

Part 5
Proposed Plan Change 85
Rural Area

Section 42A Hearing Report

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1.0 Introduction

1. This is **Part 5** of the section 42A (**s42A**) report. This part should be read in conjunction with the other **Parts 1 – 11**. The evaluation of general topics is contained within **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 85 Rural Area (**PC85**). This report provides consideration of the proposed provisions, recommendations in relation to submissions and, where appropriate, the report cross-references the section 32 Evaluation (**s32**), further expert evidence, analysis of any background material and legislative discussions.
3. A comprehensive description of the background to PC85, a chronology of events relevant to the proceedings of PC85 and an overview of the Rolling Review process 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.
4. This s42A report has been prepared by Robert Adam Burgoyne. I have no vested interest in the outcome of PC85 nor any conflict of interest to declare. I am a qualified planner holding the qualification of Bachelor of Resource and Environmental Planning from Massey University in Palmerston North in 2013. I have been an Intermediate member of the New Zealand Planning Institute since January 2016.
5. My planning experience since graduating includes a contract position with the Ministry for the Environment assisting in the development of the National Monitoring System. More recently I worked with a Warkworth based consultancy preparing resource consent applications, reviewing conditions of consents and processing and reporting on resource consent applications for Auckland Council.
6. I commenced employment with WDC's Policy and Monitoring Department as a Policy Planner in August 2015. My role includes preparation of plan change documents and s32 reports, presenting at Council meetings, workshops and plan change hearings, internal and external consultation, making recommendations on submissions and liaising with the public on resource management issues.
7. I am familiar with the Environment Court's Code of Conduct for expert witnesses and have taken it into account in the preparation of this statement of evidence. I consider that the evidence is within my area of expertise and agree to comply with the Code of Conduct in presenting this evidence to the Court. I confirm that the evidence on planning matters that I present is within my areas of expertise and I am not aware of any material facts which might alter or detract from the opinions I express. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. I have also read and am familiar with the Resource Management Law Association / New Zealand Planning Institute "Role of Expert Planning Witnesses" paper. The opinions expressed in this evidence are based on my qualifications and experience, and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position.

2.0 Description of the Plan Change as Notified

8. PC85 seeks to introduce an overarching geographic policy direction for the rural environment to provide sufficient spatial and policy direction for this area. This approach is in accordance with the Rural Development Strategy and will help infill a missing layer of 'middle' rural policy in the Operative

Whangarei District Plan (**WDP**). To avoid confusion of WDP terminology (Environment as a zone versus environment in a general sense), the rural environment in PC85 is referred to as the 'Rural Area' (**RA**).

9. PC85 proposes to introduce new objectives, policies and performance standards for the RA and new definitions and changes to definitions in Chapter 4 of the WDP. PC85 includes:
 - New RA Chapter – with objectives, policies and performance standard rules for the RA.
 - Consequential changes to the WDP.
 - New definitions and consequential changes to WDP Chapter 4 Meaning of Words.
10. PC85 includes a description of the RA to identify the environmental expectations and outcomes sought in the proposed rural Environments (zones) and proposed objectives and policies.
11. A comprehensive description of PC85 is included in **Part 2** of the s32 report [see **Appendix A** of **Part 1** of the s42A report]. The notified text of PC85 is provided as **Appendix B** of **Part 1** of the s42A report.

3.0 Purpose of Report

12. This report considers submissions received in relation to PC85. 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 PC85.
13. 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 PC85 provisions. Where any recommendation necessitates further evaluation in accordance with section 32AA of the RMA (**s32AA**), the necessary analysis is included within the discussion. Depending on the complexity of the recommendation proposed, the s32AA assessment then follows in a separate table underneath or an overall discussion. In accordance with section 32AA(1)(c), the assessment of each recommendation has been undertaken at a level of detail that corresponds to the scale and significance of the proposed recommendations.
14. 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 may include consequential alterations arising out of submissions and any other relevant matters it considered relating to matters raised in submissions.

4.0 Structure of the Report

15. 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.
16. All submissions received have been categorised based on which plan change they are most applicable to. Several submission points which have relevance to PC85 have been assessed in **Part 1** of the s42A report as they either address broad topics or relate to multiple plan changes.
17. Once allocated to a plan change, each submission point has then been grouped thematically based on topic. As some submissions relate to multiple topics, cross references to the discussion and recommendation sections of other topics have been included. Topic headings for the submissions assessed under PC85 are as follows:

- A. Corrections and Clarifications
- B. General Support
- C. Natural Hazards
- D. Transport and Transport Infrastructure
- E. Biodiversity
- F. Amenity and Character
- G. Reverse Sensitivity
- H. Cultural Values
- I. Rural Production
- J. Rural Area Activities
- K. Urban Growth
- L. Commercial and Industrial Activities
- M. Consequential Changes

18. While all further submissions have been acknowledged in the submission tracking spreadsheet [see **Attachment 1 of Part 1** of the s42A report], responses have not been written for all further submission for the following reasons. The further submissions generally:
- Sought to emphasise the content of the corresponding original submission;
 - Did not present new or additional evidence;
 - Stated either support or opposition to the original submissions of other submitters.
19. The assessment of submissions generally adheres to the following format:
- Submission information – Matters raised in the submission points with a brief outline of relief sought and reasons for relevant submission points.
 - Discussion – Discusses responses to the relief sought. Where appropriate, submission points have been grouped together for discussion.
 - Recommendation – Outlines a recommendation to the Commissioners in response to the relief sought.
20. Any recommended amendments to the notified text as a result of submissions are attached to this report [see **Attachment 2D of Part 1** of the s42A report]. Any recommended additions to the notified text are shown as underlined and deletions as strike-through.

5.0 Consideration of Submissions

A. Corrections and Clarifications

21. Seven submission points were made with regard to the topic of corrections and clarifications. These submission points generally request minor amendments to grammar and terminology to improve the usability of the WDP and to remove inconsistencies.

RA.1.1 Description and Expectations – Submission Information

22. Far North District Council (FNDC)¹ seeks that all grammatical errors and inconsistent terminology within RA.1.1 be corrected. No specific recommendations were made.

RA.1.1 Description and Expectations – Discussion

23. I agree that minor amendments could be made to RA.1.1 to improve the clarity and grammar.

RA.1.1 Description and Expectations – Recommendation

24. I recommend that the Commissioners **accept** submission point 410/20, and that the notified provisions are amended as follows:

RA.1.1 Description and Expectations

The Rural Area, outside of the urban areas of Whangarei City, Ruakaka and Marsden Point Area, includes rural and coastal...

...The priorities for the Rural Area are to:

- Sustain the productive potential productive use of the land and the rural character and amenity values that are a key element of the District.
- Provide for rural production activities. Productive usage includes farming, forestry, quarrying, dairy processing, cement manufacturing, recreation and tourism.
- It also includes as a priority sustaining the biodiversity and productive ecosystems as these are equally important to the health and wellbeing of communities and the economy.
- It is also important to strengthen the District's economy by providing for the on-going operation of a range of land use activities in the Rural Area.

Consolidation of development, particularly residential and commercial, is key for the Rural Area, and is consistent with the direction of the Whangarei District Council Growth Strategy, Sustainable Futures 30/50 (2009) ('Whangarei District Growth Strategy'). Historical uncoordinated subdivision...

...may be required for future urban growth, consistent with the Whangarei District Growth Strategy Sustainable Futures 30/50...

...The Rural Living Environment provides for the on-going rural living development of land and rural living activities in locations that have an existing rural living density of rural living development.

