

Part 3
Proposed Plan Change 102
Minerals (and Mineral Extraction
Areas)

Section 42A Hearing Report

AUTHOR

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Attachments

- 1 Recorded Mineral Permits
- 2 Otaika Quarry GBC Winstones Material

1.0 Introduction

1. This is **Part 3** 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**. This report also relies on the information provided in the technical report¹ appended as **Attachment 6** to **Part 1**.
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 102 (**PC102**). 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. A comprehensive description of the background to the Rolling Review process, the scope of the 'Rural Plan Changes' and statutory considerations is included in **Part 1** of the s42A report. I concur with the assessment within section 5 of **Part 1** of the s42A report with respect to those matters relevant to this report, specific discussion in relation to the Northland Regional Policy Statement (**RPS**) and Iwi Management Plans is included at section 3.0 of this report.
3. This s42A report has been prepared by Larissa (Lara) Blair Clarke, Senior Consultant Planner at Barker and Associates. I hold a Bachelor of Planning Degree (with second division first class honours) from the University of Auckland. I am an intermediate Member of the New Zealand Planning Institute.
4. I have been employed in various roles in local government and private companies since completing my degree in 2010. I have experience in statutory policy and resource consent planning in the Auckland and Whangarei regions. My experience includes preparing and processing resource consent applications both in relation to district and regional matters, district and unitary plan formulation and policy advice for Auckland Council and Whangarei District Council, attendance at mediations and hearings for resource consent and policy matters, monitoring and compliance of consent conditions/district and regional plan rules in the Auckland Region, and inputting into the development of guidance at a national level in the area of natural hazards and climate change.
5. I confirm that the evidence on planning matters that I present is within my areas of expertise and I am not aware of any material facts which might alter or detract from the opinions I express. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. I have also read and am familiar with the Resource Management Law Association / New Zealand Planning Institute "Role of Expert Planning Witnesses" paper. The opinions expressed in this evidence are based on my qualifications and experience, and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position. I have no vested interest in the outcome of PC102 nor any conflict of interest to declare.

¹ Acoustic report, Titled Marshall Day Acoustics, Whangarei District Council – Response to Submissions

2.0 Description of the Plan Change as Notified

6. This report addresses matters relating to Minerals and Mineral Extraction Areas (**MEA**). For the purposes of this report where mineral extraction (such as exploration/prospecting) is referred to lower case is used, where identified 'Mineral Extraction Areas' as discussed upper case or the abbreviation MEA is used.
7. PC102 was notified along with the full suite of rural plan changes which include Plan Changes 85, 85A, 85B, 85C, 85D, 86A, 86B, the Coastal Area Plan Change 87 (**PC87**) and Landscapes Plan Change 114 (**PC114**). A comprehensive description of the background to PC102 is included in Section 2.0 to 4.0 of the Section 32 Evaluation [see **Appendix A** of **Part 1** of the s42A report].
8. Some of the rules associated with minerals and MEAs are located within the proposed rural Environments (as notified) and in the Operative Environments included in the WDP. As a result, there are aspects of those s32 Reports which are also relevant to PC102 and the matters addressed in this report. Of particular relevance is **Part 3** of the s32 produced for PC85A which addresses the quantities permitted in relation to earthworks and mineral extraction/farm quarries.² Mineral extraction and farm quarries are also specifically addressed in the s32 reports for PC114 and PC87.
9. Rather than duplicate the background section from the s32 Evaluation, the following key points are made in summary, with some additional comment designed to address the matters raised and provide clarification on the approach to minerals in PC102 since notification.
10. PC102 proposes changes to the Chapter 18: Policies – Minerals, Chapter 64: Resource Area - Mineral Extraction Area Rules, Appendix 14: Schedule of Existing Mineral Extraction Areas, and Consequential Amendments to other Chapters and the District Planning Maps in the WDP..

Minerals

11. The Whangarei District is identified in the WDP as containing mineral deposits that may be of considerable social and economic importance to the District, although the WDP acknowledges that development of mineral resources has the potential to have significant adverse effects. A consideration of mineral resources is not limited to aggregate but may contain the full scope of minerals³ which is defined in the WDP. the definition was not proposed to be amended through PC102.
12. The key resource management issues identified through PC102 are set out in the s32 as those in the WDP and those identified in the Northland Regional Policy Statement 2016 (**RPS**). In summary these are:

² From paragraph 101 to 107

³Definition of Mineral as set out in Chapter 4 of the WDP:

“Mineral

means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945.”

- The potential for mineral extraction to have adverse effects on the environment.
 - Mineral extraction activities and Areas being constrained by conflicting land uses.
 - The identification of land as a significant economic asset and the need to manage this asset to enable activities that use soils or minerals to use land.
13. The purpose of PC102 was to address the WDP framework for managing minerals. Both in terms of managing adverse effects associated with exploration, extraction and processing of minerals, and in terms of 'protecting' existing *identified* significant mineral resources.
14. In terms of mineral prospecting, exploration and mining, the Crown Minerals Act (1991) (**CMinA**) administered by the Ministry of Business, Innovation, and Employment (**MBIE**) implements controls and establishes a permit system for these activities. The permits issued for prospecting/exploration and mining in Northland (and New Zealand) are recorded in an on-line viewer. According to the viewer, there are two mineral exploration permits and six mining permits applicable to the Whangarei District. These permits are set out at **Attachment 1** and include mineral exploration permits for the Puhipuhi and Tapuhi areas for gold and silver, and mining permits for greywacke, limestone, aggregate and sand.
15. Some mineral exploration and mining activities do not require permits to be obtained under the CMinA, such as the taking of minerals for use for any "...reasonable agricultural, pastoral, domestic, roadmaking, or building purpose on land of which the person is an owner or occupier...". Exemptions also apply in relation to natural materials from the beds of lakes or rivers. This provides for activities such as farm or forestry quarries which supply aggregate for use in agricultural industries. Farm quarries also are commonly found in rural areas of the Whangarei District. The term "quarry" or "farm quarrying" are not defined in the WDP or proposed to be defined in the rural plan changes as notified.
16. The management of minerals in terms of prospecting/exploration, quarrying or mining is regulated through the WDP in order to avoid, remedy or mitigate any adverse effects of activities on the environment. This is reflected in the operative provisions in the WDP and in the objectives, policies and rules proposed through PC102 which refer to exploration, extraction and processing of minerals.

The management of exploration, extraction and processing of Minerals

17. The terms 'Mineral', 'Mineral Extraction⁴' and 'Exploration⁵' are defined in the WDP. Mineral extraction as an activity is managed in the provisions in the WDP, while 'Exploration' is not

⁴ Definition from Chapter 4 WDP:

"Mineral Extraction

means the excavation of minerals from the ground, including:

- The removal of overlying earth and soil,
- The stacking, crushing, storing, depositing, treatment, transportation and sale of excavated materials,
- The removal of unwanted material and the rehabilitation of the site,
- The works, machinery and plant used to undertake the activities above."

⁵ Definition from Chapter 4 WDP:

"Exploration

means any activity undertaken for the purpose of identifying mineral deposits or occurrences, and evaluating the feasibility of mining particular deposits or occurrences of one or more minerals; and includes any drilling, dredging or excavations (whether surface or sub-surface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and "to explore" has a corresponding meaning"

specifically addressed or controlled as an activity. Through the rural plan changes ‘mineral extraction’ is proposed to be managed in the various proposed ‘Rural Environments’. Mineral extraction is managed within the operative and proposed Environment chapters of the WDP as set out in Table 1 below. Exploration, due to it not being more specifically defined, could be considered to be a permitted activity subject to compliance with all other plan provisions, such as earthworks controls.

Table 1: Activity status and controls for mineral extraction in the Environments in the WDP and as Notified in the Rural Plan Changes	
Environment	Activity status/Controls
Countryside (CE)	Mineral extraction is a discretionary activity if certain conditions relating to area, volume, planting and blasting are exceeded. These ‘permitted volumes’ essentially enable farm quarry operations.
Coastal Countryside Environments (CCE)	Any mineral extraction in the CCE is subject to a controlled activity status even where compliant with the specified conditions in relation to area, volume, planting and blasting and the area of the excavation.
Living, Business 1, 2, 3, Open Space and Port Nikau Environments	Mineral extraction is a discretionary activity.
Business 4 Environment	Mineral extraction is permitted.
Rural Production Environment (RPE)	Mineral extraction is non-complying if it does not comply with the controls specified in RPE.2.1.3 ⁶ .
Strategic Rural Industries Environment (SRIE)	All activities not listed as requiring consent as a discretionary or non-complying activity is a permitted activity. As such, mineral extraction would be a permitted activity in this Environment.
Rural Village Environment (RVE)	Mineral extraction (and intensive livestock farming) are prohibited activities.
Rural Living Environment (RLE)	Mineral extraction (and industrial activities) are prohibited activities.
Rural Urban Expansion Environment (RUEE)	Mineral extraction (and industrial activities) are prohibited activities.

⁶ The activity shall not-extract over 5,000m³ in any 12 month period on the site, undertakes blasting, or establish within 500m of an existing sensitive activity on an adjacent site

18. Mineral extraction is not specifically listed or mentioned in the operative WDP Landscape chapter although earthworks are included and controlled. Physical disturbance is also managed in Sites of Significance to Māori. Through the rural plan changes mineral extraction is managed in the proposed Coastal MEA and Landscape Area chapters as represented in Table 2 below.

Table 2: Activity status and controls for mineral extraction In the Resource Areas in the WDP and as Notified in the Rural Plan Changes	
Resource Area	Activity status/Controls
Landscapes (Chapter 57)	No specific control for mineral extraction. Earthworks are permitted where they meet certain controls and are otherwise provided for as a restricted discretionary activity in outstanding landscape areas and a controlled activity in notable landscape areas.
Sites of Significance to Māori (Chapter 60)	Activities within Sites of Significance to Māori are permitted if the activity does not result in any physical disturbance or modification of the site and the works (excluding modification of any part of the site) will protect or enhance the cultural and spiritual values of the site. Mineral extraction and Exploration may both involve physical disturbance and would therefore require consent as a restricted discretionary activity.
Landscape Areas (PC114 'LAN' as notified)	Mineral extraction is managed dependent on the landscape feature. Mineral extraction is split between 'farm and forestry mineral extraction (quarrying)' and 'other mineral extraction'.
Outstanding Natural Features (outside of coastal areas)	Farm and forestry mineral extraction (quarrying) is discretionary ⁷ or prohibited ⁸ and other mineral extraction is either non-complying ⁹ or prohibited ¹⁰ .
Outstanding Natural Features (within coastal areas)	'Farm and forestry mineral extraction (quarrying) is prohibited except in the case of dynamic landforms and features where it is non-complying. Other mineral extraction is prohibited in all ONF-Coastal areas.
Outstanding Natural Landscapes (ONLs)	Mineral extraction is not specifically included in the rules (earthworks are controlled).

⁷ For Large landforms and Volcanic cones

⁸ Smaller more fragile landforms, exposures of geological material and caves.

⁹ For Large landforms and Volcanic cones

¹⁰ Smaller more fragile landforms, exposures of geological material and caves.

Coastal Area (CA) (as notified)	Mineral extraction is not specifically managed however earthworks activities are as follows:
High Natural Character (HNC) Area	Earthworks activities within a HNC Area require discretionary consent where they exceed specified limits and cut or batter dimensions, earthworks associated with legally established mineral extraction are exempt from this control.
Outstanding Natural Character (ONC) Areas	Earthworks up to 150m ³ are provided for above which they are considered a non-complying activity.

Mineral Extraction Areas (MEA)

19. PC102 and the WDP seek to ensure that identified significant mineral resources are not compromised by subdivision use and development. Larger scale mineral extraction activities undertaken in the District are identified in the notified PC102 provisions as Mineral Extraction Areas (“**MEA**”s). These MEAs are currently all subject to quarrying operations are identified in the WDP. No new MEA are proposed to be introduced through PC102. The nine MEA are identified as:

- Portland Quarry (GBC Winstone) MEA1
- Wilsonville Quarry (GBC Winstone) MEA2
- Otaika Quarry and access way (GBC Winstone) MEA3
- Takahiwai Quarry (McBreen Jenkins) MEA4
- Woods Road Quarry (United Carriers) MEA5
- Mata Quarry (Balance Agriculture) MEA6
- Mountfield Rd Quarry MEA7
- Dicksons Road Quarry (Dicksons Transport) MEA8
- Robsons Quarry, Otaika (J Pullman) MEA9

20. The MEAs are identified and function in the operative WDP as Resource Areas and will continue to function in this manner in the PC102 provisions. The location of an MEA results in additional controls both applicable within the identified MEA and applicable to the area surrounding the identified MEA.

21. The MEA Resource Area operates slightly differently to other Resource Areas as it generally provides a more permissive regime than that of the underlying Environment, providing for mineral extraction of up to 5,000m³ of material (disturbed or removed in any 12 month period) and providing a greater allowance for effects such as noise generation within MEAs. The establishment of ‘sensitive activities’ is also not provided for within the MEA. Within an MEA

controls differentiate between 'activity areas' (now termed through PC102 'mining area¹¹') and 'buffer areas¹²'. All nine MEAs all have Active [Mining] Areas while six of the MEAs also have Buffer Areas.

Buffer areas

22. The MEA chapter proposes the inclusion of 'Buffer Areas' located on the external sides of the Active [Mining] Area within the overall mapped MEAs. This was intended to reflect that it may not be reasonable to require the quarry operator to internalise all effects within the Active [Mining] Area and that these land holdings were not generally owned by or under the control of the quarry operator. This approach was recognised by the Environment Court in *Winstone Aggregates v Auckland Regional Council A49/2002*, where it was held that effects such as noise and vibration could not reasonably and economically be contained within the site, and a reverse sensitivity buffer was imposed in the form of the buffer area.
23. The WDP currently provides for mineral extraction within the Buffer Area as a restricted discretionary activity subject to meeting certain conditions and where these conditions are not achieved the activity status defaults to discretionary. The proposed MEA chapter includes controls which restrict the location of sensitive activities within the Buffer Areas but do not control mineral extraction activities within these Buffer Areas.

Setback Area

24. Controls relating to setbacks from the Activity [Mining] Areas are currently located in the Environment chapters of the WDP. PC102 updates these controls to refer to the proposed MEA chapter and incorporates controls within the various proposed Rural Environments.
25. A 500m setback applies to Mining Areas within MEAs and rules are proposed to be included in the Environments chapters and in the rural plan change provisions which specify that sensitive activities within the 500m setback area are considered as non-complying activities. The exception to this are the Living Environments 1, 2 and 3 where the 500m setback requirements do not apply or impose any additional controls.
26. A number of submissions made in relation to the rural plan changes have addressed these setbacks. The matters raised in these submissions are addressed in section D of this report and in the respective s42A reports for each environment.

Structure of MIN and MEA

27. PC102 proposes to consolidate and update the existing objectives, policies and rules in the WDP, by combining Chapter 18 (policy for Minerals), Chapter 64 (provisions for MEAs) and Appendix 14 (Schedule of Existing Mineral Extraction Areas) within a single chapter in line with the new WDP structure.

¹¹ Notified definition PC102: **Mining Area** means that part of the Mineral Extraction Area which is owned by or under the control of the quarry operator at the time the MEA is established or extended. It is where the full range of mineral extraction activities may occur.

¹² Notified definition PC102: **Buffer Area** means that part of the Mineral Extraction Area which is outside the Mining Area.

28. Consequential changes are also proposed to Chapters 4 (Meaning of Words); Chapter 36 (Living 1, 2 and 3 Environment Rules); Urban Transition Environment (**UTE**); Chapters 39, 40, 41, 42, 44, 45, 46 (Business Environments); Chapter 46 (Open Space Environment); Chapter 71 (Living 1, 2 and 3 Subdivision Rules) and the Resource Area Maps. The purpose of these consequential changes is to relocate rules associated with subdivision and development in the Environments surrounding MEAs into the one consolidated MIN chapter.

3.0 Statutory Considerations

29. Section 5 of **Part 1** of the s42A report sets out the relevant statutory considerations in relation to s32 of the RMA. These matters are not repeated here.

Northland Regional Policy Statement

30. The RPS identifies a number of policies¹³ which are relevant to PC102. The relevant policies are set out and discussed at section 2 and section 6 of the s32 report. Regionally significant mineral resources or mineral extraction sites have not yet been mapped by NRC.
31. The analysis of resource consents undertaken for the s32 report identified quarries where average annual aggregate extraction rates are 50,000 cubic metres or greater. This quantity of 'mineral' extraction accords with RPS policy 5.1.4. The quarries identified correspond with the nine existing MEAs already identified in the WDP. I note there is no direction in the RPS as to the extent of the area which may be identified in relation to the extraction/resource area.
32. PC102 in my opinion gives effect to the RPS by identifying on the WDP Resource Area Maps nationally and regionally significant mineral resources (currently being extracted); and by including provisions intended to manage reverse sensitivity impacts on identified MEA.

Iwi and Hapu Management Plans

33. Section 74(2A) of the RMA requires territorial authorities to take into account any relevant planning document recognised by an iwi authority to the extent that its content has a bearing on the resource management issues of the District.
34. Iwi and Hapu Management Plans were referenced in the s32 Report. Since the completion of the s32 report, however one additional hapu management plan has been formally recognised by WDC. For completeness, a list of the formally recognised iwi / hapu management plans for the Whangarei District is provided below:
- Ngatiwai – “Te Iwi o Ngatiwai: Iwi Environmental Policy Document 2007”
 - Ngati Hine – “Ngati Hine Iwi Environmental Management Plan 2008”
 - Patuharakeke – “Patuharakeke Hapu Environmental Management Plan 2014”
 - Ngati Hau – “Hapu Environmental Management Plan 2016”

¹³ Issue 2.3, objective 3.6, policy 5.1.3, 5.1.4, method 5.1.5(1e), 5.1.5(2a), and 5.1.6 of the RPS relate to minerals

- Te Uriroro Hapu Environmental Management Plan Whatiriri Hapu Environment Plan 2016.
35. Having reviewed each document including Te Uriroro Hapu Environmental Management Plan Whatiriri Hapu Environment Plan 2016 published after notification of PC102, and taking into account all of the provisions, I consider that the provisions attached at **Attachment 2B** of **Part 1** of the s42A report are consistent with, and in some respects will help achieve the outcomes sought in these documents.

4.0 Purpose of Report

36. This report considers submissions received in relation to PC102 and in some cases those received in relation to the rural plan changes as a package. 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 PC102.
37. The report includes recommendations to the Commissioners to accept, accept in part or reject individual submissions. Where appropriate, it also includes recommended changes to the plan change provisions as included in **Attachment 2B** of **Part 1** of the s42A report. Where any change necessitates further evaluation in accordance with s32AA, the necessary analysis is provided in the body of this report.
38. When making its decision, WDC is required under Clause 10 of the First Schedule of the RMA to give reasons for allowing or not allowing any submissions (grouped by subject matter or individually). The decisions of the council may also include consequential alterations arising out of submissions and any other relevant matters it considered relating to matters raised in submissions. Where consequential changes are proposed as a result of submissions considered these have been noted in the report.

5.0 Structure of the Report

39. 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.
40. All submissions received have been categorised based on which plan change they are most applicable to. Several submissions which are of specific relevance to PC102 have been assessed in **Part 1** of the s42A report as they either address broad topics which relate to multiple plan changes. The topics of particular relevance to PC102 topics include the following sections which are addressed in this report (**Part 3**) with cross reference to **Part 1**.

H. Noise and Vibration (NAV)

I. Temporary Military Training Activities (TMTA)

J. Historic Heritage

O. Definitions

P. Strategic Direction

41. Submissions were made on general issues regarding PC102 and also on specific provisions. Submissions on general issues are addressed alphabetically 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. Minerals
- B. Specific Mineral Extraction Activities
- C. Culture and Heritage
- D. Mineral Extraction Areas
- E. Wilsonville Quarry
- F. Otaika Quarry
- G. Non RMA Matters
- H. Definitions
- I. Consequential Changes

42. 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, responses in some cases 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 or those of the other provisions within the rural plan changes.
43. While all further submissions have been acknowledged in the submissions tracking spreadsheet (see **Attachment 1** of **Part 1** of the s42A report), responses have not been written for all further submission, instead they are considered to be addressed through the consideration of the primary submission points.
44. Any recommended changes to the notified text as a result of submissions are attached to this report (see **Attachment 2B** of **Part 1** of the s42A report). Any recommended additions to the notified text are shown as underlined and deletions as strike-through.
45. As discussed in section 1 and 2 of this report in some instances there is a degree of ‘cross over’ between the various rural plan changes. As a result some submissions have been considered under PC102 which are coded to other rural plan changes, where this has occurred these are noted separately.
46. The assessment of submissions under the topic and sub topic headings 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.

