

Part 10
Proposed Plan Change 85D
Rural Living Environment

**Right of Reply – Council Reporting
Planners**

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1.0 Introduction

1. This is **Part 10** of the Right of Reply (**ROR**) report. This part should be read in conjunction with the other Parts 1 – 12. This ROR has been prepared by Evan James Cook and Sarah Jane Brownie on behalf of the Whangarei District Council (**WDC**) in response to particular matters raised at the hearings for the proposed Rural Living Environment PC85D (**RLE**).
2. Our Statements of Qualifications and Experience are provided in **Part 10** of the section 42A (**s42A**) evaluation report.

2.0 Purpose and Structure of Report

3. This ROR addresses issues that were raised through evidence and in the hearing of submissions. The content and structure of the s42A report has been used with new sections written in **blue** text.
4. Any changes that we recommend as a result of the ROR are highlighted in **green** in the revised track change version of the plan change provisions which are included as **Attachment 2H of Part 1 of the ROR**. Proposed changes previously recommended in the s42A report are still indicated with ~~strike throughs~~ representing recommended deletions and underlined writing representing recommended additions.
5. In our 42A report we grouped submissions by topics identified as 'A' to 'N' in this ROR report. We have addressed evidence and information presented by submitters in relation to the following Topics:
 - A. General Support
 - B. General Support for Objectives and Policies
 - C. Reverse Sensitivity
 - Objective RLE 1.2.5
 - Reverse Sensitivity Land Use Rules
 - Sensitive Activity and Place of Assembly Set Back from Rural Production Activities Land Use Rules
 - Reverse Sensitivity and Subdivision
 - D. Commercial and Industrial Activities
 - Commercial and Industrial Activity Status
 - E. Mineral Extraction and Industrial Activities, Activity Status
 - Activity Status Discussion
 - F. Rural Production Activities and Horticulture
 - Policy RLE 1.3.7
 - G. Stormwater and Aquifers
 - H. Site Coverage

- [Rule RLE 2.3.4](#)
- I. Residential Density
- J. Miscellaneous Rules
- K. Transport Infrastructure and Traffic Movements
 - [Additional amended vehicle movement rule](#)
- L. Subdivision Rules
 - [Environment Benefit Lots and Transferable Title Rights](#)
- M. Mapping Criteria
 - [Mapping Criteria and Criteria Application Discussion](#)
- N. Consequential Changes
- O. [Rezoning Adjacent to Urban/Village Zoned Areas \(New Topic\)](#)

6. With respect to Topics A, B, G, I, J and N, no substantively new material or evidence is before us (than what was included in the original submissions) that prompts us to provide additional comment or revise our opinion and recommendations.
7. With respect to those sections within Topics A to N which I have not specifically addressed, evidence may have been presented by submitters with submission points included under these topics headings however this evidence or material has not altered our original recommendation regarding these submission points unless specifically identified. As such our original recommendations remain unchanged for these matters.

3.0 Consideration of Submissions and Hearing Evidence

A. General Support

General Support Submission Information

20. Five submissions¹ were made in regard to support for the whole plan change. They expressed support for the entire plan change and seek that it becomes operative as notified.
21. An additional three submissions were made in support of the provisions of the plan change.
 - Ursula Buckingham² supports the proposed provisions.
 - Malcolm Aylward³ supports the objectives and policies stated for the proposed RLE. The submitter endorses the RLE1.3 Policies that preserves the balance between rural land productive use and lifestyle use.

¹ 89/1, 210/1 211/1, 264/1 and 374/1

² 136/1

³ 161/4

- Far North District Council (**FNDC**)⁴ supports RLE.2 in general and in particular supports RLE.2.3.7 as this clearly states what sort of home occupations are permitted.

General Support Submissions – Discussion

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

General Support - Recommendation

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

B. General Support for Objectives and Policies

General Support for Objectives and Policies - Submission Information

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

General Support for Objectives and Policies – Discussion

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

General Support for Objectives and Policies - Recommendation

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

C. Reverse Sensitivity

Reverse Sensitivity - Description and Expectations

Description and Expectations - Submission Information

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

Description and Expectations – Discussion

29. Reverse sensitivity is managed in the RLE first through the selection of RLE locations, and secondly through the setback provisions in RLE.2.3.1. Proximity to mineral extraction areas and

⁴ 410/62

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

⁶ 410/58

⁷ 250/20

SRIE were important considerations when selecting the RLE areas. In our opinion the Description and Expectations highlight reverse sensitivity effects and we do not consider it necessary or desirable to elevate mineral extraction activities or strategic rural industries above other activities which may also be vulnerable to the same effects.

Description and Expectations – Recommendation

30. We recommend that the Commissioners:

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

Reverse Sensitivity - Objectives

Objectives - Submission Information

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

32. GBC⁹ requests a new objective as follows:

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

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

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

Objectives – Discussion

34. We agree with Fonterra that there is a gap between the reference to reverse sensitivity effects in the description and expectations, and the policies and rules. It could be argued however that Objective 5 addresses this within the ambit of ‘adverse effects’ that the objective seeks to avoid.

35. GBC seeks a new objective that specifically mentions mineral extraction areas and SRIE. In our opinion there are also other activities that may be affected by reverse sensitivity in the RLE and it is unnecessary to list specific activities or Environments.

36. RLE 1.2.5 states that avoidance of adverse effects is an objective in the RLE and Policy 1.3.7 supports this by specifically addressing reverse sensitivity effects. We consider that it is appropriate to amend RLE.1.2.5 to make the reference to reverse sensitivity clearer to plan users. We support more concise wording however as set out below.

Objectives – Recommendation

37. We recommend that the Commissioners:

⁸ 240/24

⁹ 250/21

¹⁰ 414/14

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

RLE.1.2.5

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

Reverse Sensitivity - Objectives

Evidence and Hearing Information

C.1 Hort NZ would like the objective RLE 1.2.5 to be amended as follows:

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

C.2 Mr Hodgson supported a recommended change in his evidence on behalf of Hort NZ. He argues that it is appropriate to remove the reference to rural activities being compromised because “it is difficult to rationalise the concept that rural production has been compromised in all of the areas given the evidence”.

Right of Reply Discussion

C.3 We respectfully disagree with Mr Hodgson and with Hort NZ. RLE 1.2.5 signals an intended goal for the RLE in this case– the consolidation of residential development.

C.4 Objective RLE 1.2.5 has been proposed to provide for residential activity within the Rural Area in a manner which does not further compromise rural production activities.

