

Part 7
**Proposed Plan Change 85A – Rural
Production Environment**

Section 42A Hearing Report

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1.0 Introduction

1. This is Part 7 of the section 42A (**s42A**) evaluation report. This part should be read in conjunction with the other Parts 1 – 12. The evaluation of general topics is contained within Part 1. The evaluation of Rural Area (RA) topics is contained within Part 5.
2. This report has been prepared in accordance with s42A of the Resource Management Act 1991 (**RMA**) and forms the Hearing Report for the Whangarei District Council's (**WDC**) Proposed Plan Change 85A Rural Production Environment (**PC85A**). This report provides consideration of the proposed provisions, recommendations in relation to submissions and, where appropriate, the report cross-references the Section 32 Evaluation, 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.
6. The opinions expressed in this report are based on my qualifications and experience, and are within my area of expertise. Where I rely on the evidence or opinions of another, the report acknowledges that. 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.
7. A comprehensive description of the background to PC85A, a chronology of events relevant to the proceedings of PC85A and overview of the Rolling Review process and statutory considerations is included in **Part 1** of the s42A report. I concur with the recommendations within section 5 of **Part 1** of the s42A report.

2.0 Description of Plan Change as Notified

8. PC85A – Rural Production Environment (**RPE**) seeks to introduce a new Environment (zone) into the Whangarei District Plan (**WDP**). The RPE proposes to replace the existing Coastal Countryside Environment (**CCE**) and Countryside Environment (**CE**) and includes:
 - New RPE chapter with objectives, policies and rules for the Environment, including land use and subdivision provisions.
 - Changes to the WDP Environment maps to denote the RPE.
 - Consequential changes to the WDP including the deletion of Chapters 38 CE and CCE Environment (land use) Rules and 73 Subdivision Rules – CE and CCE.
9. The proposed plan change text notified is included in **Part 1** of the s42A report **Attachment 2E** and is summarised as follows:
 - RPE.1.1 Description and Expectations: provides a brief introduction explaining the context and the reasons for the RPE zone and its provisions. The RPE is proposed across the Rural Area of the district with rural characteristics.
 - RPE.1.2 Objectives and RPE.1.3 Policies: 7 objectives and 13 policies are proposed for the RPE.
 - RPE.1.4 Guidance Note: this provision as proposed provides guidance for resource consent applications in the RPE and specifies what objectives and policies shall be assessed.
 - RPE.2.1 Landuse Eligibility Rules: this rule clarifies the activity status for any activity not requiring resource consent as a discretionary activity. Commercial, industrial and mineral extraction activities are proposed to be non-complying activities. All other activities not specified as discretionary activities are proposed as permitted activities.
 - RPE.2.2 Landuse Notification Rules: it is proposed that all activities are subject to the normal notification tests of the RMA.
 - RPE.2.3 Land Use Discretionary Activities: these provisions propose discretionary activity land use requirements for the RPE. The land use requirements are generally permissive in regard to rural production development. Bulk and location controls are included to maintain rural character and amenity values within the zone. This section also specifies setbacks for sensitive activities from potentially nuisance activities to manage reverse sensitivity effects. The rules also provide for places of assembly as a discretionary activity.
 - RPE.3.1 Subdivision Discretionary Activities: it is proposed that all subdivision within the RPE is limited with a minimum lot size of 20ha as a controlled activity, boundary adjustment and subdivision around existing lawfully established residential units as a discretionary activity and all other subdivision non-complying.
 - Mapping: proposed changes to the WDP Environment maps to denote the RPE and delete the relevant Scheduled Activity maps which previously applied to the existing activities.

10. A comprehensive description of the background to PC85A is included in **Part 3** of the s32 Evaluation.

3.0 Purpose of Report

11. This report considers submissions received in relation to PC85A. It has been prepared in accordance with s42A of the RMA to assist the Commissioners with deliberations on submissions and further submissions in respect of PC85A.
12. The report includes recommendations to the Commissioners to accept, accept in part or decline 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.
13. 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 amendments arising out of submissions and any other relevant matters it considered relating to matters raised in submissions.

4.0 Structure of the Report

14. The report has been structured to provide an assessment of the submissions and further submissions received by WDC, arriving at a recommendation to the Hearing Commissioners.
15. All submissions received have been categorised based on which plan change they are most applicable to. Several submissions have been assessed in **Part 1** of the s42A report as they either address broad topics or relate to multiple plan changes.
16. Submission points have been grouped thematically as per the topic identified in the summary of submissions [see Summary of submissions by topic]¹. Submissions were made on general issues regarding PC85A and also on specific provisions. Submissions on general issues are addressed first followed by submissions on specific provisions. As some submissions relate to multiple topics, cross references are included to the discussion and recommendation sections of other topics. Topic headings are as follows:
 - A. Reverse Sensitivity
 - B. Amenity, Character, Landscapes
 - C. Rural Productivity

¹ See **Part 1** of the s42 report Attachment 1

- D. Residential Density Land Use Rules
- E. Traffic Movements Land Use Rules
- F. Bulk and Location Land Use Rules
- G. Emergency Services Land Use Rules
- H. Activities Ancillary to Farming and Forestry
- I. Commercial and Industrial Activities
- J. Submission 195 Dennis Scott
- K. Quarrying and Mineral Extraction Land Use Rules
- L. Subdivision and Fragmentation
- M. Minor Amendments
- N. General Support
- O. General Opposition
- P. Consequential Changes

17. While all submitters have been acknowledged in the submission tracking spreadsheet², 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.
18. Responses have not been written for all further submission for the following reasons. 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.
19. Where further submissions present additional evidence these have been dealt with within the report where the primary submission point has been addressed.
20. Any recommended amendments to the notified text as a result of submissions are attached to this report [see **Part 1** of the s42A report, **Attachment 2E**]. Any recommended additions to the notified text are shown as underlined and deletions as strike-through.
21. 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.

² **Part 1** of the s42A report, Attachment 1

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

5.0 Consideration of Submissions

A. Reverse Sensitivity

Description and Expectations Submission Information

22. GBC Winstone (**GBC**)³ and Federated Farmers New Zealand (**FFNZ**)⁴ made submissions about the topic of reverse sensitivity, generally supporting the intention of the Description and Expectations and seeking alterations to the notified text.

23. GBC request that RPE1.1 paragraph 3 be amended as follows:

...where the RPE interfaces with sensitive activities including habitable buildings in other Rural Environments and the Living, Business...

24. Federated Farmers New Zealand (**FFNZ**) request that RPE1.1 paragraph 5 be amended as follows:

...traffic generation, and loss of amenity including privacy, rural outlook, spaciousness and quietness particularly when a new and incompatible activity is located near an existing activity, with resulting conflicts.

Description and Expectations - Discussion

25. Relief sought by submitters simply seeks to provide further clarification regarding reverse sensitivity and incompatible land use activities. It is my opinion that the amendments sought are consistent with the general approach to reverse sensitivity and the proposed sensitive activities setbacks. It is my opinion however that the amendment requested by GBC is a duplication of existing description within the Description and Expectations.

26. The amendments intend to provide clarity about incompatible land use and reverse sensitivity effects. Two reasonably practicable options have been identified for the proposed change:

- **Option 1: Notified Provisions – Appendix B of Part 1 of the s42A report**
- **Option 2: Revised Provisions – Attachment 2E of Part 1 of the s42A report**

27. Option 1 is no longer considered the most efficient and effective option. Within RPE.1.1, no statement is made regarding the fact that sensitive activities and habitable buildings within surrounding Environments may pose reverse sensitivity issues for rural production activities in the RPE. Managing reverse sensitivity effects is a key intention of this package of plan changes and has been highlighted as a significant concern through submissions across all of the plan changes. In my opinion it is important that this aspect is acknowledged within the Description and Expectations.

³ 250/7 250

⁴ 253/7 and 8

28. Option 2 is the most efficient and effective option. The recommended amendment to RPE.1.1 provides important details in establishing what and where the RPE is and what potential issues exist in the Environment. In my opinion the amendments will provide further clarification to plan users and acknowledge the potential for reverse sensitivity effects and the need to manage them.
29. There is minimal impact on economic growth and employment opportunities arising from the options for this component of PC85A as the changes proposed are to the Description and Expectation section.
30. Option 2 is considered to be the most efficient and effective method to achieve the purpose of PC85A. There is no known risk due to insufficient information.

Description and Expectations - Recommendation

31. I recommend that the Commissioners **accept** submission points 250/7, 253/7 and 8 and that the notified provisions be amended as follows:

RPE1.1 DESCRIPTION AND EXPECTATIONS

...

Conflicting land use and reverse sensitivity effects must be carefully managed where the RPE interfaces with sensitive activities including habitable buildings in other Rural Environments and Living Environments, and with Business and Industrial Environments. Where the RPE is traversed by existing major infrastructure services land use conflicts must be managed...

...

The RPE will not support an increased level of rural living development. Consistent with a consolidated pattern of development residential, rural residential and rural living activities should be contained in identified rural villages, the Rural (Urban Expansion) Environment or the Rural Living Environment to protect the productivity of the RPE. Urban type of development can erode the viability of rural productivity and can create reverse sensitivity impacts on productive uses through the visual effect of large scale buildings and ancillary structures, increased traffic generation, and loss of amenity including privacy, rural outlook, spaciousness, and quietness, particularly when a new and incompatible activity is located near an existing activity, with resulting conflicts.

Objectives - Submission Information

32. Summerland Estates Ltd⁵ seeks an amendment to objective RPE.1.2.3 to add the words “remedy or mitigate”. Horticulture New Zealand (**Hort NZ**)⁶ have opposed this submission point, because it is difficult to remedy or mitigate the effects of rural living land use and development so an objective of ‘avoid’ is appropriate.

Objectives - Discussion

33. WDC has taken a considered tiered approach to the drafting of objectives and policies, extending down from District Wide, to Rural Area (**RA**) and finally Environment policy direction. Policy

⁵ 96/10

⁶ X424

direction is more targeted and language stronger at the lowest level of Environments. In my opinion it is essential that the wording at an Environment level remains directive.

34. I agree with Hort NZ that it is challenging to remedy or mitigate effects of rural living land use on established activities. The plan changes however also take a strong approach to directing development types to appropriate locations, rural living is specifically provided for in the RLE. In my opinion amending objective RPE.1.2.3 to include 'remedy or mitigate' will create uncertainty in implementation and remove the directive nature of the objective wording. The appropriateness of proposed RPE objectives have been evaluated within the **Part 4**; Section 32 report in pages 8 – 12. I concur with the Section 32 report that objective RPE.1.2.3 is appropriate to achieve the purpose of the RMA.

Objectives - Recommendation

35. I recommend that the Commissioners **reject** submission point 96/10.

Policy RPE1.3.2 - Submission Information

36. GBC⁷ requests the alteration of policy RPE.1.3.2 as follows:

To manage reverse sensitivity effects by avoiding the establishment of sensitive activities within close proximity to Mineral Extraction Areas, strategic rural industries, intensive farming activities or other activities that are legally established ~~where adverse effects are not contained within site boundaries.~~

37. FFNZ⁸ opposes this submission point because it considers that the current focus on discouraging further commercial and industrial activities and rural living development in the RPE is appropriate given the reverse sensitivity effects these activities have.
38. Far North District Council (**FND**C)⁹ requests the amendment of RPE.1.3.2 to be consistent with terminology used in the RMA. The word "legally" should be replaced with lawfully to be consistent with s10 of the RMA.
39. Hort NZ¹⁰ seeks the following amendment to RPE.1.3.2:

To manage reverse sensitivity effects by avoiding the establishment of sensitive activities within close proximity to Mineral Extraction Areas, strategic rural industries, ~~intensive farming activities~~ intensive livestock farming or other rural activities that are legally established where adverse effects are not contained within site boundaries.

Policy RPE.1.3.2 - Discussion

40. Policy RPE.1.3.2 has been proposed to directly link to objective RPE.1.2.3 and sensitive activity setback rules applying to SRIE, MEA and the Business 4 Environment. RLE and RUEE propose sensitive activity setbacks from RPE to recognise the importance of rural production activities and the potential reverse sensitivity risks. The changes requested to RPE.1.2.3 provide clarification

⁷ 250/9

⁸ X624

⁹ 410/34

¹⁰ 423/13

of activities. In my opinion these changes do not alter the intent or outcome of the policy, but improve the efficiency and effectiveness in terms of achieving the objectives.

Policy RPE.1.3.2 - Recommendation

41. I recommend that the Commissioners **accept** submission points 250/9, 410/34, 423/13 and 253/13.

RPE.1.3.2 POLICIES

To manage reverse sensitivity effects by avoiding the establishment of sensitive activities within close proximity to Mineral Extraction Areas, strategic rural industries, ~~intensive farming activities~~ intensive livestock farming or other rural production activities that are ~~legally-lawfully~~ established ~~where adverse effects are not contained within site boundaries.~~

Policy RPE.1.3.3 - Submission Information

42. FFNZ¹¹ submits that RPE.1.3.3 be amended as follows:

To reduce the potential of exposure to noise, dust and health risks by requiring a minimum separation for residential units from unsealed roads as appropriate.

43. Trevor Shaw¹² seeks amendment of policy RPE.1.3.3 because it is an unreasonable policy without rules that specify the setback distance. The policy is moving further away from 'affordable housing'. There will be additional costs associated with forming and maintaining longer access and increased costs associated with reticulating electricity, water, broadband and other services.

