

**UNDER THE**

Resource Management Act 1991

**IN THE MATTER OF**

Proposed Plan Changes 85, 85A, 85D,  
86A, 87, and 114 to the Whangarei  
District Plan

**EVIDENCE** 13  
**TOPIC** PC 85A-D, 86A+B, 87, 102, 114  
**UB#** Rural Plan Changes  
**ATE** 04-07-2017

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**SUPPLEMENTARY STATEMENT OF EVIDENCE OF JOHN ANDREW  
RIDDELL ON BEHALF OF THE DIRECTOR-GENERAL OF  
CONSERVATION**

**4 July 2017**

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Department of Conservation  
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1. In this supplementary statement to my primary statement of evidence dated 23 June 2017 I revise my recommended rewording of the indigenous vegetation clearance rules, show the rule changes necessary to implement my recommended approach to the control of buildings and earthworks in the coastal environment, and recommend a policy wording change to address an inconsistency between policy 4.6.1 of the Regional Policy Statement and policy LAN.1.3.3.
2. A summary of all my recommendations, including amendments to objectives, policies and rules is attached to this supplementary statement.
3. There are some minor corrections to my primary statement
  - paragraph 17 – change “bourne” to “borne”
  - paragraph 71 – the policy is CA.1.3.3, not CA.1.2.3
  - paragraph 81 – the policy is 6(1)(g), not 6(1)9g
  - paragraph 133 – add the following to the end of the last sentence: “in areas of outstanding natural character”
  - paragraph 163 – change “or habitats” to “or habitat”
  - paragraph 165 – the first rule example should be numbered Rule RPE2.3.5, not RPE.2.3.2
  - paragraph 209 – the policy section referred to is CA.1.3, not CA.1.3.1.

*Indigenous Vegetation Clearance Rules*

4. In Part 3 of my primary evidence, at paragraphs 179 to 181 I set out recommended amendments to some of the indigenous vegetation clearance rules in the proposed Plan Changes.
5. As I explain in paragraphs 150 to 157 and 164 to 177 I consider that the indigenous vegetation clearance rules in the proposed Plan Changes do not give effect to policy 11 of the Coastal Policy Statement or to policy 4.4.1 of the Regional Policy Statement.
6. Notwithstanding that the District Council is preparing a plan change to comprehensively address indigenous biodiversity and to give full effect to the directives of the national and regional policy statements, I consider that the indigenous vegetation clearance rules in these proposed Plan

Changes need to be strict in order to ensure that indigenous biodiversity is adequately protected in the interim.

7. With that in mind, I have reviewed my recommended amendments to the indigenous vegetation rules, and now consider that more extensive and explicit amendments are required to make it clear that the clearance threshold provided in these rules is a cumulative measure<sup>1</sup>.
8. These are set out in the Attachment to this statement at:
  - pages 9 and 10 for the Coastal Area rules CA.2.3.4, CA.3.1.3 and CA.4.2.2
  - page 12 for the Rural Production Environment rule RLE.2.3.5
  - page 12 for Rural Living Environment rule RLE.2.3.10
  - page 12 for Rural (Urban Expansion) Environment rule RUEE.2.3.6
  - page 13 for Landscape rule LAN.3.1.4.

*Buildings in the coastal environment*

9. At paragraph 117 of my primary statement I set out my recommendations with respect to buildings in the coastal environment.
10. At pages 7 to 8 In the Attachment to this supplementary statement I show the amendments that would be required to the relevant rules if my recommended regime with respect to buildings in the coastal environment is accepted.

*Earthworks in the coastal environment*

11. At paragraphs 135 to 148 of my primary statement I make a number of recommended amendments to the earthworks rules in the coastal environment.
12. I collate those recommended changes at pages 8 to 9 of the Attachment to this statement.

*Policy LAN.1.3.3*

13. At paragraph 39 of my primary statement I note that policy LAN.1.3.3 is inconsistent with policy 4.6.1(3)(a) of the Regional Policy Statement.

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<sup>1</sup> This is explained further in paragraphs 166 to 168 and 172 of my primary evidence.

