

Is our District Plan working after 5 years in operation?

A report on the efficiency and effectiveness of objectives, policies and other methods in the Operative Whangarei District Plan.

Table of Contents

	Page
1. What is an Efficiency and Effectiveness Report?	3
2. Statutory basis	3
3. External influences	3
4. Local planning framework	4
5. Methodology	4
6. Conclusions	5
7. Where to from here?	6
8. Summary of findings of individual District Plan chapters	8
• Chapter 8 Subdivision and Development	8
• Chapter 10 The Coast	10
• New topic Rural	12
• Chapter 16 Landscape	15
• Chapter 15 Open Space	16
• Chapters 11 & 12 Water Bodies and Riparian and Coastal Margins	18
• Chapter 17 Indigenous Vegetation and Habitats	20
• Chapter 5 Amenity Values	21
• Chapters 13 & 14 Heritage Buildings, Sites and Objects, and Heritage Trees	22
• Chapter 7 Tangata Whenua	23
• Chapter 18 Minerals	24
• Chapter 19 Natural Hazards	25
• Chapter 20 Contaminated Sites	27
• Chapter 21 Hazardous Substances	27
• Chapter 23 Network Utilities	28
• New topic Energy	30
• Chapter 22 Road Transport	30
• Chapter 24 Whangarei Airport	31
• Chapter 25 Marsden Point Port	32
• Chapter 6 Built Form and Development	32
• Chapter 26 Town Basin Environment	34
• Chapter 27 Local Authority Cross Boundary Issues	35
• Chapter 28 Scheduled Activities or Overlay Areas	36
• Chapter 9 Financial Contributions	36
 Table 1: External planning influences and internal influences and milestones over past 5 years	 38

1 What is an efficiency and effectiveness report?

Monitoring the efficiency and effectiveness of provisions of our district plan is a statutory requirement as well as an integral component of the traditional 'plan-do-monitor-review' process, providing information as to how the District Plan is working in practice.

2 Statutory basis

Under section 31 of the Resource Management Act 1991 ('The Act'), the functions of all territorial authorities must include:

- (a) *the establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the district.*

In terms of section 35(2)(b) of the Act, a local authority is required to monitor, *'the efficiency and effectiveness of policies, rules, or other methods in its policy statement or its plan'* at intervals of not more than 5 years and make available to the public a review of its monitoring results. Since the Whangarei District Plan became operative on **3 May 2007**, it is appropriate to undertake monitoring at this time.

The Act does not specify the manner in which monitoring and reporting is to be undertaken, and there is considerable variation in approach amongst local authorities. The WDC Monitoring Strategy, (June 2001), provides guidance on the District Plan monitoring process.

In addition to efficiency and effectiveness reports, Council is responsible for producing state of the environment reports providing baseline information on the state of the district's environment, changing environmental conditions (and development pressures), and identifying new issues and significant trends, and potential solutions. SOE reports prepared within the past 5 years relate to Development Trends (August 2007) and Biodiversity (May 2011). Combined Resource Consents and Complaints Monitoring Reports examining compliance with resource consent conditions and complaints regarding resource management issues have been produced on an annual basis since 2001/02.

The Resource Management (Simplifying & Streamlining) Amendment Act 2009 has removed the former requirement to review district plans every ten years. Councils now have the power to review their plans in any way, provided that each provision of the plan is reviewed at least once every ten years. As a result of this, Council has adopted an on-going 'rolling review' process.

On 26 September 2011, Plan Change 106 became operative. This incorporated a new Chapter 2 in the district plan entitled *'Introduction to Procedures'*, aimed at managing the Plan as *'a living document and to ensure its content is responsive to the performance of policies and methods in achieving anticipated environmental outcomes.'* Circumstances listed in Chapter 2 for seeking changes to the Plan include when *'plan effectiveness monitoring identifies the need to enhance progress toward achieving anticipated environmental results'*; as a result of significant amendments to the Act; or the adoption of national policy statements or national environmental standards, or as a result of new scientific work.

3 External influences

The Resource Management Act 1991 is the primary piece of legislation governing the use, development and protection of land in New Zealand. Under section 31 of the Act, district councils are responsible for achieving integrated management of the effects of the use, development or protection of land and physical resources of their district. Under section 75(3)(c) of the Act, the District Plan must give effect to the Regional Policy Statement and must not be inconsistent with Regional Plans (which includes the following Regional Plans for Northland produced under the Act – the Regional Water and Soil Plan, Air Quality Plan and Coastal Plan). In October 2011, the Northland Regional Council released a new draft Regional Policy Statement, which will have bearing on the timing and outcomes of some WDC planning initiatives (e.g. identification of landscape areas and the coastal environment).

In terms of section 55 of the Act, local authorities are required to amend their district plans to give effect to the objectives and policies of national policy statements. Examples of national policy statements that have taken effect over the past 5 years (or are currently proposed) include:

- New Zealand Coastal Policy Statement (2010)
- National Policy Statement on Electricity Transmission (2008)
- National Policy Statement on Renewable Electricity Generation (2008)
- National Policy Statement for Indigenous Biodiversity (proposed 2011)

The New Zealand Coastal Policy Statement 2010 ('NZCPS 2010'), which became effective on 3 December 2010, provides an overarching framework for achieving sustainable management of the coastal environment. It includes a definition of 'coastal environment', adopts a spatial and catchment management approach, and includes a strong emphasis on the identification and protection of outstanding landscapes and features, directing that strategic planning includes identification of areas of the coastal environment where particular activities and forms of subdivision, use and development are 'inappropriate.'

The following national environmental standards are in force as regulations issued under sections 43 and 44 of the Act, with councils required to enforce the same standard or can impose stricter standards in some circumstances:

- Air quality standards
- Sources of human drinking water standard
- Telecommunications facilities
- Electricity transmission
- Assessing and managing contaminants in soil to protect human health

The NES entitled: '*Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health)*', (effective from 1 January 2012) is of particular significance to this review since the District Plan will need to be changed to refer to the NES and/or include specific objectives and policies that provide guidance with Council's approach under the NES. A council working group has been established, in association with the Northland Regional Council, to develop a comprehensive approach to the issue, including the possible drafting of a Plan Change.

4 Local planning framework

WDC current policy framework is largely based on the *Whangarei District Growth Strategy – Sustainable Futures 30/50*, adopted by Council on 22 September 2010. This is aimed at managing projected growth sustainably over a 30 to 50 year timeframe and provides an overarching framework for a suite of planning documents required in terms of a range of local authority functions, with varied timeframes, including:

- Coastal Management Strategy (20 years)
- Urban Growth Strategy (20 years)
- Urban Form and Development Report (20 years)
- Open Space Strategy
- 20/20 Plus Central City Development Plan (20 years)
- Various Structure Plans produced for the coast and urban fringe (20 years)
- Long Term Council Community Plan (10 years)
- Rural Development Strategy

The Rural Development Strategy is currently being prepared and will serve as the basis for planning the district's rural areas since the Operative Plan does not include a chapter devoted to rural issues. The RDS seeks to implement the policy direction established in the Growth Strategy, through examining rural issues relevant to the District Plan and presenting options aligned to Growth Strategy priorities. It is proposed that the RDS form the basis for the District Plan rolling review.

Plan Changes that have become operative during the past 5 years and examples of external and internal influences and milestones are included in the timeline in **Table 1**. The relationship of these items to specific chapters of the District Plan is addressed in the following summary.

5 Methodology

This summary was compiled following an in-house review by Council Policy planners of the individual district plan chapters. In several cases a combined assessment was undertaken where a clear relationship existed between chapters (e.g. Chapters 11 and 12). Additional topics not currently directly provided for in the District Plan (i.e. Energy and Rural) have also been included where it was apparent that new chapters were warranted. Recent chapters which have yet to be fully given effect to (e.g. Chapter 50 Port Nikau) were not reviewed due to their recent status. Chapter 1 (Introducing the District Plan) and Chapter 2 (Introduction to procedures) became operative in 2010, prior to the Growth Strategy, and may thus require updating in response to the strategic land use planning approach adopted in the Growth Strategy (rather than the traditional 'effects based' approach.)

The efficiency and effectiveness exercise involved gap analysis of objectives, policies and rules of individual sections of the District Plan and their inter-relationships, a review of documentation (including extensive background reports prepared in conjunction with the Growth Strategy and the Rural Development Strategy) and recent legislation, monitoring documents, and other miscellaneous documents.

Advice was also sought from Council Resource Consents, Compliance Monitoring and Regulatory Services staff on the effectiveness of current provisions on day to day administration of the District Plan, with feedback now incorporated in a spreadsheet register. Issues of concern were both general and specific, such as:

- Objectives and policies generally too generic and non location specific, allowing many to be argued both ways
- Objectives and policies for the Countryside and Coastal Countryside Environments reflect the situation applying to subdivisions when the 1 hectare rule was effective and have not been tightened since the 2006 Environment Court decision to increase minimum lot sizes to 20 hectares.
- Difficulties experienced in interpretation of the terms 'residential units' and 'residential activity'- an issue common to other local authorities also.
- The need for Environmental Benefit rules to be simplified.
- Rules applying to non residential activities in Living Environments insufficient to protect intent of environment.
- Location of facilities such as childcare centres in Countryside Environment and associated reverse sensitivity effects.
- Lack of specific rules for temporary activities although consent frequently triggered by excess traffic movements or noise.
- Need for noise controls to be reviewed in light of recent changes to National Acoustic standards.
- Limited earthworks rules.
- Need for rules relating to residential units within 500m of Mineral Extraction Areas to better reflect reverse sensitivity issues.
- Problems in monitoring permitted activity volumes of quarry excavation.
- Bridges requiring resource consent for infringement of setbacks from water bodies.
- Difficulties with ascertaining Future Environments provisions, including comprehensive development plan requirements.
- Difficulties in understanding Appendix 8 of Hazardous Facilities.
- Wording of rules relating to signs, fences, stone walls, outdoor storage, accessory building setbacks and screening of activities presents difficulties in monitoring compliance.

Assessment of the individual chapters of the District Plan was based on the following questions:

- What does the topic (chapter) encompass? What are the relevant District Plan provisions (*including objectives, policies and anticipated environmental results*).
- What changes have occurred in relation to the topic since the District Plan became operative?
- How efficient and effective are the district plan provisions?
- Where are we at now?

The final format of the summarised topics is based on three sections – an introduction, a listing of District Plan Anticipated Environmental Effects (AERs) and an assessment of effectiveness of District Plan provisions. AERs are included in the District Plan and are a series of statements serving as a reminder of outcomes expected from implementing the standards in the District Plan. The AERs form the basis for determining how efficiently and effectively the objectives and policies set out in the District Plan are being achieved.

6 Conclusions

The main purpose of this monitoring and reporting process was to provide an opportunity to review how the District Plan has been evolving over the past 5 years, identify what changes have occurred that impact on the district plan (including national and regional influences), evaluate the current state of the Plan (including what is working and what is not) and to offer suggestions as to when (and what) improvements might be warranted. Essentially the exercise was viewed as a 'stock take' of the current District Plan provisions as part

of the ongoing rolling review process. It is evident from the attached timeline **Table 1** that a number of strategies and plan changes have been successfully initiated since the District Plan became operative.

The form and content of district plans are increasingly influenced by the need to comply with new legislation (e.g national policy statements and national environmental standards), meet regional council obligations within specified timeframes and adopt best practice techniques (e.g. urban design). Some initiatives will inevitably be delayed due to timeframes associated with such processes.

Examples of District Plan effectiveness apparent from the review include:

- Introduction of alternative subdivision methods (such as clustering, management plan technique, transferable development rights and environmental protection enhancement through Plan Change 103 - Management Plan Technique) as a step towards giving greater priority to rural issues. These support avoidance of continued scattered and ribbon development and need to ensure retention of highly versatile and productive land for primary production, as promoted by the Rural Development Strategy.
- Benefits of replacing the Coastal Countryside Environment by more than one zone or re-introducing the Coastal Policy Areas to focus on the issues and values for each area, as encouraged by the NZCPS (2010) and Coastal Plan Changes.
- Inclusion of provisions for Papakainga Housing and review of Sites of Significance to Maori (PC100).
- Adoption of Chapter 6 Built Form and Development providing policy direction on strategic management of development within the district
- The achievement of successful development within the Town Basin Environment largely of an urban design nature dictated by mechanisms beyond the Plan and the RMA process, but with scope available for the introduction of mixed use activities supported by revised rules.

Examples of current District Plan provisions considered less than effective include:

- Previous inefficiencies in the classification and protection of landscapes, warranting comprehensive mapping of the coastal environment along with areas of high natural character and outstanding landscapes. Mapping currently being undertaken by the NRC will assist in the development of improved processes.
- A lack of any additional heritage items scheduled in the past 5 years, suggesting a need for further review of items worthy of protection.
- Limited or nil references to water quality and ecological wellbeing of water; water bodies; impacts on harbour; links between open space, amenity and sense of place; and policy direction in esplanade priority areas within the district.
- Current Indigenous Vegetation provisions, including a lack of supporting rules, the permissive nature of vegetation clearance rules, and the inability to monitor vegetation clearance classed as a permitted activity. There will be a need for the District Plan to be updated in due course, in line with the NZCPS (2010), the Proposed National Policy Statement (2011) on Indigenous Biodiversity and the new Regional Policy Statement.
- A lack of reference to energy matters (other than its network transmission and servicing requirements for new subdivisions). Recent changes at national level and recognition given to the issue in the Draft Regional Policy Statement means that Council will be obliged to address renewable energy generation.

7 Where to from here?

As determined by Council's Policy section, no precise listing of priorities for rectifying deficiencies in the District Plan is possible, given the number of internal and external variables affecting priorities and timeframes. Work on updating the District Plan is seen as being influenced by:

- Council's on-going Rolling Review programme and the need to retain a certain degree of flexibility
- findings of the Whangarei Growth Strategy 30/50 and draft implementation plan
- priorities set out in Council's various business plans, asset management plans and Long Term Plan
- influences at a regional and national level which impose additional statutory requirements and constraints, and

Continued progress on two major topics (Rural and Coastal) is considered to be of highest priority and offers greatest benefit at this time in terms of the environment and the various stakeholders concerned (applicants,

the public generally, and Council as administrators.)

The Growth Strategy 30/50, supported by information gathered during the District Plan Rolling Review process and associated consultation, has confirmed that the rural and coastal planning provisions are currently not effective. A number of these concerns date back to the 2006 Environment Court decision on rural and coastal subdivision standards and subsequent delays in the finalization of plan changes due to the introduction of the NZCPS (2010) and the draft Regional Policy Statement. Crucial to the RPS is the mapping currently being undertaken by the NRC of the coastal environment and areas of high natural character and outstanding landscapes. WDC is dependent upon this data which will form an integral part of its own planning.

Given that these topics (and related topics such as Landscape) affect the district's most sensitive areas it is crucial that their planning continue to be given priority. It is also important that progress in these areas is achieved during a period of recession when subdivision demands and effects are reduced.

Other topics such as Indigenous Vegetation and Habitats also need to reflect national policy statements (although the 2011 Proposed National Policy Statement on Indigenous Biodiversity has yet to be given effect to) and the draft WDC Biodiversity Strategy has yet to be adopted.

