

**Part 5
Proposed Plan Change 85
Rural Area**

**Right of Reply – Council Reporting
Planner**

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1.0 Introduction

1. This is **Part 5** 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 Robert Adam Burgoyne on behalf of the Whangarei District Council (**WDC**) in response to particular matters raised at the hearings for Proposed Plan Change 85 – Rural Area (**PC85**) to the Operative Whangarei District Plan (**WDP**).
2. My Statement of Qualifications and Experience is provided in **Part 5** of the section 42A (**s42A**) evaluation report¹. The opinions expressed in this ROR are based on my qualifications and experience, and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position.

2.0 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. Paragraph numbering within section 3 follows the original s42A number for the s42A content. **Part 5** of the s42A report grouped submissions my topics 'A' to 'M'. This ROR addresses evidence and information presented by a number of submitters in relation to the following topics:

- A. Corrections and Clarifications
- B. General Support
- C. Natural Hazards
- D. Transport and Transport Infrastructure
 - [Inclusion of transport objectives and policies \(New Zealand Transport Agency\)](#)
- E. Biodiversity
 - [Amendments to policies RA.1.3.5 and RA.1.3.6 and inclusion of measures to control cats and dogs in RA..4.1 \(Director-General of Conservation\)](#)
- F. Amenity and Character
- G. Reverse Sensitivity
 - [Amendments to RA.1.1 Description and Expectations \(Horticulture NZ\)](#)
 - [Amendments to objective RA.1.2.2 \(Fonterra Limited and Radio NZ\)](#)
 - [Amendment to policy RA.1.3.6 \(GBC Winstone\)](#)
 - [Amendments to RA.4.2\(u\) \(Horticulture NZ, GBC Winstone and Radio NZ\)](#)
- H. Cultural Values
- I. Rural Production
 - [Amendments to RA objectives and policies \(Horticulture NZ and Onyx Capital Ltd\)](#)

¹ Page 3

- J. Rural Area Activities
 - Inclusion of an additional RA objective (GBC Winstone)
 - K. Urban Growth
 - L. Commercial and Industrial Activities
 - M. Consequential Changes
4. With respect to Topics A, B, C, F, H, K and M and sections of Topics G and J, no substantively new material or evidence is before me (than what was included in the original submissions) that prompts me to provide additional comment or revise my original recommendations. With respect to Topic L, no substantively new material or evidence has been provided in relation to the RA. Ms McGrath, Mr Cook and Ms Brownie have addressed this topic as it relates to the RPE and RLE in **Parts 7² and 10³** of this ROR, respectively. A new topic was also introduced by Horticulture NZ and has been addressed in Topic N – High Quality Soils.
5. Any changes that I 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 2D of Part 1** of the ROR. Proposed changes previously recommended in the s42A report are still indicated with ~~strikethroughs~~ representing recommended deletions and underlined writing representing recommended additions.

3.0 Consideration of Submissions and Further Consideration of Evidence

A. Corrections and Clarifications

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

RA.1.1 Description and Expectations – Submission Information

22. Far North District Council (**FNDC**)⁴ seeks that all grammatical errors and inconsistent terminology within RA.1.1 be corrected. No specific recommendations were made.

RA.1.1 Description and Expectations – Discussion

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

RA.1.1 Description and Expectations – Recommendation

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

² Paragraphs I.1 – I.13

³ Paragraphs D.1 – D.3

⁴ 410/20

RA.1.1 Description and Expectations

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

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

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

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

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

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

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

Objective RA.1.2.10 – Submission Information

25. WDC Infrastructure and Services Department (**WDC I&S**)⁵ requests that the term 'sustainable manner' in objective RA.1.2.10 be further clarified to improve the usability of the WDP. No specific wording is suggested.

Objective RA.1.2.10 – Discussion

26. I consider 'sustainable manner' an appropriate term to use and that sufficient guidance is provided by the Resource Management Act 1991 (**RMA**) as to what this means. However, I agree that objective RA.1.2.10 lacks clarity and that the terminology can be improved to make the objective easier to understand and interpret. By improving the clarity of the terminology, I consider that the objective will more appropriately achieve the purpose of the RMA.

Objective RA.1.2.10 – Recommendation

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

RA.1.2 Objectives

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

⁵ 479/1

RA.1.3 Policies – Submission Information

28. FNDC⁶ and the Landowners Coalition⁷ request that RA.1.3.9 be deleted as it is addressed by RA.1.3.10.
29. The Landowners Coalition⁸ also seeks that the ‘expectations’ stated in RA.1.3.10 be further clarified.
30. FNDC⁹ requests that the term ‘hydrologically neutral’ in RA.1.3.13 be replaced with less technical language as this term is difficult for nontechnical WDP users to interpret.

RA.1.3 Policies – Discussion

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

RA.1.3 Policies – Recommendation

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

RA.1.3 Policies

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

RA.4.1 Matters of Control – Submission Information

35. WDC I&S¹⁰ requests the following specific amendment to RA.4.1.1(f) to improve the clarity of the provision:

⁶ 410/23

⁷ 431/11

⁸ 431/11

⁹ 410/24

¹⁰ 479/6

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

36. FNDC¹¹ requests the following specific amendment to RA.4.1.1(h) to improve the clarity and consistency of the provision:

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

RA.4.1 Matters of Control – Discussion

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

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

RA.4.1 Matters of Control – Recommendation

39. I recommend that the Commissioners:

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

RA.4.1 Matters of Control

1...

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

B. General Support

Submission Information

40. Seven submission points were made in general support of various sections and provisions of PC85. Other submission points made in support have been categorised under the relevant subsequent topics.

41. Federated Farmers of New Zealand (**FFNZ**)¹² support RA.1.1 Description and Expectations, specifically the recognition that the productive nature of land and resources contribute to rural characteristics.

42. FFNZ¹³ support objectives RA.1.2.1, RA.1.2.2 and RA.1.2.6.

43. FNDC¹⁴ requests that the RA objectives are not altered in a way that would cease to address the eight issues identified.

¹¹ 410/30

¹² 253/1

¹³ 253/2

¹⁴ 410/21

44. FFNZ¹⁵ support policies RA.1.3.2 – RA.1.3.4 and RA.1.3.11.
45. Horticulture NZ (**HortNZ**)¹⁶ seeks that policies RA.1.3.4 and RA.1.3.5 are retained.
46. NZ Pork¹⁷, GBC¹⁸ and FFNZ¹⁹ support RA.2.3.1(d), and in particular RA.2.3.1(d)(ii)(a).
47. FNDC²⁰ seeks that the subdivision performance standards within RA.3 are retained.
48. The New Zealand Transport Agency (**NZTA**)²¹ seeks that the Assessment Criteria in RA.4.2 (particularly h – n) be retained.

Discussion

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

Recommendation

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

Policy RA.1.3.5 (g)

g. Have an identified demand for residential and/or commercial land ~~available~~ to meet the projected growth requirements over the lifespan of the District Plan.

C. Natural Hazards

Submission Information

52. New Zealand Pork (**NZ Pork**)²² supports RA.1.3.7 while FNDC²³ requests that the policy is amended to clarify what is meant by ‘functional need’, which could include specifying the activities which have a functional need to be in a hazard prone area.

