

Part 9
Proposed Plan Change 85C
Rural Village Environment

**Right of Reply – Council Reporting
Planner**

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1.0 Introduction

1. This is **Part 9** 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 85C – Rural Village Environment (**PC85C**) to the Operative Whangarei District Plan (**WDP**).
2. My Statement of Qualifications and Experience is provided in **Part 9** 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 numbering for the s42A content. **Part 9** 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. Whole Plan Change
 - B. General Support
 - C. Corrections and Clarifications
 - [Amendment to terminology of home occupation rules \(Ms Woollacott\)](#)
 - D. Managed Growth
 - E. Reverse Sensitivity
 - [Amendment to Policy RVE.1.3.6 \(Horticulture New Zealand\)](#)
 - [Controls for residential units adjacent to horticultural activities \(Ms Gailey\)](#)
 - F. Subdivision Standards
 - [Inclusion of recessive colour restrictions \(Dr Bellingham\)](#)
 - [Retain existing Living 3 Environment zoning in rural villages \(Mr Mortimer\)](#)
 - G. Commercial and Industrial Activities
 - H. Amenity and Privacy
 - [Inclusion of additional controls for commercial activities \(Mr and Ms Badran\)](#)
 - I. Traffic Movements and Vehicle Manoeuvring
 - [Inclusion of additional traffic movement rules \(New Zealand Transport Agency\)](#)

¹ Page 3

- J. Minor Residential Units
 - [Amendments to prohibited activity status rules \(Northland Regional Council\)](#)
- K. Earthworks
- L. Emergency Services
- M. Signs

4. With respect to Topics A, B, D, G, K, L and M and sections of Topics C, E and I, 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.
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 2G** 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. Whole Plan Change

Submission Information

25. Kevin and Lianne McMahon² support PC85C in its entirety.
26. The Landowners Coalition³ opposes the whole plan change, stating that the proposed Environments are unnecessary.
27. Trevor Shaw⁴ notes that Council spent a lot of money in 2008 to prepare the 20-year structure plan concept maps which have largely been ignored.

Discussion

28. I acknowledge and generally support the submission points supporting the direction of PC85C. Amendments to the notified wording and mapping have however been recommended in response to other submission points. I consider that the intent and purpose of PC85C has been retained notwithstanding these recommended amendments.
29. I do not agree with the opposition to PC85C. I concur with the assessment in **Part 5** of the section 32 (**s32**) report⁵ that the policy direction and provisions of the Living and Business Environments do not recognise the importance of the different outcomes required to promote sustainable management, and

² 531/1

³ 431/13

⁴ 469/3

⁵ Pages 4 and 29 -30

maintain the sense of community, within rural villages. I consider rezoning these areas to the proposed Rural Village Environment (**RVE**) to be more appropriate.

30. The structure plans for the rural villages have been taken into account as part of the mapping criteria for the RVE as discussed in **Part 5** of the s32 report⁶ and have been further considered when assessing submissions and further submissions as discussed in **Part 6** of the s42A report⁷.

Recommendation

31. I recommend that the Commissioners:
- **Accept** submission point 531/1, noting that amendments have been recommended elsewhere in response to other submissions.
 - **Accept in part** submission point 469/3.
 - **Reject** submission point 431/13.

B. General Support

Submission Information

32. Six submission points were made in general support of various sections and provisions of PC85C. Other submission points made in support have been categorised under different topics.
33. Far North District Council (**FNDC**)⁸ supports RVE.1.1 Description and Expectations and seeks that the section be retained to explain the purpose and character of the zone.
34. FNDC⁹ and Michael Payne¹⁰ support RVE.1.2 Objectives with FNDC seeking that the direction of the objectives be retained and M Payne seeking that the objectives be retained.
35. M Payne¹¹ supports policies RVE.1.3.1 – RVE.1.3.3 and RVE.1.3.5 – RVE.1.3.9 and seeks that they be retained to achieve the objectives.
36. FNDC¹² supports RVE.2.2 Notification Rules and seeks that the provisions are retained as notified.
37. FNDC¹³ supports RVE.2.3 Discretionary Activities and seeks that a statement regarding activity status be retained.

Discussion

38. I acknowledge and generally support these submission points supporting various sections and provisions of PC85C. Minor amendments have however been recommended to RVE.1.1 and RVE.1.3.9, to include additional references to reverse sensitivity effects and to RVE.2.3 to improve clarity and insert additional rules.

⁶ Page 5 and Appendices 1 and 2

⁷ Topic B

⁸ 410/50

⁹ 410/51

¹⁰ 455/1

¹¹ 455/2

¹² 410/54

¹³ 410/55

Recommendation

39. I recommend that the Commissioners

- **Accept** submission points 410/51 and 54 and 455/1.
- **Accept in part** submission points 410/50 and 55 and 455/2, noting that minor changes have been recommended to these sections elsewhere in this report in response to other submissions.

C. Corrections and Clarifications

40. Three submission points were made with regard to corrections and clarifications to the proposed text.

Policy RVE.1.3.4 – Submission Information

41. FNDC¹⁴ seeks the following specific amendment to RVE.1.3.4:

4. *To protect residential character and amenity in the Rural Village Residential Sub-Environment by ~~restricting~~ preventing the operation of commercial and industrial activities and providing for limited home occupation activities.*

42. FNDC considers that it is unclear whether the intention of the provision is to restrict these activities or to prevent them entirely. If the intention is to prevent these activities, then the word prevent should be used to remove any ambiguity.

43. Federated Farmers of New Zealand¹⁵ supports this submission point and agrees that further clarification is needed for RVE.1.3.4 and that it may be appropriate to provide for rural support services in the RVE, but does not support the use of the word 'preventing'.

Policy RVE.1.3.4 – Discussion

44. I support this submission point. The intention of the Rural Village Residential Sub-Environment (**RVRE**) is to prevent commercial and industrial activities and instead require them to locate in the Rural Village Centre Sub-Environment (**RVCE**), the Rural Village Industry Sub-Environment (**RVIE**) or in the Urban Area (**UA**). In my opinion more clarity is needed to improve the policy. I consider replacing 'restricting' with 'preventing' will more efficiently and effectively achieve the purpose of the RVRE and the RVE objectives.

45. To assess the appropriateness of the requested amendment the following three options have been evaluated:

- **Option 1:** Notified Provision – "...by restricting the operation of commercial and industrial activities..."
- **Option 2:** Recommended Revised Provision and Submission Request (submission point 410/52) – "...by ~~restricting~~ preventing the operation of commercial and industrial activities..." – See **Attachment 2G of Part 1** of the s42A report.
- **Option 3:** Alternative Revision – "...by ~~restricting~~ avoiding the operation of commercial and industrial activities..."

¹⁴ 410/52

¹⁵ x612

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

TABLE 1: EVALUATION OF POLICY RVE.1.3.4 OPTIONS		
Option	Costs	Benefits
Option 1: Notified Provision	<p><u>Environmental</u> May allow the establishment of commercial activities in the RVE by being too permissive, which in turn could adversely affect the character and amenity of the RVRE.</p> <p><u>Economic</u> May compromise the vitality of the RVCE and other business zones if commercial sprawl is enabled.</p> <p><u>Social & Cultural</u> None known.</p>	<p><u>Environmental & Cultural</u> None known.</p> <p><u>Economic</u> May enable additional opportunities to establish commercial activities.</p> <p><u>Social</u> May provide additional opportunities for commercial activities benefiting the social wellbeing of people and the community.</p>
Option 2: Recommended Revised Provision and Submission Request	<p><u>Environmental & Cultural</u> None known.</p> <p><u>Economic</u> May prevent some commercial activities from establishing; however, these are more appropriately provided for in other zones.</p> <p><u>Social</u> Often local businesses support local causes. Decreases in commercial/industrial activities may lead to a reduction in the ability of people and the community to provide for their social and economic wellbeing. However, PC85C intends to direct these activities to the RVCE and RVIE.</p>	<p><u>Environmental</u> Protects character and amenity of RVRE by preserving it for residential activities.</p> <p><u>Economic</u> Encourages commercial activities to locate in other commercial centres.</p> <p><u>Social</u> May assist in directing non-residential activities to cluster in the RVCE, creating a gathering spot in the centre of villages. Provides more certainty for the RVRE.</p> <p><u>Cultural</u> None known.</p>
Option 3: Alternative Revision	<p><u>Environmental, Economic, Social & Cultural</u> Similar to Option 2.</p>	
Option	Efficiency & Effectiveness	
Option 1:	The term 'restricting' will help discourage commercial activities but may result in a policy that is too permissive.	
Option 2:	Option 2 more effectively achieves the intended outcome. Option 2 is more efficient as it maintains consistency with terminology of other proposed provisions, i.e. policy RPE.1.3.1, which also uses 'preventing' for a non-complying activity.	
Option 3:	Option 3 is more effective than Option 1; however, is less efficient than Option 2 as it is not consistent with the terminology used in RPE.1.3.1.	
Economic Growth and Employment Opportunities		
Options 2 and 3 are not considered to have significant adverse impacts on economic growth and employment opportunities as commercial activities are more appropriately provided for in the RVCE and Business Environments. Options 2 and 3 will protect the vitality of the RVCE by better controlling commercial sprawl.		
Risk of Acting and not Acting if there is Uncertain or Insufficient Information		
There is no known risk due to insufficient information.		