Policy RPE.1.3.3 - Discussion

44. Affordable housing is an issue faced by Whangarei District. WDC has adopted the strategic direction of focusing urban growth to larger urban areas of Whangarei City, Ruakaka and growth villages to ensure efficiency of infrastructure services, thus in my opinion seeking to provide affordable housing options.
45. The RPE contains significant amounts of unsealed roads. Strategic forestry routes flow through the RPE, not only from forestry within Whangarei District, but also from neighboring districts Far North and Kaipara. This productive activity is important to the economy of the Northland Region and it is my opinion that the potential health risk posed by dust nuisance warrants a residential setback from unsealed roads.

Policy RPE.1.3.3 - Recommendation

46. I recommend that the Commissioners **reject** submission points 469/2 and 253/13.

¹¹ 253/13

¹² 469/2

Sensitive Activity Setbacks RPE.2.3.1 - Submission Information

47. New Zealand Pork (**NZ Pork**)¹³ request that RPE.2.3.1(d) (a sensitive activity within 250m of an existing intensive farming activity) should be a Non-Complying activity.
48. FFNZ¹⁴ seeks the deletion of RPE.2.3.1(b) stating that enough flexibility should be in the rules to allow the management response to be matched with the adverse effects. The simplest way to do this may be to add a qualifying phrase to the objective.
49. Fonterra Limited (Fonterra)¹⁵ requests the amendment of rule RPE.2.3.1. The WDP provides different definitions for "sensitive activity" and "noise sensitive activity". Fonterra considers that both should be captured by RPE.2.3.1, to ensure "noise sensitivity activities" are also appropriately controlled.
50. Hort NZ supports RPE.2.3.1, however there also needs to be a setback from existing lawfully established rural production activities within the RPE, by amending:
- RPE.2.3.1 by adding: e) 30 metres from existing lawfully established rural production activities on separate site.
 - RPE.2.3.1(d)(i) to refer to 'intensive livestock farming' activities.
 - RPE 2.3.7 to include a setback for places of assembly of 30 metres from existing lawfully established rural production activities within the RPE.
51. GBC¹⁶ seeks the deletion of RPE.2.3.1 in its entirety moving the provision to a new non-complying activity rule, stating that the relief sought will ensure that sensitive activities are appropriately located within the RPE.

Intensive Livestock Setbacks RPE.2.1.4 and RPE.2.3.1 – Submission Information

52. Egg Producers Federation of New Zealand (Egg Producers NZ)¹⁷ requests the amendment of RPE.2.1.4 to measure the required 250m setback from the sensitive activity and not from the boundary of a separate site containing a sensitive activity and amend activity status to restricted discretionary activity. Amend RPE.2.1.4 as follows:
- ~~Intensive livestock activities that are closer than 250m to the boundary of a separate site containing a sensitive activity on an adjoining site are non-complying~~ restricted discretionary activities.*
53. Hort NZ¹⁸ requests amendment of RPE.2.1.4 to refer to 'intensive livestock farming' activities.
54. NZ Pork¹⁹ states that the method in RPE.2.1.4 should only apply to the establishment of new intensive livestock activities and must be supported by the same setback requirements for new sensitive activities locating in proximity to existing intensive livestock activities.

¹³ 240/22

¹⁴ 253/21

¹⁵ 414/5

¹⁶ 250/10 and 11

¹⁷ 409/1 and 2

¹⁸ 423/14 - Submission 423/15

¹⁹ 240/21

Discussion

55. RPE.2.3.1 and RPE.2.1.4 work together. The provisions recognise the importance of maintaining separation between sensitive activities and production activities. Submitters have requested changes to the activity status of both sensitive activities and intensive livestock farming. As notified the rules include a higher activity status for intensive livestock farming because the ability to manage or mitigate potential effects from large scale operations is far more challenging than the ability to avoid potential effects through the placement of sensitive activities. It is my opinion that the provisions as notified are the most efficient and effective to achieve the objectives and I do not recommend any changes.
56. Egg Producers NZ have also requested alterations to rule RPE.2.3.1 to change setback requirements from boundary to activity. This is a logical request if RPE sites are large and an activity may be set back considerably from a boundary potentially resulting in setbacks much larger than 250m. However, actual implementation of the rule as requested in the relief sought is challenging in my opinion due to the open nature of the definitions of sensitive activities and residential activities. Establishing where a residential activity is (e.g. land used for the purpose of living) and then calculating a setback of 250m from the subject site will be difficult in my opinion and will result in interpretation errors. On this basis in my opinion the relief sought is not an effective method.
57. FFNZ have requested flexibility through the deletion of RPE.2.3.1(b). It is my opinion that this rule is necessary and is efficient and effective.
58. Fonterra have requested clarification of noise sensitive activities and sensitive activities. Definitions have been addressed within the **Part 1** of the s42A, Topic O.
59. Hort NZ have requested amendments to refer to 'intensive livestock farming'. I agree that this amendment is appropriate, referring to a defined activity. Hort NZ also requests setbacks from lawfully established rural production activities on a separate site. NZ Pork have raised similar concerns. It is my opinion that the relief sought is not an efficient method, as it will be difficult to establish what is a lawfully established rural production activity and where the extent of the land use associated with the rural production activity ends. In my view the combination of an 8m building setback from boundary, 250m setback from intensive livestock farming, and RLE and RUEE sensitive activity setback from RPE of 30m is sufficient to reduce potential reverse sensitivity effects on rural production activities.
60. GBC have requested the change of activity status for sensitive activities in relation to rule RPE.2.3.1 from discretionary to non-complying. The submission does not provide any evidence or justification to support such an increase in activity status and potential consenting compliance costs. In the absence of evidence I do not support the relief sought.

Recommendation

61. I recommend that the Commissioners:

- **Reject** submission points 240/22, 253/21, 409/1 and 2 and 250/10 and 11.
- **Accept in part** submission point 423/14 and that the notified provisions be amended as follows:

RPE.2.1.4 ELIGIBILITY RULES

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

RPE.2.3.1 DISCRETIONARY ACTIVITIES

Any sensitive activity (excluding non-habitable buildings):

- a. ...
- d. Within 250m of:
 - i. ~~An e~~Existing intensive livestock ~~farming activity~~ on a separate site.
 - ii. An existing activity ancillary to farming or plantation forestry on a separate site.

B. Amenity, Character, Landscapes

Description and Expectations - Submission Information

62. Hort NZ²⁰ states that it is unreasonable that current landowners are penalised for the rural production activities that have been undertaken creating the landscape. Seeking amendments to RPE1.1 paragraph 6 as follows:

The interplay of historical land use and values has resulted in the environmental character that exists in the RPE today. It is important that the ecological and landscape values of the RPE are recognised and where possible protected. These values contribute significantly to the rural character and distinctiveness of Whangarei District, but it is important to recognise the role that landowners have played in contributing to this landscape over time and not penalise them for this contribution.

Description and Expectations General Submissions – Discussion

63. The notified RPE provisions recognise that the rural character of the RPE is varied. The notified provisions maintain a very strong approach to maintaining and promoting the productive land use of the RPE and in my opinion contain appropriate provisions protecting the ecological and landscape values. In my view the RPE provisions achieve an appropriate balance between

²⁰ 423/11

providing for productive land uses and protecting other values. Accordingly, I consider that the notified provisions do not penalise existing landowners and that the amendment sought is unnecessary.

Description and Expectations - Recommendation

64. I recommend that the Commissioners **reject** submission point 423/11.

Objectives - Submission Information

65. Heritage New Zealand Pouhere Taonga (HNZPT)²¹ seeks amendments regarding historic heritage, refer to **Part 1** of the s42A report Topic J.
66. NZ Pork²² seeks the amendment of RPE.1.2.2 to recognise that rural character is also formed by the rural production activities that the RPE supports.
67. FFNZ²³ submits that 'primary production landscapes' (or words to this effect) be added to the values named in RPE.1.2.2.
68. Hort NZ²⁴ seeks the amendment of objective RPE1.2.2 by adding the words 'and land use' at the end of the objective and the amendment of objective RPE1.2.4 replacing the words 'rural amenity' with 'rural character'. Given that rural character is specifically provided for in RPE.1.2.2 it is unclear why RPE1.2.4 is required. It is also unclear what is anticipated by 'amenity values'.
69. Piet Nieuwland²⁵ requests the amendment of RPE.1.2.2 "Pa sites and other archaeological features".

Objectives - Discussion

70. Submissions each seek alternative amendments to objective RPE.1.2.2 to clarify what submitters see as aspects of rural character. Policy RPE1.3.7 provides a description of the RPE rural character and amenity values, and in my opinion this is the appropriate location for clarification. In my opinion removing character description from proposed objective RPE.1.2.2 does not alter the outcome of the objective and its appropriateness.
71. Hort NZ raised concerns about 'rural character' and 'rural amenity' within objectives RPE.1.2.2 and RPE.1.2.4. Amenity values are defined by the RMA²⁶. Section 7(c) of the RMA requires particular regard to the maintenance and enhancement of amenity values. Character is not defined in the RMA. In my opinion amenity and character are two different matters, with amenity wider than character. The RPE provisions recognise that the amenity of the RPE will be varied - due to the working nature, high levels of amenity are not anticipated, thus proposed objective RPE.1.2.4 seeks only to 'support' amenity values. I concur with the Section 32 evaluation report²⁷ that both objectives are appropriate, and seek different outcomes.

²¹ 248/11

²² 240/12

²³ 253/10

²⁴ 423/12

²⁵ 446/2

²⁶ Amenity values are those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

²⁷ Appendix A Section 32 Evaluation Report in pages 8 – 12

72. The amendments intend to provide clarity about the amenity and character of the RPE. Two reasonably practicable options have been identified for the proposed change:

- **Option 1: Notified Provisions – Appendix B of Part 1 of the s42A report**
- **Option 2: Revised Provisions – Attachment 2E of Part 1 of the s42A report**
- Option 1 is no longer considered the most efficient and effective option, submitters have raised concern that a description of amenity should not be contained within an objective, compromising the effectiveness of the objective as notified. The character of the RPE is described in proposed policy RPE.1.3.7.

73. In my opinion option 2 is the most efficient and effective option. The recommended amendment does not alter the intent of the objective, but avoids potential confusion, improving the interpretation of the objective.

74. There is no economic growth and employment opportunities / implications / issues arising from the options for this component of PC85A.

75. There is no risk due to insufficient information.

Objectives - Recommendation

76. I recommend that the Commissioners **reject in part** submission points 240/12, 253/10, 423/12, and 446/2 1 and recommend that the notified provisions be amended as follows:

RPE.1.2.2 OBJECTIVE

Recognise, maintain and where appropriate protect the rural character of the RPE, ~~acknowledging that character is formed through a combination of values such as ecology values, openness, topography and heritage.~~

Policies - Submission Information

77. Numerous submission points²⁸ request that the descriptions in policy RPE1.3.7 be changed because the references to seasonal activity, low intensity of development and low traffic levels are not representative of the existing environment and appear to be an attempt to redefine the existing activities. Others seek additional provisions to recognize that effects may already be a problem in some areas.

78. GBC²⁹ also requests the alteration of proposed policy RPE1.3.7 as follows:

To protect the distinctive character and amenity values of the RPE including but not limited to:

- A working rural environment arising from use and development of rural production land uses.*
- Seasonal activities.*
- A low intensity of development, involving a combination of domestic and rural production buildings.*
- Varying levels of noise associated ~~with seasonal and intermittent~~ rural production activities.*

²⁸ 181/2, 185/2, 186/2, 191/2, 203/2, 219/2, 233/2, 235/2, 244/2, 260/2, 261/2, 277/2, 314/2, 406/2, 426/2 477/2

²⁹ 250/9

e. ...

79. FFNZ³⁰ opposes GBC submission point because it considers that the current focus on discouraging further commercial and industrial activities and rural living development in the RPE is appropriate given the reverse sensitivity effects these activities have.
80. FFNZ³¹ submits that proposed Policy 1.3.4 be deleted, to seek to control all buildings and land uses is impractical. The intention should be to manage those new activities likely to cause significant adverse effects. The policy also overlaps with RPE.1.3.5.
81. Hort NZ³² seeks the following amendments to the RPE policies:

RPE.1.3.4:

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

- a. *Are of a scale and character appropriate to the RPE...*

RPE.1.3.7:

To protect the distinctive character and amenity values of the RPE including but not limited to:

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

RPE.1.3.12

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

- a. *Designing subdivisions to respond to the topography and characteristics of the land being developed.*
- b. *Identifying building platforms that respond to site topography and environmental characteristics and meet setback requirements.*
- c. ...

³⁰ X624

³¹ 253/14

³² 423/13

Policies - Discussion

82. Various changes to policy RPE.1.3.7 have been requested seeking to clarify rural amenity and character. In my opinion the changes requested remain consistent with the intent of the policy and provide clarity to improve effectiveness. It is recommended in **Part 1** of the s42A report, Topic O that the definitions of 'rural activity' and 'rural production activity' be amended and clarified, which in my opinion provides suitable direction given the GBC relief sought.
83. Policy RPE.1.3.4 ties directly to proposed method RPE.2.3.3, and policy RPE.1.3.5 to RPE.2.3.2. Both policies provide direction to the consideration of potential resource consent applications, where activities fail to meet setback and residential density rules. In my view these policies are discrete and do not overlap and both policies are effective and efficient.
84. Hort NZ has requested additions to proposed RPE.1.3.12 to include reference to compliance with setback rules. In my view this addition is unnecessary as setbacks are provided for within policy RPE.1.3.4, however I agree that privacy and openness contribute to rural amenity in my opinion amendments of policy RPE.1.3.4 are appropriate.