Revised Chapter 6 (Built Form and Development) identifies the significant resource management issues for urban form and development, and provides policy direction for the urban and industrial areas of Whangarei District. On the periphery of Whangarei's urban area, Plan Change 93 (subject to appeal) has introduced the Urban Transition Environment ('UTE') concept. Further urban topics can reasonably be deferred at this stage, due to fewer development pressures at present and the completion of outstanding urban Structure Plans taking precedence over plan changes.

While minor wording concerns within the document could be processed using an 'omnibus' approach, this is generally not favoured, as premature assessment of such issues could compromise the development of higher level policies and the 'top loading' of objectives and policies envisaged by the new District Plan structure, as outlined in Chapter 2 of the District Plan.

8 Summary of findings of individual District Plan chapters:

This section of the report reviews each of the individual Policy chapters (and two additional topics – Rural and Energy where the District Plan is currently deficient). The chapters have not necessarily been reviewed in the sequence found in the District Plan but rather have been clustered in more complementary topics.

Chapter 8 - Subdivision and Development

Inappropriate subdivision and development within any area is recognized in the District Plan as having the potential to result in increased conflict between activities and adverse effects on the amenity, heritage, landscape and other values of an area, reduced ecosystem functioning and increased strain on services and infrastructure. Nevertheless, some well-designed forms of subdivision and development are seen as able to maintain or even enhance levels of natural or cultural values within the district.

Chapter 8 addresses policy issues applying to both urban and rural issues. Objective 8.3.1 reiterates the Act's purpose of sustainable management while seven additional objectives focus on:

- character of the locality and avoidance of conflict between incompatible land use activities;
- protection or enhancement of the district's physical features and historic, cultural and amenity values;
- efficient and orderly provision of services and infrastructure; avoidance of subdivision and development in areas where potential adverse effects (e.g noise and natural hazards) cannot be avoided, remedied or mitigated;
- provision for comprehensive development with a range of allotment sizes, and appropriate to the character of the Environment; design that minimises potential risk from fire hazards; and
- avoidance/remedy/mitigation of adverse effects on tangata whenua values.

Numerous policies promoting design and development appropriate to the surrounding environment and zoning cover a range of issues such as density of development, cumulative effects, reverse sensitivity, design and location, protection of features, indigenous vegetation, traffic and aircraft noise, services and infrastructure, natural hazards, and natural and heritage resources.

District Plan rules require that every subdivision in the district is subject to resource consent.

Anticipated Environmental Results (AERs) listed in Chapter 8

- *A pattern of land use and development complementary to the character of the locality, whilst at the same time avoiding conflicts between incompatible land use activities.*
- *A pattern of consolidated land use and development that allows for the efficient use and development of natural and physical resources, avoids sporadic subdivision and ribbon development, particularly along the coast, and ensures a density of development appropriate to the location.*
- *The provision and maintenance of capacity, efficiency and safety of services and infrastructure, including the roading hierarchy and Airport.*
- *The avoidance of subdivision and development in areas of high risk from noise levels and from natural hazards.*
- *Preservation of appropriate internal noise levels.*
- *The protection of the District's versatile soils, water quality, natural features, landscapes, open spaces, significant ecological areas, biodiversity, public access to coast, lakes and rivers, heritage, cultural and amenity values from inappropriate subdivision and development.*

Assessment of effectiveness of district plan provisions

The current subdivision standards in the rural areas owe their origins to an Environment Court decision on Variation 5 to the District Plan (dated 28 February 2006). This increased the minimum lot size to 20 hectares for controlled activity subdivisions in the Countryside and Coastal Countryside Environments. The new density controls were viewed by the Court as a stop-gap measure until Council could conclude its studies and initiate plan changes for subdivision in the sensitive areas and '*better address the purpose and principles of the Act, for instance through design-based or integrated catchment analysis/management techniques.*'

No significant changes affecting subdivision and development in the Countryside & Coastal Countryside Environments have occurred since this time, with the exception of proposed changes to the Coastal

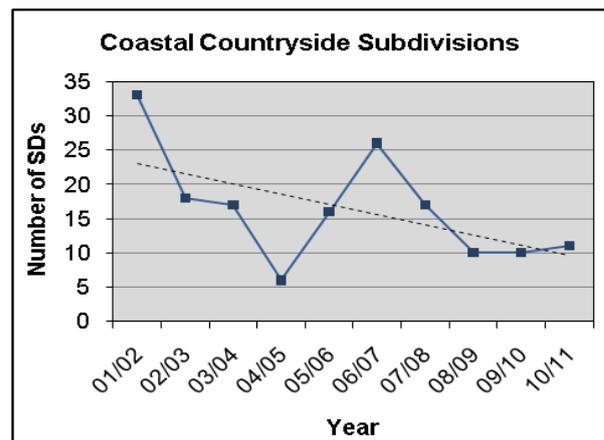
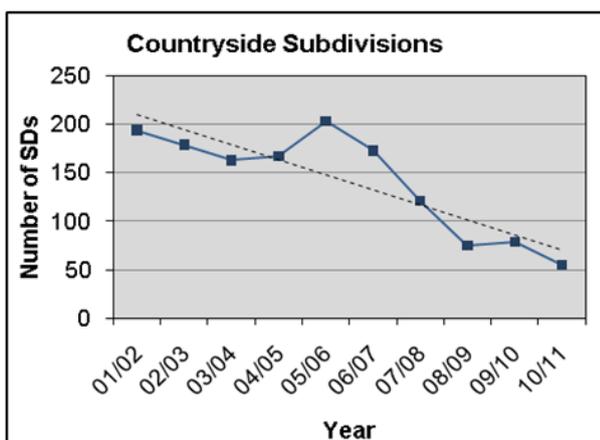
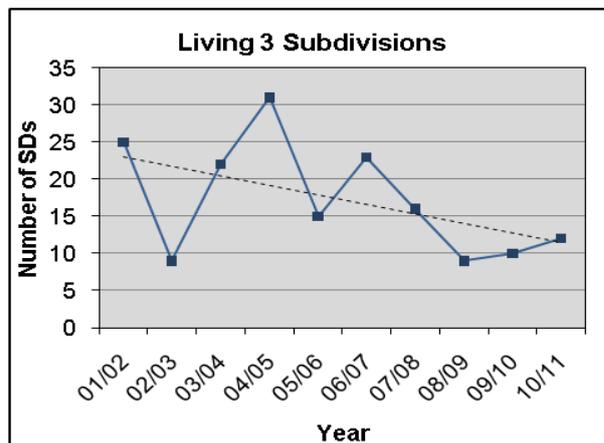
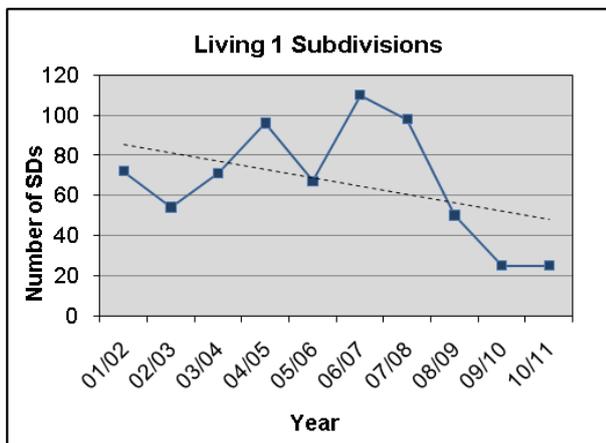
Countryside Environment (PC95 and PC116) which were heard but withdrawn pending incorporation of NZCPS 2010 directives and NRC coastal policy decisions (including mapping of the coastal environment).

In September 2010, Council adopted the 30/50 Growth Strategy which anticipates a shift towards a consolidated development pattern. In the interim, the Strategy stresses that *'consistent efforts need to be made to ensure future land development occurs in a carefully staged and managed manner that avoids continued scattered and ribbon development and, over time, results in a more rational and sustainable development pattern.'* The Strategy warns of the consequences of the process of urbanisation of highly productive land, particularly given the very limited distribution of Class 1 and 2 land, and stresses the need for *'strong planning provisions'* to ensure that highly versatile and productive land is retained for primary production.

Recent subdivision and development trends identified in the latest Resource Consents and Complaints Monitoring Report (2010-2011) include:

- A general decline in the total number of resource consents received and granted since approximately 2007.
- The number of subdivision consents granted falling below the number of land use consents for the first time in 2007 (attributed to the weak economy).
- The spatial pattern for development generally remaining constant, with the highest levels being within Whangarei city and pockets along the coast (particularly Ngunguru, Whangarei Heads and Bream Bay).
- The majority of subdivisions (47%) were in the Coastal Countryside Environment, with a decrease in rural environments in the past year.
- An increase in the average lot size in the Countryside and Coastal Countryside Environments since the 2006 Environment Court ruling, with the average lot size in the Countryside Environment now being nearly 12 ha and the average lot size in the Coastal Countryside being 7.4 ha.
- In 2010/11 12.2% of subdivision consents granted included a conservation covenant, indicating more people incorporating conservation values into development activity and formal protection of more of the district's significant natural areas.

In the Living Environments, subdivision numbers in Living 1 decreased steadily from 2007/08 - 2008/09, levelling off in 2010/11. Both Living 2 and 3 subdivisions decreased from 2006/07 - 2008/09 but have since increased. No Business 1 subdivisions have occurred since 2004/05. Subdivisions within Business 2, 3 and 4 have experienced various fluctuations in numbers.



Above - Source: Figure 1.17: Graphs of Subdivisions by Environment 2001/02 – 2010/11, Resource Consents and Complaints Monitoring Report 2010-2011

A Rural Development Strategy ('RDS'), is currently being prepared based on resource management issues such as rural production being compromised, amenity effects of sprawling subdivision, perceptions of rights to subdivide, pressures to increase opportunity to subdivide through decreasing minimum lot size, incompatible land uses in the rural environment, degradation of high class soils through residential development and urban sprawl, changes to landuse in the rural environment and 'ruralness' and sense of place.

Possible options recommended for implementing the RDS include:

- protection of the rural environment through description and policy areas
- an increased number of zones
- protection of high class soils based on NRC definition and mapping
- controls for protection of rural amenity and landscapes
- prevention of fragmentation of rural land
- control of residential development in the rural /urban fringes
- control of urban sprawl by imposing a strict urban limit surrounding Whangarei City

Some recommended alternative subdivision methods (such as clustering, management plan technique, transferable development rights and environmental enhancement) have already been introduced (e.g Plan Change 103 Management Plan Technique).

In terms of residential intensification in urban areas, the Growth Strategy suggests that this may be achieved through infill development, building higher or changes in housing style, (e.g detached villas to semidetached, or terraced housing), with possible desirable locations in Whangarei City being the Lower Town Basin Area, the Avenues or around service/shopping centres in the suburban nodes.

Urban development since 2007 has been influenced by a number of urban design initiatives (predominantly in relation to the Town Basin) although urban design guidelines have yet to be incorporated in the District Plan. Chapter 6 Built Form and Development, (operative July 2010), provides strategic direction on location, shape and form of urban development within the district including promotion of city centre mixed use and residential intensification. It is anticipated that plan changes providing for residential intensification and mixed-use activity will follow the adoption of an Urban Structure Plan for the City Centre (CBD and Town Basin).

Chapter 10 - The Coast

Whangarei District has a long and varied coastline. The protection of the natural character of the coast is a matter of national importance under Section 6a of the Resource Management Act (the Act). Although *natural character* is not defined in the Act, case law has established that it is comprised of a mix of elements including an absence of buildings, significant areas of indigenous vegetation and habitat, natural landscapes, landforms and seascapes, natural physical processes, and natural air and water quality.

The District Plan must give effect to the New Zealand Coastal Policy Statement (NZCPS) and have regard to its policies when making decisions on resource consent applications. The NZCPS 2010 takes a spatial approach to planning for coastal development, directing councils to identify areas within the coastal environment that are appropriate or inappropriate for development in order to protect outstanding landscapes, important habitats or areas with high biodiversity values, or to avoid areas subject to natural hazards.

Chapter 10 of the Operative District Plan, sets out issues, objectives, and policies relating to the coast. These apply mainly to the Coastal Countryside Environment but may also apply to other zones (including Living Environments, the Open Space Environment and the Countryside Environment) where they are in close proximity to the coast. Additional relevant policies are contained within Chapter 6 Built Form and Development and Chapter 8 Subdivision. Land use rules are contained in Chapter 38, with subdivision standards in Chapter 73.

The District Plan objectives and policies seek to protect the natural character of the coast, ensure public access to the coast is provided or enhanced where appropriate, consolidate development within built up areas, preferably where they can be serviced by council infrastructure, recognise the relationship of tangata

whenua with their ancestral lands and waters, and sites of significance, and to manage the cumulative effects of coastal development on the coastal environment.

Anticipated Environmental Results (AERs) listed in Chapter 10

- *The preservation and/or enhancement of the natural character of the coastal environment, and its protection from inappropriate subdivision, use and development. Included here are landscapes, seascapes and landforms; significant indigenous vegetation and significant habitats of indigenous fauna; air, water and soil quality; the intrinsic values of ecosystems including biodiversity along with other ecological values.*
- *The maintenance and/or enhancement of the historic and cultural heritage of the coastal environment, and the protection of it from inappropriate subdivision, use and development. Included here are cultural, historic and spiritual values; amenity values; places and areas of historic or cultural significance; and sites of significance to Maori.*
- *The maintenance and/or enhancement of the historic and cultural heritage of the coastal environment, and the protection of it from inappropriate subdivision, use and development. Included here are cultural, historic and spiritual values; amenity values; places and areas of historic or cultural significance; and sites of significance to Maori.*
- *A settlement and development pattern in the coastal environment that does not adversely affect natural and cultural/historic heritage values, is able to be serviced efficiently, and does not result in sporadic, sprawling or ribbon development. Future intensive development is largely confined to existing settlements where the above values are already compromised.*
- *The maintenance and/or enhancement of public access to and along the coastal marine area except where it is desirable to restrict public access to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna, Maori cultural values, public health and safety; to ensure a level of security consistent with the purpose of a resource consent; or in other exceptional circumstances.*

Efficiency and effectiveness of the district plan provisions

High demand for coastal property has resulted in development pressures along the Whangarei coast, in particular the Tutukaka coast, Whangarei Heads and the southern areas of the district between One Tree Point and Langs Beach. Despite only 10% of the district being coastal, approximately 30% of the lots subdivided over the last 10 years have been in coastal areas.

The release of the NZCPS 2010 has changed the focus for coastal planning from an effects based approach, to a more spatial approach where areas that are *appropriate* or *inappropriate* for development are identified on planning maps. The NZCPS also sets out the type of areas that are sensitive to land use activities and specifies how they should be identified and protected in district and regional plans. This includes sensitive landscapes and landforms, important biological areas, and areas prone to natural hazards.

In 2010 the Whangarei District Growth Strategy identified the sprawling and sporadic development pattern that has occurred under the effects based plan, promoting instead a spatial planning philosophy where development is directed to areas where it is zoned for, and restricted outside identified development nodes. This is the same approach preferred by the coastal communities in the development of the Whangarei Coastal Management Strategy 2002 (CMS), which identified gaps and anomalies in the Coastal Countryside Environment.