¹⁵ 253/3

¹⁶ 423/4

¹⁷ 240/10

¹⁸ 250/5

¹⁹ 253/6

²⁰ 410/29

²¹ 453/7

²² 240/9

²³ 410/22

Discussion

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

TABLE 1: EVALUATION OF POLICY RA.1.3.7 OPTIONS		
Option	Costs	Benefits
Option 1: Notified Provision	<p><u>Environmental</u> May enable more intensive development in hazard prone areas where applicants can justify there is a functional need.</p> <p><u>Economic & Social</u> If more intensive development occurred in hazard prone areas there could be significant economic and social costs to landowners and residents.</p> <p><u>Cultural</u> None known.</p>	<p><u>Environmental, Social & Cultural</u> None known.</p> <p><u>Economic</u> More enabling than Options 2 and 3 for more intensive zoning in hazard prone areas.</p>
Option 2: Recommended Revised Provision	<p><u>Environmental & Cultural</u> None known.</p> <p><u>Economic & Social</u> Less enabling than Option 1 for more intensive zoning in hazard prone areas.</p>	<p><u>Environmental</u> Restricts more intensive development in hazard prone areas in accordance with RPS policies 7.1.1(b) and 7.1.3(a) and (d).</p> <p><u>Economic & Social</u> May reduce costs by restricting intensive development in hazard prone areas. Improves clarity by removing ambiguous terminology and achieving consistency with policies RA.1.3.3, 1.3.5 and 1.3.6.</p> <p><u>Cultural</u> None known.</p>
Option 3: Alternative Revision	<p><u>Environmental, Economic, Social & Cultural</u> Similar to Option 2, but more enabling to specific activities.</p>	
Option	Efficiency & Effectiveness	
Option 1:	Wording does not provide certainty regarding what is meant by ‘functional need’.	

Option 2:	Clearly states the intention to avoid zoning for more intensive development within hazard prone areas and is consistent with policies RA.1.3.3, 1.3.5 and 1.3.6 in PC85, policies 7.1.1(b) and 7.1.3(a) and (d) of the RPS and policy 25 of the NPS for Freshwater Management.
Option 3:	Option 3 is similar to Option 2 in terms of its efficiency and effectiveness. However, 'functional need' is difficult to define or succinctly describe. It would be difficult to reword the policy in a way that would improve upon the efficiency and effectiveness of Option 2.
Economic Growth and Employment Opportunities	
The proposed options have a potentially large impact on economic growth and employment opportunities. On one hand enabling more intensive development in hazard prone areas will provide for more development. However, if a natural hazard event were to occur in an intensely developed area then there may be significant economic costs. As stated in the RPS "risk reduction is often less costly than the social and economic impact of the physical damage and potential loss of life caused by natural hazards". One of the risk reduction measures listed in the RPS is not developing hazard-prone areas.	
Risk of Acting and not Acting if there is Uncertain or Insufficient Information	
There is no known risk due to insufficient information.	

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

Recommendation

57. I recommend that the Commissioners:

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

RA.1.3. Policies

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

D. Transport and Transport Infrastructure

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

RA.3 Subdivision Rules – Submission Information

59. WDC I&S²⁴ requests amendments to RA.3.3.1(g) to include reference to the provision of pedestrian connections to adjoining public land to support the strategic development requirements of areas where multiple land ownership and fragmentation has occurred.

RA.3 Subdivision Rules – Discussion

60. I acknowledge the benefits of pedestrian connections to adjoining public land. Amendments to RA.3.3.1(g) were therefore considered, but requiring pedestrian connections to adjoining public land is difficult to manage through a rule as it may result in excessive, unnecessary or poorly designed pedestrian connections. This could significantly increase the costs of subdivisions as additional land would need to be reserved for pedestrian connections or consent may be required

²⁴ 479/3

where connections could not be provided. No specific wording has been recommended by WDC I&S with regards to RA.3.3.1(g). In my opinion it is difficult to achieve the relief sought while ensuring that the rules are not overly restrictive. I note that section 7 of the EES does address pedestrian connections and access ways to provide guidance to developers.

RA.3 Subdivision Rules – Recommendation

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

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

62. WDC I&S²⁵ raises concern regarding RA.4.1.1(g) that the provision may not adequately provide for roading connections between subdivided land in the Rural (Urban Expansion) Environment (RUEE).
63. FNDC²⁶ requests the following specific amendment to RA.4.2.1(n):

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

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

RA.4 Matters of Control and Assessment Criteria – Discussion

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

RA.4 Matters of Control and Assessment Criteria – Recommendation

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

RA.4.2 Assessment of Discretionary Activities

1. ...

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

²⁵ 479/7

²⁶ 410/31

Evidence and Hearing Information

- D.1 No additional evidence was presented with regard to the specific topics above. However, NZTA made a comprehensive original submission on transportation which was addressed by Ms McGrath in **Part 1**²⁷ of the s42A report. Evidence was presented by Ms Heppelthwaite for NZTA relating specifically to the RA and is therefore addressed in this part of the ROR.
- D.2 In paragraphs 25 – 27 of Ms Heppelthwaite’s Statement of Evidence it is recommended that the following additional objective and policies be included in RA.1.2 and RA.1.3, respectively:

Recommended Objective:

- x. Land use and all modes of transport are integrated in a manner that enables:
- a. the benefits of an integrated transport network to be realised; and
 - b. the adverse effects of traffic generation on the transport network to be managed.

Recommended Policies:

- x. Subdivision, use and development which results in potentially more than minor adverse effects on the safe, efficient and effective operation of the transport network are required to manage the adverse effects on the transport network.
- x. Restrict or manage vehicle access to and from sites adjacent to intersections, adjacent motorway interchanges, and on arterial roads, so that:
- a. the location, number, and design of vehicle crossings and associated access provides for the efficient movement of people and goods on the road network; and
 - b. any adverse effects on the effective, efficient and safe operation of the State highway and adjacent arterial roads arising from vehicle access adjacent to a State highway or arterial road is avoided, remedied or mitigated.

- D.3 Ms Heppelthwaite considers that the proposed provisions are “necessary because a significant amount of development potential is enabled by the proposed RUEE and RUELE [Rural (Urban Expansion) Living Environment] provisions” and would provide an overarching framework to achieve:

- “a. Support for transport and land use integration; particularly noting the extent of development anticipated within the RUEE and RUELE;*
- b. Alleviate the need to include specific transportation objectives and policies in each Rural zone;*
- c. Protect the transport networks ability to operate; and*
- d. Provide appropriate consideration to the transport network where Transport Chapter 22 rules are not infringed (therefore the objectives and policies are not considered).”*

Right of Reply Discussion

- D.4 I agree with Ms McGrath’s original s42A statements that the WDP Chapter 22 addresses many of the concerns raised by NZTA, particularly objective 22.3.3 and policies 22.4.3 and 22.4.5. Ms Heppelthwaite raises concern that the Chapter 22 objectives and policies are only considered if the Chapter 22 rules are infringed. There are no rules contained in Chapter 22 and the Chapter 22 objectives and policies operate as overarching district wide provisions. Therefore, if any rule is

²⁷ Paragraphs 169 – 180

breached in the RA chapter or in an individual Environment chapter, such as the Rural Production Environment (**RPE**), then the Chapter 22 objectives and policies are considered.