C.5 Our view is that the amendments which Mr Hodgson has supported are considerably weakened and are less directive without the reference to locations which have already been compromised. If applied to future zoning requests and to potential private plan change requests, consolidation anywhere in the Rural Area that meets the objectives and policies becomes possible. Establishing new RLE clusters and spot zoning within the RPE where rural production activities are not compromised was not intended as part of this package of rural plan changes.

C.6 We note that Hort NZ have also requested very similar changes to a corresponding higher order objective in the Rural Area Chapter RA 1.2.6 as currently recommended states:

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.

C.7 Hort NZ have also requested that RA 1.2.6 to that policy as follows:

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. of less productive land and where

development will not compromise existing rural production activities or the ability of adjacent zones to be effectively and efficiently used for appropriate activities.

- C.8 We have conferred with the reporting planner for the Rural Area, Mr Burgoyne. We consider that there is an issue of duplication at hand given the subject matter and the nature of the relief sought by Hort NZ for each of the of the respective policies.
- C.9 RA 1.2.1 addresses protection of the long-term viability of the productive functions of rural land. It specifically addresses reverse sensitivity relation to established rural production activities. In our opinion, the combination of RA 1.2.1, RA 1.2.2 and RA 1.2.6 achieves the same effect as the relief Hort NZ has requested.
- C.10 We consider that the rationale we have presented to support the retention of references to areas which are already compromised for rural production activities within RLE 1.2.5 is an appropriate rationale to support RA.1.2.6 as currently recommended and to reject amended wording which Hort NZ has proposed. Our view is that given all these considerations, the most effective and efficient action is to defer to RA.1.2.6, and that RLE.1.3.5 should be deleted to avoid any unnecessary confusion or potential conflict arising.

Right of Reply Recommendation

C.11 We recommend that the Commissioners:

- **Reject** the relief sought by Hort NZ
- **Delete RLE 1.2.5**

Reverse Sensitivity – Policies

Policies - Submission Information

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

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

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

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

¹¹ 429/8

¹² 250/22

Policies – Discussion

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

Policies – Recommendation

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

RLE.1.3.7

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

Reverse Sensitivity Landuse Rules

Landuse Rules - Submission Information

44. Four submissions were made in regard to the proposed land use rules to avoid reverse sensitivity effects. They sought:
 - Changes to the activity status for sensitive activities within the setbacks specified in rule RLE 2.3.1.
 - Introduction of setbacks for other activities, and one submitter suggests a change to clarify the rule.
45. David Murray¹³ supports the requirements in 2.3.1.

¹³ 511/4

46. Fonterra¹⁴ suggests an amendment to RLE.2.3.1(a) to clarify that the Strategic Rural Industry Environment is where the 500m setback should be measured from.
47. NZ Pork¹⁵ submits that a sensitive activity within 30m of the RPE should be a non-complying activity.
48. GBC¹⁶ submits that any Sensitive Activity (excluding non-habitable buildings) within 500m of the Mining Area of a MEA or a Strategic Rural Industry should be a non-complying activity.

Landuse Rules – Discussion

49. These submissions seek to elevate the activity status for Sensitive Activities from discretionary activities to non-complying activities within the proposed buffer zones. The submitters do not, In our opinion, provide sufficient justification for their request for a non-complying activity.
50. The RLE was created to provide for rural lifestyle development (Sensitive Activities) in appropriate locations within the RA. When selecting the locations for the zone, activities that emit effects beyond their site boundaries with the potential to generate complaints (such as industrial or mineral extraction activities) have been deliberately avoided. This gives effect to the objectives and policies that seek to avoid reverse sensitivity effects. It is therefore unlikely, in our opinion, that these rules will be triggered in the RLE . The 30m setback from the RPE is more likely to be triggered with the proposed lot sizes, but in most cases we consider that there will be opportunities to build on an area of the site where the setback can be achieved. Given the location and the purpose of the RLE we consider that requiring a consent as a non-complying activity would be excessive.
51. We agree that amendments to ensure consistency and to provide certainty with respect to interpretation are appropriate.

Landuse Rules - Recommendation

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

RLE.2.3.1:

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

¹⁴ 414/15

¹⁵ 240/26

¹⁶ 250/24

Evidence and Hearing Information

- C.12 No substantively new evidence has been presented about this rule specifically at the plan change hearing. Mr Chrystal did address the definition of a sensitive activity in his evidence.

Right of Reply Discussion

- C.13 Any change to the definition of sensitive activity has the potential to have an indirect impact on this rule. We note that Ms McGrath has addressed the definition in **Topic O Part 1 of the ROR** and has not recommended any change. We concur with Ms McGrath's comments and her recommendation. We consider that the rule as currently recommended is appropriate.

Right of Reply Recommendation

- C.14 Our recommendation has not changed from **Part 10** of the s42A report.

Fonterra Setback from Irrigation Farm Kauri

Fonterra Setback from Irrigation Farm Kauri - Submission Information

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

Fonterra Setback from Irrigation Farm Kauri – Discussion

55. A portion of the proposed RLE at the north end of Apotu Road is within 250m of the boundary of Fonterra's irrigation farm. No other areas are proposed under PC85D that would be affected by accepting this amendment to the rule. Under the proposed zoning there are two vacant properties, and one property of 5.35ha that could potentially be subdivided, creating potential for an additional three dwellings within the 250m buffer. There are also two properties nearer to the irrigation farm which in our opinion are unlikely to be built on due to Council ownership and potential flooding hazard.
56. In response to Fonterra's submission, changes to the definition of Activities Ancillary to Farming have been recommended in **Topic O** within **Part 1** of the 42A report to include irrigation from Strategic Rural Industries, resulting in rule RPE.2.3.1d applying a 250m setback requirement to Sensitive Activities within the RPE. We concur with Ms McGrath's recommendation and support a similar rule in the RLE to ensure consistency.

Fonterra Setback from Irrigation Farm Kauri Recommendation

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

¹⁷ 414/16

RLE.2.3.1:

2. Any Sensitive Activity (excluding non-habitable buildings) within:

a. ...

e. 250m of:

- i. An existing intensive livestock activity on a separate site.
- ii. An existing activity ancillary to farming, plantation forestry or strategic rural industry on a separate site.

