

**Part 7 – Regionally Significant  
Zones**

**Proposed Plan Changes 143, 144  
and 145**

**Section 42A Hearing Report**

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## List of Abbreviations

|  |           |
|--|-----------|
| Air Noise Margin   | ANM       |
| Airport Zone   | SPA       |
| Coastal Marine Area  | CMA       |
| Living 1 Environment                                       | L1        |
| Marsden Point Port Environment                             | MPPE      |
| National Planning Standards                                | Standards |
| Noise and Vibration Chapter of the Operative District Plan | NAV       |
| Outer Control Boundary                                     | OCB       |
| Plan Change 143 Airport Zone                               | PC143     |
| Plan Change 144 Port Zone                                  | PC144     |
| Plan Change 145 Hospital Zone                              | PC145     |
| Port Zone  | SPPO      |
| Northland Regional Policy Statement                        | NRPS      |
| Resource Management Act 1991                               | RMA       |
| Section 32 of the RMA                                      | s32       |
| Section 42A of the RMA                                     | s42A      |
| Special Purpose Hospital Zone                              | SPH       |
| Whangarei District Council                                 | WDC       |
| Whangarei District Council Operative District Plan         | WDP       |

## 1. Introduction

1. This is **Part 7** of the section 42A (**s42A**) evaluation report. This part should be read in conjunction with the other **Parts 1 – 12**. The evaluation of general topics is contained within **Part 1**.
2. This report has been prepared in accordance with s42A of the Resource Management Act 1991 (**RMA**) and forms the Hearing Report for the Whangarei District Council's (**WDC**) Proposed Plan Changes 143 Airport Zone (**PC143**), 144 Port Zone (**PC144**) and 145 Hospital Zone (**PC145**). This report provides consideration of the proposed provisions, recommendations in relation to submissions and, where appropriate, the report cross-references the section 32 Evaluation (**s32**), analysis of any background material and legislative discussions.
3. A description of the background to PC143, PC144 and PC145, a chronology of events relevant to the proceedings of PC88 and overview of the Rolling Review process and statutory considerations is included within the s32 Report for each plan change.
4. The authors of this **Part 7** s42A Report are as follows:
5. PC144 – Port Zone: this report has been prepared by Briar Alayne Belgrave. Ms Belgrave is a qualified planner. She holds a Masters in Resource and Environmental Planning with Honours from Massey University and is currently an Intermediate Member of the New Zealand Planning Institute. Ms Belgrave is currently an Associate at Barker & Associates in Auckland.
6. Ms Belgrave has over seven years' experience as an environmental planner. During this time, she has been employed in various resource management positions in central government, local government and private companies. Her predominant experience has been in statutory policy and resource consent planning across New Zealand including, Wellington, Auckland, Whangarei, Far North, Gisborne and in Australia. This experience includes preparing assessments of environmental effects, processing and reporting on resource consent applications, Resource Management Act reforms, preparation of national policy (National Environmental Standards and National Policy Statements), district plan formulation and policy advice for councils and the consideration of submissions.
7. PC143 and PC145 – Airport and Hospital: these reports been prepared by David Eric Badham. Mr Badham is a qualified planner and holds a Bachelor of Planning with Honours (1st Class) from the University of Auckland. He has been a Full Member of the New Zealand Planning Institute since April 2015. He is currently an Associate and Whangarei Office Manager at Barker & Associates.
8. Mr Badham has over eight years' experience as an environmental planner. During this time, he has been employed in various resource management positions in local government and private companies including experience with:
  - Statutory resource consent planning in the Northland and Auckland regions.
  - Consideration of submissions and formulation of policy and policy advice for Whangarei District Council.

- Providing planning advice, preparing Cultural Impact Assessments and engaging in consultation on behalf of iwi organisations.
  - Monitoring and compliance of consent conditions in operational mining environments in Queensland Australia.
9. Ms Belgrave and Mr Badham confirm that the evidence on planning matters that they present in this report is within their areas of expertise and they are not aware of any material facts which might alter or detract from the opinions we express. Both authors have read and agreed to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. They have also read and are familiar with the Resource Management Law Association / New Zealand Planning Institute “Role of Expert Planning Witness” paper. The opinions expressed in this evidence are based on their qualifications and experience, and are within their area of expertise. If the authors rely on the evidence or opinions of another, their evidence will acknowledge that position.

## 2. Description of the Plan Changes as Notified

10. PC143 seeks to introduce a new zone into the Operative Whangarei District Plan (**WDP**) this being the Airport Zone (**SPA**). The SPA has been proposed to be introduced as a special purpose zone under the National Planning Standards (**Standards**) and proposes to replace the existing Airport Environment (Chapters 24 and 45). PC143 includes:
- A new ‘Airport Zone’ Chapter – with objectives, policies and rules for the Airport, including land use and subdivision provisions.
  - Changes to the WDP Zone Maps – denoting the SPA.
  - Consequential changes to the WDP.
11. A comprehensive description of PC143 is included in the s32 report [see **Appendix A of Part 1** of the s42A Report]. The notified text of PC143 is provided as **Appendix B of Part 1** of the s42A Report.
12. PC144 seeks to introduce a new zone into the WDP, the Special Purpose Port Zone (**SPPO**). The SPPO has been proposed to be introduced as a special purpose zone under the Standards and proposes to replace the Marsden Point Port Environment (**MPPE**) zoning and provisions within the WDP. PC144 will include:
- A new ‘Port Zone’ Chapter – with objectives, policies and rules for the Port, including land use and subdivision provisions.
  - Changes to the WDP Zone Maps – to denote the SPPO.
  - Consequential changes to the WDP, including the addition of new definitions.
13. A comprehensive description of PC144 is included in the s32 report [see **Appendix A of Part 1** of the s42A Report]. The notified text of PC144 is provided as **Appendix B of Part 1** of the s42A Report.