- D.5 The objective and policies recommended by NZTA are not specifically related to the RA. In my opinion, the provisions read more as district wide provisions in that they could also be considered in the Urban Area. As stated by Ms McGrath in **Part 1** of the s42A report, Plan Change 109 (**PC109**) is currently being drafted to review the district wide transportation provisions. In my opinion the matters raised by NZTA are better addressed through PC109 as they have district wide significance rather than strictly RA significance.
- D.6 Ms Heppelthwaite mentions that the recommended provisions are necessary for Plan Changes 86A and B (the RUEE and Living Environment expansions). The Living Environment expansions are not governed by the RA provisions, so Ms Heppelthwaite's recommended RA provisions would have no implications on the Environments proposed through PC86B.

Right of Reply Recommendation

- D.7 My original recommendations in paragraphs 61 and 67 above stand.

E. Biodiversity

Submission Information

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

RA.1.3 Policies

69. The Department of Conservation (**DoC**)²⁸ seeks to retain RA.1.3.3(d). FFNZ²⁹ oppose this submission point in part as 'significant' indigenous vegetation should be defined.
70. DoC³⁰ requests the following specific amendment to RA.1.3.5(d):
- d. Do not comprise high Land Use Capability Class soils, Outstanding Natural Landscapes or Features, High or Outstanding Natural Character or significant indigenous vegetation or habitat.*
71. FFNZ oppose this submission point in part as significant indigenous vegetation or habitat of indigenous fauna should be defined.
72. DoC³¹ requests the following specific amendment to RA.1.3.6(e):
- e. Do not comprise Outstanding Natural Landscapes or Features or significant indigenous vegetation or habitat.*
73. FFNZ oppose this submission point in part as "under s6 of the RMA, natural character is relevant for the CA and certain waterbodies". HortNZ³² supports this submission point as the "inclusion of soils in the policy is supported to ensure that it is considered as part of identifying RUEE areas".

²⁸ 78/1

²⁹ x518

³⁰ 78/2

³¹ 78/3

³² x198

RA.3 Rural Area Subdivision Performance Standards

74. DoC³³ seeks to retain RA.3.3.1(p). FFNZ oppose this submission point in part as RA.3.3.1(p) should focus on adverse effects, not changes.

RA.4.1. Matters of Control

75. DoC³⁴ seeks to retain RA.4.1.1(j). FFNZ oppose this submission point in part as the terminology should be consistent with the RMA (i.e. refer to significant indigenous vegetation and habitat for indigenous fauna and define these terms). The Landowners Coalition³⁵ opposes this submission point as well stating that the effects of subdivision on flora and fauna ignore the positive benefits.

Discussion

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

Indigenous Vegetation

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

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

Recommendation

80. I recommend that the Commissioners:
- **Accept** submission points 78/1, 4 and 5.
 - **Reject** submission points 78/2 and 3.

³³ 78/4

³⁴ 78/5

³⁵ x374

Evidence and Hearing Information

- E.1 Mr Riddell presented evidence on behalf of DoC regarding the inclusion of the word 'habitat' into the RA policies and including reference to cat and dog controls in RA.4.1.
- E.2 In paragraphs 158 – 163 of Mr Riddell's pre-circulated Statement of Evidence, he has recommended that the words "or habitats" be included in policies RA.1.3.5 and RA.1.3.6. Mr Riddell is concerned that the reference to significant vegetation is incomplete because "Matters of national importance 6(c), the New Zealand Coastal Policy Statement and the Regional Policy Statement are clear that habitats are as much of a concern as indigenous vegetation".
- E.3 In paragraphs 202 – 208 of Mr Riddell's Statement of Evidence it is also recommended that the following specific amendment be made to matter of control RA.4.1.1(j):
- j. The extent to which subdivision avoids adverse effects on significant flora and fauna habitats, including methods of weed and pest management and measures to control cats and dogs.*
- E.4 In paragraph 205 of his Statement of Evidence Mr Riddell considers that proposed RA.4.1.1(j) may not sufficiently allow the imposition of cats and dogs conditions where it is appropriate.
- E.5 DoC raised this matters as a further submitter³⁶ responding to Tutukaka Landcare's original submissions³⁷ which requested that subdivisions forbid cats and dogs and require pest control programs. Ms McGrath addressed this in **Part 1** of the s42A report³⁸.

Right of Reply Discussion

- E.6 I do not support the Mr Riddell's recommended amendments to include 'habitat' in the RA policies primarily due to the difficulties, uncertainties and costs associated with mapping 'habitats'. The Concise Oxford Dictionary defines 'habitat' as "the natural home of an organism; a habitation". Under this definition, it is my opinion that almost anywhere could be considered a 'habitat' and using this as a zoning criterion causes uncertainty as to where the Environment boundaries should apply, and is not consistent with the actual mapping of the RVE and RUEE.
- E.7 With regard to the management of cats and dogs, in my opinion proposed matter of control RA.4.1.1(j) is not intended to be an all-inclusive list as the first clause of the sentence is a standalone clause and provides scope for the consideration of cats and dogs conditions. The second clause is intended to provide an example of a method to achieve the avoidance of effects on flora and fauna habitats. Nevertheless, in my opinion including the recommended wording does not significantly alter the intent or expected outcome of the matter of control as the first clause of the sentence is maintained as a standalone clause and the recommended wording is beneficial in that it highlights another method to achieve the outcome. I support the recommended amendment and given that this change is intended to provide clarification to plan users and does not materially change the provisions or the outcomes sought, I do not consider that additional s32AA assessment is necessary in this instance to justify this change.

³⁶ Further submissions x548 and x549

³⁷ Submission points 200/1 and 201/1

³⁸ Paragraph 164

Right of Reply Recommendation

- E.8 My original recommendation in paragraph 80 above stands. However, I also recommend that the Commissioners **accept in part** submission points 200/1 and 201/1 and further submissions x548 and x549, and that the notified provisions are amended as follows:

RA.4.1.1 Matters of Control

- j. The extent to which subdivision avoids adverse effects on significant flora and fauna habitats, including methods of weed and pest management and measures to control cats and dogs.

F. Amenity and Character

Submission Information

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

RA.1.2 Objectives

82. NZ Pork³⁹ supports RA.1.2.5 as amenity values and rural character are often defined by the rural production activities the Environment supports.
83. GBC Winstone (GBC)⁴⁰ requests the following specific amendment to RA.1.2.5:

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

RA.1.3 Policies

84. NZ Pork⁴¹ supports RA.1.3.1 as amenity values and rural character are often defined by the rural production activities the environment supports.
85. HortNZ⁴² requests that the phrase “consistent with rural production activities” be included within RA.1.3.1.
86. HortNZ also requests the following specific amendment to policy RA.1.3.9:

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

87. GBC⁴³ requests the following specific amendment to RA.1.3.9 to ensure that the level of amenity referred to is within the Rural Environment and not adjoining zones:

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

88. HortNZ⁴⁴ notes that the changes requested by GBC and HortNZ are similar and requests that RA.1.3.9 be amended as sought by both submission points.

³⁹ 240/5

⁴⁰ 250/3

⁴¹ 240/6

⁴² 423/4

⁴³ 250/4

⁴⁴ x409

89. KiwiRail⁴⁵ seeks to retain RA.1.3.9 as the scale and nature of new rural landuse activities should be consistent with the level of amenity in the existing Environment.

