extraction activities.*
132. A consequence of this combination of relief sought is that any 'overburden area' would take on the existing noise limits of the MEA. Mr Ibbotson has considered this submission with its relevance to MEA3 Winstones quarry in Otaika (see **Attachment 6** page 8):

"It is my view that if a separate overburden area subzone is to be included in addition to MEA3, then the noise rule applying to that subzone should be explicitly stated under a separate line item for MEA3

---

<sup>38</sup> Attachment 6, Page 5.

<sup>39</sup> Refer to Part 9 of the s42A addressing submissions against the RVCE rules. I concur with Mr Burgoyne's recommendations.

<sup>40</sup> 250/58

(Overburden Area)<sup>3</sup>. However the appropriate noise rule would need to be carefully considered. It is my view that insufficient supporting information has been provided to support the provision of a 55 dB LAeq MEA3 (Overburden Area) noise rule at this time.”

133. I concur with Mr Ibbotson’s statement that insufficient information has been provided to support the relief sought by GBC, with reliance upon Mr Ibbotson’s expert opinion I do not support the relief sought by GBC.

#### Recommendation

134. I recommend that the Commissioners **accept** submission points 194/4 and 414/20-22.
135. I recommended that the Commissioners **reject** submission points 181/9-11, 185/9-11, 186/9-11, 191/9-11, 203/9-11, 219/9-11, 233/9-11, 235/9-11, 244/9-11, 260/9-11, 261/9-11, 277/9-11, 314/9-11, 406/9-11, 423/31-34, 426/9-11, 221/3, 250/58, 407/3 and 511/5.

### **I. Temporary Military Training Activities (TMTA)**

#### Submission Information

136. NZDF<sup>41</sup> have made a very comprehensive submission to all 10 plan changes seeking multiple changes to proposed provisions to ensure that NZDF can undertake TMTA as a permitted activity throughout the District. Submission points include:

- Seek amendments to policies to specifically refer to TMTA.
- Support the proposed approach to eligibility rules.
- Seek amendments to discretionary activity rules and/or to the definition of ‘emergency services’ to exclude TMTA.
- Seek the amendment of CA.2.3.3 and/or the definition for earthworks to provide clarification.
- Support policy LAN.1.3.3.
- Seek amendments to the proposed Landscape provisions to provide for TMTA including changes to LAN.2.3, LAN.3.1.4, LAN.5.1 tables 1 and 2.

137. Further submissions<sup>42</sup> generally support this submission if careful wording is considered to ensure that the New Zealand Coastal Policy Statement (**NZCPS**) is still given effect to and because the ability to undertake emergency service training activities enables staff to be appropriately trained to provide an efficient and effective response in emergencies.

#### Discussion

138. WDC’s approach to the new WDP structure is to escalate issues or activities to district wide chapters (e.g. district wide chapters for Noise and Vibration, Heritage, Minerals). This approach seeks to reduce the repetition of provisions throughout the WDP. I support the basic premise to provide the ability for the NZDF to undertake TMTA. The NZDF relief sought seeks to achieve specific policy direction for TMTA in every proposed Environment. It is my opinion that this relief is inconsistent with the approach to the WDP structure which does not have specific activity based policy and that it is more appropriate

---

<sup>41</sup> 450/1 – 28

<sup>42</sup> X571, X271, X369

to provide for TMTA as a district wide activity. I recommend alterations to the definition of TMTA to provide clarity.

139. NZDF have identified that the proposed provisions result in buildings associated with TMTA requiring resource consent approval in many circumstances. This was not the intent of the proposed plan changes.
140. NZDF supports proposed policy LAN.1.3.3 as it is considered that this provides for activities that have only minor or transitory effects and that TMTA fits within that category. While that is not its primary intent, clause (a) of the policy does lead directly to the consideration of activities that are permitted within ONLs and ONFs.
141. If TMTA does in fact create only minor or transitory effects, I agree that the requirement for a landscape outcome evaluation under proposed rule LAN.2.3 would be overly restrictive. However, the requirement only applies if a consent is needed, i.e. the activity is not a permitted activity. The central issue is therefore should TMTA be permitted as requested.
142. The specific rule amendments sought include adding TMTA to the permitted vegetation clearance activities in proposed rule LAN.3.1.4(b). As the rule construction means that clauses (a) and (b) are conjunctive, i.e. the area limit applies, this is accepted.
143. The requested amendments to the rules for new buildings within coastal and non-coastal ONFs as set out in LAN.5 Tables 1 and 2 would have consequential implications for non-TMTA buildings. NZDF seeks to insert the word “permanent” into the rule for new buildings and structures including network utilities within ONFs. This would open the doorway for all manner of temporary buildings to be permitted which is not the intention. Taking into consideration:
- (a) the proposed amendment to the definition of TMTA which sets a time limit for buildings to be onsite;
  - (b) the types of ONF where TMTA might conceivably occur; and
  - (c) the vulnerability of the smaller ONFs,
144. In my opinion TMTA could appropriately be allowed a separate defined activity on Category A, B and C ONFs as a permitted activity.

#### Recommendation

145. I recommend that the Commissioners:
- **Reject** submission points 450/1, 16, seeking amendments to policies to specifically refer to TMTA.
  - **Accept** submission points 450/2, 3, 6, 8, 12, 14, 17 and 20 supporting the proposed approach to eligibility rules.
  - **Reject** submission points 450/4,5, 7, 9, 10, 11, 13, 15 and 19 seeking amendments to discretionary activity rules to exclude TMTA.
  - **Reject** submission point 450/18 seeking the amendment of CA.2.3.3 and/or the definition for earthworks to provide clarification.
  - **Accept** submission point 450/21 supporting policy LAN.1.3.3.

- **Reject** submission point 450/22 seeking amendments to the proposed Landscape provisions to provide for TMTA in LAN.2.3.
- **Accept** submission point 450/23 including TMTA as a listed activity in LAN.3.1.4(b).
- **Accept in part** submission points 450/24-28 seeking amendment to LAN.5.1 tables 1 and 2 to provide for temporary buildings associated with TMTA.
- I recommend that the following amendments be made to the notified provisions to provide for TMTA:
  - Amend TMTA definition within Chapter 4 Meaning of Words:

**Temporary Military Training Activity**

means a temporary military training activity [including any associated building established onsite for a maximum period of 60 days] undertaken for defence purposes. Defence purposes are described in section 5 of the Defence Act 1990.

- Amend LAN.3.1.4 (b) and LAN.5.1 tables 1 and 2 as detailed in **Attachment 2A**.

## J. Historic Heritage

### Submission Information

146. Heritage New Zealand Pouhere Taonga (HNZPT)<sup>43</sup> has made a very comprehensive submission to all 10 plan changes seeking multiple changes to proposed provisions to ensure that historic heritage (particularly archaeology) is adequately protected. Submission points include:

- Support in principle the format of the proposed plan changes.
- Support the CA chapter. HNZPT considers that the format of PC87, that includes the introduction of new objectives, policies and performance standards for the CA within a section of the WDP, is of assistance to the reader in understanding the background and reasons for the rules.
- Seek amendments to provisions to insert wording 'historic heritage' to ensure definition consistency with the RMA.
- Seek amendments to objectives and policy to insert wording to protect historic heritage including any recorded or unrecorded archaeological site that is protected by the Heritage New Zealand Pouhere Taonga Act 2014.
- Seek amendments to guidance notes in each chapter to provide a specific link to the objectives and policies of the Historic Heritage Chapter HH.
- Seek amendments to performance standards and assessment criteria to provide for historic heritage including any recorded or unrecorded archaeological site that is protected by the Heritage New Zealand Pouhere Taonga Act 2014.
- Support the inclusion of RA.3.3 (p) (iii), but seeks an increase of setback from 10m to 2000m. Stating that 10m is an inadequate spatial distance given that many archaeological sites have not been GPS'd and can have a large margin of error.

---

<sup>43</sup> 248/1 – 38

- Support the inclusion of LAN.3.1.4 and LAN.3.2, but seeks amendments to insert wording for historic heritage as a Matter of National Importance.

147. Further submissions<sup>44</sup> oppose this submission for the following reasons:

- Heritage designation should be voluntary, not imposed as a condition in the resource consent process; seeking to exclude references to historic heritage.
- It is unclear why this amendment is necessary since historic heritage is covered in HH.1, Built Heritage in BH.1 and Sites of Significance to Māori in chapter 60.

### Discussion

148. WDC's approach to the new WDP structure is to escalate issues or activities to district wide chapters (e.g. district wide chapters for Noise and Vibration, Heritage, Minerals). This approach seeks to reduce the repetition of provisions throughout the WDP. As part of the rolling review of the WDP, historic heritage policy and built heritage provisions have been reviewed (PC124) and a new district wide Historic Heritage (HH) chapter became operative on 28 September 2016. HH chapter introduced district wide historic heritage objectives and policies, and specific provisions for Built Heritage. The chapter notes the following

*Chapter HH (Historic Heritage) is designed to serve as a framework/overview for historic heritage issues generally, with subsection Built Heritage (BH) addressing specific provisions associated with built heritage (buildings, sites, objects and related surroundings). It is intended that a further subsection (Archaeological Sites and Sites and Areas of Significance to Māori) will be integrated into the chapter as the rolling review of the District Plan (including PC100) progresses.*

149. PC100 Sites of Significance, still in preparation, owes its origins to a project commenced in March 2011 aimed at identifying and protecting sites and areas of significance to Māori and the relationship between tangata whenua and those sites. The first phase of the Sites of Significance to Māori project has involved working with hapu/iwi groups to identify sites and areas of significance. The second phase of the project involves the development of objectives, policies and rules in the WDP to protect these sites and facilitate tangata whenua involvement in decision making. The project was initially expected to have been completed by February 2014, with current delays attributed to computer compatibility and cost issues relating to transfer of information from hapu; some reluctance to provide information due to trust issues; and the timing of the project, coinciding with the Treaty Settlement process.
150. PC124 and PC100 were initially expected to proceed 'in tandem' although delays have occurred in finalising the Sites of Significance to Māori project. HNZPT submission to PC124 raised concern about the lack of PC100 progress. HNZPT have taken this concern a step further with submissions to the current plan changes seeking particular provisions to protect archaeological sites.
151. HNZPT seeks repeat policy direction in every proposed Environment. It is my opinion that this relief is inconsistent with the approach to the WDP structure and I consider that the district wide HH chapter provides sufficient policy direction.