47. Option 2 is, in my opinion, the most efficient and effective method to achieve the purpose of PC85C.

Policy RVE.1.3.4 – Recommendation

48. I recommend that the Commissioners **accept** submission point 410/52 and **accept in part** further submission x612, and that the notified provisions are amended as follows:

RVE.1.3 Policies

4. To protect residential character and amenity in the Rural Village Residential Sub-Environment by ~~restricting~~ preventing the operation of commercial and industrial activities and providing for limited home occupation activities.

RVE.2.3 Discretionary Activities – Submission Information

49. Saleyards Investments¹⁶ seeks that the inconsistency between RVE.2.3.1(d)(ii) and RVE.2.3.2(d)(ii) (setbacks form road boundaries) be corrected.
50. Jo Woollacott¹⁷ seeks the following specific amendment to RVE.2.3.2(g)(iv):
 - iv. *In addition to the principal operator, has more than two other persons ~~engaged~~ employed in the activity.*
51. J Woollacott considers the requested amendment will allow home occupations to receive and provide service to persons who are customers, which is provided for in the definition of home occupation.

RVE.2.3 Discretionary Activities – Discussion

52. I do not consider there to be any inconsistency between RVE.2.3.1(d)(ii) (which requires buildings to be set back 2m from a road boundary in the RVCE) and RVE.2.3.2(d)(ii) (which requires buildings to be set back 4.5m from a road boundary in the RVRE). These rules relate to separate Sub-Environments which have different expectations and purposes. In my opinion, the different setbacks are efficient and effective methods to achieve the outcomes intended for these Sub-Environments.
53. With respect to home occupations, often people involved may be friends or family who are not technically paid or employed. In my opinion 'engaged' is therefore more appropriate and is consistent with the operative Whangarei District Plan (**WDP**) provisions in the Kamo Walkability Environment (rules KMP.1.5.10(d) and KLP.1.5.12(d)).
54. I consider that the relief sought by J Woollacott will still be achieved without the requested amendment as home occupations may still provide their services to customers visiting the site without these persons being considered to be 'engaged' in the activity.

RVE.2.3 Discretionary Activities – Recommendation

55. I recommend that the Commissioners **reject** submission points 236/4 and 482/1.

Evidence and Hearing Information

- C.1 Ms Woollacott provided a pre-circulated statement with regard to the terminology in the home occupation provisions. In paragraph 15, Ms Woollacott considers that 'engaged' is still not clear in its intent and requests the following specific amendment to RVE.2.3.2(g)(iv):
 - iv. *In addition to the principal operator, has more than two other persons ~~engaged in~~ providing the activity.*

¹⁶ 236/4

¹⁷ 482/1

Right of Reply Discussion

- C.2 Having considered the requested wording and other viable alternatives and discussing the issue further with the WDC Resource Consents team, I agree that the proposed wording could be improved to enhance clarity. I recommend amending the phrasing to “engaged in providing” as I consider this more appropriately applies to the relevant people intended by the rule and represents the most efficient and effective option.
- C.3 I have recommended consequential amendments to similar proposed provisions for consistency. There are also similar operative provisions in the Kamo Walkability Environment (**KWE**) Chapter (KMP.1.5.10(d) and KLP.1.5.12(d)). In my opinion changes to the KWE are out of scope for these plan changes and therefore no changes are recommended to the KWE.

Right of Reply Recommendation

C.4 I recommend that the Commissioners:

- **Reject** submission point 236/4
- **Accept in part** submission point 482/1, and that the notified provisions are amended as follows:

RVE.2.3.2(g) Rural Village Residential Sub-Environment Discretionary Activities

- iv. In addition to the principal operator, has more than two other persons engaged in **providing** the activity.

Rural Living Environment

RLE.2.3.7 Discretionary Activities

- c. In addition to the principal operator, have more than two other persons engaged in **providing** the activity.

Rural (Urban Expansion) Environment

RUEE.2.3.97 Discretionary Activities

- c. In addition to the principal operator have more than two other persons engaged in **providing** the activity.

D. Managed Growth

Submission Information

56. Whangarei Growers Market Association (**WGMA**)¹⁸ supports objective RVE.1.2.1 stating that development pressures must be managed in areas that are susceptible to natural hazards or that comprise high class versatile soils.

¹⁸ 344/10

57. The New Zealand Fire Service Commission (**NZFSC**)¹⁹ supports policy RVE.1.3.2 and seeks that it be retained to enable the operational requirements of the NZFSC to be provided for, and enable sufficient water supply for emergencies.

Discussion

58. I acknowledge and generally support these submission points as I consider the proposed provisions appropriate to achieve the purpose of the Resource Management Act 1991 (**RMA**) and PC85C.

Recommendation

59. I recommend that the Commissioners **accept** submission points 344/10 and 451/3.

E. Reverse Sensitivity

60. Six submission points were made with regard to the topic of reverse sensitivity.

RVE.1.1 and RVE.1.3.6 – Submission Information

61. Horticulture New Zealand (**HortNZ**)²⁰ seeks the following specific amendments to RVE.1.1 Description and Expectations and policy RVE.1.3.6 to acknowledge the fact that many rural villages are located adjacent to the RPE resulting in potential reverse sensitivity effects:

RVE.1.1

...Growth is prioritised where connections to Council reticulated services are available. Many of the villages are situated adjacent to the RPE which provides a rural context for the villages. The boundary interface has the potential for reverse sensitivity effects which needs to be managed.

RVE.1.3.6

d) takes into account the surrounding environment and the interface between zones to ensure that potential for reverse sensitivity is appropriately managed.

RVE.1.1 and RVE.1.3.6 – Discussion

62. The proximity of the RVE to the RPE not only establishes the rural character and context of the rural villages (when compared to more urban villages such as Kamo or Tikipunga) but also presents the potential for reverse sensitivity effects whereby residential activities may be located in proximity to rural production activities. Managing reverse sensitivity effects is a key intention of this package of plan changes and has been highlighted as a significant concern through submissions. In my opinion it is important that this aspect of the RVE is acknowledged within the Description and Expectations to better achieve policy 5.1.3(a) of the Northland Regional Policy Statement (**RPS**), which aims to avoid reverse sensitivity effects on primary production activities in primary production zones.
63. In my opinion, including the requested sentences as their own standalone paragraph in RA.1.1 is more appropriate than inserting them in paragraph three.

¹⁹ 451/3

²⁰ 423/19 and 20

64. I also support including reference to the potential for reverse sensitivity effects in the RVE policies. To assess the appropriateness of the recommended amendment the following three options have been evaluated:

- **Option 1:** Notified Provision – No mention of the relationship with the RPE boundaries in the RVE policies.
- **Option 2:** Recommended Revised Provision – Include reference to the relationship with the RPE boundaries in policy RVE.1.3.9 – See **Attachment 2G** of **Part 1** of the s42A report.
- **Option 3:** Submission Request (submission point 423/20) – Include reference to the relationship with the RPE boundaries in policy RVE.1.3.6.

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

TABLE 2: EVALUATION OF RVE REVERSE SENSITIVITY POLICY OPTIONS		
Option	Costs	Benefits
Option 1: Notified Provision	<p><u>Environmental</u> Policies would not have any reference to potential reverse sensitivity issues.</p> <p><u>Economic</u> Reverse sensitivity may cause additional mitigation costs for less sensitive activities.</p> <p><u>Social</u> Reverse sensitive effects may arise between RPE and RVE neighbours.</p> <p><u>Cultural</u> None known.</p>	<p><u>Environmental, Social & Cultural</u> None known.</p> <p><u>Economic</u> No restrictions regarding reverse sensitivity issues for new development in the RVE.</p>
Option 2: Recommended Revised Provision	<p><u>Environmental, Social & Cultural</u> None known.</p> <p><u>Economic</u> May restrict some development where reverse sensitivity effects may be present, or may increase costs to mitigate potential effects.</p>	<p><u>Environmental</u> Manages reverse sensitivity.</p> <p><u>Economic</u> Will help protect rural production activities from reverse sensitivity effects.</p> <p><u>Social</u> Will help avoid reverse sensitive effects between RPE and RVE neighbours.</p> <p><u>Cultural</u> None known.</p>
Option 3: Submission Request	<p><u>Environmental, Economic, Social & Cultural</u> Similar to Option 2.</p>	<p><u>Environmental, Economic, Social & Cultural</u> Similar to Option 2.</p>
Option	Efficiency & Effectiveness	
Option 1:	In my opinion Option 1 is the least effective and efficient option in managing potential reverse sensitivity effects between the RVE and RPE.	
Option 2:	Option 2 ensures that where the required setback under RVE.2.3.2(d) is breached, there is a relevant policy to assess applications. There is already a degree of consideration given to the submitter's concerns in the proposed RA provisions, specifically RA.1.2.2, RA.1.3.2 and RA.1.3.11. I do not consider it necessary to implement a new standalone policy as strongly worded as that suggested by HortNZ as, in my opinion, the matter is partially addressed by these overarching RA provisions.	