In 2009, Plan Change 95 was notified to redefine the inland extent of the Coastal Countryside Environment. Councils approach was to firstly identify the coastal environment, before reviewing the objectives, policies and rules in a second plan change. Plan Change 116 - Coastal Policy Areas was notified concurrently to incorporate into the District Plan area specific information on the character of 11 communities of interest along the coast. This was proposed by the addition of another layer of policies beneath the district wide ones, to reflect the unique issues and values of each area. Prior to the close of the hearing on PC95 and PC116 it was decided to withdraw the plan changes. This was to enable all parts of the plan changes to be considered together and to take into account NZCPS 2010 and the decision of the NRC to conduct a study to identify the coastal environment (including areas of high natural character) for the whole of Northland as part of the new Regional Policy Statement. Associated maps are due to be released for consultation in May 2012.

Currently, there is one zone and one set of rules to manage the diverse coastal environment. Different local issues mean activities with relatively minor effects, or those that are proposed in highly modified environments, are caught by the provisions as well as those with potentially significant effects, or in sensitive

environments. Replacement of the Coastal Countryside Environment with more than one zone, or re-introducing the Coastal Policy Areas may serve to focus on the issues and values for each area.

Similarly, the residential zone provisions for the coastal villages and hamlets are currently the same as the residential zones in Whangarei City and its suburbs. There may therefore be benefits therefore in adopting slightly different zone provisions in the coastal areas (for example, a coastal living zone that provides for residential development reflecting the coastal setting and the more relaxed feel of different coastal communities).

Case law of relevance to this topic during this period includes the Environment Court Declaration *Oman Holdings v WDC and J & L Henderson (ENV-2008-AKL-000177)*, issued 31 July 2009, which confirmed the status of a detached building ('pavilion') in the Coastal Countryside Environment as a 'residential unit' in terms of rule 38.4.1. A decision on a subsequent appeal related to retrospective consent for that building is still pending and may have relevance for future changes to the Coastal Countryside Environment, as it highlighted several anomalies in the district plan including the permitted activity status of minor residential units (and associated permitted baseline issues), restricted discretionary activity criteria, and differences between coastal and neighborhood amenity.

There has been a considerable focus on coastal issues at national, regional and local levels since the District Plan became operative. Currently, the Northland Regional Council is working on a mapping project to identify the coastal environment along with areas of high natural character and outstanding landscapes. It is expected that on completion the areas identified will be incorporated into the District Plan. The district wide objectives, policies and rules will require review and updating to ensure they give effect to the New Zealand Coastal Policy Statement and the new Regional Policy Statement.

Following the district wide policy review, Council will have the opportunity to re-notify the coastal policy areas plan change with amendments that reflect the High and Outstanding Natural Character Areas, Outstanding Landscape Areas and Outstanding Landforms as identified in the RPS mapping project.

New Topic - Rural

The Operative District Plan does not define the rural area, rural environment, rural activities or rural development for the Whangarei District. The District Plan assumes that the Countryside Environment encompasses what is rural in the Whangarei District. For the purposes of this report 'rural' is considered to be all areas of land outside Whangarei City and rural and coastal towns that are not zoned for living and business purposes.

Chapter 5 Amenity Values, of the District Plan includes a description of the Countryside Environment: *'tends to be used predominantly for primary production, but is also used for low-density residential purposes. When choosing to live in a rural area, people must expect and accept a certain level of odour, noise and other effects which are characteristic of primary production, recognising the scale and intensity of these activities which contribute to rural character. Rural areas do, however, tend to have high amenity values, due primarily to the following characteristics:*

- *The intermittent nature of most agricultural activities;*
- *Open landscapes and views;*
- *A low intensity of development;*
- *Feelings of remoteness and community;*
- *Low noise levels, particularly at night;*
- *A high degree of privacy;*
- *Daylight and sunlight access;*
- *Low levels of vehicular traffic;*
- *Green 'unspoiled' landscape with indigenous vegetation.*

The Countryside Environment is sensitive to activities which have continuous or ongoing effects, or that are located in close proximity to other land uses such as residential units.'

Several zones apply to land located within the rural area, being the Countryside Environment, Coastal Countryside Environment and the Open Space Environment. This section of the report focuses on the efficiency and effectiveness of the existing Countryside Environment provisions.

Chapter 5 Amenity Values provides policy direction as to the outcomes sought for the Countryside Environment.

Chapter 6 Built Form and Development and Chapter 8 Subdivision and Development both provide policy direction to how development within the Whangarei District should be strategically managed (particularly the urban/rural interface) and direction as to the level of services required for development. The Countryside Environment has land use and subdivision rules contained within Chapters 38 and 73. The introduction to Chapter 38 provides some detail of what traditional rural activities occur in the Countryside Environment. Chapters 38 and 73 have provisions which are the same or similar to those applying to the Living and Business Environments, but with triggers or limits designed to manage environmental effects to ensure the amenity values of the Countryside Environment are achieved.

Anticipated Environmental Results (AERs) from District Plan chapters relevant to the Countryside Environment

Chapter 5 Amenity Values

- *Rural amenity values in the Countryside and Coastal Countryside Environments are maintained and/or enhanced, and the conflicts between rural residential and primary production are minimized.*

Chapter 6 Built Form and Development

- *A pattern of consolidated urban development and increased infill development in areas appropriately serviced.*
- *A pattern of nodal urban development to allow for a range of living choices.*
- *Avoidance of reverse sensitivity effects and appropriate separation of incompatible land uses.*
- *Avoidance of loss of productive farmland.*

Chapter 8 Subdivision and Development

- *A pattern of consolidated land use and development that allows for the efficient use and development of natural and physical resources, avoids sporadic subdivision and ribbon development, particularly along the coast, and ensures a density of development appropriate to the location.*
- *The protection of the District's versatile soils, water quality, natural features, landscapes, open spaces, significant ecological areas, biodiversity, public access to coast, lakes and rivers, heritage, cultural and amenity values from inappropriate subdivision and development.*

Assessment of effectiveness of district plan provisions

Several overarching policy documents have been adopted since the District Plan became operative (or are currently being prepared):

New Zealand Coastal Policy Statement

- Rural areas and rural land uses of the Whangarei District extend into the coastal environment. The NZCPS emphasises 'appropriate' use of the coastal environment.
- Policy 6 of the NZCPS relates to activities in the coastal environment.
- Policy 7 encourages strategic planning for the coastal environment, including future rural residential development.

Northland Regional Council Draft New Regional Policy Statement

Northland Regional Council has released a New RPS. Included in the Section 32 analysis was Section 1.19 focused on versatile soils. The Section 32 evaluation has concluded that versatile soils are not considered a regional issue.

Section 3.2 Regional Form provides direction with regard to rural production development, including a proposed definition of primary production activities.

This definition captures all types of rural production activities, including mining, aquaculture and fishing. While aquaculture and fishing haven't been identified specifically in the objective, they're important contributors to the economy, and aquaculture particularly may be subject to reverse sensitivity issues (e.g. people complaining about the 'visual impact' of oyster farms). The NZCPS also says we need to "Recognise the significant existing and potential contribution of aquaculture to the social, economic and cultural well-being of people and communities..." (Policy 8)

Whangarei District Growth Strategy, Sustainable Futures 30/50

The Whangarei District Growth Strategy: Sustainable Futures 30/50 notes that since notification of the first District Plan (1998) under the RMA, successive councils have pursued enabling, market-orientated policies in regard to the land development. Land regulation in the form of zoning and minimum lot sizes has been

extremely permissive – based upon a largely laissez-faire approach to land development. Liberal zoning and housing density provisions (a 350m² to 3ha minimum lot size across the whole district) reflected this approach. As a consequence, the district experienced a subdivision boom resulting in a situation today where there is estimated to be around 6,000 vacant building lots in the District spread across all zonings.

A background report found present land use within the District aligns broadly with land use capability. It concludes that with the provision for environmental and cultural effects to be adequately dealt with, there appears to be some potential for increased production and increased economic outcomes for the District, either through a change in land use and/or intensification of existing land use.

The Growth Strategy concludes that the process of urbanisation of highly productive agricultural land, is likely to continue with the consequent loss of the potential for increased economic output and employment opportunities in the future. This is not considered a sustainable use of this limited and valuable land resource.

Investigation and preparation of the draft Implementation Plan for the 30/50 Strategy has identified that many properties are rated for a certain use that does not match their intended District Plan zoning e.g.

- There are over 400 properties zoned Living 1 Environment rated as commercial properties
- There are also over 80 properties zoned Countryside Environment rated as commercial properties
- There are over 9,000 properties zoned Countryside Environment rated either lifestyle or residential properties.

The Resource Consents and Complaints Monitoring Report 2011 concludes that “*There was scattered development in rural areas and very little development in the far west of the district.*” The spatial distribution of subdivision consents displays similar patterns to data from previous years. There are nodes of activity in the city, and surrounding urban areas such as Maunu/Maungatapere and Kamo/Tikipunga. Coastal activity is prominent on the Tutukaka coast, Whangarei Heads and the Bream Bay coast to Waipu Cove/Langs Beach. The number of subdivision consents noticeably declined from 2008/09, and the number clustered around the city dropped markedly in 2009/10 and 2010/11.

The ongoing sprawl of development in the rural area indicates that the District Plan rules for the Countryside Environment are not effectively maintaining the amenity of the Countryside Environment.

Our review of the Operative District Plan has noted an absence of objectives and policies directing outcomes for the rural environment. The District Plan does not make any reference to or provisions for rural communities, villages or industries. A large number of rule and policy explanations in the Plan use rural activities or the rural environment as justification for the existence of the provision, which does not apply to the Countryside Environment.

The majority of discretionary or non-complying subdivision applications publicly notified by Council are in the Countryside Environment. Of relevance to the Rural Strategy and changes to District Plan rural zonings is the recent Blampied decision ¹ declining consent to a non complying subdivision at Clapham Road. Among other findings, the decision highlighted the issue of relevant ‘localities’ in analysis of Objectives and Policies, while confirming the need for appropriate identification of a locality in each case.

WDC Rural Development Strategy

It is expected that a number of current inefficiencies relating to rural issues will be addressed in the Rural Development Strategy (‘RDS’) under preparation. The RDS background paper: ‘*Subdivision and Land Use*’ prepared in February 2011, highlighted the following resource management issues central to the topic:

Subdivision

- 1 *Rural production is being compromised by subdivision for rural lifestyle.*
- 2 *Sprawling subdivision is reducing the amenity of the rural environment.*
- 3 *All landowners have a perceived right to subdivide, e.g. farmers right to create retirement blocks.*
- 4 *There is pressure to increase the opportunity to subdivide in the rural environment by decreasing the minimum allotment size.*

Land Use

- 1 *Conflicts occur as a result of incompatible land use in the rural environment.*
- 2 *Residential development and urban sprawl in the rural environment are degrading the District’s high class soils.*

¹ J Blampied and Whangarei District Council and WJ Childs and LM O’Grady (Decision No.[2012] NZEnvC54),

- 3 *Significant changes in land use are resulting in changes to resource needs and use.*
- 4 *Changes to land use in the rural environment, changes the 'ruralness' and sense of place associated with the rural environment. People's perception of what is rural is degraded.*

A range of options available for implementing the RDS include protection of the rural environment through description and policy areas, an increased number of zones, protection of high class soils based on NRC definition and mapping, controls for protection of rural amenity and landscapes, prevention of fragmentation of rural land, and control of residential development in the rural/urban fringes, and control of urban sprawl by imposing a strict urban limit surrounding Whangarei City. Some of the recommended alternative subdivision methods suggested in the report (such as clustering, management plan technique, transferable development rights and environmental enhancement) have already been introduced (e.g. Plan Change 103 Management Plan Technique).

Chapter 16 - Landscape

The term '*landscape*' is not defined in the Resource Management Act 1991 (the Act), but the Act does specify matters of national importance that must be considered by Council when preparing a District Plan. These matters include, coastal 'natural character', outstanding natural features and landscapes, the amenity of landscapes, valued cultural/heritage landscapes and other intrinsic landscape qualities and values such as quality of the environment.

Landscape in a planning context is not limited to the physical landscape and is therefore a difficult concept to define. A district wide landscape assessment was completed by LA4 in 1995. Council implemented some but not all of the 1995 recommendations through the identification of Outstanding Landscape Areas and Notable Landscape Areas in the District Plan.

Chapter 16 outlines the district wide issues, objectives and policies in relation to landscape. Outstanding and Notable Landscapes are identified in the Resource Area maps and Schedule 16B and Appendix 13 identify Outstanding Natural Features including Geological Sites.

Appendix 16A lists the criteria used in the Whangarei District Landscape Assessment Report (LA4, 1995) for assessing landscapes.

Rules are scattered throughout Parts D, E and F of the District Plan, with rules on outstanding and notable landscapes being specifically dealt with in the Resource Area Rules, Chapter 57.

Development controls are more restrictive in areas of outstanding landscape and natural features. No buildings or structures are permitted as of right, and require resource consent which takes into account such factors as colour, design, landscaping and the effect on skylines and ridgelines. Subject to specific criteria, certain earthworks and indigenous vegetation clearance are permitted in outstanding and notable landscape areas. Establishment of forestry is controlled by resource consent. The only restriction on buildings in notable landscape areas is building height.

Anticipated Environmental Results (AERs) listed in Chapter 16

- *The identification and protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.*
- *The maintenance and/or enhancement of coastal landscapes, particularly headlands, promontories, ridgelines, estuaries and areas of indigenous vegetation and habitat.*
- *The identification and protection and/or enhancement of historic and cultural landscapes, including landscapes valued by tangata whenua.*

Assessment of effectiveness of district plan provisions

Under 16.5.1 Regulatory Methods, Council is obliged to '*undertake a review of the Whangarei District Landscape Assessment report (LA4 Landscape Architects 1995) and incorporate the findings of this review into the Plan by way of a Plan Change as soon as practicable.*'

While there is no National Policy Statement specific to landscape, the NZCPS 2010 does provide very good guidance in regarding assessment of landscape. Objective 2 of the NZCPS, seeks to preserve the character of the coastal environment and protect natural features and landscape values with strong policy guidance to achieve this objective in policies 13–15. Policy 15 is of particular relevance, seeking avoidance of adverse effects on outstanding natural features and outstanding natural landscapes in the coastal environment. For the first time, Policy 15 provides national guidance on the minimum requirements for identification and assessment of natural features and landscapes

Decisions by the Environment Court have provided some guidance in regard to the accepted methods of identification of outstanding landscapes, since the LA4 Whangarei District Landscape Assessment.

Council's inability to keep up to date with currently accepted approaches has drawn direct criticism from the Environment Court when considering issues affecting outstanding landscapes within our District. Several cases² illustrate this and criticise the identification of Outstanding Natural Landscapes and Features in the Operative District Plan, highlighting the fact that identification is not simply a mapping exercise.

Since 1995, 17% of land with a landscape sensitivity rating of 5, 6, or 7 (based upon LA4 Landscape Assessment ranking) have been altered through subdivision. In terms of protection, 2% of these areas have been protected by covenants, and 24% have reserve status administered by the Department of Conservation or Whangarei District Council. Forty-eight percent have been identified as Significant Natural Areas by the Department of Conservation.