Policies Recommendation

85. I recommend that the Commissioners **accept in part** submission points 181/2, 185/2, 186/2, 191/2, 203/2, 219/2, 233/2, 235/2, 244/2, 260/2, 261/2, 277/2, 314/2, 406/2, 426/2, 250/9, 477/2 and 423/13 and that the notified provisions be amended as follows:

RPE.1.3 POLICIES

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

- a. Are of a scale and character appropriate to the RPE.
- b. Are sited in a location sufficiently set back from site boundaries to enable privacy, the retention of openness and access to sunlight.
- c. Avoid ribbon development.

7. To protect the distinctive character and amenity values of the RPE including but not limited to:

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

86. I recommend that the Commissioners **reject** submission point 253/14.

Rules - Submission Information

87. FNDC³³ seek the amendment of discretionary activity assessment criteria in RA.1.4.2 to allow for the consideration of activities that provide social, cultural and health and safety benefits such as fire stations. Stating that the RPE provisions RPE.2.1 are generally supported, as it clearly states the activities that will have a discretionary activity status. FNDC note that some community facilities such as rural fire depots, ambulance garages and marae/community halls serve a necessary social function in rural communities. The discretionary activity assessment criteria would need to be capable of taking this into account when considering applications under this rule. In addition, the providers of emergency services may have strategic reasons for their choice of location and may be constrained in their ability to locate elsewhere.

Rules - Discussion

88. I agree with the concern raised by FNDC. In my opinion the intent of the RPE rules is to limit the sprawl of non-productive activities, fragmenting productive land and changing the amenity of RPE, by encouraging community facilities to be located within rural villages. The proposed plan changes work together to direct activities to appropriate locations, and community facilities are provided for in the RVCE and in Whangarei City. In my opinion it is appropriate to maintain the proposed discretionary activity rules and provide direction for consent consideration in the form of assessment criteria.

Rules - Recommendation

89. I recommend that the Commissioners **accept** submission point 410/27 and that the notified provisions be amended as follows:

RA.4.2 ASSESSMENT OF DISCRETIONARY ACTIVITIES (new clause)

The effects of and functional need of places of assembly and emergency services to locate within the RPE.

C. Rural Productivity

Terrence Hailes - Submission Information

90. Terrence Hailes³⁴ has opposed the proposed zoning of his property combined with the opposition of the proposed RPE provisions, with reasons summarised as:
- No step-change between RPE and RVCE, with provisions at odds with each other.
 - Retention of large rural landholdings is inconsistent with the direction of the RPS.
 - Section 32 does not appropriately contemplate the economic impact of the RPE provisions significantly curtailing opportunities for industrial, commercial and residential development.

³³ 410/38

³⁴ 249/2 – 4

- The policy and rule framework promoted through PC85A is not consistent with the effects-based approach of the WDP. The overly directive policy, coupled with the overly prescriptive rules, limit the discretion of the Council to consider the actual and potential effects of a development.
- The proposed subdivision rules are overly onerous and assume rural production requires large landholdings. Limited consideration has been given to rules that facilitate or recognise:
 - The replenishment of existing housing stocks;
 - The need for retirement lots
 - National policy directives of improved water quality within catchments
 - Highest and best use of land (and the opportunity to demonstrate this)
 - Alternative rural, agricultural and horticultural landuses.
- The subdivision rules will have the effect of defaulting most forms of rural subdivision (not complying with the onerous minimum allotment sizes) to a Non-Complying Activity. The directive policy framework and use of language such as “avoid, maintain and protect” invariably mean an embargo on small lot subdivision within the RPE (being the majority of existing rural zoned land in the District).

91. Relief sought include:

- a. Rezoning of the site to proposed RUEE or similar.
- b. Amend objectives and policies to allow opportunity for applications to be assessed on their merits.
- c. Include Objective / Policy which requires an applicant to demonstrate the economic benefits / dis-benefits of the status quo versus the proposed development.
- d. Include Objective / Policy which requires an applicant to demonstrate the productive potential of the site, including classification of soils, having regard to the effects of the activity on the environment, specifically water quality.
- e. Minimum allotment sizes for development in the RPE should be reconsidered. A minimum allotment size should be retained on those lots identified as having highly versatile soils, with the default status being Discretionary.
- f. Subdivision of existing lawfully established residential units should fall to be considered a Controlled Activity, and have no minimum allotment size.
- g. Include provision for the creation of a retirement lot as a Controlled Activity, with no minimum / maximum allotment size associated with the resultant/parent allotment.
- h. Amend Rule RPE 3.3.2 Boundary Adjustment. Clauses (b) and (e) are at odds with each other. The boundary adjustment rule is inflexible and should not be contingent on resultant allotment size, particularly if no additional development rights ensue, or the boundary adjustment is to facilitate “enhanced” rural production (through amassed landholdings).

- i. Amend RPE.2.3.3. to any “sensitive” building (b) Within 8m of a site boundary and delete Clause (c) or amend the rule such that it only applies to “sensitive” activities.
92. Further submissions both support and oppose the relief sought with FFNZ³⁵ supporting, GBC³⁶ opposing and Hort NZ³⁷ opposing in part the relief sought considering that productive potential is important, but state that horticulture production can occur very profitably on small blocks which have the attributes for production.

Terrence Hailes - Discussion

93. Relief sought by Mr Hailes spans across many plan changes and topics. Discussion and recommendations for each relief sought can be found in the following locations:
- a. Rezoning – **Part 5** of the s42 report, Topic V
 - e. and f. Minimum lot size – Topic L
 - g. Retiring farmer allotments –Topic L
 - h. Boundary adjustments - Topic L
 - i. Setback rules - Topic F
94. The approach to the rolling review of the WDP and the proposed rural plan changes has been outlined in **Part 1** of the s42A report. The proposed plan changes do step away from the WDP open policy direction with methods primarily managing effects. The proposed plan changes seek to provide very clear direction and outcomes for both land owners and developers. In my opinion strong policy direction is necessary to achieve the strategic direction set for Whangarei District³⁸.
95. Each review of an operative district plan must consider 10 years’ worth of development and growth of a district. The proposed rural plan changes seek to provide development opportunities far more than 10 years’ worth of capacity within proposed RUEE, RLE, RVE and Living 1 and 3. In my opinion allowing significant subdivision opportunities outside of planned and zoned locations poses risk of increased pressure on social and physical infrastructure and providing for subdivision of locations adjacent to existing rural villages ahead of the provision of reticulated infrastructure compromises the ability to provide for intensive development in future plan reviews or rezoning.
96. Mr Hailes raises concern that the objectives and policies of RPE are too negative and directive when coupled with a non-complying activity status for subdivision. The submitter states that PC85A is inconsistent with the RPS policy directive, with reference to Policy 5.1.1 through the retention of large rural landholdings and the preclusion of residential intensification.

Policy 5.1.1 Planning and Coordinated Development

Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:

³⁵X623

³⁶ X351

³⁷ X429

³⁸ Whangarei District Growth Strategy, Sustainable Futures 30/50

- (a) Is guided by the 'Regional Form and Development Guidelines' in Appendix 2;
- (b) Is guided by the 'Regional Urban Design Guidelines' in Appendix 2 when it is urban in nature;
- (c) Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects;
- (d) Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;
- (e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;
- (f) Ensures that plan changes and subdivision to / in a primary production zone, do not materially reduce the potential for soil-based primary production on land with highly versatile soils, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and
- (g) Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and / or district or regional plan provisions.
- (h) Is or will be serviced by necessary infrastructure.

Note: in determining the appropriateness of subdivision, use and development (including development in the coastal environment – see next policy), all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to natural character, features and landscapes, heritage, natural hazards, indigenous ecosystems and fresh and coastal water quality.

97. I disagree with this position, RPS policy 5.1.1 does not preclude the retention of large allotments nor does it require the ability to intensify, in my opinion policy 5.1.1 is focused on the direction of growth and intensification to appropriate locations. I consider that the proposed rural plan changes provide for development in a planned and coordinated manner, the proposed plan changes direct lifestyle development away from high class soils, and that the subdivision rules for RPE do not materially reduce the potential for soil-based primary production.
98. Policy RPE.1.3.10 provides direction for the subdivision of land into allotments less than 20ha, enabling subdivision if it does not compromise the productive use of land and place pressure on reticulated infrastructure services. It is my view that this policy provides appropriate opportunity for non-complying subdivision applications to gain approval giving an applicant opportunity to present the benefits and dis-benefits of their subdivision proposal. Non-complying activity status does not mean that an application will not be granted as councils can grant consent where an application can meet any of the following tests of s104D of the RMA:
1. the adverse effects on the environment will be minor (disregarding the adverse effects on those who have given their written permission, and exercising the discretion to disregard adverse effects of the type generated by activities the plan permits or is permitted by a national environmental standard (ss104(2) and 104(3)(a)(ii))
 2. the application is not contrary to the objectives and policies of the plan, the proposed plan, or both (as appropriate - s104D(1)(b))
 3. the activity can comply with any restrictions, conditions and permissions specified in the Act, regulations or plan (s87A(5)(b)).

Terrence Hailes - Recommendation

99. I recommend that the Commissioners **reject** submission points 249/2 - 4.

Objectives - Submission Information

100. FNDC³⁹ has sought amendment to objectives RPE.1.2.1 and RPE.1.2.6 stating that the objectives are both addressing the same matter. Considering that they could be merged for the sake of brevity without the loss of desired outcomes.

Objectives - Discussion

101. Objectives RPE.1.2.1 and RPE.1.2.6 both relate to rural production activities however each objective has a different purpose. RPE.1.2.1 is seeking to “identify and protect rural land resources” while RPE.1.2.6 is seeking to “enable a wide range of rural production activities”. The appropriateness of these objectives has been evaluated within the s32 report and I concur with the findings of this evaluation. I do not support the relief sought.

Objectives - Recommendation

102. I recommend that the Commissioners **reject** submission point 410/33.

Policies - Submission Information

103. Numerous submissions⁴⁰ request that RPE1.3.8 be amended to include intensive farming, assuming it intensive farming includes horticulture, covered cropping and flower production should not be excluded.

104. GBC⁴¹ requests the alteration of policy RPE.1.3.8 as follows:

To protect the productive function of the RPE while providing for a range of productive land uses by:

- a. Not directly regulating outdoor agricultural and horticultural activities, excluding intensive farming.*
- b. Permitting farming and activities ancillary to farming.*
- c. ~~Discouraging~~ Managing the location of commercial and industrial activities ~~and~~ Discouraging rural living development.*
- d. Requiring larger allotments sizes to retain productive rural options.*

105. FFNZ⁴² opposes this submission point because it considers that the current focus on discouraging further commercial and industrial activities and rural living development in the RPE is appropriate given the reverse sensitivity effects these activities have.

106. Hort NZ⁴³ has requested that policy RPE.1.3.8 be amended as follows:

³⁹ 410/33

⁴⁰ 181/3, 185/3, 186/3, 191/3, 203/3, 219/3, 233/3, 235/3, 244/3, 260/3, 261/3, 277/3, 314/3, 406/3, 426/3

⁴¹ 250/9

⁴² X624

⁴³ 423/13

To protect the productive function of the RPE while providing for a range of rural production ~~productive~~ land uses by:

- a. Not directly regulating outdoor agricultural and horticultural activities, excluding intensive livestock farming.
- b. Permitting farming and activities ancillary to farming.
- c. Discouraging commercial and industrial activities and rural living development.
- d. Requiring larger allotments sizes to retain productive rural options.

Policies Discussion

107. The RPE provisions include rules to manage intensive livestock farming. In my opinion amendments sought to include intensive livestock farming within RPE.1.3.8.a would result in inconsistencies between methods and policies because intensive farming is regulated. In my view, it is appropriate to regulate intensive livestock farming. Hort NZ have requested amendments of RPE.1.3.8.a to include intensive livestock farming consistent with the WDP definition. I agree that this amendment is appropriate to improve clarity and effectiveness.
108. GBC have requested amendments to RPE.1.3.8.c to change the provision for commercial and industrial activities. The approach to commercial and industrial activities is discussed in detail in Topic I.

Policies Recommendation

109. I recommend that the Commissioners:

- **Reject** submission point 250/9.
- **Accept** 423/13 and that the notified provisions be amended as follows:

RPE.1.3.8 POLICIES

To protect the productive ~~function~~ potential of the RPE while providing for a range of ~~productive rural~~ production activities ~~land uses~~ by:

- a. Not directly regulating outdoor agricultural and horticultural activities, excluding intensive livestock farming.
- b. Permitting farming and activities ancillary to farming.
- c. Discouraging commercial and industrial activities and rural living development.
- d. Requiring larger allotments sizes to retain options for rural production activities ~~productive~~ rural options.

D. Residential Density Land Use Rules

Submission Information

110. Numerous submissions⁴⁴ have been made about residential density with requests including:

⁴⁴ 53/2, 92/43, 212/1, 452/1, 477/4, 505/1, 506/1, 507/1 and 351/2 428/1, 285/1 and 289/ 2

- Rule RPE.2.3.2 be amended to read: more than one dwelling per 20 ha, provided that one dwelling is permitted on an allotment of any size.
- Amendment to provide for minor residential units.
- Amendment to rule RPE.2.3.2:

~~Any residential unit resulting in more than 1 residential unit per 20ha of net site area.~~

More than one dwelling per 20ha, provided that one dwelling is permitted on an allotment of any size.
- Provision for residential units and minor residential units as permitted activities in the RPE. This would make the provisions in the RPE consistent with the RLE proposed rules. Alternatively, (although submitters preference would not be for subdivision but rather for multiple land use permits on one title) the rule providing for subdivision around existing residential units for retiring producers could be amended to also include other owners of multiple-owned land.
- A provision that papakāinga housing be a permitted use in RPE.
- Allow for a second residential unit on small horticultural blocks as a controlled or permitted activity. Alternatively allow for manager's buildings.
- The built density and subdivision provisions as they relate to the site provide for lifestyle development of a density of 2-4 ha per residential unit / lot.