Option 3:	More effective than Option 1; however, less efficient than Option 2 as the amendments are more appropriately located in RVE.1.3.9 than RVE.1.3.6. RVE.1.3.6 relates to protecting amenity and character in the RVE. I consider it to be more appropriate to provide for a new reverse sensitivity provision in RVE.1.3.9 as this policy relates directly to reverse sensitivity.
Economic Growth and Employment Opportunities	
Potential reverse sensitivity effects are important to manage. While Options 2 and 3 may restrict some development in the RVE, they will help protect rural production activities from reverse sensitivity.	
Risk of Acting and not Acting if there is Uncertain or Insufficient Information	
There is no known risk due to insufficient information.	

66. Option 2 is, in my opinion, the most efficient and effective method to achieve the purpose of PC85C and manage the potential for reverse sensitivity effects between the RVE and RPE.

RVE.1.1 and RVE.1.3.6 – Recommendation

67. I recommend that the Commissioners **accept in part** submission points 423/19 and 20, and that the notified provisions are amended as follows:

<p>RVE.1.1 Description and Expectations</p> <p>...Growth is prioritised where connections to Council reticulated services are available.</p> <p><u>Many of the villages are situated adjacent to the Rural Production Environment which provides a rural context for the villages. The boundary interface has the potential for reverse sensitivity effects which need to be managed.</u></p> <p>RVE.1.3 Policies</p> <p>9. To avoid reverse sensitivity effects and to ensure that amenity is maintained in the Rural Village Residential Sub-Environment by ensuring that all new buildings are:</p> <ul style="list-style-type: none"> a. Of a scale and character appropriate to the Sub-Environment. b. Sited in a location sufficiently set back from site boundaries to enable privacy, the retention of open space, and access to sunlight <u>and separation from Rural Production Environment boundaries.</u> c. ...

RVE.1.3.6 – Evidence and Hearing Information

- E.1 Mr Hodgson presented evidence on behalf of HortNZ reiterating the original requested amendment to RVE 1.3.6 with minor wording changes. Mr Hodgson stated he sees “no issue in providing clear policy in the RVE to require new subdivision and development to be cognisant of and provide an appropriate response to managing reverse sensitivity on a zone interface”²¹.

RVE.1.3.6 – Right of Reply Discussion

- E.2 My original discussion stands as I consider the requested amendment is better addressed in policy RVE.1.3.9 than RVE.1.3.6.

²¹ Paragraph 76 of Mr Hodgson’s Pre-Circulated Statement of Evidence

[RVE.1.3.6 – Right of Reply Recommendation](#)

E.3 My original recommendation in paragraph 67 above stands.

[WGMA – Landuse Controls – Submission Information](#)

68. WGMA²² seeks the following additional controls to ensure that the productivity of garden cultivations near rural villages is not reduced or curtailed because of PC85C:

- Setbacks should be imposed on residential units from existing horticultural operations on a separate site.
- New residential units adjoining existing horticultural operations must be double glazed and built of noise reducing materials.

[WGMA – Landuse Controls – Discussion](#)

69. Whilst I consider that the relief sought by WGMA has some merit, in my opinion the current bulk and location controls represent a balanced and appropriate response to potential land use compatibility issues while still enabling residential development in areas zoned for such a purpose.

70. I consider that the amendments sought by WGMA are overly restrictive and respond as follows:

- RVE sites range in sizes, typically between 500m² – 2,000m², and are frequently around 800m². Due to the small sites it is often necessary to locate buildings close to boundaries to comply with other bulk and location controls (e.g. road boundary setbacks and MHWS setbacks) or to avoid hazard prone areas. In my opinion, imposing additional setbacks on residential properties may compromise the ability to locate a residential unit on the site in a residential zone.
- The RVRE has not been significantly expanded in areas where there are existing adjacent horticultural operations.
- The rural villages are residential areas with a rural context. In my opinion it is appropriate to anticipate a certain degree of rural character within the RVE, especially where the zone boundary adjoins the RPE.
- In a climate of increasing criticism regarding the effect of planning regulations on the cost of building, the requested provisions will impose additional costs on residential development.

[WGMA – Landuse Controls – Recommendation](#)

71. I recommend that the Commissioners **reject** submission points 344/8 and 9.

[WGMA – Landuse Controls – Evidence and Hearing Information](#)

E.4 Ms Gailey presented a statement on behalf of the WGMA reiterating the requested controls on residential units adjacent to horticultural activities.

[WGMA – Landuse Controls – Right of Reply Discussion](#)

E.5 My original discussion stands as I do not consider the requested additional controls appropriate.

²² 344/8 and 9

WGMA – Landuse Controls – Right of Reply Recommendation

E.6 My original recommendation in paragraph 71 above stands.

KiwiRail – Policies and Landuse Controls – Submission Information

72. KiwiRail²³ supports policies RVE.1.3.9 and RVE.1.3.12(e) and seeks that they are retained.
73. KiwiRail²⁴ seeks that the setbacks from road boundaries for buildings also apply to rail. The specific amendments sought are as follows:

RVE.2.3.1(d)(ii)

Within 2m of a road or rail boundary.

RVE.2.3.2(d)(ii)

Within 4.5m of a road or rail boundary.

RVE.2.3.3(a)(ii)

Within 4.5m of a road or rail boundary.

KiwiRail – Policies and Landuse Controls – Discussion

74. I acknowledge and generally concur with the support of policies RVE.1.3.9 and RVE.1.3.12(e). A minor amendment has been recommended to RVE.1.3.9 to include an additional reference to reverse sensitivity effects on the RPE.
75. I acknowledge and generally support KiwiRail's requested amendment to require setbacks from rail. I do not agree however that these setbacks should apply to all buildings in the RVE. Setbacks from the road not only assist in reducing reverse sensitivity, but also improve amenity by not having garages and sheds directly abutting the road corridor or side walk. I consider that this is not as much of a concern when it comes to the rail corridor as the only issue to be managed is reverse sensitivity. Thus in my opinion the rail setbacks should only apply to residential units in the RVCE and RVRE. Residential units are prohibited in the RVIE, so I consider that no rail setback is required for this Environment.

KiwiRail – Policies and Landuse Controls – Recommendation

76. I recommend that the Commissioners:
- **Accept in part** submission point 429/5 (noting the recommended amendment to RVE.1.3.9).
 - **Accept in part** submission point 429/6 and that the notified provisions be amended as follows:

RVE.2.3.1 Rural Village Centre Sub-Environment Discretionary Activities

a. Any residential unit:

iii. Within 2m of a railway line designation boundary.

RVE.2.3.2 Rural Village Residential Sub-Environment Discretionary Activities

a. Any residential unit:

iii. Within 4.5m of a railway line designation boundary.

²³ 429/5

²⁴ 429/6

F. Subdivision Standards

Submission Information

77. Eight submission points were made with regard to the RVE.3 subdivision standards.
78. The following three submission points were in support of the respective proposed standards:
- DEYI Investments²⁵ – In support of RVE.3.3.2(a).
 - FNDC²⁶ – In support of the proposed RVE.3.3 allotment sizes as they will encourage consolidated development around existing infrastructure.
 - NZFSC²⁷ – Retain RVE.3.3.3 as it is essential for the fire service to have an adequate supply of water in the event of an emergency.
79. Five submission points were made seeking the following amendments to the subdivision standards:
- Northland Regional Council (**NRC**)²⁸ – Seeks that the thresholds for subdivision in the RVE be re-examined to ensure an appropriate scale for the rural villages. NRC considers that the subdivision rules are too permissive and are too similar to urban Whangarei.
 - Nova Scotia River Estates²⁹ – Opposes the provisions enabling areas currently zoned Living 3 Environment (which has a minimum net site area of 2,000m²) to subdivide down to 500m² where the allotment is connected to public reticulated wastewater. The submitter considers that there are potentially additional constraints limiting the development potential of these sites.
 - M Payne³⁰ – Requests that the minimum lot sizes in the RVRE either be based off the average lot size of each rural village or be 800m² within all villages. M Payne also requests that subdivision creating lots less than 800m² in area should be a non-complying activity rather than a discretionary activity. M Payne notes that each village has its own character and that minimum lot sizes of 500m² may result in significant changes to character.
 - Hazel Tynan Trust³¹ – Seeks the following specific additional provision for RVE.3.4.1:

h. The use of recessive colours and non-reflective finishes to minimize potential adverse effects on landscape values.

Discussion

80. **Part 5** of the s32 report³² assessed various minimum lot sizes for the RVRE. A key driver in determining the appropriate minimum lot size was the Whangarei District Growth Strategy – Sustainable Futures 30/50 (**30/50**), which adopts a consolidated approach to population growth. I consider that requiring lot sizes larger than 500m² would not achieve the preferred 30/50 consolidated growth pattern and would less effectively achieve policy 5.1.2(a) of the RPS as a significant portion of the RVE is in the coastal environment – see excerpt below:

²⁵ 256/2

²⁶ 410/57

²⁷ 451/6

²⁸ 190/4

²⁹ 449/1

³⁰ 455/3 and 4

³¹ 420/2

³² Pages 44 and 45.

5.1.2 Policy – Development in the Coastal Environment

Enable people and communities to provide for their wellbeing through appropriate subdivision, use and development that:

- (a) *Consolidates urban development within or adjacent to existing coastal settlements and avoids sprawling or sporadic patterns of development.*

81. Allowing for former Living 3 Environment sites to subdivide down to 500m² where reticulated wastewater is available is, in my opinion, an efficient and effective use of land and public infrastructure. This is consistent with objective 3.8(a) of the RPS – see excerpt below – and helps achieve consolidation. In growth and large villages, I consider that it is important to ensure that the maximum future development potential is not compromised by unserviced larger lot development.