...The Strategic Rural Industry Environment provides for the on-going operation of established...

¹ 410/20

Objective RA.1.2.10 – Submission Information

25. WDC Infrastructure and Services Department (**WDC I&S**)² requests that the term ‘sustainable manner’ in objective RA.1.2.10 be further clarified to improve the usability of the WDP. No specific wording is suggested.

Objective RA.1.2.10 – Discussion

26. I consider ‘sustainable manner’ an appropriate term to use and that sufficient guidance is provided by the RMA as to what this means. However, I agree that objective RA.1.2.10 lacks clarity and that the terminology can be improved to make the objective easier to understand and interpret. By improving the clarity of the terminology, I consider that the objective will more appropriately achieve the purpose of the RMA.

Objective RA.1.2.10 – Recommendation

27. I recommend that the Commissioners **accept in part** submission point 479/1, and that the notified provisions are amended as follows:

RA.1.2 Objectives

10. ~~Achieve the provision of~~ Provide efficient and effective onsite and reticulated infrastructure in a sustainable manner.

RA.1.3 Policies – Submission Information

28. FNDC³ and the Landowners Coalition⁴ request that RA.1.3.9 be deleted as it is addressed by RA.1.3.10.
29. The Landowners Coalition⁵ also seeks that the ‘expectations’ stated in RA.1.3.10 be further clarified.
30. FNDC⁶ requests that the term ‘hydrologically neutral’ in RA.1.3.13 be replaced with less technical language as this term is difficult for nontechnical WDP users to interpret.

RA.1.3 Policies – Discussion

31. I consider RA.1.3.9 necessary to retain. It serves a separate purpose from RA.1.3.10 as it addresses amenity rather than Environment expectations and has a higher level of protection being that it ‘ensures’ instead of ‘considers’.
32. I do not support further clarification of the expectations for each Environment within the RA policies. Each Environment chapter begins with a Description and Expectations section which contains the relevant expectations for that Environment in what I consider to be a clear and logical format.
33. I agree that the term ‘hydrologically neutral’ in RA.1.3.13 may be overly technical and difficult to interpret. I have recommended an amendment to replace this phrase with less technical terminology to simplify the policy so that its meaning is clearer in accordance with policy 6.1.1 of the RPS. I also consider ‘rural development’ to be an ambiguous term and propose that this be replaced with ‘development in the Rural Area’ to provide more clarity.

² 479/1

³ 410/23

⁴ 431/11

⁵ 431/11

⁶ 410/24

RA.1.3 Policies – Recommendation

34. I recommend that the Commissioners:

- **Reject** submission points 410/23 and 431/11.
- **Accept** submission point 410/24, and that the notified provisions are amended as follows:

RA.1.3 Policies

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

RA.4.1 Matters of Control – Submission Information

35. WDC I&S⁷ requests the following specific amendment to RA.4.1.1(f) to improve the clarity of the provision:

f. The provision, location, design, capacity, connection, upgrading, staging and integration of existing and future infrastructure.

36. FNDC⁸ requests the following specific amendment to RA.4.1.1(h) to improve the clarity and consistency of the provision:

h. The provision of Reserves, including esplanade reserves and strips.

RA.4.1 Matters of Control – Discussion

37. I do not support the requested amendment to RA.4.1.1(f). The notified provision allows scope to consider both existing and future infrastructure as it does not specify one or the other.

38. I agree that the requested amendment to RA.4.1.1(h) will help improve the consistency and clarity of the provision in accordance with policy 6.1.1 of the RPS. The other proposed provisions in RA.4.1 are worded so that they begin with a qualifier such as 'The design of...', 'The location of...' or 'The protection of...' to clearly state what the matter of control is trying to achieve. The recommended amendment provides more clarity and consistency with the format of the other provisions in RA.4.1.

RA.4.1 Matters of Control – Recommendation

39. I recommend that the Commissioners:

- **Reject** submission point 479/6.
- **Accept** submission point 410/30, and that the notified provisions are amended as follows:

RA.4.1 Matters of Control

1...

h. The provision of Reserves, including esplanade reserves and strips.

⁷ 479/6

⁸ 410/30

B. General Support

Submission Information

40. Seven submission points were made in general support of various sections and provisions of PC85. Other submission points made in support have been categorised under the relevant subsequent topics.
41. Federated Farmers of New Zealand (**FFNZ**)⁹ support RA.1.1 Description and Expectations, specifically the recognition that the productive nature of land and resources contribute to rural characteristics.
42. FFNZ¹⁰ support objectives RA.1.2.1, RA.1.2.2 and RA.1.2.6.
43. FNDC¹¹ requests that the RA objectives are not altered in a way that would cease to address the eight issues identified.
44. FFNZ¹² support policies RA.1.3.2 – RA.1.3.4 and RA.1.3.11.
45. Horticulture NZ (**Hort NZ**)¹³ seeks that policies RA.1.3.4 and RA.1.3.5 are retained.
46. NZ Pork¹⁴, GBC¹⁵ and FFNZ¹⁶ support RA.2.3.1(d), and in particular RA.2.3.1(d)(ii)(a).
47. FNDC¹⁷ seeks that the subdivision performance standards within RA.3 are retained.
48. The New Zealand Transport Agency (**NZTA**)¹⁸ seeks that the Assessment Criteria in RA.4.2 (particularly h – n) be retained.

Discussion

49. I acknowledge and generally support the above submission points supporting various sections and provisions of PC85. However, I note that in response to other submissions minor amendments have been recommended to RA.1.1, RA.1.2, RA.1.3.2, RA.1.3.11 and RA.4.2.1(n). A minor change is also recommended to policy RA.1.3.5(g) to improve its clarity.
50. The changes recommended to these provisions are not considered to alter the intention or outcome of the provisions and rather aim to improve clarity and enhance the provisions in a manner that I consider continues to achieve the relief sought by the relevant submission points.

Recommendation

51. I recommend that the Commissioners:
 - **Accept in part** submission points 240/10, 250/5, 253/1 – 3 and 6, 410/21 and 29 and 453/7 noting minor changes have been recommended in response to other submission points.
 - **Accept in part** submission point 423/4, and that the notified provisions are amended as follows:

⁹ 253/1

¹⁰ 253/2

¹¹ 410/21

¹² 253/3

¹³ 423/4

¹⁴ 240/10

¹⁵ 250/5

¹⁶ 253/6

¹⁷ 410/29

¹⁸ 453/7

RA.1.3. Policies

5. To identify areas suitable for consolidated residential (RVRE), commercial (RVCE) and industrial (RVIE) development within rural villages in locations that:
- ...
- g. Have an identified demand for residential and/or commercial land ~~available~~ to meet the projected growth requirements over the lifespan of the District Plan.

C. Natural Hazards

Submission Information

52. New Zealand Pork (**NZ Pork**)¹⁹ supports RA.1.3.7 while FNDC²⁰ requests that the policy is amended to clarify what is meant by 'functional need', which could include specifying the activities which have a functional need to be in a hazard prone area.

Discussion

53. I acknowledge and generally support NZ Pork supporting RA.1.3.7; however, I do consider that the term 'functional need' lacks clarity. I suggest removing the term functional need to strengthen the policy while still achieving the intention and purpose of the policy and the relief sought by NZ Pork.
54. Three reasonably practicable options have been identified for the proposed change:
- **Option 1:** Notified Provisions
 - **Option 2:** Recommended Revised Provision – Delete “unless there is a functional need” from RA.1.3.7 – See **Part 1** of the s42A report **Attachment 2D**.
 - **Option 3:** Alternative Revision – Amend RA.1.3.7 to include additional descriptions of what is meant by 'functional need' and/or listing which activities have a functional need to be in a hazard prone area.

