

Part 10
Proposed Plan Change 85D
Rural Living Environment

Section 42A Hearing Report

AUTHORS

Evan James Cook
Senior Policy Planner

and

Sarah Jane Brownie
Senior Policy Planner

2 June 2017

Table of Contents

1.0	Introduction	3
2.0	Plan Change as Notified	4
3.0	Purpose of Report	6
4.0	Structure of the Report	6
5.0	Consideration of Submissions	7
A.	General Support	7
B.	General Support for Objectives and Policies	8
C.	Reverse Sensitivity	8
D.	Commercial and Industrial Activities	15
E.	Mineral Extraction and Industrial Activities, Activity Status	16
F.	Rural Production Activities and Horticulture	18
G.	Stormwater and Aquifers	19
H.	Site Coverage	20
I.	Residential Density	20
J.	Miscellaneous Rules	21
K.	Transport Infrastructure and Traffic Movements	23
L.	Subdivision Rules	24
M.	Mapping Criteria	28
N.	Consequential Changes	30
6.0	Conclusions and Recommendations	31

1.0 Introduction

1. This is **Part 10** 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** of the s42A report.
2. This report has been prepared in accordance with section 42A of the Resource Management Act 1991 (**RMA**) and forms the Hearing Report for the Whangarei District Council's (**WDC**) Proposed Plan Change 85D (**PC85D**). This report provides consideration of the proposed provisions, recommendations in relation to submissions and, where appropriate, the report cross-references the Section 32 Evaluation (**s32**), further expert evidence, analysis of any background material and legislative discussions.
3. This s42A report has been prepared by Evan James Cook and Sarah Jane Brownie
4. Mr Cook's statement of qualifications and experience is as follows:
 - My name is Evan James Cook. I am a qualified town planner holding the qualifications of Bachelor of Tourism and Master of Planning from the University of Otago. I have been a full member of the New Zealand Planning Institute since September 2016 and have been a member of the Institute since 2008.
 - I have worked as a planner in the Northland region since November 2007. My planning experience includes 11 months with a Whangarei based consultancy. This role involved preparing applications for subdivision and land use resource consents, writing and presenting planning evidence at resource consent hearings, assessments of environmental effects, reviewing conditions of consents and preparing change of conditions applications, preparing conservation assessments, preparing weed and pest management plans, and making submissions on resource consents and proposed District Plan changes.
 - I commenced employment with Whangarei District Council's Policy and Monitoring Department as Policy Planner (Coastal) in October 2008 and have been employed as a Senior Policy Planner since September 2015. My current role includes carrying out background research for District Plan changes, preparation of plan change documents and Section 32 reports, presenting at council meetings, workshops and plan change hearings, consultation with the community on council projects and proposals, making recommendations on submissions, the development of structure plans and plan changes to implement the Whangarei Coastal Management Strategy, making submissions on proposed legislation and regional and national policy documents, and liaising with the public, other Council departments and other agencies on resource management and coastal issues.
 - I am familiar with the Environment Court's Code of Conduct for expert witnesses and have taken it into account in the preparation of this statement of evidence. I consider that the evidence is within my area of expertise and agree to comply with the Code of Conduct in presenting this evidence to the Court. I confirm that the evidence on planning matters that I present is within my areas of expertise and I am not aware of any material facts which might alter or detract from the opinions I express. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. I have also read and am familiar with the Resource Management Law Association / New Zealand Planning Institute "Role of Expert Planning Witnesses" paper. The opinions expressed in this evidence are based on my qualifications and experience, and

are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position.

5. Ms Brownie's statement of qualifications and experience is as follows:
 - My name is Sarah Jane Brownie. I hold a Bachelor of Arts (in Business Psychology) and a Master of Resource and Environmental Planning. I am an Intermediate Member of the New Zealand Planning Institute.
 - I began work as a Policy Planner at WDC in January 2017. My role as part of the District Plan Team includes consultation, research, reporting and appearances necessary to support the maintenance and rolling review of the Whangarei District Plan.
 - Prior to commencing this role, I was employed by Northpower Ltd from January 2003- Dec 2016 within various engineering and planning roles. In my role as Network Environmental Planner I was responsible for managing the company's interests within New Zealand's planning framework. The responsibility extended to all planning relevant consultations and involvement in planning processes at district, regional and national level. I worked in this dedicated planning role for seven years although my involvement with planning matters spanned eleven years.
 - I am familiar with the Environment Court's Code of Conduct for expert witnesses and have taken it into account in the preparation of this statement of evidence. I consider that the evidence is within my area of expertise and agree to comply with the Code of Conduct in presenting this evidence to the Court. I confirm that the evidence on planning matters that I present is within my areas of expertise and I am not aware of any material facts which might alter or detract from the opinions I express. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. I have also read and am familiar with the Resource Management Law Association / New Zealand Planning Institute "Role of Expert Planning Witnesses" paper.
 - The opinions expressed in this report are based on my qualifications and experience, and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position. I have no vested interest in the outcome of PC85D nor any conflict of interest to declare.
6. A comprehensive description of the background to PC85D, a chronology of events relevant to the proceedings of PC85D and overview of the Rolling Review process and statutory considerations is all included in **Part 1** of the s42A report.

2.0 Plan Change as Notified

7. A comprehensive description of the background to PC85D is included in **Part 6** of the Section 32 Evaluation.
8. Rather than duplicate the background section from the s32 report, the following key points are made in summary.
9. PC85D proposes to introduce a new Rural Living Environment (**RLE**) to the Whangarei District Plan (**WDP**) to provide for rural lifestyle development in the Rural Area (**RA**). The purpose of PC85D is:

- To recognise existing and future demand for rural living development in the RA.
 - To rezone areas of existing rural residential development to a more appropriate zone reflecting the existing levels of development and land use activities.
 - To consolidate areas of existing rural living development that are no longer in primary production activities within the Countryside Environment (**CE**) and Coastal Countryside Environment (**CCE**).
 - To rezone areas of the CE to provide limited future rural living opportunities for rural residential development in appropriate locations.
10. The zone has been applied in the planning maps to recognise areas of existing lifestyle development as well as provide extra capacity in suitable locations. Areas for the RLE were selected based on constraint mapping, avoiding hazards, and seeking to avoid increasing the risk of reverse sensitivity conflicts between areas of rural residential development and other land uses in the RA. A discussion on how the RLE areas were selected is contained in section 1.3 of the Section 32 Report. The notified plan change text is included in **Appendix B of Part 1** of the s42A report and is summarised as follows:
- RLE.1.1 Description and Expectations: provides a brief introduction explaining the context and the reasons for the RLE zone and its provisions. The RLE is proposed in 14 locations with established rural residential development within the Rural Area.
 - RLE.1.2 Objectives and RLE.1.3 Policies: 6 objectives and 12 policies are proposed for the RLE.
 - RLE.1.4 Guidance Note: this provision provides guidance for resource consent applications in the RLE and specifies which objectives and policies shall be assessed.
 - RLE.2.1 Land Use Eligibility Rules: this rule clarifies the activity status for any activity not listed as a discretionary activity. Industrial activities and mineral extraction are to be prohibited in the RLE, and commercial activities are non-complying activities. All other activities not specified as discretionary activities are permitted activities.
 - RLE.2.2 Land Use Notification Rules: all activities are subject to the normal notification tests of the RMA.
 - RLE.2.3 Land Use Discretionary Activities: the land use requirements are generally permissive in regard to residential development, minor residential units and small scale home occupations. Bulk and location controls are included as discretionary activities to maintain rural character and amenity values within the zone. This section also specifies setbacks for sensitive activities from potential nuisance activities to manage reverse sensitivity effects. The rules also provide for places of assembly as a discretionary activity
 - RLE.3.1 Subdivision Discretionary Activities: all subdivision within the RLE requires controlled or discretionary activity resource consent.
 - Mapping: amendments to the WDP Environment maps to denote the RLE and delete any relevant Scheduled Activity maps which currently apply to existing activities.