111. FFNZ⁴⁵ support in part this relief sought by WDC Policy and Monitoring Manager in submission 92, however consider that the provision should be a controlled activity rather than discretionary activity status for a minor residential unit.

Discussion

112. The proposed rural plan changes take a cohesive approach to zoning to direct land use activities and to avoid potential effects. The RPE has been proposed to protect the productive resources of Whangarei. In my opinion decreasing the residential density provisions as requested fails to achieve the outcomes of PC85A, and fails to meet the RPE objectives and policies. Residential density provisions have been extensively evaluated within the section 32 report⁴⁶. I concur with the section 32 evaluation that increasing residential density has the potential to further fragment the RPE.

113. The WDP defines 'minor residential units' as a form of residential unit; therefore, construction of a minor residential unit would be a discretionary activity in accordance with proposed rule RPE.2.3.2. Concerns raised by submitters about the ability to provide for family members or elderly within minor residential units are valid. I consider however that a very real risk remains that land ownership and family dynamics change often resulting in minor residential units no longer being utilised for their intended purpose. Subdivision of minor residential units has the potential to further fragment the RPE. It is my opinion that it is appropriate to carefully limit the provision for minor residential units using a discretionary activity status.

⁴⁵ X620

⁴⁶ Appendix A, Section 32 Evaluation Report Part 3, Pages 34 - 40

114. Submitters have raised concerns that proposed rule RPE.2.3.2 does not allow the ability to construct a residential unit within a site less than 20ha. I support amendments to clarify this provision.

Recommendation

115. I recommend that the Commissioners:

- **Reject** submission points 53/2, 92/43, 212/1, 452/1, 477/4, 505/1, 506/1, 507/1, 351/2, 428/1, 285/1 and 289/2.
- **Accept in part** submission point 92/43 and further submission X620 and that the notified provisions be added as follows:

RPE.2.3.2 DISCRETIONARY ACTIVITIES
Any residential unit resulting in more than 1 residential unit per 20ha of net site area.
2. More than one dwelling per 20ha, provided that one dwelling is permitted on an allotment of any size.
X. Any minor residential unit.

E. Traffic Movements Land Use Rules

Submission Information

116. New Zealand Transport Agency (NZTA)⁴⁷ seeks the inclusion of a traffic movement rule controlling the maximum number of vehicles per day as a restricted discretionary or discretionary activity. There is no provision for potentially high traffic generating activities to trigger the discretionary activity rules. For example, schools, childcare centres, community centres etc. should undergo further assessment that takes into account the traffic movements those activities are likely to generate. While those activities may have a low probability of occurring, it is appropriate to ensure traffic movements are appropriately managed. A threshold such as 30 vehicle movements per day (vpd) (consistent with the CE and CCE rule) may be considered appropriate.

Discussion

117. The purpose of controlling traffic movements from a site is to manage potential effects on the transportation network and surrounding landowners. NZTA states that further consideration should be given to how high traffic generating activities are managed to ensure there are no wider traffic impacts beyond the immediate site. Provisions to manage those effects may include establishing a threshold of vehicle movements per day for permitted or controlled activities.

118. The RPE rules manage traffic impacts through the limitation of activities rather than managing effects via traffic movement limits⁴⁸. NZTA have identified activities that have the potential to result in high numbers of traffic movements. In my opinion these activities have been controlled in the RPE rules. For instance, commercial, industrial, mineral extraction are non-complying

⁴⁷ 453/8

⁴⁸ Section 32 Part 1, page 36 - 38

activities. Residential activities are limited by density rules, places of assembly and emergency services are discretionary activities. As full discretionary or non-complying activities assessment of environmental effects must consider all potential effects including that of traffic effects.

119. The RPE primarily seeks to sustain, protect and promote rural production activities and I consider that the control of traffic movements associated with rural production activities would not achieve this outcome. The RPE applies to a large area of the District, covering completely diverse roading types from unsealed local roads with limited use to State Highways used as significant freight networks. The volume and frequency of potential traffic movements associated with an RPE site will alter depending upon the type of production activity (e.g. transport of milk from a milking shed twice daily, orchards during picking season with staff movements and trucks transporting fruit from the site, or the freight of logs from a forestry site). Movement of produce and goods is an essential component for rural production activities. In my opinion placing an arbitrary limitation to the number of traffic movements from a site will unnecessarily trigger resource consent approval.
120. It is my opinion that the proposed rules as a package sufficiently manage the potential effects of traffic and the provisions are the most efficient and effective way to achieve the objectives.

Recommendation

121. I recommend that the Commissioners **reject** submission point 453/8.

F. Bulk and Location Land Use Rules

Submission Information

122. Various submissions⁴⁹ have been received regarding building setbacks:
- Keep the setback from front and side boundaries of existing small awkward sites as they were when we purchased our sites (cluster of 6 sites including 201 Rockell Road). Mainly the 3m side boundary as of right.
 - Amendment to rule RPE.2.3.1(b), building sites should be a permitted activity with a note on LIM noting dust effects. Rural residents are already disadvantaged by roads of lesser quality. Why should they be further disadvantaged by draconian rules not applying to all. Many sections have already been approved with titles under previous regimes that do not have sufficient area to comply with the 100m setback rule.
 - Keep the same building rules as under the existing Plan.
123. Hort NZ⁵⁰ opposes in part this relief sought, stating that it may be appropriate for Council to include a special transitional provision for small existing sites but ensuring that rural production activities won't be adversely affected.

⁴⁹ Craig W Short 145/1, Dennis & Shelley Deeming 230/1 and 2, Dave Bennett 106/1

⁵⁰ X425

124. Terrence Hailes⁵¹ seeks the amendment of RPE.2.3.3 (b) to any "sensitive" building within 8m of a site boundary, and delete clause (c) or amend the rule such that it only applies to "sensitive" activities.
125. Hort NZ⁵² states that RPE.2.3.3 presents some issues for horticultural activities, especially in terms of providing for crop protection, seeking a new restricted discretionary activity rule:

Any building:

- a. That exceeds a maximum height of 10m excluding frost protection fans.
- b. Within ~~8m~~ 3m of a site boundary excluding artificial crop protection structures and crop support structures.
- c. That results in site coverage exceeding 20% of the net site area. excluding artificial crop protection structures and crop support structures.
- d. Within 27m of mean high water springs (excluding bridges, culverts and fences).
- e. Within 27m of the top of the bank of any river that has a width exceeding 3m (excluding bridges, culverts and fences).

Discussion

126. Existing WDP rule 38.4.5 Building Setbacks requires an 8m setback from road boundaries or any building line restriction and 3m from other boundaries as a permitted activity. PC85A takes a stronger approach to managing sensitive activities and avoiding potential reverse sensitivity effects, and in my opinion increasing sensitive building setbacks is a key method to achieving this. In my view the proposed setback of 8m is appropriate and I concur with the section 32 evaluation⁵³.
127. Hort NZ have requested amendments to the proposed provisions to allow for horticultural structures. New definitions requested by Hort NZ have been supported (**Part 1** of the s42A, Topic O), which would exclude crop support and artificial protection structures from compliance with building rule (RPE.2.3.3). I agree with the premise that horticultural structures will have less of an impact on neighbouring rural production sites and result in less land use conflict than other buildings. I support a clause being added to the definition of buildings in Chapter 4 Meaning of Words to make this clear.
128. In my opinion it is more effective to separate building rules from horticulture structures rules. In my opinion RPE.2.3.3 should remain as notified and an additional rule created for horticultural structures as a discretionary activity. I support Hort NZ relief sought seeking an increased height for frost fans and a reduction in the setback from boundaries for horticultural support structures.

⁵¹ 249/9

⁵² 423/15

⁵³ Appendix A, Section 32 Evaluation Report, Part 3, pages 20-22

Recommendation

129. I recommend that the Commissioners:

- **Reject** submission points 145/1, 106/1, 230/1 and 2 and 249/9.
- **Accept in part** submission point 423/15 and that the provisions be amended as follows:

RPE.2.3. DISCRETIONARY ACTIVITIES (new rules)

X. Any frost protection fan:

- a. That exceeds a maximum height of 20m.
- b. Within 8m of a site boundary.

X. Any crop support structure or artificial crop protection structure:

- a. That exceeds a maximum height of 10m.
- b. Within 1m of a site boundary.
- c. Within 27m of mean high water springs (excluding bridges, culverts and fences).
- d. Within 27m of the top of the bank of any river that has a width exceeding 3m (excluding bridges, culverts and fences).

G. Emergency Services Land Use Rules

Submission Information

130. New Zealand Fire Service Commission (**NZFSC**)⁵⁴ requests that Emergency Services should be specifically listed as a permitted activity under PC85A.
131. FNDC⁵⁵ seek the amendment of discretionary activity criteria to allow for the consideration of activities that provide social, cultural and health and safety benefits such as fire stations.

Discussion

132. I agree with NZFSC and FNDC that emergency services are an essential service that is necessary for community safety and wellbeing. In my opinion the intent of the RPE rules was not to limit training or general emergency operations, but to limit the construction of buildings associated with emergency services. Emergency services tend to clustered and could result in a seed for development expanding resulting in further fragmentation of the RPE.
133. The proposed plan changes work together to direct activities to appropriate locations. Emergency services are provided for in the RVCE and in Whangarei City. In my view, it is appropriate to control the location of buildings associated with emergency services in the RPE. I support changes to the RPE rules for clarity.

⁵⁴ 451/2

⁵⁵ 410/38

Recommendation

134. I recommend that the Commissioners **accept in part** submission point 451/2 and 410/38 and that the notified provisions be amended as follows:

RPE.2.3.8 DISCRETIONARY ACTIVITIES

8. Any building associated with emergency services.

H. Activities Ancillary to Farming and Forestry

Land Use Submission Information

135. Numerous submission points⁵⁶ request that RPE.2.1.4 and 5 be rethought and redrafted to reflect the economic requirements of the productive environment. To limit packing and processing plant material to an area no greater than 500m² is very restrictive, seeking amendments to increase the gross floor area to 1000m².
136. FFNZ⁵⁷ seeks amendment to RPE.2.1.5 because the threshold of a 500m² footprint for 'any activity ancillary to farming or plantation forestry' is not high enough to avoid capturing herd homes.
137. Hort NZ⁵⁸ requests amendment of RPE.2.1.5 to discretionary activity.
138. Fonterra⁵⁹ seeks the amendment of RPE.2.1.1 as follows:

Commercial and industrial activities are non-complying activities. Ancillary activities to industrial activities, such as water storage and/or treatment ponds and irrigation infrastructure, are exempt from this rule.

139. Fonterra also seek the amendment of RPE.2.3.1. The Kauri site's irrigation farms are an integral part of the site's wastewater treatment system. It is not realistic for all effects (e.g. odour and noise) to be internalised within operational sites, including their associated irrigation farms. The potential for reverse sensitivity issues caused by sensitive activities establishing nearby is significant. Fonterra's operations at this location can be and are adversely affected by complaints arising from new land uses, dwellings, subdivision and intensification in proximity to its existing operations. This should be managed in the same way as existing farming activities. Add to Rule RPE.2.3.1d as follows:

- ii. Fonterra's Irrigation Farms at Kauri shown on Planning Maps 6 & 7.

Activities Ancillary to Farming Land Use - Discussion

140. The WDP does not currently provide specifically for activities ancillary to farming. Such activities would be classed as commercial or industrial activities. 'Activities ancillary to farming or forestry' definition and rules are proposed to provide a finer grained approach to activity types allowing

⁵⁶ 181/5, 185/5, 186/5, 191/5, 203/5, 219/5, 233/5, 235/5, 260/5, 261/5, 277/5, 406/5, 314/5, 426/5, 244/5

⁵⁷ 253/19

⁵⁸ 423/14

⁵⁹ 414/7 and 8

the ability to limit commercial and industrial activities while providing for appropriate ancillary activities to occur in the RPE.

141. Existing WDP rule 38.3.1(d) limits commercial and industrial activities in the CE to 500m² gross floor area as a permitted activity. The gross floor area limit for activities ancillary to farming has transferred to RPE.2.1.5. Submitters have challenged this limit although they have not provide evidence to justify doubling the permitted activity limit. While I tend to agree with the submitters that 500m² is a conservative limit, in the absence of sufficient evidence I cannot support the significant increase requested. Any building proposed for an activity ancillary to farming must also comply with bulk and location rule RPE.2.3.3.
142. While I recognise the concerns raised by Fonterra, in my opinion the specific amendments sought are confusing as ‘ancillary activities to industrial activities’ are not clearly defined and the Fonterra Dairy Factory at Kauri has been identified as a proposed Strategic Rural Industry. Instead I recommend amendments to the definition of ‘Activities Ancillary to Farming and Forestry’ to include the disposal of by-products of Strategic Rural Industries, providing for Fonterra’s irrigation farm. In my view, the recommended provisions relating to ‘Activities Ancillary to Farming and Forestry’ efficiently and effectively provide for the irrigation activity and sufficiently afford separation between land use activities.

Activities Ancillary to Farming Land Use - Recommendation

143. I recommend that the Commissioners:

- **Reject** submission points 181/5, 185/5, 186/5, 191/5, 203/5, 219/5, 233/5, 235/5, 260/5, 261/5, 277/5, 406/5, 314/5, 426/5, 244/5, 253/19 and 423/14.
- **Accept in part** the specific relief sought by submission points 414/7 and 8 and the notified provisions be amended as follows:

MEANING OF WORDS:

Activities Ancillary to Farming, ~~Or~~ Forestry or Strategic Rural Industry

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

I. Commercial and Industrial Activities

Submission Information

144. Reyburn and Bryant 1999 Ltd, Zodiac Holdings Ltd and Ginty Naenae Ltd⁶⁰ request alterations to the provisions to provide for commercial activities on the basis that:

- The s32 assessment fails to adequately take into account the benefits of location commercial and industrial activities near associated natural and physical resources, or the costs associated with precluding them.
- There is no clear evidence based or clear rationale for controlling commercial and industrial activities in rural areas to the extent proposed by the plan changes.
- The provisions will have a significant adverse effect on the Northland and Whangarei economy.
- The various provisions do not give effect to the RPS, particularly to RPS Objective 3.5. 5.
- The provisions do not achieve sustainable management in accordance with Part 2 of the RMA.