During the period 1995-2009, 14.5% of all land use consents approved occurred in identified 'significant' or 'outstanding' landscape areas – a further 38% of building consents, and 43% of new lots created from subdivisions, also occurred within these areas. In addition, 22% of category 5 land, 13% of category 6 land, and 7% of category 7 land, had been subdivided over this period.

The Whangarei District Growth Strategy: Sustainable Futures 30/50 claims that over the last fifteen years, subdivision has occurred in many of the identified outstanding and notable landscapes, and high amenity areas. The document states that the current classification of landscapes in the Whangarei District and provisions relating to landscape protection, are not proving effective in protecting the district's outstanding landscapes or the natural character of the coast from inappropriate subdivision, development and use as required under the Resource Management Act.

The 10 year Monitoring and Review of the current Regional Policy Statement, concluded that the management of outstanding natural features and landscapes has been inconsistent across the region, and the effectiveness of protection has been questionable.

In 2005, Council commissioned consultants Beca Carter to undertake a review of the 1995 landscape assessment in order to produce a revised landscape assessment taking into account Environment Court direction at the time. Several steps were completed as part of this review:

1. A review of aerial photographs of the coastline, to identify different landscape units. Boundaries were then compared to the LA4 1995 landscape study.
2. Public consultation (Q-sort) to identify what was considered 'outstanding' and 'natural'
3. Creation of landscape assessment criteria
4. Fieldwork to confirm location and boundaries of ONA and NLA, whether or not the areas fitted the assessment criteria.

The findings of this review have not been incorporated in the District Plan by way of plan change.

Northland Regional Council has commenced a project to assist the Councils in the region to give effect to several key policies of the NZCPS 2010 and to address inconsistencies in identification of outstanding natural features and landscapes across the region. The mapping output from the project is to be in a form that can be incorporated into the new RPS for Northland and applied at regional and district plan scales. Specifically the project aims to spatially identify within Northland:

- the landward extent of the coastal environment of the region;
- high and outstanding natural character areas within the coastal environment; and
- outstanding natural features and landscapes (ONFL) both within and beyond the coastal environment.

The project includes the development of methodologies to identify the above and to subsequently apply them in producing spatial maps.

Chapter 15 - Open Space

The District Plan deals with two roles of open space – firstly, open space generally, as it relates to an area of land or a water body to which the public has a level of free physical or visual access. This definition encompasses both 'public' and 'private' open space and includes the following:

² *Dudin v Whangarei District Council A022/07 and OB Holdings Limited v Whangarei District Council, Kaipara District Council and Northland Regional Council, 391/2010*

- Green spaces such as parks and reserves used for amenity purposes and for the protection of biodiversity, landscape and cultural heritage
- Sports fields and recreation areas that may contain buildings and structures designed to facilitate physical activity
- Waterways and harbours
- Civic squares, streetscapes and the transport corridors.

Secondly the Plan includes an 'Open Space Environment', which covers land owned by the Council, Department of Conservation or private organisations for recreational and/or conservation purposes. Recreational purposes are described as areas used by the public to interact socially and relax.

Chapter 15 details objectives and policies for open space, generally based on seeking the provision of adequate open space to meet community needs and to provide physical connections between ecosystems, while protecting such areas from adverse effects of subdivision, use and development.

Land use and subdivision rules for the Open Space Environment are contained in Chapters 46 and 75. Construction of buildings is generally restricted to the provision of infrastructure in accordance with a Reserve Management Plan or Conservation Management Strategy.

All Environments have land use controls specifying the setback of buildings from water bodies and mean high water springs.

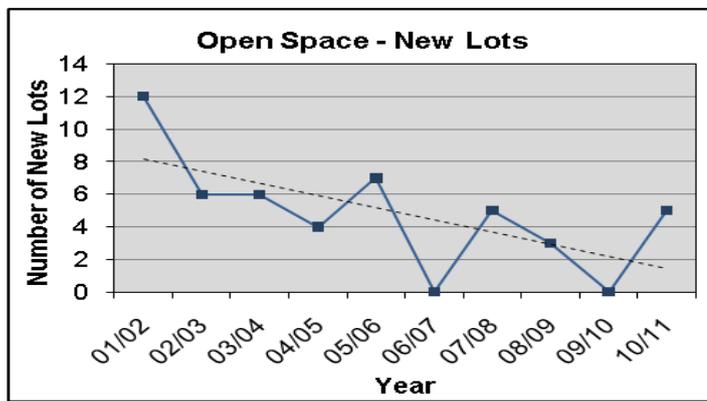
Anticipated Environmental Results (AERs) listed in Chapter 16:

- *The adequate provision of open space (both active and passive) that meets community, recreational and conservation needs, particularly in the coastal environment and outstanding landscape areas.*
- *The natural, cultural, historic, recreational and amenity values of open space are maintained and/or enhanced.*
- *The creation, where appropriate, of open space linkages that enhance community, recreational and conservation functions of open space.*
- *The adverse effects of activities on, or proximate to, open space are avoided, remedied or mitigated. This includes effects on natural character, cultural/historic heritage, and recreational and amenity values.*

Assessment of effectiveness of district plan provisions

Since 2007 several changes have occurred in relation to open space:

- The introduction of NZCPS has provided policy guidance in regard to provision of open space and recreation opportunities in the coastal environment. Objective 4 of the NZCPS seeks to maintain and enhance the public open space qualities and recreation opportunities of the coastal environment. Policy 18 recognises the need for public open space within and adjacent to the coastal marine area, Policy 19 recognises the public expectation of and need for walking access to and along the coast.
- NRC section 32 evaluation for the New RPS has concluded that open space is not a regional issue: *"While public access to the coast is highlighted in the RMA and the NZCPS as a significant issue, there is just not the evidence to suggest that public access to the coast is a regionally significant issue in Northland warranting direction/management through the RPS"*.
- Reserve Management Plans have been adopted for Parihaka and Hatea River (2009), William Fraser Park (2010) and Pukenui Forest (2009) and in 2011 Council commenced drafting a Reserve Management Strategy.
- The Resource Consents and Complaints Monitoring Report 2011 indicates that despite some fluctuations, the overall trend is for a decreasing number of lots created in the Open Space Environment.



Analysis of the Operative District Plan open space provisions has identified the following inefficiencies:

- The Plan objectives identified as district wide provisions focus on quantity and form, timing, when and where open space is created, and types (conservation, recreation) but are not specific enough to require co-ordination of open space and linkages.
- Policies are very general and do not specify how the objectives will be achieved. The policy provisions indicate that linkages between open space areas will be created. However, there is no detail in the plan of what linkages have been achieved in order to identify missing links.
- The policy provisions rely upon “meeting community needs” while not identifying what the community needs.
- The Plan does not detail what is to be achieved with open space. Outcomes may be different for each area, but the plan does not consider open space in this context.
- There is no link between the use of land zoned open space in the Plan and the objectives and policies. Standard rules have been applied to the Open Space Environment with no policy link or justification.
- The “amenity values” identified in Chapter 5 of the Operative District Plan have no real relevance to the actual values of open space.

Overall, there appears to be considerable overlap and confusion as to what is the Open Space Environment, and the provision of general open space, and reserves and esplanade reserves within the District Plan. Changing how the District Plan provides for open space and recreation in the District will assist the Council’s ability to provide such facilities and locations.

District Plan policy direction will be influenced by outcomes of the pending Reserve Strategy and a review of the Open Space Strategy 2001.

Chapters 11 and 12 - Water Bodies and Riparian and Coastal Margins

Rivers, lakes, springs and groundwater are water bodies. Some activities on the surface of water bodies, or land adjoining water bodies, have few adverse effects. Other activities have the potential to compromise important water values by generating effects on amenity, cultural and ecological values, and on water quality and quantity. Both the District and Regional Councils have responsibilities under the Resource Management Act 1991 relating to water bodies.

The District contains a number of significant ecological sites, riparian habitats, and outstanding landscapes and natural features, which are located within the coastal environment or alongside rivers and streams. To enable the protection of such margins the Act provides for esplanade reserves and strips to be created for the following purposes:

- Protection of conservation values, natural functioning of the adjacent sea or water body, water quality, aquatic habitats, natural values and mitigating natural hazards;
- To enable public access;
- To enable public recreational use, where use is compatible with conservation values.

Chapter 12 Water Bodies details the high level objectives and policies relevant to water bodies. The objectives seek the preservation of the natural character of water bodies and their margins, the protection of them from the adverse effects of inappropriate subdivision, use and development and that activities on the surface of water bodies do not result in adverse environmental effects. Policies are general, ensuring that activities do not result in adverse environmental effects.

Chapter 11 Riparian and Coastal Margins sets the high level objectives and policies relevant to esplanade reserves and strips. Objectives detail the need to preserve, protect, maintain and enhance various matters such as natural character, Ecological Areas, Heritage Buildings, Sites and Objects and Sites of Significance to Maori. Policies provide direction as to when esplanade reserves should be obtained.

Chapter 61 contains rules associated with Esplanade Areas. Building setback from water body rules are contained within each Environment, with the stated intent of the rules being '*to preserve future availability of esplanade reserves, provide access space for water body maintenance, and maintain stream efficiency.*' An apparent anomaly in these building setback rules is the lack of specific reference to bridges being exempt from compliance.

The following national regulations relating to water and the coast have been released since the District Plan became operative:

National Policy Statements:

- The NZCPS 2010 provides policy guidance in regard to margins along the coast.
- The NPS for Fresh Water Management sets in place some important ingredients of a strengthened limits-based regime for water management and helps clarify the regulatory framework for the Fresh Start for Fresh Water package as a whole.

National Environmental Standards:

- The NES for Sources of Human Drinking Water is intended to reduce the risk of contaminating drinking water sources such as rivers and groundwater. It does this by requiring regional councils to consider the effects of activities on drinking water sources in their decision making.

Water margins are not a separate topic addressed to date by the Ministry for the Environment.

The Northland Regional Council has included water quality and quantity in the Draft New RPS although little direction is provided in terms of water margins.

Anticipated Environmental Results (AERs) listed in Chapters 11 & 12

- *The preservation and/or enhancement of the natural character (including water quality) of lakes, rivers, indigenous wetlands and groundwater and their margins, and the protection of them from inappropriate subdivision, use and development.*
- *Adverse effects of activities on the surface of water bodies are avoided, mitigated or remedied. These include effects on natural character (including water quality), ecological values, cultural and historic heritage, recreational and amenity values.*
- *The functions of water bodies in transporting and dispersing flood waters is maintained and/or enhanced.*
- *The cultural and spiritual values tangata whenua attach to water bodies is recognised and provided for.*
- *The protection and/or enhancement of natural values and cultural/historic heritage along riparian and coastal margins.*
- *Improved access to and along riparian and coastal margins and enhanced opportunities for recreational use, where appropriate.*
- *The avoidance of natural hazards (particularly erosion and flooding) along riparian and coastal margins.*

Consent numbers and their distribution, as detailed in the annual WDC Resource Consents and Complaints Monitoring Report, provide a good indication of land use and subdivision activity throughout the District. In 2010/11, six subdivisions were located in an esplanade priority area. In the same year, six esplanade reserves were created, three of which were in these esplanade priority areas. This example therefore illustrates that 50% of subdivisions undertaken in esplanade priority areas actually provided an esplanade reserve, (however it is conceivable that some subdivisions may not have met the conditions requiring the creation of an esplanade reserve or strip).

Analysis of the Operative District Plan has identified that the provisions are generally effective and consistent with the provisions of the Act. However, inefficiencies occur as a result of the District Plan format, which provides for matters in an isolated manner. The following inefficiencies have been identified:

- The Plan has very limited reference to water quality and ecological wellbeing of water.
- The objectives and policies relating to water bodies are very one dimensional, and the functions of water bodies for recreation and connections are missing.
- The Plan provides no description of what water bodies are located in the District, including no recognition of impact of harbour, western catchments flow to Kaipara, eastern catchments are small.
- There are no links between open space, amenity, sense of place and the relationship between blue and green corridors and the city establishment dictated by water bodies.
- The absence in Chapter 11 of policy direction to the esplanade priority areas, why areas are prioritised the primary use of esplanade reserves in each area, the missing connections.
- Considerable repetition of provisions for esplanade reserves from the Resource Management Act.

As provision for water bodies is a primary function for Northland Regional Council, direction will be provided from the New Regional Policy Statement, and the Regional Council implementation of the NPS for Fresh Water Management.

Chapter 17 - Indigenous Vegetation and Habitats

Section 6(c) of the Resource Management Act 1991, lists '*the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*', as a matter of national importance. Policy 11 of the NZCPS 2010 provides the philosophy for protecting indigenous biodiversity in the coastal environment. In January 2011, the Proposed National Policy Statement on Indigenous Biodiversity (PNPSIB) was released by the Minister for the Environment, aimed at ensuring a greater consistency in how this issue is treated by both regional and territorial authorities.

The District Plan tends to concentrate primarily on '*Indigenous Vegetation & Habitat*' in Chapter 17, although related objectives and policies are also contained in Chapter 5 Amenity Values, Chapter 8 Subdivision and Development, Chapter 10 The Coast, Chapter 11 Riparian & Coastal Margins, Chapter 12 Water Bodies, Chapter 14 Heritage Trees, Chapter 15 Open Space and Chapter 16 Landscape.

In 2011, a proposed plan change (PC56) – *Indigeneous - Pohutukawa* containing controls for the protection of coastal pohutukawas was withdrawn due to amendments to the Resource Management Act making general tree protection rules ultra vires.

The focus of Chapter 17 is on:

- the maintenance and enhancement of the life-supporting capacity of ecosystems and the biodiversity of the District, and
- protection of areas of significant indigenous vegetation and significant habitats from inappropriate subdivision, use and development.

The District Plan incorporates a series of objectives, policies and methods rather than specifically identifying areas of significant indigenous vegetation (either by schedule or mapping). Criteria-based rules to manage the impacts of indigenous vegetation clearance are currently found in the Open Space, Countryside and Coastal Countryside, Living 3 Environment and Notable and Outstanding Landscapes. Examples include:

- Rule 38.3.18 Indigenous Vegetation Clearance and Indigenous Wetland Disturbance which allows destruction or clearance of indigenous vegetation (involving a contiguous area of 5.0ha or more of predominantly indigenous vegetation; or an area of 1.0ha or more of predominantly indigenous vegetation over 6.0m in height; or In an indigenous wetland) as a permitted activity in the Countryside and Coastal Countryside Environments where the proposal complies with 10 listed criteria.
- Rule 73.3.2 Environmental Benefit which offers benefits of additional subdivision lots where permanent protection of a significant natural feature is proposed, with Schedules used in ranking the significance of areas.

Additional methods in the District Plan include identification of Goat Control Areas on the planning maps, promotion of voluntary protection measures, and exclusion of cats, dogs and mustelids from known high-density kiwi habitat areas.