6.0 Consideration of Submissions

A. Minerals

47. Submissions points from nine submitters have been received which relate broadly to the topic of Minerals (or mineral resources) and can generally be categorised as raising issues in relation to:

- The scope of the Minerals chapter (MIN) and the mineral resources and related activities it seeks to manage.
- The policy direction in relation to the use and extraction of mineral resources within the District.
- Expressing support for the direction of the objectives and policies for minerals and seeking minor amendments.

48. The submission points are addressed in three themes below.

Scope of PC102 and the proposed provisions for Minerals

Submission Information

49. Submissions points from five submitters were made with regard to the topic of the scope of the provisions included under PC102. Submissions seek confirmation of this direction reflecting the activity status for mineral exploration/extraction/processing activities across the District. The submission points are set out as:

- Royal Forest & Bird Protection Society of New Zealand¹⁴ (**Forest & Bird**): seek that PC102 provide for the sustainable management of natural and physical resources in the Whangarei District and achieve the purpose of the RMA¹⁵. Forest & Bird submit that the provisions included in the proposed plan changes which seek to manage the effects of mineral extraction activities are totally inadequate and inconsistent with sound resource management practice. They state particular concern with the failure of Council to distinguish between different types of mining activities and to include specific rules designed to manage different effects associated with these different activities. They suggest it would be appropriate to group all the provisions relevant to mineral extraction together in the Minerals section of the plan proposed by PC102, making this aspect of the WDP much more user friendly and would enable a more structured and targeted approach to managing the effects of mining activities than the current reliance on patchy rules scattered throughout the plan. The relief sought including all such further, consequential or alternative relief as may be necessary to address the concerns raised and relief sought in this submission.

¹⁴ Submission 467/11 Royal Forest & Bird Protection Society of New Zealand

¹⁵ "...and (b) Such further, consequential or alternative relief as may be necessary to address the concerns raised and relief sought in this submission."

- Far North District Council¹⁶ (**FNDC**) submit that in general there is support for the clear statement of activity status for specified activities.
- Minewatch¹⁷ state that the purpose of PC102 is not clearly stated and seek a clear statement of purpose for PC102 and that such purpose covers only quarrying.
- Minewatch¹⁸ in their second submission seek to further clarify the scope of the provisions requesting that a definition of quarrying (as per Thames Coromandel proposed amended plan) be included and more provisions be developed for quarrying as a specified mineral extraction activity. Minewatch seek that the purpose of and limitations on MEAs be clarified, and that mineral extraction outside of MEAs be prohibited requiring a [private] plan change to establish a new MEA.
- Jenny Kirk¹⁹ Coordinator, Puhipuhi Mining Action Group (**PMAG**) submits that the 'Description and Expectations' should include discussion of gold or silver mining in the event that this form of mineral extraction becomes a possibility in the future. The submitter notes in explanation that the wording of PC102 is ambiguous and it is not clear whether this specific plan review includes the potential for large scale toxic mining such as gold and silver mining. Clarification about what particular types of mining PC102 refers to would in the submitters view be helpful, with a specific section relating to the potential for gold mining.

Discussion

50. The Description and Expectations sets out the statutory framework applicable to minerals under the RMA and notes the social and economic importance, importance to iwi and the potential for adverse effects to be associated with the development of such resources.
51. The Description and Expectations then goes on to discuss that nationally and regionally significant mineral resources that are being extracted are identified as MEA in the planning maps, concluding by referring to the provisions for smaller scale mineral extraction being provided for within the Environments noting that more restrictive District wide provisions may also be applicable. This explanation of the provisions in MIN.1.1 accurately reflects the current structure of the provisions but in my opinion does not clearly articulate how either 'smaller scale' or more significant mineral extraction is provided for within the District. There is no breakdown or refinement of mineral extraction activities in terms of quarrying of any scale, mining both underground or opencast, or provision for exploration, extraction or processing activities, all of which may be considered to fall under the overarching title of mineral extraction.
52. PMAG, Jenny Kirk/Minewatch and Forest & Bird²⁰ seek more specific provisions relating to quarrying, and different mining activities, namely gold and silver mining and 'toxic mining'. Relief sought includes the definition of quarrying as has been included in District plans elsewhere in

¹⁶ 410/84 FNDC

¹⁷ Submission 1 365/2 Minewatch

¹⁸ Submission 2 442/1 Minewatch

¹⁹ 237/1 PMAG

²⁰ Forest & Bird 467, Submission 1 365/2 Minewatch, Submission 2 442/1 Minewatch, PMAG 237/1

the country and a general direction that mining activities are prohibited or non-complying in certain areas.

53. Minerals come in many forms and may be located in many areas across the District. Depending on the mineral resource exploration, extraction and processing methods may vary. A need to differentiate further between the various aspects of mineral exploration, extraction and processing was not identified in PC102 in the section 32 analysis undertaken.
54. Generally aggregate quarrying is the most common mineral extraction activity for the District. This premise is supported by the consent applications recorded and the exploration and mining permits noted at **Attachment 1**. As a result, the provisions have historically focused on these aspects of mineral extraction and their effects. Quarrying at a smaller scale has long been associated with rural industries and is anticipated and provided for in rural areas as a rural activity or in support of rural activities.
55. Farm quarries, although not defined as such, are provided for in the WDP where they are located in the CE under the title of 'mineral extraction'. Where the specified limits are exceeded a consent, requirement applies. PC85A ss32 report examines this provision for mineral extraction alongside earthworks and supports the increasing of the volumes which may be associated with these activities to reflect the Regional Plan limits. In other Environments 'mineral extraction' requires application for resource consent with the exception of the Business 4 Environment in the operative WDP and the SRIE notified plan change provisions.
56. In order to address the matters raised in submissions²¹ and clarify the manner in which mineral resources are proposed to be managed in the Whāngārei District I support the following amendments to the notified provisions:
 - Amend the Description and Expectations to better reflect the location of rules relating to mineral exploration, extraction and processing, termed 'mineral extraction'.
 - Amend the policies to provide greater direction as to the management of mineral resources, including specific provision for mineral extraction related to rural activities- (farm quarries).
 - Consolidate the rules for mineral extraction activities under the proposed MIN chapter with the exception of farm quarries which continue to be more specifically provided for within the relevant Environments, and include a guidance note regarding the location of rules.
 - Amend the provisions within both the operative and proposed Environments and Resource Areas to ensure that terminology relating to mineral extraction, MEAs and farm quarries is aligned with the MIN chapter and provides a clear understanding for plan users of the consent requirements and policy direction.
 - Include a definition of "farm quarrying" and provide for this activity in a limited capacity in rural Environments as a rural activity.

²¹ Submissions from Forest & Bird 467, MineWatch 365/442, PMAG 237 and FNDC 410

- Clarify the activity status of all 'other' mineral extraction activities across the various Environments.

57. Minor amendment to the Descriptions and Expectations are required to clarify the intent of the PC102 and three other more substantive amendments which are addressed in turn below:

- The addition of Policy 7: '7. To enable rural production activities to utilise aggregate resources by providing for farm quarries where they are limited in scale and operation and are not located within areas with significant or sensitive features or in Environments intended to accommodate sensitive activities.'
- The addition of provisions within the Minerals MIN chapter
- The definition of Farm Quarries

The two reasonably practicable options were identified in relation to policy 7 they are option 1 retaining the Notified Provisions and option 2 the revised provisions (As set out in **Attachment 2B** of **Part 1** the s42A report). Option 1 does not include a policy providing for farm quarries and therefore, in my opinion, does not align well with the policy direction in other parts of the rural plan changes and the provisions in the rules which enables quarrying of a limited scale being established where criteria are achieved. Option 2 in my opinion better reflects the policy direction and aligns with the policy direction for rural land uses. There are no economic growth and employment opportunities / implications / issues arising from the options for this component of PC102 and there is no risk due to insufficient information. Option 2 in my opinion is the most efficient and effective method.

58. The options identified in relation to the plan provisions are retaining the notified provisions (option 1) and the revised provisions (option 2) (as set out in **Attachment 2B** of **Part 1** the s42A report).

59. Option 1 included rules for mineral extraction activities within the various Environment and Resource Area chapters of the WDP. This approach was identified in submissions as difficult to follow and did not enable plan users to link the policy direction in MIN with the application of rules in the WDP.

60. Option 2 provides for the location of rules (and assessment matters) associated with mineral extraction under the title of MIN. in my opinion this enables a clearer link between the policy direction and information requirements and the application of rules. There are no economic growth and employment opportunities / implications / issues arising from the options for this component of PC102 and there is no risk due to insufficient information. Option 2 is considered to be the most efficient and effective method.

61. When considering the definition of farm quarries two reasonably practicable options were identified. Retaining the notified provisions and the revised provisions (As set out in **Attachment 2B** of **Part 1** the s42A report). The WDP and the notified provisions do not define farm quarries. As such, in my opinion this activity is ambiguous and open to interpretation. The link between farm quarries and rural production activities is important in achieving the policy direction for the

rural production area. Without further definition of this term in my opinion the application of the policy direction is not easily followed.

62. Option 2 defines farm quarries as “the extraction of minerals for uses accessory to farming, horticulture, or forestry, where: the quarried material is used only on the property of extraction: and there are no retail or other sales of quarried material.” In my opinion this definition provides clarity around the purpose of the extraction and limits the potential for expansion of the activity which may result in adverse effects on transport networks and surrounding land uses. There are no economic growth and employment opportunities / implications / issues arising from the options for this component of PC102 and there is no risk due to insufficient information. Option 2 is in my opinion to be the most efficient and effective method.

Recommendation

63. I recommend that the Commissioners:
- **Accept in Part** submission points 467/11²², the 237/1²³, 365/2²⁴ and 410²⁵ in relation to the clarifications to the provisions to better reflect the scope of the PC102 and the location of rules and policy direction relating to mineral resources and the exploration, extraction and processing of these resources.
 - **Accept in Part** submission 442/1²⁶ seeking a definition of quarrying but limiting this to the identification of “farm quarries”.
64. I recommend the following amendment to the text of MIN and that consequential changes to the provisions of both the WDP and the notified text of the rural plan changes are made in order to support the location of rules with in the MIN chapter and achieve consistency across the WDP.

MIN.1.1 Description and Expectations

The management of mineral resources is divided between several pieces of legislation...

Smaller scale mineral extraction activities which are directly associated with rural industries (farm quarries) are provided for and assessed in accordance with the relevant Environment provisions. All other mineral extraction activities which involve exploration, extraction or processing of minerals are either managed under MIN.2 or where located in Mineral Extraction Resource Areas they are managed under QRA. District wide provisions may apply more restrictive rules to the consideration of both farm quarries and mineral extraction due to the presence of significant or sensitive features.

...

MIN.1.3 Policies

1. To avoid, remedy or mitigate...

²² Submission 467/11 Royal Forest & Bird Protection Society of New Zealand

²³ 237/1 PMAG

²⁴ Submission 1 365/2 Minewatch

²⁵ 410/84 FNDC

²⁶ Submission 2 442/1 Minewatch

7. To enable rural production activities to utilise aggregate resources by providing for farm quarries where they are limited in scale and operation and are not located within areas with significant or sensitive features or in Environments intended to accommodate sensitive activities.

...

MIN.1.4 Guidance Note

The following shall form the basis for resource consent applications for mineral extraction (including exploration, extraction and processing):

1. The objectives, policies and provisions for MIN and other Resource Areas in the District Plan.
2. The objectives, policies and provisions for Environments in the District Plan.
3. The objectives, policies and provisions for the Rural Area in the District Plan.
4. The objectives, policies and provisions for Resource Areas in the District Plan.
5. The district wide objectives, policies and provisions in the District Plan.

Rules for 'farm quarries' are located in the Environment sections of the District Plan.

MIN.2.1 Eligibility Rules

1. Mineral extraction activities within the Strategic Rural Industries Environment are exempt from QRA.2.5.1 and QRA.2.5.3 and will be assessed by applying the Strategic Rural Industries Environment provisions.
2. Mineral extraction within specified resource areas may be subject to more stringent controls.
3. Mineral extraction not provided for as a permitted, controlled, discretionary, non-complying or prohibited activity will be considered as a discretionary activity.
4. Mineral prospecting as defined in the Crown Minerals Act 1991 is a permitted activity where no disturbance of land occurs.

MIN.2.2 Discretionary Activities

1. Mineral extraction activities in the Rural Production Environment .
2. Mineral extraction activities in the Living 1, 2 and 3 Environments, Open Space Environment, Business 1, 2, 3 and 4 Environments, Town Basin Environment, Airport Environment, Marsden Point Port and Port Nikau Environment.
3. Mineral extraction activities in the Urban Transition Environment , Kamo Walkability Environment , Marsden Primary Centre – Town Centre South Environment, Ruakaka Equine Environment

MIN.2.2.1 Assessment of Discretionary Activities

1. When assessing resource consent applications for discretionary activities the assessment shall include (but is not limited to) the following matters (where relevant):
 - a. The size and scale of extraction activities and the expected length of operation of the extraction site;
 - b. The design and layout of the site, access roads and supporting facilities;
 - c. The measures proposed to manage:
 - i. noise, vibration, dust and illumination to maintain amenity values of the surrounding land uses, particularly at night-time;
 - ii. adverse effects of traffic generation and maintain safety to all road users, particularly measures to manage heavy vehicles entering or exiting the site;

- iii. adverse effects on soil and water, including impacts on watercourses within the extraction site and the effects on the neighbouring environment including fauna and flora;
- iv. effects on or exacerbation of natural hazards including land stability;
- v. significant adverse effects on visual and landscape values;
- vi. the values of identified historic heritage or archaeological sites, buildings, places or areas;
- d. Effects on the relationship of tangata whenua with their ancestral lands, sites, water, waahi tapu and other taonga
- e. Options anticipated for the rehabilitation of the site, either by a staged process or at the end of the economic life of the quarry, having regard to the expected life of the mineral extraction site.
- f. The benefits likely to be derived from the mineral extraction activities;
- g. Any reduced transport effects from having a mineral extraction site closer to the area of demand;
- h. The extent to which significant adverse effects can be avoided; and the extent to which adverse effects can be remedied, mitigated or, where not mitigated, can be offset.

MIN.2.3 Prohibited Activities

1. Mineral extraction in the Rural Village Environment , Rural Living Environment and Rural Urban Expansion Environment

Meaning of words:

...

Farm quarry(ies)

means the extraction of minerals for uses accessory to farming, horticulture or forestry, where:

- the quarried material is used only on the property of extraction;
- no extracted material, including any aggregate is removed from the property of origin; and
- there are no retail or other sales of quarried material.

This definition is considered as a rural production activity.

Consequential changes to the following rural plan changes sections:

RPE.2.1 Eligibility Rules

....

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

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

RLE 2.1 Eligibility Rules

- ~~1. Industrial activities and mineral extraction are prohibited activities in the RLE.~~

RVE.2.1 Eligibility Rules

...

6. ~~Mineral extraction and intensive livestock farming are~~ is a prohibited activities within the Rural Village Environment.

RUEE.2.1 Eligibility Rules

...

2. Industrial activities and ~~mineral extraction~~ are prohibited activities....

Consequential amendments as identified in Attachment 2B of Part 1 the s42A report.

Management of Minerals

Submission Information

65. Submission points were made with regard to the general direction of the Minerals provisions including the description and expectations, the objectives and policies and the rules or methods. Submitters stated their support for a number of key aspects including, the interests of iwi and hapu, mapping of existing MEAs and the protection of the ongoing operation of these areas and the need for aggregate for infrastructure and development. Support for the objectives and policies also acknowledge that they reflect both existing and future mineral extraction addressing adverse effects, need for such resources and rehabilitation and enhancement. Submissions also sought clearer policy direction in relation to different types of mining and more stringent regulation of mineral extractions activities.
66. The submissions are summarised below:
- FNDC²⁷ state their support for MIN.1 generally and seek that this is retained in relation to the purpose, characteristics and management direction. FNDC submit that the statement of the characteristics and purpose of the Minerals chapter and the statement acknowledging the interest of iwi and hapu in managing mineral resources and the adverse effects of mineral extraction is supported. Identifying and mapping existing extraction areas for regionally significant mineral resources in order to minimise reverse sensitivity risks is also supported.
 - GBC Winstone (**GBC**)²⁸ supports the retention of MIN 1.1.
 - Jenny Kirk/PMAG²⁹ concur with the opening comments that "the development of mineral resources has the potential to have significant adverse effects upon soil, water and air resources.... If not appropriately controlled".
 - Forest & Bird³⁰ Oppose MIN.1.1 stating that the introduction needs to provide a much more balanced and comprehensive account of issues and opinion on mining in the District. The

²⁷ 410/73

²⁸ 250/41

²⁹ 237/3

³⁰ 467/13

notified wording is described as being unbalanced and excessively pro-mining. The reference in paragraph 3 that "*Mineral development and associated land restoration can provide an opportunity to enhance the land resource and landscape and has done so in the past*" Forest & Bird submit as being totally inappropriate and needs to be deleted.

- Straterra³¹ seek amendment to MIN 1.1 noting in their view that missing from this section are the benefits that minerals activities provide, and the nature of the minerals industry that warrants being recognised and provided for in the WDP. Straterra submit that mining has demonstrated economic benefits, is a high value use of land, produces essential materials for New Zealand and overseas, and mining employs skilled people in well paid jobs contributing to the District and regions exports. Straterra note also that mining can only be undertaken with the consent of the land owner and the industry is subject to many additional legislative and regulatory regimes. The relief sought is that this aspect of mineral extraction/ mining (and prospecting and exploration) is reflected in the Description and Expectations and in the objectives and policies (MIN.1.2 and MIN.1.3). Straterra propose a specific amendment to MIN.1.1 as follows: "*...Mineral development and associated land restoration can provide an opportunity to enhance the land resource and landscape, and has done so in the past, and that is also society's expectation. However the development of mineral resources has the potential to have significant adverse effects upon soil, water and air resources, and landscape heritage values, and these are managed via conditions on resource consents ~~if not appropriately controlled.~~*"
- FNDC³² also support the retention of the Objectives at MIN.1.2 submitting that they have general support for the direction of the objectives. In particular, safeguarding the potential of mineral resources while protecting people, amenity and cultural values is supported.
- Federated Farmers New Zealand (**FFNZ**)³³ support the identification of 'the need for aggregate resources to be available for infrastructure and development' in MIN.1.1 Description & Expectations.
- Jenny Kirk/ PMAG³⁴ notes PMAGs agreement with Objectives 1 and 2 under MIN.1.2.
- Patuharakeke³⁵ identify their strong support for Objectives 1 and 2 of MIN.1.2.
- Straterra³⁶ also seek the retention of the objectives MIN1.2.1, MIN1.2.3 and MIN1.2.4.
- GBC generally supports MIN 1.2 – Objectives subject to an amendment to include an additional objective to actively facilitate mineral extraction activities within identified MEAs. "*Mineral extraction activities are enabled within identified Mineral Extraction Areas.*"

³¹ 487/1 and 487/3

³² 410/74

³³ 253/48

³⁴ 237/4

³⁵ 238/7

³⁶ 487/4

- GBC also seek the deletion of MIN 1.2 – Objective 3 . GBC considered that Objective 3 is superfluous and the outcomes sought are addressed in proposed Objective 4. Objective 3³⁷. ~~New subdivision, use and development of land does not compromise existing safe and efficient mineral extraction.~~
- GBC seek to amend Policy MIN1.3.6³⁸ to further facilitate mineral extraction activities.
- Straterra³⁹ note their support for Policies MIN1.3.1, MIN1.3.4, MIN1.3.5 and MIN1.3.6. in particular, noting that the policies are logical and stating that their view is subject to other chapters of the District plan being worded in a way that does not necessarily stymie minerals activities.
- Forest & Bird⁴⁰ submit that there is a need to add additional policies to include directions to avoid adverse effects of mining activities on the characteristics and qualities which make up the outstanding values of areas of ONC, ONFs and ONLs; Avoid significant adverse effects of mining activities on natural character, ONFs and ONLs; and identify areas within which mining activities may be appropriate and areas within which mining activities should not be allowed to occur. RB&B⁴¹ also seek that consideration be given to including maps which identify areas where mineral extraction should not be contemplated, including areas identified as having outstanding values and areas where mining activities would be likely to impose a significant risk to human health and/or environment. Puhupuhi, which Forest & Bird highlight as being known to be contaminated with high levels of mercury, is an example of an area in which mining activity should not be contemplated by the plan. Identification of these areas should be achieved via a robust public process.
- Jenny Kirk/PMAG⁴² suggest the addition of 12 policies. Although these policies are sought in relation to MEAs the proposed policies provide direction in relation to mining activities and are relevant to consider in relation to both MIN and MEA.
- FNDC⁴³ seek an additional policy be added to PC102. FNDC submit that as Policy 1.3 (in the MEA provisions) appears to refer only to existing mineral extraction activities. Mineral extraction activities can only occur anywhere the minerals is present. Where the presence of regionally significant mineral resources is known there should be a method for safeguarding their future use.
- Jenny Kirk/PMAG raise concerns about the existing environment in Puhupuhi, the waterways and their connections and the adverse effects associated with mineral extraction (mercury, mercury contamination, acid mine drainage, rainfall and subsidence. Jenny Kirk/PMAG seek that applications for resource consents for any quarrying or mining within the Puhupuhi region

³⁷ 250/42

³⁸ 250/43

³⁹ 487/6

⁴⁰ 467/15

⁴¹ 467/12

⁴² 237/7

⁴³ 410/76

need to be assessed as being sited within an extremely sensitive geological setting⁴⁴ and seek that any open-cast quarrying within the Puhipuhi region needs to be a non-complying activity as per the RMA, s87A(5)(b) with adequate regular monitoring to ensure no adverse effects occur⁴⁵.

