

# **Plan Change 114: Landscape**

## **Section 32 Evaluation Report**

Prior to Notification

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## Part One

### 1 Introduction

1. This evaluation report provides an assessment of Proposed Plan Change 114: Landscape (PC114) and has been undertaken in accordance with section 32 of the Resource Management Act 1991 (RMA).
2. PC114 proposes the introduction of a new Landscape chapter, revising and consolidating existing natural landscape and natural feature provisions within the Operative District Plan (WDP). Emphasis is mainly on issues surrounding the management of outstanding natural landscapes (ONL) and outstanding natural features (ONF) as identified in the partially Operative Regional Policy Statement for Northland 2016 (RPS).
3. The WDP became operative on 3 May 2007. As part of its current district plan rolling review process Council has been reviewing its WDP provisions, including those relating to landscape issues within the district.
4. This report has been prepared in accordance with the Schedule 1 of the RMA which sets out requirements applicable to the preparation, change and review of policy statements and plans. Section 32 of the RMA requires The Council to examine the proposed PC114 objectives, associated policies, and other provisions, and to assess the anticipated environmental, economic, social, and cultural effects, benefits and costs of implementing PC114.
5. Since section 32 evaluations represent an on-going process, this report constitutes the initial evaluation, with further revisions expected throughout the plan change process in response to submissions received following notification of PC114.
6. This report is in three parts, with Part One addressing WDP landscape and natural feature provisions and the reasons for PC114 together with an evaluation of proposed provisions. Part Two outlines statutory and policy considerations applicable to PC114. Part Three comprises appendices to the report, including the proposed PC114 text (Appendix 1) and consequential amendments to the WDP, including Resource Area Maps (Appendix 2).
7. In the drafting of this report desktop research has been undertaken, including reviews of other local authority approaches to landscape management and 'good practice' guidelines.

**Abbreviations** commonly used in this report include:

WDC /Council	Whangarei District Council
WDP	Whangarei District Plan
RMA	Resource Management Act 1991
NRC	Northland Regional Council
RPS	Partially Operative Regional Policy Statement (2016)
NZCPS	New Zealand Coastal Policy Statement (2010)
ONF	Outstanding Natural Feature
ONL	Outstanding Natural Landscape
30/50	Whangarei District Growth Strategy Sustainable Futures 30/50

## 2 Background to PC114: Landscape

### 2.1 Why review the WDP landscape provisions?

8. The three main reasons for reviewing current landscape provisions within the WDP are:
  1. The RMA requirement to review district plan provisions every 10 years.
  2. An instruction from the Environment Court, following an appeal from the Director General of Conservation, requiring the revision of the WDP landscape provisions (Method 16.5.1 of the WDP)
  3. The findings of the Council's five-yearly WDP efficiency and effectiveness report produced in 2011.
  4. The need to review and update Council's landscape provisions to 'give effect to' the NZCPS and the RPS.

#### 2.1.1 WDP Rolling 10 Year Review

9. The WDP became operative on 3 May 2007. Section 79 of the RMA requires that a local authority commence a review of the district plan provisions which have not been a subject of a plan change during the previous 10 years. Under this provision, the opportunity exists for Councils to undertake 'rolling reviews' of district plan provisions which allow for the review of provisions on a topic by topic or zone by zone basis. Councils must complete a review of all district plan provisions within any 10-year time period.
10. In 2011 Council adopted a rolling review method of reviewing the WDP. This has enabled an evolving district plan structure, with adjustments to chapter format possible throughout the process in order to be more consistent with how the provisions are applied in practice. The procedure for rolling review is outlined in Chapter 2 of the WDP, which sets the expectations for future Council-initiated and private plan change applications, with the key outcomes sought including:
  - *WDP shall be streamlined and simplified.*
  - *Policy and rules shall direct consenting process to provide certainty.*
  - *Comprehensive policy and objectives shall reflect the sustainable management outcomes sought for the respective District Plan Environments and Policy Areas.*
11. The WDP objectives and policies are separated into chapters based around resource management issues. The new WDP structure, implemented by PC106, is designed to provide for a hierarchy of objectives and policies, providing opportunity for policy at a district wide, geographical, locality or neighbourhood context. The proposed PC114 landscape provisions apply district wide.
12. Circumstances listed in Chapter 2 for seeking changes to the WDP 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.*
  - *The adoption of national policy statements or national environmental standards.*
  - *As a result of new scientific work.*
13. The findings of the 2011 plan effectiveness monitoring report and the adoption of the new NZCPS in 2010 are directly relevant to PC114 at this time. PC114 will also affect landscape management in the rural and coastal areas and therefore overlaps with PC85 Rural Environment and PC87 Coastal Environment which are being notified at the same time.

### **2.1.2 WDP Efficiency and Effectiveness Review**

14. The Council is required under the RMA to monitor the efficiency and effectiveness of the WDP on a 5 yearly basis. The associated report was adopted by Council in August 2012. The following are excerpts from that report as they relate to the effectiveness of the existing natural landscape and feature management provisions within the WDP. It is important to emphasize here that the current WDP provisions (summarised in the next section of this report) are based around a 1995 landscape assessment. This ranked landscapes within the district from 1 to 7. Those with a ranking of 7 were subsequently identified as 'outstanding' for the purposes of the WDP while those with a ranking of 6 were identified a 'notable'. The efficiency and effectiveness report addresses these and also landscapes with a lower ranking of 5.

*Since 1995, 17% of land with a landscape sensitivity rating of 5, 6, or 7 (based upon the LA4 Landscape Assessment ranking) has 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.*

*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 (NLs), and 7% of category 7 land (ONLs) had been subdivided over this period.*

*The Whangarei District Growth Strategy: Sustainable Futures 30/50 notes 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.*

15. The report also succinctly notes that:

*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 the District.*

16. 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 that process but the findings were not ultimately incorporated in the WDP by way of plan change.

### **2.1.3 NZCPS 2010**

17. Under RMA s75(3) the WDP is required to 'give effect to' any national policy statement (NPS) including the NZCPS. Further, under RMA s55(2D), it must do so 'as soon as practicable' unless otherwise specified in the NPS.
18. There is no NPS specific to landscape. However, the NZCPS provides clear guidance in regard to the assessment and protection of landscapes and natural features within the coastal environment.
19. 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 NZCPS Policies 13 and 15 (see Section 8 of this report).
20. NZCPS 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, NZCPS Policy 15 provides national guidance on the minimum requirements for identification, assessment and protection of natural features and landscapes.

### **2.1.4 RPS 2016**

21. The 10-year Monitoring and Review of the previous Regional Policy Statement 1999 (RPS 1999), concluded that the management of outstanding natural features and landscapes has been inconsistent across the region, and that the effectiveness of protection of these areas has been questionable. As part of its comprehensive review of the RPS 1999, NRC commenced a project to assist the Councils within the region to give effect to several key policies of the NZCPS, including NZCPS Policies 13 and 15, and to address the inconsistencies in identification of outstanding natural features and landscapes across the region.
22. Specifically, the project aimed 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 within the region.
23. The project included the development of a methodology to identify outstanding natural features and landscapes and the subsequent application of this to produce spatial maps of these areas that accompany the RPS.
  24. The mapping output from the project, completed in 2012, is in a form that can be applied at regional and district plan scales.
  25. Relevant policies and methods are included in Sections 4.5 and 4.6 of the new RPS 2016 (reproduced in Section 8 of this report). Section 4.5 covers ONF and ONL identification by way of the RPS maps.
  26. RPS Method 4.5.4 states (in part):
 

*(1) Within two years of this Regional Policy Statement becoming operative (or the first relevant plan change after the Regional Policy Statement becoming operative, whichever is the earlier) .....district councils shall notify a plan change to their relevant regional and district plans to incorporate the Regional Policy Statement – Maps subject to Method 4.5.4(2).*
  27. Section 4.6 of the RPS addresses the management of ONFs and ONLs. RPS Policy 4.6.1 sets out specific requirements for managing adverse effects of activities on identified ONFs and ONLs both within and outside of the coastal environment. Following the policy direction in the NZCPS, the emphasis within the coastal environment is on avoidance of adverse effects. Outside the coastal environment this emphasis is moderated to only apply to “significant” adverse effects. Policy guidance is given as to how this may be achieved through regional and district plan provisions.
  28. RPS Method 4.6.3 requires that regional and district plans be amended to include objectives, policies and methods (and rules where necessary) to give effect to RPS Policy 4.6.1. It also stipulates the types of controls that must be included.
  29. All but one appeal on the RPS have now been resolved. The remaining appeal is not related to any of the provisions for identifying and protecting ONFs and ONLs. The RPS was made partially operative on 6 May 2016.

## **2.2 What are Natural Features and Landscapes?**

30. PC114 covers both landscapes and natural features.
31. The terms “natural feature” and “landscape” are not defined in the RMA. Natural features are generally accepted to be distinct geographic and/or geological landforms or other features that were formed by natural processes as opposed to being man-made. These include mountains, hills, valleys, lakes, streams, wetlands, native forests, sand dunes and beaches.

32. Natural landscapes are generally accepted to be more than the physical landscape or ‘a view or scene’ encompassing one or more natural features. Natural landscapes are about the relationship between people and place. The Environment Court has offered the following definition:

*Landscape means the natural and physical attributes of land together with air and water which change over time and which is made known by people’s evolving perceptions and associations.*

33. Both natural features and landscapes can be subject to change from various natural or human-induced processes. Such changes can act to reduce the characteristics and qualities that make a natural feature or landscape unique, distinctive and/or special.

### **2.3 What are ‘Outstanding’ Natural Features and Landscapes?**

34. Under section 6(b) of the RMA ‘*the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development*’ is classed as a matter of national importance. This requirement assists in achieving the overall purpose of the RMA to promote sustainable management of natural and physical resources.

35. Natural features and landscapes are generally those that are unmodified. However, the Environment Court has recognised that a spectrum of naturalness exists ranging from pristine natural landscapes to cityscapes. Modified landscapes, such as open farmland where indigenous vegetation may have been cleared, can still be perceived as ‘natural’ if, for example, the underlying landform remains intact.

36. Determining what is an “outstanding” natural landscape or natural feature requires an objective assessment process that:

- (a) identifies the characteristics and qualities of the landscape or feature: and
- (b) determines whether the sum of these characteristics and qualities equates to the landscape or feature being considered “conspicuous” or “eminent” – standing out from the rest.

37. Outstanding natural features and landscapes within the Whangarei district were identified and mapped by the NRC in 2012 and are included in the RPS maps. The assessment methods used are summarised in RPS Appendix 1 (Appendix 3).

38. In brief, the outstanding natural features were identified using the “Inventory (and maps) of Important Geological Sites and Landforms in the Northland Region”, Geological Society of New Zealand unpublished report 95/2 (1995). This inventory identifies the best examples of Northland’s unique geology and landforms compiled using the combined knowledge and advice of a large sector of the specialist geological, geomorphological, speleological and soil science communities of New Zealand.

39. The inventory provides a ranking of significance and vulnerability for each identified site. The significance rankings are:
- A International
  - B National
  - C Regional
40. A vulnerability classification is also assigned to each feature, depending on its perceived susceptibility to human activities:
- 1 highly vulnerable to complete destruction or major modification by humans;
  - 2 moderately vulnerable to modification by humans;
  - 3 unlikely to be damaged by humans; and
  - 4 could be improved by human activity.
41. The RPS maps have only included those features that:
- (a) Are natural: the base inventory includes a number of features that are the result of human activity (for example, mine relics). These are not considered outstanding *natural* features for the purpose of RMA Section 6(b).
  - (b) Are considered vulnerable to human activity: No feature with a vulnerability rank of 4 has been included; nor are those that are of regional significance, but have a relatively low vulnerability ranking and are unlikely to be damaged by humans (that is, features that rank C3).
  - (c) Have been mapped by the Geosciences Society: not all of the sites in the inventory have had their precise location or physical extent mapped.
42. The RPS landscape assessment methodology was based on NZ Institute of Landscape Architecture best practice guidance and recent Environment Court decisions. The methodology describes and evaluates the detailed characteristics and qualities or 'landscape attributes' of each landscape under the following three categories:
- Natural science factors
  - Aesthetics values
  - Experiential values
43. Within each category, there are two or more evaluation criteria. Each of the evaluation criteria were ranked and the final determination of whether an individual feature or landscape merited being identified as an ONL in the RPS was based on an overall evaluation and judgmental weighting of the individual 'rankings'.

44. Plan Change 114 seeks to clarify and reinforce Council's statutory obligations relating to the identification and protection of outstanding natural features and landscapes.

### 3 WDP Landscape Provisions

45. Natural landscape and feature-related issues, objectives, policies, rules and other methods are largely contained within Chapters 16 (Policies) and 57 (Rules) in the WDP

46. A comparison of WDP Chapters 16 and 57 provisions, and proposed PC114 amendments, is included as Appendix 4.

47. The current WDP approach to the identification and protection of important natural features and landscapes is to classify them into three main groups:

- Outstanding natural landscapes
- Outstanding natural features
- Notable landscapes (NLs)

48. The criteria for identifying ONLs are listed in Schedule 16A attached to WDP Chapter 16. The approach to identifying ONFs is explained in Schedule 16B with a full list of the ONFs included in WDP Appendix 13.

49. The protection of natural features of particular significance to Maori is also addressed.

50. Provision is also currently made for the protection of coastal natural character and landscapes and for the management of adverse visual effects of selected activities including encouragement of landscape rehabilitation. It is relevant to note from the outset that provisions relating to coastal natural character are to be dealt with separately under PC57 Coastal Area.

51. The objectives in WDP Chapter 16 Landscapes (16.3) are:

*The preservation of the natural character of the coastal environment.*

*The protection of outstanding landscapes and natural features, including geological sites from inappropriate subdivision, use and development.*

*The amenity values of the District's outstanding natural features and landscapes, including geological sites are maintained and, where practicable, enhanced.*

*The preservation of natural features significant to Maori and their culture and traditions, with their ancestral lands, water, sites, waahi tapu and other taonga.*

52. The twelve policies in WDP Chapter 16 (16.4) focus on:

- identification and general protection of outstanding landscapes
- identification and general protection of outstanding natural features

- identification and general protection of notable landscapes
  - avoidance of adverse effects of subdivision, use and development on the natural character of the coastal environment, and lakes and rivers and their margins
  - control of subdivision activity within ONLs, ONFs or geological sites
  - control of adverse visual effects of buildings and structures on the landscape character and values
  - control of adverse visual effects of buildings and structures on ridgelines within ONLs and NLs
  - control of visual effects of road and vehicle accesses within ONLs, ONFs, NLs, coastal landscapes and landscapes visible from state highways
  - control of adverse visual effects of earthworks within ONLs and ONFs
  - protection of indigenous vegetation which contributes to the character and quality of landscapes
  - encouragement of rehabilitation of landscapes adversely affected by past inappropriate land use activity
  - identification for protection and enhancement of natural features that are significant to Maori
53. Nine rules in WDP Chapter 57 detail the activity status of works affecting outstanding landscape and natural features (57.2) and notable landscape areas (57.3). Rules are confined to:
- construction or alteration of a building or structure
  - earthworks
  - forestry establishment
  - indigenous vegetation clearance
  - goat control
  - network utility operations
54. There are currently permitted activity rules for earthworks, indigenous vegetation clearance and goat control within outstanding landscape areas. However, resource consent is mandatory for construction or alteration of a building or structure and for forestry establishment within ONLs.