14. I have been asked to recommend an amendment to policy LAN.1.3.3 that would correct this.
15. Policy LAN.1.3.3 is a policy setting out how adverse effects on the characteristics and qualities of Outstanding Natural Features and Outstanding Natural Landscapes will be avoided in the coastal environment.
16. The direction to avoid adverse effects derives from policy 15(a) of the Coastal Policy Statement and from policy 4.6.1(1)(a) of the Regional Policy Statement.
17. Policy 4.6.1(3) of the Regional Policy Statement expands on the considerations to establish whether adverse effects are avoided or not. Clause (a) of this subsection states  

Policy 4.6.1(3)(a) Recognise that a minor or transitory effect may not be adverse.
18. Policy LAN.1.3.3, however, changes this to any subdivision, use or development with a minor or transitory adverse effects being an appropriate instance of avoiding of adverse effects. In my opinion this is going beyond the Regional Policy Statement.
19. I recommend the following amendment to policy LAN.1.3.3.a so that is gives effect to policy 4.6.1 of the Regional Policy Statement:

Policy LAN.1.3.3.a Of a scale, location or design that avoids adverse effects, recognising that a ~~have only~~ minor or transitory adverse effects ~~may not be an adverse effect~~; or

Andrew Riddell  
4 July 2017

## ATTACHMENT 1

### SUMMARY OF RECOMMENDATIONS IN EVIDENCE OF

#### JOHN ANDREW RIDDELL

Recommended changes to objectives, policies or rules that differ from staff recommendations are shown using strike through, double underlining and grey highlighting.

#### PROPOSED PLAN CHANGE 87

##### *Objective CA.1.2.3*

- primary evidence paragraphs 42 to 45; submission 78/16
- recommend rejecting submission

##### *Objective CA.1.2.4*

- primary evidence paragraphs 46-48; submission 78/17; further submission opposing submission 253/32, Federated Farmers
- recommend rejecting submission 253/32, make no change to objective

##### *Objective CA.1.2.5*

- primary evidence paragraphs 49 to 56; submission 78/17; further submission opposing submission 431/7 by the Landowners Coalition
- support staff recommended changes, suggest a further change:  
Objective 1.2.5 Avoid significant adverse effects, and avoid, remedy, or mitigate other adverse effects on the natural character of the Coastal Area ~~and including~~ identified High Natural Character areas.

##### *Objective CA.1.2.6*

- primary evidence paragraphs 57 to 60; further submission opposing submission 431/7 by the Landowner Coalition
- recommend rejecting submission 431/7, support retention of objective

##### *Objective CA.1.2.8*

- primary evidence paragraphs 61 to 63; submission 78/19; further submission opposing submission 253/35 by Federated Farmers
- support retention of objective as notified and rejection of submission 253/35

*Policy CA.1.3.1*

- primary evidence paragraphs 64 to 70; further submission in support of submission 410/14 by Far North District Council
- support staff recommended change to policy

*Policy CA.1.3.3*

- primary evidence paragraphs 71 to 72; submission 78/20
- agree with staff recommended amendments to policy

*Policy CA.1.3.4,*

- primary evidence paragraphs 73 to 79; further submission in support of submission 410/14 by Far North District Council
- recommend an amendment to the policy, note that a consequential amendment to rule CA.2.2.1 will be required:  
Policy 1.3.4 To manage the visual impacts of residential buildings in the Coastal Area outside coastal villages by limiting building height and ensuring exterior colour schemes are of low reflectivity value.

*Policy CA.1.3.5*

- primary evidence paragraphs 80 to 81; further submission in support of of submission 410/16 by Far North District Council, further submission in opposition to submission 431/8 by the Landowners Coalition
- recommend rejection of submission 431/8

*Policy CA.1.3.6*

- primary evidence paragraphs 82 to 86; further submission in opposition to submission 431/8 by the Landowners Coalition
- recommend rejection of submission 431/8 and retention of policy

*Policy CA.1.3.7*

- primary evidence paragraphs 87 to 90; further submission in opposition to submission 431/8 by the Landowners Coalition
- recommend rejection of submission 431/8 and no change to policy

*Policy CA.1.3.14*

- primary evidence paragraphs 91 to 93; further submission in support of submission 410/8 by Far North District Council
- recommend accepting submission and amending policy:  
Policy CA.1.3.14 To ensure that adverse visual effects of earthworks scarps on Outstanding Natural Character and that the significant adverse visual effects on High Natural Character Areas and coastal landscapes are avoided, remedied or

mitigated ~~as far as practicable~~, by encouraging re-vegetation of earthworks scarps.