- Minewatch⁴⁶ seek to limit the ability for hard rock toxic mining to be carried out in the District and that more provisions be developed for quarrying (including a definition of “quarrying”). Minewatch also seek that all significant regional mineral resources should be required to be identified in a MEA submitting that outside of these areas prohibition of mineral extraction is justified, especially in relation to Puhipuhi.

Discussion

67. The issues raised by the submitters either support or seek amendment to various sections of MIN, and generally stem from contrasting views as to how mineral extraction in its varying forms should be provided for within the Whāngārei District.
68. There appears to be general support for the existing objectives and policies and their direction to ensure that exploration, extraction and processing of minerals avoids, remedies or mitigates adverse effects. As a result I do not support any change to the wording of the existing objectives and policies in MIN.1.2 and MIN.1.3. I do however agree with submitters that further direction may be necessary in the policy framework, both in recognising the benefits which can be associated with mineral extraction but also in terms of ensuring there is adequate direction for the assessment of the variety of effects associated with mineral extraction activities through the consent process.
69. In considering the need for additional policy direction the inclusion of an objective was compared with the retention of the notified PC102 provisions. The RPS identifies the importance of mineral resources and identifies a need to protect these resources. In my opinion this is an important matter and should be considered where consent is sought for mineral extraction activities. The inclusion of the objective which reflects the important role that mineral resources can play in terms of social and economic benefits to the District and to the Northland Region should be considered alongside the need to protect the environment, and consider adverse effects on the relationship of tangata whenua and the directives to not compromise safe and efficient mineral extraction.
70. There are no economic growth and employment opportunities / implications / issues arising from the options for this component of PC102 other than the ability to more clearly convey in the policy framework the role that mineral resource may play in term of social and economic benefits. No risk due to insufficient information is identified, as such it is in my opinion that the inclusion of the objective as set out in **Attachment 2B of Part 1** the s42A report is the most efficient and effective method to achieve PC102 and the purpose of the RMA.

⁴⁴ 237/6

⁴⁵ 237/5

⁴⁶ 365/1

71. I do not support further amendment to the 'Description and Expectations' (MIN.1.1) in response to the submissions from Straterra and Forest & Bird, I remain open however to reconsidering the notified wording further should either submitter provide further evidence in the hearing to support the relief sought.
72. Putting aside the environmental impacts of mineral extraction, there are positive effects associated with the use (and development) of mineral resources. In order to better reflect this and align with the RPS, I support the inclusion of an additional objective to, (in part), reflect the relief sought by Straterra and reflect the benefits associated with mineral resources. This objective would also reflect the provision for certain mineral extraction activities to be enabled and prioritised (subject to controls), for example farm quarrying and larger scale quarrying through the inclusion of MEAs in the WDP. The new objective would ensure that mineral resources are effectively and efficiently managed and the benefits associated with their extraction is recognised, while ensuing adverse effects are managed in accordance with the RMA.
73. Submissions seek more detailed direction in terms of the types of mineral extraction which may be undertaken and the areas in which mineral extraction may occur. I turn first to the range of mineral extraction activities, the further control of these activities based on the areas in which they may be undertaken, and how they are provided for through the rules framework.
74. As discussed above under the heading 'scope of PC102', historically the most common mineral extraction activity undertaken within the District is quarrying. Submitters have identified the following mineral extraction activities as potentially requiring further or more specific control; quarrying, open cast quarrying, 'toxic' mining and gold and silver mining. Submitters note and I agree that the effects associated with these varying forms of mineral extraction are variable and diverse. Given the degree of information available in relation to these activities, the relatively limited number of 'mining' mineral extraction activities in the District and the notified scope of PC102, I do not agree that these activities need to be specifically listed or identified in the WDP. In my opinion the existing definition of "minerals"⁴⁷, the notified definition of "mineral extraction"⁴⁸ and paragraph 2 of MIN.1.1 provide adequate identification of the range of mineral extraction activities which may be anticipated and which are provided for under the MIN chapter. With respect to 'toxic mining' it is my understanding that this term relates to mine waste or tailings. As a component of mineral extraction this aspect of the mineral extraction process would be subject to consideration under the WDP and through application for consent.

⁴⁷ **Mineral**

means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945

⁴⁸ **Mineral Extraction**

means the excavation of minerals from the ground including:

- The removal of overlying earth and soil,
- The stacking, crushing, storing, depositing, treatment, transportation and sale of excavated materials,
- The placement of overburden.
- The removal of unwanted material and the rehabilitation of the site,
- The works, machinery and plant used to undertake the activities above.

75. With respect to the areas in which mineral extraction (of any form) may be undertaken, submitters seek that the effects of mining activities in particular are more specifically managed in relation to Outstanding Natural Character Areas (**ONC**), Outstanding Natural Landscapes (**ONL**) and Outstanding Natural Features (**ONF**), the Puhipuhi area, and/or limiting mineral extraction to identified MEA areas.
76. As identified in section 2.0 to this report, rules relating to mineral extraction are located in both the Environments and in the CA and LAN chapters of the notified rural plan change provisions. Policy direction in these sections of the WDP tends to be more general and refers to earthworks alongside mineral extraction in many instances. As noted I support amendments to the notified and operative WDP provisions in respective sections of the operative WDP and in the notified text of the rural plan changes to relocate the majority of rules for mineral extraction to the MIN chapter. Rules relating to farm quarrying and (also considered as a rural production activity⁴⁹) mineral extraction are also located within the Resource Areas. Where mineral extraction (and farm quarries) are located within identified ONC, ONL or ONF (and HNC) they are subject to more stringent controls than the underlying Environment. I agree that this rule framework is not immediately identifiable but is however supported by policies in the Resource Area chapter and in the MIN chapter. I consider that reference to 'development' in the Resource Areas includes the development of mineral resources i.e. mineral extraction is included in this as an activity in the policy framework. Likewise reference to landscape in MIN.1.3.1 also provides this linkage in the MIN chapter. I support this link being strengthened to reflect the manner for which mineral extraction is provided for in areas identified as HNC, ONC, ONL and ONF.
77. I support the inclusion of an additional policy in MIN which aligns with policies in the proposed CA and LAN chapters to support and clarify the approach taken to managing mineral extraction in these identified areas.
78. In considering additional policies two reasonably practicable options were considered the notified provisions and those as included at **Attachment 2B of Part 1** the s42A report. The notified provisions do not include specific policy direction in MIN which links to the provisions for mineral extraction activities in CA and LAN resource areas. MIN as notified also does not provide direction for the assessment of applications including the potential range of effects which may merit consideration. The insertion of the policies and discretionary assessment criteria in my opinion supports the approach taken to managing mineral extraction across the CA and LAN Resource Areas. The inclusion of Policy MIN.1.3.10 and the assessment matters provides direction for plans users as to the matters which need to be assessed when applications for mineral extraction are made. This option in my opinion more efficiently and effectively implements the objectives and ensures that the WDP is well integrated. No economic growth and employment opportunities / implications / issues arising from the options have been identified and there is no risk due to insufficient information.

⁴⁹ As proposed to be defined in section 'N' Part 1 S42A

Rural Production Activity

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

79. FNDC submit that there should be policy direction aimed at the protection of mineral resources from incompatible uses where they are not yet identified. At this time, the mapping of mineral resources for the region is yet to be undertaken. The mapping of such resources at a regional scale is generally understood to be the role of the NRC. The policies in the RPS are applicable where significant changes in land use zoning may be considered through a plan change process. In addition, should significant resources be identified the existing policy direction provided in MIN will enable a consideration of the impact of subdivision, use and development on such identified resources. In my opinion no further policy direction is necessary.
80. The Jenny Kirk/PMAG seek that mining be provided for as a non-complying activity within the Puhipuhi area. Forest & Bird also seek the consideration of whether mineral extraction should be more specifically managed in certain areas of the District, also referring to Puhipuhi. The reasons stated in support of this status stem from an identification of the values and importance of the natural environment in the Puhipuhi area and issues arising from past mineral extraction processes. No spatial details of the proposed area in which this control would apply are included in the submissions. The primary underlying Environment which applies is the CE(proposed RPE) within which mineral extraction (other than farm quarries) is provided for as a discretionary activity.
81. The prohibition of mining activities in select geographic areas, based on community aspirations or concern, is a matter which traverses multiple legislative regimes and involves many complex issues. The approach to assigning activity status under the WDP to mineral extraction in different areas is based on the identification of the features or attributes of these areas (such as Sites of Significance to Māori, Coastal areas, Landscape Areas and in future potentially Ecological areas or areas prone to Natural Hazards) and through the use of land use zones or Environments. In my opinion, this approach establishes a clear and balanced approach to the consideration of mineral extraction. Furthermore, the RPS identifies mineral extraction as a primary production activity for which provisions should be made where this supports social and economic outcomes for the region. A consideration of any mineral extraction activities proposed to be located in rural areas through the resource consent process in my opinion offers the ability to assess effects and determine whether an application should be notified to potentially affected parties.
82. Jenny Kirk/PMAG also note in their submission that particular effects associated with mining and mineral extraction should be recognised and addressed, particularly within the Puhipuhi area. Currently in my opinion there is limited direction provided in the notified policies in MIN to assist a consideration of effects of mineral extraction activities. As there are no rules identified under MIN there are also no corresponding assessment matters included in this chapter. In order to respond to the matters raised by PMAG and as a consequence of the 'restructuring' of the MIN chapter recommended above under the 'scope of PC102; I support the addition of a policy and assessment matters designed to support a robust assessment of applications for mineral extraction.
83. In order to consider these objectives and policies and trigger any information requirements a consent process is required to be initiated. In the WDP mineral extraction is provided for most

frequently as a discretionary activity across the majority of the Environments (except where located within a MEA).

84. Through the rural plan changes a prohibited activity status has been proposed with respect to the RLE, RVE and RUEE, a permitted status retained for the SRIE, and in the RPE provision for limited mineral extraction designed to enable farm quarries defaulting to non-complying where the controls are exceeded.
85. The RPE covers the largest portion of the District and is as discussed in **Part 7**⁵⁰ of the s42A report designed to provide for rural production land uses. The RPE currently accommodates MEAs and may suitably accommodate future mineral extraction activities outside of these MEAs. In my opinion the appropriate activity status for mineral extraction, excluding farm quarries which are more specifically addressed below in section B, is discretionary activities regardless of their scale. I consider this activity status appropriate as it signals that mineral extraction is anticipated in an Environment and enables a consideration of all relevant matters associated with the extraction activity and its effects, which as discussed above may be variable.

Recommendation

86. I recommend that the Commissioners:
- **Accept in Part/Acknowledge** submission points 410/73⁵¹, 253/48⁵², 250/41⁵³ and 237/3⁵⁴ support for MIN.1.1 in full or in part.
 - **Reject** submission points 467/13⁵⁵ and 487/1⁵⁶ seeking amendment to MIN.1.1.
 - **Accept in Part** submission point 487/3⁵⁷ seeking recognition of the social and economic benefits associated with mineral resources and their development.
 - **Accept in Part/Acknowledge** submission points 410/74⁵⁸, 237/4⁵⁹, 238/7⁶⁰ and 487/4⁶¹ support the retention of the Objectives at MIN.1.2.
 - **Reject** submission point 250/42⁶² seeking amendments to the policy framework.
 - **Accept in part/Acknowledge** submission point 487/6⁶³ noting support for the Policies MIN1.3.
 - **Accept in Part** submission point 467/15⁶⁴ seeking further policy direction in relation to adverse effects of mineral extraction on ONCs, ONLs, and ONFs.

⁵⁰ Ms McGrath's s42A report for PC85A

⁵¹ FNDC 410/73

⁵² FFNZ 253/48

⁵³ GBC 250/41

⁵⁴ Jenny Kirk/PMAG 237/3

⁵⁵ 467/13 Forest & Bird's

⁵⁶ 487/1 Straterra

⁵⁷ 487/3 Straterra

⁵⁸ 410/74 FNDC

⁵⁹ 237/4 PMAG

⁶⁰ 238/7 Patuharakeke

⁶¹ 487/4 Straterra

⁶² 250/42 GBC

⁶³ 487/6 Straterra

⁶⁴ 467/15 Forest & Bird

- **Reject** the specific relief sought by submission points 237/7⁶⁵ and 237/6⁶⁶ but make the recommended changes to the MIN provisions in response to the submissions points made by PMAG which suggest the addition of 12 policies and consideration of the effects and features of mining within the Puhipuhi area.
- **Reject** submission points 237/5 and 467/12⁶⁷ request that open-cast quarrying within specified areas of the District be prohibited or in the case of Puhipuhi be a non-complying activity.
- **Reject** the submission point 365/1⁶⁸ seeking to limit the ability for hard rock toxic mining to be carried out in the District.

And I recommend the following amendments:

<p>....</p> <p>MIN.1.2 Objectives</p> <p>1. Exploration, extraction and processing of minerals avoids, remedies or mitigates any adverse effects on the environment and community.</p> <p>...</p> <p><u>5. Whāngārei's mineral resources are efficiently and effectively managed recognising the social and economic benefits of such resources while ensuring adverse effects associated with mineral extraction are avoided, remedied or mitigated.</u></p> <p>...</p> <p>MIN.1.3 Policies</p> <p>1. To avoid, remedy or mitigate the adverse effects...</p> <p>...</p> <p><u>8. Within the Coastal Area avoid adverse effects, other than those which are minor or transitory, from mineral extraction activities on the characteristics and qualities of Outstanding Natural Features and Outstanding Natural Landscapes and in areas of Outstanding Natural Character.</u></p> <p><u>9. To avoid significant adverse effects resulting from mineral extraction activities on the characteristics and qualities of High Natural Character Areas and non-coastal Outstanding Natural Features and Outstanding Natural Landscapes, and avoid, remedy or mitigate other adverse effects.</u></p> <p><u>10. To require proposals for new mineral extraction activities to provide adequate information on the establishment and operation of the activity including:</u></p> <p style="padding-left: 40px;"><u>(a) the size and scale of exploration, extraction or processing activities and the expected length of operation of the extraction site;</u></p> <p style="padding-left: 40px;"><u>(b) the design and layout of the site, access roads and supporting facilities;</u></p> <p style="padding-left: 40px;"><u>(c) that adequate measures will be used to:</u></p> <p style="padding-left: 80px;"><u>(i) manage noise, vibration, dust and lighting to maintain amenity values of the surrounding land uses, particularly after daylight hours;</u></p>
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⁶⁵ 237/7

⁶⁶ 237/6

⁶⁷ 237/5 PMAG and 467/12 Forest & Bird

⁶⁸ 365/1 Minewatch

- (ii) manage adverse effects on the surrounding road network and maintain safety to all road users, particularly measures relating to heavy vehicles entering or exiting the site;
- (iii) avoid, remedy or mitigate adverse effects on the natural environment including watercourses within the extraction site and the effects from the site into the neighbouring environment;
- (iv) maintain land stability and prevent the exacerbation of existing natural hazards;
- (v) mitigate adverse effects on visual and landscape values; and
- (vi) protect the values of identified historic heritage and maintain the relationship of tangata whenua with their ancestral lands, sites, water, waahi tapu and other taonga.

(d) options anticipated for the rehabilitation of the site, either by a staged process or at the end of the economic life of the quarry, having regard to the expected life of the mineral extraction site.

MIN.2.2.1 Assessment of Discretionary Activities

1. When assessing resource consent applications for discretionary activities the assessment shall include (but is not limited to) the following matters (where relevant):
 - a. The size and scale of extraction activities and the expected length of operation of the extraction site;
 - b. The design and layout of the site, access roads and supporting facilities;
 - c. The measures proposed to manage:
 - i. noise, vibration, dust and illumination to maintain amenity values of the surrounding land uses, particularly at night-time;
 - ii. adverse effects of traffic generation and maintain safety to all road users, particularly measures to manage heavy vehicles entering or exiting the site;
 - iii. adverse effects on soil and water, including impacts on watercourses within the extraction site and the effects on the neighbouring environment including fauna and flora;
 - iv. effects on or exacerbation of natural hazards including land stability;
 - v. significant adverse effects on visual and landscape values;
 - vi. the values of identified historic heritage or archaeological sites, buildings, places or areas;
 - d. Effects on the relationship of tangata whenua with their ancestral lands, sites, water, waahi tapu and other taonga
 - e. Options anticipated for the rehabilitation of the site, either by a staged process or at the end of the economic life of the quarry, having regard to the expected life of the mineral extraction site.
 - f. The benefits likely to be derived from the mineral extraction activities;
 - g. Any reduced transport effects from having a mineral extraction site closer to the area of demand;
 - h. The extent to which significant adverse effects can be avoided; and the extent to which adverse effects can be remedied, mitigated or, where not mitigated, can be offset.

B. Specific mineral extraction activities

87. A submission point which relates to the management of specified mineral extraction activities in the notified provisions (noting that types or methods of mineral extraction such as mining and quarrying are addressed above in section 'A. Minerals'). The specific mining activity is sand mining.

Sand mining

Submission Information

88. Margaret B Hicks⁶⁹ seeks that sand mining, particularly in the Ruakaka area, should only be a permitted activity in the back dunes "...well away from the high tide mark and any structural weaknesses in the dunes." Ms Hicks notes the importance of natural systems such as sand dunes in providing a defense from coastal hazards and rising sea levels.

Discussion

89. Sand mining would be considered as 'mineral extraction' for the purposes of the provisions. The Ruakaka area is zoned in the WDP as Open Space Environment (OSE) and CCE. In the proposed rural plan changes Coastal Countryside areas become RPE and a portion of the coastal edge is identified within the CA. Under the notified provisions mineral extraction and 'sand mining' would be considered as non-complying beyond a certain scale in the RPE, and would potentially be managed through the earthworks controls in the CA with differing volumetric and batter controls.
90. As discussed in section 2.0 of this report mineral extraction requires consent in the OSE and the in the CCE (where certain conditions are exceeded) as a discretionary activity. As discussed in section 'A. Minerals', I have recommended that in the RPE mineral extraction of any scale (excluding farm quarries) would continue to be considered as a discretionary activity (noting that the rural plan changes do not affect the OSE). As such mineral extraction in the Ruakaka 'back dunes' would in my opinion more than likely be considered as a discretionary activity certainly where volumes are significant.
91. Where earthworks are located in the CA, particularly where they are located within sand dunes, this activity is subject to proposed controls in the CA. Consideration of earthworks as a discretionary activity enables consideration of coastal hazards and natural defences against coastal hazards which are identified in the CA policy framework. Mineral extraction is not more specifically provided for within the CA provisions, and as a result would assume the activity status of the underlying Environment as a discretionary activity.
92. In order to clarify the manner in which mineral extraction is provided for in the CA and ensure that integration between the CA and MIN chapter is achieved, I support the inclusion of specific reference to mineral extraction activities under CA.2.3 discretionary activities to clarify that mineral extraction (excluding farm quarries) in the CA outside of High or Outstanding Natural

⁶⁹ 517/8

Character Areas would be considered as a discretionary activity. In areas with High or Outstanding Natural Character the earthworks controls include differing maximum volumes and cut/fill batter slopes. If considering mineral extraction and farm quarrying along similar parameters then specific activities should also be identified and discretionary and non-complying activity status will apply respectively.

93. Two reasonably practicable options were considered in relation to this proposed clarification, the notified provisions and the clarification of the activity status. I consider that a discretionary activity status is appropriate for the consideration of mineral extraction activities including sand mining and will enable the assessment, through the resource consent process, of sand mining or extraction and any impact on sand dunes which function as a defence against coastal hazards. Furthermore this approach is considered to be the most effective and efficient means of achieving the objective and implementing the policy framework. There are no economic growth and employment opportunities / implications / issues arising from either option and no risk due to insufficient information. In my opinion the clarification of the activity status is the most efficient and effective method to achieve PC102 and the overarching policy framework.
94. Consequently a clarification of the activity status for farm quarrying and mineral extraction activities within areas of High and Outstanding Natural Character are also proposed to be included mirroring the earthworks volumes which have been determined to be appropriate by Mr Cook in Topic 'F Landuse Rules' of **Part 4** of the s42A report for PC87.