145. Specific relief sought by Reyburn and Bryant 1999 Ltd, Zodiac Holdings Ltd and Ginty Naenae Ltd has been requested as follows:

Insert new objective:

To enable the establishment and continued operation of commercial and industrial activities where, for efficiency and practicality, those industries need to be located in close proximity to the natural and/or physical resource.

Insert new policy:

To enable the establishment and continued operation of rural industries where it can be demonstrated that activities:

- Have valid operations reasons to be located in the Rural Area.
- Contribute positively to the economy of the District.
- Provide local employment opportunities.
- Can meet and fund local infrastructure requirements.
- Incorporate appropriate mitigation and management methods designed to ensure environmental effects are acceptable in the area in which the activities are proposed to be located.

Amend rule RPE.2.1(1) so that commercial and industrial activities are either permitted, restricted discretionary or discretionary activities.

146. Further submissions⁶¹ oppose Reyburn and Bryant 1999 Ltd, Zodiac Holdings Ltd and Ginty Naenae Ltd relief sought for the following reasons:

- The RPE relies upon the existing definitions for commercial and industrial activities, it is considered that these definitions are too wide for activities that could be anticipated in the

⁶⁰ 309/2 and 4-6, 327/2 and 4-6 and 336/3, 6, 8 and 10

⁶¹ X411, X412 and X413, X637, X626 and X627, X711

RPE, stating that it may be appropriate to locate some rural services for activities with a functional need but these should be subject to separate definitions.

- Commercial and industrial activities can have adverse effects on the RPE. It may be appropriate to have some rural support services with a functional need.
- Opposition based on potential traffic effects of permitting larger scale activities.

147. Further submissions⁶² also support the relief sought by Reyburn and Bryant 1999 Ltd, Zodiac Holdings Ltd and Ginty Naenae Ltd stating that it will give better effect to the RPS.

148. GBC⁶³ requests the alteration of policy RPE.1.3.1 as follows:

To protect rural character and amenity and to encourage consolidation of activities within Whangarei City by ~~preventing~~ managing the operation and location of commercial and industrial activities in the RPE, and providing for rural production land uses in the RPE.

149. NRC⁶⁴ request a more permissive activity status for small scale commercial enterprises that compliment or benefit rural production activities in the RPE or ensure there is more supportive policy.

150. Hort NZ⁶⁵ supports the NRC submission relief sought in part. Hort NZ has opposed submissions which seek greater industrial and commercial development within the RA and seeks that the rural land resource is not compromised by locating such development on rural production land. However, it is considered that it may be appropriate for small scale rural services activities to be located within the RPE.

151. FFNZ⁶⁶ supports in part the relief sought by NRC, considering that some provision should be made for rural support services distinct from commercial and industrial activities, subject to criteria regarding reverse sensitivity and retention of productive land.

152. NW and PE Dyer and Dyer Partners⁶⁷ oppose the commercial, industrial and activities ancillary to farming provisions. They request that the rules relating to these provisions be amended such that a level of industrial and commercial use can be established as a permitted activity within certain parameters, and that any activity falling outside the scope of a permitted activity is treated as a discretionary activity. A non-complying activity status should not be used.

153. FNDC⁶⁸ have noted that no reference to home occupations has been made in the RPE provisions, seeking the amendment of rule RPE.2.1 to clarify the status of home occupations.

Discussion

154. The proposed rural plan changes have taken a strict approach to the control of commercial and industrial activities (particularly in the RPE) primarily to achieve the strategic direction of 30/50,

⁶² X241, X342 and X345

⁶³ 250/9

⁶⁴ 190/3

⁶⁵ X426

⁶⁶ X656

⁶⁷ 408/1

⁶⁸ 410/39

the policy direction of WDP Chapter 6 Built Form and Development⁶⁹ and to direct commercial and industrial activities into the Business 2 and 4 Environments⁷⁰. In my opinion it will be very difficult for proposed commercial and industrial activities to gain resource consent approval under the notified RPE provisions being a non-complying activity status combined with a strong policy (RPE.1.3.1).

155. The submitters have requested a shift from the notified RPE provisions to a more permissive objective, policy and restricted discretionary or discretionary activity status rule. In my opinion the relief sought does not fit with the philosophy of the RPE to control and direct commercial and industrial activities into the Business Environments. It is my opinion that the relief sought by GBC does not fit with the objectives of RPE, noting that alternative amendments to policy RPE.1.3.1 have been recommended.
156. The submissions state that the notified provisions do not give effect to the RPS, particularly RPS objective 3.5. I disagree with this position. In my opinion the notified provisions seek to improve the management of the RPE natural and physical resources by directing industrial and commercial land use into appropriately zoned Business Environments. It is my opinion that, as a whole, the District Plan must give effect to the RPS. I consider that the notified provisions particularly give effect to RPS objective 3.6:

The viability of land and activities important for Northland's economy is protected from the negative impacts of new subdivision, use and development, with particular emphasis on either:

- (a) Reverse sensitivity for existing:
 - (i) Primary production activities
 - (ii) Industrial and commercial activities
 - (iii) Mining; or
- (b) Sterilisation of:
 - (i) Land with regionally significant mineral resources; or
 - (ii) Land which is likely to be used for regionally significant infrastructure.

157. The RPS policies⁷¹ that give effect to RPS objectives 3.5 and 3.6 seek the avoidance of "adverse effects of new subdivision use, and development on primary production activities in primary production zones". It is my opinion that a strong approach is required in the RPE to give effect to the RPS policies requiring the avoidance of effects.
158. I acknowledge the economic evidence provided by the submitters and agree that the notified provisions are likely to be highly effective in preventing Industrial and Commercial Activities in the RPE. I do agree with the submission and supporting s32 evaluation that the notified RPE provisions result in little flexibility to allow for appropriate commercial and industrial activities strongly associated with rural production activities or rural natural and physical resources. I also agree that there are situations where tourist or recreation based commercial activities such as wineries, wedding venues and adventure parks require a rural setting. In my view a careful balance is required to introduce flexibility to provide for such activities without compromising the

⁶⁹ Policies 6.4.6 and 6.4.7 of WDP Chapter 6

⁷⁰ Section 32 Evaluation Report, Part 3 Pages 20

⁷¹ RPS policies 5.1.15, 5.1.2 and particularly 5.1.3

strategic direction or the operation of rural production activities. I support amendments to policy RPE.1.3.1 to achieve this balance.

159. FNDC have raised concerns about home occupations in the RPE. Home occupations in the WDP are defined as:

means an occupation, or craft, or profession that is **ancillary to the residential use** of the site and where the principal operator of the home occupation is a permanent resident on the site. It does not include panel beating or car wrecking and the activity does not include, before 8am or after 6pm on any day, the operation of machinery, receiving customers or the loading or unloading of vehicles. The storage of materials associated with a non-residential activity shall not be visible from a public road or neighbouring residential property. The generated effects from the scale, hours of operation and the type of home occupation activity shall not be any different from those of other permitted activities in the Environment, except in the KMP and KLP where specific provisions apply. **(my emphasis added)**

160. Home occupations must be ancillary to a residential use onsite. The RPE is focused upon promoting productive uses rather than residential uses. The plan changes propose to introduce a new activity definition and provisions for 'activities ancillary to farming or forestry' to specifically provide for small scale ancillary activities within the RPE rather than reliance upon home occupation provisions. In my opinion the notified provisions are appropriate to achieve the objectives of the RPE. I support amendments to RPE.2.3 to provide clarity that home occupations are intend to be discretionary activities.

161. The amendments intend to provide clarity about the provision for commercial and industrial activities within the RPE. Various alternatives have been considered. The pre-notification s32 considered three options, status quo, stricter control of activities through effects rules and the limiting of activities with activity status and strong policies.

162. Option 4 is to introduce a discretionary activity combined with a new definition of "rural commercial activity". The WDP contains generic definitions for commercial and industrial activities:

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.

Industrial Activity

means the processing, manufacturing, fabricating, packing or storage of goods or other ancillary activities, and includes servicing and repair activities.

163. I agree with concerns raised by submitters that the WDP definitions are too wide to provide for activities that may be appropriately located within the RPE. Recognizing this issue, the rural plan changes introduced a new definition of 'activities ancillary to farming or forestry'. Activities ancillary to farming or forestry, provides for activities that are industrial by nature but does not provide for commercial activities.

Activities Ancillary to Farming Or Forestry

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.

164. In my opinion introduction of a 'rural commercial' definition at this point in the plan change process may not be an appropriate option, as possible definition wording has not been tested through notification and submission. Definitions need to be accurate, simple and precise as any proposed activities that comply with the definition would be a permitted activity. I have therefore disregarded Option 4.
165. Submitters⁷² have requested Option 5 amending policy RPE.1.3.1 to be more enabling policy combined with either restricted discretionary or discretionary activity rules. Submitters have raised processing costs as factor supporting a restricted discretionary activity rule. Estimating the costs for discretionary activity, processed as a notified application with a hearing being \$40,000 - \$60,000 while estimating that a restricted discretionary activity, processed as a non-notified application would cost \$10,000 - \$20,000. I acknowledge the increased cost implications associated with an application being notified and heard, however I note that decision to notify an application is not determined by activity status. In my opinion restricted discretionary or discretionary activity rules do not effectively implement objective RPE.1.2.1 and policy RPE.1.3.1.
166. Options 6 to maintain consistency within the RPE provisions and the strategic direction of PC85A would amend policy RPE.1.3.1 to be more permissive but retain the non-complying rule. Option 6 would allow the opportunity for commercial and industrial activities to be considered on a case by case basis. I consider this option to maintain consistency within the RPE provisions and the strategic direction. This option is consistent with the approach taken to RPE subdivision rules maintaining a non-complying activity status while providing situations when a case by case approval may be considered through strong policy direction. In my opinion option 6 is the most efficient and effective option.

Recommendation

167. I recommend that the Commissioners:

- **Reject** the specific relief sought by submission 250/9.
- **Accept in part** the relief sought by submission points 309/2 and 4-6, 327/2 and 4-6 and 336/3, 6, 8 and 10 and that the notified provisions be amended as follows:

<p>RPE.1.3.1 POLICIES</p> <p>1. To protect rural character and amenity and to encourage consolidation of activities within Whangarei City by preventing the operation of commercial and industrial activities in the RPE of:</p> <p>a. <u>Industrial activities.</u></p> <p>b. <u>Commercial activities unless it is demonstrated that the commercial activity:</u></p> <p>i. <u>Has a direct connection with the rural resource or amenity of the RPE;</u></p> <p>ii. <u>Requires a rural location for its operational function;</u></p> <p>iii. <u>Will not increase the potential for reverse sensitivity effects between incompatible land use activities;</u></p> <p>iv. <u>Will contain and manage adverse effects on-site;</u></p> <p>v. <u>Will contribute positively to the economy of the District;</u></p> <p>vi. <u>Can meet and fund local infrastructure requirements.</u></p>

⁷² 309/2 and 4-6, 327/2 and 4-6 and 336/3, 6, 8 and 10

- **Accept** the submission point 410/39 and that the following amendments to RPE.2.3:

RPE.2.3 DISCRETIONARY ACTIVITIES (New Clause)

x. Any home occupation.

J. Submission 195 - Dennis Scott

Submission Information

168. Dennis Scott has written a comprehensive and complicated submission opposing the architecture and strategic direction of the proposed rural plan changes⁷³. This submission fundamentally opposes the introduction of the RPE and seeks amendments to completely rework the proposed RPE provisions. Key reasoning can be summarized as:

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

169. Relief sought:

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

Discussion

170. Many of the concerns raised by Mr Scott have been addressed within the **Part 1** of the s42A report Topic P. The strategic approach to the rural plan changes and to RPE has been evaluated under section 32 prior to notification. The submitter has challenged the approach but does not in my opinion provide sufficient section 32 evaluation or evidence to support his alternative provisions for RPE. It is my opinion that the amendments sought by Mr Scott completely change

⁷³ Section 42A, Topic P

the outcomes of proposed RPE. I concur with the section 32 evaluation and do not recommend amendments in response to this submission.

Recommendation

171. I recommend that the Commissioners **reject** submission 195.

K. Quarrying and Mineral Extraction Land Use Rules

Submission Information

172. GBC⁷⁴ supports RPE.2.1.2, that recognises mineral extraction activities within the MEA. GBC consider that mineral extraction activities outside an MEA should be assessed as a restricted discretionary activity in a manner consistent with the WDP. Amend RPE.2.1 as follows:

Mineral extraction activities within ~~the Mining Area~~ of a Mineral Extraction Area are exempt from RPE.2.1.3, RPE.2.3.3 (a) and (b) and will be assessed by applying the Mineral Extraction Area Chapter.

Mineral extraction activities that are not within a Mineral Extraction Area are is a non-complying restricted discretionary activity if the activity:

- a. *Extracts over 5,000m³ in any 12 month period on the site.*
- b. *Undertakes blasting.*
- c. *Establishes within 500m of an existing sensitive activity on an adjacent site.*

173. FFNZ⁷⁵ seeks amendment to rule RPE.2.1.3 supporting the intention (in the s32 report) that farm quarries are not unnecessarily captured in rules, hence the threshold in RPE.2.1.3 of 5,000m³ mineral extraction over a 12-month period, before it becomes a non-complying activity.