3.0 Purpose of Report

11. This report considers submissions received in relation to PC85D. 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 PC85D.
12. The report includes recommendations to the Commissioners to accept, accept in part or reject individual submissions. Where appropriate, it also includes recommended amendments to the plan change provisions. Where any amendment necessitates further evaluation in accordance with s32AA, the necessary analysis is provided.
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. This 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. Submission points have been grouped thematically based on topic. Submissions were made on general issues regarding PC85D and 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. Submissions relating to the plan provisions are addressed first followed by requests for zoning changes. Topic headings are as follows:
 - A. General Support
 - B. General Support for Objectives and Policies
 - C. Reverse Sensitivity
 - D. Commercial and Industrial Activities
 - E. Mineral Extraction and Industrial Activities, Activity Status
 - F. Rural Production Activities and Horticulture
 - G. Stormwater and Aquifers
 - H. Site Coverage
 - I. Residential Density
 - J. Miscellaneous Rules
 - K. Transport Infrastructure and Traffic Movements
 - L. Subdivision Rules
 - M. Mapping Criteria

N. Consequential Changes

16. While all submitters have been acknowledged in the summary of submissions by topic [**Appendix D of Part 1** of the s42A report], 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 PC85D provisions.
17. While all further submissions have been acknowledged in the submission tracking spreadsheet [see **Attachment 1 of Part 1** of the s42A report], 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.
18. Any recommended amendments to the notified text as a result of submissions are attached to this report [**Attachment 2H of Part 1** of the s42A report]. Any recommended additions to the notified text are shown as underlined and deletions as strike-through. Any out of scope changes are also highlighted in yellow.
19. The assessment of submissions generally follows the following format:
 - Submission information – Matters raised in the submissions with a brief outline of relief sought and reasons for relevant submissions.
 - Discussion – discusses responses to the relief sought.
 - Recommendation – outlines a recommendation to the Commissioners in response to the relief sought.

5.0 Consideration of Submissions

A. General Support

General Support Submission Information

20. Five submissions¹ were made in regard to support for the whole plan change. They expressed support for the entire plan change and seek that it becomes operative as notified.
21. An additional three submissions were made in support of the provisions of the plan change.
 - Ursula Buckingham² supports the proposed provisions.

¹ 89/1, 210/1 211/1, 264/1 and 374/1

² 136/1

- Malcolm Aylward³ supports the objectives and policies stated for the proposed RLE. The submitter endorses the RLE1.3 Policies that preserves the balance between rural land productive use and lifestyle use.
- Far North District Council (**FNDC**)⁴ supports RLE.2 in general and in particular supports RLE.2.3.7 as this clearly states what sort of home occupations are permitted.

General Support Submissions – Discussion

22. We acknowledge the support for PC85D, noting however that amendments are recommended as set out in the remainder of this report below.

General Support - Recommendation

23. We recommend that the Commissioners
- **Accept in part** submission points 89/1, 210/1 211/1, 264/1 and 374/1, 136/1, 395/1 and 410/62.

B. General Support for Objectives and Policies

General Support for Objectives and Policies - Submission Information

24. Various submissions⁵ were received which support RPE.1.2 and RPE.1.3.

General Support for Objectives and Policies – Discussion

25. We acknowledge the support for objectives and policies, noting however that amendments are recommended as set out in the remainder of this report below.

General Support for Objectives and Policies - Recommendation

26. We recommend that the Commissioners **accept** the submission points 410/59 and 61, 511/6, 423/23, 78/8 and 9, 240/25, 429/7 and 453/13.

C. Reverse Sensitivity

Reverse Sensitivity - Description and Expectations

Description and Expectations - Submission Information

27. FNDC⁶ supports RLE.1.1. The following is supported: addressing reverse sensitivity and land fragmentation; enabling communities to meet the social and economic needs by encouraging development to cluster around existing social services such as schools.
28. GBC Winstone (**GBC**)⁷ seeks amendments to the Description and Expectations to recognise reverse sensitivity effects from sensitive activities locating near mineral extraction areas or strategic rural industries.

³ 161/4

⁴ 410/62

⁵ 410/59 and 61, 511/6, 423/23 - 78/8, 78/9, 240/25, 429/7, 453/13

⁶ 410/58

⁷ 250/20

Description and Expectations – Discussion

29. Reverse sensitivity is managed in the RLE first through the selection of RLE locations, and secondly through the setback provisions in RLE.2.3.1. Proximity to mineral extraction areas and SRIE were important considerations when selecting the RLE areas. In our opinion the Description and Expectations highlight reverse sensitivity effects and we do not consider it necessary or desirable to elevate mineral extraction activities or strategic rural industries above other activities which may also be vulnerable to the same effects.

Description and Expectations – Recommendation

30. We recommend that the Commissioners:

- **Accept** submission 410/58.
- **Reject** submission 250/20.

Reverse Sensitivity - Objectives

Objectives - Submission Information

31. New Zealand Pork (**NZ Pork**)⁸ requests a new objective to recognise the interface of the RLE with RPE areas and activities.

32. GBC⁹ requests a new objective as follows:

Consolidate rural living development in appropriate locations, (away from incompatible activities including Mineral Extraction Activities and Strategic Rural Industry) to ensure reverse sensitivity effects are avoided.

33. Fonterra¹⁰ seeks the amendment of Objective 5 as follows:

Consolidate rural living development in appropriate locations where rural production activities are already compromised, and/or adverse effects, including those associated with reverse sensitivity can be avoided.

Objectives – Discussion

34. We agree with Fonterra that there is a gap between the reference to reverse sensitivity effects in the description and expectations, and the policies and rules. It could be argued however that Objective 5 addresses this within the ambit of ‘adverse effects’ that the objective seeks to avoid.
35. GBC seeks a new objective that specifically mentions mineral extraction areas and SRIE. In our opinion there are also other activities that may be affected by reverse sensitivity in the RLE and it is unnecessary to list specific activities or Environments.
36. RLE 1.2.5 states that avoidance of adverse effects is an objective in the RLE and Policy 1.3.7 supports this by specifically addressing reverse sensitivity effects. We consider that it is appropriate to amend RLE.1.2.5 to make the reference to reverse sensitivity clearer to plan users. We support more concise wording however as set out below.

⁸ 240/24

⁹ 250/21

¹⁰ 414/14

Objectives – Recommendation

37. We recommend that the Commissioners:

- **Reject** the specific relief sought in 240/24 and 250/21
- **Accept in part** submission 414/14 and that the notified provisions be amended as follows:

RLE.1.2.5

Consolidate rural living development in appropriate locations where rural production activities are already compromised, and adverse effects, (including reverse sensitivity effects) can be avoided.

Reverse Sensitivity – Policies

Policies - Submission Information

38. KiwiRail Holdings Ltd¹¹ (KiwiRail) seeks an amendment to policy RLE1.3.7 as follows:

To manage reverse sensitivity effects by avoiding the establishment of habitable buildings within close proximity to Mineral Extraction Activities and the Rural Production, Business and Strategic Rural Industry Environments or other activities that are legally established where adverse effects are not contained within site boundaries.