Recommendation

95. I recommend that the Commissioners **accept in part** submission 517/8 and make the following changes to the provisions in the CA to clarify the manner in which mineral extraction activities are provided for within the Coastal Resource Area.

CA.2

Coastal Area Landuse

...

CA.2.3 Discretionary Activities

...

x. Farm Quarry within the Coastal Area which:

- a. Disturb or move more than 500m³ of material; or
- b. Have any cut and/or batter faces which exceeds 2m; or
- c. Involve blasting; or
- d. Where excavations and processing are undertaken within 200m of a road boundary; or existing residential unit.

x. All other Mineral Extraction activities within the Coastal Area.

...

CA.3.1 Discretionary Activities

...

x. Farm quarry within the High Natural Character Area which:

- a. Disturb or move more than 250m³ of material; or
- b. Have any cut and/or batter faces which exceeds 2m
- c. Involve blasting; or
- d. Where excavations and processing are undertaken within 200m of a road boundary; or existing residential unit.

x. . All other mineral extraction activities within the High Natural Character Area.

...

CA.4.2 Non-Complying Activities

x. . Farm quarry within the Outstanding Natural Character Area which:

- a. Disturb or move more than 150m³ of material; or
- b. Have any cut and/or batter faces which exceeds 2m
- c. Involve blasting; or
- d. Where excavations and processing are undertaken within 200m of a road boundary; or existing residential unit.

x. . All other mineral extraction activities within the Outstanding Natural Character Area.

C. Culture and Heritage

96. Submission points were made with regard to the topic of culture and heritage. The submissions raise several key issues or themes. These themes are broadly identified as:

- A consideration of historic heritage (submission points from Heritage New Zealand Pouhere Taonga (HNZPT))
- Provision for iwi involvement with mineral extraction activities and reflection of cultural interests in mineral extraction activities.

97. These two topics are addressed respectively below.

Historic Heritage

Submission Information

98. HNZPT⁷⁰ has made a comprehensive submission to all plan rural changes seeking multiple changes to proposed provisions to ensure that historic heritage (particularly archaeology) is adequately protected and considered through consent process.

99. HNZPT⁷¹ seek several outcomes and amendments to PC102 which are detailed in their submission coded as submission points 27-32. The amendments required are summarised as:

⁷⁰ 248

⁷¹ 248 points 27-32

- Retain the Minerals chapter as HNZPT considers that the format of the PC102, that includes the introduction of new objectives, policies and performance standards for Minerals within a chapter, is of assistance to the reader in understanding the background and reasons for the rules.
- Amend sub-section MIN.1.1 paragraph 4 to acknowledge both the importance of maunga within a historic and cultural landscape and for Minerals deposits, as follows (or words to the effect): “...sites as significant issues. Maunga are a particularly important feature of the historic and cultural landscape yet also an important source for mineral deposits...”⁷²”
- Amend sub-section MIN.1.3 policy 1 and MEA.1.3 policy 3 to use language consistent with the RMA definition of historic heritage: as follows (or words to the effect): “1. ...ecological, landscape, historic heritage and amenity...”⁷³ and MEA.1.3 “3. ...ecological, landscape, historic heritage and amenity...”⁷⁴
- Amend⁷⁵ sub-section MEA.1.4 Guidance Note to include (words to the effect) that there is a clear link between the MEA and WDP Chapter HH.1 Historic Heritage. “4 The objectives, policies and provisions for Historic Heritage (HH.1) and Built Heritage (BH.1)”
- Amend sub-section MIN.1.4.1 (information requirements) to make specific mention of avoiding, remedying or mitigating any adverse effects on historic heritage and in particular recorded and unrecorded archaeology for mineral extraction activities, as follows: “...Kaitiaki for the area. An application for mineral extraction activities shall include an archaeological assessment prepared by a suitably qualified and experienced heritage practitioner if:
 - The site has recorded archaeological sites or
 - Where the subject site is in proximity to recorded archaeological sites such that there is reasonable cause to suspect that unrecorded archaeological features could be affected by the proposed works, or
 - That was associated with pre-1900 human activity where there is evidence relating to the history of New Zealand.”⁷⁶”
- Amendment is also sought to the assessment criteria at sub-section MEA.2.4 to amend criteria 6 as follows in order to achieve consistency with the RMA definition: “...6. The extent of any adverse effects on historic heritage including ~~are~~ recorded or unrecorded site that is protected by the Heritage New Zealand Pouhere Taonga Act 2014, and cultural heritage values.”⁷⁷”

Discussion

100. HNZPT seek the inclusion of reference maunga (mountains) to highlight the importance of maunga within a historic and cultural landscape and for mineral deposits. I find this to be a

⁷² 248/27

⁷³ 248/28

⁷⁴ 248/30

⁷⁵ 248/31

⁷⁶ 248/29

⁷⁷ 248/32

helpful example which compliments the preceding portion of the paragraph. I support the wording sought by HNZPT.

101. In the overarching **Part 1** section 42A report the matter of historic heritage is discussed and consequential changes to other sections of the rural plan change provisions recommended. This discussion addresses the overall structure of the WDP and the manner in which the sections of the WDP are designed to work with one another. Historic Heritage (HH) is designed to serve as a framework/overview for historic heritage issues generally, subsection Built Heritage (BH) addresses specific provisions associated with built heritage (buildings, sites, objects and related surroundings) and PC100 will deal with archaeological Sites and Sites and Areas of Significance to Māori. HNZPT submission relief seeks repeat policy direction in every proposed plan chapter including MIN.
102. I concur with Ms McGrath and agree that this relief is inconsistent with the approach to the WDP structure and that District wide HH chapter provides sufficient policy direction. I do not consider that additional cross referencing is necessary. I agree however that it is appropriate to amend 'heritage' references throughout the provisions to 'historic heritage' to improve consistency with the RMA, the HH Chapter and Chapter 4 definitions. In my opinion it is appropriate to amend 'heritage' to 'historic heritage' which by definition will include archaeological sites and sites of significance to Māori.
103. HNZPT also seek amendment to the special information requirements for MIN to include a requirement for archaeological assessment to be provided with an application where; *"...the site has recorded archaeological sites or where the subject site is in proximity to recorded archaeological sites such that there is reasonable cause to suspect that unrecorded archaeological features could be affected by the proposed works, or that was associated with pre-1900 human activity where there is evidence relating to the history of New Zealand."*
104. Where consent is sought to establish a mineral extraction activity a consideration of all relevant site features should inform the information required to support a resource consent application. I agree that in some cases it may be appropriate to provide supporting information which relates to historic heritage which is likely to be present on the site, likewise where significant waterways or vegetation is present these features may also require expert or more detailed assessment in order to determine the actual and potential effects of the application. As such, where historic heritage is likely to be present or is a relevant consideration information may need to be provided in support of the consent application. Conditions of consent (or advice notes) may be imposed to ensure that this feature of the site is well managed and that the consent holder is aware of the accidental discovery protocols which should be followed in the event that material or sites are discovered.
105. In my opinion the proposed wording relating to when the information requirement applies are not clear and measurable and applicants may have difficulty determining when unrecorded features may (or may not) be present or affected. As such this information requirement may be applied in all instances, or in the alternative be reserved only for where historic heritage is specifically identified in the planning maps.

106. It is my view that an information requirement relating to historic heritage is not required and an identification of historic heritage and the provision of appropriate assessment is appropriately managed through the resource consent process.
107. Finally amendment is sought to the matter for control at MEA 2.4. HNZPT seek to clarify that this matter is applicable to recorded and unrecorded historic heritage sites protected by the Heritage New Zealand Pouhere Taonga Act 2014 and in relation to cultural heritage values. I agree that this is a useful clarification. The wording proposed including reference to the Act is in my view helpful for plan users, will assist in the consideration of the matter for control, and may also assist (as discussed above) in the formulation of appropriate conditions of consent where necessary.

Recommendation

108. I recommend that the Commissioners:

- **Accept** submission point 248/27 seeking reference to maunga in MIN.1.1.
- **Accept** submission points 248/28 and 248/30 seeking consistent use of the term 'historic heritage' in the MIN and MEA chapters.
- **Reject** submission point 248/29 relating to the information requirement.
- **Reject** submission point 248/31 relating to an amendment to amendment to the guidance notes at MEA.1.4.
- **Accept** submission point 248/32 amending MIN.2.4.6

109. I recommend that the following wording be added to the proposed provisions:

MIN.1.1 Description and Expectations

The management of mineral resources is divided between several pieces of legislation.

...

The Whangarei district contains mineral deposits that may be of considerable social and economic importance to the district, and the nation, but that could be constrained by conflicting land uses. Mineral development and associated land restoration can provide an opportunity to enhance the land resource and landscape, and has done so in the past. However the development of mineral resources has the potential to have significant adverse effects upon soil, water and air resources, and landscape and historic heritage values if not appropriately controlled.

The ~~four~~five iwi/hapu management plans for the Whangarei District identify interest in, and a concern over the management the lack of control of minerals within their rohe, the adverse effects from mining and the rehabilitation of sites as significant issues. For example, Maunga are a particularly important feature of the historic and cultural landscape yet also a source for mineral deposits.

...

MIN.1.3 Policies

1. To avoid, remedy or mitigate the adverse effects of exploration, extraction and processing of minerals on the ecological, landscape, historic heritage and amenity values of surrounding

areas and on the amenity values of existing residential areas by applying Environment and District wide provisions.

...

MEAQRA.1.3 Policies

...

3. To avoid, remedy or mitigate the adverse effects of mineral extraction within MEAQRAs, on the ecological, landscape, historic heritage and amenity values of surrounding areas and on the amenity values of existing residential areas.

...

MEAQRA.2.4 Control is Reserved Over:

When assessing controlled activity landuse control is reserved over the following matters:

...

6. The extent of any adverse effects on historic heritage and cultural heritage values.

Cultural Interest in Mineral Extraction

Submission Information

110. Several submitters have sought clarification of the manner in which the information requirements at MIN.1.4 apply and the relationship between the policies and the information requirements:

- FFNZ⁷⁸ Seek clarification that cultural impact assessments (**CIA**) are only required for the nine major MEA sites and are not required in respect of farm quarries.
- FNDC⁷⁹ generally support the direction of the policies in MIN, noting their consistency with the direction of the RPS, however, clarification is sought as to when a CIA is required. The relief sought is to re-write Policy 1.3.2 or Rule 1.4.1 to clarify when a cultural impact assessment is required.
- FNDC⁸⁰ also seek a minor clarification in relation to the information requirements. The submission generally seeks that minor amendments are made to improve the relevance of the provisions in future. FNDC seek the deletion of the first sentence of MIN.1.4.2 "*Council is undertaking etc*". As this sentence will be irrelevant in 5 years time and does not inform the reader of matters relevant to making an application.
- Patuharakeke⁸¹ submit in strong support of Policies MIN.1.2.2 and MIN.1.3.3 stating that these (along with the landuse application requirements) align with the provisions of the HEMP [Hapu Environmental Management Plan] in particular section 5.4 Soils and Minerals and others. Patuharakeke also note in general that they are of the view that the proposed Minerals

⁷⁸ 253/50

⁷⁹ 410/75

⁸⁰ 410/77

⁸¹ 238/8

chapter provides far greater clarity and a robust planning framework for the management of mineral extraction⁸².

- Straterra Inc ('Straterra')⁸³ seeks a number of amendments and raises a number of points in relation to the requirements for CIA and the wording of the provisions:

- Straterra⁸⁴ raise concerns that the wording of MIN.1.1 in their view suggests that mineral activities are not subject to strict regulatory requirements (under several pieces of legislation, including the RMA) and that there is, therefore a "lack of control of minerals" in the District. In particular they seek amendment to paragraph 4 of MIN 1.1. To read as follows:

"...The four iwi/hapu management plans for the Whangarei District identify interest in, and a concern over the management ~~the lack of control~~ of minerals activities within their rohe..."

- Straterra⁸⁵ support Objective 2 [MIN1.2.2] while noting that in their view the cultural relationships that humans may hold with the environment is defined in the RMA as part of the "environment", care is needed with implementation of this objective and the phrasing is problematic. No amendments are suggested.
- Straterra⁸⁶ submit that they are concerned that the information requirement imposes on an applicant a requirement to purchase a compulsory service from a monopoly provider, particularly with no applicable guidelines. Straterra note that it is advisable for applicants to arrange the preparation of a CIA as part of any engagement with iwi, however they submit that this should not be a requirement, but instead encouraged. As a result, amendment is sought to policy 2 (MIN1.3.2) as follows:

"2. To avoid, remedy or mitigate adverse effects of exploration, extraction and processing of minerals on the relationship of tangata whenua with their ancestral lands, sites, water, waahi tapu and other taonga by ~~requiring~~ encouraging the applicant to engage with iwi in relation to their application. Such engagement may be supported by a cultural impact assessment ~~written~~ prepared by the relevant tangata whenua and kaitiaki for all resource consent applications for mineral extraction"

- Straterra⁸⁷ generally support but also question the application of Policy 3 [MIN1.3.3], querying the criteria applied when identifying sites of significance to Māori. Straterra note that in their view should Council adopt this Policy, it should be applied to every economic activity, including farming, forestry, roads, telecommunications infrastructure, subdivisions, renewable electricity generation, tourism infrastructure etc. and "...that

⁸² 238/6

⁸³ 487

⁸⁴ 487/2

⁸⁵ 487/5

⁸⁶ 487/7

⁸⁷ 487/8

there is no objective difference, for example, between earthworks for mining or for roading or any other activity”.

Discussion

111. I agree with submitters⁸⁸ that there is a conflict between the policy approach in MIN and the wording of the information requirement at section MIN.1.4 which identifies the instances in which a CIA is to be provided in support of resource consent applications. In my opinion it is not clear in what circumstances a requirement for an CIA applies when reading the policy and the information requirement together.
112. I disagree with FFNZ that it is unclear in relation to which mineral extraction activities a CIA is required for. In my opinion the provisions clearly refer to all mineral extraction activities, which would include the extraction of aggregate both in MEA and in smaller volumes such as farm quarries.
113. The Description and Expectations, policy framework and the information requirements in MIN reflect the identification of the interests of Tangata Whenua in relation to mineral activities and the management of mineral resource within the District. This is supported by the policy direction in the WDP and through the s32 analysis identifying section of iwi/hapu management plans which set objectives, aims, policies, methods and timeframes for the management of mineral resources and mineral exploration or extraction processes associated with them.
114. Te Iwi o Ngātiwai identifies objectives which aim for greater involvement in the management and monitoring of mineral [and geothermal] resources, while all iwi management plans identify the mauri of minerals [and soil and geothermal resources] and seek generally to protect or enhanced to enable the iwi to provide for their wellbeing and that of generations to come. The iwi and hapu management plans identify the protection of areas of significance to Tangata Whenua from mining as an issue. The iwi/hapu management plans do not limit this consideration to identified sites but rather applies to the rohe as well as areas of significance.
115. The s32 states that PC102 has taken into account the objectives, policies and methods identified in these plans⁸⁹, while acknowledging that some of the actions are not under Council's legislative control.
116. Currently the WDP includes a Resource Area overlay applying to identified Sites of Significance to Māori (**SSM**). Within these identified areas any physical disturbance of land requires resource consent⁹⁰. Physical disturbance of land would in my opinion include all activities such as mineral extraction and earthworks.
117. The intent of the policy direction in MIN, as notified, is in my view to recognise and reflect the importance of minerals to iwi and hapu. This policy direction achieves the objectives which have been identified, and confirmed by submitters as being the most appropriate in achieving the purpose of the RMA⁹¹. As such, the cultural interest is in the mineral resource as well as sites

⁸⁸ FNDC, FFNZ and Straterra

⁸⁹ Noting that the s32 only considered 4 iwi/hapu management plans.

⁹⁰ Rule 60.1.1a WDP

⁹¹ Section 6 of the s32 report provides an assessment of the proposed objective in relation to sections 5,6 and 7 of the RMA.

or areas that are of significance. In my opinion cultural interests are not limited to identified sites but rather are applicable to mineral resources throughout the rohe of the various iwi/hapu groups.

118. In addition to the discrepancy between the policy and the rule, Straterra submit that the imposition of the information requirement (in any form) requires the resource consent applicant to purchase a compulsory service from a monopoly provider, presumably the iwi/hapu group, and that this requirement is not subject to any regulation or control. The notified provisions seek that a CIA is provided to enable the assessment of effects in relation to cultural interests. There is limited guidance included in the information requirement in relation to what is required to be addressed in the CIA. Failure to provide the required information could potentially result in the application being rejected by Council for processing due to the relevant information not being provided. As Straterra have noted, engagement and consultation with tangata whenua is appropriate to encouraged.
119. I agree that engagement is to be encouraged, but I do not support the reliance on an 'encouraging' policy direction alone in achieving Objective MIN1.2.2. While a requirement for a CIA is one option of achieving the objectives it is not the only tool available under the RMA. The RMA currently requires a consent authority to have regard to any actual and potential effects on the environment of allowing the activity and enables the consent authority to have regard to any other matter the consent authority considers relevant and reasonably necessary to determine the application, in my opinion consideration of the impacts on cultural values are provided for through this process. In addition, the notification of resource consent applications to potentially affected parties is another tool for achieving the objective and ensuring that "exploration, extraction and processing of minerals avoids, remedies or mitigates any adverse effects on the relationship of tangata whenua with their ancestral lands, sites, water, waahi tapu and other taonga." Identification of actual and or potential effects, and therefore the need for an assessment or notification of the application is identified in the s32 report as a potential cost where no CIA is required⁹² which may result in uncertainty as to whether a cultural impact assessment is required as this is at the discretion of applicant or council planner. This results in potentially less community involvement in the process and in potential adverse effects on tangata whenua and cultural heritage.
120. The issue of the capacity of iwi/hapu to provide CIA assessments is also a relevant consideration and has been identified in the s32 as a potential cost to tangata whenua. Given the volume of consents recorded over the last 10 years, (approximately 40 consent applications-refer to Appendix 7 of the s32 report) however this number does not appear to be insurmountable, although no formal engagement has been undertaken to confirm this with tangata whenua.
121. I have identified possible alternative mechanisms for achieving objective 1.2.2 identified alongside the requirement for the provision of CIAs as directed by the policy or as directed by the information requirement (as notified).

⁹² Identified as option 1 at paragraph 80 of the s32 report for PC102.

122. As notified the information requirement was subject to analysis in the s32 Report for PC102 where it was identified that the plan change option was the most efficient and effective option. A further analysis of reasonably practicable options have been identified for the proposed amendment:
- **Option 1:** Notified Provisions (CIA required where a SSM is identified)
 - **Option 2:** Revised Provisions (CIA required for all mineral extraction activities requiring resource consent)
 - **Option 3:** No requirement for CIA (former plan change options/relief sought by submitters)
123. I do not consider Option 1 an efficient and effective option as, in my opinion, it involves the potential for significant adverse cultural effects. Where SSM are not identified on the WDP Resource Area Maps resulting in the potential for adverse effects to iwi and cultural heritage outside of SSM. This option may also have an element of cost and delay associated with it which was not clearly identified in the original s32 analysis. This delay and uncertainty have the potential to result in ongoing delays involved with the further mapping of SSM. This could result in uncertainty through the consent process and requests for further information required to ascertain what the actual and potential effects on mana whenua values may be. This lack of information is identified as a risk in the original s32 report.
124. Option 2 was considered in the s32 analysis to have a potential adverse cultural effects in relation to iwi and hapu not having the resources available to undertake the CIA. Potential benefits included the ability to impose conditions of consent to control adverse effects on the environment and to control adverse effects on tangata whenua and cultural heritage. This option provides certainty to all parties as to what is required as part of the consent process, and potential social benefits included more community involvement in the process and taking account of iwi and hapu management plans.
125. The notification process has enabled feedback to be provided by iwi and hapu groups. Iwi have submitted in support of the policy direction which requires a CIA for all resource consent applications for mineral extraction and have not identified any concerns regarding capacity to provide CIA for mineral extraction. The potential for delays in the consent process identified in the s32 analysis is in my opinion outweighed by the uncertainty associated with option 3 and the potential for significant adverse impacts on cultural heritage associated with option 1.
126. Option 3 was considered in the original s32 analysis and was concluded to present potential adverse environmental effects, and result in uncertainty as to whether a cultural impact assessment is required, resulting in potentially less community involvement in the process. It was also identified to have potential adverse cultural effects as it does not take into account iwi and hapu management plans and imposes potential adverse effects on iwi and hapu and cultural heritage. The key benefit was identified as potentially reducing consenting costs.
127. There are no specific economic growth and employment opportunities / implications / issues arising from the options for this component of PC102 and due to the progress of these provisions

through the submissions process the risk around insufficient information (capacity for iwi to undertake CIA assessments) is resolved.