Discussion and Recommendation

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

L. Subdivision and Fragmentation

Objectives - Submission Information

175. Piet Nieuwland⁷⁶ seeks the amendment of objective RPE.1.2.5 by adding “and discourage urban encroachment in rural zones” to the end of the objective.

⁷⁴ 250/10

⁷⁵ 253/19

⁷⁶ 446/2

Objectives - Discussion

176. I consider that the interface of zones is sufficiently provided for in higher level objectives and policies within District Wide and Rural Area chapters. I concur with the conclusion of the section 32 evaluation⁷⁷ that proposed objective RPE.1.2.5 is appropriate.

Objectives - Recommendation

177. I recommend that the Commissioners **reject** submission point 446/2.

Policy RPE.1.6.3 - Submission Information

178. FFNZ⁷⁸ submit that policy RPE.1.3.6 be amended as follows and note their previous reservations about setback buffers:

To avoid inappropriate subdivision and development in areas required for future urban growth by identifying 'setback buffers' between the RPE and Living Environments...

Policy RPE.1.6.3 - Discussion

179. The amendments to policy RPE.1.3.6 sought by FFNZ are minor. I support this amendment as in my opinion 'inappropriate' subdivision and development have been clearly described within the provisions.

Policy RPE.1.6.3 - Recommendation

180. I recommend that the Commissioners **accept** submission point 253/15 and that the notified provisions be amended as follows:

RPE.1.3.6 POLICIES

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

Policies RPE.1.3.10 and RPE.1.3.12 - Submission Information

181. Numerous submission points⁷⁹ request that polices RPE.1.3.10 and 12 be substantially changed to reflect that this is a productive environment delivering economic wealth to the District and should not be restricted from efficiently contributing to the local economy. The creation of a 20ha minimum title is not representative of the current environment with numerous smaller titles already in existence.

182. Summerland Estates Ltd⁸⁰ requests an amendment to policy RPE.1.3.10 as follows:

To avoid the subdivision of land into allotments less than 20ha unless it is demonstrated that:

⁷⁷ Section 32 Evaluation Report, Part 3

⁷⁸ 253/15

⁷⁹ 181/4, 185/4, 186/4, 191/4, 203/4, 219/4, 233/4, 235/4, 244/4, 260/4, 261/4, 277/4, 314/4, 406/4 and 426/4

⁸⁰ 96/11

- a. *The subdivision of rural land and associated buildings is does not detract from the functioning of the rural production activities for the purpose of supporting an existing farm, forestry or horticultural enterprise associated with rural production.*

183. FNDC⁸¹ states that policy RPE.1.3.10(a) needs to be reworded to provide clear direction to the user of the plan on how this will be demonstrated (e.g. would you need a technical report from a suitably qualified person) and how this will be managed once the new titles are created to ensure that land stays in a productive use. It needs to be written in a way that it does not result in land fragmentation and subsequent land use that is not compatible with its surrounding rural environment.
184. FFNZ⁸² supports in part the relief sought, however no wording has been proposed. An appropriate balance needs to be struck between ensuring robust applications are made to protect rural production land and not imposing unnecessary costs on applicants.

Policies RPE.1.3.10 and RPE.1.3.12 Discussion

185. Many of these submissions have not provided detailed amendments to proposed policies RPE.1.3.10 and RPE.1.3.12 or provided detail as to what changes would be sufficient to address their concerns. It is difficult for me to recommend any changes in response to these submissions without this information.
186. FNDC requests amendments to policy RPE.1.3.10(a). In my opinion it is not necessary for a policy to describe or provide direction to a plan user as to how to comply with the policy. Methods in a plan provide means of compliance, and applicants must provide sufficient information within their assessment of environmental effects accompanying any potential subdivision resource consent application.
187. I agree with FNDC that enforcement ability of policy RPE.1.3.10 will be difficult in my opinion the wording of the policy provides the ability for applicants to pass the s104D gate way tests for a non-complying activity. I support that the sub-clauses to RPE.1.3.10 being amended to achieve the RPE objectives while being more commensurate with a non-complying activity status (acknowledging recommendations in Topic C).

Policies RPE.1.3.10 and RPE.1.3.12 Recommendation

188. I recommend that the Commissioners **reject** submission points 96/11, 410/35, 181/4, 185/4, 186/4, 191/4, 203/4, 219/4, 233/4, 235/4, 244/4, 260/4, 261/4, 277/4, 314/4, 406/4 and 426/4.
189. I recommend that the Commissioners **accept in part** submission points 96/11 and 410/35 and that the notified provisions be amended as follows:

⁸¹ 410/35

⁸² X612

RPE.1.3.10 POLICIES

10. To avoid the subdivision of land into allotments less than 20ha unless it is demonstrated that all of the following criteria are achieved:

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

Eligibility Rules Submission Information

190. GBC⁸³ requests the amendment of RPE.3.1.2 as follows:

Any subdivision in the RPE, activity not requiring consent as a controlled or discretionary activity is a non-complying activity.

191. FNDC⁸⁴ seek the retention of RPE.3.1.1 activity status as notified and the retention of the non-complying status for subdivisions that cannot meet controlled or discretionary standards.

Eligibility Rules Discussion

192. Support from FNDC is acknowledged. In my opinion the amendments requested by GBC provide clarification and consistency with provisions in other chapters.

Eligibility Rules Recommendation

193. I recommend that the Commissioners:

- **Accept** submission point 250/12.
- **Accept in part** 410/40 and 42 and that the notified provisions be amended as follows:

⁸³ 250/12

⁸⁴ 410/40 and 42

RPE.3.2.2 ELIGIBILITY RULE

Any subdivision activity not requiring consent as a controlled or discretionary activity is a non-complying activity.

Rule RPE.3.3.1 - 20ha Controlled Activity - Submission Information

194. Several submitters⁸⁵ support the controlled activity rule RPE.3.3.1 requiring a 20ha minimum lot size.
195. Numerous submissions⁸⁶ oppose RPE.3.3.1 minimum lot size of 20ha for the following reasons:
- Too large.
 - The WDC needs to demonstrate why 20 hectares is the optimal minimal size when there will be landholdings that haven't required this land size for their dominant use.
 - Reduce to 5ha.
 - Land should be subdividable.
 - Minimum allotment size for development in the RPE should be reconsidered. A minimum allotment size should be retained on those lots identified as having highly versatile soils with the default status being discretionary.
 - Not all rural land should be blanketed with one subdivision plan. Landowners wishing to subdivide should have an individual say in the decisions of their land.
 - That we should be able to subdivide our property [53 Abbey Caves Road] even though we don't fall into the category of dairy farming or forestry. I am a largish lifestyle but have off farm income. My soil type is not productive.
 - That Council take note of owners of non-productive land and consider smaller lot sizes than those being proposed.
 - That Council develops a new set of rules that relate to areas where there is a development pattern where subdivision for lifestyle living has already compromised rural production activities that would provide for further subdivision into lots of similar size to surrounding lots.
 - We believe a lot size considerably smaller than 20ha would provide significant environmental benefit in the form of replanting. It is our submission that all land that is currently not being utilised for rural production should be excluded from the RPE.

Rule RPE.3.3.1 - 20ha Controlled Activity - Discussion

196. The proposed rural plan changes take a cohesive approach to zoning to direct land use activities and to avoid potential effects. The proposed subdivision rules work together to provide a package

⁸⁵ 46/1, 183/2

⁸⁶ 130/1, 142/1, 151/1, 206/1, 215/1, 249/5, 287/1, 304/1, 305/1, 306/1 and 307/1, 347/1, 516/1, 526/2, 278/1-284/1, 413/3, 431/12

of subdivision options. Proposed rule RPE.3.3.1 has been evaluated and the appropriateness of the proposed minimum allotment size has been comprehensively traversed in the Section 32 evaluation report⁸⁷.

197. Submitters have raised concerns about the minimum lot size of 20ha. The purpose of RPE is clearly expressed in the Description and Expectations:

“The purpose of the RPE is to sustainably manage the natural and physical resources of the Rural Area in **order to sustain, protect and promote rural production activities**...

It is important that these **areas are not compromised for rural production**. It is expected that a diverse range of productive rural land use activities will continue to operate and new activities will establish in the RPE. Changing demands for existing produce and new markets establishing mean that the **provisions for the RPE need to be flexible to accommodate current and future production needs**...

The RPE **will not support an increased** level of rural living development.,,” [my emphasis added]

198. This expectation is supported by strong objectives RPE.1.2.3 and RPE.1.2.5:

1. **Avoid** adverse effects from rural living land use and development in the RPE.
2. **Minimise** fragmentation of rural land and **promote** allotment sizes that facilitate productive rural land use.

[my emphasis added]

199. The expectation of RPE has had very strong support, with very little opposition to the notified objectives. In my opinion the minimum lot size of 20ha efficiently and effectively achieves the RPE expectations and objectives. In my opinion reduction in the minimum allotment size will lead to further fragmentation of the RPE, risk an urbanized form of development and result in increased potential for reverse sensitivity effects. Submitters have not provided sufficient evidence to demonstrate how smaller minimum allotment sizes would achieve the RPE objectives.

200. Submitters have requested new rules that relate to areas where there is a development pattern where subdivision for lifestyle living has already compromised rural production. This has been provided in the form of the RLE. In my opinion the RLE appropriately provides for lifestyle living within clustered locations that have already been compromised for rural production.

Rule RPE.3.3.1 - 20ha Controlled Activity - Recommendation

201. I recommend that the Commissioners **reject** submission points 46/1, 183/2, 130/1, 142/1, 151/1, 206/1, 215/1, 249/5, 287/1, 304/1, 305/1, 306/1 and 307/1, 347/1, 516/1, 526/2, 278/1-284/1, 413/3, 431/12.

RPE.3.4.2 - Retiring Farmer Activity Submission Information

202. Numerous submissions⁸⁸ have either raised concerns about rule RPE.3.4.2 or have generally supported the concept. Submissions include:

⁸⁷ Appendix A – Section 32 Evaluation Report, Pages 26 - 34

⁸⁸ 73/1, 526/3, 206/1, 230/3 and 339/1, 249/7, 410/41, 526/3, 249/6

- Those opposing think people should be able to retire on their farm. If a person has farmed a rural property for a significant length of time and wish to reside in that area rather than move to town. Also if they have lived there for a long period of time they are hardly property developers. Others oppose the provision for retiring producers to subdivide when small block owners are not allowed
- Those generally supporting.
- Those seeking amendment of RPE.3.4.2 requesting that the remaining area should be 20ha in line with other subdivision permitted to be practical, because the requirement that balance of land be 80ha is impractical. Most Northland titles were 40 and 80 or 100 acres and most remain around that acreage in rural production area. Include provision for the creation of a retirement lot as a controlled activity, with no minimum/maximum allotment size associated with the resultant/parent allotment.
- Subdivision of existing lawfully established residential units should fall to be considered a controlled activity and have no minimum allotment size.
- Include provision for the creation of a Retirement Lot as a Controlled Activity, with no minimum / maximum allotment size associated with the resultant/parent allotment.

RPE.3.4.2 - Retiring Farmer Activity - Discussion

203. In my opinion the proposed RPE subdivision provisions have been carefully balanced to provide for farm succession and on-farm retirement without resulting in fragmentation and loss of production land resource. The option of a reduced balance area of less than 20ha was considered within the Section 32 Evaluation Report.⁸⁹ I concur with the evaluation report that a balance area of 20ha would result in a significant capacity increase failing to achieve the strategic direction for the District and the RPE objectives.

RPE.3.4.2 - Retiring Farmer Activity - Recommendation

204. I recommend that the Commissioners **reject** submission points 73/1, 526/3, 206/1, 230/3, 339/1, 249/7, 410/41, 249/6 and 526/3.

Horticultural Subdivision Rules - Submission Information

205. Hort NZ⁹⁰ requests new subdivision rules as there needs to be provision for subdivision of smaller lots for horticultural purposes. Hort NZ seeks a rule that includes standards specific for smaller blocks for horticultural subdivision in the RPE. Given the value of land for horticulture it is unrealistic for a grower to be required to purchase a 20ha property when only a portion may be used for the horticultural operation.

Specific relief to include a Restricted Discretionary Activity in the RPE as follows:

Amend RPE.3.1 Eligibility rule:

⁸⁹ Appendix A – Section 32 Evaluation Report, Pages 38 - 40

⁹⁰ 423/8 and 17

- 2) *Any activity not requiring consent as a controlled, restricted discretionary or discretionary activity is a non-complying activity*

Add new Restricted Discretionary Activity

1. Subdivision for Rural Production Lots with a minimum of 6 ha and meet requirements set out in RA.3 or include the provisions in RPE.3

Rural production lots

Existing rural lots may be subdivided to create one or more Rural Production Lots subject to the following standards and criteria relating to either productive land or land containing a productive crop:

Productive Land:

- (i) Shall contain a minimum of 6ha.
- (ii) Each Rural Production Lot shall be suitable for the successful growing of permanent horticulture crops in the prevailing climatic conditions.
- (iii) Shall have the following characteristics:
- Soil texture; silt loam, sandy loam, loam, loamy sand (in the topsoil 15cm)
 - Potential rooting depth: minimum one metre
 - Drainage Class: well-drained
 - Profile readily available water (0 – 100cm): moderate (greater or equal to 50mm)
 - Topsoil (top 15 cm) bulk density: less than or equal to 0.90 g/cm³
 - Subsoil (below 15 cm) bulk density: less than or equal to 1.00 g/cm³
 - Topsoil (top 15cm) organic matter: minimum 5%
 - No point exceeding 15 degree slope
 - No more than 20% of the productive land shall be facing 45 degrees either side of South (south east to south west).
- (iv) Each application shall be accompanied by a report/s completed by a person/s qualified and experienced in local soils and horticulture production. The report as a minimum shall:
- Certify that the land concerned meets (i) to (iii) above;
 - Provide comment on effects of drainage, climatic conditions, previous or current land use, any limitations and any cumulative effects;
 - Recommendations for any remedial work.