Anticipated Environmental Results (AERs) listed in Chapter 17

- *Significant ecological areas are identified, assessed, classified and shown on the planning maps in the District Plan.*

- *Areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected and/or enhanced.*
- *Adverse effects from subdivision, use and development on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided, remedied or mitigated.*
- *The establishment of ecological corridors connecting areas of significant indigenous vegetation and significant habitats of indigenous fauna.*
- *Areas of indigenous vegetation and habitats of indigenous fauna of significance to Maori are protected and/or enhanced.*

Assessment of effectiveness of district plan provisions

A review of the indigenous vegetation and habitats provisions of the district plan has identified a number of inefficiencies warranting further review and updating. In particular:

- There is a need for the District Plan to reflect recent national and regional initiatives including the NZCPS 2010, the Proposed National Policy Statement (2011) on Indigenous Biodiversity and the new draft Regional Policy Statement.
- Council findings included the Whangarei District Growth Strategy 30/50 (2010), State of the Environment Report on Biodiversity (2011), and the WDC Draft Biodiversity Strategy (2012) indicate that existing measures regarding biodiversity are not being achieved, despite results in terms of intensive management of particular species (e.g Pateke and Kiwi) and voluntary efforts.
- Although there are a number of objectives and policies in the District Plan relating to indigenous vegetation and habitats, they lack supporting rules (e.g. there are no rules relating to significant ecological areas and the areas are not mapped).
- Although the Environmental Benefit rule has a number of benefits, the rule can be difficult to understand and administer.
- Vegetation clearance rules are very permissive, with many activities being permitted or controlled (e.g. rule 38.3.18 Indigenous Vegetation Clearance and Indigenous Wetland Disturbance). Other concerns related to rule 38.3.18 include reliance on a third party (MAF) in allowing the harvesting of indigenous timber under a Sustainable Management Plan or a permit under the Forests Act 1949; and the absence of monitoring of clearance of indigenous vegetation as a permitted activity.
- There is a need to explore the inclusion of District Plan rules providing for landowners to sustainably manage their indigenous forest land.

Chapter 5 - Amenity Values

Amenity values are defined in section 2 of the RMA and the District Plan as follows:

“Those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.”

Amenity values therefore encompass a wide range of factors linking with a number of other areas against which the District Plan is monitored. These amenity matters include urban amenity, rural amenity, open space, noise/vibration, animal control, building control, traffic control, visual amenity and health and licensing.

Anticipated Environmental Results (AERs) listed in Chapter 5

- *Land use and development is consistent with the preservation and/or enhancement of amenity values appropriate to each particular Environment: Living, Business, Airport, Port, Countryside, Coastal Countryside, and Open Space.*
- *Conflict between incompatible activities in regard to amenity values (particularly on Environment boundaries) is avoided, remedied or mitigated.*
- *The amenity values of the Living Environments are maintained and/or enhanced including community coherence and neighbourhood aesthetics.*
- *Rural amenity values in the Countryside and Coastal Countryside Environments are maintained and/or enhanced, and the conflicts between rural residential and primary production are minimised.*
- *The amenity values of the Open Space Environment are maintained and/or enhanced to enable public appreciation and enjoyment of these places, both active and passive.*

- *The amenity values of the Whangarei Town Centre/Town Basin, along with other suburban and rural retail centres, are maintained and/or enhanced so as to ensure an attractive shopping and leisure environment.*
- *The following effects of land use and development are appropriate to the relevant Environment, and do not create a nuisance to other land users: noise, odour, dust, smoke, light spill, glare, shading, traffic, privacy, visual, spray drift, radio frequency fields and electromagnetic radiation.*

Assessment of effectiveness of District Plan provisions

A number of recent strategies and District Plan changes have signalled a more focussed approach to growth in the District including the Growth Strategy 30/50, Plan Changes 103 and 92, a number of urban design initiatives and other projects currently underway. The effectiveness of these recent changes will take some years to monitor.

From investigations, a number of specific improvements to the District Plan have been highlighted that could improve amenity in the District as follows.

- Update noise standards (also reviewing airport noise contours and associated boundaries) to be consistent with recent New Zealand Standards and to better respond to noise complaints.
- Simplify rules that relate to matters with significant potential adverse amenity impacts (e.g. hazardous substances and noise) while recognising that these rules may derive from other legislation (e.g. HSNO).
- Incorporate additional Environments (zones), subdivision standards and associated objectives and policies into the plan, as evidenced by the Rural Development Strategy and the Urban Transition Environment (UTE) plan change. These changes should strengthen the place-specific determination of amenity, and make decision making regarding appropriate and inappropriate development easier to administer.
- Incorporate strong urban design provisions in the District Plan in accordance with the NZ Urban Design Protocol to achieve more place specific outcomes.
- Review the inconsistencies between Environments relating to matters that can impact on amenity (e.g. differences in maximum height controls in Countryside, Coastal Countryside, Notable and Outstanding Landscapes).
- Review inconsistencies between rules, objectives and policies e.g. the subdivision lot size rules have changed but the corresponding policies have remained the same so they no longer necessarily match.
- Develop more focused objectives and policies (i.e. at present many policies are ambiguous and can be used to argue developments for approval or refusal in regards to amenity).

There appears to be a number of gaps in the collection of monitoring data relating to amenity that makes it difficult to provide specific feedback for reviewing the District Plan. Further categorisation of the types of land use consents and types of complaints may make review of specific parts of the plan more focussed and efficient. Field surveys and customer feedback relating to amenity have also not been undertaken.

The initial rural amenity assessment undertaken for PC93 gives more definitive information on the amenity values of the UTE. Such assessments will contribute to more robust objectives and policies than currently exist.

Chapters 13 and 14 - Heritage Trees, Buildings, Sites and Objects

Historic heritage is identified as a matter of national importance under the RMA 1991 (s6) Council has a duty to protect heritage through the provisions of the District Plan.

In 2009, heritage items listed in the District Plan comprised:

- 68 listed heritage buildings, sites and objects (5 Group I Category and 63 Group II Category)
- 156 kilometres of stone walls
- 290 heritage trees located on 157 public and private properties; and
- 86 sites of significance to Maori.

The District Plan shows that six heritage trees have been felled and removed from the register since the plan became operative. No heritage trees, heritage buildings, sites or objects or Sites of Significance to Maori (SOSM) have been added to the respective registers since the Plan became operative.

From 1996 to 2009, 999 and 641 heritage sites have been subject to resource consents and building consents respectively.

Anticipated Environmental Results (AERs) listed in Chapters 13 & 14

The AERs for heritage buildings, sites and objects and heritage trees are listed separately in the District Plan but are the same. The AERs for each are combined below.

- *The recognition and identification of heritage buildings, sites and objects of significance AND heritage trees to the district.*
- *The protection of heritage buildings, sites and objects AND heritage trees to a level appropriate to their significance to the district.*
- *Nearby land use and development that is cognisant of, and sympathetic to, recognised heritage buildings, sites and objects AND heritage trees.*
- *The recognition, identification and protection of archaeological sites and heritage sites AND heritage trees of significance to Maori.*

Assessment of effectiveness of district plan provisions

The protection of heritage trees, buildings, sites and objects in the District Plan requires review, as highlighted in reports undertaken by Council including the *Sustainable Futures 30/50 - Historic Heritage Background Report (September 2009)* and in the *NZHPT National Assessment of RMA Policy and Plan Heritage Provisions 2011*. The focus of the review should encompass wider general identification of historic heritage and broaden the types of historic heritage identified.

Plan Change 100 (PC100) has begun to undertake this process in relation to Sites of Significance to Maori. Further review of District Plan provisions relating to heritage trees, buildings, sites and objects needs to be undertaken in a similar manner to PC100.

A 5 year global resource consent was granted to the WDC Parks Division in May 2008, to allow it to undertake routine maintenance and safety work on heritage trees located within road reserves, or reserves administered by Council. The resource consent was viewed by the applicant as 'a temporary measure' to address current issues, while allowing time to undertake a more comprehensive review of the provisions of the District Plan. In light of statutory changes relating to blanket tree protection and the limited duration of the global consent, it would be appropriate to review the need for alternative tree protection measures within the district as part of any review of District Plan heritage provisions.

Other instruments for protecting historic heritage should also be further investigated by Council including heritage orders, heritage covenants, conservation covenants, non-regulatory approaches, economic instruments and the use of information, education and advocacy.

Chapter 7 - Tangata Whenua

Under section 6 of the RMA, as a matter of national importance, all persons are required to recognise and provide for:

- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) *the protection of protected customary rights.*

The importance of the relationship of Maori with their ancestral lands and sites of significance to Maori are therefore integral to Council's functions. The District Plan addresses this function in the Introduction (Papakainga Housing), Chapter 7 (Tangata Whenua), Chapter 60 and Appendix 4 (Sites of Significance to Maori) and Chapter 27 (Local Authority Cross Boundary Issues).

There are currently 86 Sites of Significance to Maori (SOSM) listed in the District Plan.

Anticipated Environmental Results (AERs) listed in Chapter 7

- *The Whangarei District Council, in the exercise of its functions and powers, takes into account the principles of the Treaty of Waitangi.*
- *The Whangarei District Council recognises and provides for the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, wahi tapu and other taonga, and has particular regard to kaitiakitanga.*
- *The Whangarei District Council undertakes effective consultation with tangata whenua and ensures effective participation of tangata whenua in resource management processes.*

- *Sites of significance to Maori are identified, assessed and shown on the planning maps in the District Plan.*
- *The adverse effects of subdivision, use and development on Sites of Significance to Maori are avoided, remedied or mitigated in accordance with tangata whenua protocol.*

Assessment of effectiveness of District Plan provisions

An external review in relation to SOSM in the District Plan has concluded that Chapter 7 creates a strong framework for addressing issues relevant to tangata whenua, however, there are a number of gaps in implementing this framework. Most notably the Sites of Significance to Maori chapter, appendix and notations in the resource area maps.

Also highlighted for improvement is implementation of the guidelines prepared by Council for preparing iwi management plans and further guidelines, training of staff and resourcing of iwi groups.

A number of the AER for tangata whenua have not been adequately measured due to the method of categorising monitoring data.

Plan Changes 94 and 100 and undertaking the recommendations in the *Research Methodology & Plan for Protecting Sites and Areas of Significance (Repo Consulting Ltd, 2010)* should significantly improve the efficiency and effectiveness of the District Plan in relation to its obligations to tangata whenua.

Chapter 18 - Minerals and Aggregates

The District Plan essentially takes a two-pronged approach to the management of mineral and aggregates resources: the avoidance, remediation and mitigation of adverse effects on the environment from mineral extraction and exploration activities and the protection of the mineral resource from constraints by conflicting land uses. Unlike many other issues which the District Plan addresses, mining and extraction must locate at the point that the resources occur, therefore there is no location flexibility.

Minerals include potentially high-value precious metals including gold, silver and copper. In recent times extraction of these minerals in the Whangarei District has been limited, but increased national government policy direction and regional mapping information may increase mineral exploration and extraction activities. More recent mineral extraction activities has been in the lower-value but highly utilised, limestone, and aggregates. The unique combination of these local mineral resources supplies the nationally significant cement manufacturing plant at Portland.

Chapter 18 specifies the relevant high-level objectives and policies in relation to minerals. Chapter 8 includes an objective and several policies relating to the protection of mineral resources from reverse sensitivity effects and management of the effects of the design and location of subdivision and development on mineral resources.

Anticipated Environmental Results (AERs) listed in Chapter 18

- *The efficient and safe extraction and processing of mineral resources for the economic benefit of the District.*
- *Adverse effects of mineral extraction and processing on natural, cultural and historic heritage are avoided, remedied or mitigated.*
- *Effects of mineral extraction and processing on surrounding amenity values are controlled to a level compatible with the characteristic amenity values of the surrounding Environment.*
- *The extraction and processing of mineral resources is not hindered by future land use and development, particularly in Mineral Extraction Areas (MEAs).*

Assessment of effectiveness of district plan provisions

The Draft RPS includes a policy to identify regionally significant mineral resources and for these to be included on District Plan maps. This mapping will then require policies or rules in the District Plan to avoid adverse effects, including reverse sensitivity, to their access, use and development in order to give effect to the RPS policy.

Significant national government direction and possible changes to the Crown Minerals Act, means that activity could increase within the District.

A background report on mineral and aggregate resources was prepared for Sustainable Futures 30/50 and an issues and options report was prepared for the Rural Development Strategy. These reports discussed the use of MEAs in the District Plan and mineral extraction and quarrying undertaken outside MEAs. The

reports concluded that use of the MEA Resource Area overlay was a useful planning method but that the rolling review needed to identify gaps in their coverage (i.e. new quarries or those that have re-opened) and also quarries that required Buffer Areas in addition to their Active Areas being identified in the Plan. The activity status of quarrying and extraction activities outside MEAs may also need to be considered.

The MEA overlay provides certainty to both operators and the wider community in terms of expectations of what and where extraction activities will occur. The limited consultation undertaken to date has indicated that this planning tool works well and is effective and efficient in terms of consenting and compliance monitoring. Most issues seem to arise with smaller farm quarries or those subject to existing use rights where residential activity has moved into a previously rural area. AERs are linked to Rule 38.3.3 in relation to new mineral extraction activities outside MEAs and Rule 38.4.1 which addresses reverse sensitivity issues through the use of a 500 metre buffer from MEAs.

MEAs in Whangarei District Plan are identified as being best practice nationally, and assessment to date has identified that as a planning method this tool is working. Considerable work may have to be undertaken on the topic in the near future with the RPS imminent and changes occurring at national level. No immediate changes are considered to be necessary until regional and national changes are implemented. There is a need to also review the permitted activity status for small farm quarry activities (ie. what is the appropriate size and conditions of operation) and the general knowledge of existing small quarries in terms of the amenity expectations of rural area 'newcomers'.

Chapter 19 - Natural Hazards

Human activities and land use patterns can significantly increase the risk to people and property associated with hazards, by increasing the occurrence or the severity of effects. Places people choose to live in often coincide with hazardous areas. Most of our towns and productive farmland are located on floodplains, and residential development is often located on unstable slopes and along coastal margins to take advantage of rural and coastal views. Locating development in these areas increases the risk of natural hazards affecting life and property.

The management of natural hazards is primarily about reducing the risk of adverse effects on life and property. This can be achieved in a number of ways depending on the situation, and may range from providing information and education to landowners, regulating land use patterns in identified hazard areas, or constructing large scale engineering works like stop banks, sea walls or dams. The appropriate option in any given situation depends on the nature of the hazard, the physical nature of the area, the level of existing or proposed development, and the probability of the hazard occurring. Because of the variability of these factors, site-specific problems generally require site specific solutions, highlighting the importance of consultation with affected communities before deciding on the appropriate option.

Chapter 19 of the District Plan contains policies designed to manage the risk of natural hazards from flooding, land instability, coastal hazards, and fire. The policies seek to avoid increasing the risk from natural hazards by avoiding subdivision and development in identified natural hazard areas. It also seeks to protect natural features that act as buffers to natural hazards such as sand dunes, wetlands, and vegetated areas.