---

<sup>44</sup> X386, X609

152. I agree that it is appropriate to amend 'heritage' references throughout the provisions to 'historic heritage' to improve consistency with the RMA, the HH Chapter and Chapter 4 definitions.
153. As discussed in Section G of this report, I do not consider additional cross referencing is necessary. The cross referencing as notified is consistent with the adopted structure of the WDP.
154. In my opinion matters of control and assessment criteria provide valuable direction to applicant and planners processing resource consent applications. Proposed provisions RA.4.1 Matters of Control and RA.4.2 Assessment of Discretionary Activities include reference to heritage. It is appropriate in my opinion to amend 'heritage' to 'historic heritage' which by definition will include archaeological sites and sites of significance to Māori. However, in some instances it is appropriate to retain 'sites of significance to Māori' for emphasis.
155. HNZPT have requested that the performance standard RA.3.3.p.iii. be amended to result in all earthworks within 2000m of any archaeological site becoming a discretionary activity. The proposed setback of 10m is consistent with the WDP setback rules and due to the desire to establish comprehensive district wide rules for historic heritage, significant changes to this setback was not proposed. The proposed plan changes do not seek to limit earthworks within any of the rural Environments (other than this rule) Earthworks are only managed in sensitive locations within proposed CA and Landscape provisions. It is my opinion that 2000m is a considerable increase from the proposed 10m, and has the potential to unnecessarily limit rural production activities. I consider that it is more appropriate to maintain the 10m setback distance proposed and consider potential rules to protect archaeological sites comprehensively in the future through PC100.
156. HNZPT have supported rules LAN.3.1.4 (permitted vegetation clearance) and LAN.3.2 (controlled activities) but seeks amendments to insert additional criteria relating to the protection of historic heritage. Such matters are not directly relevant to landscape protection per se and, as noted above, are more appropriately addressed at district wide level via changes made through PC124 rather than in PC114.
157. HNZPT have requested amendments to the Minerals Chapter seeking recognition of historic heritage. These submission points have been comprehensively addressed in **Part 3** of the s42A report and I concur with Ms Clarke's recommendations.

#### Recommendation

158. I recommend that the Commissioners:
- **Accept** submission points 248/1 and 248/22.
  - **Accept** submission points 248/2, 15, 18, 23, and 33 amending the reference to 'historic heritage' throughout the provisions as detailed in **Attachment 2**.
  - **Reject** submission points 248/3 – 6, 8, 11 – 14, 16, 17, 19, 20, 24 – 26, 34 -37.
  - **Accept in Part** submission points 248/7, 9, 10, 21, 29 and 38. I recommend that the following changes be made:

RA.1.1

... have resulted in cumulative effects on resources such as biodiversity, historic heritage, landscape and productive land...

RA.3.3.1.a. The land contains

i. Site of Significance to Māori, or

ii. Area of historic heritage, or

iii. ...

...

RA.4.2.1.d Effects on natural character, landscape and historic heritage values...

...

RA.4.2.1t. The necessity, extent and location of earthworks, the proposed type of machinery to be used and hours of operation, potential adverse effects to ecological, historic heritage and landscape values...

RVE.1.3.12 ...The location is sensitive to, and responds to, environmental features of the site so that vegetation removal or adverse effects on water quality, wetlands, riparian margins, historic heritage sites or Sites of Significance to Māori ~~sites of significance to tangata whenua~~ are avoided.

RVE.3.4.1.d Effect of access and buildings on known ~~archaeological sites~~ historic heritage sites and tangata whenua cultural and heritage values.

RLE.1.3.8.c Avoid adverse effects on ecological values, water quality, versatile soils, open space character, historic heritage values or landform.

## K. General Biodiversity/Pests/Fencing of Waterways/Wetlands

### Submission Information

159. Numerous submissions<sup>45</sup> were made about the topic of biodiversity. The following submissions were made in a general capacity and specific submissions regarding vegetation clearance have been addressed within the Landscapes and Coastal Section 42A Reports<sup>46</sup>. The relief sought varies and includes:

- Support for specific provisions relating to biodiversity, improvement of pest and weed management provisions.
- NRC<sup>47</sup> and FNDC<sup>48</sup> have requested the deletion of rules protecting wetlands due to inconsistencies with the RPS.
- Greater protection of waterways. All rural production areas should mandate strong controls to keep stock contamination well clear of waterways.

<sup>45</sup> 183/4 and 9, 194/2 and 5 – 7, 201/1 – 3, 200/1 and 2, 392/2 and 3, 508/1, 467/1, 375/2, 78/6, 446/3, 447/1 and 253/29

<sup>46</sup> Parts 2 and 4 of the s42A report.

<sup>47</sup> 190/2

<sup>48</sup> 410/70

- Stronger protection needed to preserve native biodiversity, escalation of vegetation clearance rules to prohibited activity status.
- Subdivisions need to forbid cats and dogs and require pest control programs.
- WDC should assist residents with fencing issues. When there is a proposed subdivision within a previously/existing built environment fencing of boundaries should be included in the subdivision fee.
- The proposed plan changes do not go far enough to ensure that indigenous biodiversity will be maintained and do not provide adequate protection for areas of ecologically significant indigenous vegetation and habitats of indigenous fauna. The proposed plan changes are not sufficient to protect the natural character of the coastal environment and coastal wetlands, lakes and rivers from inappropriate use and development. The objectives and policies are too focused on subdivision and residential development and do not give sufficient attention to the need to manage the effects of other types of land use.
- That the vegetation clearance rules be amended to provide for the sustainable management of natural and physical resources in the Whangarei District and achieve the purpose of the RMA.
- That WDC give genuine protection to ridge lines, areas of pristine native bush and kiwi habitat. This should include mapping of kiwi corridors, better monitoring and innovative rates to reward good stewardship.
- That there should be greater clarity on what 'predominately indigenous vegetation' means in land use rules.

160. Further submissions range in support and opposition:

- Support for specific provisions relating to biodiversity, improvement of pest and weed management provisions.
- Opposing specific provisions relating to biodiversity because adding pest control through this regulatory mechanism is preemptive and unnecessary.
- Support specific provisions relating to biodiversity, because it is desirable that the plan change provisions set out clear provisions that ensure that it is possible to appropriately control weed and pest impacts with any land use or subdivision proposal.
- Biodiversity protection offers shared benefits to the whole of society and needs to be funded accordingly.
- Support for the deletion of rules protecting wetlands, because freshwater management is a regional council function.
- Opposition for the deletion of rules protecting wetlands because it is appropriate. WDC still has responsibilities to ensure adverse effects of activities controlled under the WDP are avoided, remedied or mitigated, including wetlands and the margins of freshwater bodies (RPS policy 4.4.1(3)(c). In addition, the WDC has functions for the maintenance of indigenous biodiversity under the RMA.
- Opposition to requests for greater protection of waterways because freshwater management is a function of regional council.
- Support for the need for subdivisions to forbid cats and dogs and require pest control programs.
- Both support and opposition for amendment of the proposed vegetation clearance rules.

- Opposition of the blanket protection of unmarked features.

### Discussion

161. Several submissions are seeking greater protection of biodiversity. The WDP contains district wide policy direction contained within Chapters 11 Riparian and Coastal Margins, 12 Water Bodies and 17 Indigenous Vegetation and Habitat. PC85A and PC86A included discretionary activity vegetation clearance and wetland destruction rules. PC85B and C do not include similar rules due to the nature of the existing land use development and lack of vegetation. PC85D does not include similar rules because the proposed RLE locations have very limited vegetation. The proposed rules do not seek to limit vegetation clearance within any of the Rural Environments beyond that of the existing WDP (noting that proposed Coastal Area and Outstanding Natural Landscape Areas do have vegetation clearance provisions refer to separate **Parts 2 and 4** of the s42A report)

162. Submissions also state that the proposed plan changes do not give effect to the RPS. RPS Policy 4.4.1 (3) and Method 4.4.3:

#### *Policy 4.4.1 (3)*

*Outside the coastal environment and where clause (1) does not apply, avoid, remedy or mitigate adverse effects of subdivision, use and development so they are not significant on any of the following:*

*(a) Areas of predominantly indigenous vegetation;*

*(b) Habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes;*

*(c) Indigenous ecosystems and habitats that are particularly vulnerable to modification, including wetlands, dunelands, northern wet heathlands, headwater streams, floodplains and margins of freshwater bodies, spawning and nursery areas.*

#### *Method 4.4.3*

*(2) Subject to Method 4.4.3(3), within two years after the Regional Policy Statement becomes operative the district councils shall amend district plans to the extent needed to ensure the plans implement Policy 4.4.1 on land outside of the beds of rivers and lakes, wetlands, and the coastal marine area. Methods of implementation include:*

*(a) Controls on the disturbance of land and the clearance of vegetation; and*

*(b) Controls on the introduction or keeping of species with recognised pest potential.*

*(3) In implementing Policy 4.4.1 regional and district plans shall:*

*(a) Allow activities undertaken for the purposes of pest control or habitat maintenance or enhancement;*

*(b) Consider biodiversity offsets in appropriate circumstances;*

*(c) Allow the maintenance and use of existing structures including infrastructure; and*

*(d) Not unreasonably restrict the existing use of production land, including forestry.*

163. As part of the rolling review of the WDP, WDC will prepare a biodiversity plan change (PC127). This will include district wide policy direction for the protection of biodiversity. To meet its legal requirement to implement the RPS, PC127 will include mapping of and provisions specifically protecting Significant Natural Areas. WDC is progressing this plan change alongside FNDC and NRC.

164. Several submitters have requested that the plan changes increase management of pests and weeds, fencing, and introducing no cats and dogs controls. WDC readily imposes management of such matters within resource consent conditions under the WDP. The proposed plan changes seek to introduce

discretionary activities allowing scope for consenting planners to consider such matters. This consideration is reinforced by the proposed matters of control and assessment criteria.