39. GBC¹² seek amendments to policy RLE 1.3.7 as follows:

To manage reverse sensitivity effects by avoiding the establishment of sensitive activities (excluding non habitable buildings) within close proximity to Mineral Extraction Activities ~~and the Rural Production~~ Environment, rural strategic industries, Business Environments and plantation forestry.

Policies – Discussion

40. KiwiRail's submission seeks to increase the type of activity that should be considered when establishing habitable buildings. We agree that the range of activities that can be subject to adverse reverse sensitivity effects may be wider than those listed in the policy. These activities will however generally fall within one of the Environments listed in the policy. We note also that there are no RLE areas proposed in proximity to KiwiRail's North Auckland Line.
41. GBC submission correctly recognises that 'Sensitive Activities (not including non-habitable buildings)' is the term used in the rule. The term 'Sensitive Activities' is defined in the WDP. We consider it appropriate that this term is also used in the policy.
42. We consider including plantation forestry in the policy is superfluous as it will generally fall within the RPE along with most other primary production activities. In our opinion the other amendments sought do not assist the plan user, and in some cases will create ambiguity. We have also recommended changes below to ensure consistency in the language used in this policy and in the rule in RLE.2.3.1.

¹¹ 429/8

¹² 250/22

Policies – Recommendation

43. We recommend that the Commissioners:

- **Reject** the specific relief sought in 429/8.
- **Accept in part** 250/22 and that the notified provisions be amended as follows:

RLE.1.3.7

To manage reverse sensitivity effects by avoiding the establishment of sensitive activities ~~habitable buildings~~ within close proximity to Mineral Extraction Activities and the Rural Production, Business and Strategic Rural Industry Environments.

Reverse Sensitivity Landuse Rules

Landuse Rules - Submission Information

44. Four submissions were made in regard to the proposed land use rules to avoid reverse sensitivity effects. They sought:

- Changes to the activity status for sensitive activities within the setbacks specified in rule RLE 2.3.1.
- Introduction of setbacks for other activities, and one submitter suggests a change to clarify the rule.

45. David Murray¹³ supports the requirements in 2.3.1.

46. Fonterra¹⁴ suggests an amendment to RLE.2.3.1(a) to clarify that the Strategic Rural Industry Environment is where the 500m setback should be measured from.

47. NZ Pork¹⁵ submits that a sensitive activity within 30m of the RPE should be a non-complying activity.

48. GBC¹⁶ submits that any Sensitive Activity (excluding non-habitable buildings) within 500m of the Mining Area of a MEA or a Strategic Rural Industry should be a non-complying activity.

Landuse Rules – Discussion

49. These submissions seek to elevate the activity status for Sensitive Activities from discretionary activities to non-complying activities within the proposed buffer zones. The submitters do not, In our opinion, provide sufficient justification for their request for a non-complying activity.

50. The RLE was created to provide for rural lifestyle development (Sensitive Activities) in appropriate locations within the RA. When selecting the locations for the zone, activities that emit effects beyond their site boundaries with the potential to generate complaints (such as industrial or mineral extraction activities) have been deliberately avoided. This gives effect to the objectives

¹³ 511/4

¹⁴ 414/15

¹⁵ 240/26

¹⁶ 250/24

and policies that seek to avoid reverse sensitivity effects. It is therefore unlikely, in our opinion, that these rules will be triggered in the RLE . The 30m setback from the RPE is more likely to be triggered with the proposed lot sizes, but in most cases we consider that there will be opportunities to build on an area of the site where the setback can be achieved. Given the location and the purpose of the RLE we consider that requiring a consent as a non-complying activity would be excessive.

51. We agree that amendments to ensure consistency and to provide certainty with respect to interpretation are appropriate.

Landuse Rules - Recommendation

52. We recommend that the Commissioners:

- **Reject** the relief sought in submission points 240/26 and 250/24.
- **Accept** the relief sought in submission points, 414/15 and 511/4 and that the notified provisions be amended as follows:

RLE.2.3.1:

1. Any Sensitive Activity (excluding non-habitable buildings) within:
- a. 500m of:
 - i. The Mining Area of a Mineral Extraction Area,
 - ii. aA Strategic Rural Industry Environment or a Business Environment.

Fonterra Setback from Irrigation Farm Kauri - Submission Information

53. Fonterra¹⁷ seeks to add an additional activity to be avoided in rule RLE.2.3.1 to require consent for Sensitive Activities within 250m of Fonterra's Irrigation Farms at Kauri as shown on Planning Maps 6 & 7.
54. The submitter provides an alternative to the relief sought of deleting all RLE zoning within 250m of Fonterra's Irrigation Farms at Kauri shown on Planning Map 7.

Fonterra Setback from Irrigation Farm Kauri – Discussion

55. A portion of the proposed RLE at the north end of Apotu Road is within 250m of the boundary of Fonterra's irrigation farm. No other areas are proposed under PC85D that would be affected by accepting this amendment to the rule. Under the proposed zoning there are two vacant properties, and one property of 5.35ha that could potentially be subdivided, creating potential for an additional three dwellings within the 250m buffer. There are also two properties nearer to the irrigation farm which in our opinion are unlikely to be built on due to Council ownership and potential flooding hazard.
56. In response to Fonterra's submission, changes to the definition of Activities Ancillary to Farming have been recommended in **Topic O** within **Part 1** of the 42A report to include irrigation from

¹⁷ 414/16

Strategic Rural Industries, resulting in rule RPE.2.3.1d applying a 250m setback requirement to Sensitive Activities within the RPE. We concur with Ms McGrath's recommendation and support a similar rule in the RLE to ensure consistency.

Fonterra Setback from Irrigation Farm Kauri Recommendation

- We recommend that the Commissioners **accept** submission point 414/16, and that the notified provisions be amended as follows:

<p>RLE.2.3.1:</p> <p>2. Any Sensitive Activity (excluding non-habitable buildings) within:</p> <p>a. ...</p> <p>e. 250m of:</p> <p>i. <u>An existing intensive livestock activity on a separate site.</u></p> <p>ii. <u>An existing activity ancillary to farming, plantation forestry or strategic rural industry on a separate site.</u></p>
--

KiwiRail Setback Landuse Rule - Submission Information

57. KiwiRail¹⁸ seeks an amendment to RLE.2.3.4 (c) to make any building within 10 metres of any road or rail boundary or within 3m of any other boundary a discretionary activity.

KiwiRail Setback Landuse Rule – Discussion

58. As noted in the reverse sensitivity policies discussion above no areas of RLE have been proposed within 10m of the Northland Rail Line. This provision may be useful to avoid reverse sensitivity effects on KiwiRail's designation in other zones, but it is unclear to us what the benefit of including it in the RLE rule would be.

KiwiRail Setback Landuse Rule Recommendation

59. We recommend that the Commissioners **reject** submission point in 429/9.

Sensitive Activity and Place of Assembly Setback from Rural Production Activities Landuse Rules - Submission Information

60. Horticulture New Zealand (**Hort NZ**)¹⁹ seeks to apply a 30m building setback for Places of Assembly and Sensitive Activities from existing lawfully established rural production activities within the RLE, and the boundary of the RPE
61. Whangarei Grower's Market Association Ltd²⁰ supports the use of setbacks of residential units from existing horticultural operations on separate sites and the introduction of building controls for residential units within the RLE to manage reverse sensitivity.