55. Any activities that do not meet the permitted activity thresholds or otherwise require consent within ONLs are currently categorised as restricted discretionary activities.
56. Within NLs, there are permitted activity rules for construction or alteration of a building or structure (height limit only), indigenous vegetation clearance, earthworks and network utility operations. Activities that do not meet the permitted activity thresholds are categorised as either:
  - (a) controlled (indigenous vegetation clearance, earthworks);
  - (b) restricted discretionary (construction or alteration of a building or structure); or
  - (c) discretionary (network utility operations).
57. There are currently no specified non-complying or prohibited activities.
58. In addition to WDP Chapters 16 and 57, there are a number of references to landscape-related restrictive discretionary activity criteria ('*effects on landscape values*') within Parts D (Environment Rules) and F (Subdivisions) of the WDP.
59. There are no specific links to WDP Chapter 60 Sites of Significance to Maori in regard to ONFs.
60. The various policy implementation methods stipulated in WDP Chapter 16 are:
  - Regulatory Methods such as identification of ONLs, ONFs and NLs on planning maps; Environment and Resource Area rules; resource consent conditions; a review of the Whangarei District Landscape Assessment 1995; and a subsequent plan change.
  - Other Plans & Legislation such as the NZCPS, RPS, the Northland Regional Water and Soil Plan, and Iwi/Hapu Environment Management Plans.
  - Information, Education and Advocacy including liaison with NRC, DOC, and iwi/hapu; education and information for (landscape area) resource users; guidelines on development within landscape areas.
61. WDP Chapter 16 also contains two schedules. Schedule 16A sets out the criteria used for assessing landscapes and derive overall sensitivity classes ranked from 1 to 7. Schedule 16B makes clear that the outstanding natural features have been identified through by the Whangarei District Landscape Assessment (1995) and the NZ Geological Society's Inventory of Important Geological Sites and Landforms in Northland Region (1996). It also clarifies that only identified ONFs that fall outside of wider ONLs and have a vulnerability rating of 1 or 2 are listed in the plan as ONFs.
62. WDP Appendix 13 – Outstanding Natural Features and Geological Sites provides details of the 25 mapped ONF sites or landforms. Appendix 13 also clarifies that the ONF vulnerability ratings referred to in Schedule 16B are:

1 = Highly vulnerable to destruction or major modification by humans

2 = Moderately vulnerable to modification by humans

63. The location and extent of the ONFs listed in WDP Appendix 13 are shown on relevant WDP Resource Area maps.

## 4 Current issues facing landscapes

64. The significant issues affecting natural features and landscapes currently identified in the WDP (16.1) include:

- *The sensitivity of outstanding natural features, geological sites and landscapes to the adverse effects of inappropriate subdivision, use and development.*
- *The conflict between private land use and the protection of landscapes for the benefit of the community.*

65. These same issues generally remain applicable and thus serve as a relevant basis for the revised objectives and policies within PC114. However, they do not fully reflect the RMA and RPS requirements for protection of such resources or the desirability of active management of identified areas. Additional outstanding natural feature and landscape issues also include:

- Inconsistent approaches to the identification and protection of outstanding natural features and landscapes at district level.
- The challenges in meeting responsibilities associated with the protection of outstanding natural features and landscapes, including potential costs faced by property owners and Council.

### 4.1 Inconsistent identification and protection

66. Section 2.8 of the separate section 32 report prepared for the RPS documents evidence for the issues associated with outstanding natural features and landscapes, including inconsistent identification and protection.
67. The strength of evidence for the risk to outstanding landscapes and natural features (and natural character) was assessed as moderate, largely because there has been very little monitoring of the changes that have occurred to these areas. It was also noted that a 2010 review by Boffa Miskell pointed to inconsistencies in the landscape assessments undertaken previously in the region and that these were now out of step with case law.
68. The protection of outstanding landscapes and natural features is a matter of national importance as in Section 6 of the RMA. The NZCPS also confers particular obligations on councils for these areas at both plan level and in regional policy statements. Legal

obligations aside, these areas also contribute significantly to Northland's (and Whangarei's) unique identity and sense of place and are valued as such by communities and individuals.

69. The ability to control land to give effect to the RMA for outstanding landscapes and natural features rests with district and regional councils and specific powers are conferred for this purpose. Overall, it was considered that if the issue was not addressed at RPS level, district and regional plans would likely take different approaches resulting in inconsistency, difficulties with integration and an increase in cross-boundary issues. Conversely addressing the identification and protection issues in the RPS, rather than independently by all four councils, was considered more efficient and likely to be more effective / fit for purpose Northland-wide including for the Whangarei district.
70. Accordingly, the RPS both maps identified outstanding natural features and landscapes and provides directive policies and methods for their protection. PC114 must give effect to those RPS provisions.

#### **4.2 Cost implications of landscape protection**

71. Outstanding natural features and outstanding landscapes are important in enabling people and communities within Whangarei district to provide for their social, economic and cultural well-being, for example, by way of tourism and recreation. However, a significant proportion of (past and present) identified outstanding natural features and landscapes within the Whangarei district occur on private land. For example, the newly mapped ONLs occur within all or part of a total of 1184 parcels (38,438ha). 807 of these parcels (68%) are privately owned land (20,206ha) although the proportion of this land which is suitable for use and development is not known. Many of the ONLs cover steep land which is unsuitable for development.
72. It is primarily because of private land ownership issues that the management and use of outstanding natural features and landscapes has been repeatedly debated in RMA processes (e.g. consent application processing, plan change preparation) and non-RMA strategies and documents (e.g. long term plans).
73. Challenges facing owners of private properties and Council include costs associated with funding of outstanding natural feature and landscape protection. Given the mandatory directives within the RPS, this section of this report focuses primarily on statutory plan change and resource consent cost implications.
74. Funding and resources associated with landscape protection at local authority level (particularly for identification and assessment of potential areas for inclusion in district plan maps and/or schedules) include staff costs, expert landscape and geological science advice, research, and possible funding of non-regulatory initiatives for affected landowners (such as incentives or rates relief).

#### 4.2.1 Research and assessment costs

75. Research and assessment costs associated with identification of outstanding natural features and landscapes can form a large proportion of any landscape budget, particularly where a proactive approach is adopted. In this case, the costs of the assessment, identification and mapping processes were all borne by the NRC. The 'identification' costs associated with PC114 are therefore limited to importing the relevant mapped information into the WDP via the WDC Geographic Information System (GIS).

#### 4.2.2 Current landscape protection funding

76. There is no current dedicated funding or other resourcing, other than staff input, within the WDC Long Term Plan (LTP) to meet Council's WDP outstanding natural feature and landscape protection requirements. Reliance is instead placed on regulatory (resource consenting and monitoring) processes.

77. Owners of properties containing or enclosed within outstanding natural features or landscapes within Whangarei district are generally responsible for meeting the costs of resource consent applications affecting their properties. However, s36 (5) of the RMA does allow for a local authority '*in any particular case and in its absolute discretion*' to remit the whole or any part of any charge of the kind payable under s36.

78. There is no reference in Council's current Fees and Charges document to the waiving of applicants' costs associated with landscape protection-related resource consent applications. Neither is there provision within the Council's Rates Remission and Postponement Policies for rates relief for covenanted land within outstanding natural features or landscapes.

#### 4.2.3 Non-regulatory methods for supporting landscape protection

79. RPS Method 4.7.5 advocates the use of non-regulatory mechanisms, with 7 possible options listed for outstanding natural features and landscapes:

- a. *Funding assistance for restoration projects (for example, the environment fund);*
- b. *Purchase of land (for example, use of development contributions);*
- c. *Development / design guidelines;*
- d. *Rates relief;*
- e. *Education and advice;*
- f. *Assistance with investigations for heritage protection orders or marine protection initiatives; and*
- g. *Waiver or reduction of processing fees.*

80. The associated Explanation states: *'This policy identifies other means for councils to achieve the objectives for outstanding natural features and landscapes, natural character and heritage features but does not direct their use as these are Local Government Act 2002 decisions. Particular consideration should be given to these measures where development pressure is low and development incentives are likely to be less effective.'* (Emphasis added).
81. While the use of non-statutory instruments is advocated at all levels as methods for supporting outstanding natural feature or landscape protection, the current methods aligned to landscape policies emphasize the regulatory approach. There is however (in WDP 16.5.3) reference to additional 'information, education and advocacy' methods including:
- Liaison with the NRC
  - Liaison with the Department of Conservation
  - Liaison with iwi/hapu in relation to landscape issues of concern to tangata whenua
  - Educate and inform resource users about the landscape areas of the district
  - Provide guidelines on harmonious development in landscape areas.
82. Notwithstanding this, as noted above, there is no express funding for non-regulatory measures under the current LTP.

## **5 Purpose and Description of PC114**

83. The purposes of PC114 are to:
- (a) review and update the WDP natural feature and landscape protection provisions in response to changes in national and regional policy since 2007; and,
  - (b) consolidate all reviewed landscape provisions within one district plan chapter, based on a policy-driven format consistent with current WDC practice.
84. The focus of PC114 is primarily on the identification and protection of outstanding natural features and landscapes within the district. However, it is noted that related cultural heritage provisions could be integrated into the chapter on finalisation of draft PC100 (Sites of Significance to Maori).
85. The review of the landscape and natural feature provisions has been strongly influenced by the new ONF and ONL mapping and related policy provisions of the RPS.

### **5.1 What Does PC114 Propose?**

86. In summary, PC114 proposes:
- The amalgamation of the previously separate policy and rules chapters and related Appendix 13 into one new standalone chapter.

- Deletion of current references to natural character, geological sites, and lower order landscapes to focus solely on ‘outstanding’ natural features and landscapes.
- Deletion of current WDP objectives 16.3.1 (preservation of coastal natural character) and 16.3.4 (preservation of natural features significant to Maori).
- Insertion of four new proposed objectives expanding on current WDP objectives 16.3.2 (protection of ONFs and ONLs) and 16.3.3 (maintenance of values of ONFs and ONLs).
- Insertion of two new objectives to give express recognition to (a) existing landuse and development within these areas and (b) the particular circumstances surrounding undeveloped Maori land within ONLs.
- Inclusion of a new proposed policy to clearly bring the RPS mapping information into the WDP (recorded characteristics and qualities, and mapped location and extent, of ONFs and ONLs)
- A general retention of the existing WDP policy section structure but with:
  - a clear differentiation between coastal and non-coastal ONFs and ONLs, with a stronger protection focus within the coastal area; and
  - strengthened policies emphasizing avoidance of adverse effects on identified ONFs and ONLs.
- Deletion of existing WDP Schedule 16A (*Criteria for Assessing Landscapes*) in favour of direct reference to landscape assessment worksheets for identified ONLs as external reference documents.
- An expanded Schedule of ONFs replacing existing WDP Schedule 16B (*Outstanding Natural Features including Geological Sites*) and WDP Appendix 13 (*Outstanding Natural Features and Geological Sites in Whangarei District*).
- Separation of scheduled ONFs into categories based on their relative vulnerability to modification.
- Inclusion of thirty-two additional mapped ONFs in Whangarei district which are not currently protected by the WDP. Most are only small discrete features but larger new ONFs include:
  - Parihaka, Parakiore and Onoke volcanic cones
  - Paranui, Wairua and Whangarei waterfall areas
  - Bream Head, Manaia and Hen Island pinnacles

- Inclusion in WDP Chapter 2 Meanings of Words a proposed definition of 'land preparation'.
  - Inclusion of the following in WDP Chapter 3 Reference Documents:
    - *WDC. 2016. Guidelines for Managing Change in Outstanding Natural Landscapes.*
    - *Littoralis Landscape Architecture & Simon Cocker Landscape Architecture. 2014. Northland Regional Council Northland Mapping Project: Outstanding Natural Landscapes – Mapping Methodology Report. Prepared for and held by Northland Regional Council.*
  - Consequential amendments to various other WDP chapters to ensure alignment with PC114.
87. Alternatives to the above proposed approach to the review of WDP landscape provisions are evaluated in Section 6 of this report.

## 5.2 Pre-consultation feedback

88. Following Council approval of a pre-notification draft of PC114 on 8 March 2016, a copy of the draft was circulated to over 2000 potentially affected landowners along with an invitation for a site visit to discuss it. Over 90 landowners were subsequently visited or otherwise met with between 13 April and 3 June 2016. Written comments were received from 82 individuals and organisations. These were used to refine the draft PC114 provisions, particularly the rules, to produce the Proposed PC114.
89. Of the written comments received 17 (21%) were in clearly support of PC114, 25 (30%) were in opposition and 40 (49%) did not specify a position. Many of those who were in opposition were challenging specific rules within PC114 as they affected their property rather than challenging the plan change as a whole.
90. The main general concerns raised were (in order of number of comments made):
- Lack of provision for papakainga and the special circumstances surrounding Maori Land which leads much of it to currently be in a largely natural state.
  - Loss of private property rights.
  - Lack of any provision for compensation for restrictions of private land use for something of public benefit.
  - Negative effects of land resale values.
  - Lack of sufficient consultation and/or time to digest and respond the draft provisions.

91. Specific concerns were also raised around the potential effects of the draft rules on land use and/or development. These included:
- The permitted activity thresholds for buildings, earthworks and vegetation clearance.
  - The non-complying activity status for landuse and subdivision within the Coastal Area.
  - The proposal that all non-complying activities within the Coastal Area be publically notified.
  - The lack of allowance for building on previously approved building platforms or within Living 3 Environment areas.
  - The lack of clear provision for local road and reserve maintenance and repair.
  - The restriction on land preparation as it applies to the Whatitiri ONF.
  - Confusion over proposed rules for forestry harvesting and replanting.
92. As a result of the consultation undertaken and the written comments received the following changes are recommended prior to public notification:
1. Inclusion of express provision for papakainga development on Maori land including a new objective (LAN.1.2.6), policy (LAN.1.3.12) and rules (LAN.3.3.1 & 3.4.3).
  2. Inclusion of reference to community facilities in Policy LAN.1.3.9 and associated permitted activity rules for the maintenance and minor upgrading of these facilities (LAN.3.1.2.4 and 3.1.3(c)). Community facilities is a term used in the Local Government Act and includes local reserves and roading.
  3. Expansion of Policy LAN.1.3.16 to provide detail on regulatory incentives and non-regulatory methods for promoting landowner management of ONF and ONLs.
  4. Amendment to the permitted activity rule for earthworks (LAN.3.1.3.1) to apply to either earthworks below specified area and volume limits or associated with specified activities (previously had to be both).
  5. Inclusion of the provision and maintenance of walking or cycling tracks less than 3m wide amongst the specified activities in the amended permitted activity rule LAN.3.1.3.1.
  6. New rules allowing earthworks, vegetation clearance and building on an approved building platform as a controlled activity (LAN.3.2).
  7. Amendment of the permitted activity area threshold for indigenous vegetation clearance in Rule 3.1.4.1 to match that for earthworks (150m<sup>2</sup>).