128. In my opinion the most efficient and effective policy and method for achieving the objective and the purpose of the RMA is the retention of the information requirement, and amendment to this requirement to reflect the policy direction and provide added direction for applicants and plan users as to in what circumstance a CIA is required to be provided.

Recommendation

129. I recommend that the Commissioners:

- **Accept in part** submission point 410/75 and 410/77⁹³ and recommend that the clarifications identified below be made to MIN.1.4 information requirements.
- **Reject** the submission point 487/7⁹⁴ seeking amendment to Policy 2 (MIN.1.3.2).
- **Accept in part** the submission point 253/50⁹⁵ clarifying that the information requirement applies where consent is required for mineral extraction activities including farm quarries where permitted standards are exceeded or where consent is required as set out below in the amended provisions.
- **Accept** submission points 238/8⁹⁶ and 6 in support of the MIN provisions.
- **Accept in part** submission points 487/5⁹⁷ and 8 in support of the MIN provisions.
- **Accept in part** submission point 487/2⁹⁸ amending MIN1.1 to clarify the interest expressed by iwi in the iwi/hapu management plans, including the consideration of the Te Uriroro Hapu Environmental Management Plan Whatiriri Hapu Environment Plan 2016 prepared since notification of PC102.

130. I recommend that the following amendments are made:

⁹³ FNDC

⁹⁴ Straterra

⁹⁵ FFNZ

⁹⁶ Patuharakeke

⁹⁷ Straterra

⁹⁸ Straterra

MIN.1.1 Description and Expectations

The management of mineral resources is divided between several pieces of legislation.

...

The ~~four~~five iwi/hapu management plans for the Whangarei District identify interest in, and a concern over the management the lack of control of minerals within their rohe, the adverse effects from mining and the rehabilitation of sites as significant issues. For example, Maunga are a particularly important feature of the historic and cultural landscape yet also a source for mineral deposits.

...

MIN.1.45 Land Use Application Information Requirements

1. All applications for resource consent for mineral extraction activities within (SSM) identified on the district plan Resource Area Maps shall include a cultural impact assessment prepared by the relevant tangata whenua and kaitiaki for the area, including applications for farm quarrying where resource consent is required for the extraction of more than the permitted volume of material in any 12 month period.
2. ~~Council is undertaking background work on a plan change to update information on areas and SSM. Where no Sites of Significance to Māori SSM is/are shown on the district plan maps applicants should check with Council to determine if further information on areas or SSM is held in relation to their proposed mineral extraction activity.~~
 - a. ~~If Council holds information indicating that there is/are areas or SSM within the proposed mineral extraction area a CIA is required to address these areas/sites; and~~
 - b. ~~If Council holds no information in relation to the proposed mineral extraction area a CIA is not automatically required.~~
 - e. ~~b. A~~ The CIA may be required to determine shall address if there are adverse effects on natural and physical resources having historical, spiritual or cultural values.
3. Where a CIA is not provided with a resource consent application for mineral extraction or farm quarrying, demonstration of attempted consultation with the relevant tangata whenua and kaitiaki for the area will be considered in relation to the acceptance of the application under section 88 of the Resource Management Act 1991.

D. Mineral Extraction Areas

131. Submissions received in relation to MEAs can be grouped into four key themes.

- Establishment of new MEAs
- The Application of the MEA chapter
- Activities within MEAs
- Setback Areas

132. Submissions received in relation to these key areas are addressed by theme below.

Establishing New MEAs

Submission Information

133. Four submissions were made on the topic of establishing new MEAs. These submissions seek clarification of the process required to establish a new MEA, support the need for a plan change in order to facilitate this and either support the identification of the existing MEAs or request the establishment of a new MEA through PC102.
- GBC⁹⁹ supports the inclusion of Appendix 1 which recognises significant mineral extraction activities of GBC at Portland, Wilsonville and Otaika.
 - Jenny Kirk/PMAG¹⁰⁰ seeks that the large aggregate quarry at the top of Puhipuhi plateau should be noted in MEA Appendix 1. Noting that despite the size of the quarry because of the sensitivity of the Puhipuhi geology it should be noted in MEA Appendix 1 and should also be subject to the necessary oversight of Council quarry and safety inspectors.
 - Forest & Bird¹⁰¹ support the need for a plan change to establish new MEAs.
 - Minewatch¹⁰² submit that the purpose of MEAs is not clearly stated and note that in their view PC102 provides neither a trigger nor process for the establishment of new MEAs. As a result they seek the addition of policies to PC102: “1. That any mineral extraction that does not meet the definition of quarrying can only be carried out within a MEA;” “2. That a new MEA can only be established by way of a further private plan change”

Discussion

134. The purpose of MEAs is to identify areas where regionally significant mineral extraction is being undertaken. The identification of a MEA also results in the protection of this area from reverse sensitivity effects which can result from the introduction of activities which are sensitive to the effects of the mineral extraction locating in proximity to the MEA and potentially impacting on the operation of the area. A ‘setback’ area applies to the land adjoining the MEA providing this reverse sensitivity ‘buffer’ and allowing a degree of externalisation of effects.
135. As MEAs are a Resource Area the alteration to this layer in the WDP, as with a change in any statutory information in the plan, can only be achieved through a plan change process. In my opinion the establishment of a new MEA which may apply the provisions in the MEA chapter would require a plan change. Outside of these identified resource areas application for a mineral extraction activity can be made, where enabled by the underlying zone, however the mineral extraction activity undertaken would be subject to consideration through the resource consent process and would be subject to the conditions of that consent.
136. The requirement for a plan change to establish a new MEA is discussed in the closing paragraph of the Description and Expectations, however it would appear there would be benefit in clearly conveying this requirement in the text of the MEA chapter. As such I support this text being

⁹⁹ 250/53

¹⁰⁰ 237/2

¹⁰¹ 467/14

¹⁰² 365/3

relocated to the 'eligibility' section at MEA.2.1. I do not support the need for any additional policies to be included in MEA.1.3.

137. Jenny Kirk/PMAG seek the inclusion of the Reid [Reed] quarry on Tea Tree Flat Road (also known as Puhipuhi Rock & Metal Supplies Ltd) on the Puhupuhi Plateau as a MEA. The support for this inclusion being that the Puhipuhi geology is particularly sensitive. Jenny Kirk/PMAG also submit that the quarry should be subject to further oversight by Council and that this quarry and others should be identified in the Rural Development Strategy.
138. The identification of MEAs in PC102 is based on those which were established in the WDP. These MEAs are identified as containing regionally (or national) significant mineral resources and the use of enabling provisions and reverse sensitivity protection for these areas was considered to be merited. The quarry at Puhipuhi (nor any other operational quarry within the District not already identified as a MEA) has not been identified as meeting this RPS threshold as a regionally significant mineral extraction and therefore has not through PC102 been considered for inclusion as a MEA. I do not support the inclusion of the quarry at Puhipuhi in the WDP as a MEA due to the scale of the extraction activities, (being less than 50,000m³ p.a. identified in the RPS and in the s32 report) not meriting identification as a regionally significant facility¹⁰³.
139. Jenny Kirk/PMAG identify the merit in greater oversight of the quarry at Puhipuhi. As identified in the s32 assessment this quarry is currently subject to a resource consent issued by NRC. As such the quarry will be required by NRC to operate in accordance with this consent and any conditions which have been imposed.
140. I agree with the merit in the identification of smaller mineral extraction activities (farm quarries) within the District. An analysis of those consented quarries has been undertaken at Appendix 7 of the s32 assessment.

Recommendation

141. I recommend that the Commissioners:

- **Accept** submission point 250/53¹⁰⁴ which supports the inclusion of the mineral extraction activities of GBC at Portland, Wilsonville and Otaika as MEAs.
- **Reject** submission point 237/2¹⁰⁵ seeking that the Reed Quarry be noted in MEA Appendix 1.
- **Accept** submission point 467/14¹⁰⁶ which supports the need for a plan change to establish new MEA.

¹⁰³ Appendix 7 to the s32 assessment for PC102 identifies the extraction volume associated with 'Puhipuhi rock and metal supplies' as 40,000m³ p.a and identifies that consent is held for the quarry from NRC

¹⁰⁴ GBC

¹⁰⁵ PMAG

¹⁰⁶ Forest & Bird

- **Accept in part** the submission point 365/3¹⁰⁷ seeking additional policies be added to MEA.1.3 but make amendments to the text to clarify the requirement for a plan change to establish a MEA under MEA.2.1.

142. I recommend that the following amendments are made.

<p><u>MEAQRA.1</u></p> <p>Mineral Extraction Areas</p> <p><u>MEAQRA.1.1 Description & Expectations</u></p> <p>...</p> <p>Any proposals for extensions or changes to existing MEAs, or for new MEAs, will require a plan change. This will provide an appropriate opportunity to consider the extent to which effects should be avoided, remedied or mitigated.</p> <p>...</p> <p><u>MEAQRA.2.1 Eligibility Rules</u></p> <p>...</p> <p><u>3. Proposals for extensions or changes to existing QRAs, or for new QRAs, will require a plan change.</u></p>
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Application of the MEA Chapter

Submission Information

143. Submissions sought amendments ranging from the correction of grammatical errors, clarification of the scope of mineral extraction activities within MEAs and in relation to the information requirements applicable, scope of activities provided for and the assessment matters.
- FNDC¹⁰⁸ In principle support the explanation of the characteristics and purpose of the nine MEAs in MEA.1.1, but they seek correction of grammatical errors. *Correct spelling mistake “nosise” by replacing it with “noise”. Remove the words “are particularly relevant”. Replace “integral component of” with “associated with”.*
 - FNDC¹⁰⁹ seek that the direction of objectives be retained and support the criteria stated in MEA.2.8 as they require consideration of the specific effects that cause issues for neighbours and the wider community.
 - FNDC¹¹⁰ also support the retention of the discretionary status for subdivision within a MEA at MEA.3, which enables WDC to consider the policies and objectives of the WDP when processing applications for subdivision.

¹⁰⁷ Minewatch

¹⁰⁸ 410/78

¹⁰⁹ 410/79 and 410/85

¹¹⁰ 410/86

- New Zealand Defence Force¹¹¹ (**NZDF**) seek the retention of the rule MEA.2.1 which permits any activity in the Minerals Extraction Area that does not require consent as a discretionary or non-complying activity.
- Northland District Health Board¹¹² (**NDHB**) submit in relation to MEAs that the conditions proposed may be adequate for quarrying in the defined MEAs (MEA) but should preclude large scale mining. Their submission goes on to discuss the consideration of prohibition of mineral extraction including precious metal extraction in some areas (as is being done in Thames Coromandel) or ensure that a robust process for any definition of new MEAs occurs.
- GBC have provided a comprehensive submission on PC102 and seek various relief as summarised below:

- Amend Objectives MEA.1.2¹¹³ as follows:

“1. ~~The Mineral The Extraction activities of and processing of~~ identified nationally and regionally significant mineral resources ~~are is provided for~~ enabled...” “2. New subdivision, use and development of land does not compromise or unduly constrain access to and the development and operation ~~and development~~ of identified nationally and regionally significant mineral resources”

GBC seek that MEA 1.2 .1 be amended to refer to Mineral Extraction Activities to ensure the full suite of mineral extraction activities are enabled (rather than provided for), and not just extraction and processing. GBC seek that MEA 1.2 .2 be amended to refer to both ‘access to’ and the development and operation of, identified nationally and regionally significant mineral resources.

- Amend Policies MEA.1.3¹¹⁴ as follows:

1. To enable ~~provide for~~ the continuation of the Mineral Extraction activities ~~continued extraction and processing~~ of nationally and regionally significant mineral resources by identification as MEA Mining Area, Overburden Area and Buffer Area.

3. ...mitigate to the extent practicable...mineral extraction activities within...

4. ...mitigate to the extent practicable, adverse...

GBC seek that MEA 1.3.1 be amended to refer to Mineral Extraction Activities to ensure the full suite of mineral extraction activities are enabled (rather than provided for). GBC seek that MEA, policies 3 and 4 be amended to include ‘to the extent practicable’ as included in the corresponding Policy 18.4.1 in the WDP. GBC supports MEA – Policy 5.

- GBC submit that the change in activity status for some existing restricted discretionary activities in the WDP to fully discretionary appears not to have not been addressed in

¹¹¹ 450/20

¹¹² 447/5

¹¹³ 250/45

¹¹⁴ 250/46

the s32 report. The submitter considers this inappropriate if the Council is seeking to provide for the appropriate use and development of regionally significant activities such as GBC operations at Otaika, Portland and Hikurangi.

- o Amend MEA2.7¹¹⁵ as follows:

1. All applications for mineral extraction activities ~~land use~~ shall include a Mineral Extraction Management Plan.

Discussion

144. I acknowledge the submission points from FNDC and support amending the MEA chapter to correct grammatical errors which in my opinion will assist with the understanding of the chapter. I have also recommend that a clarification be made with respect to how earthworks are considered in the MEA chapter relocating this from the Description and Explanations to the Eligibility section.
145. I also acknowledge the submission point from the NZDF. Provision for temporary buildings is comprehensively addressed in the **Part 1** of the s42A report authored by Ms McGrath. I do not support the need for any further management of temporary buildings or activities within the MEA chapter.
146. With respect to the submission point from the NDHB I note that the purpose of the MEA is to support the established mineral extraction activities within the District, all of which happen to be quarrying activities. As a result, the MEA chapter essentially provides for quarrying as opposed to a broader suite of mineral extraction activities. I consider the comprehensive re naming or defining of the MEAs to be of use in clarifying the purpose of the MEA Resource Area. The renaming of the MEAs to a 'Quarrying Area' in my opinion reflects the land use taking place within the nine existing MEAs.
147. I note that in future mineral extraction activities could be proposed for inclusion/identification as a MEA (through a plan change) which are not quarrying operations but involve another form of mineral extraction recognised as regionally significant. These may be accommodated under the WDP framework under the umbrella of MIN but may merit a different 'title' and may also, due to their unique effects, merit a different policy framework. In order to better reflect the role of the Resource Area I support the amendment to the name of the chapter. I also support the need to clarify the current scope of mineral extraction activities undertaken within MEAs (recommended to be termed Quarrying Resource Areas (**QRA**)). I support amendment to the first paragraph of MEA.1.1 in order to clarify this.
148. In considering this amendment two reasonably practicable options were identified. The retention of the notified provisions and revised provisions set out in **Attachment 2B** of **Part 1** the s42A report. The notified provisions reflect the terminology applied historically in the WDP. The issues identified is the similarity of the term mineral extraction activities in contrast to MEA. This title has led to confusion for plan users as identified by submitters to PC102. As such this option is

¹¹⁵ 250/52

no longer considered to effectively and efficiently achieve PC102. The term 'Quarrying Resource Areas' in my opinion more accurately reflects the uses undertaken within MEAs through reference to the term quarry. The policy framework continues to refer to mineral extraction activities (the defined term) within this Area. There are no identified economic growth and employment opportunities / implications / issues arising from the options for this component of PC102 nor any risk due to insufficient information. In my opinion the option included in **Attachment 2B of Part 1** the s42A report reflects the most effective and efficient means to achieve the objectives.

149. I do not recommend any further amendment to limit the 'type' of mineral extraction which may be undertaken within QRAs as I consider the risk of such an occurrence to be low. This is due to the established nature of the 'quarrying' mineral extraction activities and the physical location/extent of mineral resources. As such the use of the term mineral extraction in the policy framework is retained as in my opinion it links to the defined term and those activities which are envisaged to be included in mineral extraction activities.
150. GBC recommend several amendments to the provisions for MEAs. Seeking amendment to the objectives policies and rules to provide clarification or what is provided for and further enable mineral extraction activities to be undertaken. I agree with the submitter with respect to the scope of mineral extraction activities which are sought to be enabled within the MEAs and support amendment to Objective 1 and Policy 1 to better reflect this. I also agree that further clarification in Objective 2 to clarify that the operation development and access to established mineral extraction activities is being protected from new subdivision use and development.
151. Amendments sought to the policies include replacement of the term 'provide for' with 'enable' in Policy 1. I do not support this amendment and prefer the term 'provide for' as in my opinion this better represents the role of the Resource Area. I consider that the term 'enable' implies facilitating such activities. The Resource Area does not go this far, imposing limits and controls on mineral extraction activities. I also do not support amendment to include the term 'to the extent practicable' I also do not support. This inclusion in my opinion 'waters down' the policy and the submission does not provide clarification of what may be 'practicable' or how this may be measured or quantified and by whom.
152. GBC also see amendment to the information requirement to refer to mineral extraction activities as opposed to land use. I agree that this provides a useful clarification for plan users.

Recommendation

153. I recommend that the Commissioners:
 - **Accept** the submission points 410/78¹¹⁶ amending portions of the MEA text to correct and clarify the text and confirm the status of earthworks.
 - **Accept in part** the submission points 410/79 and 410/85¹¹⁷ which seek that the direction of objectives be retained and support the criteria stated in MEA.2.8 as they require

¹¹⁶ FNDC 410/78

¹¹⁷ FNDC

consideration of the specific effects that cause issues for neighbours and the wider community.

- **Accept** submission point 410/86¹¹⁸ retaining the discretionary status for subdivision within a MEA.
- **Accept** the submission point 450/20¹¹⁹ seeking the retention of the rule MEA.2.1.
- **Accept in part** but make amendment to the text to address the concerns raised in submission point 447/5¹²⁰ submission point that the activities provided for under the title 'mineral extraction' require further refinement or clarification.
- **Accept in part** submission point 250/45 seeking amendment to the objectives for MEA.1.2¹²¹.
- **Reject** submission point 250/46¹²² seeking amendment to Policies 1, 3 and 4.
- **Accept** submission point 250/52¹²³ seeking minor amendment to the terminology in the information requirements at MEA2.7.

154. I recommend that the following amendments are made:

Consequential changes:

Replace the term ~~Mineral Extraction Area (MEA)~~ with Quarrying Resource Area (QRA) throughout the WDP, notified provisions and the Resource Area Maps. As set out in **Attachment 2B of Part 1** the s42A report.

MEA/QRA.1.1 Description & Expectations

The nine ~~Mineral Extraction Areas (MEAs)~~ Quarrying Resource Areas (QRAs) shown on the district plan Resource Area Maps identify established mineral extraction activities ~~quarries~~ extracting mineral resources, primarily aggregates, at a volume which is considered to qualify these activities as nationally and regionally significant mineral resources (refer MEA/QRA Appendix 1). Currently the nine mapped QRAs contain quarrying activities involving extraction and processing of mineral resources.

...

It is important to note that there are rules applying to the underlying Environment and other District wide rules that must be taken into account. ~~For example, the Rural Area rules on hazardous substances, signs and lighting are particularly relevant.~~

Specific exemptions from rules within the underlying Environment are provided for some components of mineral extraction activities. For example, stockpiles for mineral extraction purposes in ~~MEAs~~ QRA are excluded from the rules applying to outdoor storage in the Rural Area. In some instances where the underlying Environment allows for a greater level of development, the activity will be exempt from the ~~MEA~~ QRA provisions and assessed in accordance with the provisions in the underlying Environment.

¹¹⁸ 410/86

¹¹⁹ 450/20 NZDF

¹²⁰ 447/5 NDHB

¹²¹ 250/45 GBC

¹²² 250/46 GBC

¹²³ 250/52 GBC

The MEA rules do not apply to earthworks which are not an integral component of mineral extraction activities as defined in Chapter 4.

MEAQRA.1.2 Objectives

1. ~~The Mineral extraction activities including the processing and processing~~ of identified nationally and regionally significant mineral resources is provided for while ensuring that the adverse effects associated with these activities are avoided, remedied or mitigated.
2. New subdivision, use and development of land does not compromise or unduly constrain access to, development and the operation and development of established mineral extraction activities where of identified nationally and regionally significant mineral resources have been identified.

MEAQRA.1.3 Policies

1. To provide for the continued ~~extraction and processing~~ mineral extraction of nationally and regionally significant mineral resources by identification as MEAQRA Mining Area and Buffer Area.

...

MEAQRA.2.1 Eligibility Rules

1. Mineral extraction activities within the Strategic Rural Industries Environment....

...

4. The QRA rules do not apply to earthworks which are not associated with mineral extraction activities as defined in Chapter 4.

Activities within MEAs

155. Submissions have been received which relate to how activities within MEAs are provided for and assessed. Submissions are summarised as follows:

Submission Information

- GBC¹²⁴ submit that the change in activity status for some existing restricted discretionary activities in the WDP to fully discretionary appears not to have not been addressed in the s32 report. GBC consider this inappropriate if the Council is seeking to provide for the appropriate use and development of regionally significant activities such as GBC operations at Otaika, Portland and Hikurangi.
- GBC¹²⁵ support the addition of new definitions and seek an amendment to the definition of Buffer Area:

“Buffer Area

means that part of the MEA which is outside the Mining Area which recognises that effects such as noise and vibration and visual impacts cannot reasonably and practicably be contained within the Mining Area and Overburden Area. It is noted not all MEA have Buffer Areas”.