¹⁹ 240/9

²⁰ 410/22

55. Evaluation of these options has been summarised in Table 1:

TABLE 1: EVALUATION OF POLICY RA.1.3.7 OPTIONS		
Option	Costs	Benefits
Option 1: Notified Provision	<p><u>Environmental</u> May enable more intensive development in hazard prone areas where applicants can justify there is a functional need.</p> <p><u>Economic & Social</u> If more intensive development occurred in hazard prone areas there could be significant economic and social costs to landowners and residents.</p> <p><u>Cultural</u> None known.</p>	<p><u>Environmental, Social & Cultural</u> None known.</p> <p><u>Economic</u> More enabling than Options 2 and 3 for more intensive zoning in hazard prone areas.</p>
Option 2: Recommended Revised Provision	<p><u>Environmental & Cultural</u> None known.</p> <p><u>Economic & Social</u> Less enabling than Option 1 for more intensive zoning in hazard prone areas.</p>	<p><u>Environmental</u> Restricts more intensive development in hazard prone areas in accordance with RPS policies 7.1.1(b) and 7.1.3(a) and (d).</p> <p><u>Economic & Social</u> May reduce costs by restricting intensive development in hazard prone areas. Improves clarity by removing ambiguous terminology and achieving consistency with policies RA.1.3.3, 1.3.5 and 1.3.6.</p> <p><u>Cultural</u> None known.</p>
Option 3: Alternative Revision	<p><u>Environmental, Economic, Social & Cultural</u> Similar to Option 2, but more enabling to specific activities.</p>	
Option	Efficiency & Effectiveness	
Option 1:	Wording does not provide certainty regarding what is meant by 'functional need'.	
Option 2:	Clearly states the intention to avoid zoning for more intensive development within hazard prone areas and is consistent with policies RA.1.3.3, 1.3.5 and 1.3.6 in PC85, policies 7.1.1(b) and 7.1.3(a) and (d) of the RPS and policy 25 of the NPS for Freshwater Management.	
Option 3:	Option 3 is similar to Option 2 in terms of its efficiency and effectiveness. However, 'functional need' is difficult to define or succinctly describe. It would be difficult to reword the policy in a way that would improve upon the efficiency and effectiveness of Option 2.	
Economic Growth and Employment Opportunities		
<p>The proposed options have a potentially large impact on economic growth and employment opportunities. On one hand enabling more intensive development in hazard prone areas will provide for more development. However, if a natural hazard event were to occur in an intensely developed area then there may be significant economic costs. As stated in the RPS "risk reduction is often less costly than the social and economic impact of the physical damage and potential loss of life caused by natural hazards". One of the risk reduction measures listed in the RPS is not developing hazard-prone areas.</p>		
Risk of Acting and not Acting if there is Uncertain or Insufficient Information		
There is no known risk due to insufficient information.		

56. Option 2 is considered the most efficient and effective method to achieve the purpose of PC85.

Recommendation

57. I recommend that the Commissioners:

- **Reject** submission point 240/9 noting the recommended change below.
- **Accept in part** submission point 410/22, and that the notified provisions are amended as follows:

RA.1.3. Policies

7. To avoid zoning rural land for more intensive development within identified hazard prone areas, ~~unless there is a functional need.~~

D. Transport and Transport Infrastructure

58. Three submission points were made with regard to transport and transport related infrastructure.

RA.3 Subdivision Rules – Submission Information

59. WDC I&S²¹ requests amendments to RA.3.3.1(g) to include reference to the provision of pedestrian connections to adjoining public land to support the strategic development requirements of areas where multiple land ownership and fragmentation has occurred.

RA.3 Subdivision Rules – Discussion

60. I acknowledge the benefits of pedestrian connections to adjoining public land. Amendments to RA.3.3.1(g) were therefore considered, but requiring pedestrian connections to adjoining public land is difficult to manage through a rule as it may result in excessive, unnecessary or poorly designed pedestrian connections. This could significantly increase the costs of subdivisions as additional land would need to be reserved for pedestrian connections or consent may be required where connections could not be provided. No specific wording has been recommended by WDC I&S with regards to RA.3.3.1(g). In my opinion it is difficult to achieve the relief sought while ensuring that the rules are not overly restrictive. I note that section 7 of the EES does address pedestrian connections and access ways to provide guidance to developers.

RA.3 Subdivision Rules – Recommendation

61. I recommend that the Commissioners **reject** submission point 479/3.

RA.4 Matters of Control and Assessment Criteria – Submission Information

62. WDC I&S²² raises concern regarding RA.4.1.1(g) that the provision may not adequately provide for roading connections between subdivided land in the RUEE.

63. FNDC²³ requests the following specific amendment to RA.4.2.1(n):

- n. The need for footpaths/cycleways, kerb and channel on roads, in the vicinity of a ~~the~~ subdivision or landuse.*

²¹ 479/3

²² 479/7

²³ 410/31

64. FNDC considers that land uses can generate pedestrian/cyclist traffic in areas that have not previously been designed to accommodate these activities. This can put pedestrian/cyclist safety at risk and lead to additional costs for ratepayers.

RA.4 Matters of Control and Assessment Criteria – Discussion

65. With regard to RA.4.1.1(g), the matter of roading connections in the RUEE has been comprehensively addressed in **Part 11** of this s42A report **topic E**.
66. I support FNDC's proposed amendment to RA.4.2.1(n) as I acknowledge the importance of considering the effects on footpaths/cycleways in relation to landuse activities. The recommended amendment provides economic and environmental benefits by enabling additional consideration of footpaths and cycleways, providing a better transport network with a focus on active transport and reducing the costs to the public by ensuring that applicants provide footpaths/cycleways where appropriate. I recommend slight changes to the requested wording to improve legibility.

RA.4 Matters of Control and Assessment Criteria – Recommendation

67. I recommend that the Commissioners **accept** submission point 410/31, and that the notified provisions are amended as follows:

RA.4.2 Assessment of Discretionary Activities

1. ...

- n. The need for footpaths/cycleways, and kerb and channel on roads, in the vicinity of a ~~the~~ subdivision or landuse.

E. Biodiversity

Submission Information

68. Five submission points were made with regard to the topic of biodiversity.

RA.1.3 Policies

69. The Department of Conservation (**DoC**)²⁴ seeks to retain RA.1.3.3(d). FFNZ²⁵ oppose this submission point in part as 'significant' indigenous vegetation should be defined.
70. DoC²⁶ requests the following specific amendment to RA.1.3.5(d):
- d. Do not comprise high Land Use Capability Class soils, Outstanding Natural Landscapes or Features, High or Outstanding Natural Character or significant indigenous vegetation or habitat.*
71. FFNZ oppose this submission point in part as significant indigenous vegetation or habitat of indigenous fauna should be defined.
72. DoC²⁷ requests the following specific amendment to RA.1.3.6(e):

²⁴ 78/1

²⁵ x518

²⁶ 78/2

²⁷ 78/3

e. *Do not comprise Outstanding Natural Landscapes or Features or significant indigenous vegetation or habitat.*

73. FFNZ oppose this submission point in part as “under s6 of the RMA, natural character is relevant for the CA and certain waterbodies”. Hort NZ²⁸ supports this submission point as the “inclusion of soils in the policy is supported to ensure that it is considered as part of identifying Rural (Urban Expansion) Environment (RUEE) areas”.