*Policy CA.1.3.21*

- primary evidence paragraphs 94 to 100,; further submissions in support of submissions 410/19 by Far North District Council and 467/4 by Royal Forest and Bird Protection Society
- recommend amendments to policy additional to the staff recommended amendments:

Policy CA.1.3.21 To enable the continuation of rural production activities in the Coastal Area by allowing the building of non habitable ~~buildings associated with rural production activities~~ rural production buildings subject to standards being applied on building scale and reflectivity.

*New policy in CA.1.3*

- primary evidence paragraphs 101 to 107, further submission in support of submission 467/3 by Royal Forest and Bird Protection Society
- recommend inserting a further policy:

Additional policy in CA.1.3 To protect natural and recreation values by controlling the use of vehicles, except emergency vehicles, on beaches and adjacent public land and encourage control of vehicles on the foreshore and seabed.

*New infrastructure policy in CA.1.3<sup>2</sup>*

- primary evidence paragraphs 209 to 216, further submission opposing in part submission 476/3 by Transpower
- if policy sought is inserted recommend the following amendment:

To ensure that new transmission lines are only located within areas of HNC or ONC where there is a functional, technical or operational need to be located in or traverse these areas, and ~~any significant adverse effects are outweighed by the overall benefits of the proposal~~ any adverse effects are avoided.

*Coastal Area Building and Structures Rules*

- primary evidence paragraphs 110 to 124, supplementary statement paragraphs 9 and 10, submissions and further submissions listed on page 21 of evidence
- recommend either reduced maximum gross floor area for buildings as a permitted activity or introduction of maximum gross floor area for buildings as a permitted activity, and other further standards

<sup>2</sup>This section reference is mis-stated at paragraph 209 of my evidence as CA.1.3.1

- *rule CA.2.2.1*, construction of non habitable buildings ancillary to rural production purposes, add the following standards:

Rule 2.2.1 Construction or external alteration of non habitable buildings ancillary to rural production activities or network utility activities outside a High or Outstanding Natural Character Area is a permitted activity where the building

a. Does not exceed a gross floor area of 200m<sup>2</sup>. or

b. Does not exceed a height of 10 m. or

c. Has exterior facades (excluding joinery) coloured or painted with a colour with a light reflectance value of 35% or less. or

d. Has a roof colour with a light reflectance value of 30% or less.

- *rule CA.2.3.1*, construction or external alteration of a residential unit, add the following standard:

aa. That exceeds a gross floor area of 50m<sup>2</sup>. or

- *rule CA.3.1.1*, construction or external alteration of a building, add the following standards:

aa. That exceeds a gross floor area of 50m<sup>2</sup> for a residential building, or exceeds a gross floor area of 100m<sup>2</sup> for a non habitable building ancillary to rural production activities, or

a. That exceeds a height of 5.5m for a residential building or 8.5m for a non habitable building ancillary to rural production activities, or

ba. Will not result in more than 1 residential building within the High Natural Character Area on the site, or

bb. Will not result in more than 2 non habitable buildings within the High Natural Character Area on the site, or

b. ...

c. ...

Any building that does not comply with this rule is a non-complying activity.

- *rule CA.4.1.1*, external alterations or extensions, delete rule (covered by amendments to rule CA.4.1.2)
- *rule CA.4.1.2*, construction of a building within an Outstanding Natural Character area, amend the rule as follows:

CA.4.1.2 Construction or external alteration of a building within an Outstanding Natural Character Area with a gross floor area that exceeds 50m<sup>2</sup>;

a. That is not a non habitable building ancillary to rural production activities

b. That does not exceed a gross floor area of 25m<sup>2</sup>. or

c. That does not exceed a height of 5.5m. or

d. Will not result in more than 1 building within the Outstanding Natural Character Area on the site, or



e. With exterior facades (excluding joinery) coloured or painted with a colour with a light reflectance value of 35% or less, or

f. With a roof colour with a light reflectance value of 30% or less, or

Any building that does not comply with this rule is a non-complying activity.