¹⁸ 429/9

¹⁹ 423/25

²⁰ 344/2 and 344/3

Sensitive Activity and Place of Assembly Setback from Rural Production Activities Landuse Rules – Discussion

62. Rural production activities are a permitted activity in the RLE and changes in land use may occur within the zone at any time. Council does not hold information on the location of existing lawfully established rural production activities. In our opinion the relief sought by Hort NZ could therefore be problematic. The rural production activities that this could apply to are potentially quite broad so it is difficult to determine the impacts of the proposed rule. We assume that the submitter is requesting the 30m setback to protect existing horticultural operations. There is not enough information is provided in the submission however to clarify this, or whether the proposal would be an efficient or effective method to deal with reverse sensitivity. In our view the sensitive activity setback from RPE of 30m, along with the building setbacks of 10m from roads or 3m from other boundaries is sufficient to manage potential reverse sensitivity effects on rural production activities.

Sensitive Activity and Place of Assembly Setback from Rural Production Activities Landuse Rules - Recommendation

63. We recommend that the Commissioners **reject** submission points 344/2 and 3 and 423/25.

Reverse Sensitivity and Subdivision

Subdivision Submission Information

64. GBC²¹ request amendments to RLE.3.4 to ensure separation from SRIE and MEA, seeking a new rule to be added:

Subdivision where: a. Any part of a proposed allotment is within 500 metres of: i. MEA; or ii. Strategic Rural Industry.

65. Rayonier Matariki Forests²² (Rayonier) suggests that subdivision of RLE land adjacent to Glenbervie Forest should be a discretionary activity and requests specific controls on further subdivision to include: no residential structures being erected closer than 100m, exclusion of domestic pets, a legally binding agreement signed by property owners recognising Rayonier's rights to carry out lawful forestry activities, property owners agree that no claim can be made against the forest owner for property damage caused by trees. .

Subdivision Discussion

66. The previous discussion on reverse sensitivity in relation to RLE 2.1.3 also applies in relation to Rayonier's submission and amendments to address reverse sensitivity have been recommended. Residential buildings are sensitive activities. Separation distances have been introduced to keep residential activities at an acceptable distance from production forestry. The provisions also separate residences from MEA and SRIE by 500m
67. Subdivision will not create a reverse sensitivity as an activity on its own. Rather, it is the subsequent development that may represent an issue. In our opinion the notified provisions adequately achieve management of reverse sensitivity within the RLE. Additional provisions are

²¹ 250/25

²² 141/1 and 141/3

not necessary, in our view, because discretionary resource consent will already be necessary. Situation specific effects assessments and the views of the submitters can be sought at the time applications are prepared and processed.

Subdivision Recommendation

68. We recommend that the Commissioners **reject** submission points 250/25, 141/1 and 141/3.

D. Commercial and Industrial Activities

Commercial and Industrial Activities - Submission Information

69. David Murray²³ opposes the intention to regard commercial activities as non-complying in RLE.2.1.2 and submits that if commercial activities are allowed they should only be allowed at a distance far greater than the existing 100m setback from neighbouring residential units in the CE. The submitter does not request an alternative activity status that should apply to commercial activities in the RLE. David Murray supports the prohibition of industrial activities in RLE.2.1.1.
70. The submitter believes the permitted noise threshold should be well below those currently allowed. The submitter has no objection to the self-employed using their property as a 'home base', provided that their actual work is undertaken off site, and this does not result in an accumulation of visual clutter on the property.
71. Sarah Pearce²⁴ seeks that small scale commercial activity be allowed.
72. Ginty Naenae Ltd²⁵ considers that it is inappropriate that commercial activities are a non-complying activity and has provided a s32 analysis to justify a new objective policy and restricted discretionary rule to permit commercial activities where certain conditions are met.

Commercial and Industrial Activities – Discussion

73. The three submissions that raise concerns in regard to commercial activities appear to accept that the full range of commercial activities as defined in the WDP are unacceptable in the RLE, but that some smaller scale commercial activities (such as tourism or accommodation businesses) could be acceptable.
74. In regard to the concerns raised by David Murray noise effects have been addressed in the NAV chapter and are also discussed in **Topic H** within **Part 1** of the section 42A report. Concerns raised in relation to 'visual clutter' may be addressed by the definition of home occupations below.
75. In regard to the submission by Ms. Pearce, we consider that small scale commercial activity is provided for appropriately in the notified version of the RLE through the provisions for home occupations.
76. The submitters do not appear to recognise that the provisions as notified provide for small scale commercial activity in the form of home occupations. Home occupations are a permitted activity within the RLE under RLE.2.1.3. The WDP defines home occupations as:

²³ 511/4

²⁴ 456/1

²⁵ 336/4,336/ 7 and 336/ 9

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.

77. RLE.2.3.7 also provides for home occupations that may generate greater effects (eg, traffic movements) as a discretionary activity. If a commercial activity cannot meet the criteria for a home occupation it will be considered as a commercial activity and non-complying status would apply.
78. We agree with Ginty Naenae Ltd that it will be difficult to establish commercial activities in the RLE due to the non-complying activity status, combined with the strong policy wording in RLE1.3.5. This is consistent with the objectives of the Rural Development Strategy, and the overall direction of the rural plan changes which seek to direct commercial activities into commercial zones. It should be noted however that commercial activities that are appropriate in the RLE may still pass the s104D(1)(a) gateway test if they can show that the effects of the activity will be minor.
79. We also agree that there are some activities that cannot meet the criteria for home occupations and will therefore be classed as commercial activities but could be acceptable in the RLE. The submitter uses tourist visitor accommodation as an example. This type of activity would provide opportunities for economic and social benefits to landowners and the wider community and could be appropriate in the RLE depending on the scale and nature of the activity and the receiving environment.
80. We consider however that the proposed policy wording combined with a restricted discretionary status, as advanced by the submitter, may open the door for activities that could not be anticipated by neighbouring landowners in the RLE. In our opinion the list of activities listed in section 1.3 of the submission may be suitable for the RPE but would be totally inappropriate for the RLE. For the reasons stated above we consider that PC85D provides appropriately for small scale commercial activities and we recommend that these submissions be rejected.

Commercial and Industrial Activities – Recommendation

81. We recommend that the Commissioners **reject** the relief sought in submission points 336/4, 336/7 and 336/9, 511/4 and 456/1.

E. Mineral Extraction and Industrial Activities, Activity Status

Mineral Extraction and Industrial Activities, Activity Status - Submission Information

82. GBC²⁶ submission seeks an amendment to RLE.2.1.1 to provide for Industrial Activities and Mineral Extraction Activities as non-complying activities in the RLE, rather than prohibited activities as notified for the following reasons:

²⁶ 250/23

- GBC considers that it is inappropriate to require all Industrial activities and Mineral Extraction Activities to be assessed as prohibited activities in the RLE.
- Prohibited activity status implies that these activities can only be considered by a Plan Change to the District Plan. This includes any Industrial Activity or Mineral Extraction Activity for example that may wish to expand into an RLE.
- GBC submits that if the Council considers Industrial Activities and Mineral Extraction Activities are inappropriate in the RLE, then they should be assessed as Non-Complying activities, as with Commercial Activities, and not made Prohibited Activities.