RA.3 Rural Area Subdivision Performance Standards

74. DoC²⁹ seeks to retain RA.3.3.1(p). FFNZ oppose this submission point in part as RA.3.3.1(p) should focus on adverse effects, not changes.

RA.4.1. Matters of Control

75. DoC³⁰ seeks to retain RA.4.1.1(j). FFNZ oppose this submission point in part as the terminology should be consistent with the RMA (i.e. refer to significant indigenous vegetation and habitat for indigenous fauna and define these terms). The Landowners Coalition³¹ opposes this submission point as well stating that the effects of subdivision on flora and fauna ignore the positive benefits.

Discussion

76. I acknowledge and generally support DoC’s support of RA.1.3.3(d), RA.3.3.1(p) and RA.4.1(j) as I consider these to be appropriate methods of managing adverse effects on natural ecosystems and flora and fauna.
77. I do not support the requested amendments to RA.1.3.5(d) or RA.1.3.6(e) because including the term ‘habitat’ as a zoning criterion for the RVE and RUEE may lead to uncertainty and debate as to what constitutes a habitat. This could significantly change the mapping criteria of these Environments and require re-notification. I consider that the policies as proposed address biodiversity concerns sufficiently by considering Outstanding Natural Landscapes and Features, High or Outstanding Natural Character and significant indigenous vegetation.
78. With regard to FFNZ’s request to define ‘significant indigenous vegetation’, I note that the WDP currently defined ‘indigenous vegetation’ as follows:

Indigenous Vegetation

means plants which belong naturally in the ecological locality and includes Manuka, Kanuka.

79. The term ‘significant indigenous vegetation’ is not defined in the WDP and was not used as a precisely defined term in the zoning criteria policies RA.1.3.3(d), RA.1.3.5(d) and RA.1.3.6(e). Rather, when assessing sites for meeting the zoning criteria an on-balance assessment was made using aerial photography and site visits in some instances to assess the overall quality and quantity of indigenous vegetation within sites. Defining ‘significant indigenous vegetation’ would likely lead to significant additional costs to individually assess areas of vegetation for their significance. Within the zoning criteria this was used as one of many factors to determine suitability for various proposed Environments.

²⁸ x198

²⁹ 78/4

³⁰ 78/5

³¹ x374

Recommendation

80. I recommend that the Commissioners:

- **Accept** submission points 78/1, 4 and 5.
- **Reject** submission points 78/2 and 3.

F. Amenity and Character

Submission Information

81. Six submission points were made with regard to the topic of amenity and character.

RA.1.2 Objectives

82. NZ Pork³² supports RA.1.2.5 as amenity values and rural character are often defined by the rural production activities the Environment supports.

83. GBC Winstone (GBC)³³ requests the following specific amendment to RA.1.2.5:

5. ~~Protect~~ Avoid, remedy or mitigate the range of amenity values and characteristics in the Rural Area.

RA.1.3 Policies

84. NZ Pork³⁴ supports RA.1.3.1 as amenity values and rural character are often defined by the rural production activities the environment supports.

85. Hort NZ³⁵ requests that the phrase “consistent with rural production activities” be included within RA.1.3.1.

86. Hort NZ also requests the following specific amendment to policy RA.1.3.9:

9. *To ensure that the scale and nature of new rural land use activities is consistent with the existing level of amenity of the relevant Environment and in the new Rural Living Environment reflects the rural location and surrounding rural production activities.*

87. GBC³⁶ requests the following specific amendment to RA.1.3.9 to ensure that the level of amenity referred to is within the Rural Environment and not adjoining zones:

9. *To ensure that the scale and nature of new rural land use activities is consistent with the existing level of amenity of the relevant Environment within which the new rural land use activity is located.*

88. Hort NZ³⁷ notes that the changes requested by GBC and Hort NZ are similar and requests that RA.1.3.9 be amended as sought by both submission points.

89. KiwiRail³⁸ seeks to retain RA.1.3.9 as the scale and nature of new rural landuse activities should be consistent with the level of amenity in the existing Environment.

³² 240/5

³³ 250/3

³⁴ 240/6

³⁵ 423/4

³⁶ 250/4

³⁷ x409

³⁸ 429/1

Discussion

90. I acknowledge and generally support the submission points in support of RA.1.2.5 and RA.1.3.9 as I consider these to be appropriate methods of protecting the amenity and character within each Environment.
91. I do not support the proposed amendment to RA.1.2.5 as this would essentially achieve the opposite of the proposed provision. It is important to protect amenity values and unique characteristics in the RA; thus in my opinion 'protect' is more appropriate than 'avoid, remedy or mitigate'.
92. I do not support Hort NZ's requested amendment to RA.1.3.1 as several Environments within the RA do not provide for rural production activities. In my opinion it is inappropriate to include the requested phrase within the policy as it is an overarching policy that applies to all of the Rural Environments.
93. I do not support the requested amendments to RA.1.3.9 for the following reasons:
- The proposed term 'relevant Environment' implies that the effects on amenity must be considered for the Environment within which the activity is located. In my opinion GBC's requested amendment is superfluous.
 - The relationship between Environments and potential effects within and outside an Environment are defined by each Environment's provisions which determine how RA.1.3.9 applies.
 - The description and expectations of the Rural Living Environment (**RLE**) and the subsequent provisions establish that the zone is within a rural setting. In my opinion Hort NZ's requested amendment is superfluous.

Recommendation

94. I recommend that the Commissioners:
- **Accept in part** submission points 240/5 and 6 and 429/1, noting minor changes have been recommended to RA.1.3.9, as discussed in **topic M** below.
 - **Reject** submission points 250/3 and 4 and 423/4 with regard to the requested amendments to RA.1.2.5, RA.1.3.1 and RA.1.3.9.

G. Reverse Sensitivity

95. Fifteen submission points were made with regard to the topic of reverse sensitivity. In general, the reasons for the relief sought include:
- Potential conflicts between incompatible land uses should be reduced and/or avoided.
 - Controls must be implemented to ensure that sensitive activities do not locate within close proximity to lawfully established activities (e.g. network utilities, mineral extraction activities, rural industries, the railway line and horticulture).
 - Horticulture is an important rural production activity within the District and must be appropriately recognised, provided for and protected from reverse sensitivity effects.

RA.1.1 Description and Expectations – Submission Information

96. Hort NZ³⁹ requests the following specific amendment to RA.1.1:

Rural Living Environment (RLE)

The Rural Living Environment provides for the on going rural living development of land and rural living activities in locations that have an existing density of rural living development where rural production activities won't be compromised.

RA.1.1 Description and Expectations – Discussion

97. I do not support the proposed amendment to RA.1.1 as this paragraph is only meant to provide a brief description of the RLE. More detailed information of the RLE is provided in the RA objectives and policies and in the RLE chapter.

RA.1.1 Description and Expectations – Recommendation

98. I recommend that the Commissioners **reject** submission point 423/1.

Objective RA.1.2.2 – Submission Information

99. NZ Pork⁴⁰ seeks to retain RA.1.2.2. The following four submitters request amendments to the same objective as stated:

- GBC⁴¹:
 2. *Avoid, remedy or mitigate reverse sensitivity impacts ~~especially in relation to~~ established and ~~productive~~ rural production activities.*
- Fonterra⁴²:
 2. *Avoid, remedy or mitigate reverse sensitivity impacts especially in relation to established and productive rural activities and rural industries.*
- Hort NZ⁴³:
 2. *Avoid remedy or mitigate reverse sensitivity impacts especially in relation to established and ~~productive~~ rural production activities.*
- Radio New Zealand⁴⁴:
 2. *Avoid remedy or mitigate reverse sensitivity impacts especially in relation to established and productive rural activities and infrastructure and network utilities.*

100. Hort NZ⁴⁵ opposes GBC's submission point in part and supports the submission points from Fonterra and Radio NZ and seeks that RA.1.2.2 be amended as sought by Hort NZ, Fonterra and Radio NZ.