8. New rule allowing the construction of a residential unit as a discretionary activity within the Coastal Area (previously non-complying) if this is on undeveloped land or within the Living 3 Environment (LAN.3.4.2).
  9. Inclusion of height limit threshold for buildings and structure on ONFs outside the Coastal Area (LAN.5 Table 1).
  10. Allowance of fencing for protection of an ONF as a permitted activity (LAN.5 Tables 1 and 2).
  11. Deletion of the land preparation area limit and amendment to rule to only apply to volcanic cones (LAN.5 Table 1).
  12. Shift of Hikurangi and Parakiore volcanic cones to ONF Category A (Large Landforms). (LAN.8 ONF Schedule)
  13. Shift of two small soda springs from ONF Category C (Dynamic Landforms and Features) to Category D (Smaller, More Fragile Landforms). (LAN.8 ONF Schedule)
93. A presentation was also given to Te Huinga, an established group of hapu representatives from within the Whangarei District, on 16 May 2016. The primary issue raised was the perceived conflict between PC114 restricting development of affected Maori land and the separate Plan Change 94B that seeks to facilitate papakainga development on Maori land.

## **6 Section 32 evaluation**

94. Section 32 of the RMA<sup>1</sup> requires an evaluation of alternatives, benefits and costs undertaken prior to public notification, and a further evaluation by the local authority before making a decision on the plan change. Both evaluations are required to examine the appropriateness of each objective in achieving the statutory purpose of the RMA, and the efficiency and effectiveness of policies, rules or other methods in achieving these objectives.
95. The following discussion addresses each of the requirements applicable to section 32.

### **6.1 Objectives Evaluation – s32(1)(a)**

96. As noted above, the WDP currently contains four objectives in WDP Chapter 16 relating to landscape.

*The preservation of the natural character of the coastal environment.*

*The protection of outstanding landscapes and natural features, including geological sites from inappropriate subdivision, use and development.*

*The amenity values of the District's outstanding natural features and landscapes, including geological sites are maintained and, where practicable, enhanced.*

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<sup>1</sup> Refer details in section 7 of this report.

*The preservation of natural features significant to Maori and their culture and traditions, with their ancestral lands, water, sites, waahi tapu and other taonga.*

97. PC114 has identified the following five objectives proposed to replace the current objectives:

<b>OVERARCHING LANDSCAPE OBJECTIVES PROPOSED FOR PC114:</b>	
1.	To identify Outstanding Natural Features and Outstanding Natural Landscapes within the Whangarei district.
2.	To protect the characteristics and qualities of identified Outstanding Natural Features and Outstanding Natural Landscapes from inappropriate subdivision, use and development.
3.	To provide greatest protection for Outstanding Natural Features and Outstanding Natural Landscapes within the coastal environment.
4.	To promote the conservation, enhancement and rehabilitation of Outstanding Natural Features and Outstanding Natural Landscapes.
5.	To recognise existing landuse and development, including regionally significant infrastructure, form part of the characteristics and qualities of the environment where they are located in or on Outstanding Natural Features and Outstanding Natural Landscapes.
6.	To recognise that some Outstanding Natural Landscapes contain undeveloped Māori Land and make allowance for the special relationship of Māori to this ancestral land.

98. Themes reflected in the above objectives relate to:

- Clear identification of outstanding natural features and landscapes in the district and of the characteristics and qualities that make them individually outstanding and that require protection.
- The more stringent protection requirements for ONFs and ONLs within the coastal environment as set out in the NZCPS and RPS.
- Promoting regulatory and non-regulatory means of restoring and enhancing ONLs within the district.
- Recognition of the known presence of, and the on-going nature and requirements for, existing uses and developments within mapped ONFs and ONLs.
- Recognising and providing for RMA s6(e) in the context of regulating Maori land development within ONLs.

99. The proposed objectives should be considered in conjunction with each other as they collectively contribute towards meeting the sustainable management purpose of the RMA and other relevant Part 2 requirements, as set out in Part Two of this report.

100. The proposed suite of objectives identified above is considered appropriate in achieving the sustainable management purpose of the RMA (section 5) for the following reasons:

- ‘*Providing for people and communities*’ (**Section 5(2)**) requires consideration of the needs of both groupings, including owners of properties within the footprint of identified ONFs and ONLs, those living adjacent to these mapped areas, and the community in general. While ‘community’ is broadly defined in the LTP as the ‘people of the district’, the term can also apply to a wide range of differing communities of interest.
- The protection of outstanding natural features and landscapes provides for the needs of people and communities in terms of social, economic and cultural well-being in that:
  - protecting the characteristics and qualities of these areas maintains the unique character and identity of the Whangarei district for the local community and visitors alike;
  - economic benefits from tourism draw heavily on the special natural environmental qualities the district has to offer, including its striking natural features and landscapes, particularly in the coastal environment; and
  - many of the identified outstanding natural features and landscapes have cultural significance to Maori.
- Providing for health and safety (Section 5(2)) is not a directly relevant consideration for outstanding natural feature and landscape protection.
- ‘*Future generations*’, as referred to in **Section 5(2)(a)**, has been determined by case law to constitute a minimum of two generations, (i.e. beyond the statutory 10-year period for a district plan), with scope for further flexibility upwards of this. Given the significant contribution of the identified outstanding natural features and landscapes to the unique and special natural qualities (‘sense of place’) of Whangarei district, long-term protection of such resources is central to the ability of current and future generations to continue to appreciate and enjoy them.
- The objectives collectively aim to protect the identified characteristics and qualities of outstanding natural features and landscapes from the adverse effects of subdivision, use and development and to encourage the restoration and/or enhancement of those characteristics and qualities. As these are largely (though not exclusively) natural, protecting them will contribute to safeguarding the life-supporting capacity of the air, water, soil and ecosystems (**Section 5(2)(b)**) that exists within the relevant natural feature or landscape boundary and potentially beyond.
- Restricting inappropriate subdivision, use and development of outstanding natural features and landscapes in accordance with **Section 5(2)(c)** will assist in ensuring that adverse effects on these resources are appropriately avoided, remedied or mitigated.

101. The proposed objectives appropriately recognise and provide for the matters of national importance set out in **Section 6(b)** of the RMA because the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development is the prime focus of the proposed objectives.
102. As noted above, proposed Objective 6 specifically recognises and provides for the matter of national importance set out in **Section 6(e)** of the RMA - that is the relationship of Maori and their culture and traditions to their ancestral land. Much ancestral Maori land within identified outstanding landscape areas is undeveloped due to administrative, logistical and financial difficulties imposed by, or as a direct consequence of, Te Ture Whenua Maori Act 1993. However, because of the ancestral relationship these are often the only areas where the hapu or whanau concerned can develop papakainga.
103. The objectives give particular regard to **Sections 7(c), (f) and (g)** of the RMA because:
- Amenity values associated with the special visual characteristics and qualities of the district's outstanding natural features and landscapes will be maintained through protection of these areas from inappropriate subdivision, use and development.
  - For similar reasons, protecting, and where possible enhancing, the characteristics and qualities of outstanding natural features and landscapes also helps maintain and enhance the local environment in which these occur.
  - The identification and protection of outstanding natural features and landscapes (particularly from destruction, damage and significant modification) recognises the finite (and irreplaceable) nature of these resources and their vulnerability to human modification.
104. In terms of **Section 8** of the RMA (Treaty of Waitangi), the proposed objectives take into account the principles of the Treaty of Waitangi through the fact that some of the ONFs and ONLs to be protected are also likely to be sites of significance to Maori. It is anticipated that additional objectives and policies relevant to the cultural dimensions of natural feature and landscape protection will be incorporated into the WDP via proposed PC100 SSM, taking into account the consultation that has taken place with iwi over the past 5 years.
105. The overarching proposed Objectives and their links to the proposed Policies and Methods are indicated in the following table:

<b>TABLE 1: PROPOSED OVERARCHING OBJECTIVES AND LINKS TO PROPOSED PROVISIONS</b>		
<b>Proposed Objectives (summarized)</b>	<b>Proposed Policies</b>	<b>Proposed Rules/Methods</b>
District's ONFs and ONLs are identified. <b>[LAN.1.2.1]</b>	<b>Identification</b> LAN.1.3.1	LAN.8 Schedule of ONFs WDP resource area maps
The characteristics and qualities of District's ONFs and ONLs are protected. <b>[LAN.1.2.2]</b>	<b>Protection (ONFs and ONLs)</b> LAN.1.3.2 LAN.1.3.3 LAN.1.3.6 LAN.1.3.9 LAN.1.3.10 LAN.1.3.12 <b>Protection (ONFs only)</b> LAN.1.3.7 <b>Protection (ONLs only)</b> LAN.1.3.5 LAN.1.3.8 LAN.1.3.11	<b><u>ONFs and ONLs</u></b> LAN.2 Eligibility and Notification Rules <b><u>ONLs</u></b> <b>Landuse</b> LAN.3 Rules LAN.3.5 Assessment Criteria <b>Subdivision</b> LAN.4 Rules LAN.4.3 Assessment Criteria <b><u>ONFs</u></b> <b>Landuse</b> LAN.5 Tables 1 & 2 Rules LAN.5.4 Matters of Discretion LAN.5.5 Assessment Criteria <b>Subdivision</b> LAN.6 Rules LAN.6.3 Assessment Criteria LAN.8 Schedule of ONFs
Greatest protection is provided to ONFs and ONLs within the coastal environment <b>[LAN.1.2.3]</b>	LAN.1.3.3	<b><u>ONLs</u></b> <b>Landuse</b> LAN.3.4 Rules <b>Subdivision</b> LAN.4.2 Rules <b><u>ONFs</u></b> <b>Landuse</b> LAN.5 Table 2 Rules <b>Subdivision</b> LAN.6.2 Rules
Promotion of conservation, rehabilitation and enhancement of ONFs and ONLs. <b>[LAN.1.2.4]</b>	LAN1.3.14 LAN1.3.15 LAN1.3.16	LAN.7.2 (k) –(m) Assessment Criteria
Recognition of existing landuse and development within ONFs and ONLs. <b>[LAN.1.2.5]</b>	LAN1.3.17 LAN1.3.18	<b><u>ONLs</u></b> <b>Landuse</b> LAN.3.1.2.3 Rule LAN.3.1.2.4 Rule LAN.3.1.3.1(c) Rule LAN.3.1.4.1 Rule <b><u>ONFs</u></b> <b>Landuse</b> LAN.5 Tables 1 & 2 Rules
Recognition of the special relationship of Maori to ancestral land within ONLs. <b>[LAN.1.2.6]</b>	LAN1.3.19	<b><u>ONLs</u></b> <b>Landuse</b> LAN.3.3.2 Rule LAN.3.4.3 Rule

## 6.2 Identification of other reasonably practical options - s32(1)(b)(i)

106. In considering the most appropriate way to achieve the proposed objectives identified above, the following were considered reasonably practical options for the proposed scope of PC114.

**Option1:** Status quo/ no change – simply retaining and re-notifying WDP landscape provisions.

**Option 2:** Amending and updating existing WDP landscape provisions in line with new national and regional policy direction.

107. The two options are evaluated below.

<b>TABLE 2: EVALUATION OF OTHER REASONABLY PRACTICAL OPTIONS</b>	
Option 1: Status quo/no change <b>Leaving the WDP landscape provisions as they are and simply re-notifying them for public submissions.</b>	
<b>Benefits</b>	<ul style="list-style-type: none"> <li>• Some reduction in plan change costs likely due to reduced complexity and lack of need for professional input.</li> <li>• Potential avoidance or minimisation of adverse reaction from affected landowners.</li> </ul>
<b>Costs</b>	<ul style="list-style-type: none"> <li>• Fails to recognise Council's statutory obligations under sections 6 &amp; 31 RMA.</li> <li>• Fails to recognise and give effect to NZCPS Policy 15.</li> <li>• Fails to recognise and give effect to the RPS.</li> <li>• A roll-over of existing provisions could be perceived as a lack of interest by Council in protecting outstanding natural landscapes and natural features.</li> <li>• Costs associated with resource consent applications.</li> </ul>
<b>Efficiency</b>	<ul style="list-style-type: none"> <li>• Retains existing objectives/policies/methods approach rather than new policy-led approach adopted by Council in 2011.</li> <li>• Creates uncertainty for applicants within ONF and ONL areas.</li> <li>• Vulnerable to challenge in the Environment Court</li> </ul>
<b>Effectiveness</b>	<ul style="list-style-type: none"> <li>• Does not take into account changes in national, regional or district policies in NZCPS 2010, RPS 2016 and WDC Growth Strategy 30/50.</li> <li>• Is unlikely to achieve the stated objectives.</li> <li>• Relies on out-dated assessment and mapping information.</li> <li>• Council monitoring of subdivision and landuse activity indicates that the current policy regulatory regime may not be effective in protecting identified areas.</li> </ul>
<b>Opportunities for economic growth and employment</b>	Some economic benefit in that development is subject to less restriction and there is more flexibility as to the level of protection to be provided.
<b>Risk of acting/not acting if uncertain or insufficient information</b>	<ul style="list-style-type: none"> <li>• There is sufficient information available to initiate a more detailed review of WDP provisions at this time.</li> <li>• Risks to Council if it fails to give effect to the NZCPS and RPS policies.</li> </ul>
<b>Appropriateness</b>	This option is inappropriate as it does not align with changes in national, regional and district policies; is out-dated in terms of latest information and format; and does not adopt Council's new policy-led approach to plan change drafting.
<b>Option 2: PC114 as proposed</b>	
Amending and updating WDP landscape provisions based on new information and policy direction. (This option includes the changes summarised in section 5 of this report.)	
<ul style="list-style-type: none"> <li>• The general intent of the WDP provisions retained, but updated as appropriate to reflect more</li> </ul>	

<p>restrictive national and regional policy direction since 2007.</p> <ul style="list-style-type: none"> <li>• Maps and schedule of outstanding natural features and landscapes updated in line with regional mapping project outputs and RPS.</li> <li>• Adopts a plan format consistent with revised Council practice, while allowing for future integration of additional provisions resulting from PC100.</li> </ul>	
<b>Benefits</b>	<ul style="list-style-type: none"> <li>• Updates plan provisions in response to changes in national and regional policy (NZCPS and RPS).</li> <li>• Provides opportunity for streamlining and simplifying the WDP in line with expectations and outcomes of the rolling review process, including use of policy-led approach.</li> <li>• Amends policy and rule framework to provide greater certainty of long-term protection for identified ONFs and ONLs.</li> <li>• More clarity and certainty for landowners about what activities are considered appropriate/inappropriate.</li> <li>• Consistent with Council functions in terms of s31 RMA.</li> <li>• Amends maps and schedule to give recognition to latest information available.</li> </ul>
<b>Costs</b>	<ul style="list-style-type: none"> <li>• Limited need for in-house or contracted research costs as ONF and ONL assessment and identification costs (including consultation) covered by regional mapping project.</li> <li>• Costs to Council minimal in short-term though longer term costs for monitoring and enforcement will increase.</li> <li>• Additional plan complexity required by the need to distinguish between coastal and non-coastal ONFs and ONLs</li> <li>• Costs to applicants, including landowners, due to stronger constraints on landuse and development activities affecting outstanding natural features and landscapes, especially within the Coastal Area.</li> </ul>
<b>Efficiency</b>	Option 2 represents an efficient response to the protection and management of outstanding natural features and landscapes in that it is legally defensible and provides regulation consistent with the RMA, NZCPS and RPS.
<b>Effectiveness</b>	Option 2 emphasises the need for protection of outstanding natural features and landscapes as a matter of national importance. In addition, the approach incorporates a number of refinements aimed at improving effectiveness and 'workability' of the WDP provisions, e.g. clarity about the specific characteristics and qualities of ONFs and ONLs to be protected and how these are to be taken into account in consent applications.
<b>Opportunities for economic growth and employment</b>	Option 2 has some negative impact in terms of economic growth and employment as a significant percentage of the identified ONFs and ONLs are in private ownership and the protection-oriented regime will restrict some development opportunities. However, ONF and ONL benefits to tourism will be maintained and so help provide opportunities for continued economic growth in this area.
<b>Risk of acting/not acting if uncertain or insufficient information</b>	There is sufficient robust information available to act as proposed.
<b>Appropriateness</b>	Option 2 gives effect to relevant national and regional policy and so is appropriate.