165. Concerns raised in many of these submissions relate to activities and functions under the jurisdiction of the NRC which are managed via the RPS and Regional Plans. S30 of the RMA specifically outlines the functions of regional councils. Of particular relevance is section 30 (1)(c):

(1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:

(c) the control of the use of land for the purpose of—

(i) soil conservation:

(ii) the maintenance and enhancement of the quality of water in water bodies and coastal water:

(iii) the maintenance of the quantity of water in water bodies and coastal water:

(iii) the maintenance and enhancement of ecosystems in water bodies and coastal water:

(iv) the avoidance or mitigation of natural hazards:

(v) the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:

166. The RPS<sup>49</sup> further specifies the functions in relation to indigenous biological diversity, stating that wetlands are water bodies, and that the control of the use of land to maintain indigenous biological diversity is the responsibility of NRC. According to s75 of the RMA a district plan change must give effect to any regional policy statement. I conclude that the proposed wetland protection rules should be removed to give effect to the RPS as water bodies fall under NRC jurisdiction, I do note however that regional plans have not yet been updated to implement the RPS.

167. It is my opinion that the provisions as notified generally provide sufficient protection of indigenous vegetation, however I recommend that the RLE be amended to include a vegetation clearance rule the same as the proposed RPE for consistency until PC127 progresses and an appropriate comprehensive evaluation of provisions can be completed.

---

<sup>49</sup> RPS 2016 page 9

### Recommendation

168. I recommend that the Commissioners:

- **Reject** submission points 78/6, 183/4 and 9, 194/2 and 5 – 7, 201/2 and 3, 194/6 and 7, 200/2, 201/2, 253/29, 392/2 and 3, 508/1, 375/2, 446/3, 447/1 and 467.
- **Accept in part** submission points 190/2 and 410/70. I recommend the following changes:

RPE.2.3.4

~~The destruction of any indigenous wetland.~~

RUEE.2.3.7

~~The modification or destruction of any indigenous wetland (excluding maintenance of drains or flood ways).~~

RLE (new rule)

The destruction or clearance of an area exceeding 500m<sup>2</sup> of predominately indigenous vegetation that forms a contiguous area of 1ha or more.

## L. Transport and Transport Infrastructure

### Submission Information

169. Many submission points were made about the topic of transport and transport related infrastructure. Broadly these submission points request additional consideration of transport matters. The relief sought varies and includes:

- The protection of existing paper roads for public use<sup>50</sup>. Requiring the provisions for public access links in subdivision plans.
- The physical upgrading of Clapham Road and Sands Road and linking these roads by an appropriately formed metalled carriageway using the road reserve available<sup>51</sup>.
- That Jobe Road classification should be extended up to parcel 4918273.<sup>52</sup>
- Concern around the removal of traffic movement limitations and hope safety issues have been given consideration<sup>53</sup>.
- WDC should incorporate a clause in the RLE objectives giving them license to charge appropriate development levies for upgrading roads.<sup>54</sup>
- WDC to revisit their subdivision rules to give preference to property access by public/council maintained roading as opposed to privately maintained common accessways.<sup>55</sup>

<sup>50</sup> 25/1

<sup>51</sup> 90/2 and 101/1 and 2

<sup>52</sup> 446/1

<sup>53</sup> 183/3

<sup>54</sup> 89/2 and 3

<sup>55</sup> 90/3

- GBC requests the removal of Carter Road from the planning maps, Carter Road is a stopped road<sup>56</sup>.
- WDC reconsiders offering property owners a contribution scheme to seal Brooks Road and others like it.<sup>57</sup>
- David Murray<sup>58</sup> seeks that direct access to the road is permitted for 2 lot subdivisions instead of shared driveways and that speed limits are altered in the Crane Road area
- Northland District Health Board<sup>59</sup> states that in areas where more than 2-3 years of pine forest harvesting is planned, or there is other ongoing high volume heavy vehicle use, WDC should invest in a long-term solution i.e. road sealing. WDC should consider introducing a targeted “Forestry Roothing Rate” to address the road damage/dust generated by forestry and other heavy vehicular movements on unsealed roads of the District. This is in line with the “polluters should pay” principle affirmed by the Public Health Association of New Zealand.
- New Zealand Transport Agency (**NZTA**)<sup>60</sup> have made a comprehensive submission seeking greater clarification within the provisions to ensure that land use and transport will be integrated, particularly in regards to the impact on the State Highway and roading hierarchy. Greater clarity is sought on the implications of intensification of the rural areas, and how adverse effects will be avoided, remedied or mitigated in regards to transport and the safe and efficient functioning of the State Highway. For example, growth around the Tikipunga area will require an appropriate roading network and managed access on to the State Highway network<sup>61</sup>. There is some inconsistency between the rural chapters within the provisions as to how transport will be managed. For example, there is a specific policy within the RLE and RVE to manage the effects of potentially high traffic generating activities. However, this policy has not been carried through to the RPE or RUEE. NZTA relief sought includes:
  - Inclusion of additional objectives, policies and matters of control to encourage integration of transport modes, protect potential future extensions and manage adverse effects on the transport network.<sup>62</sup>
  - Inclusion of reference to NZTA standards within the subdivision and sign provisions.<sup>63</sup>
  - Inclusion of traffic movement rules or support for proposed traffic movement rules within each of the proposed rural Environments<sup>64</sup>.
  - WDC I&S<sup>65</sup> have made a blanket submission seeking consideration to the protection of strategic road corridors is required. It is requested that this work occur under the Transportation Plan Change. A road network plan showing existing and future road connections is required for most Rural Villages to reduce effects on the existing road network and allow for the provision and extension of reticulated services. Relief sought includes:

---

<sup>56</sup> 250/14

<sup>57</sup> 413/2

<sup>58</sup> 511/3

<sup>59</sup> 447/3

<sup>60</sup> 453/1

<sup>61</sup> Refer to Section 42A Part 11 and 12 for further discussion about RUEE and RUEE Living roading network.

<sup>62</sup> 453/2 and 3

<sup>63</sup> 453/4 and 6

<sup>64</sup> 453/11 and 453/12

<sup>65</sup> 479/2, 4, 11 and 12

- Stronger objectives and policies.
- Shared access standards defaulting to a non-complying activity status.
- Further consideration to the protection of strategic road corridors under the Transportation Plan Change.
- Submission points<sup>66</sup> raise concern with common accessways, requesting that WDC revisit their subdivision rules to give preference to property access by public/council maintained roading as opposed to privately maintained common accessways.

170. Further submissions both support<sup>67</sup> and oppose the NZTA relief sought. Hort NZ<sup>68</sup> opposes in part stating that traffic movement rules should only apply to non-rural activities in the RPE. FFNZ<sup>69</sup> supports the submission agreeing that it is important to consider the impacts that commercial mineral extraction may have on all roads. Fonterra<sup>70</sup> opposes the submission, considering that in relation to its site in Kauri the intersection with the State Highway has been upgraded to a high standard and that no further assessment is required.

### Discussion

171. Submission points<sup>71</sup> request physical construction work or prioritization of road upgrading. These requests are beyond the scope of the proposed plan changes.

172. Traffic safety is a matter that has been considered. Construction standards enforced via the Environmental Engineering Standards 2010 (**EES**) ensure design and construction of roads and access are safe. David Murray requests alteration to access standards and control of speed limits. Driveway and access formation standards are managed within the EES. Control of speed limits is beyond the control of the district plan and is a matter for road and transport agencies to manage. In my opinion it is not appropriate to address these matters in the provisions.

173. GBC requests an alteration to the planning maps stating that Carter Road has been stopped and is no longer classed as a legal road. GBC have not supplied any evidence to support this request. WDC GIS records identify Carter Road as a private access road, it is consistent with WDC mapping to label all private roads. I therefore do not consider it appropriate to amend the maps.

174. Piet Nieuwland requests that the maps be amended to extend the Jobe Road classification. Mr Nieuwland has not supplied any evidence to support this request. WDC GIS records identify Jobe Road as a local road being consistently mapped within the WDP planning maps. I therefore do not consider it appropriate to amend the maps.

175. The WDP policy Chapter 22 Road Transport contains district wide objectives and policies which I consider sufficient to address the matters raised by submitters, including the relationship between transport and land use activities, the safety and efficiency of the road transport network and future extensions and linkages.

---

<sup>66</sup>90/3, 99/1, 100/1

<sup>67</sup> X418, X453

<sup>68</sup> X418

<sup>69</sup> X617

<sup>70</sup> X268

<sup>71</sup> 25/1, 90/2, 101/2, 413/2 and 447/3

176. As part of the rolling review of the WDP a Transportation plan change (PC109), has been drafted. Notification of this plan change has been delayed due to the desire of WDP to review and update its Environmental Engineering Standards in 2017. This draft plan change will review Chapters 22 and 47 and seeks to introduce district wide provisions for transport and land use integration and update the road hierarchy mapping.
177. Submitters have raised concerns about inconsistent use of traffic movement provisions and seek improved clarity between Environments. The proposed plan changes include traffic movement provisions where it was considered appropriate to manage effects in more sensitive Environments. In other Environments the proposed plan changes manage activities without traffic movement limits. Appropriateness of traffic movement provisions proposed have been evaluated within the Section 32 Evaluation Report<sup>72</sup>. I am satisfied that the proposed provisions provide sufficient management of effects subject to changes recommended in **Parts 11 and 12** of the s42A report.
178. NZTA<sup>73</sup> submission point seeks the insertion of referenced documents. Any reference documents within the WDP must be specific documents therefore, I do not consider it appropriate to include reference to the 'relevant NZ Transport access standards'. Additionally, the NZTA requirements are separately administered from the WDP and are not necessary to include. The NZTA Bylaw is a standalone document, separate from the WDP and in my opinion it is unrealistic to expect the WDP to include reference to every document which may be relevant to applicants.
179. Submissions seeking specific relief sought with regard to particular rules have been addressed within the corresponding part of the s42A report. I concur with the recommendations made in relation to transportation.