Objective RA.1.2.2 – Discussion

101. I agree that RA.1.2.2 can be improved as 'productive rural activities' lacks clarity. However, I do not support listing other specific activities such as infrastructure and network utilities (which are addressed by the WDP District wide provision 23.4.6). Other activities and resource areas such as mineral

³⁹ 423/1

⁴⁰ 240/3

⁴¹ 250/3

⁴² 414/3

⁴³ 423/2

⁴⁴ 462/1

⁴⁵ x409, x416 and x419

extraction activities and strategic rural industries will similarly be protected by the proposed provisions in Plan Change 102 and Plan Change 85B, respectively, and do not need to be specifically listed. Additionally, the first half of RA.1.2.2 states “Avoid, remedy or mitigate reverse sensitivity impacts...”. I recommend inserting a comma after this clause to identify it as a standalone clause addressing reverse sensitivity effects on all activities and the second half of the clause identifying ‘rural production activities’ as being of particular importance in the RA.

102. A key priority of the RA is to provide for rural production activities. I support amending the objective to particularly protect these activities from reverse sensitivity effects. By improving the clarity of the terminology and including a comma to separate the two clauses I consider that the objective more appropriately achieves the purpose of the RMA and achieves the relief sought.

Objective RA.1.2.2 – Recommendation

103. I recommend that the Commissioners:

- **Accept in part** submission points 240/3, 250/3, 414/3 and 423/2, and that the notified provisions are amended as follows:

RA.1.2 Objectives

2. Avoid, remedy or mitigate reverse sensitivity impacts, particularly ~~especially~~ in relation to established and ~~productive~~ rural production activities.

- **Reject** submission point 462/1.

RA.1.3.3(a-h) – Submission Information

104. NZ Pork⁴⁶ supports RA.1.3.3(a-h).

RA.1.3.3(a-h) – Discussion

105. I acknowledge and generally support NZ Pork’s submission point as I consider RA.1.3.3 appropriate to establish the RLE zoning criteria.

RA.1.3.3(a-h) – Recommendation

106. I recommend that the Commissioners **accept** submission point 240/8.

RA.1.3.6 – Submission Information

107. GBC⁴⁷ requests the following additional zoning criterion be included in RA.1.3.6:

- Do not have reverse sensitivity effect on the lawfully established mineral extraction activities or strategic rural industry.

⁴⁶ 240/8

⁴⁷ 250/4

RA.1.3.6 – Discussion

108. Potential reverse sensitivity effects were considered when mapping the RUEE (as discussed in **Part 8** of the s32 report⁴⁸) and have factored into the proposed zoning of certain areas. I agree with GBC that it is appropriate to include reference to reverse sensitivity in policy RA.1.3.6.
109. The RLE zoning criteria policy (RA.1.3.3) includes the following criterion referencing reverse sensitivity effects:
- RA.1.3.3(h)*
Will not materially increase the potential for reverse sensitivity effects in the Rural Area.
110. In my opinion, the RLE criterion wording is more appropriate than the wording requested by GBC. The requested wording by GBC manages effects on two specific activities compared to the RLE criterion which covers a broader range. The RLE criterion also maintains some flexibility where reverse sensitivity effects may be appropriate provided they are not materially increased. Duplicating the RLE criterion for the RUEE also maintains consistency between the provisions.
111. As reverse sensitivity was considered when mapping the RUEE, the recommended changes do not change the RUEE boundaries in my opinion and instead better reflects the criteria used to assess the boundaries. I also recommend minor changes to the policy improve legibility.

RA.1.3.6 – Recommendation

112. I recommend that the Commissioners **accept in part** submission point 250/4 with regard to the requested amendment to RA.1.3.6, and that the notified provisions are amended as follows:

RA.1.3 Policies

6. To identify areas as RUEE that ~~are~~:
- a. ~~Are c~~ontiguous with Living Environments on the fringe of Whangarei City.
 - b. ~~Are p~~redominantly comprised of existing rural residential character.
 - c. ~~To~~ legitimise the zoning of existing clusters of rural residential development.
 - d. ~~Are n~~ot identified as significantly hazard prone.
 - e. Do not comprise Outstanding Natural Landscapes or Features or significant indigenous vegetation.
 - f. Have existing lot density of less than 2 hectares.
 - g. ~~Are p~~redominately suitable for future reticulated urban expansion of Whangarei City.
 - h. Do not compromise the future expansion of urban growth.
 - i. Will not materially increase the potential for reverse sensitivity effects in the Rural Area.

RA.1.3.11 – Submission Information

113. KiwiRail⁴⁹ seeks to retain RA.1.3.11 as notified while the following three submitters request amendments to the same policy as stated:

⁴⁸ Pages 4-5 and 12-14

⁴⁹ 429/1

- GBC⁵⁰:
 11. *To manage the establishment and location of new rural activities to avoid conflicts between existing authorised incompatible land uses.*
- Fonterra⁵¹:
 11. *To manage the establishment and location of new rural activities, including dwellings to avoid conflicts between incompatible land uses.*
- Hort NZ⁵²:
 11. *To manage the establishment and location of new non-rural activities to avoid conflicts between incompatible land uses.*

114. Hort NZ⁵³ supports their own requested amendment to RA.1.3.11 rather than GBC's, but supports Fonterra's submission point and seeks that RA.1.3.11 be amended as sought by Fonterra and themselves.

RA.1.3.11 – Discussion

115. 'Rural activities' has not been defined and therefore it is unclear what activities this policy is referring to. Fonterra's submission highlights this issue by suggesting that 'dwellings' needs to be explicitly stated. The policy as notified is therefore inefficient in my opinion as many different activities can have reverse sensitivity effects and the term 'rural activities' is ambiguous and can be limiting. For this reason, I do not support Hort NZ's submission point as 'non-rural activities' presents the same issues.
116. I do not support GBC's submission point as, in my opinion, the proposed amendment does not improve or add to the policy.
117. I acknowledge and generally support KiwiRail's submission point. I propose an amendment to the policy to clarify what activities are being managed and to manage a wider range of activities. However, I consider that the original intention and outcome are maintained in a manner that still achieves the submitter's relief sought.

RA.1.3.11 – Recommendation

118. I recommend that the Commissioners **accept in part** submission points 250/4, 414/4, 423/4 and 429/1, and that the notified provisions are amended as follows:

RA.1.3 Policies

11. To manage the establishment and location of new ~~rural~~ activities in the Rural Area to avoid conflicts between incompatible land uses.

⁵⁰ 250/4

⁵¹ 414/4

⁵² 423/4

⁵³ x409 and x416

RA.4.1 Matters of Control – Submission Information

119. Hort NZ⁵⁴ seeks to retain Matters of Control RA.4.1.1(d).
120. Radio NZ⁵⁵ requests that the following specific additional matter of control be included in RA.4.1.1:
- k. The extent to which subdivision activities have the potential to have adverse reverse sensitivity effects on infrastructure and network utilities.
121. FFNZ⁵⁶ oppose Radio NZ's submission point and states that RA.4.1.1(d) addresses the matters covered by the requested additional amendment.
122. Hort NZ⁵⁷ supports in part Radio NZ's submission point and seeks that an additional matter of control is included in RA.4.1.1 relating to all reverse sensitivity activities in the RA, including rural production activities.