### 6.2.1 Conclusion

108. Of the above options, **Option 1** is considered inappropriate since it does not align with recent changes in national and regional policies; is out-dated in terms of latest relevant information; and does not adopt Council's current policy-led approach to plan change formulation.

109. **Option 2** is based around giving effect to NZCPS and RPS policies. It provides greater clarity and certainty and therefore better protection of outstanding natural features and landscapes.

110. In light of the strong policy direction in the NZCPS and RPS and the statutory requirement to give effect to those policies, **Option 2** represents the most appropriate way forward.

### **6.3 Assessment of Policies, Rules and other Methods - s32(1)(b)(ii)**

111. The proposed objectives have been assessed as the most appropriate way of achieving the purpose of the RMA. The following section considers whether, having regard to their efficiency and effectiveness, the proposed provisions are the most appropriate way to achieve the objectives. Some policies relate to more than one objective.

112. Proposed PC114 provisions largely comprise policies and rules. Related policy/regulatory provisions can be grouped together as follows:

- Identifying and scheduling outstanding natural features and landscapes.
- Protection of outstanding natural features and landscapes from adverse effects of activities.
- Promoting conservation and rehabilitation of outstanding natural features and landscapes.
- Provision for existing use and development within outstanding natural features and landscapes.
- Provision for papakainga development on Maori land within outstanding natural features and landscapes.

113. The first three policy groupings are discussed and assessed separately below. Because of its modifying influence on the protection policies, the policy provisions for existing use and development and papakainga development within outstanding natural features and landscapes are discussed in conjunction with the protective policies.

114. The listed permitted, controlled, restricted discretionary, discretionary and non-complying activities in PC114 constitute the rules framework within outstanding natural features and landscapes. The notification rules represent the basis for determining whether a proposal requires notification.

115. The following sections provide an assessment and summary of the reasons for deciding on the (grouped) policies and rule provisions. The assessment of their efficiency and effectiveness is based on the assessment of costs and benefits, risk and any other relevant matter identified.

#### **6.3.1 Identifying Outstanding Natural Features and Landscapes**

116. The protection of ONFs and ONLs from inappropriate subdivision, use, and development is a matter of national importance under section 6 of the RMA. Central to the protection of

these resources is the process of identifying and scheduling (listing) relevant details of these within the WDP, together with annotated maps showing their individual locations and extent.

117. The following table lists the provisions (policies, rules and other methods) proposed by PC114 in terms of identifying and scheduling outstanding natural features and landscapes.

Applicable Objective
LAN.1.2.1
Applicable Policies
LAN.1.3.1
Applicable Rules and Other Methods
LAN.8 Schedule of ONFs Resource Area maps ONL landscape assessment worksheets

### Discussion

118. The criteria for assessing and identifying outstanding natural features and landscapes were developed for the recent regional mapping project for the NRC RPS review. These were based on best practice and, where applicable, relevant caselaw. A resultant output from that project was an extended, up-to-date list of mapped outstanding natural features and landscapes within Whangarei district. An ancillary part of the mapping process was the documentation of the particular characteristics and qualities of each individual ONF and ONL.
119. The primary methods of giving effect to the above policy provisions are the proposed amendments to the WDP Resource Maps, proposed Schedule LAN.8 (outstanding natural features) and, by way of reference as an external document, landscape assessment worksheets.
120. PC114 proposes to transfer the current WDP Appendix 13 to Chapter LAN, and to update its contents through the addition of newly mapped ONFs not currently scheduled for protection under the WDP.
121. Proposed Policy LAN.1.3.1 stipulates that the location and extent of existing and newly mapped (in the RPS) outstanding natural features and landscapes will be identified on the WDP maps.
122. Because of the regional mapping project, no comprehensive research has been necessary for Council to update the Outstanding Natural Features Schedule (currently WDP Appendix 13) and WDP Resource Maps in connection with PC114.
123. Amendments to the structure and contents of the current WDP Schedule (Appendix 13) proposed by PC114 can be seen in **Appendix 4**.

### Alternatives

124. The option of ‘rolling over’ the WDP Schedule and Resource Maps was discounted since this would fail to take into account the new RPS information available and also fail to give effect to the relevant policies within the NZCPS and RPS.

<b>TABLE 3: EVALUATION OF IDENTIFICATION AND SCHEDULING/MAPPING PROVISIONS</b>	
<b>Matter</b>	<b>Comment</b>
<b>Summary of costs</b>	<p>RPS Requirement to use NRC regional mapping project outputs means a significant reduction in potential costs and resources to WDC (e.g. engagement of specialist expertise) since research costs have already been met by NRC.</p> <p>Future increased costs to WDC are anticipated in monitoring effects of activities on characteristics and qualities of additional identified ONFs and ONLs.</p> <p>Costs to owners of properties within or containing new identified ONFs and ONLs associated with resource consent fees and loss of development potential in some cases. However, costs are tempered by the fact that many of the areas identified as outstanding are unsuited to development, such as very steep areas or difficult terrain.</p>
<b>Summary of benefits</b>	<p>Assessment and mapping undertaken separately by NRC represents a transparent and regionally consistent process in line with current best practice within NZ.</p> <p>Clarity for WDP users and landowners as to where the new rules apply and what specific characteristics and qualities are to be taken into consideration in preparing and assessing consent applications.</p> <p>Gives effect to RPS.</p>
<b>Effectiveness</b>	<p>The use of maps and scheduling to identify important resources and their key characteristics is an established method within NZ.</p> <p>Schedule and WDP maps provide vital sources of information on the location and extent of features and landscapes of particular importance to district.</p>
<b>Efficiency</b>	<p>Considerable efficiency gained by use of outputs from the regional mapping project which used resources, expertise and advice separately paid for by NRC. Also consultation with affected landowners undertaken as part of that mapping project will lend support to further consultation for PC114.</p>
<b>Risks</b>	<p>Statutory risks of identification are negligible given the thorough process undertaken for the regional mapping project, including active consultation with affected landowners.</p>

### Conclusion

125. In conclusion, the identification of outstanding natural features and landscapes as part of PC114 is both required by the overarching RPS and an efficient and effective way to address the requirements of RMA s6(b) and district level.

### 6.3.2 Protection of Outstanding Natural Features and Landscapes from adverse effects

126. For the purposes of section 32, provisions relating to the protection of outstanding natural features and landscapes are addressed under the following headings:
- (a) General protection policies (proposed Policies LAN.1.3.2 – 1.3.7)
  - (b) Activity-specific policies (proposed Policies LAN.1.3.8 – 1.3.16) and rules (proposed Rules LAN.3, LAN.4, LAN.5 Tables 1 and 2, and LAN.6)

- (c) Policies providing for existing land use and development (proposed policies LAN.1.3.17 – 18) and rules (LAN.3.1.2.3, LAN.3.1.3.1(c), LAN.3.1.4, LAN.5 Tables 1 and 2)
- (d) Policy providing for papakainga development (proposed policy LAN.1.3.19) and rules (LAN.3.3.1 and LAN.3.4.3)

127. PC114 Objectives LAN.1.2.2 and 1.2.3 and Policies LAN.1.3.2 – 1.3.7 reflect the protection-oriented provisions of RMA section 6(b), NZCPS Policy 15 and the RPS toward outstanding natural features and landscape. This includes the weighted hierarchy of protection between coastal and non-coastal ONFs and ONLs set out within RPS Policy 4.6.1, under which adverse effects are to avoided within coastal ONFs and ONLs whereas only significant adverse effects are required to be avoided in non-coastal (rural and urban) areas. It also includes express reference to the particular characteristics and qualities of outstanding natural features and landscapes to be protected.

**General Protection Policies**

<b>Applicable Objectives</b>
LAN.1.2.2 LAN.1.2.3
<b>Applicable Policies</b>
LAN.1.3.2 – 1.3.7

**Discussion**

- 128. These overarching policies provide baseline guidance on what activities are likely to be considered inappropriate within ONFs and ONLs. They also provide a framework for assessment of applications under the discretionary and non-complying rules.
- 129. In order to provide clarity to WDP users and to meet Council’s statutory requirements, proposed Policy LAN.1.3.2 provides for the inclusion of information about the characteristics and qualities of individual outstanding natural features and landscapes so that protection efforts can be specifically targeted toward those collective natural elements that make the feature or landscape ‘outstanding’.
- 130. Proposed Policy LAN.1.3.3 brings the established NZCPS and RPS protection hierarchy for ONFs and ONLS within the coastal environment into the WDP. Following the decision of the Supreme Court in *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38, implementation of NZCPS Policy 15 requires a very high threshold of avoidance of adverse effects on ONFs and ONLs within the coastal environment, except where those effects are minor or transitory. This is reflected in RPS Policy 4.6.1.
- 131. However, RPS Policy 4.6.1 also allows for a more moderate protection regime within non-coastal areas. Outside of the coastal environment only significant adverse effects on ONFs

and ONLs must be avoided whereas lower order effects may be either avoided, remedied or mitigated depending on the circumstances. Proposed Policy LAN.1.3.4 follows this direction meaning there is potentially greater scope for use and development within non-coastal ONFs and ONLs.

132. Having necessarily made a distinction between adverse effects management thresholds within coastal and non-coastal ONFs and ONLs, proposed Policy LAN.1.3.6 provides guidance on assessing the scale and significance of adverse effects, i.e. determining whether effects are 'significant' or not or 'minor or transitory' or not. This is considered necessary to the effective implementation of the preceding general protection policies and the later activity-specific policies.
133. Proposed Policy LAN.1.3.5 stipulates that the management emphasis within ONLs is on avoidance of adverse effects of subdivision, use and development "*to the greatest extent practicable*" including by ensuring activities are integrated with the recorded characteristics and qualities of individual ONLs. Similarly, proposed Policy LAN.1.3.7 makes clear that management of effects of earthworks and built development is the primary focus within ONFs and that the effects of these activities must not reduce the main defining characteristics of features, namely overall form, integrity and areal extent. Without these general baseline policy provisions, protection of ONFs and ONLs is considered unlikely to be successful long term.

#### Alternatives

134. The principal alternative policy regime is to have a consistent protection approach toward ONFs and ONLs irrespective of whether these are coastal or non-coastal. This option has the inherent difficulty in that:
  - (a) application of more rigorous protection policies to non-coastal ONF and ONLs would be inconsistent with the RPS; and
  - (b) application of less rigorous protection policies to ONFs and ONLs within coastal areas would be inconsistent with caselaw, the NZCPS and the RPS.
135. In regard to (a), given that most of the non-coastal ONLs, if not ONFs, encompass many hectares of private land and contain varying levels of existing subdivision, use and development, it would also be difficult to justify what would essentially be a call to a halt to such further activity. Such an approach would likely be challenged under RMA s85 as rendering private land incapable of reasonable use.
136. In regard to (b), the requirements of the NZCPS and RPS are clear that adverse effects on outstanding natural features and landscapes are to be avoided (as distinct from the higher threshold of significant adverse effects). PC114 is required by the RMA to 'give effect to' these higher order national and regional policy documents.

<b>TABLE 4: EVALUATION OF GENERAL PROTECTION POLICY PROVISIONS</b>	
<b>Matter</b>	<b>Comment</b>
<b>Summary of costs</b>	<p>Future increased costs to WDC anticipated in monitoring effects of activities on characteristics and qualities of the identified ONFs and ONLs.</p> <p>Costs to owners of properties within or containing identified ONFs and ONLs associated with resource consent application fees and possible loss of development potential in some cases.</p> <p>Private landowners largely bear the cost of attaining the public benefit from protecting ONFs and ONLs.</p> <p>Possibility of WDC financial assistance for landowners for feature or landscape protection is subject to processes beyond the WDP (e.g. Annual &amp; Long Term Plans).</p>
<b>Summary of benefits</b>	<p>Gives effect to the RMA, NZCPS and RPS and consequent limited likelihood of successful legal challenge.</p> <p>Provides a clear policy direction for WDP users, landowners and others on what is likely to be considered appropriate within ONFs and ONLs within the district.</p> <p>Allows for development provided it is sensitive to the characteristics and qualities of ONFs and ONLs.</p> <p>Benefits to tourism through inter-generational protection of attractive and sometimes unique outstanding natural features and landscapes.</p> <p>Some landowners may experience gain in land values as a result of areas being protected and/or having views over those areas maintained.</p>
<b>Effectiveness</b>	The policy package will ensure that the characteristics and qualities of ONFs and ONLs are protected. It will therefore be effective as it meets the statutory requirements of the RMA, NZCPS and RPS.
<b>Efficiency</b>	Considerable efficiency gained in achieving the relevant objectives by having clear protection policy direction and guidance rather than using a more flexible regime (which would not be consistent with the NZCPS or RPS) that relies on the evaluation of the appropriateness of activities on a case by case basis.
<b>Risks</b>	Statutory compliance risks are low. However, the larger number and/or increased size of identified ONFs and ONLs is likely to disadvantage some affected landowners.

### Conclusion

137. Given the statutory requirement to give effect to the NZCPS and RPS and the robust s32 evaluations already undertaken as part of developing those policy statements, the scope and focus of the general protection policies within PC114 are considered the most appropriate way to implement the relevant objectives.