#### Recommendation

180. I recommend that the Commissioners:

- **Reject** submission points 25/1, 90/2, 101/1 and 2, 413/2, 447/3, 183/3, 453/1 – 4, 6, 11 and 12, 479/2, 4, 11 and 12, 511/3 and 250/14 as they relate to general transport and transport infrastructure.

## **M. Network Utilities**

### Submission Information

181. WDC I&S<sup>74</sup> and FNDC<sup>75</sup> have sought clarification about the framework for network utility operations, including clarification for the provision of telecommunications or other masts as there are no provisions relating to these. The submitter notes that these are often located in rural areas and can be a source of conflict. Specific relief has not been sought by either submission point. NZTA<sup>76</sup> supports these submission points as it will assist with the efficient maintenance and operation of the transport network.

---

<sup>72</sup> Appendix A, Section 32 Evaluation Report, Part 1, paragraphs 122 – 126

<sup>73</sup> 453/6

<sup>74</sup> 479/8

<sup>75</sup> 410/28

<sup>76</sup> X718

FFNZ<sup>77</sup> opposes the FNDC submission stating that it should be recognized that network utilities have reverse sensitivity effects on RPE which need to be managed.

182. Kiwi Rail<sup>78</sup> has provided a comprehensive submission across all 10 plan changes about provision and protection of network utilities. Relief sought includes:

- Support for the direction to manage reverse sensitivity (Retain RPE1.3.2 and RPE1.3.12(e)).
- Support for recognition of significant infrastructure in the Coastal Area and Landscapes.
- Amendments sought to Landscape rules LAN.5 Table 2 to provide clarity regarding 'structures' and network utilities and buildings.

183. New Zealand Refining Company (**NZRC**)<sup>79</sup> supports LAN3.1.4.2 (4) and (5) permitting the maintenance and minor upgrading of buildings and structures associated with network utilities. The submission seeks the amendment of LAN.5 Tables 1 and 2 for consistency to allow minor upgrading of network utilities.

184. Transpower<sup>80</sup> requests amendment to the proposed Coastal Area and Landscape provisions to give effect to the National Policy Statement for Electricity Transmission. Relief sought is summarised as:

- Amend CA.1.2.1 as follows:

*Identify and protect the natural character attributes and values of the CA from inappropriate subdivision, use and development.*

- Amend CA.1.2.3 as follows:

*To identify and protect the attributes and values areas of the Coastal Area that display HNC or ONC values.*

- Add new policies to CA.1.3 as follows:

*To recognise and provide for existing transmission lines, including their operation, maintenance, upgrading and development, in the Coastal Area.*

*To ensure that new transmission lines are only located within areas of HNC or ONC where there is a functional, technical or operational need to be located in or traverse these areas, it is not practicable to locate them outside of these areas, and any significant adverse effects are outweighed by the overall benefits of the proposal.*

- Amend LAN .1.2 and LAN.1.3 to give effect to National Policy Statement on Electricity Transmission.

### Discussion

185. The WDP describes Network Utilities as including the distribution or transmission of gas, petroleum or geothermal energy, telecommunication or radio communication, electricity operation or transmission, water supply drainage or sewerage systems, road or rail, airport facilities and meteorological

---

<sup>77</sup> X612

<sup>78</sup> 429/2, and 11 – 16 -

<sup>79</sup> 444/6 – 9

<sup>80</sup> 476/2 – 4

measurement facilities. It is generally anticipated that network utility operators will utilise the designation provisions in the RMA.

186. The WDP contains specific district wide policy direction for Network Utilities within Chapter 23. NTW district wide chapter contains provisions for electricity transmission and critical electricity lines. These implement the National Policy Statement and National Environmental Standards for Electricity Transmission. The NTW chapter also contains district wide provisions providing for telecommunication masts implementing the National Environmental Standards for Telecommunication Facilities.
187. In my opinion, these chapters provide sufficient policy direction and provisions to implement national policy statements and standards and the amendments sought unnecessarily create duplication within the WDP. I disagree with Transpower, and consider that Chapters 23 and NTW apply in addition to the proposed Coastal Area and Landscape provisions. All development is subject to compliance with and assessment under all chapters of the WDP, and I consider that there are no inconsistencies between the proposed provisions and the NTW provisions.
188. The proposed provisions for the Rural Environments do not specifically refer to 'network utility activities', therefore network utilities as an activity itself would be considered a permitted activity. Network utility systems will meet the definition of building in certain circumstances:

**Building**

means any temporary or permanent, movable or immovable structure, including any place, vehicle or construction used as a place of residence or business or for assembly or storage purposes; but does not include:

- a) A network system owned or operated by a network utility operator whose purpose is to provide reticulation from a network system to and from individual properties and structures, including all structures and equipments owned or used by a network utility operator, provided that a system including any structure or equipment does not exceed 1.5m in height and has 3m<sup>2</sup> or less ground coverage; or

...

189. Therefore, network utility buildings and structures would be required to meet the relevant rules. In my opinion this affords sufficient opportunity for network utility operations while managing potential environmental effects.
190. The specific amendment sought by Kiwi Rail is due to a slight lack of clarity in the relevant rules. These currently read:

*Minor upgrading of network utilities and buildings and structures associated with public parks, reserves and community infrastructure.*

191. This can be read to address minor upgrading of network utilities and, separately, buildings and structures associated with public parks, etc. However, the intention is that the rules cover minor upgrading of both network utilities and buildings and structures associated with the specified public facilities.
192. It is suggested that, for clarification, the word 'of' be inserted so the rules will read: *Minor upgrading of network utilities and of buildings and structures....*
193. NZRC note and support the permitted activity provision for the maintenance and minor upgrading of buildings and structures associated with network utilities within ONLs (LAN.3.1.2(4) and (5)). However, the amendment sought to rules within LAN.5 Tables 1 and 2 are not for the same activity, i.e. these are for earthworks associated with the maintenance and repair of specified facilities rather than for buildings

and structures. Notwithstanding, this amendment is considered appropriate for the confined purpose of maintaining and repairing network utilities and consistent with policy LAN.1.3.17.

194. Network utilities, roading and tracks etc do not occur within coastal cave ONFs so this segment of LAN. Table 2 has been intentionally marked not applicable. I note that clarity has been recommended in this regard within **Part 2** of the s42A report and I concur with the amendments recommended.

#### Recommendation

195. I recommend that the Commissioners:

- **Reject** submission points 479/8 and 410/28
- **Accept in part** submission 429 and amend the notified rules in LAN.5 tables 1 and 2 as detailed in **Attachment 2**.
- **Accept** submission point 444/6 (relating to rules LAN.3.1.4.2 (4) and (5)).
- **Reject** submission point 444/7 (relating to permitting earthworks rule for cave ONFs in LAN.5 Table 2).
- **Accept** submission point 444/8 and /9 (relating to earthworks rules in LAN.5 Tables 1 and 2). amend the notified rules in LAN.5 tables 1 and 2 as detailed in **Attachment 2**.

## **N. General Infrastructure and Environmental Engineering Standards**

### EES Submission Information

196. Blue Moon Ltd<sup>81</sup> requests development of EES that will apply in the RLE, noting that not updating the EES and stipulating provisions that would apply to developments in a new Environment is not consistent with and does not give effect to Part 2 of the RMA.
197. Northpower Ltd<sup>82</sup> requests a review and alignment of the plan changes and EES, concerned that there are inconsistencies between the proposed rules dealing with electricity infrastructure and the referenced EES 2010. FFNZ<sup>83</sup> and Hort NZ<sup>84</sup> oppose this submission point because it should be undertaken with separate consultation and notification to submitters.
198. New Zealand Fire Service Commission(NZFSC)<sup>85</sup> seeks the retention of the references to compliance with the EES because they outline appropriate water supply and access for firefighting that is in accordance with the code of practice.

### EES Discussion

199. The EES is a technical document referenced within the WDP. This document specifies construction standards for infrastructure development. As a referenced document, WDC is required to publicly notify a plan change to alter any provisions referencing the standards. WDC is currently reviewing and updating its EES, planning to amend the referencing in the WDP in-conjunction with the Transportation Plan Change (PC109).

---

<sup>81</sup> 395/1

<sup>82</sup> 448/1

<sup>83</sup> X667

<sup>84</sup> X481

<sup>85</sup> 451/1

200. The proposed rules include cross referencing of the EES 2010 across all Environments created. I agree with submitters that clarity is required to ensure that the appropriate standards within the EES 2010 are being applied, until such time as the EES 2010 is updated. I recommend that an implementation note be inserted into the provisions.
201. Northpower has raised concern about discrepancy between the notified provisions and electricity reticulation requirements prescribed in the EES. I have undertaken a review as requested. There is a conflict between the notified rules in the RA which refer to the provision of electricity to the “net site area” and the EES 2010 requirements to the boundary of each lot. In my opinion, this issue would best be resolved by amending the notified provisions to refer to provisions of electricity supply to “within 10m of each lot ” instead of to the “net site area”. RLE 3.3.1.d.i refers to “the boundary of the site”.
202. It is my view that the recommended wording change provides the alignment that Northpower requested without compromising public participation or the outcome of the EES 2010 review. Should the outcome of the EES review be that electricity is to be supplied to the net site area, then the district plan will not need to be amended as a consequence: the net site area is always coincidental with a boundary.

EES Recommendation

203. I recommend the Commissioners **accept** submission 448/1 and **accept in part** submission points 395/1 and 451/1. I recommend to amend the notified provisions as follows:
204. Amend guidance note RA.1.4 as follows:

<u>For the purpose of determining compliance with the Environmental Engineering Standards 2010 the following standards shall apply:</u>	
<b><u>District Plan Environment</u></b>	<b><u>EES 2010 Definition</u></b>
<u>SRIE, RVIE and RVCE</u>	<u>Urban (Commercial and Industrial)</u>
<u>RVRE and RUEE allotments less than 2000m<sup>2</sup></u>	<u>Urban (Living 1)</u>
<u>RUEE allotments over 2000m<sup>2</sup></u>	<u>Urban (Living 3)</u>
<u>RLE and RPE</u>	<u>Rural (Countryside)</u>

### Amend RA 3.3.1 Discretionary Activities

...

j. In the RVRE:

i. Any allotment(s) are not provided with a connection, or easements are not provided to secure connection, to a reticulated electrical supply system at the boundary ~~of the net site area~~.

ii. The electrical supply is not underground.

k. In the RUEE any allotment(s) are not provided with a connection, or easements are not provided to secure connection, to a reticulated electrical supply system at the boundary ~~of the net site area~~.

l. In the RPE and RLE, any allotment(s) are not provided with the ability to connect, or easements are not provided to secure the ability to connect, to an electrical supply system at the boundary ~~of the net site area~~.

m. The most efficient route for electrical supply to any allotment(s) is across other allotments or other land owned by the subdivider, and easements are not provided to secure the route.

n. In the SRIE, RVCE and RVIE:

i. Any allotment(s) are not provided with a connection to a reticulated electrical supply system at the boundary ~~of the net site area~~.

ii. The electrical supply is not underground where new roads are to be formed within the subdivision or the existing electrical supply is underground.