RA.4.1 Matters of Control – Discussion

123. I acknowledge and support Hort NZ's submission point as, in my opinion, this provision is necessary to manage potential reverse sensitivity effects from subdivision.
124. I do not support the inclusion of an additional matter of control managing potential reverse sensitivity effects on infrastructure and network utilities. In my opinion the proposed matters of control are sufficient to address the issues of concern to the submitter as RA.4.1.1(d) addresses reverse sensitivity effects between incompatible land use activities and RA.4.1.1(f) provides guidance and protection around infrastructure. While there is no matter of control explicitly protecting network utilities, I consider RA.4.1.1(d) sufficient as network utilities are a landuse activity.

RA.4.1 Matters of Control – Recommendation

125. I recommend that the Commissioners:
- **Accept** submission point 423/9.
 - **Reject** submission point 462/2.

RA.4.2 Assessment of Discretionary Activities – Submission Information

126. The following three submitters each request an additional assessment criterion to be included in RA.4.2.1 as follows:
- GBC⁵⁸:
 - u. Effects of reverse sensitivity on existing lawfully established rural production activities including mineral extraction activities and strategic rural industries.
 - Hort NZ⁵⁹:

⁵⁴ 423/9

⁵⁵ 462/2

⁵⁶ x618

⁵⁷ x419

⁵⁸ 250/6

⁵⁹ 423/9

u. The location of rural production activities in the vicinity and methods to avoid potential reverse sensitivity effects.

- Radio NZ⁶⁰:

u. Potential for reverse sensitivity effects on infrastructure and network utilities.

127. Hort NZ⁶¹ supports in part GBC's and Radio NZ's submission points and seeks that an additional criterion relating to reverse sensitivity is included in RA.4.2.1 to address all activities in the RA, including rural production activities.
128. FFNZ⁶² oppose Radio NZ's submission point in part as a reverse sensitivity criterion is considered necessary but should not be limited to infrastructure and network utilities.

RA.4.2 Assessment of Discretionary Activities – Discussion

129. In my opinion RA.4.2 is not meant to be an all-inclusive list, as the assessment matters for discretionary activities are not limited to RA.4.2.1(a)-(t), and it is therefore not necessary to list every potential consideration in RA.4.2. However, I do support the inclusion of a new assessment criterion that addresses reverse sensitivity as this is a key issue within the RA.
130. Three reasonably practicable options have been identified for the proposed change:
- **Option 1:** Notified RA.4.2.1 Provision.
 - **Option 2:** Recommended Revised Provision – Inclusion of a broad reverse sensitivity assessment criterion – See **Part 1** of the s42A report **Attachment 2D**.
 - **Option 3:** Alternative Revision and Submissions Requests (submission points 250/6, 423/9 and 462/3) – Inclusion of a reverse sensitivity assessment criterion explicitly stating specific activities which should be considered (e.g. mineral extraction activities, network utilities, strategic rural industries and rural production activities).

⁶⁰ 462/3

⁶¹ x409 and x419

⁶² x618

131. Evaluation of these options has been summarised in Table 2:

TABLE 2: EVALUATION OF REVERSE SENSITIVITY ASSESSMENT CRITERION OPTIONS		
Option	Costs	Benefits
Option 1: Notified Provision	<u>Environmental, Economic & Social</u> RA.4.2 would not cover reverse sensitivity. And reverse sensitivity effects can adversely affect environmental, social and economic aspects. <u>Cultural</u> None known.	<u>Environmental, Social & Cultural</u> None known. <u>Economic</u> Potentially reduced costs for applicants not having to consider reverse sensitivity effects or mitigation measures.
Option 2: Recommended Revised Provision	<u>Environmental, Social & Cultural</u> None known. <u>Economic</u> May result in additional consenting costs for applicant.	<u>Environmental</u> Enables additional consideration of reverse sensitivity effects. <u>Economic</u> May reduce reverse sensitivity effects which could in turn reduce operational costs for existing activities. <u>Social</u> Reduced reverse sensitivity effects between neighbours. <u>Cultural</u> None known.
Option 3: Alternative Revision	<u>Environmental, Economic, Social & Cultural</u> Similar to Option 2, but with particular attention directed to specific activities.	
Efficiency & Effectiveness		
Option 1:	Not effective in making it clear to applicants that reverse sensitivity will be an assessment criterion.	
Option 2:	Clearly states that reverse sensitivity is an issue that needs to be considered.	
Option 3:	Option 3 is similarly effective to Option 2 but is less efficient as explicitly stating each type of activity that needs to be considered in terms of reverse sensitivity would not streamline or simplify the WDP.	
Option	Economic Growth and Employment Opportunities	
The proposed options have minimum direct impact on economic growth and employment opportunities. However, over time reverse sensitivity can adversely affect the operations of existing activities and generate additional costs for these activities. Options 2 and 3 help protect existing activities.		
Risk of Acting and not Acting if there is Uncertain or Insufficient Information		
There is risk associated with Option 3 as some activities may be accidentally omitted.		

132. Option 2 is considered the most efficient and effective method to achieve the purpose of PC85.

RA.4.2 Assessment of Discretionary Activities – Recommendation

133. I recommend that the Commissioners **accept in part** submission points 250/6, 423/9 and 462/3, and that the notified provisions are amended as follows:

RA.4.2 Assessment of Discretionary Activities

1...

u. The potential for reverse sensitivity effects on existing lawfully established activities and any mitigation measures proposed.

H. Cultural Values

Submission Information

134. Patuharakeke Hapu⁶³ supports the provisions within RA.3.3 and RA.4 regarding sites of significance to Māori. However, the submitter requests that there be reference to sites of significance to Māori/Māori values in the policy direction of the RA chapter (e.g. by referring to the protection of cultural values in the objectives).
135. FFNZ⁶⁴ oppose this submission point in part and consider that cultural values should not be reflected somewhere up front in the RA Chapter as cultural impact assessments can add significant costs, delays and uncertainty for consent applicants.

Discussion

136. I acknowledge the general support for the provisions within RA.3.3.1(a) and RA.4.1.1(e) regarding sites of significance to Māori as I consider these provisions to be effective means of managing adverse cultural effects.
137. I do not support additional objectives or policies regarding sites of significance to Māori/Māori values as there are currently several District wide chapters which address these values (i.e. Chapter 7: Tangata Whenua, Chapter 60: Sites of Significance to Māori Resource Area rules and Chapter HH: Historic Heritage). In my opinion it is inefficient to include repetitive provisions in the RA Chapter. However, I agree with the submitter that additional reference to sites of significance to Māori/Māori values would be beneficial in RA.1.1 Description and Expectations to acknowledge and explain the cultural context and significance that exists in the RA.

Recommendation

138. I recommend that the Commissioners **accept in part** submission point 238/9, and that the notified provisions are amended as follows:

RA.1.1 Description and Expectations

...The majority of the land is classified as having moderately productive soil types, being generally identified as stable productive hill country. The Rural Area also contains many archaeological sites and Sites of Significance to Māori.

⁶³ 238/9

⁶⁴ x608

I. Rural Production

139. 22 submission points were made with regard to the topic of rural production.

RA.1.2 Objectives – Submission Information

140. NZ Pork⁶⁵ and Hort NZ⁶⁶ seek to retain objective RA.1.2.1 to protect of the productive function of rural land.

141. Hort NZ also requests the following specific amendment to objective RA.1.2.6 to focus on areas of lesser productive value and because determining what is 'compromised' is a judgement on land use and is not necessarily linked to the criteria that are set out in policy RA.1.3.3:

6. Consolidate rural living subdivision and development in areas ~~where productive rural land uses have already been compromised or~~ on less productive land without significant adverse effects on the environment.