3.8 Objective – Efficient and effective infrastructure

Manage resource use to:

- (a) *Optimise the use of existing infrastructure.*

82. There are RA and District wide provisions which will manage additional constraints to development, including Outstanding Natural Landscape and High and Outstanding Natural Character areas and flooding and instability hazards. Where a former Living 3 Environment site is restricted by such constraints, District wide provisions will help manage the effects.
83. Whilst the RVRE minimum lot size of 500m² is the same as the Living 1 Environment, there have been numerous objectives, policies and rules inserted which aim to differentiate the rural villages from the urban Whangarei Environments. Additionally, Plan Change 88 (**PC88**) will review the urban Whangarei Environments and these may be subject to change.
84. Requiring a different minimum lot size for each village based on the average lot size in that area would, in my opinion, result in complex rules and would be difficult for applicants to determine compliance.
85. Proposed provision RVE.3.4 is a site-specific information requirement for Pt Lot 1 DP 93517. I consider it unnecessary to include additional requirements within this site as the proposed provisions have been adopted from the WDP Scheduled Activities 11/1, 11/3 and 11/4. I do not consider RVE.3.4 appropriate to apply broadly across the RVE.

Recommendation

86. I recommend that the Commissioners:
- **Accept** submission points 256/2 and 410/57 and 451/6.
 - **Reject** submission points 190/4, 420/2, 449/1 and 455/3 and 4.

Evidence and Hearing Information

- F.1 Evidence and material was received on this topic from Dr Bellingham for the Hazel Tynan Trust and Mr Mortimer on behalf of Nova Scotia River Estates.

- F.2 Dr Bellingham states “the recessive colours sought for rural residential subdivisions have been found to be appropriate by the Environment Court and Commissioners in Whangarei District”³³.
- F.3 Mr Mortimer recommended that “the existing density requirements in the Living 3 zone (**L3**) [within rural villages] are retained until such a time as it is determined that infrastructure constraints was [sic] the limiting factor restricting more intensive development”³⁴. Mr Mortimer considers that additional factors such as the physical nature of the land or landscape values may be restricting development and suggests that these areas could be kept as L3. During the hearing Mr Mortimer was questioned by the Commissioners regarding the ability of the statement to be considered as evidence given his association with Nova Scotia River Estates. In response Mr Mortimer considered that the statement could be considered as expert evidence.

Right of Reply Discussion

- F.4 My original discussion stands with regard to the recessive colour controls. To clarify that RVE.3.4.1 applies to a specific site I recommend including clarification of the site’s location.
- F.5 In response to Mr Mortimer’s evidence, of the 29 rural villages, only the following 10 contain L3 zoning as well as a reticulated wastewater network (or plans to install a reticulated wastewater network over the life of the next District Plan):
- Parua Bay
 - Waipu
 - McLeod Bay/Reotahi
 - Ngunguru
 - Taurikura/Urquharts
 - Tutukaka
 - Waipu Cove/Langs Beach
 - Manganese Point
 - Portland
 - Riverview Place
- F.6 The L3 zonings within Parua Bay, Manganese Point, Riverview Place, Tutukaka and Waipu Cove/Langs Beach are either predominately developed or are located a significant distance from the reticulated wastewater network. In my opinion, the potentially concerns identified by Mr Mortimer relate to 10 of the rural villages, and within five of these the risks and costs are reduced because further subdivision potential and/or connection to reticulated wastewater is limited.
- F.7 The range of potential effects relevant to the rezoning of L3 to RVRE include cultural and historic heritage, natural character and landscapes, natural hazards, environmental effects (particularly coastal biodiversity and water quality), public access to the coast and open space, economic effects, social well-being, amenity values (e.g. lighting noise, shading, visual, odour, etc.), reverse sensitivity, productive soils, infrastructure constraints and transportation and servicing. An overview assessment of these effects is provided below.

³³ Section 5 of Dr Bellingham’s Tabled Statement

³⁴ Paragraph 7 of Mr Mortimer’s Statement of Evidence on behalf of Nova Scotia River Estates Ltd

- **Cultural and historic heritage, natural character and landscape and natural hazards –** These effects are addressed by operative and proposed WDP Resource Areas and through the building consent process. Rezoning L3 to RVRE does not extend residential development into these overlays and hazard areas, and instead seeks to consolidate development within existing compromised areas.
- **Environmental effects –** Many rural villages are identified as being highly unsuitable for effluent and there have been instances where on-site wastewater disposal systems have failed due to topography, soil conditions and design issues. RVRE zoning encourages the former L3 sites to connect to reticulate wastewater by allowing for a reduced net site area where connection is provided. In my opinion, encouraging residential properties to connect to reticulated wastewater is environmentally beneficial in this regard. In my opinion there is minimal effect on biodiversity in rezoning L3 to RVRE as residential development is already provided for. With regard to stormwater there are impervious area controls in the RVRE to manage stormwater.
- **Public access to the coast and open space –** Esplanade reserves and open space provisions are managed by Whangarei District Council's Environmental Engineering Standards 2010 (**EES**). There are no significant differences between the RVRE and L3 provisions with regard to open space and coastal access in my opinion.
- **Economic effects and social well-being –** RVRE zoning provides additional subdivision opportunities and encourages more efficient use of infrastructure. This promotes consolidation and provides for managed growth in areas where residential development has already been considered appropriate. This is consistent with objectives RVE.1.2.1 and 1.2.4 and policy RVE.1.3.2 and RPS policies 4.6.1(1)(b)(iii), 5.1.2 and 5.2.1 in my opinion.
- **Amenity values –** The L3 currently provides for residential development. Rezoning these areas to RVRE does not significantly change the expected amenity in my opinion as the building heights, setbacks and daylight angles permitted activity rules/limits are consistent with the operative L3. The proposed RVRE provisions better manage non-residential activities to maintain the residential character in my opinion. There are also operative and proposed district wide chapters which manage many aspects of rural village amenity.
- **Reverse sensitivity and productive soils –** As discussed, these areas are already zoned for residential use. In my opinion there are minimal reverse sensitivity effects compared to L3 zoning and any productive soils were already compromised.
- **Infrastructure constraints –** The Whangarei District Council Infrastructure and Services Department (**WDC I&S**) confirmed that there are no constraints restricting the proposed RVRE zoning. In some areas WDC I&S identified that infrastructure upgrades may be needed with development contributions anticipated to cover the costs. Providing for more development enables increased economic benefit with more development contributions.
- **Transportation –**WDC I&S stated in their original submission:

“A road network plan showing existing and future road connections is required for most Rural Villages to reduce effects on the existing road network and allow for the provision and extension of reticulated services.”

The relief sought by WDC I&S was that this work should occur under PC109. No further evidence was provided by WDC I&S or Mr Mortimer regarding transportation effects.

- F.8 Mr Mortimer has identified potential risks of acting if the L3 areas are rezoned to RVRE. In my opinion there are also risks associated with not acting as there may be more instances where on-site wastewater disposal systems fail, sufficient growth may not be enabled and the RPS may not be given effect to. Additionally, the proposed RVRE zoning provides economic growth and has known environmental, economic and social benefits. No evidence has been provided to identify known costs. In my opinion the potential effects have been appropriately assessed and are effectively and efficiently managed by the proposed RVRE zoning. I do not consider retaining the existing L3 zoning to be appropriate as **Part 5** of the s32 report³⁵ assessed the L3 zoning as not being effective or efficient in the rural villages.

Right of Reply Recommendation

- F.9 My original recommendation in paragraph 86 above stands. To provide further clarity that RVE.3.4 only applies to a specific site I recommend that the notified provisions are amended as follows:

RVE.3.4 Information Requirement

1. Any application for subdivision within Pt Lot DP 93517 (Mahanga Road) shall include...

G. Commercial and Industrial Activities

Submission Information

87. Six submission points were made with regard to commercial and industrial activities.
88. Saleyards Investments³⁶ requests that RVE.2.3.1(b)(i) (commercial activity GFA limits) either be deleted or reduced from a discretionary to a restricted discretionary activity status. Vita and Max Badran³⁷ oppose this submission point as this would compromise the character and amenity of rural villages.
89. Philip Dobson³⁸ requests that small businesses and tourism businesses be allowed to operate in the RVE and that the home occupation provisions should allow for tourism businesses. V and M Badran³⁹ support this submission point stating that if sufficient off-street parking can be provided, tourism activities should not be excluded from home occupations in the RVRE.
90. The following submission points request less restrictive rules for industrial activities:
- Susan Bretherton⁴⁰ – Opposes prohibiting industrial activities in the RVRE and RVCE and seeks that light and heavy industrial activities be separately defined.
 - Samuel Burnson⁴¹ – Requests a range of potential amendments which would essentially allow for more industrial activities in the RVE. Relief sought includes:

³⁵ Pages 4 and 29 -30

³⁶ 236/2

³⁷ x058

³⁸ 407/2

³⁹ x064

⁴⁰ 151/2

⁴¹ 259/1

- Amendments to the definition of “rural centre service activity” and/or “industrial activity” to allow for more permitted activities.
- Amend the prohibited activity status of industrial activities so that they are not banned and are instead controlled through additional effects-based rules.
- Acknowledge existing use rights and appropriate expansion of existing activities.
- Nelson Lattimer⁴² – Requests that industrial activities be permitted in the RVE.
- Hikurangi Business Association⁴³ – Requests that industrial activities in RVE.2.1.3 be amended from being prohibited to being non-complying or discretionary.