### General Infrastructure Submission Information

205. WDC I&S<sup>86</sup> raises concerns that the objectives, policies and rules may not provide adequate recognition to the following matters:

- The need to ensure that the infrastructure required to service proposed urban development is not compromised by subdivision, use or development;
- The need for regulatory mechanisms within proposed urban expansion environments to direct the efficient provision of infrastructure in a strategic, coordinated and cohesive manner.
- The need to ensure that subdivisions do not compromise the safe and efficient operation of the local and wider transport network.
- The need to recognise that the road network not only provides for transportation, but also establishes a corridor for the placement of public infrastructure and services, and provides a framework which allows for the optimal development of the land to meet the needs of a growing population.

206. The submission recognises these issues are outside of the scope of these plan changes and therefore supports additional, and reviewed, Structure Plans as a mechanism to identify, program and deliver infrastructure through a planning exercise that bridges the requirements under the RMA 1991 and LGA 2002.

---

<sup>86</sup> 479/14

### General Infrastructure Discussion

207. I acknowledge concerns raised by WDC I&S, undertaking a rolling review of the WDP inherently results in delays in the ability to address all issues. The rural plan changes sought to rezone and introduce provisions for the RA only, and does not propose to amend the EES, Transportation provisions or Living Environment provisions. WDC I&S identify matters that will need to be addressed as part of the urban and transport plan changes. Matters of road networks, infrastructure provision and structure planning are beyond the district plan alone and require a comprehensive response from Council.
208. The submission states that 'road network plans' are required for the RVE and RLE. The submission however does not supply sufficient information to confirm what a road network plan is. The submission provides examples of locations and raises concerns about RVE locations currently zoned for residential use in the WDP. The plan changes take a very careful structured approach to the rezoning of RVE and RLE, limited development capacity has been recommended focused primarily with growth nodes. While I recognise the concerns raised by WDC I&S about the relationship between the WDP, the EES and the implementation of structure plans generally, I do not support amendments to the RVE and RLE in response to these submission points.
209. Concerns about potential transportation networks in the RUEE and proposed Living 1 and 3 Environments are addressed in **Parts 11 and 12** of the s42A report and I concur with Mr Badham's opinion.

### General Infrastructure Recommendation

210. I recommend that the Commissioners **acknowledge** submission points 479/12 and 14.

## **O. Definitions**

### Submission Information

211. Mary Wilson<sup>87</sup> supports the new definitions into the WDP for genetically modified organisms PC131. FFNZ<sup>88</sup> opposes this submission point.

### Discussion

212. The proposed plan changes do not seek to introduce new definitions for genetically modified organisms. WDC is processing proposed PC131, specifically addressing genetically modified organisms. This plan change is currently under appeal. It is my opinion that the submission point is outside of the scope of the proposed plan changes being heard.

### Recommendation

213. I recommend that the Commissioners reject submission point 70/5.

---

<sup>87</sup> 70/5

<sup>88</sup> X642

### Reverse Sensitivity Submission Information

214. Several submission points<sup>89</sup> support the proposed definition of reverse sensitivity and seek that it be retained as notified.
215. Hort NZ<sup>90</sup>, requests the amendment of the proposed definition, noting that it is different to that in the RPS, seeking consistency as follows:

Reverse sensitivity occurs when occupants of a new development (for example, a lifestyle block) complain about the effects of an existing, lawfully established activity (for example, noise or smell from industry or farming). This can have the effect of imposing economic burdens or operational limitations on the existing activity thereby reducing their viability.

### Reverse Sensitivity Discussion

216. The RPS does not specifically define reverse sensitivity. Wording proposed by Hort NZ appears to be an extract of general discussion contained within the RPS about reverse sensitivity<sup>91</sup>. In my opinion, the proposed definition as notified provides a more appropriate definition that will apply district wide. In my view the proposed definition maintains consistency with the description in the RPS.

### Reverse Sensitivity Recommendation

217. I recommend that the Commissioners:
- **Reject** submission point 423/29.
  - **Accept** submissions 240/1, 409/8, 414/18, 429/10 and 476/1.

### Sensitive Activities Submission Information

218. Egg Producers Federation of New Zealand<sup>92</sup> requests the following amendment of the proposed definition of sensitive activities because it does not go far enough, seeking:
219. Sensitive activities as follows: means, childcare and educational facilities, Residential Activity, hospitals, Health Care Facilities and Retirement Villages, Visitor Accommodation, Community Activities, Recreational Facilities and Activities, Camping Grounds, Places of Assembly, Marae and Papakainga Housing.
220. Further submissions support<sup>93</sup> this relief, with Hort NZ<sup>94</sup> noting that the definition originally linked to the NPSET definition of sensitive activities and care needs to be taken when amending.
221. Hort NZ<sup>95</sup> supports the amendments to the definition of sensitive activities as notified.

---

<sup>89</sup> 240/1, 409/8, 414/18, 429/10 and 476/1

<sup>90</sup> 423/29

<sup>91</sup> Northland Regional Policy Statement 2016, page 19 paragraph 2.

<sup>92</sup> 409/3

<sup>93</sup> X611, X344,

<sup>94</sup> X414

<sup>95</sup> 423/16

222. Sarndra Rotherham<sup>96</sup> requests the exclusion of avocado orchards from sensitive activity, and to protect the daily operation of avocado orchards to be maintained as currently.

#### Sensitive Activities Discussion

223. The WDP definition of sensitive activities was created via PC123 seeking to implement the National Policy Statement on Electricity Transmission and the National Environment Standards for Electricity Transmission. Egg Producers Federation of New Zealand seeks to amend the proposed definition to include additional activities, these activities fall within the following WDP definitions:

##### **Commercial Activity**

means the use of land and buildings for the display, offering, provision, sale or hire of goods, equipment or services, and includes shops, markets, showrooms, restaurants, take-away food bars, professional, commercial, and administration offices, service stations, motor vehicle sales, visitor accommodation, the sale of liquor and parking areas associated with any of the above.

##### **Place of Assembly**

means any land or buildings used principally for public or private assembly of people, worship, educational, recreational, social, ceremonial and spiritual activities; for meditation and functions of a community character; and includes churches, church halls, church yards and marae complex.

224. Activities within the proposed Rural Environments are very carefully managed. As notified, commercial activities are non-complying activities and places of assembly are discretionary activities in the proposed RPE, RLE and RUEE. It is my opinion that the additional activities requested by Egg Producers of New Zealand are sufficiently managed within the proposed rules and the existing definitions provided above.

#### Sensitive Activities Recommendation

225. I recommend that the Commissioners:

- **Reject** submission point 409/3.
- **Accept** submission point 423/16.

#### Land Preparation - Submission Information

226. Hort NZ<sup>97</sup> seeks amendment of the proposed definition of "land preparation" within the Landscapes Chapter because it does not adequately provide for the normal land preparation that is undertaken on horticultural properties:

##### *Land Preparation*

*Means the disturbance of the soil by machinery in preparation for planting or replanting crops or pasture grasses or trees, and includes blading, contour ploughing and ripping, ~~but does not include sod sowing, ripping with mounding or direct drilling.~~*

227. FNDC<sup>98</sup> request a definition of land preparation, stating that it is unclear what 'land preparation' is or alternatively remove 'land preparation from the proposed LAN.5 Table 1.

---

<sup>96</sup> 84/2

<sup>97</sup> 425/19 and 24

<sup>98</sup> 410/95

### Land Preparation - Discussion

228. The definition comes from the Regional Water and Soil Plan, it's associated rules to control soil erosion from such activity and other land disturbance. Notwithstanding this, under PC114 land preparation is proposed to be a permitted activity on non-coastal large landform ONFs including the Whatitiri ONF – a primary focus of the overall submission.
229. The Hort NZ submission makes clear that it is the exclusion of mounding that is of concern. During pre-consultation with horticulturalists from the area, it was agreed that the proposed definition of 'land preparation' be amended (and the previous volume limit removed) to specifically allow for such activities as:
- Ploughing or rotary soil cultivation for vegetable crops; and
  - Ridging or mounding of soil for tree crops such as avocados.
230. Such superficial land disturbance is not seen as a significant threat to large landform ONFs. The requested amendment would be consistent with this agreement.
231. In response to FNDC submission point, a definition was notified, therefore in my opinion no further clarification is required.

### Land Preparation - Recommendation

232. I recommend that the Commissioners **accept** submission points 425/19 and 24 and 410/95 and recommend the following amendments to the definition proposed in Chapter 4 Meaning of Words:

#### **Land Preparation**

Means the disturbance of the soil by machinery in preparation for planting or replanting crops or pasture grasses or trees, and includes blading, contour ploughing and ripping, ~~but does not include sod sowing, ripping with mounding or direct drilling.~~

233. I recommend that the Commissioners **reject** submission point 410/95.

### Minerals and Quarrying - Submission Information

234. GBC<sup>99</sup> requests the amendment of the proposed definition of "buffer areas" within the MIN Minerals Chapter and request a new "overburden" definition.

Overburden Area means that part of the MEA which is outside the Mining Area which facilitates the placement of overburden, rather than the full range of mineral extraction activities.