Discussion

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

Recommendation

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

G. Reverse Sensitivity

95. Fifteen submission points were made with regard to the topic of reverse sensitivity. In general, the reasons for the relief sought include:

⁴⁵ 429/1

- Potential conflicts between incompatible land uses should be reduced and/or avoided.
- Controls must be implemented to ensure that sensitive activities do not locate within close proximity to lawfully established activities (e.g. network utilities, mineral extraction activities, rural industries, the railway line and horticulture).
- Horticulture is an important rural production activity within the District and must be appropriately recognised, provided for and protected from reverse sensitivity effects.

RA.1.1 Description and Expectations – Submission Information

96. HortNZ⁴⁶ requests the following specific amendment to RA.1.1:

Rural Living Environment (RLE)

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

RA.1.1 Description and Expectations – Discussion

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

RA.1.1 Description and Expectations – Recommendation

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

RA.1.1 Description and Expectations – Evidence and Hearing Information

G.1 Mr Hodgson presented evidence on behalf of HortNZ recommending the following specific amendment to the revised RLE description in RA.1.1 to better align with the intent of the RLE .

Rural Living Environment (RLE)

The Rural Living Environment provides for ~~on-going rural living development in locations that have an existing rural living density of development~~ rural lifestyle living as well as small-scale rural production in areas already characterised by rural living activities and where rural production activities will not be compromised.

G.2 In paragraph 21 of his Statement of Evidence Mr Hodgson explains:

“The description states that the RLE are in locations that have an existing rural living density of development. This differs from the description in RLE.1.1 which states that the 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... I consider there are significant challenges to containing RLE to the areas and extent identified in the Plan Changes and that extensions are likely to lead to conflict with rural production that relies on the rural resources of the District and defines the rural character and amenity.”

RA.1.1 Description and Expectations – Right of Reply Discussion

G.3 I agree with Mr Hodgson that it is important for the description and expectations section of the RA to establish the resource management platform for the RA Environments. Mr Cook and Ms

⁴⁶ 423/1

Brownie have recommended various amendments to the RLE chapter to clarify the purpose of the zone. Having considered the amendments recommended to the RLE chapter, in my opinion it is appropriate to amend the RLE description in RA.1.1 to provide clearer direction. I have relied on the recommendations from Mr Cook and Ms Brownie in **Part 10** of the ROR as to the direction and purpose of the RLE and recommend the following wording to be consistent with the RLE chapter:

Rural Living Environment (RLE)

The Rural Living Environment provides for a variety of rural living opportunities, including small-scale rural land use activities, in locations that have an existing rural living density of development.

- G.4 Mr Cook and Ms Brownie have confirmed that the above description is consistent with the intent of the RLE. Given that this change is intended to provide clarification to plan users and does not materially change the provisions or the outcomes sought, I do not consider that additional s32AA assessment is necessary in this instance to justify this change.

RA.1.1 Description and Expectations – Right of Reply Recommendation

- G.5 I recommend that the Commissioners **accept in part** submission point 423/1, and that the notified provisions are amended as follows:

RA.1.1 Description and Expectations

Rural Living Environment

The Rural Living Environment provides for **a variety of rural living opportunities, including small-scale rural land use activities, the on-going rural living development** of land and rural living activities in locations that have an existing **rural living density of rural living development**.

Objective RA.1.2.2 – Submission Information

99. NZ Pork⁴⁷ seeks to retain RA.1.2.2. The following four submitters request amendments to the same objective as stated:
- GBC⁴⁸:
 2. *Avoid, remedy or mitigate reverse sensitivity impacts especially in relation to on established and ~~productive~~ rural production activities.*
 - Fonterra⁴⁹:
 2. *Avoid, remedy or mitigate reverse sensitivity impacts especially in relation to established and productive rural activities and rural industries.*
 - HortNZ⁵⁰:
 2. *Avoid remedy or mitigate reverse sensitivity impacts especially in relation to established and ~~productive~~ rural production activities.*
 - Radio New Zealand⁵¹:

⁴⁷ 240/3

⁴⁸ 250/3

⁴⁹ 414/3

⁵⁰ 423/2

⁵¹ 462/1

- 2. *Avoid remedy or mitigate reverse sensitivity impacts especially in relation to established and productive rural activities and infrastructure and network utilities.*

100. HortNZ⁵² opposes GBC’s submission point in part and supports the submission points from Fonterra and Radio NZ and seeks that RA.1.2.2 be amended as sought by HortNZ, Fonterra and Radio NZ.

Objective RA.1.2.2 – Discussion

- 101. I agree that RA.1.2.2 can be improved as ‘productive rural activities’ lacks clarity. However, I do not support listing other specific activities such as infrastructure and network utilities (which are addressed by the WDP District wide provision 23.4.6). Other activities and resource areas such as mineral extraction activities and strategic rural industries will similarly be protected by the proposed provisions in Plan Change 102 and Plan Change 85B, respectively, and do not need to be specifically listed. Additionally, the first half of RA.1.2.2 states “Avoid, remedy or mitigate reverse sensitivity impacts...”. I recommend inserting a comma after this clause to identify it as a standalone clause addressing reverse sensitivity effects on all activities and the second half of the clause identifying ‘rural production activities’ as being of particular importance in the RA.
- 102. A key priority of the RA is to provide for rural production activities. I support amending the objective to particularly protect these activities from reverse sensitivity effects. By improving the clarity of the terminology and including a comma to separate the two clauses I consider that the objective more appropriately achieves the purpose of the RMA and achieves the relief sought.

Objective RA.1.2.2 – Recommendation

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

RA.1.2 Objectives
 2. Avoid, remedy or mitigate reverse sensitivity impacts, particularly ~~especially~~ in relation to established ~~and productive~~ rural production activities.

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

Objective RA.1.2.2 – Evidence and Hearing Information

G.6 Mr Chrystal presented evidence for Fonterra Limited recommending the following specific amendment to the revised objective RA.1.2.2:

- 2. *Avoid, remedy or mitigate reverse sensitivity impacts, particularly in relation to established rural production activities and strategic rural industries.*⁵³

G.7 Mr Chrystal considers that the issue of reverse sensitivity is not limited to rural production activities and that my original recommended revision to the objective does not address Fonterra’s original submission point.

⁵² x409, x416 and x419

⁵³ I note that the phrasing recommended in the written Statement of Evidence was “and rural industries”; however, Mr Chrystal verbally amended this to “and strategic rural industries” at the hearing.

G.8 Ms Bennett provided a pre-circulated statement on behalf of Radio NZ reiterating the requested amendment made under their original submission in paragraph 99 above.

Objective RA.1.2.2 – Right of Reply Discussion

G.9 In my opinion including the recommended wording does not significantly alter the intent or expected outcome of the objective as the first clause of the sentence is maintained to address all reverse sensitivity effects, and additional consideration would be given to strategic rural industries and network utilities as well as rural production activities. In my opinion there are minimal costs or risks associated with granting the relief sought. However, I do not support including the term ‘infrastructure’ as this is not as specific and definable as the other terms listed.

G.10 By including these additional activities, it then becomes necessary in my opinion to change ‘particularly’ to ‘including’. This avoids the issue highlighted by Mr Chrystal whereby these activities may be given undue primacy if the term ‘particularly’ were used.

G.11 Given that this change is intended to provide clarification to plan users and does not materially change the provisions or the outcomes sought in my opinion, I do not consider that additional s32AA assessment is necessary in this instance to justify this change.