### Activity-specific Protection Policies and Rules

<b>Applicable Objectives</b>
LAN.1.2.2 LAN.1.2.3
<b>Applicable Policies</b>
LAN.1.3.8 – 1.3.13
<b>Related controlled activity rules</b>
LAN.3.2.1 - 3.2.2

<b>Related discretionary activity rules</b>
LAN.3.4.1 – 3.4.2 LAN.4.1 LAN.5
<b>Related non-complying activity rules</b>
LAN.3.5.1 LAN.4.2 LAN.5
<b>Related assessment criteria</b>
LAN.7

### Discussion

138. This suite of proposed policies is designed to provide guidance on how specified activities are to be assessed and managed so as to be appropriate within ONFs and ONLs.
139. Proposed Policy LAN.1.3.8 provides guidance on the location and design of buildings and structures within ONLs so that these effectively blend in with characteristics and qualities of these areas. Some exception is made in proposed Policy LAN.1.3.9 for buildings and structures associated with existing or new regionally and locally significant infrastructure (roading, telecommunications towers, power transmission pylons and lines, parks and reserves, etc.) given the considerable public benefit arising from the use of such infrastructure.
140. Proposed policies LAN.1.3.10 – 1.3.12 address the potential adverse effects of earthworks. Proposed Policy LAN.1.3.10 makes it clear that large scale earthworks are an inappropriate activity within ONFs and ONLs. This is because significant adverse effects are considered likely to be inevitable. The activity must therefore be avoided within these special areas and directed elsewhere.
141. As with the policies for buildings and structures, proposed policies LAN.1.3.11 and 1.3.12 provide guidance on how the potential adverse visual effects of earthworks are to be avoided. Proposed Policy LAN.1.3.13 is, in part, ancillary to this purpose in recognising that retention of existing indigenous vegetation contributes to the avoidance or minimisation of soil erosion and accompanying visual effects.

### Rules

142. The protection policies are supported by permitted, controlled, discretionary and non-complying rules and associated assessment criteria.
143. The applicable rules for all the activities within ONLs generally make allowance for low level activity to be permitted. For those activities that will require consent these will generally be discretionary activities outside of the Coastal Area and non-complying within the Coastal Area.

144. A similar approach generally applies to activities within ONFs. However, these rules are more complex as they also take into account the relative vulnerability of different categories of features to modification. For example, Category A (Large Landforms) such as Whatitiri shield volcano are capable of absorbing more landuse and built development without significant adverse effects than the more sensitive Ngunguru sandspit (Category C) or small more fragile landform (Category D) such as Abbey Caves and karst and the Titoki Natural Bridge.

#### Outstanding Natural Landscapes

145. For Policies 1.3.8 and 1.3.9, the supporting permitted activity rules for ONLs are generally restricted to small scale construction or alteration of buildings and structures with colour schemes that blend in with the natural landscape. Installation of underground network utilities is also permitted. There is also provision for maintenance and minor upgrading (as defined in the WDP) of buildings and structures associated with regionally or locally significant infrastructure.
146. Buildings and structure activities that do not meet the permitted activity criteria are generally classified as discretionary outside the Coastal Area and non-complying within the Coastal Area. However, exception is made for the construction of a residential unit either:
- (a) on a building platform previously approved as part of a subdivision consent (a controlled activity within both coastal and non-coast areas);
  - (b) within the Living 3 Environment within the Coastal Area (a discretionary activity); or
  - (c) when the entire property is included within a coastal ONL and does not include an existing dwelling (a discretionary activity).
147. In these circumstances, the application of a non-complying activity status for residential unit construction is considered too stringent.
148. For Policies 1.3.10 – 1.3.13, earthworks and indigenous vegetation clearance rules allow for only small scale activity as permitted activities. The volume and/or area limits used are generally aligned to those used in the District Plans for the neighbouring districts of Kaipara and the Far North. However, allowance is also made for the specific activities of:
- (a) repair and maintenance of existing activities such as roading, tracks, and fences
  - (b) sand dune restoration; and
  - (c) provision of walking and cycling tracks less than 3m wide.
149. As with the building and structure rules, earthworks and vegetation clearance on a building platform previously approved as part of a subdivision consent is a controlled activity. This is in acknowledgement of the consent process that has already been gone through to gain

approval for the platform. Earthworks or indigenous vegetation clearance within ONLs outside the Coastal Area is discretionary, within the Coastal Area is non-complying.

#### Outstanding Natural Features

150. The supporting activity rules for ONFs are structured along the lines of those in the Proposed Auckland Unitary Plan but with a relaxation of the rules where the Auckland region rules are considered overly restrictive.
151. For activities on ONFs outside of the Coastal Area (LAN.5 Table 1), a generally permissive approach is taken to landuse and development, earthworks and vegetation clearance on Large Landforms (Category A) because of their capacity to absorb change. However, there are the following exceptions:
  - Buildings over 5.5m in height (restricted discretionary)
  - Farm and forestry quarrying (discretionary)
  - Other mineral extraction (non-complying)
  - General earthworks greater than 500m<sup>3</sup> other than for specified purposes, e.g. maintenance of roads (discretionary)
  - Indigenous vegetation clearance greater than 500m<sup>2</sup> (discretionary)
152. Within the Coastal Area (LAN.5 Table 2), these activities are either discretionary, non-complying or prohibited on the basis that the only Large Landform ONF involved is within the Bream Head Scenic Reserve. Fencing for ONF protection and the repair and maintenance of tracks is permitted however.
153. For Category B (Volcanic Cones) ONFs outside the Coastal Area, the following additional restricted discretionary or discretionary activities are proposed due to the smaller size, and therefore vulnerability, than Category A ONFs:
  - all new buildings and structures
  - new forestry planting
  - all general earthworks
  - land preparation (cultivation)
  - new farm and forestry roading and tracking
  - all indigenous vegetation clearance
154. There are no volcanic cone ONFs within the Coastal Area so no rules are needed.

155. There is only one Category C (Dynamic landforms and features) ONF within Whangarei district and this is the Ngunguru Sandspit within the Coastal Area. Because of its nature and location, activities are generally non-complying except for:
- maintenance and repair of roads and tracks (permitted)
  - minor upgrading of network utilities and community infrastructure (discretionary)
  - fencing (other than for protection purposes) and stock grazing (discretionary)
  - Mineral extraction (prohibited)
156. Category D (smaller more fragile landforms) and E (exposures of geological material) ONFs generally have the same restrictions on landuse and development and earthworks. These restrictions also apply both within and outside the Coastal Area. The only permitted activities are:
- fencing for ONF protection
  - maintenance and repair of roading, tracks, car parking areas and community infrastructure
157. Mineral extraction (quarrying) is prohibited and other activities are either discretionary or non-complying.
158. Category F (Caves) ONFs have similar restrictions to the Category D and E ONFs but fencing permitted and structures discretionary to allow for safety concerns and access respectively.

### **Alternatives**

159. The principal alternative to the protection policy regulatory mix is to place stronger focus on a less-regulatory approach to ONF and ONL protection. Many landowners spoken to as part of pre-notification consultation have suggested that the characteristics and qualities of identified ONLs are as they are because of their ongoing commitment to looking after the area concerned. A non-regulatory approach framed around providing financial or logistical support for landowner fencing and pest control could therefore conceptually meet the requirements of the RMA, NZCPS and RPS. This would almost certainly assist in ameliorating landowner concerns over protective rules being placed on private land.
160. Such a policy approach could also include progressive ONL (and ONF) acquisition by Council over time.
161. Incentivising and support landowner actions to protect ONFs and ONLs is an important part of PC114 (see next section). However, such an approach is considered unlikely on its own to succeed for the following reasons:

- monitoring of the existing WDP landscape provisions (which are less restrictive than PC114) indicates that many ONFs and ONLs on private land are being progressively modified;
- there is currently no funding or other resourcing identified within the LTP to support non-regulatory measures; and
- Such an approach would lack the certainty of protection considered to be required under the NZCPS and RPS.

162. Consideration could also be given to relaxing the proposed rule restrictions through altering activity categories, e.g. from discretionary to restricted discretionary. However, PC114 as proposed is considered to provide the appropriate balance between recognising existing use and development within ONFs and ONLs and the need to protect these areas from further degradation of their identified unique characteristics and qualities.

163. The tighter restrictions within the coastal area could also theoretically be relaxed to match the non-coastal areas. However, as noted above this would be inconsistent with caselaw, the NZCPS and the RPS.

<b>TABLE 5: EVALUATION OF ACTIVITY SPECIFIC POLICY AND RULE PROVISIONS</b>	
<b>Matter</b>	<b>Comment</b>
<b>Summary of costs</b>	Future increased costs to WDC anticipated in monitoring effects of activities on characteristics and qualities of the identified ONFs and ONLs. Costs to owners of properties within or containing identified ONFs and ONLs associated with resource consent application fees and possible loss of development potential in some cases.
<b>Summary of benefits</b>	Provides clear policies and rules for WDP users, landowners and others wanting to undertake specific activities within ONFs and/or ONLs within the district. Allows for some development provided it is sensitive to the characteristics and qualities of ONFs and ONLs. Provides for checks and balances (through the consent process) to ensure that adverse effects are appropriately avoided, remedied or mitigated.
<b>Effectiveness</b>	The policies and rules will ensure that effects on the specified characteristics and qualities of ONFs and ONLs are appropriately considered and protected.
<b>Efficiency</b>	Considerable efficiency gained in achieving the relevant objectives as the activity-based policies and rules (and assessment criteria) allow for the careful evaluation of the appropriateness of 'high risk' activities on a case by case basis.
<b>Risks</b>	The eligibility rules provide that if an activity is not listed as requiring consent then it is a permitted activity. There is therefore a risk that some activities which may cause adverse effects may not be caught by the rules and be allowed without necessary constraints. The risk is however considered low given that the major activities that could cause adverse effects to ONFs or ONLs (buildings, structures, earthworks and vegetation clearance) are addressed.

## Existing Use and Development Policies and Rules

Applicable Objectives
LAN.1.2.5
Applicable Policies
LAN.1.3.17 – 1.3.18
Permitted activity rules
LAN.3.1.2.4 LAN.3.1.3.1(c)(i) LAN.3.1.4.1(b) LAN.5 Tables 1 and 2

### Discussion

164. Proposed policies LAN.1.3.17 and 1.3.18 recognise that although ONFs and ONLs individually have special characteristics and qualities warranting their identification as outstanding, there will be existing uses and developments within these areas. While this existing use may or may not be locally compatible with the new identification as ONF or ONL, there is a need to provide for the ongoing maintenance, alteration and possible upgrading of existing buildings and structures.
165. These policies are supported by permitted rules.
166. Within both Outstanding Natural Features and Outstanding Natural Landscapes, there is express permitted activity provision for:
- maintenance and minor upgrading (as defined in the WDP) of buildings and structures associated with regionally or locally significant infrastructure.
  - within the earthworks and indigenous vegetation clearance rules, allowance for repair and maintenance of existing activities such as roading, tracks, and fences.
167. By default, the repair and maintenance of existing residential dwellings is also permitted as there is no express rule for this activity.
168. Stock grazing and harvesting and replanting of existing forestry areas is also permitted within Category A and B Outstanding Natural Features outside the Coastal Area. Similar provision is not required within the Coastal Area as the only Category A feature is within a reserve and there are no Category B features present.

### Alternatives

169. The principal alternative to this express policy regulatory mix is to apply a more restrictive approach to existing use and development within ONFs and ONLs. However, this is considered unnecessary as the primary effects of concern within ONFs and ONLs will have been those associated with the initial establishment of the existing use and development. However, those effects have clearly happened in the past and attempting to address these

retrospectively would be unfair to landowners and have significant implications in terms of the social and economic wellbeing of people and communities.

170. Requiring consent for such activities as the repair and maintenance of existing roads, buildings, etc would create unnecessary cost and/or hardship for landowners without significantly contributing to the general objective of protection of ONFs and ONLs. The ONFs and ONLs were identified as such with these activities present meaning that the influence on the defining characteristics and qualities of these areas is not significant.
171. PC114 as proposed is considered to provide the appropriate balance between recognising existing use and development within ONFs and ONLs and the need to protect these areas from further degradation of their identified unique characteristics and qualities.

<b>TABLE 6: EVALUATION OF EXISTING ACTIVITY POLICY AND RULE PROVISIONS</b>	
<b>Matter</b>	<b>Comment</b>
<b>Summary of costs</b>	No increase in costs to WDC is anticipated in monitoring effects of permitted activities. No costs to owners of properties within or containing identified ONFs and ONLs associated with resource consent application fees.
<b>Summary of benefits</b>	Provides clear policies and rules for landowners and others that existing use and development can continue within ONFs and/or ONLs within the district. Allows for repair, maintenance and minor upgrading of existing assets within ONFs and ONLs.
<b>Effectiveness</b>	The policies and rules make clear provision for activities associated with existing use and development that are both necessary and unlikely to adversely effects on the specified characteristics and qualities of ONFs and ONLs.
<b>Efficiency</b>	Considerable efficiency gained in achieving the relevant objective as allows for 'low risk' repair, maintenance and minor upgrading activity to occur without undue constraint.
<b>Risks</b>	There is some risk in permitting repair and maintenance activity that, for example, road width may progressively be extended and/or a visual effect be created through pushing material over the side. Reliance is placed on landowners and others complying with such rules. However, the risk is considered low given the relatively small scale and effect of the permitted activities within the context of the size of the affected ONFs or ONLs.

### Papakainga Development Policy and Rules

<b>Applicable Objectives</b>
<b>LAN.1.2.6</b>
<b>Applicable Policies</b>
<b>LAN.1.3.19</b>
<b>Related restricted discretionary activity rules</b>
<b>LAN.3.3.1</b>
<b>Related discretionary activity rules</b>
<b>LAN.3.4.3</b>

## Discussion

172. Proposed policy LAN.1.3.19 deals with the specific issue of Maori land development within ONLs. As the RPS notes in Section 2.5 (Issues of Significance to Tangata Whenua):

*Māori land administration issues have led to under-development of that land. This lack of development has meant that Māori land is often highly valued by the wider community for its indigenous biodiversity, landscape, or amenity values, which may consequently further restrict development by tangata whenua. While the reasons for a lack of development on Māori land and returned Treaty settlement assets are complex, and many of the issues and solutions are outside the scope of the RPS, there are opportunities within the RMA framework to assist tangata whenua to realise the social, cultural and economic potential of their land. (p23)*

173. Maori land is ancestral land meaning for those that whakapapa to, it there is a traditional and cultural relationship that goes beyond that which land in private ownership. The separate notified proposed WDP Plan Change 94B: Papakainga includes provisions expressly to make papakainga development on such land easier than it is under current provisions. If PC114 protection policies were strictly applied to such land, such development could be precluded, especially within the Coastal Area where it would otherwise be a non-complying activity. Express allowance for papakainga development on this land is therefore considered appropriate subject to landscape protection controls.
174. The policy is supported by specific rules for papakainga development on ancestral Maori land within ONLs (restricted discretionary for non-coastal and discretionary for coastal). Evaluation of overlaps between Maori land within the Whangarei District and ONFs indicate that there is not an issue within Outstanding Natural Features.

## Alternatives

175. The principal alternatives to the policy regulatory mix are to either:
- (a) retain the same approach to development on Maori land as to other land; or
  - (b) make papakainga development even easier through the use of a controlled activity rule
176. Option (a) is not considered appropriate given the traditional and cultural relationship of Maori to their ancestral land is a matter of national importance under RMA Section 6(e). It would also be inconsistent with the stated policy position within proposed Plan Change 94B.
177. Option (b) is also not considered appropriate given the context of PC14, i.e. the protection of ONLs. Controlled activity applications must be granted which does not allow Council any discretion should a papakainga development proposal demonstrably conflict with the objective of protecting such areas. The checks and balances provided by the discretionary resource consent application process allow for the aspirations of the Maori land owners to

be balanced against the effects on the ONL concerned. Restricting discretion outside of Coastal Areas does, however, lower the regulatory hurdle that would otherwise apply.