235. Minewatch Northland<sup>100</sup> request a definition of quarrying to limit the ability for hard rock toxic mining to be carried out in the District. GBC<sup>101</sup> opposes this submission point stating that the definition is unnecessary because quarrying activities are adequately dealt within in the definition of Mineral

---

<sup>99</sup> 250/54

<sup>100</sup> 365/1

<sup>101</sup> X366

Extraction Activities. FFNZ<sup>102</sup> opposes this submission point stating that the definition should not capture farm quarrying.

Minerals and Quarrying - Discussion and Recommendation

236. These submissions have been comprehensively addressed in **Part 3** of the s42A report, I concur with the recommendations of Ms Clarke.

Buildings and Crop Protection Structures - Submission Information

237. Hort NZ<sup>103</sup> has sought to clarify the definitions of “buildings”, “structures” and “farming” as it is needs to be clear that such structures are an integral part of horticultural activity and provided for separate to provisions for buildings. Relief sought includes an exclusion in the definition of buildings for crop support structures and artificial crop protection structures, and the following new definitions:

Crop support structures are open structures on which plants are grown.

Artificial Crop Protection means structures with material used to protect crops and/or enhance growth (excluding greenhouses).

Greenhouses means a totally enclosed structure where plants are grown in a controlled environment.

238. Numerous submitters<sup>104</sup> request that the definition of “buildings” in the WDP be changed to exclude artificial crop protection structures, artificial shelter and crop support structures. Reasons for this is request generally highlight that the WDP seeks to make any building site coverage limited to 20%, and not within 8m of the boundary. This restriction is neither practical nor appropriate, and could affect artificial shelters and plant protection covered structures.

Buildings and Crop Protection Structures - Discussion

239. The WDP definition of “building” includes structures over a certain size (larger than 2.2m in height and more than 9m<sup>2</sup> ground coverage). In many situations crop protection and crop support structures would need to comply with bulk and location provisions proposed for buildings. I agree with Hort NZ that clarity for crop support and artificial crop protection structures is necessary because these structures are different in use, size and bulk when compared to a building, I have recommended alternative definitions to that sought by Hort NZ to provide clarity and effective implementation.
240. Due to potential allotment sizes and density of residential development within the RLE it is my opinion that crop protection and support structures should be assessed consistently with the building bulk and location rules.
241. I disagree with the request to provide a separate definition of and exclusion for greenhouses. Bulk and location rules not only seek to maintain amenity and character, but also manage fire risk, stormwater run off etc. Commercial greenhouses can be very large. I consider that providing exemption from bulk and location rules will result in permitted baseline arguments. In my opinion, it is appropriate to introduce

---

<sup>102</sup> X650

<sup>103</sup> 423/28

<sup>104</sup> 426/7, 406/7, 344/6, 314/7, 277/7, 261/7, 260/7, 244/7, 235/7, 233/7, 219/7, 203/7, 185/7, 186/7, 191/7, 181/7

separate definitions for crop support structures and artificial crop protection structures and as a consequence introduce new provisions in the RPE.

*Buildings and Crop Protection Structures - Recommendation*

242. I recommend that the Commissioners accept in part submission points 423/28, 426/7, 406/7, 344/6, 314/7, 277/7, 261/7, 260/7, 244/7, 235/7, 233/7 219/7, 203/7, 185/7, 186/7, 191/7, 181/7. I recommend that the following changes to Chapter 4 Meaning of Words be made:

**Building**

means any temporary or permanent, movable or immovable structure, including any place, vehicle or construction used as a place of residence or business or for assembly or storage purposes; but does not include:

- a) A network system owned or operated by a network utility operator whose purpose is to provide reticulation from a network system to and from individual properties and structures, including all structures and equipments owned or used by a network utility operator, provided that a system including any structure or equipment does not exceed 1.5m in height and has 3m<sup>2</sup> or less ground coverage; or
- b) Any aerial or aerial support structure, clothesline or similar device; or
- c) Scaffolding or support work used in the course of the construction process; or
- d) A fence or wall, or combination of either, 2m or less in height and where such structures are constructed adjacent to each other a minimum separation distance of 1m shall apply; or
- e) Any tank or pool not exceeding 35,000 litres; or
- f) Any tent or marquee erected on a temporary basis; or
- g) Any temporary stack of goods or materials; or
- h) Any sign not attached to a building; or
- i) Any structure 300mm or less in height; or
- j) Any structure which is 2.2m or less in height and which has 9m<sup>2</sup> or less ground coverage- or
- k) Any artificial crop protection or support structure in the RPE.

243. Insert the following new definitions to Chapter 4 Meaning of Words:

<p><b><u>Crop support structure</u></b></p> <p><u>means open pervious, structures with the primary purpose to provide support for horticultural crops.</u></p> <p><u>Crop support structures are stand-alone unattached to any building.</u></p> <p><b><u>Artificial crop protection structures</u></b></p> <p><u>means open structures that are used to protect crops from damage:</u></p> <p>a. <u>Including:</u></p> <p>i. <u>Bird netting; and</u></p> <p>ii. <u>Wind-break netting.</u></p> <p>b. <u>Excluding:</u></p> <p>i. <u>Greenhouses.</u></p> <p>RPE.2.3 <u>Discretionary Activities – new rule</u></p> <p><u>X. Any crop support structure or artificial crop protection:</u></p> <p><u>That exceeds a maximum height of 10m.</u></p> <p><u>Within 1m of a site boundary.</u></p> <p><u>Within 27m of mean high water springs (excluding bridges, culverts and fences).</u></p> <p><u>Within 27m of the top of the bank of any river that has a width exceeding 3m (excluding bridges, culverts and fences).</u></p>
--

*Rural Production and Farming Submission Information*

244. FNDC<sup>105</sup> request that a definition for 'Rural Production' or 'Rural Production Activities' is prepared so the effects of enabled buildings in the 'Coastal Area' and ONLs or ONFs can be understood before they are given an activity status. No particular wording has been recommended. GBC<sup>106</sup> have requested that the rural chapters utilise consistent terminology for 'Rural Production' and 'Productive uses'.
245. Hort NZ<sup>107</sup> supports these submission points, but state that the matter will be resolved through the acceptance of their amendments to the proposed definition of farming.
246. Hort NZ<sup>108</sup> seeks the amendment of the proposed definition of "farming" to change the title to rural production. This relief is sought because "farming" is not used throughout the PC85 suite of changes. Rather the focus is on 'rural production.' The submitter supports the use of 'rural production' rather than 'farming' and seeks that the definition is retained as notified but the title be amended to 'rural production' and consequential changes made.
247. Whangarei Growers Market Association<sup>109</sup> seeks amendments to the proposed definition of farming:

---

<sup>105</sup> 410/3 and 410/87

<sup>106</sup> 250/2 and 8

<sup>107</sup> X415

<sup>108</sup> 423/26

<sup>109</sup> 344/5 and 7

### **Farming**

means any agricultural or horticultural activity having as its primary purpose the commercial production of any livestock or vegetative matter for human or animal consumption. The production of livestock or vegetative matter utilises the in situ production capacity of the soil, water and air as a medium for production.

Farming includes:

- (a) all types of livestock breeding, cropping, grazing, aquaculture
- (b) horticulture, including hydroponics covered cropping as in greenhouses
- (c) apiaries
- (d) normal rural practices including associated buildings and structures
- (e) crop support structures and artificial crop protection
- (f) airstrips.

Cultivation for horticultural purposes e.g. preparation for field crops, removing and replanting orchard trees and/or shelter belts, ripping of shelter belt roots.

But excludes:

- (a) Plantation forestry and intensive livestock farming.”

248. Rural Production and Farming Discussion

249. Submitters raise valid points about consistency throughout the chapters. Complication has occurred where the chapter's interchange between describing rural production generally versus particular rural production activities. In my opinion the proposed plan changes consider rural activities in a general capacity and rural production to be wider than farming as per the definition sought by relief. As such I consider that clarity is better achieved through the introduction of a new definition listing the sub-activities that are rural production.

250. As notified the proposed definition of “farming” is consistent with the Far North District Council District Plan definition of “farming”, seeking to create consistency across the region. Changes requested by Whangarei Growers Market Association include activities that are more appropriately defined as earthworks. In my opinion these changes are unnecessary as the proposed plan changes do not seek to control cultivation.

### Rural Production and Farming Recommendation

251. I recommend that the Commissioners:

- **Accept in part** submissions 410/3 and 87, 250/8
- **Reject** submissions 423/26 and 344/5 and 7.
- Make the following changes to Chapter 4 Meaning of Words:

Insert New Definition:

#### **Rural Production Activity**

Means the use of land and buildings for farming, intensive livestock farming, farm quarrying, seasonal activities and plantation forestry.

### Activities Ancillary to Farming Information

252. Hort NZ<sup>110</sup> supports the inclusion of a definition for activities ancillary to farming and forestry and provision for these activities within the WDP. Consistent with the change sought to the definition of 'farming', the references to 'farming' should be amended to 'rural production'. In addition, it needs to be clear that the activities that are classed as 'ancillary' are undertaken 'off-farm' and are separate and distinct from the growing operation and on-site packing. Amendments to the definition sought:

*Means the off farm processing and packaging facilities for rural production farming, forestry and any rural industry that is dependent primarily on the direct handling of raw produce, or that primarily supplies services to rural production farming, horticulture, or forestry. Includes premises used for the manufacture of dairy products, abattoirs, timber processing, stock yards and sale yards, cool stores and off farm pack houses and rural contractor depots.*

253. Several submitters<sup>111</sup> request that the definition be amended to ensure small owner operator packing operations can operate in the RPE.

### Activities Ancillary to Farming Discussion

254. Hort NZ have requested changes to provide clarity. I disagree with this request, in my opinion there is sufficient difference between the definitions of 'farming' and 'activities ancillary to farming' that packing of goods within a horticultural block is not within a pack house. I consider that the changes requested will create more uncertainty and the potential for the processing of goods that are not from the farm being 'off farm'.
255. I do not recommend alterations to include reference to rural production as this is inconsistent with my recommendation in response to submissions on the definition of farming.

### Activities Ancillary to Farming Recommendation

256. I recommend the Commissioners **reject** submissions 423/27, 191/6, 185/6, 186/6, 181/6, 203/6, 219/6, 233/6, 244/6, 235/6, 260/6, 261/6, 277/6, 314/6, 406/6 and 426/6.