RVE.2.3.1(b)(i) – Discussion

91. In my opinion it is appropriate to require consent for any individual commercial activity which exceeds 300m² GFA. As discussed in **Part 5** of the s32 report⁴⁴, other GFA limits were considered and evaluated. I consider that 300m² best reflects the existing and intended environment in the RVCE and surrounding RVRE. In my opinion larger commercial activities should be encouraged to locate in more appropriate Environments or should obtain consent.
92. As discussed in **Part 1** of the s32 report⁴⁵, the rural plan changes seek to introduce a limited range of activity rules (permitted, controlled, discretionary and non-complying) and seek to limit the use of restricted discretionary activity status. I therefore do not support amending the activity status to restricted discretionary.

RVE.2.3.1(b)(i) – Recommendation

93. I recommend that the Commissioners **reject** submission point 236/2.

Tourism businesses – Discussion

94. I acknowledge the presence and need for small businesses and tourism businesses in the RVE. The RVCE specifically provides opportunities for the establishment of these activities to enhance economic wellbeing in rural villages.
95. The RVRE is intended to predominately provide for residential activities. Limited opportunities are provided for non-residential activities through proposed provision RVE.2.3.2(g), which permits home occupations depending on their scale and design. A tourism activity, provided it meets the definition of home occupation and the standards of RVE.2.3.2(g), is considered a permitted activity as home occupations do not exclude tourism activities.
96. I consider the proposed provisions appropriate to allow for small scale non-residential activities. Where home occupations breach the standards in RVE.2.3.2(g) I consider it appropriate to require consent to assess the effects. The proposed methods are in my opinion sufficient to provide for the social and economic wellbeing of individuals while also managing potential adverse effects.

⁴² 286/1

⁴³ 421/1

⁴⁴ Pages 48 – 49

⁴⁵ Pages 22 – 23 and 30 – 31

Tourism businesses – Recommendation

97. I recommend that the Commissioners **reject** submission point 407/2, but I do acknowledge that home occupations allow for tourism businesses.

Industrial Activities – Discussion

98. “Industrial activity” is defined in the WDP as follows:

Industrial Activity

means the processing, manufacturing, fabricating, packing or storage of goods or other ancillary activities, and includes servicing and repair activities.

99. I acknowledge that there is some merit in the request to create separate definitions for light and heavy industrial activities. I do not support changing the definitions at this time however as this will have District wide implications. As part of the rolling review it is anticipated that the WDP activity definitions will be further reviewed in a future plan change.
100. I consider that industrial activities should be prohibited in the RVRE to encourage consolidation of these activities in more appropriate Environments throughout the District and to avoid significant adverse effects on residential amenity. No amendments are recommended regarding the activity status of industrial activities in the RVRE.
101. The RVCE aims to provide a focal point for local commercial activities and community facilities. The types and scales of activities provided for aim to enhance the vibrancy and amenity within rural villages. Activities are managed to a certain degree to reduce effects on the adjacent RVRE. I consider industrial activities would compromise the overall intent of the RVCE and should not be permitted. In my opinion heavy industrial activities particularly conflict with residential and commercial activities.
102. I acknowledge that there are existing light industrial activities operating in the proposed RVCE in areas such as Hikurangi and Maungatapere. Activities such as these may be appropriate in rare circumstances but are prohibited under the proposed provisions as notified. I support changing the activity status of industrial activities to non-complying to allow resource consent to be sought, and the relevant effects assessed. In my opinion the change in activity status to non-complying also requires a new RVE policy to manage the effects. I consider that this will still preserve commercial development opportunities within the RVCE and protect amenity and character values. This is consistent with the approach taken in the Kamo Activity Precinct (KAP.1.2.2) and the hybrid activity and effects based approach taken in the rolling review – see **Part 1** of the s32 report⁴⁶.
103. To assess the appropriateness of the recommended amendment, the following four reasonably practical options have been evaluated:
- **Option 1:** Notified Provision – Prohibiting industrial activities in the RVCE.
 - **Option 2:** Recommended Revised Provision – Require consent as a non-complying activity for industrial activities in the RVCE and insert an additional policy to manage adverse effects – See **Attachment 2G** of **Part 1** of the s42A report.

⁴⁶ Page 24

- **Option 3:** Amend Eligibility Rule Only – Require consent as a non-complying activity for industrial activities in the RVCE without an additional policy to manage adverse effects.
- **Option 4:** Permit Industrial Activities – Amend eligibility rules so that industrial activities are permitted within the RVCE.

104. Evaluation of these options has been summarised in Table 3.

TABLE 3: EVALUATION OF INDUSTRIAL ACTIVITIES OPTIONS		
Option	Costs	Benefits
Option 1: Notified Provision	<p><u>Environmental & Cultural</u> None known.</p> <p><u>Economic</u> Prohibits industrial activities in the RVCE, requiring them to locate in either the RVIE or other Business Environments.</p> <p><u>Social</u> Decreases in industrial activities may lead to a reduction in the ability of people and the community to provide for their social and economic wellbeing. However, PC85C intends to direct these activities to the RVIE and other business zones.</p>	<p><u>Environmental</u> Protects amenity and character values as well as effects on transport by avoiding industrial activities in the RVCE.</p> <p><u>Economic</u> Preserves the RVCE for commercial activities while industrial activities are still able to locate in other Environments.</p> <p><u>Social & Cultural</u> None known.</p>
Option 2: Recommended Revised Provision	<p><u>Environmental</u> May allow industrial activities in the RVCE, which could affect the amenity and character of the RVE. However, proposed policy RVE.1.3.13 manages the adverse effects of potential new activities.</p> <p><u>Economic</u> May compromise the ability of the RVCE to provide a mix of residential and commercial activities.</p> <p><u>Social & Cultural</u> None know.</p>	<p><u>Environmental</u> Allows industrial activities to be managed in the RVCE.</p> <p><u>Economic</u> Provides for industrial activities as non-complying activities.</p> <p><u>Social</u> Provides opportunities for industrial activities which could increase the ability of people and the community to provide for their social and economic wellbeing.</p> <p><u>Cultural</u> None known.</p>
Option 3: Amend Eligibility Rule Only	<p><u>Environmental</u> Similar to Option 2 but with no policy to manage the adverse effects.</p> <p><u>Economic</u> More likely than Option 2 to compromise the ability of the RVCE to provide a mix of residential and commercial activities.</p> <p><u>Social</u> A proliferation of industrial activities may adversely affect social wellbeing and human health.</p> <p><u>Cultural</u> None known.</p>	<p><u>Environmental</u> Less ability to manage industrial activities than Option 2.</p> <p><u>Economic & Social</u> More permissive for industrial activities than option 2.</p> <p><u>Cultural</u> None known.</p>
Option 4: Permit Industrial Activities	<p><u>Environmental</u> Could result in significant adverse effects to transport, amenity, character, etc. in the RVE.</p> <p><u>Economic</u> Could significantly compromise the RVCE as a mixed use area with predominately commercial and residential uses.</p> <p><u>Social & Cultural</u> Similar to Option 3 but with potentially greater adverse effects.</p>	<p><u>Environmental & Cultural</u> None known.</p> <p><u>Economic & Social</u> Would be highly enabling for industrial activities within the RVCE.</p>

Option	Efficiency & Effectiveness
Option 1:	Efficient and effective in prohibiting industrial activities within the RVCE and avoiding any associated adverse effects. However, Option 1 is not flexible in any instance where an industrial activity may be appropriate in the RVCE.
Option 2:	Consent may be obtained through a non-complying resource consent; however, the newly proposed policy RVE.1.3.13 clearly states the effects which must be avoided/managed based on the scale and nature of the activity.
Option 3:	Not as effective as Option 2 as there would be no corresponding policy to go with the proposed rule change, thus restricting WDC's ability to manage adverse effects and decline applications.
Option 4:	Not effective as industrial activities would be uncontrolled and could have significant adverse effects within rural villages.
Economic Growth and Employment Opportunities	
The various options could have significant impacts on economic growth and employment. While Option 1 would restrict industrial growth, it may increase opportunities for residential and commercial activities in the RVE by protecting the amenity and reserving the land for other, more appropriate, activities. Options 3 and 4 would provide the opposite, improving industrial growth but potentially compromising residential and commercial growth. Option 2 is considered to be an appropriate balance of allowing for industrial growth where appropriate and managing the effects so that residential and commercial growth opportunities are retained.	
Risk of Acting and not Acting if there is Uncertain or Insufficient Information	
There is no known risk due to insufficient information.	

105. Option 2 is, in my opinion, the most efficient and effective method to achieve the purpose of PC85C.
106. In addition to the recommended change in activity status, I note that rural centre service activities include activities outside the scope of the WDP definition of commercial activities (such as automotive service and repair activities) and these will be permitted in the RVCE. Additionally, section 10 of the RMA provides for existing use rights. Any lawfully established activity may continue to operate in a manner that contravenes a rule in an operative or proposed district plan provided the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified.