<b>TABLE 7: EVALUATION OF PAKAINGA DEVELOPMENT POLICY AND RULE PROVISIONS</b>	
<b>Matter</b>	<b>Comment</b>
<b>Summary of costs</b>	Additional costs to Maori land owners associated with papakainga location and design.
<b>Summary of benefits</b>	Allows for papakainga development on Maori land consistent with Plan Change 94B while still providing protection of affected ONLs.
<b>Effectiveness</b>	The policy and rules will achieve the relevant objective while still ensuring that effects on the specified characteristics and qualities of ONFs and ONLs are appropriately considered and protected.
<b>Efficiency</b>	Providing express provision within PC114 allows a more efficient approach than simply relying on a balancing of the provisions of PC94B and PC114 on a case by case basis.
<b>Risks</b>	There is a significant risk that non-Maori landowners will feel disadvantage by the express provision for building (papakainga) development on Maori land and not on other land. However, to preclude such provision would be inconsistent with RMA s6(e) and would not appropriately recognise the special circumstances applying to Maori land development.

### Conclusion

178. Given the protection-oriented focus required to give effect to the NZCPS and RPS, the scope and focus of the activity-based policies and rules within PC114 are considered the most appropriate way to implement the relevant objectives.

### 6.3.3 Promotion of enhancement and rehabilitation of Outstanding Natural Landscapes

<b>Applicable Objectives</b>
<b>LAN.1.2.4</b>
<b>Applicable Policies</b>
<b>LAN.1.3.14 – 1.3.16</b>
<b>Related assessment criteria</b>
<b>LAN.7.2(k) – (l)</b>

### Discussion

179. Notwithstanding that the current WDC Long Term Plan does not provide resourcing for non-regulatory approaches to ONF and ONL protection, this suite of policies is intended to provide for that future possibility. LAN.1.3.16, in particular was expanded following pre-notification consultation with affected landowners to allow a range of options for promoting active management of these special areas.
180. In addition, proposed policies LAN.1.3.15 and 1.3.16 set out matters that can also be taken into account in resource consent application preparation and processing.

181. This policy direction is reflected in the assessment criteria for determining whether or not a consent application is appropriate and therefore can be granted. Applications that include provision for conservation or rehabilitation of ONLs and ONFs will meet these policies more easily. There is also express provision for subdivision proposals to request additional allotments if part of the proposal entails legal protection of all or part of an ONF or ONL.

### Alternatives

182. The principal alternative is to totally rely on a regulatory approach to the protection of ONFs and ONLs. However, this would not appropriately recognise or support landowners with land within these areas that are actively engaged in protecting them and/or who share the protection objectives of PC114. Provision, through policy support, for development proposals that may enhance or permanently ONLs or ONFs is also appropriate.

<b>TABLE 8: EVALUATION OF REHABILITATION POLICY AND RULE PROVISIONS</b>	
<b>Matter</b>	<b>Comment</b>
<b>Summary of costs</b>	<p>Possible additional costs to owners of properties within or containing identified ONFs and ONLs associated with resource consent application preparation. However, this commitment is at the applicant's discretion.</p> <p>Possibility of WDC financial assistance for protection is subject to processes beyond the WDP (e.g. Annual &amp; Long Term Plans).</p> <p>Potential advocacy costs if WDC decides to undertake a public awareness campaign.</p>
<b>Summary of benefits</b>	<p>Provides a framework to support and encourage ONF and ONL rehabilitation and enhancement and thereby complements the regulatory approach taken via other policies.</p> <p>Provide support via resource consent processes to recognise specific land use proposals that contribute to active management and/or restoration.</p>
<b>Effectiveness</b>	<p>Largely relies on inclusion via development proposals and does not actively address other enhancement efforts that are solely driven by environmental/public benefits.</p> <p>Council cannot require enhancement and restoration to occur for existing authorised activities.</p>
<b>Efficiency</b>	<p>This policy package could result in areas being enhanced as a positive effect associated with development. However, implementation does largely rely on development so ONFs and ONLs not subject to development may not be restored or enhanced.</p>
<b>Risks</b>	<p>There are no evident risks as the policy direction is for promotion of conservation and rehabilitation and not a requirement for this. The implementation of this policy direction is also purely discretionary for applicants, landowners and/or local communities.</p>

### Conclusion

183. Overall this suite of policies sits as an optional element to managing the effects of land use and development within ONFs and ONLs. However, it does provide the option for a proactive non-regulatory approach, including financial incentives and/or information and advice, should this be countenanced in future. These policies within PC114 are considered the most appropriate way to implement the relevant objective.

## 6.4 Summary of Environmental, Economic, Social and Cultural Effects

184. Section 32(2)(a) states that an environmental, economic, social and cultural effects assessment be undertaken in relation to the proposed provisions, including economic growth and employment opportunities provided or reduced.

185. The RMA definition of ‘*environment*’ includes—

- (a) *ecosystems and their constituent parts, including people and communities; and*
- (b) *all natural and physical resources; and*
- (c) *amenity values; and*
- (d) *the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters*

186. The following table summarises the **overall effects** of PC114.

<b>TABLE 9: EVALUATION OF OVERALL EFFECTS OF PC114</b>		
<b>Type of Effect</b>	<b>Adverse</b>	<b>Positive</b>
<b>Environmental</b>	Non-regulatory provisions for ONF or ONL enhancement are not underpinned by dedicated funding or other resourcing.	Long-term protection of identified ONFs and ONLs in line with most recent national and regional policy direction (NZCPS and RPS). Increased clarity around what subdivision, land use and development is or isn't appropriate within ONFs and ONLs
<b>Social</b>	Cost of protection of ONFs and ONLs for public benefit falling on private landowners and developers may be seen as unfair by some local people and communities.	Recognises and protects the contribution of ONFs and ONLs to the unique ‘sense of place’ of Whangarei district.
<b>Cultural</b>	Integration of SSM issues currently on hold until PC100 is completed.	Structure and purpose of PC114 allows for integration of issues relating to papakainga development, as set out in PC94B, and to Sites and Areas of Significance to Maori through PC100.
<b>Economic</b>	Protection-oriented provisions will prevent or limit some types of development opportunity within ONFs and ONLs, including those of potential district or regional economic benefit. Resource consent costs a potential adverse effect to owners of properties within or encompassing ONFs and ONLs.	Ongoing economic benefits associated with tourism and other industries reliant on the quality of the district's natural environment including its natural features and landscapes. Allows for some development provided it is sensitive to the characteristics and qualities of ONFs and ONLs. Some landowners may experience gains/avoid reductions in land values as a result of areas being protected and/or having views over those areas maintained.

## 6.5 Conclusion (Section 32 Evaluation)

187. This section 32 evaluation report supports PC114 Landscape which proposes updating and amending the existing WDP provisions relating to outstanding natural features and landscapes in line with latest national and regional policy (NZCPS and RPS).
188. PC114 proposes to use recent regional mapping of these features to update the WDP maps and, for ONFs only, expand existing WDP Appendix 13 for targeted protection under the WDP. PC114 establishes proposed objectives, policies and rules directed specifically at the identification and protection of outstanding natural features and landscapes. As required by the RMA, the provisions are designed to give effect to higher level objectives and policies within the NZCPS and RPS. Consequential amendments include deletion of current WDP Chapters 16 and 57 and the updating of a number of WDP references.
189. In accordance with section 32 of the RMA, this report has examined whether the proposed PC114 objectives are appropriate in achieving the purpose of the RMA, and whether the proposed PC114 provisions and mapping are appropriate in achieving the proposed objectives. It was not considered practicable to quantify the costs and benefits of the proposal in detail due to the subjective nature of landscape issues generally.
190. However, overall this report has concluded that the proposed PC114 objectives are the most appropriate to achieve purpose of RMA and proposed PC114 provisions and mapping are most appropriate to achieve proposed objectives.

## PART TWO:

191. This part of the Section 32 Evaluation Report comprises:

### The Statutory Framework for Assessment of Plan Change 114

- Resource Management Act 1991
- Other legislation of relevance

### The Policy Framework for Assessment of Plan Change 114

- National Policy documents
- Regional Policy documents
- Local Planning framework

## 7 The Statutory Framework for Assessment of PC114

### 7.1 Resource Management Act 1991

192. The RMA requires district plans and any changes to district plans, whether private or Council initiated, to meet the purpose and principles of the Act. **Section 5** clarifies the purpose of the RMA as being: *'to promote the sustainable management of natural and physical resources'*; with sustainable management meaning managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while:

- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

193. The purpose of the RMA involves two elements - one enabling and the other regulatory. The enabling component provides for the management of resources in a way that allows for communities and people to look after their social, economic, and cultural well-being, while the regulatory component sets the terms of these management matters which are further refined in **Sections 6, 7, and 8** of the Act.

194. **Section 6** of the RMA sets out *'matters of national importance'* that must be **recognised and provided** for when exercising functions and powers under the Act.

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (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 recognised customary activities.*

195. **Sub-section 6(b)** is of direct relevance to the review of current WDP landscape provisions.

196. **Sub-section 6(e)** of the RMA - that is the relationship of Maori and their culture and traditions to their ancestral land. Much ancestral Maori land within identified outstanding landscape areas is undeveloped due to administrative, logistical and financial difficulties imposed by, or as a direct consequence of, Te Ture Whenua Maori Act. However, because of the ancestral relationship these are often the only areas where the hapu or whanau concerned can develop papakainga.

197. **Section 7** of the RMA sets out the specific matters that those exercising functions and powers under the RMA shall have **particular regard to**. In achieving the purpose of the RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to:

- (a) *kaitiakitanga:*
  - (aa) *the ethic of stewardship:*
  - (b) *the efficient use and development of natural and physical resources:*
    - (ba) *the efficiency of the end use of energy:*
  - (c) *the maintenance and enhancement of amenity values:*
  - (d) *intrinsic values of ecosystems:*
  - (e) *[Repealed]*

- (f) *maintenance and enhancement of the quality of the environment:*
  - (g) *any finite characteristics of natural and physical resources:*
  - (h) *the protection of the habitat of trout and salmon:*
  - (i) *the effects of climate change:*
  - (j) *the benefits to be derived from the use and development of renewable energy.*
198. **Section 8** of the RMA requires that all persons exercising functions and powers under the Act take into account the principles of the Treaty of Waitangi.
199. **Section 31** requires that 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:*
  - (b) *the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—*
    - (i) *the avoidance or mitigation of natural hazards; and*
    - (ii) *the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and*
    - (iia) *the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:*
    - (i) *the maintenance of indigenous biological diversity:*
200. While outstanding natural features and landscapes are not expressly referred to under (b), their management falls within the ambit of this provision.
201. **Section 32 Requirements for preparing and publishing evaluation reports<sup>2</sup>** states:
- (1) ***An evaluation report required under this Act must –***
    - (a) *examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
    - (b) *examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by –*
      - (i) *identifying other reasonably practicable options for achieving the objectives; and*

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<sup>2</sup> Refer to Part One of this report for evaluation undertaken in terms of Section 32 RMA.

- (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
  - (iii) *summarising the reasons for deciding on the provisions; and*
  - (c) *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*
- (2) **An assessment under subsection (1)(b)(ii) must -**
- (a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for –*
    - (i) *economic growth that are anticipated to be provided or reduced; and*
    - (ii) *employment that are anticipated to be provided or reduced; and*
  - (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
  - (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*
- (3) *If the proposal (an **amending proposal**) will amend a standard, statement, regulation, plan, or change that is already proposed or that already exists (an existing proposal), the examination under subsection (1)(b) must relate to -*
- (a) *the provisions and objectives of the amending proposal; and*
  - (b) *the objectives of the existing proposal to the extent that those objectives—*
    - (i) *are relevant to the objectives of the amending proposal; and*
    - (ii) *would remain if the amending proposal were to take effect.*

202. Section 32(4) refers to prohibitions or restrictions greater than those to which a national environment standard applies, which is not applicable to PC114.

203. Section 32(5) refers to the need for an evaluation report to be made available for public inspection at the same time the proposal is publicly notified.

204. Section 32(6) defines the terms ‘*objectives*’, ‘*proposal*’, and ‘*provisions*’, with the latter meaning *the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change.*

205. The mandatory RMA requirements and different statutory tests for district plans or plan changes under **Section 32** have been reinforced in case law, notably *Long Bay-Okura Great Park Society Incorporated v North Shore City Council Decision No. A 078/2008*.
206. **Section 35(2)(b)** requires a local authority 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. This has been satisfied by the Efficiency & Effectiveness Report prepared by WDC in 2011.
207. **Section 42** sets out a process for the protection of sensitive information, specifying that local authorities may make an order to determine the need to protect the confidential nature of the information, when weighed against the public interest in making the information available. There is nothing within PC114 that is considered sensitive information, particularly as the mapping has been through an open public process before inclusion in the RPS.
208. **Section 55** requires local authorities to recognise national policy statements. The NZCPS is the main national policy statement of direct relevance to PC114. Since a number of the district’s mapped outstanding natural features and landscapes, or parts thereof, are located within the coastal environment, these resources are subject to the NZCPS.
209. The National Policy Statement on Electricity Transmission will also come into play if or when existing or proposed transmission lines traverse through mapped ONF and ONL areas.
210. **Section 74** outlines matters to be considered by a territorial authority in preparing or changing its district plan. In addition to the requirements of section 75(3) and (4) (see below), when preparing or changing a district plan, a territorial authority is required to *“have regard to”*:
- the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities. s74(2)(c)*
211. As outlined in the next section of this report, the requirements of the RPS are an important driver for PC114. However, the relevant provisions of the operative Kaipara and Far North District Plans have also been assessed as part of the review process along with those within the Proposed Auckland Unitary Plan 2013.
212. Account must also be taken of any relevant planning document recognised by an iwi authority and lodged with the territorial authority, *‘to the extent that its content has a bearing on the resource management issues of the district.’ s74(2A)*. There are four such plans lodged with WDC. These are the iwi environmental management plans of Te Iwi o Ngatiwai, Ngati Hine, Ngati Hau, and Patuharakeke Hapu.
213. Councils must not have regard to trade *competition or the effects of trade competition* in terms of **s74(3) and clause 29(1B)**. Trade competition issues are not applicable to PC114.

214. **Section 75** specifies matters to be included within the content of district plans or plan changes. These include an express requirement to “give effect to” any operative national policy statement, including any New Zealand coastal policy statement, and any operative regional policy statement.
215. The content of a district plan or plan change can also not be inconsistent with water conservation order or any regional plan (**s75(4)**). There are no water conservation orders to consider for PC114. However, outstanding natural features or landscapes that straddle Mean High Water Springs will also be subject to Regional Coastal Plan provisions.
216. **Section 86B** states the circumstances when a rule in a proposed plan takes effect, with ‘*immediate effect*’. The listed circumstances do not include if the proposed rule protects outstanding natural features or landscapes.