¹²⁴ 250
¹²⁵ 250/54

And amendment to the Description and Expectations as follows:

“...In some cases the MEA includes ~~has a~~ Buffer Area beyond the Mining Area to further recognise where it is recognised that effects such as noise and vibration and visual impacts cannot reasonably and economically be contained within the Mining Area”

Discussion

156. Having reviewed the s32 reports, in my opinion the application of a discretionary status where the controlled activity requirements are not met was not imposed in PC102 as a greater hurdle for achieving consent within MEAs. Rather, it is intended to align with the general direction of the WDP rolling review to provide a cautious approach where policies and provisions across the WDP are being redrafted and amended through an iterative process, this is further discussed in **Part 1** of the s42A report. I consider the discretionary status beneficial in enabling the consideration of a range of matters including those which may not be able to be envisaged and therefore included in a list of matters for discretion. I note also that although raising this matter GBC do not propose amendment to the MEA chapter to achieve a restricted discretionary activity status.
157. PC102 also proposes definition of the Mining Area¹²⁶, Buffer Area¹²⁷ and Overburden including reference to overburden in the definition of mineral extraction activities¹²⁸. This is supported by GBC with amendment sought to the definition of Buffer Area. The amendment proposed seeks to ‘explain’ the role of the Buffer Area. In my view this is more appropriately located in the Description and Expectations, in MIN.1.1, as opposed to the definition Buffer Areas. As such, I do not support any change to the definition of Buffer Area.

Recommendation

158. I recommend that the Commissioners:

- **Reject** the relief sought by 250¹²⁹ and retain a Discretionary Activity status.
- **Accept** in part 250/54 retaining the definition of Buffer Area as notified and clarifying the discussion in QRA.1.1.

Buffer and Mining Areas

159. Submission have been received in relation to the rules and assessment for activities within MEAs in particular within the Buffer and Mining Areas. The submissions are identified below:

Submissions

- GBC¹³⁰ seeks amendments to MEA.2.3 Controlled Activities to provide for:

¹²⁶ **Mining Area** means that part of the Mineral Extraction Area which is owned by or under the control of the quarry operator at the time the MEA is established or extended. It is where the full range of mineral extraction activities may occur.

¹²⁷ **Buffer Area** means that part of the Mineral Extraction Area which is outside the Mining Area.

¹²⁸ **Overburden** means clay, soil, vegetation and rock associated with mineral extraction activities.

¹²⁹ GBC s

¹³⁰ 250/49

“The disturbance, placement and removal of more than 5,000m³ of material within the Mining Area of a Mineral Extraction Area in any 12 month period, excluding in the overburden area of the Mineral Extraction Area”.

- FFNZ¹³¹ support exclusion of non-habitable buildings from in MEA.2.5.6. and note their general support for PC102 in that large scale commercial quarries are envisaged.
- GBC¹³² seek amendment to ‘MEA.2.5 Discretionary Activities’ to apply to non habitable buildings within the buffer area of a MEA. GBC also seek amendments to MEA.2.5.6 to require all Sensitive Activities (as defined) and not just Sensitive Activities with habitable buildings to be assessed as Discretionary Activities, as the company has concerns with Sensitive Activities without habitable buildings, being permitted activities by MEA.2.1 – Rule 2 in the Mining Area of an MEA.
- FNDC¹³³ support the retaining of earthworks volume control so that traffic, noise / vibrations and amenity effects can be controlled are supported.
- GBC¹³⁴ seek amendment to MEA2.7 as follows:

“1. All applications for mineral extraction activities ~~land use~~ shall include a Mineral Extraction Management Plan.”
- FNDC¹³⁵ seek amendment to MEA.2.7.3 to state that the revised management plan provided to Council requires Council assessment and approval. In general FNDC support the statement of information to be provided in a Mineral Extraction Management Plan. However, submit that WDC should also require that revisions of previously approved management plans, and the subsequent land use changes, must be in accordance with Council requirements and cannot be changed at the whim of the applicant without regard to potentially affected parties or the environment.
- GBC¹³⁶ seek amendment to MEA.2.4.7 as follows:

“The extent to which landscape ~~landscaping~~ proposals (including the height, shape and form of topography and screening) and the provision of setbacks to mitigate potential adverse effects on the amenity of land adjoining the MEA.”
- FNDC¹³⁷ seek the removal of MEA.2.4.5 regarding water quality as this is addressed by Regional Council plans.

Discussion

160. In the WDP operative provisions mineral extraction activities are controlled both within the MEA and more specifically within the Buffer Area within the MEA. In order for mineral extraction to be considered as a permitted activity within the MEA the activity needs to disturb or remove 5,000m³

¹³¹ 253/51 and 253/47

¹³² 250/51

¹³³ 410/83

¹³⁴ 250/52

¹³⁵ 410/82

¹³⁶ 250/50

¹³⁷ 410/81

or less material. Where more than 5000m³ is disturbed in the Mining Area the activity is considered as controlled where the activity accords with the Mineral Extraction Management Plan, if this is not achieved the activity is provided for as a restricted discretionary activity. Mineral extraction in a Buffer Area is provided for up to 5000m³ also. Above this volume consent is required as a restricted discretionary activity where it accords with a Mineral Extraction Management Plan, if this is not achieved the activity becomes discretionary. Therefore 5000m³ of material may be disturbed or removed anywhere within a MEA (within the buffer or mining area) where this complies with the other requirements relating to traffic movements, buildings and internal setbacks.

161. PC102 restructures these rules and in doing so provides a sub headings applicable to the Mining Area and Buffer Area respectively and removes the 'stepping stone' approach from controlled to restricted discretionary or full discretionary depending on compliance with a management plan. All applications for mineral extraction within the Mining Area of an MEA (where compliance with the traffic requirements and development controls area achieved) are provided for as controlled activities. Mineral extraction within the Buffer Area is not subject to control therefore according to the eligibility rules this would be provided for as a permitted activity. Having reviewed the s32 reports in my opinion, this was not intended and I support amending the rules to clarify that mineral extraction in a buffer area is a discretionary activity.
162. Several submitters have submitted in relation to the rules contained within MEA applicable to the Mining Area and Buffer Areas. FNDC raise concern regarding the ability for council to assess and approve management plans which are required in support of mineral extraction activities within MEAs. I agree that the current structure does not provide oversight of these management plans and does not link compliance with the management plans to the rule framework in the manner that the operative rules sought to. In addressing the matters raised by FNDCs submission I support amendment to the provisions for controlled activities at MEA[QRA].2.3 to require the submission of a management plan to Council. Where the proposed activity exceeds 5000m³ per anum and a detailed management plan is not provided which addresses the matters set out, this requires application for a discretionary resource consent. This is clarified under MEA[QRA].2.5. this process allows for a new (or revised) management plan to be submitted (and applied through conditions of consent for the controlled activity) and therefore works to continue in accordance with this.
163. Two reasonably practicable options were considered, retaining the nnotified provisions and the revised provisions (as set out in **Attachment 2B** of **Part 1** the s42A report). The notified provisions were developed to replace the existing WDP rules revising these controls into the new plan format. In the WDP qualification as a controlled activity was based on compliance with a management plan. This approach of basing an activity status on compliance with an undetermined document is no longer considered appropriate. As a result, the rule has been revised in a manner where there is no clear link to the requirement to provide a management plan to qualify as a controlled activity. This option results in confusion for plan uses as to what is required to be provided and how a management plan may therefore be updated, subject to council's approval. The approach in **Attachment 2B** of **Part 1** the s42A report, in my opinion,

clarifies what is required to be provided to qualify as a controlled activity and the process for revising a management plan. This is in my opinion a more effective and efficient method for achieving the objectives and addresses the issues identified by submitters. There are no economic growth and employment opportunities / implications / issues arising from the options for this component of PC102 nor is there any risk due to insufficient information. In my opinion the provisions set out in **Attachment 2B** of **Part 1** the s42A report are the most efficient and effective method.

164. Clarification is also sought by submitters with respect to how sensitive activities (both associated with buildings or otherwise) are provided for both within Buffer and Mining Areas. In order to clarify this I support the inclusion of rules for both Mining and Buffer areas under the one heading with further clarification in the provisions provided to include sensitive activities, as defined, as well as associated buildings as discretionary activities within all areas of a MEA.
165. In considering these rules it is apparent that the manner in which other buildings are captured by the discretionary consent requirement is somewhat unclear. I therefore recommend the clarification of the rules to improve the usability of the provisions.
166. FNDC and GBC also identify two further amendment to the assessment matters for MEAs, seeking amendment of the term 'landscaping' to 'landscape' and deleting a consideration of the impact of mineral extraction activities on water quality. I agree with the change proposed by GBC and considered this is a useful clarification. I do not agree with the submission point that precludes a consideration of effects relating to water as a District function when considering the use of land for mineral extraction purposes. The RMA requires territorial authorities to develop objectives, policies and methods which achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the District. I support the retention of this consideration but the broadening of this application to refer to water bodies as opposed to water quality.

Recommendation

167. I recommend that the Commissioners:

- **Accept in part** the relief sought by 410/82¹³⁸ 250/52 and 250/49¹³⁹ in relation to MEA.2.3 controlled activities and MEA.2.5 Discretionary Activities.
- **Accept** submission point 410/81¹⁴⁰ in relation to a consideration of values associated with water.
- **Accept in part** submission point 250/50¹⁴¹ in relation to MEA.2.4
- **Accept in part** submission point and 410/83¹⁴² relief with respect to how traffic effects are considered for MEAs

¹³⁸ FNDC

¹³⁹ GBC

¹⁴⁰ FNDC

¹⁴¹ GBC

¹⁴² FNDC

- **Accept in part** submission points 453/47 and 453/51¹⁴³ and 250/51¹⁴⁴ submission points relating to sensitive activities, and I recommend amendments to clarify the understanding of these provisions.

168. I recommend the following amendments:

MEAQRA.2.3 Controlled Activities

1. The disturbance or removal of more than 5,000m³ of material within the Mining Area of the QRA in any 12-month period where a Mineral Extraction Management Plan is submitted to Council which addresses the relevant matters identified in QRA.2.6.

MEAQRA.2.4 Control is Reserved Over:

When assessing controlled activity landuse control is reserved over the following matters:

...

5. The extent of any adverse effects on ecological values ~~or water quality.~~

...

7. The extent to which landscaping proposals (including the height, shape and form of topography and screening) and the provision of setbacks mitigate potential adverse effects on the amenity of land adjoining the MEA.

MEAQRA.2.5 Discretionary Activities in the Mining Area

1. Traffic generation from the MEA QRA which exceeds:
 - ~~a. in any 24-hour period exceeding 100 traffic movements in any 24-hour period; or a. Where the site does not directly connects to a public road with a sealed carriageway of at least 6 metres wide and~~ b. Where any all vehicle manoeuvring does not occurs within the site.
 - b. the limit allowed by the traffic movements rules in the underlying Environment.
2. Establishment of any access, road or parking space or associated facility which does not comply with the Environmental Engineering Standards 2010.
3. Construction or alteration of any building used for mineral extraction purposes ~~that~~ which is located within the Mining Area and:
 - a. Exceeds 15 metres in height.
 - b. Is ~~set back~~ located less than 10 metres (if the building is 10 metres or less in height) from the boundary of the Mining Area.
 - c. Is ~~set back less than~~ located more than 10 meters and less than 20 metres (if the building is ~~greater than 10 metres in height~~) from the boundary of the Mining Area and is greater than 10 metres in height.
4. Construction or alteration of any building used for mineral extraction purposes that which is located within the Buffer Area and:
 - a. Exceeds 15 metres in height or the limit allowed by the building height rules in the underlying Environment, whichever is the greater.
- ~~5.~~ 4. Any stockpile set back less than 10 metres from the boundary of the Mining Area.

¹⁴³ FFNZ

¹⁴⁴ GBC

- ~~6. 5.~~ Excavation of a quarry face setback less than 20 metres from the boundary of the Mining Area.
- ~~7. 6.~~ Establishment of sensitive activities or the construction of or alteration to any building containing of a sensitive activity (excluding non-habitable buildings) within the Mining Area or Buffer Area of a QRA.
8. Mineral extraction activities within the Mining Area of the QRA which do not meet the requirements for a controlled activity under QRA.2.3.
9. Mineral extraction activities within the Buffer Area of a QRA.

MEA.2.6 Discretionary Activities in the Buffer Area

- ~~2. Establishment, construction or alteration of a sensitive activity (excluding non-habitable buildings).~~

MEAQRA.2.6.7 Landuse Application Information Requirements

1. All applications for mineral extraction activities land use shall include a Mineral Extraction Management Plan.

...

- ~~3.~~Note: The Mineral Extraction Management Plan may be reviewed and updated by the Consent Holder and the updated version of the Mineral Extraction Management Plan provided to the Council as a new application for consent or as a s127 application to cancel or amend the conditions of consent dependent on the scale and character of the changes proposed.

Traffic and Transport

169. Submissions received in relation to traffic or transport effects raised the following matters:

Submission information

- The New Zealand Transport Agency¹⁴⁵ (NZTA) seek reconsideration of MEA.2.5.1: to address how high traffic generating activities are managed to ensure wider traffic impacts beyond the immediate site are appropriately addressed.

- NZTA¹⁴⁶ also seek the addition of the following to MEA.2.5.2:

"or NZ Transport Agency access standards where it adjoins the State Highway."

This should also take into account access on to the State Highway, which would require NZ Transport Agency standards to be met.

- FNDC¹⁴⁷ seek the retention of the policies at MEA.1.3 In particular Policy 1.3.2 and Policy 1.3.6 are supported as they acknowledge the potential impact of mineral extraction activities on the road network.

¹⁴⁵ 453/23

¹⁴⁶ 453/24

¹⁴⁷ 410/80

Discussion

170. FNDC and NZTA have submitted in relation to how traffic effects are considered in relation to mineral extraction activities. NZTA seek reconsideration of this control and FNDC support the consideration of this matter.
171. In response to these submissions I have considered three options, the notified provisions the revised provisions and a third options involving increased control as sought by submitters. The notified provisions sought to translate the WDP requirements into the notified provisions. The manner in which this rule has been translated is in my opinion unclear. The approach set out in **Attachment 2B** of **Part 1** the s42A report proposes a minor revision to the rule to better represent the requirements and align with the WDP approach. This option is, in my opinion, the most efficient and effective based on its application to date and no evidence being provided or identified which indicates that this option is not achieving the policy direction. The submitters relief is an alternative option with increased control of traffic movements. I note that no particular limit or control has been provided by submitters for consideration. This option may, in my opinion, result in increased economic costs in the form of traffic assessment and consent requirements for quarry operators. There are no economic growth and employment opportunities / implications / issues arising from the options for this component of PC102 not is there risk due to insufficient information.
172. Option 2 is in my opinion the most efficient and effective method.
173. In my opinion the further refinement of the traffic generation trigger for consent is the most efficient and effective method. This approach clarifies that the threshold may relate to either the provisions for 100 traffic movements over a 24 hour period subject to standards, or the provision for traffic movements in the underlying Environment, whichever is the greater.

Recommendation

174. I recommend that the Commissioners:
- **Accept in part** submission points 453/23¹⁴⁸, 453/24 and 410/80 with respect to how traffic effects are considered for MEAs and amend the provisions.
175. I recommend that the following amendments are made.

MEAQRA.2.5 Discretionary Activities in the Mining Area

1. Traffic generation from the MEA QRA which exceeds:
- a. in any 24-hour period exceeding 100 traffic movements in any 24-hour period; or a. Where the site does not directly connects to a public road with a sealed carriageway of at least 6 metres wide and b. Where any all vehicle manoeuvring does not occurs within the site.
or
- b. the limit allowed by the traffic movements rules in the underlying Environment.

¹⁴⁸ NZTA

2. Establishment of any access, road or parking space or associated facility which does not comply with the Environmental Engineering Standards 2010.
- ...

Overburden Area

Submission information

- GBC¹⁴⁹ seek a new definition for over burden area:

Overburden Area

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

The addition of a new definition 'Overburden Area' relates specifically relief sought in the submission seeking the creation of a geographically defined Overburden Area at Otaika Quarry (MEA3).

- GBC¹⁵⁰ seek amendment to MEA.1.1 by inserting a new paragraph 3 as follows:

In some cases the MEA includes an Overburden Area beyond the Mining Area within which the mineral extractions activities are limited to the placement of overburden. The Overburden Area is to facilitate the placement of overburden integral to a regionally significant commercial mineral extraction activity, but does not allow for the full range of mineral extraction activities.

This is proposed in order to provide for an appropriate response to the situation (such as the Peagram Block) where land is owned by a commercial quarry operator and is identified as being suitable for some of the activities associated with a MEA, but it is not considered appropriate to provide for the full suite of Mineral Extraction activities, a new planning provision being a MEA (Overburden Area) has been suggested.

- GBC¹⁵¹ seeks amendment to MEA.2.1.2 as follows:

'Activities that are not controlled activities, restricted discretionary or...

And following MEA.2.4 GBC also seek a new restricted discretionary activity rule and matters over which discretion is restricted for placement of overburden [refer to submission 250/47 for full wording details].

Discussion

176. GBC seek the inclusion of a new area within MEAs termed Overburden Area. This area is proposed to be located in relation to one MEA only, replacing an area previously identified as a

¹⁴⁹ 250/54

¹⁵⁰ 250/44

¹⁵¹ 250/47

Buffer Area and expanding the extent of the MEA. This merits/issues of the location of this area in relation to MEA3 is discussed below in section F while the 'mechanism' is addressed here.

177. The purpose and application of the Buffer Area where it is included in an MEA is to reflect the land ownership within the MEA area and provide for a 'buffer' between the active mineral extraction areas and other land use, which presumably is beyond the control of the quarry operator in cases where they do not own or control this land.
178. Provision for specific mineral extraction activities within the Buffer Area in my opinion undermines the stated purpose of this area, which is to 'buffer' effects from the quarry operations to the areas beyond. The Buffer Area also signals that effects from quarrying activities may be experience in this area. This buffering function is further reinforced by the application of a Setback Area (beyond the MEA) where Buffer Areas do not apply. Should a Buffer Area be proposed to provide for mineral extraction activities (in this case the placing of overburden) then in my opinion this area should be clearly represented as a Mining Area enabling the application of a Setback Area to manage reverse sensitivity effects and ensure that the quarry operator is also responsible for the management of effects associated with extraction activities. Consideration of this internal rezoning should in my opinion take into account the further 'externalisation' of effects resulting from increasing the Mining Area within a MEA and should be supported by an analysis of the associated costs or benefits of expending the area.
179. A range of mineral extraction activities (including overburden placement) are anticipated within the Mining Area of a MEA. Where more than 5000m³ of material is involved this triggers the need for a resource consent, requiring a management plan to be developed to address a range of matters. This enables matters to be addressed and conditions to be imposed on activities occurring within the MEA (within the Mining or Buffer areas). Providing for more specific mineral extraction activities within mapped areas of each MEA and imposing additional provisions specifically for such activities in the Plan involves a detailed consideration of the area, the activity and the matters which may need to be addressed or limited. In my opinion this is more appropriately and efficiently understood and addressed through a resource consent where specific conditions can be imposed based on the scale and nature of the activity and the actual and potential effects. Furthermore, a resource consent may be more efficiently reviewed or amended or may have detailed limits, requirements or timeframes associated with them.
180. In my view the role of the policy framework is primarily identifying areas where mineral extraction may suitably take place (Mining Area) and the protection of these areas/activities from reverse sensitivity concerns either through the use of Buffer or Setback Areas. Based on the level of information provided in submissions I do not support the inclusion of an Overburden Area, or other such 'specific activity' areas in the MEA provisions. Should the efficiency of the inclusion of such areas be further demonstrated I am open to revisiting this matter.

Recommendation

181. I recommend that the Commissioners:

- **Reject** Submission points 250/44, 250/54 and 250/47¹⁵² seeking the establishment of an overburden area definition and provisions in the MEA chapter.

Setback Areas

182. Setback areas apply beyond the area of a MEA and impose controls on ‘sensitive’ landuse in the underlying Environment or zone. Setbacks were included in the WDP in the CE where residential units and minor residential units are not permitted within 500m of a MEA. This setback requirement also applies in the UTE, but does not feature in the Living Environments.
183. Through the rural plan changes these setback areas are ‘indicatively’ mapped and rules are applied in the Environments applied through the plan changes.