Mineral Extraction and Industrial Activities, Activity Status - Discussion

83. The RLE is proposed in discrete locations that have specifically avoided mineral extraction and industrial activities. The existing environment in these areas are characterised by rural lifestyle development. Land in the RLE is highly fragmented, with smaller lot sizes than what is expected in the RPE. Properties in the RLE generally have high land values which reflect the high amenity and significant investment landowners make in developing their properties. In our view it is highly unlikely (and probably fanciful) that mineral extraction or industrial activities will choose to locate or expand into the proposed RLE given that residential activities are known to be sensitive to these activities.
84. Due to the nature of the effects of mineral extraction and industrial activities and their inability to internalise their effects within their boundaries, in our opinion it is undesirable to locate them in proximity to pockets of rural residential development. Buffer rules and policies to manage reverse sensitivity have been included to keep these incompatible land uses at an appropriate distance from each other.
85. Mineral extraction and industrial activities also have a high probability of being incompatible with many activities that occur in the RPE. If this type of development was proposed in the RPE, a non-complying activity status may be appropriate provided there is strong policy guidance to manage adverse effects on the receiving environment. The RLE however has a higher density of residential development and differing amenity values than the RPE. If this type of activity was proposed in the RLE it would certainly create known significant adverse effects, far greater than minor and to a significant number of people. This was one of the key reasons for locating the proposed RLE as shown in the notified maps. We consider that a plan change is the most appropriate mechanism to consider the effects of such a proposal. A prohibited activity status sends a clear signal that these activities are inappropriate in the RLE.

Mineral Extraction and Industrial Activities, Activity Status - Recommendation

86. We recommend that the Commissioners **reject** submission 250/23.

F. Rural Production Activities and Horticulture

Rural Production Activities and Horticulture - Submission Information

87. Hort NZ²⁷ have requested the following amendments to provide for rural production activities in the RLE:

- Amend RLE.1.3.1 as follows:

...development and rural production activities in the RLE... a. Low levels for Variable noise and lighting consistent with rural activities particularly at night. b. Low density and open nature of development A high degree of privacy. c. Ample access to daylight and sunlight...

- Retain RLE.1.3.1 i)

- Amend RLE.1.3.7 as follows:

...establishment of sensitive activities (excluding non-habitable buildings) within close proximity... Environments and rural production activities within the RLE.

- Amend RLE.1.3.8 by deleting 'privacy and open space'.
- Add 'rural production activities' after 'landform' at the end of c). Amend RLE.1.3.11 c) by adding 'and meet setback requirements'.

88. Hort NZ²⁸ seeks changes to remove operational orchards from the RLE, or to amend provisions to enable existing horticultural operations to continue to operate as in the CE. This submission point is discussed further in topic O within **Part 10** of the s42A report.

Rural Production Activities and Horticulture - Discussion

89. The existing CE provides for all rural activities (including horticultural operations). As shown in the s32 reports, managing the rural areas in this way has resulted in a compromised countryside which features reduced capacity for rural production uses (including horticultural operations). Continuing with an approach which allows activities to establish in the RA without adequate guidance to direct activities towards appropriate locations does not pass s32 scrutiny and is not appropriate in our opinion.

90. The RPE and the RLE have been introduced to provide for specific rural uses in an environmentally appropriate and sustainable way. In our opinion large scale horticultural uses are appropriate in the RPE whilst the RLE is intended for lifestyle block type developments. The RLE is a lifestyle Environment, albeit one where rural activities can also be undertaken in a limited capacity. A place for people to live in is the primary purpose for this zone.

91. At a large scale, horticultural operation can conflict with residential uses due to inability to fully internalise the effects. Adverse effects (such as noise for example) can be an issue for existing

²⁷ 423/24

²⁸ 423/22

residents when new horticultural operations are established. Conversely, reverse sensitivity can become an issue after new residential developments are established.

92. The RLE provides for a variety of living opportunities and activities that are compatible with rural production activities and the objectives of the RLE. Horticultural operations are permitted. At a small scale, they are an appropriate way to utilise a lifestyle block. Most horticultural operations established in the RLE are expected to be a small scale due to lot sizes which for the most part have already been created and developed.
93. Existing horticultural operations within the RLE are protected by existing use rights and can continue to operate until the land is no longer required for that purpose. The establishment of new horticultural operations of a large scale however need to be carefully considered so that certain adverse effects are avoided. Establishment of these activities is generally considered to be inappropriate in residential environments and is discouraged as a non-complying activity.
94. In our opinion the appropriate place to undertake large scale commercial horticultural operations is in the RPE. As a rural productive use, horticultural operations are encouraged in the RPE. This is reflected in objectives, policies and provisions which promote the location and operation of horticultural activities within the RPE.

Rural Production Activities and Horticulture - Recommendation

95. We recommend that the Commissioners **reject** submissions 423/22 and 423/24.

G. Stormwater and Aquifers

Stormwater and Aquifers - Submission Information

96. FNDC²⁹ request rewording policy RLE.1.3.9 as the term “hydrologically neutral” may not make sense to a lay person.
97. Northland Regional Council (**NRC**)³⁰ notes that several areas in the District that are proposed to be rezoned RLE are located above aquifers (at risk) (such as Kara Road, Snooks Road, Whatatiti and Newton Road), and we support policy RLE 1.3.9 and landuse rule RLE2.3.5. This should help to manage stormwater effects within this proposed environment.

Stormwater and Aquifers - Discussion

98. The submission by FNDC has been discussed in **Part 5** of the s42A report. We concur with the content of that discussion.
99. We agree with NRC that policy RLE 1.3.9 and Rule RLE 2.3.5 are appropriate for the RLE and achieve the intended purpose

Stormwater and Aquifers - Recommendation

100. We recommend that the Commissioners:
- **Accept** submission point 410/60.

²⁹ 410/60

³⁰ 190/6

- **Accept** submission point 423/22 and that the notified provisions be amended as follows:

RLE 1.3 Policies

9. To manage the effects of stormwater runoff by utilising the principles of low impact design and ensuring that additional stormwater flows arising from proposed subdivision and development are managed so that they will ~~be hydrologically neutral~~ not result in any increase in peak discharge rates.

H. Site Coverage

Site Coverage - Submission Information

101. Malcolm Aylward³¹ appreciates that Council have made site coverage/development RLE.2.3 clauses 4d and 5, discretionary, allowing flexibility for land development.
102. Hort NZ³² seek amendments to RLE.2.3 4) d) as follows:

That results in site coverage exceeding 500m², except for artificial crop protection structures with black or green cloth used on boundaries which are permitted.

Site Coverage - Discussion

103. Building coverage has been discussed in **Part 6** the s32 report. We agree with that dialogue and conclusion. There is point at which certain adverse effects become significant enough to warrant addressing them by way of a resource consent. 500m² is a generous size and in our opinion it is appropriate to consider the potential effects that buildings exceeding this size generate. Such buildings that are located on boundaries next to adjacent properties need careful assessment. Effects are likely to be observed beyond the subject site, either by immediate neighbours or cumulatively by the wider RLE.

Site Coverage - Recommendation

104. We recommend that the Commissioners:
- **Accept** submission 161/5.
 - **Reject** submission 423/25.

I. Residential Density

Residential Density - Submission Information

105. James Bellamy & Lydia Mair³³ request amendments to RLE.2.3 Discretionary Activities to provide for minor residential units:
2. *Construction of more than one residential unit per site, unless a minor residential unit already exists and a clear intent of a major dwelling being constructed.*
 6. *Construction of minor residential units:*

³¹ 161/5

³² 423/25

³³ 402/1

- a. *Resulting in more than one minor residential unit per site, unless a minor residential unit already exists and a clear intent of a major dwelling being constructed.*
 - b. *That has a separate access/driveway from the principal residential unit.*
- If any of the above that we propose as an amendment to these specific provisions of the proposed plan are not possible then we oppose each clause.*

106. FNDC³⁴ support the prohibited status of subdividing a minor residential unit from the principal residential unit, as this will ensure that the integrity of the plan is not undermined. The purpose of the minor residential unit was not to enable subdivision, which would lead incrementally to fragmentation based on the argument that there is already two dwellings on a subject site.