## 7.2 Other legislation of relevance to outstanding natural features and landscapes

### 7.2.1 The Conservation Act 1987

217. Part 3 of the Conservation Act empowers the Department of Conservation (DOC) to acquire and/or manage land for conservation purposes. Because they tend to be undeveloped, a number of these areas fall within mapped ONLs and, to much a lesser extent, ONFs. Compliance with WDP rules to protect ONFs and ONLs is required even where the land is within the Conservation Estate and has an approved Conservation Management Plan.

### 7.2.2 The Reserves Act 1977

218. This Act is also relevant in relation to establishment, management and/or protection of reserves (by Council, DoC, QEII Trust or other body) that sit within mapped ONFs or ONLs.

### 7.2.3 Local Government Act 2002

219. The purpose of local government is defined in section 10 of the Local Government Act 2002 (**LGA**) as being:
- (a) *to enable democratic local decision-making and action by, and on behalf of, communities; and*
  - (b) *to promote the social, economic, environmental and cultural well-being of communities, in the present and for the future.*
220. The LGA thus enables regional and local authorities to develop their own provisions to address local issues and to include requirements for consultation to ensure plans reflect community-based objectives. As part of this process, councils are required to prepare Long Term Plans that detail council activities and priorities and explain how these will progress community outcomes over a 10 year period, setting a plan for decision-making and co-ordination of Council resources.

## 7.2.4 Local Government Official Information and Meetings Act 1987 ('LGOIMA')

221. LIMs are issued under Section 44A of the Local Government Official Information and Meetings Act 1987. Section 44A(2) requires councils to include information about 'special features' of the land. In the case of WDC this has been taken to include identified areas for protection. The only requirement is to include information in a LIM, not to notify other persons/parties.

222. Section 44A (2)(a) states:

*(2) The matters which shall be included in that memorandum are—*

*(a) information identifying each (if any) special feature or characteristic of the land concerned, including but not limited to potential erosion, avulsion, falling debris, subsidence, slippage, alluvion, or inundation, or likely presence of hazardous contaminants, being a feature or characteristic that—*

*(i) is known to the territorial authority; but*

*(ii) is not apparent from the district scheme under the Town and Country Planning Act 1977 or a district plan under the Resource Management Act 1991:*

223. Section 44A (3) states:

*In addition to the information provided for under subsection (2), a territorial authority may provide in the memorandum such other information concerning the land as the authority considers, at its discretion, to be relevant.*

224. A LIM, therefore, is not strictly required to include details of information or features (e.g. ONF or ONL notations) applying to sites beyond the property for which the LIM has been sought. This can result in a lack of awareness of the significance of this.

## 8 Policy Framework

225. The WDP forms part of a layered policy structure incorporating national policy statements including the NZCPS, National Environmental Standards ('NES'), the RPS, relevant Regional Plans, Growth Strategy, LTP, and Structure Plans. The policy documents and plans require differing levels of consideration. A summary of the relevant policy documents follows.

### 8.1 National Policy documents

226. Section 55 of the RMA requires local authorities to amend their district plans **to give effect** to the objectives and policies of national policy statements. Examples of national policy statements to have taken effect over recent years include those relating to Electricity Transmission, Renewable Electricity Generation, Indigenous Biodiversity, and Coastal Policy. The NZCPS 2010 is the only national policy statement directly relevant to natural landscape and feature protection.

### 8.1.1 New Zealand Coastal Policy Statement (2010)

227. The purpose of the NZCPS is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. When the NZCPS took effect in 2010, regional policy statements, regional plans and district plans were required **to give effect** to the NZCPS *'as soon as practicable.'*

228. NZCPS Policy 15 (Natural features and natural landscapes) specifically relates to the protection of natural features and natural landscapes, including outstanding natural features and landscapes, within the coastal environment from inappropriate subdivision, use, and development. NZCPS Policy 15 reads:

*To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:*

- a. *avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and*
- b. *avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment;*

*including by:*

- c. *identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterisation and landscape characterisation and having regard to:*
  - i. *natural science factors, including geological, topographical, ecological and dynamic components;*
  - ii. *the presence of water including in seas, lakes, rivers and streams;*
  - iii. *legibility or expressiveness – how obviously the feature or landscape demonstrates its formative processes;*
  - iv. *aesthetic values including memorability and naturalness;*
  - v. *vegetation (native and exotic);*
  - vi. *transient values, including presence of wildlife or other values at certain times of the day or year;*
  - vii. *whether the values are shared and recognised;*
  - viii. *cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features;*

- ix. *historical and heritage associations; and*
  - x. *wild or scenic values;*
- d. *ensuring that regional policy statements, and plans, map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules; and*
  - e. *including the objectives, policies and rules required by (d) in plans.*
229. As the WDC must give effect to the NZCPS in preparing PC114, the provisions as they relate to the defined coastal environment (Coastal Area) within the district need to:
- identify outstanding natural features and outstanding natural landscapes on maps or other means, e.g. lists in schedules or appendices; and
  - include objectives, policies and rules for the protection of these areas from inappropriate subdivision, use and development with a required emphasis on avoidance of adverse effects of activities.
230. The process of identifying and assessing natural features and landscapes was undertaken as part of NRC mapping project as described later in this report.

### 8.1.2 National Environmental Standards

231. NESs are regulations issued under the RMA that prescribe technical standards, methods and other requirements for environmental matters. Under Section 74, local and regional councils must **enforce these standards** (or if the standards allow, councils can enforce stricter standards). This is to ensure that consistent minimum standards are maintained throughout New Zealand.
232. There are no national environment standards that apply specifically to outstanding natural features or landscapes.

## 8.2 Regional Policy Documents

### 8.2.1 Regional Policy Statement

233. The RPS was notified in September 2012, with decisions released in September 2013. All relevant outstanding appeals have been finalised. The RPS was made partially operative on 6 May 2016. WDC is required to **give effect** to the RPS.
234. RPS Issue 2.8, under the heading '*Natural character, features/landscapes and historic heritage.*' is:

*Many of Northland's natural features and landscapes, natural character, and historic heritage have been compromised and remain at risk as a result of:*

- (a) *The impacts of inappropriate subdivision, use and development. The primary activities of concern are built development, earthworks, significant water extractions / discharges to water, vegetation clearance and coastal structures;*
- (b) *A lack of active management; and*
- (c) *Inconsistent identification and protection.*

235. This issue is addressed by **Objectives 3.14** and **3.15** of the RPS:

**3.14 Natural character, outstanding natural features, outstanding natural landscapes and historic heritage**

*Identify and protect from inappropriate subdivision, use and development:*

- (a) *The qualities and characteristics that make up the natural character of the coastal environment, and the natural character of freshwater bodies and their margins:*
- (b) ***The qualities and characteristics that make up Outstanding natural features and outstanding natural landscapes;***
- (c) *the integrity of historic heritage*

**3.15 Active Management**

*Maintain and / or improve;*

- (a) *The natural character of the coastal environment and fresh water bodies and their margins;*
- (b) ***Outstanding natural features and outstanding natural landscapes;***
- (c) *Historic heritage;*
- (d) *Areas of significant indigenous vegetation and significant habitats of indigenous fauna (including those within estuaries and harbours);*
- (e) *Public access to the coast; and*
- (f) *Fresh and coastal water quality*

*by supporting, enabling and positively recognising active management arising from the efforts of landowners, individuals, iwi, hapu and community groups.*

236. Policies and methods to achieve these objectives are set out in:

RPS Section 4.5 Identifying the coastal environment, natural character, outstanding natural features, outstanding natural landscapes and historic heritage resources

RPS Section 4.6 Managing effects on natural character, features/landscapes and heritage

237. As is evident from the headings, Section 4.5 provisions provide regional policy direction on the identification of, among other things, outstanding natural features and landscapes whereas the provision of Section 4.6 provide direction on the protection and management of these mapped areas.

238. Within Section 4.5, RPS Policies 4.5.1 and 4.5.2 are directly relevant to PC114.

#### **4.5.1 Policy – Identification of the coastal environment, outstanding natural features and outstanding natural landscapes and high and outstanding natural character**

*The areas identified in the Regional Policy Statement - Maps will form Northland's:*

- (a) *Coastal environment;*
- (b) *High and outstanding natural character areas within the coastal environment (except where the coastal marine area beyond harbours /estuaries remain unclassified); and*
- (c) **Outstanding natural features and outstanding natural landscapes.**

*Where following further detailed assessment, an area in the Regional Policy Statement – Maps has been amended in accordance with Method 4.5.4(a), and the amended area is operative in the relevant district or regional plan, it shall supersede the relevant area in the Regional Policy Statement – Maps.*

239. The explanation to RPS Policy 4.5.1 makes clear that the regional mapping of outstanding natural features and landscapes is to assist both the Regional Council and district councils in Northland in implementing Section 6(b) of the RMA. It also makes clear that the RPS maps are to be given effect to in district plans. However, the policy also provides for the possible refinement of mapped areas subject to criteria specified in Method 4.5.4(a).

#### **4.5.2 Policy – Application of the Regional Policy Statement – Maps**

*The Regional Policy Statement Maps of high and outstanding natural character and outstanding natural features and outstanding natural landscapes identify areas that are sensitive to subdivision, use and development. The maps of these areas identify where caution is required to ensure activities are appropriate. However, suitably qualified assessment at a site or property-specific level can be used to demonstrate lesser (or greater) sensitivity to particular subdivision, use and development proposals given the greater resolution provided.*

240. The main policy emphasis is that the mapped outstanding natural features and outstanding natural landscapes are areas where caution is required to ensure subdivision, use and

development is appropriate. However, this policy too provides for situations where the maps may not be accurate at a higher level of resolution than the original regional mapping was done at, i.e. at the individual site or property-scale. There is therefore allowance for site or property-specific assessments of the values present and/or the degree of sensitivity and / or caution is warranted in relation to specific proposals.

241. There is a single method of implementation for the two policies – RPS Method 4.5.4. This reads:

#### **4.5.4 Method – Statutory plans and strategies**

(1) *Within two years of this Regional Policy Statement becoming operative (or the first relevant plan change after the Regional Policy Statement becoming operative, whichever is the earlier) the regional and district councils shall notify a plan change to their relevant regional and district plans to incorporate the Regional Policy Statement – Maps subject to Method 4.5.4(2)*

(2) *The coastal environment, and areas of high and outstanding natural character within the coastal environment, and outstanding natural features and outstanding natural landscapes as shown in the Regional Policy Statement – Maps may be changed, provided the changes are:*

*(i) Undertaken using the attributes and criteria listed in appendix 1; and*

*(ii) Shown in the regional or district plan.*

(3) (Not relevant to PC114)

(4) *Within two years of the Regional Policy Statement becoming operative the regional and district councils shall undertake a joint exercise to identify and implement the most cost effective and efficient process to map the physical extent of those outstanding natural features listed in Appendix 4, and include the resulting maps into appropriate district and regional plans.*

242. RPS Method 4.5.4(1) sets a two-year timeframe for the regional and district councils to incorporate mapped areas in their regional or district plans after the RPS is made operative. The RPS was made partially operative by NRC in May 2016.

243. RPS Method 4.5.4(2) specifies the criteria for changing mapped areas should more detailed site or property-specific information indicate that this course of action is warranted.

244. RPS Method 4.5.4(4) recognises that there is some further work required in relation to outstanding natural features. The mapped outstanding natural features were identified using the Geopreservation Inventory for Northland. However, not all sites identified in the inventory have been spatially mapped by the Geological Society and therefore are not identified on the RPS Maps. This is an acknowledged gap and RPS Method 4.5.4(4) intends to remedy this by progressively providing maps of those features that meet the

criteria for outstanding natural features. The features that require further assessment and mapping are listed in Appendix 4. Some of those within the Whangarei District have been mapped as part of the PC114 preparation process.

245. The policies and methods in RPS Section 4.6 focus on the management and protection of mapped areas including outstanding natural features and landscapes. RPS Policy 4.6.1 is the most relevant policy to PC114. This policy seeks to manage adverse effects on landscape and natural features and specifies the level of protection to be achieved for these resources. It applies a hierarchy of protection based on context and value following the direction in NZCPS Policies 13 and 15) and s6 of the RMA.
246. In effect, RPS policy 4.6.1 states the level or scale of effect that is inappropriate for the resource in question. The policy reads as follows:

**4.6.1 Policy – Managing effects on the characteristics and qualities of natural character, natural features and landscapes**

(1) *In the coastal environment:*

- (a) *Avoid adverse effects of subdivision use, and development on the characteristics and qualities which make up the outstanding values of areas of outstanding natural character, outstanding natural features and outstanding natural landscapes.*
- (b) *Where (a) does not apply, avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of subdivision, use and development on natural character, natural features and natural landscapes.*

*Methods which may achieve this include:*

- (i) *Ensuring the location, intensity, scale and form of subdivision and built development is appropriate having regard to natural elements, landforms and processes, including vegetation patterns, ridgelines, headlands, peninsulas, dune systems, reefs and freshwater bodies and their margins; and*
- (ii) *In areas of high natural character, minimising to the extent practicable indigenous vegetation clearance and modification (including earthworks / disturbance, structures, discharges and extraction of water) to natural wetlands, the beds of lakes, rivers and the coastal marine area and their margins; and*
- (iii) *Encouraging any new subdivision and built development to consolidate within and around existing settlements or where natural character and landscape has already been compromised.*

- (2) *Outside the coastal environment avoid significant adverse effects and avoid, remedy or mitigate other adverse effects (including cumulative adverse effects) of subdivision, use and development on the characteristics and qualities of outstanding natural features and outstanding natural landscapes and the natural character of freshwater bodies. Methods which may achieve this include:*
- (a) *In outstanding natural landscapes, requiring that the location and intensity of subdivision, use and built development is appropriate having regard to, natural elements, landforms and processes, including vegetation patterns, ridgelines and freshwater bodies and their margins;*
  - (b) *In outstanding natural features, requiring that the scale and intensity of earthworks and built development is appropriate taking into account the scale, form and vulnerability to modification of the feature;*
  - (c) *Minimising, indigenous vegetation clearance and modification (including earthworks / disturbance and structures) to natural wetlands, the beds of lakes, rivers and their margins.*
- (3) *When considering whether there are any adverse effects on the characteristics and qualities of the natural character, natural features and landscape values in terms of (1)(a), whether there are any significant adverse effects and the scale of any adverse effects in terms of (1)(b) and (2), and in determining the character, intensity and scale of the adverse effects:*
- (a) *Recognise that a minor or transitory effect may not be an adverse effect;*
  - (b) *Recognise that many areas contain ongoing use and development that:*
    - (i) *Were present when the area was identified as high or outstanding or have subsequently been lawfully established*
    - (ii) *May be dynamic, diverse or seasonal;*
  - (c) *Recognise that there may be more than minor cumulative adverse effects from minor or transitory adverse effects; and*
  - (d) *Have regard to any restoration and enhancement on the characteristics and qualities of that area of natural character, natural features and/or natural landscape.*

247. Clauses (1) and (3)(a) take into account the Supreme Court decision in *Environmental Defence Society Inc. v The New Zealand King Salmon Co Ltd* [2014] NZSC 38 in regard to the application of NZCPS Policy 15. This in effect requires the avoidance of adverse effects of activities within coastal ONFs and ONLs, i.e. within the ambit of the NZCPS, other than those adverse effects that may be minor or transitory.