Industrial Activities – Recommendation

107. I recommend that the Commissioners:
- **Reject** submission point 286/1.
 - **Accept in part** submission points 151/2, 259/1 and 421/1, and that the notified provisions are amended as follows:

<p>RVE.1.3 Policies</p> <p><u>13. To manage the scale and nature of activities within the Rural Village Centre Sub-Environment by ensuring that activities:</u></p> <p><u>a. Avoid significant adverse effects on surrounding residential areas.</u></p> <p><u>b. Do not compromise the retention, and potential establishment, of a mix of activities within the Rural Village Centre Sub-Environment.</u></p> <p><u>c. Maintain the vibrancy and vitality of the surrounding Rural Village Centre Sub-Environment.</u></p> <p><u>d. Can meet and fund local infrastructure requirements.</u></p>
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RVE.2.1 Eligibility Rules

3. Any industrial activity, ~~excluding rural centre service activities~~, is a prohibited activity within the ~~Rural Village Centre and~~ Rural Village Residential Sub-Environments.
4. Any industrial activity, excluding rural centre service activities, is a non-complying activity within the Rural Village Centre Sub-Environment.

H. Amenity and Privacy

Submission Information

108. Two submission points were made with regard to amenity and privacy issues, specifically relating to RVE.2.3.
109. Michael Austin⁴⁷ requests that the installation of 6m x 3m huts and caravans be banned in the RVRE.
110. V and M Badran⁴⁸ request that the following specific amendments to RVE.2.3.1(b) and (d) (as an alternative to the rezoning request discussed in **Part 6** of the s42A report⁴⁹):

RVE.2.3.1(b)

- b. Any commercial or rural centre service activity that:
 - i. Exceeds 300m² gross floor area.
 - ii. Provides for 3 or more individual commercial or rural centre service activities on a site.
 - iii. Could cause reverse sensitivity issues for any immediately adjacent existing residential site.
 - iv. Operates outside the hours 0600-2200.

RVE.2.3.1(d)

- d. Any building:
 - i. That exceeds a maximum height of 8m.
 - ii. Within 2m of a road boundary.
 - iii. Within 27m of Mean High Water Springs (excluding bridges, culverts and fences).
 - iv. Within 27m of the top of the bank of any river that has a width exceeding 3m (excluding bridges, culverts and fences).
 - v. Not set back at least 3m from any boundary with any existing residential site.
 - vi. That exceeds a height equal to 3m plus the shortest horizontal distance between that part of the building and any residential site boundary.
 - vii. Encroaches on access to sunlight and retention of privacy for any immediately adjacent existing residential site.

Discussion

111. Huts and caravans with an area of 18m² are managed by the bulk and location provisions and the impervious area limit of 65% in the RVRE. I consider that the provisions as notified are sufficient to

⁴⁷ 316/1

⁴⁸ 221/2

⁴⁹ Topic B(x)

manage and protect amenity within the RVRE. Banning 18m² huts and caravans would be overly restrictive in my opinion as small garden sheds or garages would be prohibited.

112. I agree that commercial activities can adversely affect adjacent residential activities. I support including a height in relation to boundary provision. I do not agree however with the following requested additional provisions:

- RVE.2.3.1(b)(iii) and RVE.2.3.1(d)(vii) – These requested rules are, in my opinion, not specific enough and would cause inefficiencies in the consenting process and uncertainty for applicants.
- RVE.2.3.1(b)(iv) – Consequential amendments are proposed to the NAV Chapter of the WDP to restrict the noise limits of activities in the RVCE during night-time hours. While the noise limits are greater than those proposed in the RVRE, they are reduced at night-time and will help will manage adverse effects. I do not consider it necessary to impose additional controls on the hours of operation for these activities. Plan Change 82 Signs and Lighting is also being drafted and prepared for notification in mid/late 2017. PC82 will review the WDP lighting rules and aim to introduce District wide provisions which will manage light spill and glare.
- RVE.2.3.1(d)(v) – I do not consider it necessary to require a 3m boundary setback if there is a height in relation to boundary rule.

113. To assess the appropriateness of the recommended amendment the following three options have been evaluated:

- **Option 1:** Notified Provisions.
- **Option 2:** Recommended Revised Provision – See **Attachment 2G** of **Part 1** of the s42A report.
- **Option 3:** Alternative Revision and Submission Request (submission point 221/2).

114. Evaluation of these options has been summarised in Table 4:

TABLE 4: EVALUATION OF ADDITIONAL CONTROLS ON RVCE ACTIVITIES OPTIONS		
Option	Costs	Benefits
Option 1: Notified Provision	<u>Environmental</u> May result in adverse amenity, privacy and character effects on adjacent RVRE sites. <u>Economic & Cultural</u> None known. <u>Social</u> Social wellbeing may be adversely affected where residential units are close to commercial or rural centre service activities.	<u>Environmental, Social & Cultural</u> None known. <u>Economic</u> More enabling for commercial and rural centre service activities.
Option 2: Recommended Revised Provision	<u>Environmental</u> Not as restrictive of non-residential activities as Option 3. <u>Economic</u> Restricts the building location for commercial and rural centre service activities. <u>Social and Cultural</u> None known.	<u>Environmental</u> Reduces adverse effects on the RVRE. <u>Economic & Cultural</u> None known. <u>Social</u> Protects residential amenity, privacy and character.

Option 3: Alternative Revision and Submission Request	<u>Environmental, Social & Cultural</u> None known. <u>Economic</u> Most restrictive option for commercial and rural centre service activities. May compromise the ability to establish commercial activities in the RVCE and reduce the vitality and viability of the rural villages.	<u>Environmental,</u> Best reduces adverse effects on the RVRE. <u>Economic & Cultural</u> None known. <u>Social</u> Best protects residential amenity, privacy and character.
Option	Efficiency & Effectiveness	
Option 1:	Enables commercial and rural centre service activities to operate within any distance of a RVRE site boundary. This is not consistent with the WDP Kamo Activity Precinct provisions (KAP.1.5.1(d) or the Business 3 Environment provisions (41.4.1(b)).	
Option 2:	More effectively and efficiently manages location of commercial and rural centre service activities adjacent to the RVRE. More efficient than Option 3 as it streamlines the rules but still addresses concerns regarding privacy and amenity.	
Option 3:	Effectively manages adverse effects on the RVE. The proposed provisions however are not efficient in that they result in redundant protections and lack clarity. These inefficiencies could cause misunderstandings or various interpretations during the consenting process. These provisions may also result in an overly restrictive RVCE, discouraging non-residential activities.	
Economic Growth and Employment Opportunities		
These rules have a potential impact on economic growth and employment opportunities as they potentially restrict the hours of operation and location of commercial and rural centre service activities. Option 1 is the most permissive, but could negatively affect the value of residential properties or the appeal of living near the RVCE. Option 3 could result in overly restrictive rules. Option 2 helps protect residential amenity and privacy while providing a clear and measurable rule that is not overly restrictive and is consistent with the WDP Business 3 Environment rules and the Kamo Activity Precinct rules.		
Risk of Acting and not Acting if there is Uncertain or Insufficient Information		
There is no known risk due to insufficient information.		

115. Option 2 is, in my opinion, the most efficient and effective method to achieve the purpose of PC85C.

Recommendation

116. I recommend that the Commissioners:

- **Reject** submission point 316/1.
- **Accept in part** submission point 221/2, and that the notified provisions are amended as follows:

RVCE.2.3.1(d) Rural Village Centre Sub-Environment Discretionary Activities

d. Any building:

v. That exceeds a height equal to 3m plus the shortest horizontal distance between that part of the building and any Rural Village Residential Sub-Environment boundary.

Evidence and Hearing Information

H.1 Mr and Ms Badran presented a statement stating that the provisions requested in their original submission are necessary to enable compatibility between residential and non-residential users in the RVCE. The submitters highlight the intent of the RVCE to be a mixed-use environment and consider that the requested provisions will make the RVCE more suitable for residential activities while not being too restrictive for non-residential activities. The submitters state that the recommended amendment does not go far enough and in fact does not achieve any relief for them as the proposed wording protects the RVRE rather than residential units in the RVCE.

Right of Reply Discussion

H.2 My original discussion and recommendation stands with regard to the following requested rules as I do not consider these clear or measurable enough to be district plan rules:

iii. Could cause reverse sensitivity issues for any immediately adjacent existing residential site.

vii. Encroaches on access to sunlight and retention of privacy for any immediately adjacent existing residential site.

H.3 I acknowledge the submitters' concerns with the s42A recommended height in relation to boundary provisions only referring to the RVRE rather than residential units in the RVCE. This is attributed to a misinterpretation of the submitters' relief sought. I have recommended an amendment to improve this provision and the inclusion of the requested setback provision to accompany this change.

H.4 With regard to the hours of operation provision, I acknowledge the concern expressed by Mr and Ms Badran and consider their statement to have merit. In my opinion the provisions in the RVCE need to be carefully balanced to ensure that non-residential activities are sufficiently enabled as it is anticipated that there may be activities such as restaurants or bars which may operate beyond the hours of 0600 – 2200. Therefore, I do not support a blanket restriction on hours of operation. However, I do support including an hours of operation restriction in proximity to existing residential units. The WDP Business 3 Environment imposes a setback of 50m from Living Environments for activities operating outside the hours of 0600 – 2200. In terms of s32AA, it is my opinion that this recommended change represents the most efficient and effective option.