Submission Information

184. The submissions are summarised as:

- FFNZ¹⁵³ seek confirmation that farming activities adjacent to MEAs will not be captured by the provisions.
- FFNZ¹⁵⁴ also support the reduction of the 500m setback where mineral extraction areas already contain a buffer area internally within the MEA, FFNZ consider that quarry operators should normally provide their own buffer zones where they are establishing new quarry activities and generally it should be considered inappropriate to impose buffers zones on land that is in separate ownership unless there is no alternative.
- GBC¹⁵⁵ supports the inclusion of the note identifying that rules requiring a 500 metre setback from a Mining Area (formerly an Active Area in the WDP) for Sensitive Activities (as now defined in Chapter 4 – Definitions) in the Rural Environments.
- Dicksons Quarries and Transport Ltd¹⁵⁶ (**Dicksons**) also support the inclusion of MEA 500m Indicative Setback in Planning Maps stating that this provides guidance as to when specific controls may need to be applied to subdivision and land use activities.
- Dicksons¹⁵⁷ submit that the wording in PC102 is confusing and difficult to understand and seek re-drafting to make it clear which provision applies to which areas of the Minerals areas. Specifically that redraft should include the MEA 500m Indicative Setback as the trigger for Discretionary Activity Status in Rules MEA.2.6 and MEA.3.1.
- Under PC86B Dickson’s have identified concerns regarding the establishment of Living 1 and 3 Environments within the Setback Area which was formally Countryside Living Environment in proximity to their MEA.

¹⁵² GBC

¹⁵³ 253/46

¹⁵⁴ Page 15 FFNZ submission 253

¹⁵⁵ 250/48

¹⁵⁶ 179/1

¹⁵⁷ 179/2

- Andrew Norman & Francis Spencer¹⁵⁸ seek a 500m indicative setback to be consistent for all Environments and the rules changed accordingly.
- N W and P E Dyer (Dyer)¹⁵⁹ submits that subject to the rezoning being provided for, the 500m MEA indicative Setback and associated rule be removed from the subject properties [297 and 303 Otaika Road]. The submitter is opposed to the imposition of the 500m MEA indicative setback over the subject properties, and the associated provisions that direct a discretionary activity resource consent for establishment of any sensitive activity within 500m of the mining area of a MEA.
- E E Rawson¹⁶⁰ seeks the reduction of the Setback Area applied to the Rural Environment in relation to MEA 9. The submitter states that the State Highway located between the MEA and the landholding along with associated mitigation planting provides a mitigation and that the extent of the setback area should terminate at the highway.

Discussion

185. The submission points raised in relation to the setback area raises two key matters.
- The location and the clarity of the rules associated with these areas and whether they are located first in the Resource Area chapter or the various Environments.
 - Secondly the applicable rules and the extent of the setback areas.
186. Submitters raise questions as to whether the extent of setbacks differ based on site specific features and circumstance, should the setback areas apply to residentially zoned land, and if so should rules apply to these areas where they contain either established sensitive activities or only where new sensitive activities are proposed.
187. Currently the rules which apply in Setback Areas are located in the underlying Environments, supported by policy direction in the MEA chapter and a general policy framework of avoiding the creation of reverse sensitivity effects and managing land uses. I agree that this is difficult to follow when referring to the MEA chapter but note that the guidance note at MEA.1.4 provides a useful link and identification of rules elsewhere in the WDP. In my opinion when developing or subdividing a site a plan user would generally refer first to the underlying Environment to identify whether resource consent is required. Where this is the case I consider it is more likely that a plan user will identify the setback requirements in the underlying Environment and in my opinion the setback requirement could be overlooked if located in the MEA chapter. This requirement could be duplicated in the MEA chapter if required but in order to limit repetition in the WDP I do not support the inclusion of duplicate rules. I do support further clarification in the guidance note to assist plan users in identifying the relevant Environment in which to locate the rules applying to Setback Areas.
188. Setback Areas as clearly stated in the maps are indicative areas and apply a generic 'alert' area in which consent is triggered where activities which may be sensitive to the effects of mineral

¹⁵⁸ 126/3

¹⁵⁹ 408/3

¹⁶⁰ 528/1

extraction activities may seek to locate. These setbacks are designed to reflect a range of effects and have been established in the WDP in text only for several years. The s32 report evaluates the application of these areas and supported the revision of the setback areas to apply from the outer boundary of the Mining Area as opposed to the outer boundary of the MEA as was previously the case, reducing the extent of land that the setback applies to while still ensuring that MEAs are provided a degree of 'protection' from the encroachment of sensitive activities

189. The s32 report also explores the merits of applying the setbacks to both Rural and Living Environments and identifies that potential social and economic costs associated with applying the setback to residential or 'Living' Environments may be incurred with few benefits gained.
190. I concur with the s32 assessment that the application of the Setback Area in relation to the Living Environments may result in economic and social costs accrued by existing residential land uses. If a consenting requirement is triggered where existing residential land use is redeveloped this raises the question of the benefits to be gained through this process.
191. Mr Badham discusses in **Part 12** of the s42A report Topic B that he is of the view that, to a degree, the 500m setback is an arbitrary figure and does not guarantee that a reverse sensitivity effect will (or will not) occur within this area in every instance. I concur with his view that the use of the 500m figure is an arbitrary tool and that actual or potential effects may be experienced at a lesser distance or potentially a greater distance depending on the activities occurring in the MEA.
192. Should the setback be applied to the Living Environments a consent requirement would apply where sensitive activities are to be established or altered. Such activities are anticipated by the Living zoning. Further, this consent process may not identify a requirement for any mitigation measures to be implemented or the need for sensitive use in the area to be avoided. The requirement for consent in this instance in my opinion would be an inefficient process which does not achieve a benefit to any party and increases the cost of the development process.
193. Where residential land use is already established this raises, in my opinion, the issue of incompatibility of uses as opposed to a reverse sensitivity effect. The question of who's responsibility (cost) is it to mitigate effects is more fractious where both uses are established in an area and both uses have a social and economic value or benefit. An example of this is identified by Mr Badham in the **Part 12** of the s42A report. He notes that for example a requirement for acoustic insulation would not be an insignificant cost when considering a residential build or renovation, notably this cost is then apparently borne by the land owner as opposed to the party responsible for the noise effect. Such mitigation may also address only one of several potential risks or effects. The cost of addressing these effects, falling to the land owner alone. In my opinion where residential land use is existing, in proximity to a MEA, there should be a degree of responsibility for the quarry operator to mitigate and 'internalise' potential effects or risks associated with their operations within the bounds of their site. In my opinion the setback therefore should not be applied to established residential areas where they are within 500m of the Mining Area.

194. Where a land use change from rural to residential is sought in proximity to an established MEA in my opinion this present a different scenario. As this represents expansion of residential land use toward an established activity this is a reverse sensitivity matter. The appropriateness of the expansion of residential land use in proximity to an established MEA should therefore provide the opportunity to consider setbacks through the use of zoning and as a consequence there may be either no requirement to include a setback or a bespoke mitigation included within the residential Environment. The specific scenario of interest is addressed at Part 12 of the s42A report for PC86B.
195. With respect to the reduction of a setback area based on site specific features I note once more that the imposition of the Setback Area is based on a range of potential effects. EE Rawson has identified that the effects of the highway in terms of noise, dust, vibration, visual and traffic effects. I do not doubt that in the submitters experience to date that the effects experienced may be similar however there may be other effects associated with the mineral extraction activities which could result or may not yet be visible or known. Risk effects associated with the use of hazardous material, blasting or further landscape modification may differ substantively from that which may be associated with the highway. Without a full and comprehensive understanding of the potential conflicts in this case I do not support the reduction of the Setback Area. The application of the setback in relation to 'rural' land uses, in my opinion also has a lesser cost as these zones do not primarily accommodate sensitive uses, and generally have larger landholdings, enabling greater flexibility in terms of the location of sensitive uses within these areas.
196. I do not oppose the ability for Setback Areas to be modified and reduced where this is underpinned by robust analysis and supported by evidence that such an approach would continue to achieve the objectives.
197. The relief sought in relation to the zoning of the land identified in the submission from N W and P E Dyer (Dyer)¹⁶¹ has been addressed at paragraph 467 onwards of the **Part 6** of the s42A report where it is recommended that the submission point be rejected and the land remain with the notified zoning. Reverse sensitivity matters have been noted as one consideration in this recommendation and it is noted by Mr Burgoyne that GBC (as a further submitter) have also raised a concern in this regard. As no analysis has been provided to support a reduction or removal of the Setback Area, and for same reasons discussed above I do not support the amendment to the Setback Area in this instance. I note that the zoning of this land may be revisited in a future plan change process. Analysis of potential reverse sensitivity effects associated with Otaika Quarry (MEA3) may be addressed again through that process.

Setback Areas - Recommendation

198. I recommend that the Commissioners:

¹⁶¹ 408/2 that 297 and 303 Otaika Road and 9 Toetoe Road be rezoned as RUEE with "specific recognition of a Business zoning (either Business 2 or Business 4)"

- **Accept** submission point 253/46¹⁶² in relation to farming activities adjacent to MEAs and the general direction in 253 in relation to the reduction of the 500m setback where mineral extraction areas already contain a Buffer Area internally within the MEA.
- **Accept in part** submission points 250/48¹⁶³ and 179/2 supporting the inclusion of the note identifying that rules apply within the 500 metre setback from a Mining Area in the Rural Environments and clarifying when consent is required.
- **Accept** submission point 179/1 supporting the inclusion of MEA 500m Indicative Setback in Planning Maps.
- **Reject** submission points 126/3¹⁶⁴, 408/3¹⁶⁵ and 528/1¹⁶⁶ seeking the removal of the Setback Area as it applies to the underlying Environments.

E. Wilsonville Quarry

Submission Information

199. One submission point has been received specifically in relation to Wilsonville Quarry. This submission comes from the quarry operator GBC¹⁶⁷ and supports the application of the MEA 500m Indicative Setback. The submission however seeks that the setback is amended as it has been inconsistently applied. GBC submit that the land notified as Buffer Area within the MEA Active Area at Wilsonville Quarry, is owned and used by the submitter in accordance with the definition of MEA Active Area in PC102, and has been assigned as Buffer Area in Resource Areas Map 28.
200. Amendment is sought to Resource Area Map 28 to change a triangle shaped parcel of land zoned MEA Buffer Area within the MEA Active Area at Wilsonville to MEA Active Area, as GBC owns this land as confirmed by the certificate of title provided with their submission.

¹⁶² 253/46 FFNZ

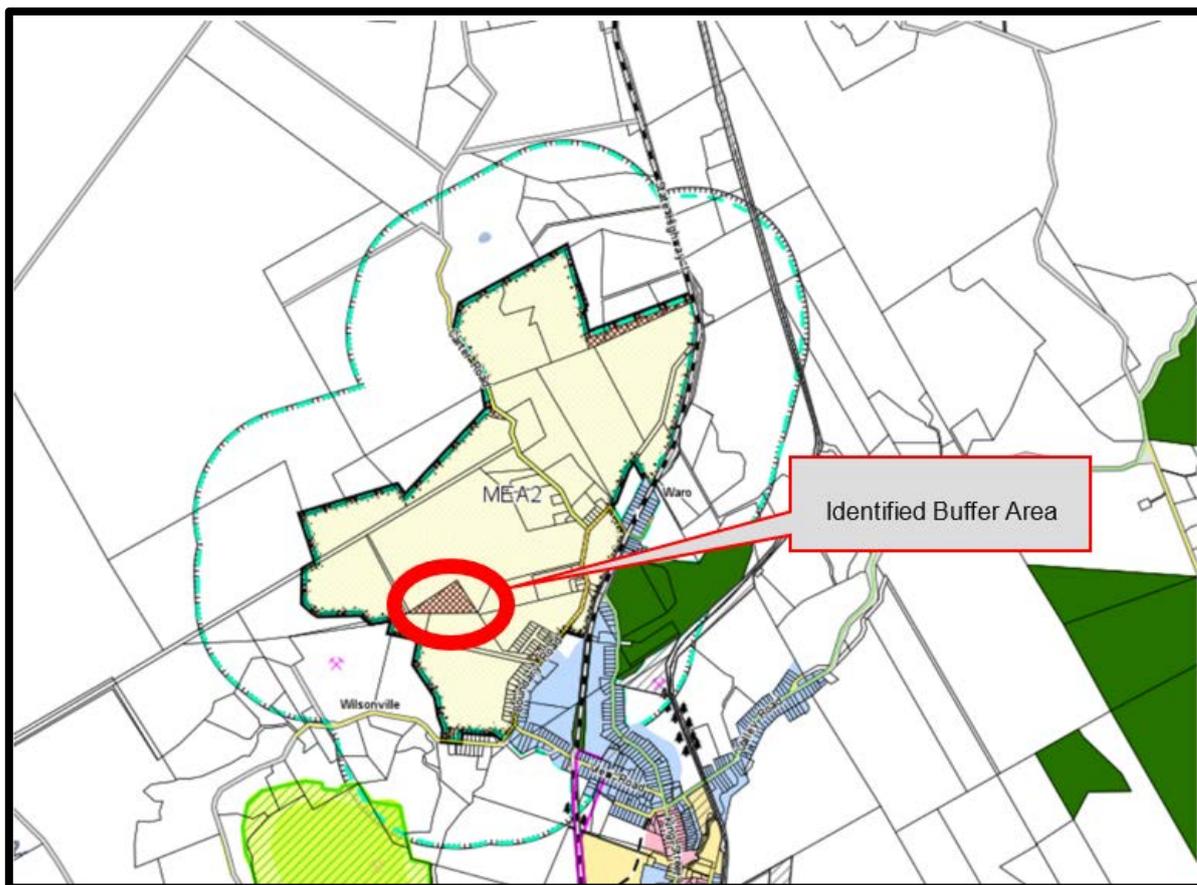
¹⁶³ 250/48 GBC

¹⁶⁴ Andrew Norman & Francis Spencer

¹⁶⁵ N W and P E Dyer (Dyer)

¹⁶⁶ E E Rawson

¹⁶⁷ 250/40



168

Discussion

- 201. Research into this matter indicates that at the time the Buffer and Mining areas were determined the ownership or control of this area of land was not clearly determined and as such Buffer Area was applied to this area of land.
- 202. The area identified as Buffer Area is surrounded on all sides by Active Area has been demonstrated to be under the ownership and control of the Quarry operator. I support the clarification of this matter through the mapping of the triangular portion of Buffer Areas as Activity Area.

Recommendation

- 203. I recommend that the Commissioners **accept** submission point 250/40 from GBC¹⁶⁹ and remap the identified portion of Buffer Area as Mining Area.

F. Otaika Quarry

Submission Information

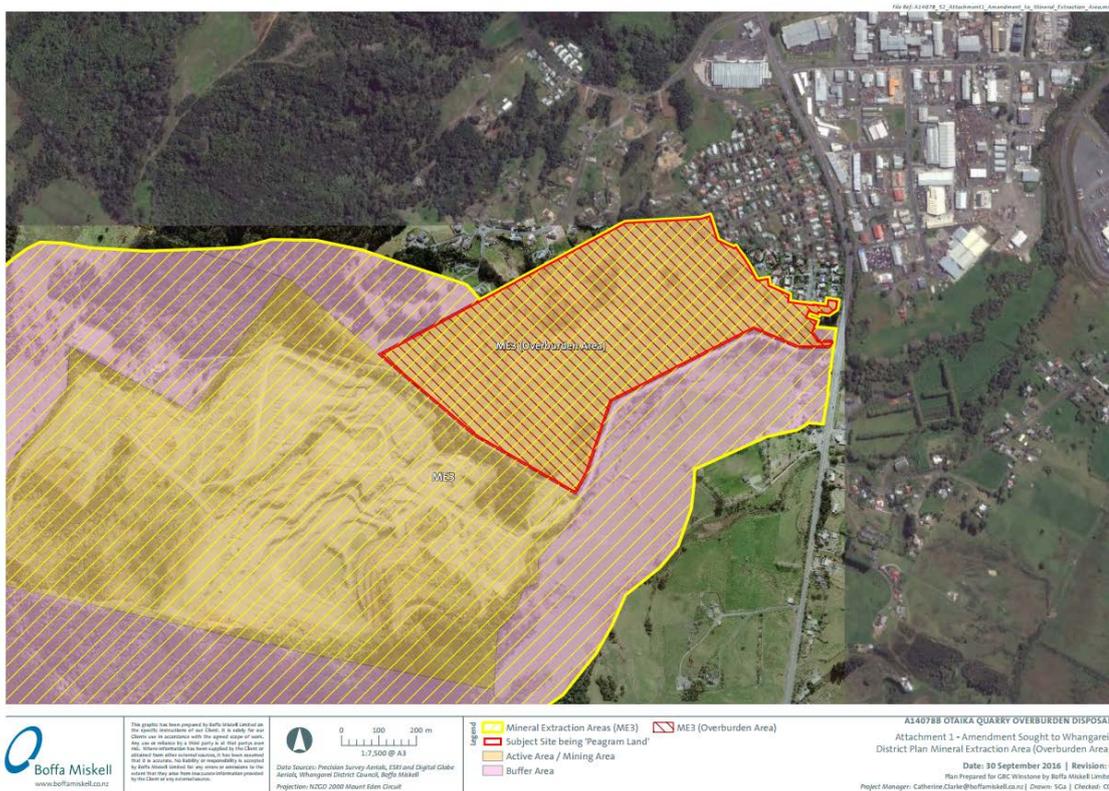
- 204. The MEA at Otaika, (MEA3) is located in close proximity to residential land use. The MEA area includes small areas of Living (1 and 3) Environment on the north-eastern edge and OSE on the

¹⁶⁸ WDP GIS Viewer
¹⁶⁹ 250/40

southern side. MEA3 is also subject to areas of notified ONL. Information provided by submitters also notes the location of geological features within the general area, including cave systems.

205. Through PC102 the quarry operator GBC seeks the extension of the MEA area and the location of an Overburden Area in proximity to the residential land use on the northern portion of the site. The proposed Overburden Area comprises the land referred to as the Peagram Block which currently has a split zoning of Living 1, 3 and CE. A summary of the submission in relation to this MEA are as follows:

- GBC¹⁷⁰ seek amendments to the Resource Map 45 as contained in Attachment 1B to their submission to establish an 'Overburden Area' to the north of the Mining Area, within the Buffer Area and including a new area within the MEA. This area is commonly known as 'The Peagram Block'. This is sought on the basis that GBC now own this landholding (approximately 40 hectares of land directly adjacent to the Otaika Quarry). As part of the long term strategic planning and analysis for the operation of the Otaika Quarry, GBC has determined that there is insufficient space within the existing quarry area to continue placing overburden, without sterilising or compromising access to future aggregate resource. After an options assessment analysis, GBC has identified the Peagram Block as their preferred location for the future placement of overburden material from the quarry.



171

¹⁷⁰ 250/39

¹⁷¹ Map from GBC submission 250

- Murray J Elmes¹⁷², Barry Povey & Suzanne McQuade¹⁷³ Andrew Norman & Francis Spencer¹⁷⁴ oppose the location of an Overburden Area on the 'Peagram Block'. Collectively submitters raise concerns in relation to noise and dust, effects on the landscape, wildlife, stormwater, property values, the limestone cave network and archaeological sites. These primary submissions are subject to support and opposition from further submitters¹⁷⁵.
- Andrew Norman & Francis Spencer¹⁷⁶ also submit that there is an existing covenant which restricts the location of any dwellings a minimum 300m distance from the boundary of quarry-owned land, limiting the potential for a dwelling on their land to a small area outside of current MEA3 and the proposed Buffer Area. This area of the site currently contains a dwelling so there is nowhere to put an additional dwelling and therefore subdivision is not possible.

General Submissions – Discussion

206. I note that in addition to the submission points raised there is general community interest in the use of the 'Peagram Block'. Council has received inquiries regarding any proposal or applications for resource consent in relation to this activity. To my knowledge no resource consent has been lodged with WDC however a pre-application meeting was held in 2016 at which time GBC provided WDC with preliminary documents including Landscape and Acoustic assessment. This information is referred to in GBC's submission but is not attached to the submission itself.
207. At the time of the pre-application meeting WDC sought a review of the information provided by GBC by an acoustic specialist. Mr Peter Ibbotson has provided comment responding to the submission from GBC with a knowledge of the information provided in 2016. I rely on and refer to the opinions expressed by Mr Ibbotson later in this discussion.
208. I do not support the extension of the extent of the MEA area at MEA3 to include the Peagram Block. I also do not support the subsequent identification of the Peagram block area as an Overburden Area in which the placement of overburden material is provided for in perpetuity as a restricted discretionary activity. The reasons for my view I summarise as follows and discuss in detail below.
- No supporting (cost benefit) analysis has been provided in relation to the use of this area of land.
 - No economic analysis or options analysis has been provided by GBC in support of their assertion that the use of the Peagram Block is the preferred option for managing overburden. No information has been provided to support the assertion that further storage of overburden would sterilise or compromise access to future aggregate resource.