### Strategic Rural Industries Information

257. Fonterra Limited<sup>112</sup> supports the definition of Strategic Rural Industries as notified.
258. Hort NZ<sup>113</sup> requests amendments to the definition of Strategic Rural Industries deleting: 'Strategic Rural Industries are significant at a regional or national scale rather than solely at a district level due to the area they supply, the investment in infrastructure required for the establishment of the activity or the contribution to the economy'.
259. Hort NZ is concerned that in future there could be debates as to the level of significance of important infrastructure for horticulture and whether it is a 'significant rural industry' by meeting the conditions in the definition. A definition should be clear what is classed as a strategic rural industry but the wording is

---

<sup>110</sup> 423/27 - Further submissions X080, X237, X501, X216, X119, X243, X238, X111, X235, X204 and X236 all support submission 423 in its entirety. Further submission X615 supports this submission point.

<sup>111</sup> 191/6, 185/6, 186/6, 181/6, 203/6, 219/6, 233/6, 244/6, 235/6, 260/6, 261/6, 277/6, 314/6, 406/6 and 426/6

<sup>112</sup> 414/19

<sup>113</sup> 423/30

such that there is discretion and uncertainty. Such matters should be included in the relevant policy provisions not the definition.

#### Strategic Rural Industries Discussion

260. Amendments sought by Hort NZ are a continuation of similar submission points requesting a change in the direction to the application of SRIE generally (refer to **Part 8** of the s42A report). I concur with Mr Badham in his response to these submission points, agreeing that the importance of infrastructure being 'regionally significant'. In my opinion it is appropriate to limit the application of the definition to ensure that strategic rural industries may sprawl into other rural Environments, resulting in an outcome that is inconsistent with the SRIE objectives and policies.

#### Strategic Rural Industries Recommendation

261. I recommend the Commissioners:

- **Accept** submission 414/19.
- **Reject** submission 423/30.

#### Rural Centre Service Activity Information

262. Hort NZ<sup>114</sup> requests amendments to the definition of "rural centre service activity" to rename it to 'rural service activity' and amending the definition as follows:

#### Rural Centre Service Activity

*Means ~~the use of land and/or buildings/structures for a mix of commercial and~~ the purpose of providing a service directly related to servicing rural production activities. ~~activities including the sale or hire of goods, equipment or services, automotive service and repair, including post boxes, service stations, shops, markets and takeaways.~~*

263. FFNZ supports in part this submission point, agreeing that rural support services should be provided for in the WDP that are not linked to rural villages.

#### Rural Centre Service Activity Discussion

264. I disagree with this submission. For reasons outlined in **Part 9** of the s42A report, commercial and industrial activities have been carefully managed in the RPE. Changes sought within this submission completely change the context of the definition and its potential implementation. For this reason, I do not recommend changes to the definition.

#### Rural Centre Service Activity Recommendation

265. I recommend that the Commissioners **reject** submission 423/21.

#### Rural Character Information

266. Hort NZ<sup>115</sup> supports providing for a range of rural Environments with differing expectations. The submitter states that it needs to be clear what is anticipated when 'rural character' is referred to. This is

---

<sup>114</sup> 423/21

<sup>115</sup> 423/3

particularly important in terms of assessing applications for new activities in the RPE, as it should be clear the context in which they seek to locate to ensure that they are not inconsistent with that character. This submitter seeks the addition of a new definition for 'rural character' as follows:

Rural Character includes the following elements:

a) High ratio of open space relative to the built environment;

b) Significant areas of vegetation in pasture, crops, forestry and/or indigenous vegetation;

c) A rural working production environment, including buildings and structures to support such production;

d) Presence of farmed animals;

e) Noises, smells and effects associated with the use of rural land for a wide range of agricultural, horticultural and forestry purposes;

f) Low population densities relative to urban areas;

g) Existence of some narrow and/or unsealed roads;

h) General lack of urban infrastructure.

267. GBC<sup>116</sup> opposes this submission because the requested definition fails to recognise the commercial and industrial elements and effects that arise from rural industries.

Rural Character Discussion

268. Hort NZ have made several submission points about rural character and amenity, further discussed in **Part 7** of the s42A report. Hort NZ has supported the approach of having different Rural Environments, with differing expectations and outcomes, however the submitter has requested a definition of "rural character" only as it applies to the RPE. Each proposed rural Environment recognises that the amenity and character of locations within the Rural Area are different. Each Environment chapter contains a proposed policy which describes the rural character relative to that Environment: RPE.1.3.7, RVE.1.3.3, RLE.1.3.1 and RUEE.1.3.2. In my opinion the combination of Description and Expectations, Objectives and Policies for the proposed Environments is sufficient to provide certainty about rural character. To my mind the introduction of a generic rural character definition is not an effective method. Rural Character and amenity values are inherently subjective and will mean different things to different people. In my opinion, any definition, including that proposed would not be able to comprehensively incorporate all the elements that make up rural character.

Rural Character Recommendation

269. I recommend the Commissioners reject submission point 423/3.

Home Occupation Information

270. Jo Woollacott<sup>117</sup> requests the amendment of the definition of Home Occupation with respect to operation of machinery, receiving customers or the loading or unloading of vehicles, and the activity

---

<sup>116</sup> X346

<sup>117</sup> 482/2

does not receive customers before 8am or after 8pm on any day. The storage of materials and extending the hours for reception of customers would maintain the ability of Home Occupations to be available for extended hours. This can be possible while maintaining amenity by limiting the total traffic movements per site per day.

#### Home Occupation Discussion

271. The definition of “home occupation” applies district wide. Any alteration to the hours of operation within the definition would have a greater implication than applying solely to the Rural Environments. For instance, in a residential or rural residential environment, allotment sizes are smaller and activities are in closer proximity, increasing the potential risk of cross boundary effects. The definition of home occupation expects the occupation activity to not have effects different from those of other permitted activities. I do not consider it is appropriate to extend the hours of operation for home occupation activities that may occur in residential environments.

#### Home Occupation Recommendation

272. I recommend that the Commissioners reject submission 453/21.

#### Network Utilities, Infrastructure Information

273. NZTA<sup>118</sup> seeks the addition of a definition for network utilities.
274. Radio New Zealand Ltd (**Radio NZ**)<sup>119</sup> seeks the addition of definitions for “infrastructure”, “network utilities” and “telecommunications” as follows:

#### Infrastructure

Means water mains, sewerage mains, pump stations and reservoirs, electricity networks and sub-stations, telecommunications networks and facilities, the strategic road network, other roads, rail and bulk storage fuel facilities and associated pipelines, but does not include services from the street to residential units.

#### Network Utilities

Means the systems, services, structures and networks necessary for operating and supplying essential utilities and services to the community, including but not limited to:

- Transformers, lines and necessary and incidental structures and equipment for the transmission and distribution of electricity.
- Pipes and necessary incidental structures and equipment for transmitting and distributing gas;
- Storage facilities, pipes and necessary incidental structures and equipment for the supply and drainage of water or sewage.
- Water and irrigation races, drains, channels, pipes and necessary incidental structures and equipment (including water tanks);
- Structures, facilities, plant and equipment for the treatment of water;
- Structures facilities, plant, equipment and associated works for receiving and transmitting telecommunications and radiocommunications;
- Structures, facilities, plant, equipment and associated works for monitoring and observation of meteorological activities and natural hazards;
- Structures, facilities, plant, equipment and associated works for the protection of the community from natural hazards.
- Structures, facilities, plant and equipment necessary for navigation by water or air;
- Waste management facilities;

---

<sup>118</sup> 453/21

<sup>119</sup> 462/4

- Anything described as a network utility operation in s166 of the Resource Management Act 1991.

Network utility does not include structures or facilities used for electricity generation the manufacture and storage of gas, or the treatment of sewage.

#### Telecommunication facilities

Includes transmitting/receiving devices such as aerials, dishes, antenna, wires, insulators, easing, tunnels and associated equipment as well as support structures such as towers, masts and poles and ancillary equipment buildings, used for the transmitting, emission or receiving of communications. For the avoidance of doubt, also includes radiocommunication facilities.

#### Network Utilities, Infrastructure Discussion

275. The WDP Chapter 4 Meaning of Words includes definitions of “network utility operator” and “telecommunication” activities. Any amendment of these definitions or introduction of a new definition for infrastructure will have wider implications than application to the proposed plan changes and are therefore in my opinion out of scope. I do not recommend any changes to these definitions without detailed section 32 evaluation and public notification of a proposed plan change.

#### Network Utilities, Infrastructure Recommendation

276. I recommend that the Commissioners **reject** submissions 453/21 and 462/4.

## **P. Strategic Direction**

### Submission Information

277. Landowners Coalition<sup>120</sup> and Dennis Scott<sup>121</sup> seek a complete review of the strategic direction of the rural plan changes. Dennis Scott opposes PC85A requesting that Council reconsider the merge of Countryside and Countryside Living Environments into a single RPE as this will potentially be at the expense of already existing and established more appropriate land-use management regimens that populate the countryside area e.g. people, new emerging communities, conservation practices and associated ecosystem service delivery functions. Does not achieve the purpose of the RMA.
278. Hort NZ<sup>122</sup> support 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 has sought that some RLE areas be reviewed to ensure that high value production is not located in RLE.
279. FFNZ<sup>123</sup> opposes the relief sought by Hort NZ, considering that the framework generally strikes an appropriate balance between protecting the RPE and providing for future urban expansion.
280. Department of Conservation (**DoC**)<sup>124</sup> opposes 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.

---

<sup>120</sup> 431/1 – 6

<sup>121</sup> 195/1 – 4

<sup>122</sup> X408

<sup>123</sup> X622

<sup>124</sup> X546

281. Te Reo Hau<sup>125</sup> request 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.
282. FFNZ<sup>126</sup> 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.
283. Hort NZ<sup>127</sup> request 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 supports 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.