142. NZ Pork⁶⁷ supports objective RA.1.2.3 to limit subdivision and development in rural areas that could lead to constraints on rural production in terms of accessibility to rural resources and reverse sensitivity.

RA.1.2 Objectives – Discussion

143. I acknowledge and support the submission points supporting objectives RA.1.2.1 and RA.1.2.3.

144. I do not support the requested amendment to objective RA.1.2.6. Many sites within the District have been historically subdivided to the point where their potential for productive uses has been compromised. The requested amendment will, in my opinion, hinder the intention to correct 'dishonest zoning' within the District. Where other zoning criteria are met and rural land uses have been compromised, it is, in my opinion, appropriate to rezone these sites to either RLE, RVE or RUEE as residential development is the most efficient use of the land when compared to rural production.

145. I note that an amendment has been recommended to RA.1.2.6, as discussed in **topic M** below. The amendment proposes to replace 'productive rural land uses' with 'rural production activities' to provide more clarity to the objective.

RA.1.2 Objectives – Recommendation

146. I recommend that the Commissioners:

- **Accept** submission points 240/2 and 4.
- **Accept in part** submission point 423/2 supporting RA.1.2.1.
- **Reject** submission point 423/2 with regard to the requested amendment to RA.1.2.6.

RA.1.3.2 – Submission Information

147. NZ Pork⁶⁸ supports policy RA.1.3.2(a-e) to protect and enhance rural production activities.

148. GBC⁶⁹ request the following specific amendment to RA.1.3.2 to protect existing authorised land uses:

⁶⁵ 240/2

⁶⁶ 423/2

⁶⁷ 240/4

⁶⁸ 240/7

⁶⁹ 250/4

2. *To ensure that ~~rural production activities~~ ~~productive rural land resources~~ are protected in order to enable a diverse range of productive rural land use activities by applying the RPE in locations where:*

149. Hort NZ⁷⁰ requests the following specific amendment to RA.1.3.2(b) as the presence of small allotments does not mean that the land is not suitable for, or being used for, production purposes, and particularly horticultural purposes:

b. Larger land parcels are generally prevalent with horticultural blocks being smaller in nature and the area is not compromised by significant clusters of rural living built development.

150. Hort NZ also requests the following specific amendment to RA.1.3.2 to include an additional zoning criterion for the Rural Production Environment (**RPE**) to protect high value productive land for production purposes:

f. The range of components such as access to water, high quality soil, suitable climate and contour, required for a rural production system, are present.

RA.1.3.2 – Discussion

151. I do not support the requested amendments to policy RA.1.3.2 because in my opinion:

- The intention of the policy is to protect the land resource rather than established activities which use the resource.
- The intention of the policy, and specifically criterion (b) is not to identify specific lot sizes or land uses. In my opinion, 'generally' is redundant when preceding 'prevalent'.
- Some areas of the proposed RPE may not contain all the components required for rural production activities. However, these areas are also not considered suitable for more intensive development and the RPE is the most appropriate zone. It is not necessary for a site in the RPE to provide production potential.
- The requested changes to the zoning criteria may significantly alter the proposed Environment boundaries as many sites do not comprise all these components and may not meet the RPE zoning criteria. This may then require re-notification of the plan changes.

152. I note that an amendment has been recommended to RA.1.3.2, as discussed in **topic M** below. The amendment proposes to replace 'productive rural land use activities' with 'rural production activities' to provide more clarity to the policy.

RA.1.3.2 – Recommendation

153. I recommend that the Commissioners:

- **Accept** submission point 240/7.
- **Reject** submission points 250/4 and 423/4 with regard to the requested amendments to RA.1.3.2.

⁷⁰ 423/4

Additional Policy – Submission Information

154. 16 submission points⁷¹ request that a new policy be included in RA1.3 as follows:

14. To recognise and identify the district's highly productive and versatile land for its productive capacity and the value to the district's economy and to protect from urban and rural residential development.

155. The reasons for the relief sought include:

- The plan change is proposing a consequential amendment to the WDP to delete the operative policy 6.4.10 Productive Soils and there is no policy that brings across the concept to RA.1.3.
- While the RPS identifies some classes of versatile land as important there are also areas of highly productive land outside of Classes I - III that need to be identified and protected from encroachment by urban and rural residential development.

Additional Policy – Discussion

156. The option of mapping productive and versatile soils was considered under the **Part 3** of the s32 report⁷². As assessed in that report, there are significant economic costs associated with identifying and mapping these soils. In the absence of technical information, costs may be transferred to applicants resulting in additional consenting requirements and costs. Additionally, the District has a varied rural environment with variable soil types, landform, stability and access to water sources, making this more difficult to identify and map. I agree with the s32 assessment that overall this results in an inefficient method as the costs involved with evaluating and identifying the rural productive land throughout Whangarei District is very high and these outweigh the benefits.

157. Numerous proposed provisions directly or indirectly provide for the protection of productive and versatile soils including RA.1.2.1, 1.2.3, 1.2.6, 1.3.2, 1.3.3 and 1.3.5. In my opinion, the policy directions of the RPS to protect productive soils have been given effect to in determining the boundaries of each Environment. Including an additional policy regarding the protection of productive soils is, in my opinion, unnecessary and inefficient.

Additional Policy – Recommendation

158. I recommend that the Commissioners **reject** submission points 181/8, 185/8, 186/8, 191/8, 203/8, 219/8, 233/8, 235/8, 244/8, 260/8, 261/8, 277/8, 314/8, 406/8, 423/6 and 426/8.

J. Rural Area Activities

159. Three submission points were made with regard to the topic of RA activities.

RA.1.1 Description and Expectations – Submission Information

160. Fonterra⁷³ requests the inclusion of the following additional sentence in the third paragraph of RA.1.1, to reflect the fact that there are also rural industrial activities located within the RA:

⁷¹ 181/8, 185/8, 186/8, 191/8, 203/8, 219/8, 233/8, 235/8, 244/8, 260/8, 261/8, 277/8, 314/8, 406/8, 423/6 and 426/8.

⁷² Pages 13 – 15

⁷³ 414/2

...activities that support primary production activities. There are also a number of Strategic Rural Industries which are related to primary production located in the Rural Area. There is a continuing demand...

161. GBC⁷⁴ requests the following specific amendment to the fifth paragraph of RA.1.1, to acknowledge additional activities occurring in the RA:

...key element of the District. Rural production activities ~~Productive usage~~ includes farming, forestry, ~~quarrying~~, mineral extraction activities, dairy processing, cement manufacturing, recreation and tourism.

RA.1.1 Description and Expectations – Discussion

162. I generally support Fonterra's submission point and consider that an additional reference to the fact that strategic rural industries are located in the RA is beneficial. However, strategic rural industries are not necessarily related to primary production. The proposed definition for strategic rural industries states the nature and scale of these activities and I consider it unnecessary to restate this in RA.1.1.
163. As discussed in **topic A** above, an amendment is recommended to paragraph 5 of RA.1.1 to improve legibility and terminology consistency by replacing "productive usage" with "rural production activities". As a new definition is recommended for the term "rural production activities" I do not consider it appropriate to list of the activities which comprise the recommended definition.