KiwiRail Setback Land Use Rule

KiwiRail Setback Landuse Rule - Submission Information

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

KiwiRail Setback Landuse Rule – Discussion

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

KiwiRail Setback Landuse Rule Recommendation

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

Sensitive Activity and Place of Assembly Setback Land Use Rule

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

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

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

62. Rural production activities are a permitted activity in the RLE and changes in land use may occur within the zone at any time. Council does not hold information on the location of existing lawfully established rural production activities. In our opinion the relief sought by Hort NZ could therefore be problematic. The rural production activities that this could apply to are potentially quite broad

¹⁸ 429/9

¹⁹ 423/25

²⁰ 344/2 and 344/3

so it is difficult to determine the impacts of the proposed rule. We assume that the submitter is requesting the 30m setback to protect existing horticultural operations. There is not enough information is provided in the submission however to clarify this, or whether the proposal would be an efficient or effective method to deal with reverse sensitivity. In our view the sensitive activity setback from RPE of 30m, along with the building setbacks of 10m from roads or 3m from other boundaries is sufficient to manage potential reverse sensitivity effects on rural production activities.

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

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

Evidence and Hearing Information

- C.15 Mr Hodgson presented evidence on behalf of Hort NZ. He supported the inclusion of a 30m setback from existing rural production activities within the RLE on the basis that other setbacks have been recommended in RLE 2.3. He suggested that it is appropriate to include the internal setbacks because their use elsewhere demonstrates that the method is effective and efficient tool to deal with reverse sensitivity.

Right of Reply Discussion

- C.16 We recognise that reverse sensitivity may occur in the RLE. We have carefully considered the requested internal sensitive activity set back rule, and the impacts it would have on rural production activities as well as on other occupants in the RLE.
- C.17 In our opinion, the costs to land owners of the proposed internal setback rule need to be properly considered. In the RLE where land parcels are smaller, the proposed setback could make a large portion of a lot un-useable, resulting in additional consenting costs for discretionary consents, in areas which are predominantly already subdivided or developed into lifestyle blocks.
- C.18 We have calculated that a lot requires a minimum area of 4900m² to avoid triggering the requested 30m setback in the RLE. This is the absolute minimum and is based on a best-case square lot scenario (which assumes other setbacks are not necessary) and where the rural production activity can be fixed in terms of location.
- C.19 Horticulture is only one of several possible rural production activities within the RLE and enabling lifestyle opportunities to undertake these activities (at an appropriate scale) is intended for the RLE. Considering this, our view is that the requested set back rule goes well beyond protection of horticultural operations and rural production activities. It would have unintended effects which overall would compromise the purpose and integrity of the RLE for very limited benefit. Acoustic advice we have received (for example) suggests that a 30m setback would not provide a material benefit to manage reverse sensitivity associated with noise caused by rural production activities.
- C.20 Our opinion stands and we consider that the requested internal setback is too onerous and is inappropriate for the RLE.

Right of Reply Recommendation

C.21 Our recommendation has not changed from Part 10 of the s42A report.

Reverse Sensitivity and Subdivision

Subdivision Submission Information

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

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

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

Subdivision Discussion

66. The previous discussion on reverse sensitivity in relation to RLE 2.1.3 also applies in relation to Rayonier's submission and amendments to address reverse sensitivity have been recommended. Residential buildings are sensitive activities. Separation distances have been introduced to keep residential activities at an acceptable distance from production forestry. The provisions also separate residences from MEA and SRIE by 500m

67. Subdivision will not create a reverse sensitivity as an activity on its own. Rather, it is the subsequent development that may represent an issue. In our opinion the notified provisions adequately achieve management of reverse sensitivity within the RLE. Additional provisions are not necessary, in our view, because discretionary resource consent will already be necessary. Situation specific effects assessments and the views of the submitters can be sought at the time applications are prepared and processed.

Subdivision Recommendation

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

Evidence and Hearing Information

C.22 Rayonier provided evidence in support of their submission however, the content was not substantively different to their submission.

Right of Reply Discussion

C.23 In our opinion, the views expressed in **Part 10** of the s42A report are appropriate and highlight that subdivisions which cannot provide building platforms which comply with setbacks for permitted landuse activities are recommended as discretionary within RLE.3.3.1.iii and RLE.3.1.2.

²¹ 250/25

²² 141/1 and 141/3

- C.24 We also note that the recommended RLE area near the Glenbervie Forest already has a pattern of development in keeping with the intended RLE lot sizes and the potential for further subdivision and increased housing is limited. Only one property that would be sub-dividable under the proposed RLE rules adjoins the Glenbervie Forest.

Right of Reply Recommendation

- C.25 Our recommendation has not changed from **Part 10** of the s42A report.

D. Commercial and Industrial Activities

Commercial and Industrial Activities - Submission Information

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

Commercial and Industrial Activities – Discussion

73. The three submissions that raise concerns in regard to commercial activities appear to accept that the full range of commercial activities as defined in the WDP are unacceptable in the RLE, but that some smaller scale commercial activities (such as tourism or accommodation businesses) could be acceptable.
74. In regard to the concerns raised by David Murray noise effects have been addressed in the NAV chapter and are also discussed in **Topic H** within **Part 1** of the section 42A report. Concerns raised in relation to 'visual clutter' may be addressed by the definition of home occupations below.
75. In regard to the submission by Ms. Pearce, we consider that small scale commercial activity is provided for appropriately in the notified version of the RLE through the provisions for home occupations.

²³ 511/4

²⁴ 456/1

²⁵ 336/4,336/ 7 and 336/ 9

76. The submitters do not appear to recognise that the provisions as notified provide for small scale commercial activity in the form of home occupations. Home occupations are a permitted activity within the RLE under RLE.2.1.3. The WDP defines home occupations as:

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

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

Commercial and Industrial Activities – Recommendation

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

Evidence and Hearing Information

- D.1 [Ginty NaeNae Ltd supported their submission at the hearing and described in detail, and eco-tourism operation intended for the site.](#)

Right of Reply Discussion

- D.2 We note that Ginty NaeNae Ltd have also sought rezoning to RLE and provisions which enable commercial activities in the RPE. On the evidence presented, we have not changed our opinion about commercial or industrial activities in the RLE. However, we note that Ms McGrath has addressed commercial activities in the RPE within the Topic I of **Part 7** of the ROR and that she has relaxed the provisions controlling commercial activities in the RPE. We also note that Mr Burgoyne and Mr Cook have recommend retaining RPE zoning on the Ginty NaeNae Ltd within **Part 6** of the ROR. We consider that this combination provides and appropriate alternative means of relief for Ginty NaeNae Ltd.

Right of Reply Recommendation

- D.3 Our recommendation has not changed from **Part 10** of the s42A report.