Right of Reply Recommendation

H.5 I recommend that the Commissioners:

- **Reject** submission point 316/1.
- **Accept in part** submission point 221/2, and that the notified provisions are amended as follows:

RVE.2.3.1(d) Rural Village Centre Sub-Environment Discretionary Activities

b. Any commercial or rural centre service activity that:

iii. Operates outside the hours of 0600 – 2200 if the activity is located within 50m of any existing residential unit on a separate site.

d. Any building:

v. That exceeds a height equal to 3m plus the shortest horizontal distance between that part of the building and any ~~Rural Village Residential Sub-Environment~~ boundary of a separate site which contains an existing residential unit.

vi. Not set back at least 3m from any boundary of a separate site which contains an existing residential unit.

I. Traffic Movements and Vehicle Manoeuvring

Submission Information

117. Four submission points were made with regard to traffic movements and vehicle manoeuvring.
118. NZFSC⁵⁰ supports policy RVE.1.3.11(c) and seeks that it be retained to ensure that vehicle manoeuvring is provided for onsite.
119. The New Zealand Transport Agency (**NZTA**)⁵¹ supports and seeks to retain rules RVE.2.3.1(c), RVE.2.3.2(g)(i) and RVE.2.3.3(c)(i) to manage potentially high traffic generating activities.
120. Saleyards Investments⁵² seeks that RVE.2.3.1(c) (traffic movements limits in the RVCE) be amended from a discretionary activity to a controlled activity. Saleyards Investments considers the proposed provision to be too restrictive stating that any development or redevelopment of RVCE sites in Waipu will likely require resource consent as a discretionary activity under the proposed rules.
121. J Woollacott⁵³ seeks the following specific amendment to RVE.2.3.2(g)(i):
- g. Any home occupation that:*
 - i. Generates more than 2030 traffic movements per site per day.*
122. J Woollacott considers the requested amendment is more appropriate for the following reasons:
- Places of assembly have no traffic movement limitation in the RVRE and may have more impacts than home occupations.
 - A limit of 30 traffic movements is consistent with the operative Living 1 Environment provisions (Rule 36.3.6 of the WDP).

Support for Policies and Landuse Provisions – Discussion

123. I acknowledge these submission points as I consider the provisions to be appropriate to manage traffic generating activities in the RVE and ensure that sufficient space is provided for on-site vehicle manoeuvring in the RVIE.

Support for Policies and Landuse Provisions – Recommendation

124. I recommend that the Commissioners **accept** submission points 451/4 and 453/12.

Amendments to Landuse Provisions – Discussion

125. In my opinion, providing for activities generating more than 200 traffic movements in the RVCE as a controlled activity is too permissive. As a controlled activity WDC would not be able to decline consent and would have limited matters of control. Policy RVE.1.3.5 aims to protect the character and amenity of rural villages by limiting the number of traffic movements generated by non-residential activities. I consider a discretionary activity status a more effective method of achieving RVE.1.3.5 than a controlled activity status, particularly when considering the potential for cumulative effects.

⁵⁰ 451/4

⁵¹ 453/12

⁵² 236/3

⁵³ 482/1

126. I respond to J Woollacott as follows:

- The proposed plan changes are adopting a hybrid effects-based and activity-based approach. Places of assembly are managed in the RVRE under RVE.2.3.2(c) being a discretionary activity if the hours of operation and site coverage are not met. As assessed in **Part 5** of the s32 Report⁵⁴, I consider the proposed home occupation and places of assembly provisions appropriate to manage the respective effects of each type of activity.
- Activities requiring more than 20 traffic movements per day may represent a character more similar to a commercial activity than a residential activity.
- While a limit of 30 traffic movements is consistent with the Living 1 Environment provisions, the proposed limit of 20 traffic movements is consistent with the more recent Kamo Walkability Environment provisions for home occupations (rules KMP.1.5.10(a) and KLP.1.5.12(a)).

Amendments to Landuse Provisions – Recommendation

127. I recommend that the Commissioners **reject** submission points 236/3 and 482/1.

Evidence and Hearing Information

I.1 No evidence was presented with regard to the above topics. However, in paragraphs 40 – 42 of Ms Heppelthwaite’s Statement of Evidence for NZTA it is recommended that the following additional discretionary activity rule be included in RVE.2.3:

j. Any community centre, child care or education facility, healthcare centre or retirement village that generates more than 20 traffic movements per site, per day and have direct access to the State highway.

I.2 Ms Heppelthwaite considers that the activities listed in the recommended rule are permitted activities within the RVE, and that in Hikurangi and Maungatapere (where the RVE is adjacent to the State highway network) these activities must be managed due to their potential to be high traffic generators.

I.3 NZTA’s original submission did not request additional traffic movement rules in the RVE so this was not specifically addressed in the s42A report. However, Ms McGrath broadly discussed traffic movement rules in **Part 1** of the s42A report⁵⁵.

Right of Reply Discussion

I.4 It is unclear to me if Ms Heppelthwaite is recommending an additional traffic movement rule for each RVE Sub-Environment or just the RVRE. My interpretation is that the recommended rule is only intended to apply to the RVRE as Ms Heppelthwaite states⁵⁶ “Within RVE, Commercial and Industrial activities require consent”; this is only the case in the RVRE. Thus, this matter is assessed only as it relates to the RVRE.

I.5 In my opinion, this change is unnecessary as several of the activities identified by Ms Heppelthwaite are already managed by proposed rules in the RVRE, as discussed below:

⁵⁴ Pages 35 – 38

⁵⁵ Paragraph 177

⁵⁶ Paragraph 41 of Ms Heppelthwaite’s Statement of Evidence

- 'Child care facilities' meet the definition of a 'commercial activity' in my opinion and therefore are managed by proposed rule RVE.2.1.1 as a non-complying activity.
- 'Educational facilities' and 'community centres' meet the definition of a 'place of assembly' in my opinion and are therefore managed by proposed rule RVE.2.3.2(c) which limits the scale and hours of operation of places of assembly.
- 'Retirement villages' are restricted by the residential unit density limit in the RVRE in my opinion.

I.6 This leaves healthcare centres (or 'health care facilities' as defined in the WDP) as the remaining permitted activity in the RVRE of those raised as potential issues by Ms Heppelthwaite. In my opinion, Ms Heppelthwaite has raised a valid point that health care facilities are currently permitted in the RVRE with no rules controlling scale, intensity, hours of operation, etc. NZTA made a further submission in support of FNDC's original submission point⁵⁷, which raised concern that defaulting to permitted activity status in the proposed rules could result in unforeseen activities being established. Having considered the evidence presented by Ms Heppelthwaite and reviewing the potential for unforeseen activities to establish in the RVRE I do agree that health care facilities should be managed in the RVRE. I do not support inserting a traffic movement rule for health care facilities. However, in my opinion health care facilities should require consent as a discretionary activity in the RVRE not only to manage traffic effects, but also amenity, character, reverse sensitivity and privacy effects. In terms of s32AA, it is my opinion that this recommended change represents the most efficient and effective option.

Right of Reply Recommendation

I.7 My original recommendations in paragraphs 124 and 127 above stand. However, I also recommend that the Commissioners **accept in part** original submission 410/26 and further submission x713, and that the notified provisions are amended as follows:

RVE.2.3.2 Rural Village Residential Sub-Environment Discretionary Activities

i. Any health care facility.

J. Minor Residential Units

Submission Information

128. Two submission points were made with regard to minor residential units and the relevant Landuse and Subdivision Eligibility Rules.

129. John Waisanen⁵⁸ seeks the following specific amendment to RVE.2.1.5:

5. Any minor residential unit that is not able to connect to a public reticulated wastewater system is a ~~prohibited~~ discretionary activity within the Rural Village Residential Sub-Environment.

⁵⁷ Submission point 410/26

⁵⁸ 492/1

130. J Waisanen considers that minor residential units should not be prohibited where the size of the allotment can allow for appropriate wastewater disposal for both a primary and a minor residential unit.
131. FNDC⁵⁹ supports RVE.3.1.2 and seeks that the prohibited activity status be retained. The Landowners Coalition⁶⁰ opposes this submission point and seeks that the activity status be changed to discretionary.

Discussion

132. I acknowledge and support FNDC's submission point. A key intention of PC85C is to provide for the managed growth of rural villages by concentrating development near existing reticulated services and restricting opportunities for sprawling unserviced development. As assessed in **Part 5** of the s32 report⁶¹, RVE.2.1.5 is considered an appropriate method of achieving the purpose of PC85C and gives effect to RVE.1.2.1 and RVE.1.2.4 and RVE.1.3.2 which have been supported by other submitters.
133. I acknowledge that a cost of rule RVE.2.1.5 is that slightly less growth will be provided for in the RVE than if unserviced minor residential units were permitted. To counter this, additional opportunities for the establishment of minor residential units have been provided for in the RVRE where the public reticulated wastewater network is available (rule RVE.2.3.2(b)). This provides more opportunities for minor residential units than the status quo Living Environments.
134. The WDP defines 'residential unit' and 'minor residential unit' as follows:

Residential Unit

means a building or group of buildings, room or group of rooms, with associated services and facilities, designed, used or intended to be used separately or in conjunction with each other as a single independent and separate household unit for a Residential Activity. This includes baches or other similar private holiday accommodation but excludes temporary Activities.