RA.1.1 Description and Expectations – Recommendation

164. I recommend that the Commissioners:

- **Accept in part** submission point 250/2 noting the recommended amendment to RA.1.1 discussed in **topic A** above.
- **Accept in part** submission point 414/2, and that the notified provisions are amended as follows:

RA.1.1 Description and Expectations

...The Rural Area has a diverse mix of land use ranging from living in villages and rural living areas to productive uses and Strategic Rural Industries~~such as forestry, horticulture and agricultural activities that support primary production activities~~. There is a continuing...

RA.1.2 Objectives – Submission Information

165. GBC⁷⁵ requests the following additional objective for RA.1.2:

13. Provide for Mineral Extraction activities in Mineral Extraction Areas within the Rural Area, and Strategic Rural Industries in the Rural Area.

166. The submitter considers that Mineral Extraction Activities in Mineral Extraction Areas and Strategic Rural Industries should be better protected from reverse sensitivity effects.

RA.1.2 Objectives – Discussion

167. I do not support the requested additional objective for RA.1.2 as mineral extraction activities are addressed as a Resource Area through Plan Change 102 and strategic rural industries are already

⁷⁴ 250/2

⁷⁵ 250/3

provided for in the RA. Additionally, objective RA.1.2.8 already provides for a range of appropriate land uses. Therefore, in my opinion, the requested amendment is superfluous.

RA.1.2 Objectives – Recommendation

168. I recommend that the Commissioners **reject** submission point 250/3 with regard to the requested additional objective.

K. Urban Growth

169. Submission Information

170. GBC⁷⁶ requests the following specific amendment to RA.1.2.7:

7. *Provide for areas of rural residential development on the fringe of Whangarei City, recognising that some of these areas may be considered appropriate to ~~while ensuring that these areas can~~ accommodate future urban growth.*

Discussion

171. Objective RA.1.2.7 relates to the RUEE. I do not support the requested amendment as areas which can accommodate future urban growth have been proposed as RUEE, and additional objectives and policies including RA.1.3.6 also apply.

Recommendation

172. I recommend that the Commissioners **reject** submission point 250/3.

L. Commercial and Industrial Activities

Submission Information

173. Reyburn and Bryant⁷⁷, Zodiac Holdings Ltd⁷⁸ and Ginty Naenae Ltd⁷⁹ request the following additional objective in RA.1.2 (or words to similar effect):

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

174. Reyburn and Bryant⁸⁰, Zodiac Holdings Ltd⁸¹ and Ginty Naenae Ltd⁸² also request the following additional policy in RA.1.3 (or words to similar effect):

14. To enable the establishment and continued operation of commercial and industrial activities where it can be demonstrated that activities:

a. Have valid operation reasons to be located in the Rural Area.

b. Contribute positively to the economy of the District.

c. Provide local employment opportunities.

⁷⁶ 250/3

⁷⁷ 309/1

⁷⁸ 327/1

⁷⁹ 336/2

⁸⁰ 309/3

⁸¹ 327/3

⁸² 336/5

d. Can meet and fund local infrastructure requirements.

e. Incorporate appropriate mitigation and management methods designed to ensure environmental effects are acceptable in the area in which the activities are proposed to be located.

175. The submissions are accompanied by s32 assessments. The submitters' reasons for the requested amendments are summarised as follows:

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

176. GBC⁸³ supports in part the requested additional policy as it gives better effect to the RPS. GBC considers that items a, b and c in the proposed policy recognise the positive economic and community effects these activities have, but items d and e are not sufficiently clear in their intent.

177. Hort NZ⁸⁴ opposes these submission points in part as the current definitions for industrial and commercial activities are too broad and some of these activities should not be anticipated in the RA. Hort NZ seeks to avoid reverse sensitivity effects and considers that an alternative may be to provide for some rural services or activities that have a functional need to locate in the RA.

Discussion

178. Similar submissions were also made with regard to the RPE and RLE and are discussed in **Part 7**⁸⁵ and **Part 10**⁸⁶ of the s42A report, respectively. In summary, an additional policy has been recommended for the RPE to provide more flexibility for commercial activities and home occupations are recommended to be identified as a discretionary activity. No changes have been recommended for the RLE.

179. In my opinion it is not necessary to duplicate objectives and policies within the RA and the RPE. The proposed Environment structure is intended to provide higher level policy direction in the RA and more specific policy direction for each Environment at the Environment level. Objective RA.1.2.8 provides for a range of land uses in the RA while policy RA.1.3.10 aims to ensure that new activities are consistent with the amenity and expectations within each Environment.

⁸³ x241 and x342

⁸⁴ x411, x412 and x413

⁸⁵ Topic I

⁸⁶ Topic D

Recommendation

180. I recommend that the Commissioners **reject** submission points 309/1 and 3, 327/1 and 3 and 336/2 and 5.

M. Consequential Changes

Submission Information

181. As discussed in **Part 1** of the s42 report⁸⁷, two submission points⁸⁸ have been made requesting further clarification and/or definition of terms such as 'rural production activities'. New definitions are recommended which require consequential changes to various sections of PC85 as discussed below.

Discussion

182. Consequential changes are recommended to RA.1.1, RA.1.2.6, RA.1.2.8, RA.1.3.2, RA.1.3.9, RA.1.3.10 and RA.1.3.12. I consider that these changes improve the clarity and consistency of the provisions by removing ambiguity around terms such as 'rural land use activities' and 'productive uses'.

Recommendation

183. I recommend that the Commissioners make the following consequential amendments to the notified provisions:

RA.1.1 Description and Expectations

...These coastal environments contain similar ~~rural~~ productive uses, but have the added influence of the Coastal Area.

...

Rural Production Environment (RPE)

The Rural Production Environment provides primarily for the productive use and development of rural land and resources. Residential, commercial and industrial land use and development is expected to be secondary to ~~productive uses~~ rural production activities.

RA.1.2 Objectives

6. Consolidate rural living subdivision and development in areas where ~~productive rural land uses~~ rural production activities have already been compromised, or on less productive land without significant adverse effects on the environment.
8. Provide for a range of land uses in the Rural Area, including residential, rural residential, rural lifestyle, commercial, industrial and rural production activities in appropriate areas.

⁸⁷ Topic O

⁸⁸ 250/2 and 3

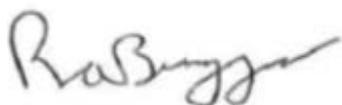
RA.1.3 Policies

2. To ensure that productive rural land resources are protected in order to enable a diverse range of ~~productive rural land use activities~~ rural production activities by applying the RPE in locations where: ...
9. To ensure that the scale and nature of new ~~rural~~ land use activities in the Rural Area is consistent with the existing level of amenity of the relevant Environment.
10. To consider the extent to which proposed ~~rural~~ land use and subdivision activities in the Rural Area achieve the stated Expectations for the relevant Environment.
12. To avoid adverse effects on the sustainable provision of infrastructure by ensuring that all ~~rural~~ subdivision and land use designs and necessary physical works in the Rural Area are undertaken in accordance with Whangarei District Council's Environmental Engineering Standards 2010.

6.0 Conclusions and Recommendations

184. After carefully considering the submissions and further submissions received in relation to each topic, I recommend that PC85 be amended to the extent detailed in the preceding sections of **Part 5** of the s42A report and as illustrated in **Part 1** of the s42A Report **Attachment 2D**. 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 rejected.
185. The revised provisions [**Part 1** of the s42A Report **Attachment 2D**] 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 PC85.
186. I have read and concur with any recommendations from other parts of this s42A report that result in amendments to PC85A to the extent illustrated in **Part 1** of the s42A report **Attachment 2D**.

AUTHOR



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