E. Mineral Extraction and Industrial Activities, Activity Status

Mineral Extraction and Industrial Activities, Activity Status - Submission Information

82. GBC²⁶ submission seeks an amendment to RLE.2.1.1 to provide for Industrial Activities and Mineral Extraction Activities as non-complying activities in the RLE, rather than prohibited activities as notified for the followings reasons:
- GBC considers that it is inappropriate to require all Industrial activities and Mineral Extraction Activities to be assessed as prohibited activities in the RLE.
 - Prohibited activity status implies that these activities can only be considered by a Plan Change to the District Plan. This includes any Industrial Activity or Mineral Extraction Activity for example that may wish to expand into an RLE.
 - GBC submits that if the Council considers Industrial Activities and Mineral Extraction Activities are inappropriate in the RLE, then they should be assessed as Non-Complying activities, as with Commercial Activities, and not made Prohibited Activities.

Mineral Extraction and Industrial Activities, Activity Status - Discussion

83. The RLE is proposed in discrete locations that have specifically avoided mineral extraction and industrial activities. The existing environment in these areas are characterised by rural lifestyle development. Land in the RLE is highly fragmented, with smaller lot sizes than what is expected in the RPE. Properties in the RLE generally have high land values which reflect the high amenity and significant investment landowners make in developing their properties. In our view it is highly unlikely (and probably fanciful) that mineral extraction or industrial activities will choose to locate or expand into the proposed RLE given that residential activities are known to be sensitive to these activities.
84. Due to the nature of the effects of mineral extraction and industrial activities and their inability to internalise their effects within their boundaries, in our opinion it is undesirable to locate them in

²⁶ 250/23

proximity to pockets of rural residential development. Buffer rules and policies to manage reverse sensitivity have been included to keep these incompatible land uses at an appropriate distance from each other.

85. Mineral extraction and industrial activities also have a high probability of being incompatible with many activities that occur in the RPE. If this type of development was proposed in the RPE, a non-complying activity status may be appropriate provided there is strong policy guidance to manage adverse effects on the receiving environment. The RLE however has a higher density of residential development and differing amenity values than the RPE. If this type of activity was proposed in the RLE it would certainly create known significant adverse effects, far greater than minor and to a significant number of people. This was one of the key reasons for locating the proposed RLE as shown in the notified maps. We consider that a plan change is the most appropriate mechanism to consider the effects of such a proposal. A prohibited activity status sends a clear signal that these activities are inappropriate in the RLE.

Mineral Extraction and Industrial Activities, Activity Status - Recommendation

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

Evidence and Hearing Information

- E.1 Ms L Clarke has addressed this topic within Topic A of **Part 3** of the ROR.

Right of Reply Discussion

- E.2 We concur with and defer to Ms Clarke's discussion about this topic.

Right of Reply Recommendation

- E.3 We agree with Ms Clarke's recommendation.

F. Rural Production Activities and Horticulture

Rural Production Activities and Horticulture - Submission Information

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

- Amend RLE.1.3.1 as follows:

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

- Retain RLE.1.3.1 i)
- Amend RLE.1.3.7 as follows:

²⁷ 423/24

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

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

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

Rural Production Activities and Horticulture - Discussion

89. The existing CE provides for all rural activities (including horticultural operations). As shown in the s32 reports, managing the rural areas in this way has resulted in a compromised countryside which features reduced capacity for rural production uses (including horticultural operations). Continuing with an approach which allows activities to establish in the RA without adequate guidance to direct activities towards appropriate locations does not pass s32 scrutiny and is not appropriate in our opinion.
90. The RPE and the RLE have been introduced to provide for specific rural uses in an environmentally appropriate and sustainable way. In our opinion large scale horticultural uses are appropriate in the RPE whilst the RLE is intended for lifestyle block type developments. The RLE is a lifestyle Environment, albeit one where rural activities can also be undertaken in a limited capacity. A place for people to live in is the primary purpose for this zone.
91. At a large scale, horticultural operation can conflict with residential uses due to inability to fully internalise the effects. Adverse effects (such as noise for example) can be an issue for existing residents when new horticultural operations are established. Conversely, reverse sensitivity can become an issue after new residential developments are established.
92. The RLE provides for a variety of living opportunities and activities that are compatible with rural production activities and the objectives of the RLE. Horticultural operations are permitted. At a small scale, they are an appropriate way to utilise a lifestyle block. Most horticultural operations established in the RLE are expected to be a small scale due to lot sizes which for the most part have already been created and developed.
93. Existing horticultural operations within the RLE are protected by existing use rights and can continue to operate until the land is no longer required for that purpose. The establishment of new horticultural operations of a large scale however need to be carefully considered so that certain adverse effects are avoided. Establishment of these activities is generally considered to be inappropriate in residential environments and is discouraged as a non-complying activity.
94. In our opinion the appropriate place to undertake large scale commercial horticultural operations is in the RPE. As a rural productive use, horticultural operations are encouraged in the RPE.

²⁸ 423/22

This is reflected in objectives, policies and provisions which promote the location and operation of horticultural activities within the RPE.

Rural Production Activities and Horticulture - Recommendation

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

Evidence and Hearing Information

- F.1 Mr Hodgson (on behalf of Hort NZ) supported the requested change within his evidence primarily because “maintaining on-going rural production activity in the RLE will be difficult where the amenity expectations are associated more directly with large lot rural residential activity”. He goes on to state that. “If these existing activities that positively support the District and produce food are to be retained then I support the method changes sought to RLE.2.3 by Hort NZ and consider that a change to RLE.1.3.7 as suggested necessary”.

Right of Reply Discussion

- F.2 We do not consider that character and amenity expectations for the RLE would make rural production activities difficult to maintain. RLE.1.3.1 specifically identifies the presence of rural production activities as a part of the character and amenity of the RLE.
- F.3 RLE.1.3.7 is about reverse sensitivity. We have discussed reverse sensitivity in Topic C of this right of reply and we have previous stated that our preference is to manage reverse sensitivity with careful zoning. That discussion is equally valid here. The amendments Hort NZ have proposed to RLE.1.3.7 would have an onerous impact on the occupants of the RLE. In our opinion, it is entirely inappropriate to avoid establishment of residences (sensitive activities) near rural production activities within an Environment that is intended for both residential and rural production activities. The effect of such a policy would be to limit, or worst case entirely prevent residential use. This undermines the purpose and intent of the RLE and for this reason, we cannot support the requested change to the policy.

Right of Reply Recommendation

- F.4 Our recommendation has not changed from **Part 10** of the s42A report.