Objective RA.1.2.2 – Right of Reply Recommendation

G.12 I recommend that the Commissioners **accept in part** submission points 240/3, 250/3, 414/3, 423/2 and 462/1, and that the notified provisions are amended as follows:

RA.1.2 Objectives

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

RA.1.3.3(a-h) – Submission Information

104. NZ Pork⁵⁴ supports RA.1.3.3(a-h).

RA.1.3.3(a-h) – Discussion

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

RA.1.3.3(a-h) – Recommendation

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

RA.1.3.6 – Submission Information

107. GBC⁵⁵ requests the following additional zoning criterion be included in RA.1.3.6:

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

⁵⁴ 240/8

⁵⁵ 250/4

RA.1.3.6 – Discussion

108. Potential reverse sensitivity effects were considered when mapping the RUEE (as discussed in **Part 8** of the s32 report⁵⁶) and have factored into the proposed zoning of certain areas. I agree with GBC that it is appropriate to include reference to reverse sensitivity in policy RA.1.3.6.

109. The RLE zoning criteria policy (RA.1.3.3) includes the following criterion referencing reverse sensitivity effects:

RA.1.3.3(h)

Will not materially increase the potential for reverse sensitivity effects in the Rural Area.

110. In my opinion, the RLE criterion wording is more appropriate than the wording requested by GBC. The requested wording by GBC manages effects on two specific activities compared to the RLE criterion which covers a broader range. The RLE criterion also maintains some flexibility where reverse sensitivity effects may be appropriate provided they are not materially increased. Duplicating the RLE criterion for the RUEE also maintains consistency between the provisions.

111. As reverse sensitivity was considered when mapping the RUEE, the recommended changes do not change the RUEE boundaries in my opinion and instead better reflects the criteria used to assess the boundaries. I also recommend minor changes to the policy improve legibility.

RA.1.3.6 – Recommendation

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

RA.1.3 Policies

6. To identify areas as RUEE that ~~are~~:

a. ~~Are c~~ontiguous with Living Environments on the fringe of Whangarei City.

b. ~~Are p~~redominantly comprised of existing rural residential character.

c. ~~To~~ legitimise the zoning of existing clusters of rural residential development.

d. ~~Are n~~ot identified as significantly hazard prone.

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

f. Have existing lot density of less than 2 hectares.

g. ~~Are p~~redominately suitable for future reticulated urban expansion of Whangarei City.

h. Do not compromise the future expansion of urban growth.

i. Will not materially increase the potential for reverse sensitivity effects in the Rural Area.

RA.1.3.6 – Evidence and Hearing Information

G.13 Ms Clarke presented evidence regarding RA.1.3.6 on behalf of GBC stating her preference for the original amendment as requested by GBC and responding to the s42A as follows:

⁵⁶ Pages 4-5 and 12-14

“I support the acknowledgement of the issue and intention of the amendment. I note the difficulties with the use of the term ‘materially’ which the Oxford Concise Dictionary defines to mean: ‘in a significant way; considerably.’ In my experience, this can lead to difficulties in interpretation and determining whether there are reverse sensitivity effects on an operator.”

RA.1.3.6 – Right of Reply Discussion

- G.14 I do not support the recommended amendment by Ms Clarke as it limits the scope of activities to consider for reverse sensitivity effects to just mineral extraction activities and strategic rural industries. Additionally, in my opinion the amendment is too restrictive and does not accurately reflect the RUEE zoning criteria as some increase in potential reverse sensitivity effects may be appropriate since the proposed provisions in the RUEE can mitigate effects.
- G.15 In my opinion ‘materially’ does not lack clarity. As suggested by Ms Clarke, materially is defined as ‘significant’ (or significantly) which is a term that has been used numerous times in the proposed provisions to describe the degree of effects.

RA.1.3.6 – Right of Reply Recommendation

- G.16 My original recommendation in paragraph 112 above stands.

RA.1.3.11 – Submission Information

113. KiwiRail⁵⁷ seeks to retain RA.1.3.11 as notified while the following three submitters request amendments to the same policy as stated:

- GBC⁵⁸:
 11. *To manage the establishment and location of new rural activities to avoid conflicts between existing authorised incompatible land uses.*
- Fonterra⁵⁹:
 11. *To manage the establishment and location of new rural activities, including dwellings to avoid conflicts between incompatible land uses.*
- HortNZ⁶⁰:
 11. *To manage the establishment and location of new non-rural activities to avoid conflicts between incompatible land uses.*

114. HortNZ⁶¹ supports their own requested amendment to RA.1.3.11 rather than GBC’s, but supports Fonterra’s submission point and seeks that RA.1.3.11 be amended as sought by Fonterra and themselves.

RA.1.3.11 – Discussion

115. ‘Rural activities’ has not been defined and therefore it is unclear what activities this policy is referring to. Fonterra’s submission highlights this issue by suggesting that ‘dwellings’ needs to be explicitly stated. The policy as notified is therefore inefficient in my opinion as many different

⁵⁷ 429/1

⁵⁸ 250/4

⁵⁹ 414/4

⁶⁰ 423/4

⁶¹ x409 and x416

activities can have reverse sensitivity effects and the term 'rural activities' is ambiguous and can be limiting. For this reason, I do not support HortNZ's submission point as 'non-rural activities' presents the same issues.

116. I do not support GBC's submission point as, in my opinion, the proposed amendment does not improve or add to the policy.
117. I acknowledge and generally support KiwiRail's submission point. I propose an amendment to the policy to clarify what activities are being managed and to manage a wider range of activities. However, I consider that the original intention and outcome are maintained in a manner that still achieves the submitter's relief sought.

RA.1.3.11 – Recommendation

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

RA.1.3 Policies

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

RA.4.1 Matters of Control – Submission Information

119. HortNZ⁶² seeks to retain Matters of Control RA.4.1.1(d).
120. Radio NZ⁶³ requests that the following specific additional matter of control be included in RA.4.1.1:
- k. The extent to which subdivision activities have the potential to have adverse reverse sensitivity effects on infrastructure and network utilities.
121. FFNZ⁶⁴ oppose Radio NZ's submission point and states that RA.4.1.1(d) addresses the matters covered by the requested additional amendment.
122. HortNZ⁶⁵ supports in part Radio NZ's submission point and seeks that an additional matter of control is included in RA.4.1.1 relating to all reverse sensitivity activities in the RA, including rural production activities.

RA.4.1 Matters of Control – Discussion

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

⁶² 423/9

⁶³ 462/2

⁶⁴ x618

⁶⁵ x419

protecting network utilities, I consider RA.4.1.1(d) sufficient as network utilities are a landuse activity.

RA.4.1 Matters of Control – Recommendation

125. I recommend that the Commissioners:

- **Accept** submission point 423/9.
- **Reject** submission point 462/2.

RA.4.2 Assessment of Discretionary Activities – Submission Information

126. The following three submitters each request an additional assessment criterion to be included in RA.4.2.1 as follows:

- GBC⁶⁶:
u. Effects of reverse sensitivity on existing lawfully established rural production activities including mineral extraction activities and strategic rural industries.
- HortNZ⁶⁷:
u. The location of rural production activities in the vicinity and methods to avoid potential reverse sensitivity effects.
- Radio NZ⁶⁸:
u. Potential for reverse sensitivity effects on infrastructure and network utilities.

127. HortNZ⁶⁹ supports in part GBC's and Radio NZ's submission points and seeks that an additional criterion relating to reverse sensitivity is included in RA.4.2.1 to address all activities in the RA, including rural production activities.