The Resource Area Maps of the District Plan identify areas that are susceptible to flooding, coastal hazards and land subsidence (areas of historic coal mining). Proposed activities in these areas trigger rules in the subdivision and natural hazards sections of the plan. The rules set minimum floor levels to reduce the risk of flooding, require engineering reports for buildings and earthworks in identified flood susceptible or mine hazard areas. There are rules that restrict buildings within the Coastal Erosion Hazard 1 zone, and earthworks in sand dune complexes. There is also a 27m setback from water bodies and mean high water springs for buildings, and a 30 metre buffer between residential buildings and commercial forestry to reduce the risk of fire.

Anticipated Environmental Results (AERs) listed in Chapter 19

- *Natural hazard areas are identified, assessed, classified and shown on the planning maps in the District Plan.*
- *Subdivision, use and development is avoided in identified natural hazard areas and/or the adverse effects from natural hazards are adequately avoided, remedied or mitigated.*
- *The adverse effects from natural hazards on people's health and safety and property are avoided, remedied or mitigated.*
- *Natural buffers relating to natural hazards are protected, maintained or enhanced.*

The New Zealand Coastal Policy Statement 2010 contains objectives and policies regarding the management of natural and physical resources in the coastal environment. Local authorities are required by the Act to give effect to the NZCPS through their plans and policy statements. The latest NZCPS shifts its

emphasis toward spatial planning and a catchment management approach to planning, rather than the previous approach, based on managing the effects of activities.

The NZCPS 2010 seeks to ensure that coastal hazard risks are managed by taking into account the effects of climate change, locating new development away from areas prone to coastal hazard risks, protecting and restoring natural defences to coastal hazards, and by considering responses to manage existing development in hazard prone areas. This includes directing councils to identify areas that are subject to coastal hazard risk over a 100 year time frame.

Knowledge on the likely impacts of climate change, sea level rise, and changing weather patterns, has come a long way since the District Plan was made operative. This includes an increase in the frequency and intensity of storm events, and an increase in the predicted rise in sea level. The Ministry for the Environment now advises TLAs to plan for a 0.8m rise in sea level by 2100.

The coastal hazard lines are based on reports produced in 1998-99 and using IPCC predictions from 1996. An updated report on the coastal erosion hazard zones for the area between One Tree Point and Waipu Cove was completed by Tonkin and Taylor in 2009. The proposed hazard lines in that report are further inland than the existing District Plan lines indicating that the lines may also need to be reviewed for other areas.

NRC has been doing technical work around flooding and tsunami hazards and have incorporated a chapter on natural hazards into the new RPS. NRC has done tsunami modelling and is currently carrying out its Priority Rivers Program to model flooding scenarios of 27 rivers in the Northland region.

There have also been changes in insurance markets as a result of the Christchurch earthquakes. Insurance premiums have risen and insurance companies have become more risk averse. This may have implications in the future for those landowners in identified hazard zones wanting to insure their homes, and will probably slow the demand for development in hazard prone areas.

Assessment of the effectiveness of district plan provisions

Flood susceptible areas, coastal hazard zones and historic mining areas that could be susceptible to land subsidence are identified in the Resource Area maps and are managed through the rules in the Plan, and the resource consent process to avoid or mitigate adverse effects. Buildings in identified flooding or mine subsidence areas are a permitted activity provided a report is submitted to council by an appropriately qualified engineer. In relation to these hazards, the anticipated environmental results are being achieved.

At present there are no rules for earthworks in instability areas, however Council has undertaken studies that identify areas of High, Medium or Low instability. The maps are publicly available and are used in the case by case assessment of subdivision and building consent applications. Generally geotechnical reports are required in areas of high or medium instability to identify appropriate building platforms, and site specific foundation design. This information, along with any other hazard information WDC holds, is provided as part of LIM and PIM reports.

Maintaining and enhancing buffers to natural hazards may include bush protection in upper catchments, riparian planting along streams and rivers, or the protection and restoration of sand dunes. Small community projects such as this have occurred on an ad hoc basis, for example dune restoration projects at Matapouri and Waipu Cove, and are occasionally required as part of subdivision consent conditions where this is appropriate.

The NRC is expecting to notify the Priority Rivers Program with the RPS later this year. When this information is complete it will need to be reviewed and compared to the existing hazard maps in the District Plan. The proposed RPS is likely to contain policies to raise the minimum floor levels from 2.5m to 3.0m above mean sea level. It will also contain policies to be implemented in Regional Plans requiring resource consent from NRC to rebuild a building that has been damaged by a natural hazard event. When the new RPS becomes operative, WDC will have to review its District Plan and ensure the provisions relating to natural hazards are consistent with its policies.

Probably the most efficient and effective way of managing natural hazards is to avoid them in the first place. The new NZCPS recognises this and requires councils to identify areas in the coastal environment that are potentially affected by coastal hazards, and assess the risk over a 100 year timeframe. It also directs councils to avoid increasing the risk of social, environmental and economic harm from coastal hazards and to avoid changes in land use that will increase that risk of damage. The new RPS is required to be consistent with these provisions, however, the final form of how the RPS will direct WDC to implement its policies may not be known for some time.

Chapter 20 - Contaminated Sites

'Contaminated site', as defined in the District Plan, means 'a site where hazardous substances occur in concentrations above background levels and pose, or are likely to pose, an immediate or long term hazard to human health or the environment.'

New Zealand has a history of land contamination arising from past use, storage and disposal of chemicals utilised in industry, agriculture and horticulture. Activities within Whangarei District that cause or potentially cause contamination include landfills, petroleum-related uses, timber treatment, manufacture and use of pesticides, production of gas and coal products, historic mining, quarries and some agricultural and horticultural activities.

The Hazardous Activities and Industry List (HAIL) identifying contaminated sites or sites at risk of contamination is maintained by the Northland Regional Authority. However, potentially more unidentified sites exist in the district's rural areas, with consequences in terms of danger to human health as well as effects on future development potential. A more comprehensive approach to the identification and management of contaminated sites is anticipated as the result of the recent introduction of the MFE 'National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health'.

Anticipated Environmental Results (AERs) listed in Chapter 20

- *Contaminated sites within the district are identified, assessed, classified, entered into a database.*
- *Known contaminated sites are remedied to a standard appropriate to their future use, while ensuring they do not have adverse effects on the environment.*
- *Any subdivision, use or development of contaminated sites will ensure that the health and safety of people and communities are protected.*

Assessment of effectiveness of district plan provisions

The NRC's statutory functions include the investigation of land for the purposes of identifying and monitoring contaminated land. The role of the WDC has traditionally related to the dissemination of information on contaminated sites via LIMs (Land Use Memorandum) and PIMs (Project Information Memorandum) once potentially contaminated sites have been identified by the NRC.

Issues previously associated with contaminated sites (as identified in the Rural Development Strategy process) include:

- Lack of information/knowledge (on the number and location of contaminated sites, particularly historic activities of livestock dipping, and use of persistent herbicides and pesticides);
- Identification of contaminated land (including lack of specific programme by the NRC, and lack of requirements in the District Plan for the provision of information by resource consent applicants enabling identification of potentially contaminated sites);
- Ineffectiveness of existing District Plan objectives, policies and rules, (including the risk that these provisions are interpreted as applying only to contaminated sites 'identified' on the data base and not to 'potentially' contaminated sites which could occur anywhere in the district. In addition, the current rule (63.2.1) raises issues such as effectiveness in achieving the purpose of protection, and interpretation of term 'accessory use' to an existing use.)

The most significant change affecting contaminated sites has been the release of the National Environmental Standard ('NES') on assessing and managing contaminants in soil, effective from 1 January 2012. Although there have been deficiencies in the past in dealing with contaminated sites, these new requirements should ensure a more comprehensive approach to the issue of contaminated sites and serve as a statutory basis for any future plan change.

Chapter 21- Hazardous Substances

Hazardous Substances are substances that present a danger to people and the environment due to their chemically reactive, explosive, flammable, corrosive, ecotoxic, or disease causing nature. These are varied in nature, ranging from oil-based products used in road construction and the motor vehicle industry, to metallic products, pesticides, agricultural chemicals, and domestic cleaners.

'Hazardous substances' is defined in the Resource Management Act 1991 as 'including, but not limited to any substance defined in section 2 of the Hazardous Substances and New Organisms Act 1996 (HSNO) as a hazardous substance', effective from 2 July 2001.

Similar wording is contained within the District Plan definition of *Hazardous Substance*, while '*Hazardous facility*' is defined as '*any activity involving hazardous substances and sites at which these substances are used, stored, handled or disposed of (including on-site movements and the transit storage, for example, in stationary vehicles or containers) for a period of time exceeding one hour.*'

The format and wording of hazardous substances rules applying to land use activities are common to most Environments.

In October 2010, the NRC released its draft new Regional Policy Statement, identifying hazardous substances among issues that were considered but not included in the document as '*regionally significant*'.

HSNO controls are the bottom line performance standards that must be met across the country although stricter controls can be set locally to safeguard sensitive requirements.

Anticipated Environmental Results (AERs) listed in Chapter 21

- *The use, storage, manufacture, transport and disposal of hazardous substances will have no adverse effects on the environment.*
- *The use, storage, manufacture, transport and disposal of hazardous substances will have no adverse effects on the health and safety of people and communities.*

Assessment of effectiveness of the district plan provisions

Chapter 21 includes a single objective aimed at the protection of the environment from adverse risks and effects from activities involving the use, storage, manufacture, transport and disposal of hazardous substances. The provisions reflect those introduced by the HSNO Act 1996. Four policies (21.4.1 – 21.4.4) cover aspects of storage, design of facilities, transportation and disposal.

Appendix 8 includes technical information addressing the use, storage and on-site movement of hazardous substances, a list of permitted activities, a procedures chart, a table of base quantities and HSSP rating Criteria. Since this appendix is technical in nature, regular in-house training of Council resource consent and monitoring staff is recommended.

The format and wording of hazardous substances rules applying to land use activities, are common to most Environments.

The number of complaints relating to hazardous substances has been low in recent years (generally 2-4 per annum with nil noted in the 2010/2011 Resource Consents and Complaints Monitoring Report).

District Plan provisions are based on requirements of the HSNO Act 1996 and are thus deemed consistent with that legislation and listed Anticipated Environmental Results.

Chapter 23 - Network Utilities

Network utility services are physical resources that ensure the smooth running of a modern day society, such as electricity lines, telecommunication lines, water supply, sewer and stormwater pipelines, roads, rail lines, airports and oil and gas pipelines. Network utility services are provided and operated by both private and public operators.

Chapter 23 of the Operative District Plan outlines the district wide objectives and policies relating to network utilities. The objectives acknowledge the importance of network utilities and that operations are essential to the well-being of people and communities but have the potential to adversely affect the environment. The package of policies contained in Chapter 23, are generally enabling the provision of network utility operations, but seek also to protect Outstanding and Notable Landscapes, Significant Ecological, Heritage Areas and Sites of Significance to Maori. The Policies also acknowledge that the installation, operation and maintenance of some network utility operations carry potential risks to the health, safety and well-being of people and communities.

Chapter 85 of the Operative District Plan is dedicated to 'designations', as per Part 8 of the Resource Management Act. Network utility operators must be approved (but can apply) requiring authorities under the RMA to use the designation process. Chapter 85 lists all requiring authorities for which the District Plan has designations within its resource area maps, and outlines the properties to which these designations apply.

All Environments have land use rules relating to network utility operations:

- Network utility operations, permitted activity rules using various height, ground coverage, voltage, and pressure triggers.

- Electricity Transmission Lines, rules specifying how close a new structure can be constructed (20m) from the centre line of a high voltage electricity transmission line.
- Electromagnetic Radiation, rules which limit the electromagnetic radiation of all activities, requiring exposures to comply with NZS 2772.1:1999, Radio Frequency Fields Part 1: Maximum Exposure Levels 3 kHz – 300 GHz.
- Aerials and Aerial Support Structures, rules which limit the size and number of aerials and support structures associated with activities. Provisions limit the number, size and location to manage amenity effects.

Anticipated Environmental Results (AERs) listed in Chapter 23

- *The orderly, efficient and effective provision of network utility operations to the District's communities.*
- *The protection of natural, cultural and historic heritage from adverse effects of network utility operations.*
- *Amenity values in the different Environments are not adversely affected by network utility operations.*
- *People and communities do not suffer adverse effects on their health and safety from network utility operations.*
- *Network utility operations are not adversely affected by encroachment from neighbouring activities that are sensitive to the operation of network utility facilities.*

Assessment of effectiveness of district plan provisions

Significant changes have occurred at a national level in relation to Network Utilities. Several National Policy Statements and National Environmental Standards have come into effect:

- National Policy Statement on Electricity Transmission (NPSET) 10 April 2008. The NPSET is a statement from central government to recognise the national significance of the national grid in RMA plans and local decision making. It provides a high-level framework that will give guidance across New Zealand for the management and future planning of the national grid.
- New Zealand Coastal Policy Statement (NZCPS) 3 December 2010. The NZCPS sets out policies regarding the management of natural and physical resources in the coastal environment. The NZCPS places a greater focus on the safeguarding of the integrity, form, functioning and resilience of the coastal environment. Objective 6 and Policy 6 are of relevance to telecommunication and electricity network utilities.
- The National Environmental Standards for Electricity Transmission came into effect on 14 January 2010. The NES sets out a national framework of permissions and consent requirements for activities on existing electricity transmission lines. Activities include the operation, maintenance and upgrading of existing lines.
- The National Environmental Standards for Telecommunication Facilities came into force on 9 October 2008. Providing a framework for permitted activities in relation to telecommunication equipment. The regulations seek to create a level playing field across the country by providing clarity and certainty about the types of telecommunication infrastructure that are permitted and what continues to be managed by a local authority's district plan.

On 20 July 2010, a request for a private plan change (Plan Change 117) was made by Northpower Limited to change the operative District Plan. The application sought to change existing definitions, and to add provisions and maps relating to Critical Electricity Lines.

According to the Council's Consents and Complaints Monitoring Report 2011 there were no complaints received in relation to network utilities. A very limited number of resource consents have been granted in terms of the Network Utility Operation rules. Although the lack of complaints and consents may indicate that the provisions are effective, feedback from Network Utility Operators in the form of private plan change applications and submissions to plan changes indicate a lack of effectiveness.

Council has a statutory obligation to implement the National Policy Statement and National Environmental Standards for Electricity Transmission, by commencing a plan change to update the District by April 2012.

New Topic - Energy

The District Plan is largely silent in relation to matters concerning energy – other than its network transmission and servicing requirements for new subdivisions. Since the District Plan became operative Chapter 6 (Built Form and Development) has been bought in. This includes policy related to the energy efficiency of subdivision and development.

There have been significant recent changes at national level on the topic of Energy. This has included the New Zealand Energy Strategy 2011, New Zealand Energy Efficiency & Conservation Strategy 2011 and the National Policy Statement for Renewable Electricity Generation 2011. These strategies and policy statement have been implemented at least in part to meet international obligations.

The Draft Regional Policy Statement addresses renewable energy at both large-scale, and small-scale and community levels which the District Plan will have to give effect to should the policies become operative. Given the recognised need to address the security of supply to the district and region, and the national and international obligations, it is likely the District Plan will need to address renewable energy generation and therefore this topic will need to be thoroughly considered and addressed through the District Plan rolling review.