G. Stormwater and Aquifers

Stormwater and Aquifers - Submission Information

96. FNDC²⁹ request rewording policy RLE.1.3.9 as the term “hydrologically neutral” may not make sense to a lay person.
97. Northland Regional Council (**NRC**)³⁰ notes that several areas in the District that are proposed to be rezoned RLE are located above aquifers (at risk) (such as Kara Road, Snooks Road, Whatatiti

²⁹ 410/60

³⁰ 190/6

and Newton Road), and we support policy RLE 1.3.9 and landuse rule RLE2.3.5. This should help to manage stormwater effects within this proposed environment.

Stormwater and Aquifers - Discussion

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

Stormwater and Aquifers - Recommendation

100. We recommend that the Commissioners:

- **Accept** submission point 410/60.
- **Accept** submission point 423/22 and that the notified provisions be amended as follows:

RLE 1.3 Policies

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

H. Site Coverage

Site Coverage - Submission Information

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

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

Site Coverage - Discussion

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

³¹ 161/5

³² 423/25

Site Coverage - Recommendation

104. We recommend that the Commissioners:

- **Accept** submission 161/5.
- **Reject** submission 423/25.

Evidence and Hearing Information

H.1 Mr Hodgson provided evidence in relation to this issue on behalf of Hort NZ.

H.2 Mr Hodgson has argued that the exemption is appropriate because without amendment, the structures are considered buildings and would be caught as a non-complying activity status if they are larger than 500m². Mr Hodgson considers that non-complying activity status to be prohibitive and too onerous. He considers that the requested relief adequately addresses potential sunlight/shading and amenity effects.

Right of Reply Discussion

H.3 500m² is a generous size and in our opinion it is appropriate to consider the potential effects that buildings exceeding this size generate. Such buildings that are located on boundaries next to adjacent properties need careful assessment. Effects are likely to be observed beyond the subject site, either by immediate neighbours or cumulatively by the wider RLE.

H.4 Applied to a crop protection structure, we still consider that 500m² is a generous size. This is particularly the case in the RLE where lot sizes vary from a minimum 4000m² to an average of 2ha. It is likely that the introduction of a crop protection structure over 500m² represents the establishment of a new reasonably large horticultural operation near residential development that has already occurred. Noting existing structures have existing use rights, it is our view that new structures of this size should be assessed way of a discretionary consent to ensure that all effects are appropriate considered and addressed in manner appropriate for the RLE.

H.5 Mr Hodgson has incorrectly identified the s42A recommended activity status for crop protection structures over 500m² as being non-complying. Our recommended activity status was (and still is) discretionary for buildings with a site coverage over 500m².

H.6 In considering our recommendation not to exempt crop protection structures from this provision we considered sunlight/shading effects and amenity effects. We also considered scale, bulk and location effects and; we considered the effects of potential conflict between horticultural and residential uses.

H.7 The RLE seeks to enable variety of rural living and rural production activities, so we consider that it is appropriate to manage large crop protection structures as a discretionary activity

Right of Reply Recommendation

H.8 Our recommendation has not changed from **Part 10** of the s42A report.

I. Residential Density

Residential Density - Submission Information

105. James Bellamy & Lydia Mair³³ request amendments to RLE.2.3 Discretionary Activities to provide for minor residential units:

2. *Construction of more than one residential unit per site, unless a minor residential unit already exists and a clear intent of a major dwelling being constructed.*

6. *Construction of minor residential units:*

a. *Resulting in more than one minor residential unit per site, unless a minor residential unit already exists and a clear intent of a major dwelling being constructed.*

b. *That has a separate access/driveway from the principal residential unit.*

If any of the above that we propose as an amendment to these specific provisions of the proposed plan are not possible then we oppose each clause.

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

Residential Density - Discussion

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

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

Residential Density - Recommendation

109. We recommend that the Commissioners:

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

³³ 402/1

³⁴ 410/64

J. Miscellaneous Rules

Miscellaneous Rules - Submission Information

110. Marilyn Cox³⁵ requests that strong measures be put in place to protect the night sky in the RLE areas.
111. FNDC³⁶ notes that RLE.2.3.2f duplicates provisions that have already been stated in RA.3.3. Remove the duplication of RA.3.3 in RLE.2.3.2f OR insert cross reference.
112. Rayonier³⁷ requests controls covenanted to the land title of neighboring properties recognizing Rayonier's rights to carry out lawful forestry activities.
113. Hort NZ³⁸ seeks an amendment the description for RLE in Chapter 35 as follows: RLE provides for opportunities for rural residential development in areas where such activity is clustered alongside existing rural production activities.

Miscellaneous Rules - Discussion

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

³⁵ 405/1

³⁶ 410/63

³⁷ 141/2

³⁸ 423/39

Miscellaneous Rules - Recommendation

119. We recommend that the Commissioners:

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

RLE.3.3

1. Subdivision where:

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

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

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

d. ~~Each allotment:~~

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

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

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

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

K. Transport Infrastructure and Traffic Movements

Transport Infrastructure and Traffic Movements - Submission Information

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

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

Transport Infrastructure and Traffic Movements - Discussion

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

Transport Infrastructure and Traffic Movements - Recommendation

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

³⁹ 453/14

⁴⁰ 479/13

Evidence and Hearing Information

K.1 Ms Heppelthwaite presented evidence and an alternative traffic movement rule on behalf of NZTA.

Right of Reply Discussion

K.2 In the RLE there is a vehicle movements rule already recommended for home occupations which is consistent with the rule Ms Heppelthwaite has recommended and the commercial operations she has recommended to control already require discretionary consent. The effects of traffic movements can be considered during the resource consent process already. In our opinion, there is no additional benefit to be gained to introducing a new traffic movements rule.

Right of Reply Recommendation

K.3 Our recommendation has not changed from **Part 10** of the s42A report.

L. Subdivision Rules

General Subdivision

General Subdivision Submission Information

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

General Subdivision Discussion

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

General Subdivision Recommendation

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

Environmental Benefit Lots and Transferable Title Rights

Environment Benefit Lots and Transferable Title Rights Submission Information

129. Multiple submissions⁴³ have been received which request (in the context of the RLE):
- Retention of the environment benefit provisions in the Operative District Plan,
 - Introduction of provisions for environment benefit lots

⁴¹ 431/14

⁴² 104/1

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

- Introduction of transferable title rights.

130. Department of Conservation (DOC) and Federated Farmers of New Zealand (FFNZ)⁴⁴ provide partial support for the use of methods within subdivision provisions to encourage environmental protection but note that any actual benefit realized depends on how the provisions are drafted.