#### *Earthworks rules*

- primary evidence paragraphs 125 to 148, supplementary statement paragraphs 11 and 12, submissions and further submissions listed on page 26 of evidence
- rule CA.2.3.3, add the following to the end of the rule:
 

and where the original dune form is reinstated to the extent practicable after the earthworks are completed.
- rule CA3.1.2, amend clause c. of this rule:
  - c. The earthworks are not associated with:
    - i. The repair and maintenance of fences, utility connections, driveways, parking areas, effluent disposal systems, swimming pools, garden amenities, gardening, planting of any vegetation, walking or cycling tracks, farm and forestry tracks; or the burial of marine mammals where the original ground form is reinstated to the extent practicable after the earthworks are completed; or
    - ii. Any legally established mineral extraction activity.
- rule CA.4.2.1, amend the rule by deleting clauses a., b., c., and d.; and adding the following double-underlined words:
 

CA.4.2.1 Earthworks with a volume greater than 150m<sup>2</sup> or a face height of any cut and/or batter face exceeding 2m unless the work is directly associated with the burial of marine mammals where the original ground form is reinstated to the extent practicable after the earthworks are completed.

#### *Indigenous vegetation clearance rules*

- primary evidence paragraphs 164 to 184, supplementary statement paragraphs 4 to 8, submissions and further submissions identified on page 33 of evidence
- rule CA.2.3.4, discretionary activity indigenous vegetation clearance rule for Coastal Area, recommend amending rule as follows:
 

Rule CA.2.3.4 The destruction or clearance of an area of predominantly indigenous vegetation exceeding 500 m<sup>2</sup> in the Coastal Area, where that destroyed or cleared area is the total cumulative area of predominantly indigenous vegetation

destroyed or cleared after [insert date rule made operative];  
with the exception of vegetation clearance associated with:

- a. Routine maintenance within 3m of existing buildings, or
- b. Operation, maintenance and repair of existing tracks, lawns, gardens, fences, and drains and other lawfully established activities, or
- c. Pest plant removal and biosecurity works, or
- d. Vegetation removal for customary rights
- e. Conservation planting of indigenous species, including planting for ecological restoration purposes.

- *rule CA.3.1.3*, discretionary activity indigenous vegetation clearance rule for High Natural Character Areas, recommend amending rule as follows:

Rule CA.3.1.3 The destruction or clearance of an area of predominantly indigenous vegetation exceeding 250 m<sup>2</sup> within a High Natural Character Area, where that destroyed or cleared area is the total cumulative area of predominantly indigenous vegetation destroyed or cleared after [insert date rule made operative]; with the exception of vegetation clearance associated with:

- a. Routine maintenance within 3m of existing buildings, or
- b. Operation, maintenance and repair of existing tracks, lawns, gardens, fences, and drains and other lawfully established activities, or
- c. Pest plant removal and biosecurity works, or
- d. Vegetation removal for customary rights
- e. Conservation planting of indigenous species, including planting for ecological restoration purposes.

- *rule CA.4.2.2*, non-complying activity indigenous vegetation clearance rule in Outstanding Natural Character Areas, recommend amending rule as follows:

Rule CA.4.2.2 The destruction or clearance of more than 150m<sup>2</sup> of contiguous indigenous vegetation within an Outstanding Natural Character Area, where that destroyed or cleared area is the total cumulative area of predominantly indigenous vegetation cleared or destroyed after [insert date rule made operative].

PROPOSED PLAN CHANGE 85, RURAL AREAS

*Policy RA.1.3.5*

- primary evidence paragraphs 158 to 163, submission 78/2
- recommend adding the words “or habitat” to the end of policy clause d.:

Policy RA.1.3.5.d Do not compromise high Land Use Capability Class soils, Outstanding Natural Landscapes or Features, High or Outstanding Natural Character or significant indigenous vegetation or habitat.

*Policy RA.1.3.6*

- primary evidence paragraphs 158 to 163, submission 78/3
- recommend adding the words “or habitat” to the end of policy clause e.:

Policy RA.1.3.6.e Do not compromise Outstanding Natural landscapes or Features or significant indigenous vegetation or habitat.