Chapter 22 - Road Transport

Providing a safe and efficient road network is a core function of Council and is especially important in a predominantly rural District such as Whangarei that relies heavily on the road network for private and commercial use. Whangarei currently contains a sealed road length of 1,072km and an unsealed road length of 703km, causing dust and noise impacts in rural areas, especially for areas experiencing increasing vehicle numbers or that are subject to heavy vehicles such as logging trucks or milk tankers.

The current focus of the Road Transport chapter in the District Plan is to provide a safe and efficient road network, a hierarchy of roads, to protect surrounding land uses from the adverse effects of the road network, and to protect the road network from adverse effects of surrounding land uses.

Anticipated Environmental Results (AERs) listed in Chapter 22

- *The efficient and orderly provision and maintenance of a safe roading network to serve the district's communities, both urban and rural.*
- *The protection of natural, cultural and historic heritage from adverse effects of road transport.*
- *Amenity values in the different Environments are not adversely affected by the roading network.*
- *The roading network is protected from adverse effects of adjacent land use and development.*
- *The roading network makes provisions for pedestrian and cyclist safety, car parking and street lighting.*

Assessment of effectiveness of district plan provisions

The Road Transport provisions in the District Plan require updating to align with a number of new philosophies and strategies that have occurred since the Plan became operative. A more integrated approach to land use planning and transport needs to be undertaken, and this will require an overall review of the provisions which are located throughout the Plan. Specific recommendations to update the Road Transport chapter of the District Plan include:

- align with national transport strategies including cost effectiveness, safety and productivity
- align with the objectives of the Growth Strategy 30/50
- align with best practice of integrated land transport planning
- align with Regional Policies
- include additional important road connections in the plan for example high productivity routes
- link Road Transport provisions with other provisions in the District Plan for example Noise
- review the parking provisions in the District Plan and remove minimum parking requirements
- provide additional staff training on technical matters covered in the District Plan relating to Road Transport and refer more applications to engineers to check against the Road Transport provisions
- review the monitoring indicators for Road Transport or focus Road Transport planning in Whangarei to address the specific indicators in the District Plan

Chapter 24 - Whangarei Airport

Whangarei Airport, located at Onerahi, has operated for many years as the district's single airport, serving both private, recreational and domestic commercial flights. It covers an area of approx. 60 hectares and is surrounded by predominantly residential development, imposing constraints on noise generation and future physical expansion of airport activities.

The airport is 50% owned by the Whangarei District Council and 50% owned by the Government. The Airport and associated Approach Path are controlled by two designations including conditions requiring activities authorised by designation to be subject to District Plan airport noise limits and an Airport Noise Management Plan. Airport activities and potential effects and controls (including acoustic controls for residential units within the defined Air Noise Boundary and Air Noise Margin) are addressed in chapters 24, 45 and 62.

The District Plan objective for Whangarei Airport is its long-term continuation at its present location, with provision for controlled growth in aircraft movements, whilst managing the effects of noise and other potential adverse effects on the community.

The NRC's Draft 30 Year Transport Strategy for Northland (2010) and the Whangarei District Growth Strategy: Sustainable Futures 30/50 both acknowledge the airport's physical limitations for further expansion being offset by advances in technology, enabling quieter aircraft to carry more passengers and land on shorter runways, potentially reducing noise impact on local residents.

Anticipated Environmental Results (AERs) listed in Chapter 24

- *Public health and amenity is addressed by minimising potential increase in noise-sensitive activities within the Airport's air noise boundaries.*
- *Public health and amenity is addressed by implementing a suite of measures that include the management of Airport noise emissions to reasonable levels, and minimising potential increases in noise-sensitive activities within the Airport's Air Noise boundaries.*
- *The Airport is accountable for its management of operations to mitigate adverse environmental effects. A vehicle, the Airport Noise Management Committee, is available for the community and Airport users to make recommendations to the Airport Management on noise abatement.*
- *The continued efficient and safe operation of the Whangarei Airport, with provisions for controlled growth in the future.*
- *Adverse effects of the Airport on natural, cultural and historic heritage are avoided, remedied or mitigated.*
- *Effects of the Airport (including noise) on surrounding amenity values are controlled to a level deemed acceptable in the District Plan.*
- *The continued operation of the Airport is not hindered by future land use hindered by future land use and development surrounding the Airport site.*

Assessment of Effectiveness of district plan provisions

Whangarei Airport operations are subject to an Airport Noise Management Plan and an Airport Noise Management Committee with opportunity for community input. The WDC Airport Manager has confirmed a lack of noise complaints relating to the airfield for over a year and advised that while there have been several complaints about aircraft flying low in other parts of the district, these are not subject to the Airport Noise Management Plan which applies to airport originated noise. Where complaints have occurred in the past, these tended to relate to helicopter hovering as opposed to 'coming and going' activities.

Whangarei Airport is a regional airport servicing domestic needs, and recognised by the NRC as '*regionally significant infrastructure*'. Based on noise management measures contained in the District Plan and the Whangarei Airport Noise Management Plan and findings of the NRC's Draft 30 Year Transport Strategy and the Whangarei District Growth Strategy: Sustainable Futures 30/50 it is anticipated that continuation of airport activities for the foreseeable future will remain consistent with current objectives and policies. Regular review of noise contours is required under the Airport Noise Management Plan. However, a review of provisions in Chapter 62 affecting residential activity in proximity to the Airport may also be warranted since some rules relating to minor habitable room additions (e.g. rules 62.5.2 and 62.6 requiring an internal design level of 40dB(A)dn) may be unduly onerous to landowners and not necessarily effective in terms of acoustic protection for the balance of the residence.

Chapter 25 - Marsden Point Port

The Marsden Point Port Environment extends into Marsden Bay north-west of the Marsden Point Oil Refinery and south-west of the coastal settlements of Marsden Bay and One Tree Point. It includes the facilities established by Northport Limited (the operating company for the port of Marsden Point) but not the Oil Refinery's jetties.

The Northport facility includes 3 berths, with further plans for additional berths, if required. The facility involves 48 hectares of land, with over 30 hectares being used for cargo operations such as log storage, processed timber products, palletised cement/containers and other general cargo. 62 hectares of land

adjacent to Northport is owned by Northland Port Corporation and is available for port related business activities with some further 120 hectares of land within the adjacent Business 4 Environment also available for port-related purposes.

The 2010 Sustainable Futures 30:50 Whangarei District Growth Strategy anticipates that Marsden Point will continue to be a regionally and nationally significant import and export port but warns that '*land use planning must ensure that this land is not developed for activities that may place future constraints on port development or give rise to reverse sensitivity issues.*'

Anticipated Environmental Results (AERs) listed in Chapter 25

- *The continued efficient and safe operation of the Marsden Point Port, with provision for controlled growth in the future.*
- *Adverse effects of the Port on natural, cultural and historic heritage are avoided, remedied or mitigated.*
- *Effects of the Port (including noise) on surrounding amenity values are controlled to a level deemed acceptable in the District Plan.*
- *The continued operation of the Port is not hindered by future land use and development proximate to the Port.*

Assessment of Effectiveness of district plan provisions

Although adequate area exists within the Marsden Point Port Environment and adjacent business land to provide for efficient and safe operation of the Marsden Point Port and controlled growth in the future, the following observations apply:

- There is limited reference in Chapter 25 to internal connections to/from the port (e.g State Highway 15A and possible future rail link) and associated effects
- There is limited consideration of adjoining Environments (or other potentially sensitive sites such as those on the northern side of Whangarei Harbour which at times experience noise effects from logging activities), and relationship with other activities in the vicinity (including in particular the New Zealand Oil Refinery)
- Updating the reference in Objective 25.3.1 to the port being currently '*under development*', would give greater recognition to ongoing activities and future development.

Chapter 6 - Built Form and Development

During the final stages of the District Plan formulation process before the Environment Court, some shortcomings in the Plan were identified. One of these was the lack of District wide strategic policy and lack of clear strategic policy direction on the hierarchy of urban development, residential and industrial development reducing Council's ability to direct development to appropriate locations resulting in haphazard development and compromising transport efficiency, amenity values, Maori cultural values and primary production.

On 17 June 2009 Plan Change 92 was publicly notified, which proposed comprehensive changes to the Urban Form and Development chapter of the operative District Plan. The revisions to this chapter provided direction on the location, shape and form of future built development to accommodate the estimated population growth and the associated economic development.

The plan change adopted a centres based approach with an emphasis on consolidation of development around existing centres and maximise use of existing infrastructure. The plan change identified growth nodes, their hierarchy and estimated growth potential. It became operative on 24 August 2011.

Chapter 6 gives direction on the implementation of the Urban Growth Strategy, Coastal Management Strategy and the various structure plans for the city fringes and coastal settlements. It ties together all Council Policies incorporating the Sub-regional Growth Strategy (30/50), LTCCP, Urban and Coastal Growth Strategies, and the related Structure Plans adopted by Council.

Anticipated Environmental Results (AERs) listed in Chapter 6

- *A pattern of consolidated urban development and increased infill development in areas appropriately serviced.*
- *A pattern of nodal urban development to allow for a range of living choices.*
- *Sporadic, sprawling or ribbon development patterns of coastal development avoided.*

- *Enhanced amenity values and identity of urban and coastal communities.*
- *Accessible shopping and living services in suburban centres to meet people's day to day needs.*
- *Redevelopment, vibrancy and vitality of the Central Business District.*
- *Agglomeration of industry and business activity.*
- *Avoidance of reverse sensitivity effects and appropriate separation of incompatible land uses.*
- *Improved efficiency in infrastructure provision that is sustainable.*
- *Efficient roading and public transport network, and reductions in private car-borne trips.*
- *Protection of natural values, cultural and historic heritage, and avoidance of development in environmentally sensitive areas.*
- *Avoidance of loss of productive farmland.*
- *Avoidance of reverse sensitivity effects.*
- *Efficient use and development of existing and new industry and business activities.*

Assessment of effectiveness of district plan provisions

The revisions to the Urban Form and Development Chapter (renamed "*Built Form & Development*" through the plan change submission process) provide strategic policy direction on a sustainable growth pattern for the District, whilst recognising the contribution of transportation routes; a hierarchy of business development opportunities; future urban expansion, activity nodes and infill visions; opportunities for connections between work, play and living; open space and reserve networks; and community and social infrastructure and facilities.

The revised Chapter 6 identifies the significant resource management issues for urban form and development and contains policy direction for the urban and industrial areas of Whangarei District. 20 objectives and 19 policies have been included to assist in the management of urban growth by providing greater strategic direction on the location, shape and form of future urban development in the Whangarei District, and providing for a range of lifestyle choices while minimising the impact of urban development on areas of significant landscape value, sites of ecological significance, or the margins of waterways or the coastline, and productive farmland. New regulatory methods proposed in 6.5.1 include new rules for the Town Basin sub-environments and specialised low density environments for areas of transition, and design guidelines.

The revised Chapter recognises that business and industrial developments are important for the economic well-being of the urban and industrial areas of the District. New policies have been developed to provide for the sustainable development of the industrial areas, to avoid piecemeal development elsewhere, and to recognise the importance these areas have on the continued economic vitality of the District.

Plan Change 92 also set out a vision for Whangarei's urban form based upon a strategy of urban consolidation, emphasising a compact pattern of development and promoting a 'centres-based' approach to accommodating growth. The vision for the urban form is reflected through new schematics that have been incorporated into revised Chapter 6.

Through this vision, a hierarchy of urban centres provides direction for urban growth and consolidation in the District. This hierarchy focuses on a strong CBD and a network of suburban centres (or 'nodes') that would be able to be linked to the CBD via an efficient roading network and an effective public transport system. A focus on good quality urban design and attractive streetscapes forms an integral part of the vision, promoting a high amenity environment for a more liveable city and suburban centres. The hierarchy of centres also recognises that within centres there will be different categories of retail activity and that certain categories are considered appropriate (or inappropriate) in different locations as a result of their various site requirements and functions.

Overall, Chapter 6 sets out a framework of objectives and policies to provide guidance in the District Plan for the integrated management of the large-scale effects of urban growth and development on the natural and physical resources of the District, in a way which will enable the people and communities of Whangarei to provide for their social and economic well-being. To date it is too early to gauge the effectiveness of the Chapter 6 provisions in operation.

Chapter 26 - Town Basin Environment

The District Plan views the Whangarei Town Basin as distinctly different from other parts of the city, providing special amenity and functions. Seven 'sub-environments' listed in Chapter 26 reflect differing characteristics:

- Up-River Sub-Environment
- Ewing Road Sub-Environment (*WDC Aquatic Centre on northern side of river*)
- Town Basin Open Space Environment (*providing for open space and urban recreation*)
- Western Town Basin Sub-Environment (*providing for westward expansion of the existing Town Basin commercial and community precinct*)
- Town Basin Precinct Sub-Environment (*heart of the Town Basin*)
- Lower Dent Street Sub - Environment (*providing for complementary mixed-use development east of the Town Basin*).
- Riverside Drive Sub-Environment (*characterised by commercial development south of Riverside Drive.*)

Successful development within the Town Basin Environment is recognised in the District Plan as being largely dictated by mechanisms beyond the Plan and the RMA process. Accordingly, Council is concerned to ensure cohesive development and protection of the area's significant resource values and to this end, has undertaken a number of urban design initiatives in order to enhance the area's amenity values and sense of place.

Examples of works completed (or proposed) since 2007, include cycleways and walkways linking with the planned second harbour crossing, canopies and associated events on Victoria Bridge, enlarged retail and bus terminal facilities, a heritage walk, sculptures and pedestrian facilities, and the possible future conversion of former NRC offices for use as a Hundertwasser Museum.

Under Section 7(c) of the Resource Management Act 1991, '*The maintenance and enhancement of amenity values*' is a matter that Council is required to have particular regard to.

Anticipated Environmental Results (AERs) listed in Chapter 26

- *A pattern of land use and development complementary to the natural, historical and cultural values of the Town Basin, particularly those associated with maritime and nautical themes.*
- *A cohesive process of development involving compatible and complementary land uses that avoids, remedies or mitigates adverse effects on the natural, historic and cultural environment.*
- *A process of land use and development that ensures an economically, socially and culturally vibrant community, whilst ensuring the maintenance and enhancement of the special amenity, recreational and cultural values and sense of place associated with the Town Basin.*
- *The maintenance and/or enhancement of open space areas, and linkages between open space areas, in the Town Basin Environment.*

Assessment of effectiveness of the District Plan provisions

Since 2006/2007, changes that have occurred affecting the Town Basin are primarily of a non- regulatory urban design nature relating to upgrading and extension of public facilities and include:

- Development of *Whangarei 20/20 plus – CBD Guideline Development Plan* (2006) aimed at recognising the existing natural and man-made features of Whangarei City contributing to the unique identity and '*sense of place*' of the Town Basin Area, and introducing the concept of '*urban precincts*'.
- The NZ Urban Design Protocol signed by Council in December 2008, reflecting a greater commitment towards urban design.
- Adoption of the Sustainable Futures 30:50 Whangarei District Growth Strategy on 22 September 2010, including recognition of the value of the concept of '*sense of place*' and the potential to upgrade both the CBD & Town Basin and to strengthen links between.
- Urban Design Strategy '*Making Great Places to Shape our Future*' (released July 2010) aimed at providing ongoing direction for design and development of the urban environment.
- New Chapter 6 Built Form and Development (operative July 2010), providing strategic direction on location, shape and form of urban development. In particular, Policy 6.4.4 promotes mixed use and intensification, sense of place and identity and a principle focus on a range of activities, while Regulatory Methods (6.5.1) seeks new rules for Town Basin sub-environments to enable and promote mixed use type developments.