Environment Benefit Lots and Transferable Title Rights Discussion

131. We note that environment benefit lots and transferable title rights have also been addressed in Topic L within **Part 7** of the s42A report. We concur with the discussion and the recommendations made by Ms McGrath. In particular, we are in agreement that the addition of environment benefit lots or transferable title rights are not required to give effect to the NRPS and are instead part of a collection of incentives which “may” be used in certain circumstances. We also agree that it is best to wait for PC127 to comprehensively and consistently manage biodiversity across the district.
132. Our view is aligned with Ms McGrath in that we consider transferable title rights to be inappropriate because effects of the eventual receiving environment cannot be fully or properly addressed when subdivision occurs.
133. Environment benefit lot provisions were not included in the notified provisions for the RLE. Environmental protection has been provided for within land use provisions for the RA and the RLE, subdivision provisions in the RA and policy provisions in the RLE. In our view, any additional positive effects provided by an environment benefit lot would be minimal.
134. More significantly, the zoning criteria for the RLE has focused on the RLE predominantly where the development has already occurred and away from significant areas that need protection. Our view is that the combination of these factors with the notified provisions provides sufficient environmental protection within the RLE. Our view is that (within the RLE) the effects of smaller lots and subsequent residential density would outweigh the positive effects achieved by a subdivision which included an environment benefit lot. Consequently, we do not support the use of environmental benefit lots as a method in the RLE.

Environment Benefit Lots and Transferable Title Rights Recommendation

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

Evidence and Hearing Information

- L.1 Environment benefit lots and transferable title rights have been addressed in Topic L within **Part 7** of the RoR.
- L.2 Evidence was presented about environment benefit subdivision. Most of the evidence was relevant only to the RPE

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

L.3 Ms Nathan acknowledged that because of the way that provisions in the RLE work, environment benefit subdivision provisions would not provide an effective incentive for developers undertaking subdivision.

Right of Reply Discussion

L.4 Environment benefit lots and transferable title rights have been addressed in Topic L within **Part 7** of the Right of Reply. We concur with the discussion and the recommendations made by Ms McGrath for the RPE in the context of the RLE, we have not heard any evidence which materially alters the opinion we expressed in **Part 10** of the s42A report stands.

Right of Reply Recommendation

L.5 Our recommendation has not changed from **Part 10** of the s42A report.

Minimum Lot Size and Average Lot Size

Subdivision Submission Information

136. Six submissions⁴⁵ were received in relation to the minimum lot size of 4000m² seeking the following relief:

- Support the 4000m² minimum site size.
- To allow smaller rural lots without specifying a preferred minimum lot size.
- Re visit PC85D and consider the existing Manganese Point subdivision, which allows for spaced dwellings on small lots with substantial distance between and the remainder of the land held in a corporate arrangement, jointly owned and farmed by the lot holders.
- Remove the minimum lot size or allow a minimum lot size of 2000m² or less.

137. Nine submissions⁴⁶ were received in relation to the average lot size seeking the following relief:

- Support the average allotment size of not less than 2ha.
- Allow currently existing smaller sites to be subdivided into 2 lots, each of 4,000m², or of a lesser size where appropriate.
- Change the average lot size from 2ha to 1ha.
- Recognise the needs of the burgeoning senior population, who wish to continue living in the rural environment, by ensuring there is sufficient flexibility in the subdivision requirements to provide the mechanisms that will allow them to subdivide their existing properties into more manageable lot sizes and hence remain an integral part of a diverse range of residents in the rural community.
- Allow for two or three 2000m² sections to be cut off from a from 4 hectare block.
- Remove the requirement for a 2ha minimum average lot size.

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

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

- Reduce the minimum lot size.

Lot Size Subdivision Discussion

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

⁴⁷ 456/2

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

Minimum Lot Size and Average Lot Size Subdivision Recommendation

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

RLE 3.1 Eligibility

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

RLE.3.3

1. Subdivision where:

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

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

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

RLE 3.4 Non-Complying Activities

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

M. Mapping Criteria

General Zoning

General Zoning Submission Information

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

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

General Zoning Discussion

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

⁴⁸ 405/1, 338/1, 142/2 and 413/1

151. In our opinion maintaining the integrity of the RLE and the wider RA depends on applying the relevant criteria. Determining zoning requests on only distance from the city or demand for development in our view goes against the requirements to assess and decide matters on an environmental issues and effects basis. We do not support the approach.

General Zoning Recommendation

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

Oppose Mapping Criteria

Oppose Mapping Criteria - Submission Information

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

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

Oppose Mapping Criteria – Discussion

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

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

156. Soil type was an important consideration in the preparation of PC85D. The RPS identifies highly versatile soils and these areas have been avoided. Class 4 and 5 soils are considered optimum

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

for rural living due to their relative abundance, and as they are generally elevated with rural views are a more favourable topography for rural living. These soil types were given a favourable weighting. We note that while they are not included in the list of versatile soils, avocado orchards are sometimes located on class 4 soils.

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

Oppose Mapping Criteria - Recommendation

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

Evidence and Hearing Information

- M.1 Mr Cathcart provided evidence on behalf of Hort NZ which challenged how soil mapping (Land Use Capability) has contributed to development of the RLE zoning criteria and consequent recommendations in regards to whether or not land should be zoned as RLE. Mr Cathcart has suggested that the soil maps which have informed RLE zoning decisions are not accurate enough to make zoning decisions on and that more detailed soil studies should be undertaken before zoning decisions are made.
- M.2 Mr Hodgson provided evidence on behalf of Hort NZ to support their request to amend RA 1.3.3 as follows:

To identify specific land areas as RLE to provide for a variety of rural living opportunities in the District without materially reducing the potential of the Rural Area for productive use of land by providing for the RLE in locations that:

- a) *Have an existing average allotment density between 2 and 4ha.*
- b) *Demonstrate a predominantly rural living character*

- c) *Are not identified as hazard prone area*
- d) *Are not identified as an Outstanding Natural Landscape of feature, Significant Indigenous Vegetation or Habitat, or an Outstanding Natural Character Area*
- e) *Are located within close proximity to community facilities*
- f) *Do not gain direct access from an unsealed road*
- g) *Are not located within close proximity to existing reticulated infrastructure*
- h) *Will not materially increase the potential for reverse sensitivity*
- i) *Are not areas of highly versatile land, land with high production potential or established rural production activities.*

M.3 Mr Hood addressed zoning criteria in his evidence on behalf of several submitters⁵⁰. He argued that there was no strategic policy basis for the criteria and that the criteria are both flawed and confusing. Mr Hood then conducted his own assessment of the submitters properties against the criteria to justify inclusion within the RLE.