Minor Residential Unit

means a residential unit located no more than 15.0 metres from another residential unit on the same site/lot with a gross floor area of no more than 70.0m², excluding the gross floor area used exclusively for the storage of motor vehicles in association with the minor residential unit.

135. Based on the definitions, a minor residential unit is technically considered a residential unit. Consequentially, there is an inconsistency between RVE.2.3.2(a) and 2.3.2(b) as minor residential units are provided for by RVE.2.3.2(b) but RVE.2.3.2(a) imposes a limit of one residential unit per 500m² net site area.
136. To clarify that minor residential units are provided for in the RVRE where they are connected to reticulated wastewater, I support an amendment to RVE.2.3.2(a) to improve the clarity of the provisions in accordance with policy 6.1.1 of the RPS.

Recommendation

137. I recommend that the Commissioners:

- **Reject** submission point 492/1. However, I recommend that the following change is made to RVE.2.3.2(a) to clarify the intention to provide for minor residential units in the RVRE:

⁵⁹ 410/56

⁶⁰ x389

⁶¹ Pages 35 and 42 – 45

RVE.2.3.2 Rural Village Residential Sub-Environment Discretionary Activities

a. Any residential unit:

i. Excluding minor residential units, where there is less than...

- **Accept** submission point 410/56.

Evidence and Hearing Information

J.1 No evidence was presented with regard to the above topics. However, NRC did originally submit in general opposition to the proposed prohibited activity status rules in the plan changes. This was assessed in **Part 1** of the s42A report⁶². Mr Day presented evidence on behalf of NRC emphasizing the need to carefully use prohibited activity status rules. Mr Day specifically considers that the prohibition of unserviced minor residential units in the RVRE is too restrictive and may be inconsistent with the Regional Water and Soil Plan.

Right of Reply Discussion

J.2 I agree with Ms McGrath's assessment in **Part 1** of the s42A report that the use of prohibited activity rules is not invalid or illegal. However, I acknowledge the evidence presented by Mr Day that prohibited activity rules must be carefully considered to ensure they are appropriate.

J.3 The prohibition of unserviced minor residential units in the RVRE is intended to achieve consolidated development and efficient use of existing infrastructure, rather than to manage the environmental effects of on-site servicing. In saying that, I do agree with NRC that the prohibited activity status is significantly more restrictive than elsewhere in the proposed rules. In my opinion the Rural Area and RVE objectives and policies clearly discourage unserviced minor residential units, but do not justify the use of a prohibited activity status.

J.4 Having considered the evidence presented and assessed the association of the activity status against the proposed objectives and policies, I accept that prohibiting unserviced minor residential units is inappropriate in the RVRE. Amending the activity status to discretionary and relying on objectives RVE.1.2.1 and 1.2.4 and policy RVE.1.3.2 is more appropriate in my opinion.

J.5 I also note that sensitive activities are prohibited in the RVIE. Having considered the operative and proposed WDP provisions, in my opinion the proposed prohibited activity status of sensitive activities in the RVIE is not justified. The intent of the rule was to avoid sensitive activities that are not associated with the industrial activity. This inadvertently applies to ancillary sensitive activities as well. In some cases, a residential unit may be beneficial to the industrial activity operating on a site and may have minimal adverse effects to the operation of the industrial activity. I recommend that the provision be amended to a non-complying activity status and that an accompanying policy be included in RVE.1.3.

⁶² Pages 10 – 11

Right of Reply Recommendation

- J.6 My original recommendation in paragraph 137 above stands. However, I also recommend that the Commissioners **accept in part** submission 190/5, and that the notified provisions are amended as follows:

RVE.1.3 Policies

14. Avoid sensitive activities in the Rural Village Industry Sub-Environment unless they:
- Support and are ancillary to the operation of industrial activities within the Environment;
 - Do not adversely affect existing industrial activities; and
 - Ensure that sufficient land is retained for potential future industrial activities.

RVE.2.1 Rural Village Environment Eligibility Rules

45. Any sensitive activity is a ~~prohibited non-complying~~ activity within the Rural Village Industry Sub-Environment.
- ~~56. Any minor residential unit that is not able to connect to a public reticulated wastewater system is a prohibited activity within the Rural Village Residential Sub-Environment.~~

RVE.2.3.2 Rural Village Residential Sub-Environment Discretionary Activities

- b. Any minor residential:
- Resulting in more than 1 minor residential unit on a site.
 - Where the net site area of the allotment is less than 750m².
 - That is not able to connect to a public reticulated wastewater system.

K. Earthworks

Submission Information

138. P Dobson⁶³ opposes policy RVE.1.3.12 stating it is impractical, or needs to be better defined as site topography will typically require a certain level of earthworks to accommodate buildings. P Dobson seeks for the provision to be amended to allow site contouring, retaining walls and benching as owners should be able to develop sites within reason, provided there is appropriate planting and landscaping post development.

Discussion

139. I acknowledge that many sites within the RVE contain challenging topographies that require earthworks to enable development. The only rule managing earthworks in the RVE is RA.3.3.1(p), which requires compliance with WDC's Environmental Engineering Standards 2010. In my opinion, RVE.1.3.12 is not

⁶³ 407/1

impractical and will not prevent landowners from undertaking necessary earthworks as it is a policy rather than a rule.

140. On some sites, significant earthworks will be required and in these instances, I consider that the proposed provisions will direct applicants to locate features such as building areas, services and access ways in the most appropriate areas and will allow any application to be assessed in accordance with the objectives and policies.
141. In selecting the RVE boundaries, topography and instability hazards were taken into consideration. The rezoning score of areas which present significant stability hazards has been reduced to avoid rezoning areas which will require excessive earthworks or which may pose a risk to human health and safety.

Recommendation

142. I recommend that the Commissioners **reject** submission point 407/1.

L. Emergency Services

Submission Information

143. NZFSC⁶⁴ opposes RVE.2.3.2(h), which classifies emergency services as a discretionary activity in the RVRE, and suggests that emergency services instead be specifically listed as a permitted activity for the following reasons:
- Fire stations need to be strategically located within and throughout communities to maximise their coverage and response times.
 - The potential effects of a fire station are well defined and consistent across stations regardless of their location. The potential adverse effects should be anticipated throughout the community and are limited to visual bulk and dominance of the building, noise, lighting and traffic.
 - Fire stations are designed to be sympathetic to the communities they are located within, helping to manage and mitigate effects.
 - The positive effects of a fire station outweigh any adverse effects.

Discussion

144. Whilst I acknowledge that fire stations serve a vital function, they do generate adverse effects and can negatively impact residential character and amenity. The intention of the proposed RVE is to encourage certain activities, such as commercial and industrial activities and emergency services, to locate in the RVCE where the effects of these activities are more appropriate and to retain residentially zoned land for residential use.
145. While the proposed discretionary activity status will place controls on emergency services in the RVRE, consent may still be able to be obtained. Emergency services are also provided for as permitted activities in the RVCE.

⁶⁴ 451/5

Recommendation

146. I recommend that the Commissioners **reject** submission point 451/5.

M. Signs

Submission Information

147. FNDC⁶⁵ seeks amendments to either the RA provisions or the RVE provisions to address a potential inconsistency whereby RA.2.3.1(c)(ii) permits only one sign per site, but RVE.2.3.1(b)(ii) permits up to two commercial activities per site. The submitter notes that amendments are required unless the intent was to require the two commercial activities to share a sign.

Discussion

148. The intent of the RVCE is to provide for two commercial activities within a site as a permitted activity to enable a mix of uses. I consider it appropriate to provide for more than one sign per site in the RVCE as commercial activities typically require signage. I therefore agree with FNDC that amendments are required to correct the inconsistency. The Business 3 Environment provides for 3 signs per site which I consider to be an appropriate amount for the RVCE. This will assist in providing economic growth and employment opportunities by enabling activities to provide the required signage and encouraging the establishment of commercial activities in the RVCE as is intended.

Recommendation

149. I recommend that the Commissioners **accept** submission point 410/27 and that the notified provisions are amended as follows:

RA.2.3.1(c) Rural Area Discretionary Activities

...

ii. Is not the only sign displayed per site (except within the SRIE and the RVCE).

RVE.2.3.1 Rural Village Centre Sub-Environment Discretionary Activities

d. Any sign resulting in more than three signs being displayed per site.

~~e.~~ Any building...

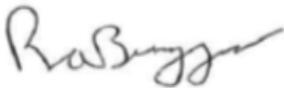
4.0 Conclusions and Recommendations

6. After carefully considering the evidence received in relation to each topic, I recommend that PC85C be amended to the extent detailed in the preceding sections of **Part 9** of the ROR and as illustrated in **Attachment 2G** of **Part 1** of the ROR.

⁶⁵ 410/27

7. The revised provisions [**Attachment 2G 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 PC85C.
8. I have read and concur with any recommendations from other parts of this ROR that result in amendments to PC85C to the extent illustrated in **Attachment 2G of Part 1** of the ROR.

AUTHOR

A handwritten signature in black ink, appearing to read 'RaBurgoyne', written in a cursive style.

Robert Adam Burgoyne
Policy Planner