Residential Density - Discussion

107. In their submission, Bellamy and Mair outline future development that they would like to undertake on their property. The outcome of the development is one residential unit and one minor residential unit. The provisions for the RLE (as notified) provide for this situation so no alterations are necessary to achieve the outcome the submitters seek. Further, in our opinion amending the provisions will unnecessarily complicate the Plan and compromise easy interpretation of the provisions.

108. We agree that the purpose of the minor residential unit is not to facilitate subdivision and we confirm that the purpose of prohibiting subdivision of a minor residential unit from the principal residential unit is to protect the integrity of the of the RLE and the District Plan. Prohibiting subdivision of minor residential units from the primary residence, in our opinion, protects the RLE and wider RA from inappropriate subdivision and further fragmentation.

Residential Density - Recommendation

109. We recommend that the Commissioners:

- **Accept** submission 410/64.
- **Reject** submission 402/1.

J. Miscellaneous Rules

Miscellaneous Rules - Submission Information

110. Marilyn Cox³⁵ requests that strong measures be put in place to protect the night sky in the RLE areas.

111. FNDC³⁶ notes that RLE.2.3.2f duplicates provisions that have already been stated in RA.3.3. Remove the duplication of RA.3.3 in RLE.2.3.2f OR insert cross reference.

³⁴ 410/64

³⁵ 405/1

³⁶ 410/63

112. Rayonier³⁷ requests controls covenanted to the land title of neighboring properties recognizing Rayonier's rights to carry out lawful forestry activities.
113. Hort NZ³⁸ seeks an amendment the description for RLE in Chapter 35 as follows: RLE provides for opportunities for rural residential development in areas where such activity is clustered alongside existing rural production activities.

Miscellaneous Rules - Discussion

114. The night sky is topic which is to be addressed as part of a pending district wide plan change (for Signs and Lighting) and is beyond the scope of PC85D. In our opinion, it is not appropriate to preempt the Signs and Lighting Chapter here. We consider any decisions to protect the night sky should be made as part of the comprehensive package for the District to ensure that any resulting provisions for the RLE are both appropriate and consistent.
115. As notified the RLE does not contain a rule numbered RLE.2.3.2f. Upon reviewing the RLE subdivision rules against RA.3.3 we conclude that FNDC was referring to duplication in RLE.3.3.1.d. To provide clarification and avoid duplication we support that amendments to RLE.3.3.1.d.
116. Rayonier is concerned about reverse sensitivity regarding current forestry operations. Whilst reverse sensitivity is a valid concern. In our opinion the method that the submitter has suggested to address that concern is not appropriate. The RMA requires effects to be assessed and that adverse effects are avoided, remedied or mitigated. PC85D has recognised that reverse sensitivity is an effect which needs to be managed. Reverse sensitivity is addressed in policy RLE.1.3.7. In addition, residential buildings (as a sensitive activity) are a discretionary activity within 30m of plantation forestry.
117. Residential activities establishing within the prescribed buffers from existing plantation forests can be assessed on a case by case basis by way of resource consent. Any adverse effects can then be identified and addressed as appropriate for that site.
118. The introduction to the Environment Rules within Chapter 35 is addressed in **Part 5** of the s42A. We concur with the discussion and recommendations made for the RA.

³⁷ 141/2

³⁸ 423/39

Miscellaneous Rules - Recommendation

119. We recommend that the Commissioners:

- **Reject** submission points 405/1, 141/2 and 423/39.
- **Accept** submission point 410/63 and that the notified provisions be amended as follows:

RLE.3.3

1. Subdivision where:

a. The proposed allotments are created from an allotment that existed on [operative date]

b. The average size of proposed allotments is not less than 2ha.

c. The minimum size of the proposed allotments is not less than 4000m².

d. ~~Each allotment:~~

~~i. Is provided with a connection to an electrical supply system at the boundary of the site.~~

~~ii. Does not result in more than 8 allotments having shared access to the road.~~

iii. Every proposed allotment can accommodate a minimum 100m² building area on which a residential unit sensitive activity can be built so that there is compliance as a permitted activity with the relevant rules in this Plan.

~~iv. Can accommodate management of stormwater and wastewater in accordance with Whangarei District Council's Environmental Engineering Standards 2010.~~

K. Transport Infrastructure and Traffic Movements

Transport Infrastructure and Traffic Movements - Submission Information

120. New Zealand Transport Agency (NZTA)³⁹ generally support policy RLE.1.3.6, but seek the inclusion of a traffic movement rule controlling the maximum number of vehicles per day as restricted discretionary activity or discretionary activity because there is limited ability to manage potentially high traffic generating activities (except for home occupations). A threshold such as 30 vehicle movements per day (vpd) (consistent with the CE and CCE Rule) may be considered appropriate.

121. WDC Infrastructure and Services Department (WDC I&S)⁴⁰ request further consideration to the protection of strategic road corridors, stating that the ten metre building setback from road boundaries may not be adequate to provide corridor protection to strategic road networks.

Transport Infrastructure and Traffic Movements - Discussion

122. Traffic movements and consideration to protection of strategic road corridors has been discussed within **Topic L of Part 1** of the s42A report. We agree with the discussion and conclusions contained in that report.

Transport Infrastructure and Traffic Movements - Recommendation

123. We recommend the Commissioners **reject** submissions 453/14 and 479/13.

³⁹ 453/14

⁴⁰ 479/13

L. Subdivision Rules

General Subdivision

General Subdivision Submission Information

124. Landowners Coalition Inc⁴¹ generally agrees with the relaxed subdivision standards and believe this will better meet market demand for lifestyle blocks but without the burden of a large land area.
125. David Scobie and Julie Huxford⁴² support providing for subdivision as a controlled activity in particular as it affects the Prescott Road locality.

General Subdivision Discussion

126. Landowners Coalition Inc has reflected benefits identified in **Part 6** of the s32 report. It is intended to provide for lifestyle blocks that are of a manageable size.
127. We acknowledge and support these submissions and we consider the proposed RLE subdivision rules are generally appropriate as assessed in **Part 6** of the s32 report.

General Subdivision Recommendation

128. We recommend that the Commissioners **accept** submission points 104/1 and 431/14.

Environmental Benefit Lots and Transferable Title Rights

Environment Benefit Lots and Transferable Title Rights Submission Information

129. Multiple submissions⁴³ have been received which request (in the context of the RLE):
- Retention of the environment benefit provisions in the Operative District Plan,
 - Introduction of provisions for environment benefit lots
 - Introduction of transferable title rights.
130. Department of Conservation (DOC) and Federated Farmers of New Zealand (FFNZ)⁴⁴ provide partial support for the use of methods within subdivision provisions to encourage environmental protection but note that any actual benefit realized depends on how the provisions are drafted.

Environment Benefit Lots and Transferable Title Rights Discussion

131. We note that environment benefit lots and transferable title rights have also been addressed in topic X within **Part 7** of the s42A report. We concur with the discussion and the recommendations made by Ms McGrath. In particular, we are in agreement that the addition of environment benefit lots or transferable title rights are not required to give effect to the NRPS and are instead part of a collection of incentives which “may” be used in certain circumstances. We also agree that it is best to wait for PC127 to comprehensively and consistently manage biodiversity across the district.