Productive Crop:

(v) The above provisions, (ii) to (iv) shall not be required to be met where each Rural Production Lot is a minimum of 6ha and no less than 70% of that area is planted in a productive crop which must be certified or other evidence provided.

Addition of RA.3.1.

Any subdivision for RPS lots is a Restricted Discretionary Activity.

Include a new section as RA.3.3A Restricted Discretionary Activity. In the Rural Production Environment:
[repeated text from above rule]

Horticultural Subdivision Rules - Discussion

206. Hort NZ have taken a very strong opposing stance to the structure of the rural plan changes from high level, requesting amendments to the zoning criteria down to seeking extensive setback back provisions to protect horticultural activities from potential reverse sensitivity. Hort NZ have made numerous submissions opposing subdivision and rezoning of land for the purpose of RLE, yet appear to contradict this position by seeking special horticultural subdivision rules. Increasing the ability to subdivide as requested in submission point 423/17 risks further fragmentation of the RPE combined with the potential increase of incompatible land use activities given the ability to establish a residential unit per site in accordance with rule RPE.2.3.2.
207. Hort NZ have not supplied any evidence to support the relief sought. In consider that the potential capacity and environmental effects of this rule have not been established. In my opinion implementation of this rule will be costly to both Council and applicants, the rule is extremely technical, and WDC does not have the internal capacity or information to review technical reports required to support applications.
208. In the absence of sufficient supporting evidence and section 32 evaluation I cannot support the relief sought. I also note that the subdivision rules and policy RPE.1.3.10 provide for subdivision applications where productivity is maintained.

Horticultural Rules - Recommendation

209. I recommend that the Commissioners **reject** submission point 423/8 and 17.

Environmental Benefit Lot and Transferable Title Rights - Submission Information

210. Numerous submitters⁹¹ have requested either a reintroduction of the Environmental Benefit Subdivision Rule - 73.3.2 of the WDP and/or a revised and reviewed version of that bonus and incentive technique. Particularly in the RPE and the RLE, where bush and wetland is to be protected and the feature(s) meet specified significance criteria, and/or where significant environmental enhancement works are proposed and those works meet specified criteria. The absence of any environmental benefit subdivision provisions does not give effect to the RPS particularly Objective 3.15, Policy 4.7.1 or Method 4.7.4. The absence of any subdivision

⁹¹ 195/5, 196/2, 413/4, 309/8 and 9 and 311/1 and 2, 336/12, 382/1 and 2, 428/2, 447/1 and 394/1

incentives for the protection and enhancement of bush and wetland areas does not achieve sustainable management in accordance with Part 2 of the RMA.

211. Mark Poynter⁹² identifies the following reasons for the inclusion of Environmental Benefit Rules:
- Enable appropriate and limited subdivision opportunities in the rural area, in ways that will not result in a loss of rural production, reverse sensitivity, rural character and amenity effects, or any potential additional demand on infrastructure.
 - Achieve WDC's strategic direction for rural areas and not threaten the rural production focus of rural areas by allowing the proliferation of rural-residential lots.
 - Appropriately provide incentives to focus rural lifestyle living in appropriate areas/zones, enabling limited opportunities for further development of such areas in exchange for environmental benefits.
212. Mark Poynter and Cato Bolam Consultants⁹³ seek the introduction of transferable title rights as well as the addition of environmental benefit lots.
213. DoC⁹⁴ supports in part these submissions stating that there can be benefits to natural values in the use of environmental benefit provisions. However such provisions need to be carefully designed to ensure that there is a net conservation gain. The submissions lack detail necessary to ensure such a result would be achieved.

Environmental Benefit Lot and Transferable Title Rights - Discussion

214. Transferable title rights, is a subdivision method where a 'development right' is created via the permanent protection of a significant feature such indigenous vegetation. This 'development right' can then be transferred to another location usually more suitable for residential development. In my experience the establishment and management of transferable rights is overly complicated. The rural plan changes taken a very considered and directive approval to the location and capacity for residential development, via RLE, RUEE, RVRE and Living 1 and 3 expansion locations. In my opinion there is no obvious benefit in transferring a 'development right' to the RLE, RUEE, RVRE and Living 1 and 3 and the transfer of 'development right' within the RPE would result in fragmentation and potentially compromise the productive potential. In my opinion transferrable rights are not an appropriate method for the rural plan changes.
215. The benefits of a method for environmental benefit lot subdivision have not been disputed in the Section 32 Evaluation Report⁹⁵. It was suggested however that such methods would be more effective when used in conjunction with a Resource Area, the logic being that the method would be evaluated with the Biodiversity and Significant Natural Area (resource area) plan change (draft PC127). The method is also considered within the s32 evaluation of status quo in relation to minimum lot sizes in the RPE. The status quo was considered to be unable to meet the objectives

⁹² 357/1

⁹³ 357/2 and 382/2

⁹⁴ X547

⁹⁵ Appendix A, Section 32 Evaluation Report, pages 28 - 29

of the RPE, because it would fail to reduce fragmentation and protect rural land for productive uses.

216. The suite of rural plan changes (RPE and RLE included) have been prepared and drafted with focus on giving effect to higher order documents, including the RPS. RPS policy 4.4.1 clause 3⁹⁶ requires the avoidance, remedy or mitigation of adverse effects from subdivision, use and development. RPS method 4.4.3 clause 2 requires WDC to implement this policy within two years. RPS policy 4.7.1 promoting active management is also noted. RPS implementation method 4.7.4 states that district councils may use incentives. As discussed in **Part 1** of the s42A report, Topic K I concur that the proposed package of vegetation clearance and subdivision rules provide sufficient protection until draft PC127 is progressed. I also note that NRC has not made submissions or further submissions about these matters.
217. Environmental protection and consideration of natural character is embedded throughout the proposed plan changes for the Rural Areas. The Description and Expectations recognise biodiversity and productive ecosystems as part of the natural character of the Rural Area and these values are protected addressed within objectives, a collection of strong prescriptive policies and then more specifically with rules intended to give effect to those policies.
218. Of particular note is the matter of control RA.4.1.1.j which is “The extent to which the subdivision avoids adverse effects on the significant flora and fauna habitats; including methods of weed and pest management”. Buildings which result in the destruction of more than 500m² indigenous vegetation or in any indigenous wetland are not permitted (RPE 2.3.4 and RPE 2.3.5). Overall, in my opinion the notified provisions give effect to the RPS using a protective provisions approach.
219. The current environmental benefit rule 73.3.2 is intended to provide an incentive to protect certain natural features. There are however issues with interpretation and administration of the current provisions during resource consent preparation, processing and consequential implantation and monitoring, the numerous criteria make the rule complex, inefficient and often ineffective.
220. Rule 73.3.2 requires the legal protection of an area of indigenous vegetation or a restoration project. The rule only considers covenanting and reserves as environmental benefit. Other conditions on the property could also offer benefit, such as pet free subdivisions or wetland creation as part of stormwater requirements. On-going maintenance and enforcement of rule 73.3.2 is challenging due to resourcing. Council covenants are only monitored once every 10 years or so and no resources are available to ensure that fencing, revegetation, weeding and pest control are carried out as per the recommendations. This is of particular importance for features that require restoration to bring them up to an acceptable level of quality. QE2 only take on a limited number of covenants each year. These are semi-resourced and monitored every 2 years.

⁹⁶ 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.

Not every feature that would be able to be considered for the environmental benefit lot would qualify under QE2 criteria.

221. I do not support the inclusion of an Environmental Benefit Lot in the provisions, particularly in the form of WDP rule 73.3.2. No changes are recommended to RPE.3.1. If the Commissioners are of a mind, however to include provisions an alternative option is included in **Attachment 1**. The options considered are:

- **Option 1:** Status quo – Retain the current provisions for Environmental Benefit Lots contained in the WDP.
- **Option 2:** No Environmental Benefit Lot provisions.
- **Option 3:** Add revised provisions for Environmental Benefit Lots to the RPE.

222. Evaluation of these alternative options have been summarised in the table below.

TABLE 1: EVALUATION OF RPE.3 ENVIRONMENTAL BENEFIT LOT RULES		
Option	Costs	Benefits
Option 1	<p><u>Environmental</u></p> <p>Loss of rural character and amenity caused by fragmentation and sprawling development</p> <p>Environmental costs outweigh environmental benefits in some cases.</p> <p><u>Economic</u></p> <p>Loss of productive land in the RPE due to fragmentation and an associated reduction in contribution to district wide economy by the rural sector.</p> <p><u>Social</u></p> <p>Difficulties in provision administration and eligibility remain. Ambiguity remains.</p> <p><u>Cultural</u></p> <p>None identified</p>	<p><u>Environmental</u></p> <p>Some features may be protected where they might not be otherwise</p> <p><u>Economic</u></p> <p>Individual landowners may realise increased profits from a subdivision</p> <p><u>Social</u></p> <p>Maintains status quo and familiarity for users of the District Plan.</p> <p><u>Cultural</u></p> <p>None identified</p>
Option 2	<p><u>Environmental</u></p> <p>Some vegetation and wetlands may not be fully protected from development within certificates of title</p> <p><u>Economic</u></p> <p>Reduced income for some landowners due to reduced lot yield for some subdivisions.</p> <p><u>Social</u></p> <p>None identified</p> <p><u>Cultural</u></p> <p>None identified.</p>	<p><u>Environmental</u></p> <p>Rural character and amenity of the RPE is maintained.</p> <p><u>Economic</u></p> <p>Productive capacity of land in RPE is protected.</p> <p><u>Social</u></p> <p>None identified.</p> <p><u>Cultural</u></p> <p>None identified.</p>
Option 3	<p><u>Environmental</u></p>	<p><u>Environmental</u></p>

	<p>Loss of rural character and amenity caused by fragmentation and sprawling development</p> <p>Environmental costs outweigh environmental benefits in some cases.</p> <p><u>Economic</u></p> <p>Loss of productive land in the RPE due to fragmentation and an associated reduction in contribution to district wide economy by the rural sector.</p> <p><u>Social</u></p> <p>None identified</p> <p><u>Cultural</u></p> <p>None identified</p>	<p>Some features may be protected where they might not be otherwise</p> <p><u>Economic</u></p> <p>Individual landowners may realise increased profits from a subdivision</p> <p><u>Social</u></p> <p>None identified</p> <p><u>Cultural</u></p> <p>None identified</p>
Option	Economic Growth and Employment Opportunities	
Option 1	Option 1 would have a minimal effect on the current situation with economic growth and employment opportunities as it would maintain the status quo. This represents a reduction over time due to the loss of land for rural production.	
Option 2	Option 2 will maintain economic growth and employment opportunities as the proposed provisions aim to protect enhance productive uses and to direct residential developments to appropriate locations. The provisions within the RPE themselves may not allow for significant economic growth due to subdivision within the RPE, but it does provide for the contribution that rural production makes to the local economy and to the employment that those businesses provide to residents in the area.	
Option 3	Option 3 would have a minimal effect on the current situation with economic growth and employment opportunities. This represents a reduction over time due to the loss of land for rural production.	
Option	Efficiency and Effectiveness	
Option 1	<p>Effectiveness: In my opinion Option 1 will not achieve the objectives of the RPE or the RPS as it contributes to fragmented development and loss of land for the purposes of rural production without adequately ensuring that an environmental benefit is in fact provided.</p> <p>Efficiency: Option 1 (the status quo) is not considered to be an efficient.</p>	
Option 2	<p>Effectiveness: In my opinion Option 2 is effective in achieving the outcomes of the RA and the RPE because it applies provisions which achieve the objectives policies for the RPE. This option has already been comprehensively addressed in the s32 report.</p> <p>Efficiency: Option 2 streamlines subdivision assessment and processing by providing a clearer framework for lots sizes and eligibility. By not including the current environmental benefit lot provisions, considerable administrative difficulties and ambiguities have been removed. Improved efficiencies in administration and processing subdivision applications will result in increased certainty regarding outcomes.</p>	
Option 3	<p>Effectiveness: In my Option 3 will not objectives of the RPE as it will contribute to the fragmented development and loss of land for the purposes of rural production without adequately ensuring that an environmental benefit is in fact provided.</p> <p>Efficiency: Option 3 is not considered to be an efficient.</p>	
Risk of acting and not acting		
<p>Risk of not acting: The risk of not acting means that the status quo and the limitations associated with it are maintained. Retaining the current provisions also present a significant risk to PC85 and PC85A. It is inconsistent with many objectives and policies within them and therefore present an unacceptable degree of risk.</p> <p>Risk of acting: Same as above as status quo would be maintained.</p>		

223. Option 2 is in my opinion is the most efficient and effective option to achieve PC85A.

Environmental Benefit Lot and Transferable Title Rights- Recommendation

224. I recommend that the Commissioners **reject** submission points 195/5, 196/2, 413/4, 309/8 and 9 and 311/1 and 2, 336/12, 382/1, 382/2, 428/2, 447/1, and 394/1 357/1 and 357/2.