128. FFNZ⁷⁰ oppose Radio NZ's submission point in part as a reverse sensitivity criterion is considered necessary but should not be limited to infrastructure and network utilities.

RA.4.2 Assessment of Discretionary Activities – Discussion

129. In my opinion RA.4.2 is not meant to be an all-inclusive list, as the assessment matters for discretionary activities are not limited to RA.4.2.1(a)-(t), and it is therefore not necessary to list every potential consideration in RA.4.2. However, I do support the inclusion of a new assessment criterion that addresses reverse sensitivity as this is a key issue within the RA.

130. Three reasonably practicable options have been identified for the proposed change:

- **Option 1:** Notified RA.4.2.1 Provision.
- **Option 2:** Recommended Revised Provision – Inclusion of a broad reverse sensitivity assessment criterion – See **Part 1** of the s42A report **Attachment 2D**.

⁶⁶ 250/6

⁶⁷ 423/9

⁶⁸ 462/3

⁶⁹ x409 and x419

⁷⁰ x618

- **Option 3:** Alternative Revision and Submissions Requests (submission points 250/6, 423/9 and 462/3) – Inclusion of a reverse sensitivity assessment criterion explicitly stating specific activities which should be considered (e.g. mineral extraction activities, network utilities, strategic rural industries and rural production activities).

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

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

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

RA.4.2 Assessment of Discretionary Activities – Recommendation

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

RA.4.2.1 Assessment of Discretionary Activities

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

RA.4.2 Assessment of Discretionary Activities – Evidence and Hearing Information

G.17 In paragraphs 51 – 54 of his Statement of Evidence, Mr Hodgson recommends the following specific amendment to the recommended provision:

u. *The potential for reverse sensitivity effects on existing lawfully established activities and any ~~mitigation~~ measures proposed to avoid, remedy or mitigate those effects.*

G.18 Mr Hodgson considers that:

“the criteria is [sic] better written as one of considering how an activity might avoid, remedy or mitigate reverse sensitivity effects. I note for example that the boundary of [Rural Living Environments] are in some situations adjacent [to] rural production activities. Here mitigations may be limited and avoiding reverse sensitivity effects should influence subdivision design.”

G.19 In paragraphs 7.20 – 7.22 of her Statement of Evidence, Ms Clarke states that the original amendment sought by GBC in paragraph 126 above “is necessary as it is focused on the outcome identified in the relevant Rural Plan Changes objectives and the RPS”. Ms Clarke considers that the amendment recommended in the s42A report “does not have sufficient clarity to achieve the objective of protecting rural land for Rural Production Activities”.

G.20 Ms Bennett provided pre-circulated evidence on behalf of Radio NZ reiterating Radio NZ’s preference for their originally requested amendment in paragraph 126 above rather than my recommendation to protect network utilities from inappropriate use and development.

RA.4.2 Assessment of Discretionary Activities – Right of Reply Discussion

G.21 I agree with and support Mr Hodgson’s recommended amendment as I consider the amendment improves the recommended assessment criterion while retaining the intent and expected outcome of the provision. In terms of section 32AA, it is my opinion that this recommended change represents the most efficient and effective option.

G.22 I do not support the amendments recommended by Ms Clarke and Ms Bennett. My original discussion stands as I do not consider it necessary to list every potential activity which must be considered.

RA.4.2 Assessment of Discretionary Activities – Right of Reply Recommendation

G.23 I recommend that the Commissioners **accept in part** submission points 250/6, 423/9 and 462/3, and that the notified provisions are amended as follows:

RA.4.2.1 Assessment of Discretionary Activities

u. The potential for reverse sensitivity effects on existing lawfully established activities and any ~~mitigation~~ measures proposed to avoid remedy or mitigate those effects.

H. Cultural Values

Submission Information

134. Patuharakeke Hapu⁷¹ supports the provisions within RA.3.3 and RA.4 regarding sites of significance to Māori. However, the submitter requests that there be reference to sites of significance to Māori/Māori values in the policy direction of the RA chapter (e.g. by referring to the protection of cultural values in the objectives).
135. FFNZ⁷² oppose this submission point in part and consider that cultural values should not be reflected somewhere up front in the RA Chapter as cultural impact assessments can add significant costs, delays and uncertainty for consent applicants.

Discussion

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

Recommendation

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

RA.1.1 Description and Expectations

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

I. Rural Production

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

RA.1.2 Objectives – Submission Information

140. NZ Pork⁷³ and HortNZ⁷⁴ seek to retain objective RA.1.2.1 to protect of the productive function of rural land.

⁷¹ 238/9

⁷² x608

⁷³ 240/2

⁷⁴ 423/2

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

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

142. NZ Pork⁷⁵ supports objective RA.1.2.3 to limit subdivision and development in rural areas that could lead to constraints on rural production in terms of accessibility to rural resources and reverse sensitivity.

RA.1.2 Objectives – Discussion

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

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

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

RA.1.2 Objectives – Recommendation

146. I recommend that the Commissioners:

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

RA.1.2 Objectives – Evidence and Hearing Information

I.1 Mr Hodgson on behalf of HortNZ presented evidence recommending the following specific amendment to the revised objective RA.1.2.6:

~~6. Consolidate rural living subdivision and development in areas where rural production activities have already been compromised, or on less productive land without significant adverse effects on the environment of less productive land where development will not compromise existing rural production activities or the ability of adjacent zones to be effectively and efficiently used for appropriate activities.~~

I.2 In paragraphs 26 – 27 Mr Hodgson explains:

⁷⁵ 240/4

“The statements that these [RLE] areas are compromised, conflicts with HortNZ’s evidence on the distribution of land with high production potential and established activities in some of those areas and adjoining.

I consider that framing an objective around the concept of ‘comprised [sic] for rural production’ [is] risky for plan integrity given a range of arguments could be advanced about compromised situations.”

I.3 This matter has been discussed and addressed in **Part 10** of the ROR⁷⁶.

RA.1.2 Objectives – Right of Reply Discussion

I.4 Mr Cook and Ms Brownie in **Part 10** of this ROR⁷⁷ consider that objective RA.1.2.6 as revised in the s42A report is appropriate and recommend that the amendment sought by Mr Hodgson be rejected. I concur with this assessment and do not recommend any further changes to RA.1.2.6.

RA.1.2 Objectives – Right of Reply Recommendation

I.5 My original recommendation in paragraph 146 above stands.

RA.1.3.2 – Submission Information

147. NZ Pork⁷⁸ supports policy RA.1.3.2(a-e) to protect and enhance rural production activities.

148. GBC⁷⁹ request the following specific amendment to RA.1.3.2 to protect existing authorised land uses:

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

149. HortNZ⁸⁰ requests the following specific amendment to RA.1.3.2(b) as the presence of small allotments does not mean that the land is not suitable for, or being used for, production purposes, and particularly horticultural purposes:

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

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

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

RA.1.3.2 – Discussion

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

- The intention of the policy is to protect the land resource rather than established activities which use the resource.