Analysis of the District Plan Town Basin provisions has identified them to be generally effective, although the following issues warrant further consideration:

- Chapter 43 provides for 7 sub-environments, each limited in area. This approach may not be the most efficient in dealing with comprehensive development in the Town Basin.

- Given that the Town Basin 'catchment' will be effectively extended with the completion of the proposed Lower Hatea River Bridge and increased pedestrian and cycle linkages, consideration of a broader view of the Town Basin is recommended in any review of the Town Basin provisions.
- There are currently no Reserve Management Plans relating to the Town Basin despite references in rule 43.3.1 to activities being a permitted activity in two sub-environments where in accordance with a Reserve Management Plan. The Parks Manager has confirmed that a Reserve Management Plan is to be prepared in conjunction with plan changes for the Basin.
- One Policy 26.11.1 Mixed Use Development, promotes '*complementary mixed use development*' within the Lower Dent Street Sub-Environment. Residential activity here is subject to provisions of the Business 1 Environment (rule 39.3). As no guidance or incentives supporting innovative mixed use development currently exist, the introduction of urban design guidelines and/or revised rules would assist in complementing existing Policy 26.11.1.

Chapter 27 - Local Authority Cross Boundary Issues

Whangarei District has common boundaries with Kaipara District and Far North District and comes within the jurisdiction of the Northland Regional Council. Although each local authority has responsibility for administration within its own boundaries, a number of issues cross these boundaries.

Chapter 27 highlights the need for matters relating to the crossing of territorial boundaries to be subject to consistency of approach and management. These include:

- infrastructure
- significant natural features and natural resources
- activities with adverse effects
- activities near jurisdictional boundaries that are sensitive to the surrounding environment
- resource consent applications that straddle the Coastal Marine Area
- consultation with tangata whenua and iwi authorities

Chapter 27 is a broad policy section outlining statutory and management responsibilities between adjoining local authorities, tangata whenua and the Northland Regional Council in terms of cross boundary issues. No specific rules are applied to the chapter, with reliance placed on mutual cooperation and adherence to statutory requirements (e.g s74(2)(c) RMA relating to consistency with plans or proposed plans of adjacent territorial authorities and s102 regarding joint hearings). In view of this, the chapter may be unnecessary.

Anticipated Environmental Results (AERs) listed in Chapter 27

The integrated management of natural and physical resources across local authority boundaries, particularly in regard to:

- *Infrastructure that crosses a local authority boundary;*
- *Significant natural features and natural resources that cross a local authority boundary;*
- *Activities which may have adverse effects that cross a local authority boundary;*
- *Iwi and hapu interests that cross a local authority boundary; and*
- *The coast*

Assessment of effectiveness of district plan provisions

Since the Plan became operative in 2007, close liaison between the WDC and the NRC has continued in terms of statutory obligations, particularly consultation associated with the National Policy Statement on Contaminated Sites and the new draft Regional Policy Statement. As part of the latter process, the NRC has been undertaking mapping exercises relating to the coastal environment and outstanding landscapes which will ultimately affect the manner in which WDC finalises its coastal and landscape planning.

Other recent involvement with the NRC and/or Kaipara District Council on common planning issues during this period, have included the joint hearings on the Oakleigh to Marsden Point rail link, the Port Marsden Service Centre on SH15A, and the OB Holdings appeal on a subdivision within the Brynderwyn foothills near Langs Beach (also affecting Kaipara DC).

Chapter 27 appears to operate satisfactorily as a policy guidance document but an absence of related rules means that its value is reduced.

Chapter 28 - Scheduled Activities or Overlay Areas

Chapter 28 does not relate to any specific Environment or Resource Area but was initially inserted in the District Plan to make provision for situations where it may not have been possible to prove existing use rights under Section 10 of the Resource Management Act 1991, but which caused no adverse effects on the environment.

Policy 28.4.1 lists the two circumstances applying to classification as Scheduled Activities, the second being more applicable to activities incorporated by way of private plan changes:

- *Those activities which existed when the District Plan was first proposed, and which do not comply with the permitted activity standards for the Environment in which they are located, and which do not have any adverse effects which are more than minor on the Environment in which they are situated;*
- *Those activities which are appropriate, in terms of their function, to be located in a particular Environment but which have particular effects that need to be controlled by activity specific standards, which may differ from the general standards that apply in that Environment.*

Scheduled Activities are specific to a site and are shown on the Planning Maps, with individual sets of conditions listed in Chapter 49. There are currently 29 listed sites in Chapter 49, varying in number and complexity of conditions imposed. Examples of larger listed sites include Marsden Point Oil Refinery, Portland Cement Works, Kauri Dairy Factory, Croft Timber Limited, St Francis Xavier School, and Pompallier College.

Individual rules for each of the areas are listed in Chapter 49 and take precedence over the other rules for the Environment, although other relevant rules in the District Plan, such as the resource area rules and financial contributions are required to be complied with.

Unlike the majority of other policy chapters in Part C of the District Plan, no Methods or Anticipated Environmental Results (AERs) are listed in relation to this chapter.

Assessment of effectiveness of district plan provisions

Chapter 28 differs from other sections of the District Plan in that it currently provides for 29 site-specific activities or areas with their own series of conditions, (listed in Chapter 49).

The Chapter 49 Schedule effectively acts as a register for approved Scheduled Activities, with the number of sites initially included at the review of the District Plan having increased through subsequent private plan changes.

The listing of Scheduled Activities is essentially an administrative process. It is recommended that a further review is undertaken to determine:

- whether it is the most efficient and effective means of recording private plan changes or
- whether separate District Plan chapters (such as Chapter 50 – Port Nikau Environment, including objectives policies and rules) are a preferable alternative and/or
- whether more encouragement should be given to applicants to seek resource consent as a potentially more cost-efficient option

Chapter 9 - Financial Contributions

Land development can introduce costs on the community, such as the cost of improving the roading network or sewerage treatment system to keep pace with the increasing traffic volumes using the roads, and the number of houses connected to the system.

The Resource Management Act enables the Council to charge subdividers and developers a financial contribution in the form of money or land for the purposes of reallocating the 'off-site' cumulative costs of development from the community at large, to those who directly benefit from the land development.

Anticipated Environmental Results (AERs) listed in Chapter 9

The efficient and timely provision and/or upgrading of infrastructure and services so as to enable the orderly and sustainable development of the district. This includes the provision of roading, footpaths, street lighting, water supply, wastewater and stormwater disposal, solid waste disposal, reserves and community facilities.

- *The costs of providing and/or upgrading infrastructure and services to enable development are contributed to by those initiating such development.*
- *The costs of ameliorating adverse environmental effects resulting from development are borne by those initiating such development.*

Assessment of effectiveness of district plan provisions

With the introduction of the Development Contributions Policy under the Local Government Act, the charging of financial contributions has become less common. Generally financial contributions continued to be charged on resource consents lodged prior to 19 April 2005 with payment either before a land use consent is given effect to, or before 224(c) is issued on a subdivision consent. Following a brief transitional period, all new resource and building consent and service connection applications received since 1 July 2005 have been subject to the Development Contributions Policy.

Council does not require a development contribution for any activity where a financial contribution has already been imposed as a condition of a resource consent in relation to the same development, for the same purpose. Council has discontinued the application of financial contributions (except where they have been charged as a condition of consent) upon the successful application of the Development Contributions Policy.

Council's Long Term Council Community Plan (2006-2016) states that even with the introduction of development contributions, the District Plan will continue to contain provisions relating to financial contributions. The reason being that financial contributions, a condition of a resource consent, are for the purpose of avoiding, remedying or mitigating an effect on the environment, whereas development contributions are solely for the purpose of recouping the cost of growth on parks and reserves, network and community infrastructure.

Table 1: External planning influences and internal milestones over the past 5 years

The following table summarises a number of factors, both external (e.g national policies and standards, and Environment Court decisions) and internal – (e.g Plan Changes made operative) that have influenced the on-going review of Council's District Plan since it became operative on 3 May 2007, and planning milestones achieved since that time. In particular, the table reflects the number and variety of components that have collectively influenced the progress of the District Plan.

2007	<p>External Influences:</p> <ul style="list-style-type: none"> • Iwi Management Plan - Patuharakeke Te Iwi Trust Board (Inc) Environmental Plan • Iwi Management Plan - Te Iwi o Ngatiwai Iwi Environmental Policy Document • NZ General Elections <p>Internal influences or milestones:</p> <ul style="list-style-type: none"> • Whangarei District Plan operative 3 May 2007 • Road Transport Rules (PC50) operative • Noise Limit for Mineral Extraction (Dickson's Quarry) – (PC38) operative • Subdivision rules, Chapters 71, 73 & 74 (PC52) operative • Resource Consents & Complaints Monitoring Report 2007 • Local Authority Elections
2008	<p>External influences</p> <ul style="list-style-type: none"> • National Policy Statement for Electricity Transmission (effective 10 April 2008) • National Environmental Standard for Telecommunications (effective 8 September 2008) • Iwi Management Plan – Ngati Hine Iwi Environmental Plan 2008 • NZS 6081:2008 & NZ S 6802:2008 Noise Standards updated (Measurement of Environmental Sound & Environmental Noise) • Downturn in economy 2008 > <p>Internal influences or milestones:</p> <ul style="list-style-type: none"> • Living 1, 2 & 3 rules amendment (Chapter 36) – (PC46) operative • Signs (PC41) operative • Artificial Lighting (PC42) operative • Countryside & Coastal Countryside amendments to Chapter 38 (PC47) operative • Meaning of Words – new definitions (PC45) operative • Living 1, 2 and 3 – amendment of various rules in Chapter 36 (PC46) operative • Chapter 38 Countryside and CCE amendment of various rules (PC47) operative • Open Space amendments to rules, Chapter 46 (PC49) operative • Subdivision rules chapters 71,73 and 74 (PC52) operative • Chapter 49 Scheduled Activities (PC53) operative • NZ Urban Design Protocol signed by WDC, December 2008 • Resource Consents & Complaints Monitoring Report 2008
2009	<p>External influences:</p> <ul style="list-style-type: none"> • Resource Management (Simplifying and Streamlining) Amendment Act 2009 (including provision for District Plan rolling reviews) <p>Internal influences or milestones:</p> <ul style="list-style-type: none"> • Winstone Aggregates (PC59) operative • WFH properties Ltd (PC62) operative • Te Mara Organic (PC66) operative • McLeod Bay Rezoning (PC70) operative • Taurikura/Urquharts Bay rezoning (PC74) operative;

	<ul style="list-style-type: none"> • McNally Valuation Ltd (PC75) operative; • Lakeside Business Park (PC81)operative • Pipiwai Investments Ltd (PC84)operative • Resource Consents & Complaints Monitoring Report 2009 • Environment Court Declaration (Oman Holdings Ltd ENV-2008-AKL-000177) re: interpretation of '<i>residential units</i>' in Coastal Countryside Environment. • Environment Court decision <i>Beejay Ltd & Johnston O'Shea Ltd v WDC A008/2009</i> relating to professional offices in Living 1 Environment, Western Hills Drive • Resource Consents & Complaints Monitoring Report 2009 • Urban and Coastal Structure Plans adopted • LTCCP (2009 – 2010) adopted
2010	<p>External influences:</p> <ul style="list-style-type: none"> • NZ Coastal Policy Statement 2010 – effective 3 December 2010 • NES for Electricity Transmission • NRC Regional Policy Statement Discussion Document • NRC 30 Year Transport Strategy (op 31 May 2010) • NZ S 6806:2010 updated (Road Traffic Noise – New & Altered Roads) <p>Internal influences or milestones:</p> <ul style="list-style-type: none"> • R & B Mulligan Ltd (PC60) operative • Parking for the Disabled (PC96) • Factory Farming – Consequential Changes (PC97) operative • Setbacks from Waterbodies (PC98) operative • District Plan Procedure Rolling Introduction Section Chapters 1-4 (PC106) operative • Recreation reserves rezoned from Living 3 to Open Space (PC117) operative • Environmental Engineering Standards (PC76) operative • Papakainga Housing (PC94) operative • Longview Estuary Estate Ngunguru (PC65) appealed • <i>Sustainable Futures 30/50; Whangarei District Growth Strategy</i> adopted by Council, September 2010 • Reserve Management Plan for William Fraser Park adopted • Resource Consents & Complaints Monitoring Report 2010 • Local Authority Elections
2011	<p>External influences:</p> <ul style="list-style-type: none"> • NZ Energy Strategy 2011 • NZ Energy Efficiency & Conservation Strategy 2011 • National Policy Statement for Renewable Electricity Generation 2011 • Proposed National Policy Statement (2011) on Indigenous Vegetation • Draft New Regional Policy Statement (October 2011) • NZ General Elections <p>Internal influences or milestones:</p> <ul style="list-style-type: none"> • Urban Transition Environment - 'UTE' (PC93) subject to appeal • Northpower (Line Maintenance) PC117 subject to appeal • Waipu Rezoning (PC69) operative • Business 2 Open Space Springs Flat (PC104) • Management Plan Technique (PC103) operative • Chapter 6 Built Form & Development (PC92) operative • Environmental Engineering Standards (PC76) operative • Coastal Countryside Environment Review (PC95) & Coastal Policy Areas (PC116) hearing held but PCs withdrawn pending release of NZCPS and RPS coastal provisions

	<ul style="list-style-type: none"> • Proposed PC56 – Indigenous – Pohutukawa in the Coastal Environment withdrawn due to Amendments to the RMA making rules ultra vires • “<i>Making Great Places to Shape our Future</i>” Urban Design Strategy released March 2011 and in-house Urban Design Panel established • Review of Landscape Methodologies • Preparation of a Reserve Management Strategy commenced • <i>Rural Development Strategy</i> discussion document prepared, and consultation undertaken • <i>Walking & Cycling Strategy</i> review undertaken • Resource Consents & Complaints Monitoring Report 2011 • WDC State of the Environment Report on Biodiversity • Environment Court hearing of appeal <i>Oman Holdings Limited v JH & LK Henderson and WDC</i> with implications in terms of coastal and amenity issues. (Decision pending)
2012	<p>External influences:</p> <ul style="list-style-type: none"> • National Environmental Standard on Contaminated Sites (effective 1 January 2012) • RMA Phase 2 (anticipated) <p>Internal influences or milestones:</p> <ul style="list-style-type: none"> • 5 yearly District Plan Efficiency and Effectiveness Review due. • Lapsing of designations not given effect to within 5 years (s 184 RMA) due 3 May 2012 • Northgate - Port Marsden Industrial Estate (PC83) operative 24 April 2012. • <i>J Blampied and Whangarei District Council and WJ Childs and LM O’Grady (Decision No.[2012] NZEnvC54)</i> – consent declined for 2 lot subdivision in Countryside Environment.

16 April 2012