M.4 Several other individual submitters indicated some confusion around the purpose of the proposed criteria that has been used to identify suitable RLE areas. Recurring confusion of the application of the criterion to avoid unsealed roads within RLE zoning recommendations was a good example of this.

Right of Reply Discussion

M.5 New Zealand Land Resource Inventory (LUC maps) were used to assess the versatility of soils to support identifying then mapping appropriate areas for RLE zoning. The maps represent the most accurate and recent information that WDC currently has available.

M.6 At the hearing, there was nuanced but differing advice provided between Hort NZ experts about how RLE mapping decisions should be treated. Hort NZ remains opposed to mapping and zoning of land at Glenbervie, Kara/Newton Road and Apotu as RLE. Individual zoning recommendations as discussed within **Part 6 of the ROR** are relevant to the discussion here because consideration of soil based production capacity is a common theme. Hort NZ has identified Glenbervie, Kara/Newton Road and Apotu as having high soil based production capacity. The LUC maps have identified Glenbervie, Kara/Newton Road and Apotu as having high soil based production capacity. A similar correlation exists between the LUC maps and other locations that Hort NZ originally opposed but are no longer actively pursuing rezoning from RLE to RPE.

M.7 We remain unconvinced by Mr Cathcart's evidence which suggests that the LUC maps are not an appropriate mapping tool at a zoning level and that more detailed soil studies should be undertaken before zoning decisions are made. We have concluded that the accuracy of the LUC maps is sufficient to identify areas which have high soil based production capacity and that the LUC maps are reliable in the context of zoning decisions.

⁵⁰ The submitters are identified in Part 6 of the ROR in response to their individual zoning requests.

M.8 Although our rationale differs, we agree with Mr Hodgson in that we consider that it is appropriate to augment RA 1.3.3 with an additional criterion which directly addresses the type of land and the ability of the land to support soil based rural production activities.

M.9 The NRPS (which became operative on 9 May 2016), addresses Policy 5.1.1 states:

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

...

(c) Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects; (d) Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;

(e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;

(f) Ensures that plan changes and subdivision to / in a primary production zone, do not materially reduce the potential for soil-based primary production on land with highly versatile soils, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and

(g) Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and / or district or regional plan provisions.

(h) Is or will be serviced by necessary infrastructure...

Highly versatile soils are Land Use Capability Classes 1c1, 2e1, 2w1, 2w2, 2s1, 3e1, 3e5, 3s1,3s2, 3s4 - as mapped in the New Zealand Land Resource Inventory.

M.10 The RLE was not publicly notified when the RPS became operative however, the LUC maps were used to assist in the consideration of productive potential. The LUC maps represent the most accurate and recent available information, currently and during plan change preparation and their continued use, in our opinion, gives effect to the RPS.

M.11 We consider it appropriate to include a criterion with a specific reference to soils in RA 1.3.3 to provide a clearer reflection of the RPS and to provide clear direction about how to treat the capacity of soil based production as a subset of 'productive use of land'. Our recommended criterion differs from that supported by Mr Hodgson yet we consider that it will provide increased certainty and that it will address the concerns raised by Hort NZ. In our opinion, it achieves the same effect as the words within the relief that Mr Hodgson has recommended.

M.12 The RA objectives and policies set the direction and provide certainty for the RA as a comprehensive whole. Embedded throughout the RA chapter are 3 key concepts namely:

- Protect the productive capability within the RA
- Provide appropriate locations for development
- Ensure development occurs in appropriate allocated locations

- M.13 In order to support these concepts which, underpin its objectives, the RA chapter provides for policy direction for appropriate locations for different kinds of development by providing policies which contain assessment criteria for the zones which collectively comprise the Rural Area.
- M.14 The policies are specifically intended to direct zoning within the RA and to ensure that development is directed towards appropriate zones. The zoning criteria policies are:
- RA 1.3.2 for the RPE
 - RA 1.3.3 for the RLE
 - RA 1.3.4 for the SRIE
 - RA 1.3.5 for the RVE
 - RA 1.3.6 for the RUUE
- M.15 We respectfully disagree with Mr Hood's assertion that there is "no policy basis for selecting only 14 RLE areas...". There is a substantial policy basis for the zoning recommendations that have been made. RLE.1.4 provides guidance to potential applicants and about the comprehensive suite of objectives, policies and provisions within the RA, RLE, Resource Areas and District Wide objectives policies and provisions which need to be comprehensively assessed.
- M.16 The criteria to identify the RLE is policy RA.1.3.3. It is the primary policy which should be used as the basis for RLE zoning during the current review and for any future zoning based plan changes. It is supported by policy RLE.1.3.1 which establishes the character of the RLE and by RLE.1.3.4 which establishes a very clear policy connection to the description and expectations for the RLE contained in RLE.1.1. Policy RPE.1.3.1 establishes the character for the RPE and provides a useful contrast in that it describes what the RLE is not.
- M.17 RA.1.3.3 establishes eligibility for zoning land as RLE. It does not, on its own, establish that RLE is the appropriate zone to apply to a piece of land. An assessment against all the zoning policies needs to be undertaken to establish appropriateness and then a comparison needs to be undertaken to determine which of any eligible zones is the best fit.
- M.18 Mr Hood has not undertaken such a policy assessment to justify the submitters land within the RLE. Instead, it appears that Mr Hood has attempted to use aspects of the multi-criteria analysis (discussed within s32) which was used to develop RA.1.3.3 and RLE.1.3.1 instead of using the zoning criteria directed by RA and RLE policy. We are certain that, had he undertaken a policy assessment, then Mr Hood would have obtained very different results and, in our opinion he may have drawn conclusions much more closely aligned to the recommendations within **Part 6** of the s42A report.
- M.19 In our opinion, greater clarity could be provided to other submitters by highlighting that RA 1.3.3 is the central basis for RLE zoning, that factors (such as unsealed roads) are included within it, and that those criteria have been robustly developed and their inclusion justified within **Part 6** of the s32 report. We also consider that it is appropriate to provide additional clarity within RLE 1.3.1 and RLE 1.1 in light of evident misinterpretation surrounding application of the zoning

criteria policies in relation zoning outcomes evident during submissions and hearing presentations.