⁷⁶ Paragraphs C.1 – C.11

⁷⁷ Paragraph C.10

⁷⁸ 240/7

⁷⁹ 250/4

⁸⁰ 423/4

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

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

RA.1.3.2 – Recommendation

153. I recommend that the Commissioners:

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

RA.1.3.2 – Evidence and Hearing Information

I.6 Mr Hodgson on behalf of HortNZ presented evidence recommending the following additional criterion to be included in the RPE zoning criteria policy RA.1.3.2:

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

I.7 In paragraph 36 Mr Hodgson explains that expanding policy RA.1.3.2 “to note the other components that have informed the RPE would, in my opinion, be positive changes and help define limits for RLE”. Mr Hodgson responded to the third bullet point in paragraph 151 above stating “I support adding these components and don’t see this as being a checklist whereby all elements need to be present, but important elements that help determine the extent of the RPE”⁸¹.

Right of Reply Discussion

I.8 My original discussion stands. I agree that the policy is not a checklist whereby all elements need to be present. However, the insertion of a new criterion could affect the extent of the RPE zoning and does not accurately reflect the RPE mapping. Ms McGrath has recommended changes to the RPE Description and Expectations in **Part 7** of this ROR which highlight the fact that the RPE is not strictly used for rural production. In **Part 10** of this ROR, Mr Cook and Ms Brownie have recommended a change to the RLE zoning criteria policy RA.1.3.3 to include highly versatile soils as a criterion against RLE zoning. Policy RA.1.3.2(e) states that RPE zoning should apply to

⁸¹ Paragraph 33 of Mr Hodgson’s pre-circulated Statement of Evidence

areas where the criteria for the RLE are not met. Therefore, by default highly versatile soils are a criterion in RPE zoning.

Right of Reply Recommendation

I.9 My original recommendation in paragraph 153 above stands.

Additional Policy – Submission Information

154. 16 submission points⁸² request that a new policy be included in RA1.3 as follows:

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

155. The reasons for the relief sought include:

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

Additional Policy – Discussion

156. The option of mapping productive and versatile soils was considered under the **Part 3** of the s32 report⁸³. As assessed in that report, there are significant economic costs associated with identifying and mapping these soils. In the absence of technical information, costs may be transferred to applicants resulting in additional consenting requirements and costs. Additionally, the District has a varied rural environment with variable soil types, landform, stability and access to water sources, making this more difficult to identify and map. I agree with the s32 assessment that overall this results in an inefficient method as the costs involved with evaluating and identifying the rural productive land throughout Whangarei District is very high and these outweigh the benefits.

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

Additional Policy – Recommendation

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

⁸² 181/8, 185/8, 186/8, 191/8, 203/8, 219/8, 233/8, 235/8, 244/8, 260/8, 261/8, 277/8, 314/8, 406/8, 423/6 and 426/8.

⁸³ Pages 13 – 15

Additional Policy – Evidence and Hearing Information

- I.10 Mr Hodgson on behalf of HortNZ presented evidence regarding the requested additional policy. In paragraphs 44 – 48 of his evidence, Mr Hodgson recommends the following additional policy to be included RA.1.3:

14. To protect the districts highly [sic] quality soils and productive land for its productive potential and value to the district's economy, from the adverse effects of urban and rural living development.

- I.11 In paragraph 48 Mr Hodgson states:

"In my opinion, [the proposed provisions] are not direct enough and do not sufficiently address or mention the values of highly productive land or versatile soils. I am concerned that the current framework places significant risks on this resource and rural production systems from inappropriate subdivision and development."

- I.12 Onyx Capital Limited presented at the hearing in support of the amendment requested under HortNZ's original submission.

Additional Policy – Right of Reply Discussion

- I.13 The original recommendation to reject the submission was based on the costs and difficulties of 'identifying' highly versatile soils⁸⁴. Mr Hodgson's recommended amendment removes this issue as it no longer requires highly versatile soils to be identified. Accordingly, I have identified and assessed the following options pursuant to s32AA of the RMA.

Option 1: Status Quo – No Rural Area policy protecting highly versatile soils

- I.14 Under the status quo there are objectives and policies which protect rural production activities and the productive functions of rural land (e.g. RA.1.2.1, 1.2.3, 1.2.6 and 1.3.5(d)). Additionally, Mr Cook and Ms Brownie have recommended an additional criterion in policy RA.1.3.3 to protect highly versatile soils in **Part 10** of this ROR⁸⁵. However, there is no RA wide policy explicitly referring to the protection of highly versatile soils. I agree with Mr Hodgson that including a more directive policy to protect highly versatile soils is appropriate. Therefore, in my opinion the status quo is not the most effective and efficient option.

Option 2: Mr Hodgson's recommended additional policy (paragraph I.10 above)

- I.15 This is the option as outlined in Mr Hodgson's evidence.
- I.16 I support the intent of the recommended policy and consider it more appropriate than Option 1. However, in my opinion it is not appropriate to provide too high a level of protection to uncompromised highly versatile soils. The suggested policy does not distinguish this aspect and therefore presents the risk of protecting areas which may have limited to no productive potential. Additionally, I do not support including the phrase 'productive land' as it is unclear what this means.

⁸⁴ Defined in the RPS as "Land Use Capability Classes 1c1, 2e1, 2w1, 2w2, 2s1, 3e1, 3e5, 3s1,3s2, 3s4 - as mapped in the New Zealand Land Resource Inventory"

⁸⁵ Paragraphs M.1 – M.25

- I.17 In my opinion the phrase “adverse effects of urban and rural living development” may lead to uncertainty as well. It is unclear what activities this includes as for example an industrial activity may not be considered urban development, but could compromise highly versatile soils.
- I.18 A potential risk of the policy is that it is too restrictive in the it may not enable activities which could compromise highly versatile soils, but which would provide a greater net public benefit.
- I.19 For these reasons, I consider that this option is not the most efficient and effective option. However, in my opinion this option is more efficient and effective than the status quo and notified provisions.

Option 3: Recommended provision – Minor amendments to Mr Hodgson’s recommended policy

- I.20 This option is similar to Option 2 but amends the policy to the following:

14. To protect uncompromised highly versatile soils from activities which would materially reduce the potential for soil-based primary production unless the net public benefit exceeds the reduced potential for soil-based rural production activities.

- I.21 The benefits and costs of Option 3 are similar to Option 2; however, I consider that this option is ultimately the most efficient and effective because:

- Distinction is made that it is uncompromised highly versatile soils which are being protected.
- The phrase ‘productive land’ has been removed as this may cause uncertainty.
- The second half of the policy has been amended to be more consistent with RPS Policy 5.1.1(f). In my opinion this provides a higher level of protection to uncompromised highly versatile soils while allowing for activities which may have greater net public benefit.

- I.22 In terms of s32AA, it is my opinion that this recommended change represents the most efficient and effective option.

Additional Policy – Right of Reply Recommendation

- I.23 I recommend that the Commissioners **accept in part** submission points 181/8, 185/8, 186/8, 191/8, 203/8, 219/8, 233/8, 235/8, 244/8, 260/8, 261/8, 277/8, 314/8, 406/8, 423/6 and 426/8, and that the notified provisions are amended as follows:

RA.1.3 Policies

14. To protect uncompromised highly versatile soils from activities which would materially reduce the potential for soil-based rural production activities unless the net public benefit exceeds the reduced potential for soil-based rural production activities.

J. Rural Area Activities

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

RA.1.1 Description and Expectations – Submission Information

160. Fonterra⁸⁶ requests the inclusion of the following additional sentence in the third paragraph of RA.1.1, to reflect the fact that there are also rural industrial activities located within the RA:

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

161. GBC⁸⁷ requests the following specific amendment to the fifth paragraph of RA.1.1, to acknowledge additional activities occurring in the RA:

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

RA.1.1 Description and Expectations – Discussion

162. I generally support Fonterra's submission point and consider that an additional reference to the fact that strategic rural industries are located in the RA is beneficial. However, strategic rural industries are not necessarily related to primary production. The proposed definition for strategic rural industries states the nature and scale of these activities and I consider it unnecessary to restate this in RA.1.1.