248. RPS Method 4.6.3 specifies how regional and district plans are to be amended to include objectives, policies and methods (and rules where necessary) to give effect to Policy 4.6.1.

#### **4.6.3 Method – Statutory plans and strategies**

*Regional and district plans shall be amended to the extent necessary to include objectives, policies and methods (and rules where necessary) to give effect to Policy 4.6.1 and 4.6.2:*

- (1) *Methods in district plans shall include control of:*
  - (i) *The location, intensity and form of subdivision;*
  - (ii) *The location, scale and form of buildings and structures (outside freshwater bodies and the coastal marine area);*
  - (iii) *The location and scale of earthworks and indigenous vegetation removal (outside wetlands and the beds of lakes, rivers and the coastal marine area); and*
  - (iv) *The disturbance, demolition or alteration of physical elements and / or structures of historic heritage that meet Policy 4.5.3 (outside the coastal marine area and beds of lakes and rivers).*
- (2) (not relevant to PC114)
- (3) *Methods (as relevant to council functions) may include:*
  - (i) *Assessment criteria, development standards and / or thresholds to control the scale, intensity, form and location of activities and (including for the purposes of controlling cumulative adverse effects);*
  - (ii) - (v) (not relevant to PC114)
- (4) *In implementing 4.6.1 district plans shall:*
  - (i) *Permit the maintenance of existing authorised structures, buildings, accessways, infrastructure and production land; and*
  - (ii) *Not unduly restrict existing authorised use of land or render land incapable of reasonable use.*
  - (iii) *Recognise that there are urban development and/or specific use\* zonings and/or designations in plans existing at the time that the Regional Policy Statement was made operative that seek to achieve consolidated development and efficient use of land and infrastructure. Where such a zoning or designation does not give effect to Policy 4.6.1, and there are*

*viable alternatives for giving effect to Policy 4.6.1, then existing provisions relating to subdivision, use and development will not need to change.*

*\*Urban development” and/or specific uses include:*

- *District plan zones (that were operative when the Regional Policy Statement commenced) where the primary purpose is to provide for urban residential, commercial or industrial use and development.*
- *Operative designations where the primary purpose is to provide for social or utility network infrastructure.*
- *Areas in operative regional plans where the primary purpose is to provide for specific use and development, such as mixing zones, aquaculture, moorings and marinas, wharves and ports (including ski-lanes, shipping/navigation channels, pipelines and cables associated with utility network infrastructure).*

249. These requirements have been taken into account in proposed PC114 which includes controls on buildings and structures, earthworks and indigenous vegetation clearance. Allowance is made within these provisions for existing use and development.

250. Methods proposed by PC114 that are based on the above methods (i) to (v) include:

- Discretionary and non-complying activity rules and associated assessment criteria.
- Requirements for qualified landscape assessments as part of consent applications within ONLs.

251. RPS Method 4.6.4 is also relevant.

#### **4.6.4 Method – Monitoring and information gathering**

*The regional and district councils shall jointly develop and implement a monitoring strategy (to assess the effectiveness of the plans in achieving anticipated outcomes). The strategy will monitor outstanding natural landscape, outstanding natural features, high and outstanding natural character areas, and heritage features identified in the Regional Policy Statement – Maps. The regional and district councils shall consider roles for tangata whenua in the development and implementation of the monitoring strategy.*

252. RPS Section 4.7 (Supporting management and improvement) includes several policies relating to the recognition and promotion of active landowner and/or community management of Outstanding Natural Features or Landscapes. Specifically the policies state:

#### **4.7.1 Policy – Promote active management**

*In plan provisions and the resource consent process, recognise and promote the positive effects of the following activities that contribute to active management:*

- (i) Protection of ..... outstanding natural landscapes or outstanding natural features either through legal means or physical works;*

And

#### **4.7.2 Policy – Supporting landowner and community efforts**

*Support landowners, iwi, hapu, and community efforts to actively manage or improve key aspects of the environment especially where there is willing collaboration between participants and those efforts are directed at one or more of the activities in Policy 4.7.1.*

253. RPS Method 4.7.4 (Statutory Plans & Strategies) advocates the use of non-regulatory mechanisms, while acknowledging that *'the NRC does not direct their use as these are Local Government Act 2002 decisions.'* The method reads:

#### **4.7.4 Method – Statutory plans and strategies**

- (1) Regional and district plans may use incentives to promote the outcomes sought in Policies 4.7.1, and 4.7.3 provided that;*
  - (a) The plan provisions require applicants to demonstrate that net public or other environmental benefit is achieved;*
  - (b) The effects of any increased development entitlement have been addressed; and*
    - (a) The benefits provided are not required to avoid, remedy or mitigate adverse effects, fulfil requirements of a condition of consent or to meet regulatory requirements of a plan (such as, permitted activity standards) or other legal mechanism, such as a covenant, easement, designation or private agreement / contract.*
- (2) Regional and district plans will include objectives policies and methods to promote activities identified in Policy 4.7.1.*

254. Further to this RPS Method 4.7.5 states:

#### **4.7.5 Method – Non-statutory plans and strategies**

*Regional and district plans may consider the use of non-regulatory mechanisms to assist in achieving policies 4.7.1, 4.7.2 and 4.7.3 for outstanding natural features, landscapes, natural character and regionally and nationally significant heritage using one or more of the following:*

- (a) *Funding assistance for restoration projects (for example, the environment fund);*
- (b) *Purchase of land (for example, use of development contributions);*
- (c) *Development / design guidelines;*
- (d) *Rates relief;*
- (e) *Education and advice;*
- (f) *Assistance with investigations for heritage protection orders or marine protection initiatives; and*
- (g) *Waiver or reduction of processing fees.*

### 8.2.2 Northland Regional Plans

255. Regional plans for Northland developed under the RMA include the Regional Water and Soil Plan, the Regional Air Quality Plan and the Regional Coastal Plan 2004 with the latter covering the region's coastal marine area (CMA). The CMA is the area from mean high water springs (MHWS) to the 12 nautical mile limit of New Zealand's territorial seas.
256. Subdivision and development on the landward side of the coastal environment is managed through the WDP but **must not be inconsistent** with the Regional Coastal Plan in terms of the maintenance and enhancement of water quality and ecosystems in water bodies and coastal waters.
257. The above Regional Plans do not generally contain any lists of ONLs or ONFs applicable to the Whangarei District although Appendix 3 of the Regional Coastal Plan does contain outstanding nature features and geological landforms that occur within the adjacent coastal marine area.
258. The regional plans are all currently undergoing review and it can be expected that greater attention will be given to the protection of identified ONFs and ONLs given the new RPS requirements.

### 8.2.3 Iwi and Hapu Management Plans

259. Section 74(2A) requires councils **to take into account** any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its contents have a bearing on the resource management issues of the district.
260. Four Iwi Management Plans prepared for the area (Patuharakeke Te Iwi Trust Board Environmental Management Plan 2014, Te Iwi O Ngatiwai Management Plan 2007, Ngati Hine Iwi Environmental Management Plan 2008 and Ngati Hau Hapu Environmental Management Plan 2016) are of relevance, particularly in terms of their role in 'knowledge sharing' with WDC and guidelines relating to the use of natural resources.

261. Iwi Management Plans and relationships established between Iwi and Council have been of particular relevance to the on-going Sites of Significance project (PC100), with results and recommendations of that project expected to be integrated into WDP Chapter 16 once finalised.

### 8.3 Local policy framework

262. Council's current policy framework is largely based on 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:

- Whangarei District Growth Strategy 30/50 (30 – 50 years)
- Coastal Management Strategy (20 years)
- Rural Development Strategy (basis for current rural plan changes)
- Various Structure Plans produced for the coast and urban fringe (20 years)
- Long Term Plan (10 years)
- District Plan (10 years)



#### 8.3.1 30/50

263. 30/50, released in September 2010, is Council's strategic spatial planning document, formulated in response to significant growth in the district over the period 2001-2008. Based on a sustainable development approach it is aimed at providing a long term strategic planning framework for the district over the next 50 years. The 30-50 year timeframe was considered appropriate in responding to longer-term natural cycles such as climate change

and changing land use patterns, while the 30 year timeframe was seen as enabling efficient infrastructure planning. An Implementation Plan for 30/50 was adopted in 2013 and has timing implications for landscape protection initiatives.

264. In terms of landscape issues, 30/50 acknowledges the district as having ‘a world class natural heritage, including iconic landscapes..... and a coastline superior to most others in the world’<sup>3</sup>. The district’s natural attributes, together with its long and distinctive historic and cultural heritage from both Maori and European colonisation, form a unique and compelling ‘sense of place’. 30/50 therefore seeks to build upon these attributes to ensure they are protected and enhanced over the long term and contribute to the sustainable development of the district over the next 30/50 years. Part B Section 2.4 of 30/50 addresses the specific importance of landscape and natural character values to the district.

265. The timeframe and priorities for implementing 30/50 landscape actions are summarised below based on details included in the subsequent Implementation Plan.

TIMEFRAME & PRIORITIES FOR IMPLEMENTING GROWTH STRATEGY LANDSCAPE ACTIONS		
Action ref.	Priority / timing	Growth Strategy Implementation Plan - Historic/Cultural Heritage actions
1.1	1	During the current review of the Regional Policy Statement for Northland (RPS), provide input to ensure a statutory framework for protecting natural features and landscapes, and preserving and rehabilitating areas of natural character in the coastal environment, is identified and implemented at a regional level. <b>Comment:</b> WDC made submissions to the RPS on natural feature and landscape management issues.
1.2	on-going	During future reviews of the Regional Coastal Plan (RCP), provide input to ensure strong provisions for protecting natural features and landscapes, and preserving and rehabilitating areas of natural character in the coastal environment, are included. <b>Comment:</b> The RCP is currently under review. The RPS provisions for ONFs and ONLs including those mapped features or landscapes which adjoin or extend into the CMA will be incorporated into revised RCP provisions.
2.1	1	Develop a long term landscape strategy and management plan which identifies and classifies existing landscapes and natural features and areas of natural character, and provides a management framework to protect and enhance landscape and natural character within the district.
2.2	on-going	During development of new structure plans and reviews of existing structure plans, identify for protection outstanding landscapes and/or features and areas of high natural character in the coastal environment.
3.1	3	Include effective provisions in the district plan to protect outstanding natural landscapes and features and areas of high natural character from inappropriate subdivision, use and development. Identify on the planning maps areas of outstanding landscape value and high natural character. <b>Comment:</b> PC114.
3.2	on-going	Adopt a strategic approach that takes cumulative effects of development on landscapes and natural character into account when assessing resource consents in sensitive landscape areas. Also ensure conditions on consents are adequate to protect landscape and natural character values, particularly in growth areas. <b>Comment:</b> PC114

<sup>3</sup> Executive Summary, p7.

4.1	on-going	Include protecting natural features and landscapes, and preserving and rehabilitating areas of natural character in the coastal environment, in asset/activity management plans and future Long Term Plans (LTPs) when appropriate along with budgetary commitments and funding sources.
5.1	on-going	Promote, and consider using where appropriate, formal protection mechanisms for areas with high landscape and natural character values where they are not protected already, e.g. purchasing land for reserves, open space covenants, regional parks and Nga Whenua Rahui kawenata. <b>Comment:</b> PC114
5.2	on-going	Provide information to, liaise with and collaborate when required with external organisations and bodies, property owners, developers, government agencies, other councils, environmental groups, resident/ratepayers groups and the public on the identification and protection of natural features and landscapes, and preserving and rehabilitating areas of natural character in the coastal environment.
6.1	on-going	Consult with, and facilitate participation of, local iwi and hapu in decisions over identifying and protecting natural features and landscapes, and preserving and rehabilitating areas of natural character in the coastal environment. <b>Comment:</b> on-going liaison with iwi re: PC100.

266. The key to priorities/timing for the above actions is provided below. All heritage actions listed come within the first 4 priority groups and/or are classed as 'on-going'.

Priority	Years	LTP	10 year period
1	1-3	2012-2015	2022
2	4-6	2015-2018	2025
3	7-9	2018-2021	2028
4	10-12	2021-2024	2031
5 +	Refer to Implementation Plan.		

267. It is noted that the priority/timeframe assigned to developing a long-term landscape strategy and management plan (Action 2.1) is 1 and the review of the WDP landscape provisions (Action 3.1) is 3. However, the review of the RPS (Action 1.1) has identified and classified landscape within the district and has resulted in a requirement to progress a plan change sooner than 2018.

### 8.3.2 Council's Long Term Plan ('LTP')

268. The current LTP (adopted June 2015) covers the period 2015-2025 and is reviewed every 3 years, supplemented by Annual Plans. It remains current until the next LTP is adopted in 2018. As stated in the LTP, everything that WDC does is guided by five Community Outcomes:

- Easy and safe to move around
- A growing, resilient economy
- Clean, healthy and valued environment
- Vibrant and healthy communities
- Well managed growth

269. Of relevance to the issue of landscape is '*Clean, healthy and valued environment*' which is qualified by the following statement: '*As our District grows, our natural and created environment is protected, maintained and enhanced to reflect our Sense of Place, mauri and identity.*'
270. The LTP contains general performance standards and funding provision for plan changes but does not include any particular provisions relating to natural feature or landscape management.

### 8.3.3 Whangarei District Plan

271. The structure of the WDP includes a series of Environments (zones), Resource Areas (areas or topics requiring special management such as landscapes, natural hazards, heritage), and a set of overlying objectives, policies and anticipated environmental results (AERs) on a range of topics such as amenity values, subdivision and development, the coast, landscape and tangata whenua, and methods of implementation (which are not necessarily rules.) Collectively these provisions seek to ensure the maintenance and possible enhancement of amenity values and the sustainable management of natural and physical resources while avoiding, remedying or mitigating adverse effects on the environment, in line with principles of the RMA.
272. Section 75 of the RMA specifies that a district plan must state objectives for the district, policies to implement the objectives, and the rules (if any) to implement the policies. This section envisages that rules are not always required to achieve the stated objectives, and such a case is entirely possible when the policies themselves are sufficiently prescriptive.
273. In terms of current WDP practice introduced through PC106 district wide topics are contained within individual chapters to avoid repetition of methods throughout the WDP. Emphasis has been placed on the re-introduction of the 'zone statement' or 'description and expectations' concept which sets out the expectations of Council (and others) at the start of the chapter. These are seen as taking the place of the 'Issues' and 'Anticipated Environmental Results' statements that have existed in other chapters of the WDP.

## 8.4 Conclusion

274. The above **Part Two** of the PC114 Section 32 Evaluation Report summarises the statutory and policy frameworks applicable to plan formulation generally and the WDP and PC114 more specifically. It should be considered in conjunction with **Part One** of this report and associated Appendices included in **Part Three**, particularly the proposed PC114 text.

## **Part Three: Appendices**

1. Proposed Plan Change 114: Landscape
2. Proposed consequential changes to Whangarei District Plan (text and Resource Area maps)
3. RPS Appendix 1 ONF and ONL Mapping Methods
4. Existing WDP provisions