- M.20 The RLE chapter commences by presenting a description of the RLE as well as expected outcomes for the zone. RLE.1.1 is an important part of the RLE because it provides an essential context to aid interpretation of the objectives and policies for the RLE in keeping with policy direction in the RA. A comprehensive consideration of the RA objectives policies and provisions; the s32 reports and s42A reports; comprehensively show that the primary purpose of the RLE is lifestyle type living and that the RLE is areas are to be consolidated where RLE type development has already occurred and that the extent of such areas should be limited in order to protect viability of the rural production within the Whangarei District.
- M.21 Arguments presented by submitters at the hearing suggest that some may consider that new RLE areas are intended to be enabled. Mr Hodgson on behalf of Hort NZ for example has indicated that the use of the reference to 'desirable areas' within RLE.1.1 contributes to interpretation leading to a context that necessitated his recommended changes to provisions. That interpretation could support establishment of RLE zoning where living development has not already occurred. This interpretation is also perhaps shared by other submitters seeking re-zoning requests without properly addressing criteria such as existing character, the nature of existing development and existing average allotment density.
- M.22 This potential interpretation is not correct or appropriate in our opinion. We want to make it very clear that entirely new RLE areas occurring in the manner this interpretation was never intended for the RLE and in our opinion and should be avoided if the true intent of the RA and RLE policy direction is to be realized.
- M.23 We have therefore recommended that the reference to 'desirable areas' be deleted.
- M.24 In a similar way to RLE.1.1, the policy RLE.1.3.1 (which defines the character of the RLE) is not secure from risks that applying an inappropriate interpretation. We have therefore recommended minor changes to the wording of RLE.1.3.1 to support appropriate interpretation and application of the policy.

Right of Reply Recommendation

- M.25 We recommend that the Commissioners:
- **Accept in part** the relief sought by Hort NZ
 - **Amend** RA.1.3.3 as follows:

RA 1.3.3

To identify specific land areas as RLE to provide for a variety of rural living opportunities in the District without materially reducing the potential of the Rural Area for productive use of land by providing for the RLE in locations that:

- a. Have an existing average allotment density between 2 and 4ha.
- b. Demonstrate a predominantly rural living character
- c. Are not identified as hazard prone area
- d. Are not identified as an Outstanding Natural Landscape of feature, Significant Indigenous Vegetation or Habitat, or an Outstanding Natural Character Area
- e. Do not gain direct access from an unsealed road
- f. Are located within close proximity to existing reticulated infrastructure
- g. Will not materially increase the potential for reverse sensitivity
- h. Do not materially reduce the potential for soil-based rural production activities on land with highly versatile soils (Land Use Capability Classes 1c1, 2e1, 2w1, 2w2, 2s1, 3e1, 3e5, 3s1, 3s2, 3s4 - as mapped in the New Zealand Land Resource Inventory).

RLE.1.1

The Rural Living Environment (RLE) covers rural areas within the District that are ~~either already~~ characterised by rural living activities ~~or are desirable areas for rural living type development to occur.~~
The Whangarei Rural Development Strategy 2013

RLE 1.3.1

To ~~preserve rural character and amenity while enabling~~ enable rural living development in the RLE and to ~~maintain~~ preserve factors that contribute to rural living character and amenity including:

- a. Low levels of noise and lighting, particularly at night.
- b. A high degree of privacy.
- c. Ample access to daylight and sunlight.
- d. Generally low levels of traffic, other than that associated with ~~seasonal rural production~~ activities.
- e. A range of landscapes and a sense of spaciousness, with visual connections to the wider environment.
- f. Informal arrangement and design of roadways and structures, subservient to natural landform patterns.
- g. ~~A clustering~~ Existing low density and clustered of built rural living development including dwellings, landscaping/gardens and small scale rural production activities.
- h. ~~Dominance~~ Presence of natural features including landforms, watercourses and indigenous vegetation.
- i. Presence of rural production activities ~~(such as farming, forestry and horticulture), and~~ associated effects (such as odour, noise from machinery and livestock and buildings such as barns, greenhouses and silos).

N. Consequential Changes

Submission Information

162. As discussed in **Topic O** of **Part 1** of the s42 report, two submission points⁵¹ have been made requesting further clarification and/or definition of terms such as 'rural production activities'. New definitions are recommended which require consequential changes to various sections of PC85D as discussed below.

Discussion

163. Consequential changes are recommended to RLE.1.1 and RLE.1.3.1(d) and (i). We consider that these changes improve the clarity and consistency of the provisions by removing ambiguity around terms such as 'rural land use activities' and 'productive uses'.

Recommendation

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

RLE.1.1 Description and Expectations

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

RLE.1.3 Policies

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

O. Rezoning Adjacent to Urban/Village Zoned Areas

Right of Reply Discussion

- O.1 In **Part 6** Topic A (v) of the ROR, several re-zoning requests were made seeking RLE zoning on land close to Rural Villages. Whilst the individual requests are addressed individually on site

⁵¹ 250/2 and 250/3

specific basis, a common theme has emerged from the submissions that suggests that the submitters see the purpose of the RLE as a transition between the RVE and the RPE. In our opinion, this is not the intended purpose and the zone and zoning recommendation have been made using the policy and criteria assessment methodology outlined in Topic M above. Within that assessment, proximity to the RVE became a key consideration because consolidation of the RVE and RLE and maintaining the character and amenity of the RVE and RLE is directed in RA the objectives and policies.

- O.2 To treat the RLE as a transition zone would present a risk of the Rural Villages sprawling and risk the consolidation of the Rural Villages which has been directed. The collection of RA, RLE and RVE objectives and policies overall show that the expectation is that quantity and location of RLE zoning also needs to be considered to ensure that the character of the RLE and RVE remain protected. We have therefore recommended a minor change to wording to ensure appropriate interpretation of objective RLE.1.2.6

Right of Reply Recommendation

- O.3 We recommend that the Commissioners amend RLE.1.2.6 as follows:

RLE.1.2.6 Objectives

- 6. Growth within of the RLE is managed to protect the viability of Rural Villages

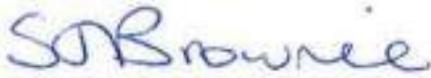
4.0 Conclusions and Recommendations

- 8. After carefully considering the evidence received in relation to each topic, we recommend that PC85D be amended to the extent detailed in the preceding sections of this report and as illustrated in **Attachment 2H of Part 1** of the Right of Reply.
- 9. The revised provisions [**Attachment 2H of Part 1** of the ROR] 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 PC85D.
- 10. We have read and concur with any recommendations from other parts of this ROR that result in amendments to PC85D to the extent illustrated in **Attachment 2H of Part 1** of the ROR.

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