¹⁷² 167/1

¹⁷³ 295/1

¹⁷⁴ 126/1

¹⁷⁵ Acacia Park Landowners Association Inc, Andrew Norman & Francis Spencer, Andrew W Barclay Barry Charles Povey & Suzanne Ruth McQuade, Colin Thomas, Damon Paul Keyte, Debbie & James Dalton, Federated Farmers of New Zealand, GBC, Janelle Beazley, Lee & Catherine Sawyer, Margaret Thomas, Mia Barton-Boots, Mitylene Kuc, Southern Whangarei Action Group (SWAG), Taipari Munro

¹⁷⁶ 126/2, 126/3 and 126/1

- The ability to manage a full range of amenity effects associated with the expansion of the MEA toward established residential areas has not been comprehensively addressed including noise, vibration, dust, landscape effects, and character.
- Effects on the natural environment, flood hazards, stability, geological features and Cultural values have not been addressed.
- The management of reverse sensitivity or incompatibility of land uses into the future has not been addressed or detailed with respect to the proposed removal of the Buffer Area in this location.
- As discussed above in section D, I do not support the creation of another 'Area' within the MEA to provide for more specific mineral extraction activities which in my opinion are more appropriately managed through a resource consent process.

Cost Benefit Analysis of the use of the land (Peagram Block)

209. The Peagram Block, now under the control of the quarry operator, is partially included within the MEA and notified as a Buffer Area. The northern portion of the block is zoned as Countryside and Living Environment. While this land is in close proximity to the MEA, the current zoning reflects the potential for other uses for this land. In my opinion these other uses have not been considered in the information provided by GBC nor comprehensively addressed in the information provided to Council in 2016. The Otaika, Raumanga and Toe Toe Structure Plan 2009 identifies a number of opportunities for this area of the District and noted the role of this area as a gateway to Whangarei. The rural plan change package considered the zoning of rural land and confirms that this majority of this area is suitably zoned as Rural Productive Environment (currently Countryside Living). These matters may warrant further consideration with respect to the use of this land, in my opinion this has not been demonstrated to be considered by the submitter.

Economic analysis/information and consideration of alternatives

210. GBC in their submission and in the information provided in the pre-application meeting hold that they cannot accommodate overburden in the current arrangement without potentially sterilising or compromising future mineral resource extraction. While I accept that the quarry operator is best placed to understand their operating requirements, no information or evidence to support this has been provided for consideration. Equally the identification of the Peagram block as the best option for the ongoing management of overburden is also not supported by the identification of alternatives or the costs (benefits) associated with these alternatives.

Management of amenity effects associated with the expansion of MEA3

211. GBC have undertaken preliminary investigation of potential noise and landscape effects associated with the expansion of the MEA area and location of overburden on the Peagram block. The acoustic report provided by GBC has been reviewed by Mr Ibbotson. Mr Ibbotson notes in his review that the proposal does not appear to apply a specific or alternative noise standard for the Overburden Area, as such it is unclear if the noise limits in Appendix 1 for MEA3 are therefore assumed to apply to the Overburden area also.

212. Mr Ibbotson raises concern with respect to the determination of an appropriate noise limit for this area (currently not within the extent of the MEA) stating "... I consider that overburden placement on the proposed MEA3 (Overburden Area) should be subject to an acoustic assessment so that the effects can be evaluated. I do not consider that the changes to the Plan[WDP] rules proposed as part of the GBC Winstones submission will allow for that to occur with certainty or with sufficient scope to prescribe an appropriate limit to any consent...¹⁷⁷". Mr Ibbotson also notes that further assessment (and limitation) through a consent process may also be appropriate. Mr Ibbotson goes on to say "I would not recommend granting this relief as it may result in overburden placement occurring on all days of the year in the Peagram Block at a noise level of up to 55 dB LAeq (daytime) without a robust assessment of the effects." I rely on Mr Ibbotson's technical knowledge of noise effects and I acknowledge his concerns. As a result of the concerns expressed I am not satisfied that adequate assessment of the potential noise effects has been undertaken to enable an understanding of the potential noise effects which may result from the expansion of MEA3 by introduction of an Overburden Area.

213. In addition to a consideration of landscape and noise effects I note that other amenity effects such as vibration and dust have not been addressed by GBC and are of particular concern to other submitters opposing GBC's submission. I note that to date no information or evidence has been provided by the submitters opposing the expansion or by GBC. As a result, it is difficult to determine the actual or potential effects which may result.

Effects on the natural environment, flood hazards, stability, geological features and Cultural values

214. Submitters have raised concerns regarding the impact of the placement of overburden in relation to the natural environment. Submitters note that limestone caves have been identified in proximity to the MEA and that the area is also subject to heritage sites. I note that a portion of the Peagram Block is also subject to flood hazards and is noted to be subject to instability. No supporting information has been provided by GBC in relation to the management of effects on these features or values and therefore the suitability of the land for the placement of overburden.

The management of reverse sensitivity or incompatibility of land uses

215. The expansion of the MEA toward established residential areas in my opinion increases the potential for reverse sensitivity effects to result. Currently the Buffer Area and Peagram block provides a physical separation between the active quarry area and the adjoining land uses. The expansion of the MEA removes this buffer and introduces 'active' mineral extraction activities in an area which has not been subject to active use in the recent past. The potential impacts of this and any mitigation measures have not been addressed in the submission information. I note that 'bunds' are proposed in the material presented in 2016, it is unclear whether the use of bunds to mitigate visual effects is a comprehensive solution.

¹⁷⁷ Page 9, Whangarei District Council Pc85 – Response To Submissions, Reference: Rp R01 002 2015614A PAI PC85 Submission Review.docx

216. I acknowledge the importance of mineral resources for the Northland Region and note that this is reflected in the RPS and through the inclusion of MEA areas within the WDP. In my opinion the GBC submission lacks information and analysis to support the relief sought. Should further information be provided (by GBC or submitters) which assist in an understanding of the suitability of the Peagram Block for inclusion within the MEA my concerns may be addressed and or refined.
217. Turning to the latter submission point, MEA3 including the Buffer Area apply (as notified) to the southern portion of the landholdings of Andrew Norman & Francis Spencer. The site is also subject to a dual zoning where the portion within the MEA is zoned as Countryside (RPE) and the portion to the north of the MEA is Living 3. The land owners (Andrew Norman & Francis Spencer) submit that a covenant also applies to this land limiting the ability to establish additional dwellings within this portion of the site and apparently seek the removal of the planning controls in lieu of this covenant.
218. While a covenant (private) is a useful tool in communicating the limitations on a title, in my opinion it does not replace the role of District plans and landuse planning controls which are administered by the council and subject to a statutory assessment. I do not support the remapping of the Buffer Area or revision of the extent of the MEA in relation to this site. The extent of the MEA is currently established in the WDP and has been located in this manner for a number of years, the application of the Buffer Area in my opinion reflects the land ownership and will assist with the management of effects including potential reverse sensitivity effects in this area.

Recommendation

219. I recommend that the Commissioners:

- **Reject** submission 250/39¹⁷⁸ seeking the expansion of MEA3 and the location of an Overburden Area on the Peagram Block.
- **Reject** submission point 126/1, 126/2 and 126/3¹⁷⁹ seeking the re-mapping of the boundary of the proposed MEA (MEA3) to exclude 52 Acacia Drive.
- **Accept** submission points 167/1, 295/1, and 126/1¹⁸⁰ seeking that MEA3 at Otaika not be extended/that the placement of overburden is not provided for on the Peagram Block.

G. Non RMA Matters

Submission Information

220. One submitter¹⁸¹ has identified a concern relating to taking of minerals from private property over-riding the rights of landowners to say no to mineral extraction.

¹⁷⁸ As sought in GBC submission- amendments sought to the Resource Map 45 as contained in Attachment 1 B to the submission

¹⁷⁹ Andrew Norman & Francis Spencer

¹⁸⁰ Murray J Elmes, Barry Povey & Suzanne McQuade Neville & Donna Thompson Andrew Norman & Francis Spencer

¹⁸¹ 488/2 Michelle Potter

General Submissions – Discussion

221. As identified in the Description and Expectations and as noted in submissions from Straterra, the management of mineral resources and their extraction from land is subject to multiple statutory requirements. The ‘ownership’ of minerals is addressed in the Crown Minerals Act and the process for obtaining mineral permits for prospecting, exploration and mining is also managed through this legislative tool. As such I consider this matter to be beyond the RMA and the scope of PC102 and do not support any amendment to the provisions of MIN and MEA to address this matter.

Recommendation

222. I recommend that the Commissioners **reject** submission point 488/2 as being beyond the scope of PC102 and the RMA process.

H. Definitions

Farm Quarries

Submission Information

223. FFNZ¹⁸² have submitted seeking clarification of how farm quarries are provided for throughout the provisions in the rural plan changes.

224. These submission points¹⁸³ generally seek to ensure that small scale farm quarries extracting metal / rock for use on farms are not accidentally captured in provisions and that any setback provisions do not unnecessarily impact on farming activities adjacent to mineral extraction activities. FFNZ also seek amendment which clarifies that farm quarries are not captured in the provisions of PC102.

225. Also relevant is the discussion under topic ‘A. Minerals’ which includes a discussion of how mineral extraction activities are provided for across both the Environments and Resource Areas and my recommendation that mineral extraction other than farm quarries be specifically provided for and clearly listed under MIN and in the case of farm quarries retained under the relevant Environment.

Discussion

226. I consider it appropriate to provide for farm quarries as an activity ancillary to rural production where these activities are limited in scale and nature and are not located within areas identified as having significant features or values. This approach is provided for in the WDP and as set out in many other District plans throughout New Zealand, for example in the Auckland Unitary Plan.

227. In response to the submission point from MineWatch¹⁸⁴ I recommend that the activity of “farm quarries” be defined. My proposed definition is included in the recommendations under section A. above. This definition is intended to limit the scope of what may be considered as a ‘farm

¹⁸² 253

¹⁸³ 253/46 and 253/49

¹⁸⁴ Submission 2 442/1 Minewatch

quarry' to ensure that this activity is ancillary to rural production activities and is therefore supported by the rural (RA and RPE) policy framework.

228. The inclusion of the definition in my opinion establishes that farm quarries are provided for as permitted activities in the RPE where they do not extract over 5,000m³ in any 12 month period, undertake blasting or established within 500m of an existing sensitive activity on an adjacent site. Farm quarries located in areas identified as accommodating sensitive land uses are subject to more stringent control.
229. Where a farm quarry exceeds these thresholds, it would be a discretionary activity. Where consent is required the land use information requirements under MIN are applicable and a CIA is required where the quantity of material extracted exceeds the permitted threshold. The application for a CIA is not in my opinion triggered where consent is only required because the quarry proposes blasting or is to be located in proximity to a sensitive activity, as these controls relate primarily to the management of amenity effects on neighbouring land uses.
230. Farm quarries located in areas identified as having significant features or values are subject to more stringent control. As the rules are contained within the relevant Resource Area, I support amendments to ensure that terminology across these sections of the WDP is consistent. The s42A report **Part 1** identifies those other definitions to be included. Definition of the term "Rural Production Activity"¹⁸⁵ is recommended and includes 'farm quarrying'.
231. The RLE, RVE and RUEE are predominantly residential Environments providing for a variety of living choices beyond the central area of Whāngārei and in the case of RUEE potentially accommodating urban expansion at a Living Environment density. While rural production activities are generally provided for within these Environments the scale and nature of the activities which may be anticipated to occur are likely to be limited by the size of the land holdings and the established residential and lifestyle activities. In my opinion, it is clear that an activity such as a farm quarry would not be a suitable activity to establish in these Environments, without further assessment due to the potential effects on the established environment, this would in my view be an incompatible use when considering the policy framework and the location of these Environments. However, there may also be established rural productions activities located in these Environments which require the establishment of a farm quarry to support an existing land use. Therefore, I support a discretionary activity status for farm quarries within the RLE, RVE and RUEE, supported also through the introduction of Policy 7 discussed above in section 'A. Minerals- Scope of PC102 and the proposed provisions for Minerals'. In my opinion, this provides for a consideration of the applications in relation to the relevant objectives and policies and enables the compatibility of uses to be considered based on the individual situation. Within other Environments rural production activities are either provided for or otherwise. Where farm quarries are not more specifically provided for they will be managed through provisions for rural production activities.

¹⁸⁵ **Rural Production Activity**

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

Recommendation

232. I recommend that the Commissioners **Accept in Part** submission points 253/46 and 253/49¹⁸⁶ and make the recommended changes to the provisions across the rural plan changes and to the definition section (chapter 4) of the WDP in order to clarify the manner in which farm quarries are provided for.

MIN.1.3 Policies

1. To avoid, remedy or mitigate...

7. To enable rural production activities to utilise aggregate resources by providing for farm quarries where they are limited in scale and operation and are not located within areas with significant or sensitive features or in Environments intended to accommodate sensitive activities.

RPE.2

Landuse

RPE.2.1 Eligibility Rules

....

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

- ~~d. — Extracts over 5,000m³ in any 12 month period on the site.~~
- ~~e. — Undertakes blasting.~~
- ~~f. — Establishes within 500m of an existing sensitive activity on an adjacent site.~~

...

RPE.2.3 Discretionary Activities

Farm quarries are a 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.

RLE.2.3. Discretionary Activities

...

x. Any Farm quarry

RVE.2.3 Discretionary Activities

...

x. Any Farm quarry

RUEE.2.3 Discretionary Activitis

¹⁸⁶ FFNZ 253/46 and 253/49

...

x. Any Farm quarry

CA.2

Coastal Area Landuse

CA.2.3 Discretionary Activities

...

Farm quarries within the Coastal Area which:

- a. Disturb or move more than 500m³ of material; or
- b. Have any cut and/or batter faces which exceeds 2m; or
- c. Involve blasting; or
- d. Where excavations and processing are undertaken within 200m of a road boundary; or existing residential unit.

6. All other mineral extraction activities within the Coastal Area.

CA.3.1 Discretionary Activities

...

5. Farm quarries within the Coastal Area which:

- e. Disturb or move more than 250m³ of material; or
- f. Have any cut and/or batter faces which exceeds 2m
- g. Involve blasting; or
- h. Where excavations and processing are undertaken within 200m of a road boundary; or existing residential unit.

6. All other mineral extraction activities within the High Natural Character Area.

...

CA.4.2 Non-Complying Activities

3. Farm quarries within the Outstanding Natural Character Area which:

- e. Disturb or move more than 150m³ of material; or
- f. Have any cut and/or batter faces which exceeds 2m
- g. Involve blasting; or
- h. Where excavations and processing are undertaken within 200m of a road boundary; or existing residential unit.

4. All other mineral extraction activities within the Outstanding Natural Character Area.

LAN.3.1.3 Earthworks

1. Earthworks including farm quarries within an Outstanding Natural Landscape is permitted if:
 - a. The excavation and fill volume is less than 150m³ and the area is less than 150m² in any 12 month period within a site; and
 - b. The height or depth is less than 2m over a continuous distance of less than 50m within a site; or

- c. The work is directly associated with:
 - i. The repair and maintenance of roads, fences, utility connections, driveways, parking areas, effluent disposal systems, swimming pools, garden amenities, gardening, planting of any vegetation, burial of marine mammals, walking or cycling tracks, or farm and forestry tracks; or
 - ii. A sand dune restoration project; or
 - iii. The provision of walking or cycling tracks less than 3m wide

Note: The height or depth of excavation will be based on an average height from existing ground level over the length of the excavation or fill or over 50m continuous length, whichever is the lesser length.

...

LAN.3.4 Discretionary Activities

- 1. Within an Outstanding Natural Landscape outside the Coastal Area:
 - a. Any activity that does not meet the permitted activity standards in Rules 3.1.2 (Buildings and Structures), 3.1.3 (Earthworks) or 3.1.4 (Indigenous Vegetation Clearance).
 - b. Construction of a Residential Unit within an Outstanding Natural Landscape where the activity does not comply with Rule 3.2.2.
 - c. The establishment of new production forestry.
 - d. Mineral extraction activities and farm quarries.

LAN.3.5 Non-Complying Activities

- 1. The following activities are non-complying activities within an Outstanding Natural Landscape within the Coastal Area:
 - a. Any activity that does not meet the permitted activity standards in Rules 3.1.2 (Buildings and Structures), 3.1.3 (Earthworks) or 3.1.4 (Indigenous Vegetation Clearance).
 - b. Construction of a Residential Unit within an Outstanding Natural Landscape within the Coastal Area which does not comply with Rule 3.4.2.
 - c. The establishment of new production forestry.
 - d. Mineral extraction activities and farm quarries.

LAN.3

Outstanding Natural Landscapes – Landuse Rules

....

LAN.5.1 Status of Activities in Outstanding Natural Features

- 1. The rules applying to activities in Outstanding Natural Features outside the Coastal Area are as specified in LAN.5 Table 1.
- 2. The rules applying to activities in Outstanding Natural Features within the Coastal Area are as specified in LAN.5 Table 2.

LAN.5 Table 1. Activity Table for Outstanding Natural Features outside the Coastal Area

The following table specifies that activity status of activities in Outstanding Natural Features outside the Coastal Area.

Activity	Large landforms A	Volcanic cones B	Smaller, more fragile landforms D	Exposures of geological material E	Caves F
.....					
Earthworks					
...					
Mineral Extraction and Farm Quarries					
Farm and forestry mineral extraction (quarrying) Farm quarries	D	D	Pr	Pr	Pr
Other mineral extraction activities	NC	NC	Pr	Pr	Pr
Indigenous Vegetation Clearance					
....					

LAN.5 Table 2. Activity Table for Outstanding Natural Features within the Coastal Area

The following table specifies that activity status of activities in Outstanding Natural Features that are within the Coastal Area.

Activity	Large landforms A	Dynamic landforms and features C	Smaller, more fragile landforms D	Exposures of geological material E	Caves F
....					
Earthworks					
...					
Mineral Extraction and Farm Quarries					
Farm and forestry mineral extraction (quarrying) Farm quarries	Pr	NC	Pr	Pr	Pr
Other Mineral extraction activities	Pr	Pr	Pr	Pr	Pr
Indigenous Vegetation Clearance					
...					

I. Consequential Changes

Sensitive Activities and changes to Environment Rules for Mineral Extraction

Submission Information

233. GBC¹⁸⁷ have submitted seeking consequential amendments to Living 1, 2 and 3 Environment rules 36.3.2, 36.3.4, 36.3.6, 36.3.16 and 36.4.1. and to Living 1, 2, and 3 Subdivision rule 71.3.19. as detailed in their Submission to refer to the 'new' MEA chapter.
234. GBC also seek consequential amendment to UTE2.1.I. to replace the term 'habitable building' with 'sensitive activities'.

Discussion

235. The consequential changes proposed to the Environment chapters and Subdivision Chapter are intended to reflect the creation of a new WDP chapter for MIN and MEA. These changes are represented in Appendix 3c to the s32 report. With the exception that I support a change in the title of the 'Mineral Extraction Areas' to 'Quarrying Resource Areas' the changes sought by GBC are consistent with the consequential changes in **Attachment 2B of Part 1** the s42A report and in **Attachment 4 of Part 1** the s42A report as notified.
236. Replacement of the term 'habitable building' with reference instead to 'sensitive activities' is also included as a consequential change at Appendix 3c to the s32 report for PC102. Furthermore this change in terminology is reflected in the other sections of the rural plan changes and applied consistently where setbacks from mineral extraction or other activities such as intensive rural industries are required. I note that the term habitable building is also used at UTE.2.1.(q): "q. The construction or location of any **habitable building** within 30m of the ~~Countryside Environment~~ RPE." [bold my emphasis]. In order to achieve consistent terminology across the WDP I support the amendment of this reference to habitable building to 'sensitive activities (excluding non-habitable buildings)' at section UTE.2.1 (q).

Recommendation

237. That the commissioners **accept in part** submission points 250/55, 250/56 and 250/57 and make the recommended changes to the provisions across the rural plan changes and to the WDP including the additional consequently change identified below.

UTE.2.1 Discretionary Activities

...

q. The construction or location of any ~~habitable building~~ sensitive activity within 30m of the ~~Countryside Environment~~ RPE.

...

¹⁸⁷ 250/55 250/56 250/57

7.0 Conclusions and Recommendations

238. After considering the submissions and further submissions received in relation to each topic, I recommend that PC102 be amended to the extent detailed in the preceding sections of this report and as illustrated in **Attachment 2B of Part 1** the s42A report. In my opinion the proposed objectives are the most appropriate for achieving the purpose of the RMA and with respect to the changes made to the policies, rules and assessment matters as being the most efficient and effective for achieving the proposed objectives. 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.
239. The revised provisions [**Attachment 2B 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 PC102.
240. I have read and concur with any recommendations from other parts of this s42A report that result in amendments to PC102 to the extent illustrated in **Attachment 2B of Part 1** of the s42A report.

AUTHOR



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