Boundary Relocation - Submission Information

225. Terrence Hailes⁹⁷, Reyburn and Bryant 1999 Ltd⁹⁸ and FNDC⁹⁹ state the following:

- RPE.3.3(2) (a) should refer to titles rather than allotments.
- Rule RPE3.3(2) Boundary Adjustment should be amended, Clauses (b) and (e) are at odds with each other.
- The minimum lot size in RPE.3.3(2) should be reduced to 4000m² to enable more of the residual land to be held in a large lot, therefore increasing the potential for productive rural land use. A minimum lot size of 4ha under RPE.3.3.2(b) fragments the rural land resource to a greater extent than a 4000m² allotment.
- Supports the 'relocation' terminology as opposed to 'adjustment'.
- The boundary adjustment rule is inflexible and should not be contingent on resultant allotment size, particularly if no additional development rights ensue, or a boundary adjustment is to facilitate "enhanced" rural production (through amassed landholdings).

226. FFNZ¹⁰⁰ supports RPE.3.3.2.

Boundary Relocation - Discussion

227. The s32 report demonstrates that the purpose of RPE.3.3.2a was to ensure that the boundary relocation did not result in the ability to construct additional residential units. I understand from Reyburn and Bryant that they are concerned that the reference to 'allotment' will not achieve this purpose because an application could potentially involve multiple 'allotments' with amalgamation conditions, potentially technically increasing the number of allotments but not increasing development potential. My concern with the particular relief sought is that 'title' is not defined within the WDP, while "site" is defined:

Site

means an area of land or volume of space, shown on a plan with defined boundaries, and includes:

1) a) Land which is:

i. Comprised in a single allotment or other legally defined parcel of land, and held in a single certificate of title; or

ii. Comprised in a single allotment or legally defined parcel of land for which separate title cannot be issued without further consent of the council; or

b) An area of land which is comprised of two or more adjoining certificates of title where such titles are:

i. Subject to a condition imposed under Section 80 of the Building Act 2004; or

ii. Held together in such a way that they cannot be dealt with separately without the prior consent of the council; or

⁹⁷ 249/8

⁹⁸ 309/12

⁹⁹ 410/43

¹⁰⁰ 253/23

- 2) In the case of land subdivided under the cross lease or company lease systems (other than strata titles), an area of land containing:
- a) A building for residential or business purposes with any accessory building, plus any land exclusively restricted to the users of those buildings; or
 - b) A remaining share or shares in the fee simple creating a vacant part of the whole for future cross lease or company lease purposes; or
- 3) In the case of land subdivided under the Unit Titles Act 1972 (other than strata titles), site shall mean an area of land containing a principal unit or proposed unit on a unit plan, together with its accessory units; or
- 4) In the case of strata titles, site shall mean the underlying certificates of title, immediately prior to subdivision.

Site shall also include the access to the site.

228. To ensure consistency and avoid confusion I support the rule being amended to refer to 'site'.
229. Rule RPE.3.3.2 does not specify a minimum allotment size, other than the ability to accommodate onsite disposal. I do not consider that RPE.3.3.2(b) and (e) are at odds. In my opinion each clause is seeking a different outcome. Clause (b) is about the number of small allotments seeking to ensure that the number stays the same. Clause (e) is seeking to ensure that a balance allotment created when relocating a boundary does not result in additional residential density rights.
230. In my opinion there is a risk that an applicant may hold multiple large allotments and relocate boundaries to create numerous 4ha allotments and a medium balance allotment because the rule does not specify a maximum number of resultant allotments being created.

Boundary Relocation Recommendation

231. I recommend that the Commissioners:

- **Accept in part** submission point 249/8, 309/12 and 410/43.
- **Accept** submission point 249/6 and that the notified provisions be amended as follows:

<p>RPE.3.3.2 CONTROLLED ACTIVITIES</p> <p>Boundary relocation subdivision of sites which are existing at [Operative Date] that:</p> <ul style="list-style-type: none"> a. Results in the same number of allotments sites, <u>except sites held together under section 80 of the Building Act 2004.</u> b. Creates no new allotment/s with a new site area less than 4ha. c. ...

M. Minor Amendments

Submission Information

232. FNDC¹⁰¹ requests that the word "dairy" be replaced with "pastoral" in RPE.1.1 paragraph 2, to include sheep and beef farming as well as dairying. FNDC also requests the amendment of RPE.2.1 to clarify the status of home occupations.

¹⁰¹ 410/32

233. Trevor Shaw¹⁰² states that the name ‘Rural Production Environment’ is not appropriate. RPE.2.1.1 Many small properties are caught in this Environment and will never be a productive rural property. RPE.1.2.5 Many of these are suited to rural lifestyle.
234. Numerous submissions¹⁰³ request that RPE.1.1 refers to rural production activities “as dairy farming, horticulture and forestry”, however throughout the document there are separate references to farming, horticulture and intensive farming.
235. Jennifer Hudson¹⁰⁴ seeks the addition of land fill, managed fill and clean fill activities as non-complying activities to RPE.2.1 Eligibility Rules.
236. Sarndra Rotherham¹⁰⁵ requests the exclusion of avocado orchards from sensitive activity, and to protect daily operation of avocado orchards to be maintained as currently.

Discussion

237. I agree with submitters that clear use of terminology is important and recommend that the consistent use of ‘rural production activities’ is applied consistent with the recommended definition (refer to **Part 1** of the s42A report, Topic O).
238. It is my opinion that “Rural Production Environment” is a logical name for the proposed Environment, as the majority of the area is intended for productive land use activities. I consider that the variations in the Environment are accurately described in the Description and Expectations.
239. The WDP definition of Earthworks includes all aspects of land fill. Rules managing earthworks have been notified within the package of plan changes to limit earthworks in sensitive locations (such as Outstanding Natural Landsapes, Natural Character Areas). In my opinion the package of proposed provisions provide sufficient management of land fill.
240. Avocado orchards are not defined as a sensitive activity.

Recommendation

241. I recommend that the Commissioners:
- **Reject** submission points 469/1, 53/1 and 84/1.
 - **Accept in part** the relief sought by submission points 410/32, 314/1, 406/1 and 426/1.

N. General Support

Submission Information

242. Numerous submissions have supported aspects of PC85A seeking retention of provisions as notified:

¹⁰² 469/1

¹⁰³ 181/1, 186/1, 191/1, 203/1, 219/1, 233/1, 244/1, 260/1, 261/1, 277/1, 235/1, 85/1, 314/1, 406/1, 426/1 250/8

¹⁰⁴ 53/1

¹⁰⁵ 84/1

- Entire plan change¹⁰⁶
- Objectives¹⁰⁷
- Policies¹⁰⁸
- Land use rules¹⁰⁹
- Zoning¹¹⁰

Discussion

243. Support from these submissions is acknowledged.

Description and Expectations Recommendation

244. I recommend that the Commissioners **accept in part** submissions points 184/1, 423/12 and 13, 253/9, 11, 12 16-18, 20 and 22, 240/11-20 and 23, 190/1 and 7, 409/7 and 10, 429/2, 414/6, 450/3, 344/4, 220/1, 85/1, 78/7, 530/1 and 206/2 and 477/1, noting that specific amendments may have been recommended in response to other submissions.

O. General Opposition

Submission Information

245. J Kellermeier & E Weiherer¹¹¹ submit that they have always looked after the native bush and trees and do not agree that the Council takes control of the land. The Council has the opportunity to buy the property then they can do whatever they want. There is opportunity to put a covenant on part of the land, but needs to be negotiated.
246. G Beavis¹¹² opposes the PC85A due to insufficient information and requests the withdrawal of PC85A in its entirety.

Discussion

247. I acknowledge the opposition raised in the above submissions. It is my opinion, however that PC85A is appropriate and has been adequately evaluated in accordance with section 32. In my view provisions (and subsequent recommended amendments) meet the requirements of the RMA and enable people to make use of their land in a reasonable manner.

Recommendation

248. I recommend that the Commissioners **reject** the general opposition submission points.

¹⁰⁶ 184/1

¹⁰⁷ 423/12, 253/9 240/12, 240/11, 13 and 14 and 253/11

¹⁰⁸ 190/7, 240/15-20, 253/12, 409/10, 423/13, 429/2, 253/16-18

¹⁰⁹ 190/1, 240/23, 253/20 and 22, 409/7, 414/6, 450/3, 344/4, 78/7 and 206/2

¹¹⁰ 220/1, 85/1, 477/1 and 530/1

¹¹¹ 45/2

¹¹² 172/1

P. Consequential Changes

Submission Information

249. As discussed in Topic O of **Part 1** of the s42 report, two submission points¹¹³ have been made requesting further clarification and/or definition of terms such as 'rural production activities'.

Discussion

250. New definitions have been recommended which require consequential changes to RPE.1.1, RA.1.2.6, RA.1.2.8, RA.1.3.2, RA.1.3.9, RA.1.3.10 and RA.1.3.12. I consider that these changes improve the clarity and consistency of the provisions by removing ambiguity around terms such as 'rural land use activities' and 'productive uses'.

Recommendation

251. I recommend that the Commissioners amend the notified provisions as consequential amendments as follows:

RPE.1.1 DESCRIPTION AND EXPECTATIONS

...

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

...

RPE.1.2 OBJECTIVES

1. Identify and protect rural land resources for a diverse range of ~~productive rural~~ production land use activities.
5. Minimise fragmentation of rural land and promote allotment sizes that facilitate ~~productive rural~~ production land use activities
6. Enable a wide range of ~~productive rural~~ production land use activities to establish and operate to contribute to the District's economy.

RPE.1.3 POLICIES

8. To protect the productive function of the RPE while providing for a range of ~~productive rural~~ production land uses activities by:

...

10. To avoid the subdivision of land into allotments less than 20ha unless it is demonstrated that all of the following criteria are achieved:

- a. The subdivision of rural land and associated buildings does not inhibit or restrict the productive potential or reasonably anticipated productive potential of rural production activities. ~~is for the purpose of supporting an existing farm, forestry or horticultural enterprise associated with rural production.~~

¹¹³ 250/2 and 3

- b. The size, shape and arrangement of allotments is a practical size for rural production land use activities and does not restrict the range of options for the use of production land.
- c. The viability of the existing farm, forestry or horticultural enterprise rural production activity is not compromised and the existing rural production activity can continue to operate efficiently at the subdivided scale.
- d. The subdivision and subsequent development will not result in significant adverse effects on the operation and viability of any adjoining farm, forestry or horticultural rural production activity.
- ...

6.0 Conclusions and Recommendations

252. After carefully considering the submissions and further submissions received in relation to each topic, I recommend that PC85A be amended to the extent detailed in the preceding sections of this report and as illustrated in **Attachment 2E** of **Part 1** of the s42A report. 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.
253. The revised provisions [**Attachment 2E** of **Part 1** of the s42A report] 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 PC85A.
254. I have read and am familiar with all Parts to the s42A report. I concur with any recommendations that result in amendments to PC85A to the extent illustrated in **Part 1** of the s42A report **Attachment 2E**.

AUTHOR



Melissa McGrath
Team Leader District Plan

ATTACHMENT 1 – Alternative Environmental Benefit Lot Subdivision Provisions

The follow provisions are put forward as alternatives to those in the WDP if the Commissioners are of a mind to insert Environmental Benefit Lot Subdivision rules. The provisions have been prepared with the technical support of David Wright of Ecology North.

Add the following to RPE.1.3 Policies:

- XX To safeguard ecological integrity within the RPE by considering sites with significant natural features for environmental benefit subdivision if the features:
- a. are assessed to be acceptable quality by a qualified and experienced ecologist;
 - b. are predominantly indigenous vegetation;
 - c. are a threatened or rare habitat type or contain indigenous or endemic taxa that are threatened or are rare in Northland;
 - d. contribute to ecological connectivity within the District; and
 - e. are either
 - i. indigenous vegetation with a minimum size of 1ha and minimum width of 50m; or
 - ii. located in a LENZ Acutely or Chronically Threatened Environment; or
 - iii. an intact and functioning indigenous wetland
- XX To minimise fragmentation of the RPE by allowing a maximum of 1 additional allotment for the purposes of environmental benefit only if all of the significant natural features on the site are to be protected as part of the subdivision.

Add the following to RPE.3.4 Discretionary Activities:

- XX Subdivision where a single environmental benefit lot is proposed and all of the following criteria are met:
- a. An existing feature (or features) of high ecological value is present.
 - b. The feature(s) are unprotected at the time of application.
 - c. Protection is to be provided in perpetuity on the relevant certificate of title.
 - d. Every feature within the site is to be protected.
 - e. The full extent of the features located within the site are to be protected.
 - f. Granting the environmental benefit lot will not significantly interfere with or impede the feature(s).
- XX Any application made under rule RPE 3.4.X must be accompanied by a report from a qualified ecologist which addresses (as a minimum):
- a. Size and extent of the features.
 - b. The ecological quality of the feature(s), including but not limited to:
 - i. Function
 - ii. Structure
 - iii. Integrity
 - iv. Long term viability
 - c. The underlying physical characteristics of the feature(s), including but not limited to:
 - v. Soil type
 - vi. Topography
 - vii. Aspect
 - viii. LENZ classification

- ix. PNAP classification
- d. The effects of the potential development on the feature(s), including but not limited to:
 - x. Building platforms
 - xi. Access
 - xii. Earthworks
 - xiii. Services:
 - 1. Storm-water
 - 2. Reticulated sewer or septic tanks
 - 3. Reticulated freshwater or water tanks
 - 4. Telecommunications networks
 - 5. Energy (electricity and or gas) networks
- e. The potential effects of pets on the feature(s).
- f. The potential effects of farmed animals on the feature(s).
- g. A five-year management plan for the feature(s) including but not limited to:
 - i. Weed control
 - ii. Pest animal control
 - iii. Pest organism control
 - iv. Re-vegetation and restoration opportunities
 - v. Fencing plan