⁴¹ 431/14

⁴² 104/1

⁴³ 196/2, 309/9, 311/1, 336/12, 357/1 357/2 382/1, 382/2 394/1 413/4 and 430/2

⁴⁴ X546, x547, x554, x637, x555, x625, x556, x557, x660, x558, x663

132. Our view is aligned with Ms McGrath in that we consider transferable title rights to be inappropriate because effects of the eventual receiving environment cannot be fully or properly addressed when subdivision occurs.
133. Environment benefit lot provisions were not included in the notified provisions for the RLE. Environmental protection has been provided for within land use provisions for the RA and the RLE, subdivision provisions in the RA and policy provisions in the RLE. In our view, any additional positive effects provided by an environment benefit lot would be minimal.
134. More significantly, the zoning criteria for the RLE has focused on the RLE predominantly where the development has already occurred and away from significant areas that need protection. Our view is that the combination of these factors with the notified provisions provides sufficient environmental protection within the RLE. Our view is that (within the RLE) the effects of smaller lots and subsequent residential density would outweigh the positive effects achieved by a subdivision which included an environment benefit lot. Consequently, we do not support the use of environmental benefit lots in the RLE.

Environment Benefit Lots and Transferable Title Rights Recommendation

135. We recommend that the Commissioners **reject** submission points 196/2, 309/9, 311/1, 336/12, 357/1 and 2, 382/1 and 2, 394/1, 413/4 and 430/2.

Minimum Lot Size and Average Lot Size

Subdivision Submission Information

136. Six submissions⁴⁵ were received in relation to the minimum lot size of 4000m² seeking the following relief:
- Support the 4000m² minimum site size.
 - To allow smaller rural lots without specifying a preferred minimum lot size.
 - Re visit PC85D and consider the existing Manganese Point subdivision, which allows for spaced dwellings on small lots with substantial distance between and the remainder of the land held in a corporate arrangement, jointly owned and farmed by the lot holders.
 - Remove the minimum lot size or allow a minimum lot size of 2000m² or less.
137. Nine submissions⁴⁶ were received in relation to the average lot size seeking the following relief:
- Support the average allotment size of not less than 2ha.
 - Allow currently existing smaller sites to be subdivided into 2 lots, each of 4,000m², or of a lesser size where appropriate.
 - Change the average lot size from 2ha to 1ha.

⁴⁵ 161/6, 165/3 and 131/1, 416/1, 183/6 and 183/14

⁴⁶ 161/6, 511/1, 511/2, 105/1, 163/1, 1/1, 165/2, 30/1, 366/1 and 147/1

- Recognise the needs of the burgeoning senior population, who wish to continue living in the rural environment, by ensuring there is sufficient flexibility in the subdivision requirements to provide the mechanisms that will allow them to subdivide their existing properties into more manageable lot sizes and hence remain an integral part of a diverse range of residents in the rural community.
- Allow for two or three 2000m² sections to be cut off from a 4 hectare block.
- Remove the requirement for a 2ha minimum average lot size.
- Reduce the minimum lot size.

Lot Size Subdivision Discussion

138. Lots sizes have been discussed in **Part 6** of the s32 report. We agree with the content of the s32 assessment with respect to minimum lot sizes. In our opinion minimum of 4000m² is appropriate for controlled activity status in the RLE. Lot sizes which are less than 4000m² are as a discretionary activity. Effects of smaller lots can be assessed and addressed on a case by case basis. In our opinion this is appropriate to protect the integrity and purpose of the RLE in the manner described in the s32 assessment. Opportunities to design subdivisions in innovative ways such as the Manganese Point farm park are available (under the notified provisions) as a discretionary activity in the RLE.
139. We agree with the content of the s32 assessment with respect to average lot sizes. In our opinion, an average lot size of 2ha is appropriate for controlled activity status in the RLE. We consider that 2ha average allows for some flexibility for site specific design while also protecting the integrity and purpose of the RLE. Subdivision with smaller average lot sizes may obtain consent as a discretionary activity. Effects of subdivision with a smaller minimum or average lot size can be assessed and addressed on a case by case basis to ensure that adverse effects are managed and the proposals are generally consistent with all the policies for the RLE including RLE.1.3.11 and RLE.1.3.12. which discourage development patterns which have urban form.
140. Sarah Pearce⁴⁷ incorrectly states that PC85D will mean that 2ha is the minimum property size and seeks an amendment to allow subdivision down to 1ha. The submitter misunderstands that the provisions allow for subdivision as a controlled activity down to 4000m² provided a 2ha average lot size can be maintained. Although we consider that the average lot size for controlled activity status is appropriate and should not be altered, we are of the opinion that describing average lot sizes and minimum lot sizes within the same provision would provide additional clarity. We support changes accordingly.
141. In response to submissions requesting smaller average and minimum lot sizes for senior citizens, in our opinion, lot size requirements should not be altered based on potential applicants ages. The RMA requires provisions within plans and on resource consent applications to be considered and determined on effects to the receiving environment rather than who an applicant is. We consider that the effects of further reducing the minimum or average lot size for subdivision as a controlled activity would compromise and undermine the RLE.

⁴⁷ 456/2

142. We have responded to submissions that address thresholds for minimum and average lot sizes within a subdivision as a controlled activity. However, there are numerous submissions requesting that smaller minimum and average allotment sizes are either accommodated or removed entirely.
143. In our view, it is appropriate to specifically provide for smaller minimum and average lot sizes in response to the submissions, to provide greater guidance to developers and professionals involved in subdivision and to provide better certainty to residents in the RLE.
144. The RLE is a lifestyle zone. The rural character and outlook and its intended primary use for lifestyle blocks sets it apart from residential zones (such as UTE and RUUE) which have or are intended to have an urban residential form and reticulated services. Rural lifestyle character is reflected in the objectives and policies for the RLE and needs to be carefully considered when deciding how to specifically accommodate smaller allotments sizes in the WDP. In our opinion maintenance of rural character and avoidance of urban development form, characterized by small lots and uniform development patterns, is needed to ensure the integrity of the RLE and that it remains a rural living rather than an urbanised zone.
145. Subdivision can and should be assessed on a case by case basis to determine localised effects to the receiving environment as a discretionary activity if the requirements for controlled activities are not met. In our opinion, subdivision with an average below 1 ha or with allotments smaller than 2000m² have a high probability of significant impact to the immediate RLE receiving environment or to the locality. Cumulatively, we consider that there is also potential for this type of subdivision to undermine the RLE, its character and the integrity of the WDP.
146. We do not believe that blanket prohibition of small lots sizes is appropriate. We do consider however that providing for smaller minimum and average lot sizes in certain circumstances may be appropriate. Our view is that this is best achieved by providing for subdivision as a non-complying activity for minimum and average lot sizes which carry a higher risk of generating significant effects beyond the site, are likely to promote an urban residential form, or to significantly compromise character of the RLE.
147. It is our view that a non-complying subdivision application will provide an appropriate opportunity to properly assess and consideration of all relevant effects, whilst enabling appropriate participation of affected parties under s95 A-E.