*Criterion RA.3.3.1(p)*

- primary evidence paragraphs 185 to 201, submission 78/4
- recommend accepting the submission and retaining this criterion

*Matter of control RA.4.1.j*

- primary evidence paragraphs 202 to 208, further submission in support of submissions 200/1 and 201/1 by Tutukaka Landcare
- recommend adding words to matter of control j for controlled activity subdivision in the Rural Area:

*Matter of control RA.4.1j* The extent to which the subdivision avoids adverse effects on significant flora and fauna habitats, including methods of weed and pest management and measures to control dogs and cats.

PROPOSED PLAN CHANGE 85A, RURAL PRODUCTION ENVIRONMENT

*Rule RPE.2.3.4*

- primary evidence paragraphs 185 to 201, submission 78/6, further submission in opposition to submission 190/2 by Northland Regional Council
- recommend rejecting submission and further submission and deleting rule

*Rule RPE.2.3.5<sup>3</sup>*

- primary evidence paragraphs 164 to 184, supplementary statement paragraphs 4 to 8, further submission in support of submission 467/1 by Royal Forest and Bird Protection Society
- recommend amending rule as follows:

The destruction or clearance of an area exceeding 500m<sup>2</sup> of predominantly indigenous vegetation that forms a contiguous area of 1 ha or more, where that destroyed or cleared area is the total cumulative area of predominantly indigenous vegetation destroyed or cleared after [insert date rule made operative].

PROPOSED PLAN CHANGE 85A, RURAL LIVING ENVIRONMENT

*Rule RLE.2.3.10 (staff recommended further rule)*

- primary evidence paragraphs 164 to 184, supplementary statement paragraphs 4 to 8, further submission in support of submission 467/1 by Royal Forest and Bird Protection Society
- recommend amending rule as follows:

The destruction or clearance of an area exceeding 500m<sup>2</sup> of predominantly indigenous vegetation that forms a contiguous area of 1 ha or more, where that destroyed or cleared area is the total cumulative area of predominantly indigenous vegetation destroyed or cleared after [insert date rule made operative].

PROPOSED PLAN CHANGE 86A, RURAL (URBAN EXPANSION) ENVIRONMENT

*Rule RUEE.2.3.6*

- primary evidence paragraphs 164 to 184, supplementary statement paragraphs 4 to 8, further submission in support of submission 467/1 by Royal Forest and Bird Protection Society
- recommend amending rule as follows:

The destruction or clearance of an area exceeding 500m<sup>2</sup>, forming a contiguous area of 1 ha or more, of predominantly indigenous vegetation that forms a contiguous area of 1 ha or more, where that destroyed or cleared area is the total cumulative area of predominantly indigenous vegetation destroyed or cleared after [insert date rule made operative].

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<sup>3</sup>This rule was mis-stated at paragraph 165 as Rule RPE.2.3.2 instead of RPE.2.3.5.

*Rule RUEE.2.3.7*

- primary evidence paragraphs 185 to 201, submission 78/12, further submission in opposition to submission 190/2 by Northland Regional Council
- recommend rejecting submission and further submission and deleting rule

PROPOSED PLAN CHANGE 114, LANDSCAPES

*Policy LAN.1.3.3*

- primary evidence paragraph 39, supplementary statement paragraphs 13 to 19, further submission in support of submission 467/1 by Royal Forest and Bird Protection Society
- recommend that clause a of policy LAN.1.3.3 be amended as follows so that it similar in wording to policy LAN.1.3.6b:

Policy LAN.1.3.3.a Of a scale, location or design that avoids adverse effects, recognising that a have-only minor or transitory adverse effects may not be an adverse effect; or

*Rule LAN.3.1.4*

- primary evidence paragraphs 164 to 184, supplementary statement paragraphs 4 to 8, further submission in support of submission 467/1 by Royal Forest and Bird Protection Society, further submissions opposing submission 411/34 by Federated Farmers and submission 117/3 by Northland Regional Council
- recommend rejecting the staff recommended amendment to this rule and reinstate the word "and":

Rule 3.1.4 Indigenous vegetation clearance within an Outstanding Natural Landscape if it is:

- a. Of less than or equal to 150m<sup>2</sup> of contiguous indigenous vegetation in any 12 month period within a site; and ~~or~~ and ...
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