163. As discussed in **topic A** above, an amendment is recommended to paragraph 5 of RA.1.1 to improve legibility and terminology consistency by replacing "productive usage" with "rural production activities". As a new definition is recommended for the term "rural production activities" I do not consider it appropriate to list of the activities which comprise the recommended definition.

RA.1.1 Description and Expectations – Recommendation

164. I recommend that the Commissioners:

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

RA.1.1 Description and Expectations

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

RA.1.2 Objectives – Submission Information

165. GBC⁸⁸ requests the following additional objective for RA.1.2:

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

⁸⁶ 414/2

⁸⁷ 250/2

⁸⁸ 250/3

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

RA.1.2 Objectives – Discussion

167. I do not support the requested additional objective for RA.1.2 as mineral extraction activities are addressed as a Resource Area through Plan Change 102 and strategic rural industries are already provided for in the RA. Additionally, objective RA.1.2.8 already provides for a range of appropriate land uses. Therefore, in my opinion, the requested amendment is superfluous.

RA.1.2 Objectives – Recommendation

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

RA.1.2 Objectives – Evidence and Hearing Information

- J.1 Ms Clarke on behalf of GBC presented evidence reiterating the request to include the additional objective for RA.1.2. Ms Clarke considers that the requested objective will “improve the structure of the Plan and enhance the cascade of resource management provisions”. Ms Clarke considers that the amendment is not superfluous and instead provides greater clarity and certainty for the RA provisions

RA.1.2 Objectives – Right of Reply Discussion

- J.2 In **Part 3** of the ROR⁸⁹ Lara Clarke has addressed the distinction between the RA and MIN provisions concluding that the MIN objectives and policies give effect to the RPS. I agree with Ms L Clarke’s discussion and consider that it is unnecessary to include specific reference to ‘mineral extraction activities’ in the RA objectives as they are provided for through the MIN chapter, which is a Resource Area and sits alongside the RA in the policy hierarchy.
- J.3 In my opinion the proposed definition of ‘strategic rural industries’ classifies them as a subset of ‘industrial activities’. Therefore, it is unnecessary in my opinion to specifically provide for strategic rural industries in the RA objectives since objective RA.1.2.8 already provides for industrial activities.

RA.1.2 Objectives – Right of Reply Recommendation

- J.4 My original recommendation in paragraph 168 above stands.

K. Urban Growth

169. Submission Information

170. GBC⁹⁰ requests the following specific amendment to RA.1.2.7:

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

⁸⁹ Paragraph H.8

⁹⁰ 250/3

Discussion

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

Recommendation

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

L. Commercial and Industrial Activities

Submission Information

173. Reyburn and Bryant⁹¹, Zodiac Holdings Ltd⁹² and Ginty Naenae Ltd⁹³ request the following additional objective in RA.1.2 (or words to similar effect):

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

174. Reyburn and Bryant⁹⁴, Zodiac Holdings Ltd⁹⁵ and Ginty Naenae Ltd⁹⁶ also request the following additional policy in RA.1.3 (or words to similar effect):

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

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

b. Contribute positively to the economy of the District.

c. Provide local employment opportunities.

d. Can meet and fund local infrastructure requirements.

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

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

- The s32 assessment fails to adequately take into account the benefits of location commercial and industrial activities near associated natural and physical resources, or the costs associated with precluding them.
- There is no clear evidence base or clear rationale for controlling commercial and industrial activities in the RA to the extent proposed by the plan changes.

⁹¹ 309/1

⁹² 327/1

⁹³ 336/2

⁹⁴ 309/3

⁹⁵ 327/3

⁹⁶ 336/5

- The proposed provisions will have a significant adverse effect on the Northland and Whangarei economy.
- The proposed provisions do not give effect to the RPS, particularly to objective 3.5. 5. The provisions do not achieve sustainable management in accordance with Part 2 of the RMA.

176. GBC⁹⁷ supports in part the requested additional policy as it gives better effect to the RPS. GBC considers that items a, b and c in the proposed policy recognise the positive economic and community effects these activities have, but items d and e are not sufficiently clear in their intent.

177. HortNZ⁹⁸ opposes these submission points in part as the current definitions for industrial and commercial activities are too broad and some of these activities should not be anticipated in the RA. HortNZ seeks to avoid reverse sensitivity effects and considers that an alternative may be to provide for some rural services or activities that have a functional need to locate in the RA.

Discussion

178. Similar submissions were also made with regard to the RPE and RLE and are discussed in **Part 7**⁹⁹ and **Part 10**¹⁰⁰ of the s42A report, respectively. In summary, an additional policy has been recommended for the RPE to provide more flexibility for commercial activities and home occupations are recommended to be identified as a discretionary activity. No changes have been recommended for the RLE.

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

Recommendation

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

M. Consequential Changes

Submission Information

181. As discussed in **Part 1** of the s42 report¹⁰¹, two submission points¹⁰² have been made requesting further clarification and/or definition of terms such as 'rural production activities'. New definitions are recommended which require consequential changes to various sections of PC85 as discussed below.

⁹⁷ x241 and x342

⁹⁸ x411, x412 and x413

⁹⁹ Topic I

¹⁰⁰ Topic D

¹⁰¹ Topic O

¹⁰² 250/2 and 3

Discussion

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

Recommendation

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

RA.1.1 Description and Expectations

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

...

Rural Production Environment (RPE)

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

RA.1.2 Objectives

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

RA.1.3 Policies

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

N. High Quality Soils

Evidence and Hearing Information

- N.1 In paragraph 17 of his evidence, Mr Hodgson recommends that the following sentence be included at the end of the third paragraph of RA.1.1 Description and Expectations:

Rural infrastructure, high quality soils and other land suitable for production support a diverse horticultural system with significant growth potential.

- N.2 Mr Hodgson considers that recognising the horticulture sector in RA.1.1 “would assist with delivering a planning framework to support ongoing rural production”.
- N.3 This amendment was not requested in HortNZ’s original submission¹⁰³ and no other submissions were made requesting this or a similar amendment.

Right of Reply Discussion

- N.4 This matter was not raised in any submission and is therefore out of scope in my opinion. I have conferred with WDC Legal Counsel, Ms Shaw, regarding this matter.

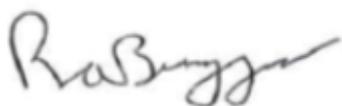
Right of Reply Recommendation

- N.5 I recommend that the Commissioners make no further changes in response to this matter.

4.0 Conclusions and Recommendations

6. After carefully considering the evidence received in relation to each topic, I recommend that PC85 be amended to the extent detailed in the preceding sections of **Part 5** of the ROR and as illustrated in **Attachment 2D** of **Part 1** of the ROR.
7. The revised provisions [**Attachment 2D** 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 PC85.
8. I have read and concur with any recommendations from other parts of this ROR that result in amendments to PC85 to the extent illustrated in **Attachment 2D** of **Part 1** of the ROR.

AUTHOR



Robert Adam Burgoyne
Policy Planner

¹⁰³ Submission 423