Minimum Lot Size and Average Lot Size Subdivision Recommendation

148. We recommend that the Commissioners:
- **Reject** submission point 511/1.
 - **Accept in part** submission points 165/3, 131/1, 416/1, 183/6 and 14 and 161/7.
 - **Accept in part** submission points 161/6, 511/2, 105/1, 163/1, 1/1, 165/2, 30/1, 366/1, 147/1 and 456/2.
 - **Amend** the notified provisions for the RLE as follows:

RLE 3.1 Eligibility

2. Subdivision that is not a controlled, non-complying or prohibited activity is a discretionary activity

RLE.3.3

1. Subdivision where:

a. The proposed allotments are created from an allotment that existed on [operative date]

b. ~~The average size of proposed allotments is~~ have an average size of not less than 2ha and a minimum size of 4000m².

c. ~~The minimum size of the proposed allotments is not less than 4000m².~~

RLE 3.4 Non-Complying Activities

1. Subdivision where the average lot size is less than 1 ha or any lot is less than 2000m²

M. Mapping Criteria

General Zoning Submission Information

149. Several submissions⁴⁸ request general areas to be zoned RLE:

- That more areas be zoned for RLE.
- That the planning maps be amended to reflect that areas within a 5km radius of Whangarei City - that were previously CE and are now proposed RPE be instead changed to proposed RLE unless near existing quarries or adjoining forestry.
- The WDC either needs to extend the criteria of the RLE to smaller discrete areas or it needs to put forward a transition zone to cover areas where it is clear there has been demand for smaller land holdings.
- That WDC identifies areas that are popular for lifestyle living in areas that are already compromised as far as rural production is concerned.

General Zoning Discussion

150. We agree with Federated Farmers New Zealand (**FFNZ**) that some of New Zealand's most versatile soils are close to towns and cities and that the productive capabilities of these soils have often been lost due to inappropriate subdivision for dwellings and lifestyle properties. Such area may be suited to the RLE which recognises clusters of development that has already occurred but we consider that identifying areas for rural living based on such a blunt assessment is inappropriate. There are other Environments existing and proposed to be located close to the city (eg RUEE, UTE). Each Environment has been defined using a comprehensive set of criteria.

151. In our opinion maintaining the integrity of the RLE and the wider RA depends on applying the relevant criteria. Determining zoning requests on only distance from the city or demand for

⁴⁸ 405/1, 338/1, 142/2 and 413/1

development in our view goes against the requirements to assess and decide matters on an environmental issues and effects basis. We do not support the approach.

General Zoning Recommendation

152. We recommend that the Commissioners **reject** submissions 405/1, 338/1, 142/2 and 413/1.

Oppose Mapping Criteria - Submission Information

153. Numerous submissions⁴⁹ have opposed the criteria used to identify and map areas for proposed RLE. Relief sought includes the following:

- Reassess all proposed RLEs to determine the extent to which they meet the criteria as sought (in changes requested to Policy RA1.3.3 for RLE) and update maps to current land use.
- From up-to-date information of the current land use, established horticulturalists in the proposed RLE be allowed to continue with boundaries and zoning revised to ensure this horticulture can continue without the restrictions RLE would bring.
- Where practicable RLE should not be imposed over existing horticultural properties.

Oppose Mapping Criteria – Discussion

154. We acknowledge the concerns raised by the submitters regarding the reverse sensitivity effects that can affect horticultural operations. Particular concerns are raised in the submissions regarding Whatitiri, Glenbervie, Kara Road South and Apotu Road. We acknowledge that some horticultural operations are within these areas and that land use conflicts may occur (or may be occurring) between them and sensitive activities such as residential development. We note that primary production activities are permitted under the proposed RLE rules.

155. As outlined in analysis contained in **Part 6** of the s32 report, Council used a variety of criteria to assess suitability for RLE, first through the Rural Development Strategy and then in more detail in the preparation of PC85D. Council used the most up to date information available when identifying the proposed RLE. This included the MfE land cover database (LCDB) which identifies vineyards, orchards and other perennial crops. Areas within 25m of these were given a negative weighting. The LCDB also identifies High producing exotic grassland and short rotation cropland. Any properties smaller than 4 ha were removed from this selection, as properties this size were generally considered to be too small for pastoral production in the s32 report for the RLE. The remaining properties were identified and given a score of -1. Areas around bores or bore water supply locations were also given a negative score.

156. Soil type was an important consideration in the preparation of PC85D. The RPS identifies highly versatile soils and these areas have been avoided. Class 4 and 5 soils are considered optimum for rural living due to their relative abundance, and as they are generally elevated with rural views are a more favourable topography for rural living. These soil types were given a favourable

⁴⁹ 423/4, 423/ 5, 423/22, 205/1 and 344/1

weighting. We note that while they are not included in the list of versatile soils, avocado orchards are sometimes located on class 4 soils.

157. Using these methods in combination with other criteria has excluded areas that are primarily in horticultural or other primary production, and identified areas that are predominantly in rural-residential land uses.
158. In our opinion the Hort NZ submission is ignoring the reality of the existing environment. Due to historical subdivision and existing residential development in the identified RLE areas, the effects noted by submitters already exist to the point where we consider these areas are significantly compromised for primary production activities.
159. We consider the selection process gives appropriate consideration to primary production activities. We therefore do not support re-mapping of the RLE. Notified RLE zone boundaries have been recommended to be amended in some cases in response to Horticulture New Zealand's concerns. Please refer to **Part 6** of the s42A report for the specific assessment of individual zoning requests.
160. Submissions have been received from landowners (including orchardists) both in support or opposed to PC85D. In cases where orchardists request that they are removed from the RLE, and a full consideration of the RLE criteria supports this, we support the relief sought that they remain in the RPE. This may provide some comfort to orchardists as the 30 setback from sensitive activities will apply in the RPE.

Oppose Mapping Criteria - Recommendation

161. We recommend that the Commissioners **reject** submissions 423/4 and 5, 423/22, 205/1 and 344/1.

N. Consequential Changes

Submission Information

162. As discussed in **Topic O** of **Part 1** of the s42 report, two submission points⁵⁰ have been made requesting further clarification and/or definition of terms such as 'rural production activities'. New definitions are recommended which require consequential changes to various sections of PC85D as discussed below.

Discussion

163. Consequential changes are recommended to RLE.1.1 and RLE.1.3.1(d) and (i). We 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

164. We recommend that the Commissioners make the following amendments to the notified provisions as consequential amendments from these submission points:

⁵⁰ 250/2 and 250/3

RLE.1.1 Description and Expectations

...In the RLE it is expected that rural character will be retained through the careful siting of buildings and the provision of landscaping to maintain a sense of spaciousness, and the continuation of some rural ~~productive~~ land use activities (albeit at a smaller scale than activities such as dairy farming and forestry). ~~A variety of land uses is provided for including productive rural land uses, some non rural activities, and rural living related activities.~~ The ability to undertake non rural land use activities will be determined by the scale, nature and location of the activity. The effects from ~~productive rural land uses~~ production activities will generally be limited in scale because of smaller site sizes and the requirement to comply with the environmental standards set out in the District wide provisions.

RLE.1.3 Policies

1. To preserve rural character and amenity...
 - d. Generally low levels of traffic, other than that associated with seasonal ~~rural production~~ activities.
...
 - i. Presence of rural production activities (~~such as farming, forestry and horticulture~~), and associated effects...

6.0 Conclusions and Recommendations

165. After carefully considering the submissions and further submissions received in relation to each topic. We recommend that PC85D be amended to the extent detailed in the preceding sections of this report and as illustrated in **Attachment 2H** of **Part 1** of the s42A report. We further recommend that those submissions and further submissions that request the recommended amendments be accepted in whole or in part, and that all other submissions be declined.

AUTHORS



Evan James Cook
(Senior Policy Planner)



Sarah Jane Brownie
(Policy Planner)