### Discussion

284. These submitters have opposed the strategic approach to the rural plan changes. As outlined previously the rural plan changes give effect to the strategic direction of 30/50 and the Rural Development Strategy. Options for zoning have been evaluated within the s32 report prior to notification. It is my opinion that the amendments sought by submitters would completely change the outcomes of the proposed plan changes with little evidence provided or further s32 evaluation to support their alternative approach. I concur with the s32 evaluation (**Appendix A**) and do not recommend amendments in response to these submissions.
285. Sites of Significance to Māori are identified within the WDP as a Resource Area. WDC is working with hapu to review the WDP provisions including the identification of Sites of Significance to Māori as draft Plan Change 100. There is opportunity within Plan Change 100 to consider the incentivization of subdivision to protect a Site of Significance. In my opinion 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.
286. FFNZ have requested that the plan changes recognise and address RPS Policy 5.1.1(f). In my opinion the package of plan changes appropriate 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 RPE 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 RPE and RA.

---

<sup>125</sup> 80/1 and 2

<sup>126</sup> 253/27

<sup>127</sup> 423/35 - 38

287. Hort NZ have requested specific amendments to the WDP, district wide Chapter 6 Built Form and Development. Amendments to Chapter 6 have been considered within the s32 report, I concur with the conclusions and do not support the relief sought. I respond to each amendment requested as follows:

- 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. In my opinion 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 my discussion above the plan changes work together to protect productive land. In my opinion the rural plan changes provide sufficient policy direction.
- Policy 6.4.2.iii Consolidated Development, is seeking to consolidate urban development, in my opinion that the rural plan changes provide strong direction with regard to the direction of urban development.

#### Recommendation

288. I recommend that the Commissioners reject submissions 80/1 and 2 195/1 – 4, 423/35-38 and 431/1 – 6.

### **Q. General Landscape, Ridgeline Protection and Amenity**

#### Submission Information

289. Tutukaka Coast Ratepayers & Residency Association<sup>128</sup> states WDC have allowed houses to be built on ridgelines. We need stringent rules in place to prevent this happening and we need to have the confidence that WDC staff are following and applying these rules.

290. Kim Abbott<sup>129</sup> requests that living spaces should have minimum distances and should not face into existing properties. Where unavoidable, other alternatives i.e. frosting of windows, screening should be initiated.

291. Walker QOTF Trust<sup>130</sup>, Lynette Coleclough<sup>131</sup>, Justin Nops<sup>132</sup> and Margaret Hicks<sup>133</sup> seek amendment to the RPE provisions to include a provisions preserving prominent ridgelines by preventing new buildings from visibly rising above.

#### Discussion

292. The proposed rules seek to manage the bulk and location within every proposed Environment and Resource Area at a scale that is appropriate to the level of protection necessary to avoid adverse environmental effects. The proposed Coastal Area and Landscapes Resource Areas have rules avoiding buildings on ridgelines. In my opinion, these rules are sufficient to provide protection.

---

<sup>128</sup> 375/1 and 2

<sup>129</sup> 392/1

<sup>130</sup> 477/3

<sup>131</sup> 506/2

<sup>132</sup> 538/1

<sup>133</sup> 517/10

293. Matters raised by Ms Abbott appear to be more relevant in a residential environment. The proposed Environment provisions all have bulk and location provisions for buildings to ensure adequate separation and living areas.

#### Recommendation

294. I recommend that the Commissioners **reject** submission points 375/1 and 2, 477/3, 517/10 and 392/1.

## **R. Relocatable Buildings**

### Submission Information

295. Raewyn Taylor-Silva<sup>134</sup> raises concerns with regard to relocatable buildings and rural amenity seeking that new rules for relocated buildings be introduced to protect rural and village amenity. Example rules from the Waikato District Council have been provided. The submitter requests the following specific amendments to policies RVE.1.3.7 and RLE 1.3.8:

RVE.1.3.7

*“To maintain amenity in the Rural Village Centre Sub-Environment by ensuring that all new and relocated buildings are....”*

RLE.1.3.8

*“To maintain rural amenity, privacy, open space and rural character by ensuring that all new and relocated buildings and rural land uses....”*

### Relocatable Buildings - Discussion

296. Read in the context of the full suite of policies and provisions for the RVE and RLE, “new buildings” means that the buildings are part of development that is new to the RVE or RLE., i.e. the building is new to the RVE or RLE rather than new in age. Policies RVE.1.3.7 and RLE.1.3.8 apply equally to all buildings that are introduced to the RVE or RLE (as do all other building controls). In this respect I consider that the relief sought will be achieved; however, no amendments are recommended as a result of the submission.

### Relocatable Buildings - Recommendation

297. I recommend that the Commissioners **reject** submission points 474/1 – 3.

## **S. Miscellaneous**

### Submission Information

298. Various submitters have raised matters beyond the scope of the plan changes.

299. Northland District Health Board<sup>135</sup> suggests that Council adopt the principle of “primacy of drinking water” i.e. that drinking water requirements prioritized above all other uses of water.

---

<sup>134</sup> 474/1 – 3

<sup>135</sup> 447/4

300. Margaret Hicks<sup>136</sup> requests that low density housing should be a prohibited activity in ecologically sensitive areas. Further stating that the Ruakaka Race Course PC113 and the two future living areas are not suitable for residential development.
301. Tutukaka Coast Ratepayers and Residency Association<sup>137</sup> request that WDC invest required amount of money to achieve their relief sought within their comprehensive submission.
302. Kevin and Pamela Gillespie<sup>138</sup> request that WDC include new criteria in the rating system and that rating assessment should take into account classification.

#### Discussion

303. In my opinion the relief sought by Northland District Health Board goes beyond the scope of the plan changes. Potable water supply is required to be established for development in accordance with the EES.
304. Ruakaka Race Course as recently been rezoned Ruakaka Equine Environment providing for a mix of housing and commercial development around the existing race course. The WDP identifies areas of Future Living Environments around Ruakaka. Neither of these zones have been considered as part of the notified plan changes, it is my opinion that this submission is outside of the plan change scope.
305. Funding of WDC operations, project work or plan change implementation is a matter outside the scope of the plan change consideration financial matters are addressed via the Long Term Plan and Annual Plan processes.
306. The setting of rates and the classification of the rating is outside the scope of the plan changes.
307. In my opinion the notified plan changes do not apply to the urban area, therefore any relief sought by GBC in relation to the UTE is outside the scope of these plan changes.

#### Recommendation

308. I recommend that the Commissioners **reject** submission points 375/3, 447/4, 417/1 and 517/9.

## **T. Hazardous Substances**

#### Submission Information

309. Fonterra<sup>139</sup> seek an amendment to the Hazardous Substances rules in the WDP, adding a note to A8.3 Hazardous Facilities as follows:

*The Kauri Milk Processing Plant is exempt from all Hazardous Substances provisions.*

310. FFNZ<sup>140</sup> requests that RA.2.1.1 be deleted as it is not necessary to manage radioactive materials in the RA.

---

<sup>136</sup> 517/9

<sup>137</sup> 375/3

<sup>138</sup> 417/1

<sup>139</sup> 414/25

<sup>140</sup> 253/4

311. FFNZ<sup>141</sup> requests amendments to either RA.2.3.1(a) and/or Appendix 8 of the WDP to clarify that agricultural use and storage of fuel, fertiliser and agrichemicals are permitted activities in the RA.
312. Hort NZ142 requests that a review of hazardous substance provisions in the WDP be undertaken and that a provision is included in RA.2.1 to provide for the storage and use of fertiliser on farms as a permitted activity.

### Discussion

313. I do not support deleting RA.2.1.1 for the following reasons:
- RA.2.1.1 maintains consistency with the WDP provisions.
  - There are potential risks associated with allowing radioactive material and a safer approach to avoid risks is to retain RA.2.1.1.
  - There is not an identified need to allow for radioactive material in the RA.
314. The rural plan changes have not sought to review the District wide performance standards for hazardous substances and instead 'roll over' the WDP controls through reference to these controls in RA.2.1. Plan Change 91 (**PC91**) currently being advanced by WDC is considering the control of hazardous substances in the WDP at a District wide level. PC91 is considering the appropriateness of provision for rural activities to use and store hazardous substances. Until such a time that PC 91 is notified for public submission the WDP provisions apply. The WDP provides for:
315. The use and storage of fuel, of up to 1000 litres of petrol and 5000 litres of diesel, for use on-site for farming, forestry or horticultural operations, provided that these facilities are at least 30.0m away from other storage facilities for hazardous substances, and that suitable measures are provided to prevent any spills to water courses or water bodies, or to ground or groundwater.
316. Application of agri-chemicals in a farming, forestry or horticulture situation, provided that NZS 8409:1999 Code of Practice for the Management of Agrichemicals (or a more recent edition) and any applicable regional policies and rules are adhered to;
317. All other use or storage of hazardous substances (such as fertiliser) is subject to consideration under effects group ratios set out in Appendix 8c and the related permitted standards. Where the storage of fertilizer or agrichemicals complies with the effects ratio under the Hazardous Facilities Screening Procedure applicable for the Environment then it will be a permitted activity. I do not support the revision of this control as a component of the rural plan changes, as I consider this is more appropriately considered under PC91 which will enable wider public participation and views to be expressed in relation to this issue.

### Recommendation

318. I recommend that the Commissioners **reject** submission points 253/2 and 4, 414/25 and 423/7.

---

<sup>141</sup> 253/5

<sup>142</sup> 423/7

## 9.0 Conclusions and Recommendations

319. After carefully considering the submissions and further submissions received in relation to each topic, I recommend that the plan changes be amended to the extent detailed in the preceding sections of this report and as illustrated in **Attachments 2**. I further recommend that those submissions and further submissions that request the recommended changes be accepted in whole or in part, and that all other submissions be declined.
320. The revised provisions [**Part 1** of the s42A Report **Attachment 2**] have been detailed and compared above against viable alternatives in terms of their costs, benefits, efficiency and effectiveness and risk in accordance with the relevant clauses of s32AA. Overall, it is considered that the revised provisions represent the most efficient and effective means of achieving the RMA and the plan changes.

### AUTHOR

A handwritten signature in black ink, appearing to read 'm. mcgrath', with a long horizontal flourish extending to the right.

Melissa McGrath  
Team Leader, District Plan