14. PC145 seeks to introduce a new zone into the WDP, the Special Purpose Hospital Zone (**SPH**). The SPH has been proposed to be introduced as a special purpose zone under the Standards and proposes to provide a new chapter relevant to the Whangarei Hospital, which is currently subject to Living 1 Environment (**L1**) zoning and provisions within the WDP. PC145 will include:
  - A new “Hospital Zone” Chapter – with objectives, policies and rules for Whangarei Hospital, including land use and subdivision provisions.
  - Changes to the WDP Zone Maps – to denote the SPH.
  - Consequential changes to the WDP, including the addition of new definitions.
15. A comprehensive description of PC145 is included in the s32 report [see **Appendix A of Part 1** of the s42A Report]. The notified text of PC145 is provided as **Appendix B of Part 1** of the s42A Report.

### 3. Purpose of Report

16. This report considers submissions received in relation to PC143, PC144 and PC145. It has been prepared in accordance with s42A of the RMA to assist the Commissioners with deliberations on submissions and further submissions.
17. The report includes recommendations to the Commissioners to accept, accept in part or reject individual submissions. Where appropriate, it also includes recommended changes to the plan change provisions. In response to submissions, we have in every instance considered efficiency, effectiveness and appropriateness and our recommendations represent in our opinion the most appropriate response in accordance with s32AA. In accordance with section 32AA(1)(c), the assessment of each change has been undertaken at a level of detail that corresponds to the scale and significance of the proposed changes.
18. When making its decision, WDC is required under clause 10 of the First Schedule of the RMA to give reasons for allowing or not allowing any submissions (grouped by subject matter or individually). The decisions of the council may also include consequential alterations arising out of submissions and any other relevant matters it considered relating to matters raised in submissions.

### 4. Structure of the Report

19. The report has been structured to provide an assessment of the submissions and further submissions received by WDC, arriving at a recommendation to the Commissioners.
20. All submissions received have been categorised based on which plan change they are most applicable to. Several submissions have been assessed in **Part 1** of the s42A report as they either address broad topics or relate to multiple plan changes.

21. Once allocated to a plan change, each submission point has then been grouped thematically based on topic. As some submissions relate to multiple topics, cross references to the discussion and recommendation sections of other topics have been included.
22. This report is split into the following sections
  - A. PC143 – Airport Zone
  - B. PC144 – Port Zone
  - C. PC145 – Hospital Zone
23. While all submitters have been acknowledged in the summary of submissions [**Appendix D of Part 1** of the s42A Report], due to the similarity of relief sought and reasons given along with the volume of submissions, responses have not necessarily been written for each individual submission point. Responses have been written for individual submissions that raise matters that differ from other submissions within the same thematic group or that request specific amendments to the plan change provisions.
24. Responses have not been written for all further submission because the further submissions generally:
  - Sought to emphasise the content of the corresponding original submission;
  - Did not present new or additional evidence.
  - Stated either support or opposition to the original submissions of other submitters.
25. Where further submissions present additional evidence these have been dealt with within the report where the primary submission point has been addressed.
26. The assessment of submissions generally follows the following format:
  - Submission information – summarises matters raised in the submissions with a brief outline of relief sought.
  - Discussion – discusses responses to the relief sought.
  - Recommendation – outlines a recommendation to the Commissioners in response to the relief sought.
27. Any recommended changes to the notified text as a result of submissions are attached to this report [see **Attachments 1 – 3**]. Any recommended additions to the notified text are shown as underlined and deletions as strike-through. Not all changes shown in **Attachments 1 – 3** are discussed in this s42A Report. Some changes are the result of general submission points which have been discussed in **Part 1** of the s42A Report. In addition, not all changes discussed in this s42A Report are shown in **Attachments 1 – 3**. Changes such as amendments to definitions are shown in Part 1 of the s42A Report.

## A. PC143 Airport Zone (Author: Mr Badham)

28. Section A addresses submissions on PC143. Topic headings for the submissions assessed under PC143 are as follows:

- a. Consultation
- b. Noise
- c. SPA Objectives
- d. SPA Policies
- e. SPA-R3 Access to Aircraft or Airport Facilities
- f. SPA-R4 Community Activities

### a. Consultation

#### Submission Information

29. C McPherson requests that all existing Onerahi home owners are given clear understanding of Council intent regarding the designation of airport land being sold to develop land for housing in a manner they are able to comprehend before planning proceeds.

#### Discussion

30. C McPherson seeks consultation regarding development within the airport designation as he considers that developing airport land for housing will add strain to the existing roading issues. Consultation regarding the development of PC143 and the draft provisions for the SPA chapter was undertaken prior to the notification of PC143. That process is detailed in section 2.3 of the s32 report. Further details regarding consultation for the entirety of the Urban & Services Plan Changes are addressed in the **Part 1** s42A report.

31. Further, the Airport and Airport activities are enabled by two designations, DW 124 and DW 125. The designations authorise a range of activities such as aircraft movements, independently of the rules in the WDP. The future potential use of these designations are matters that are not within the scope of this plan change in my opinion.

#### Recommendation

32. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Retain SPA as notified.

| Submitter   | Submission# & Point # | Accept/Reject | Recommendation |
|-------------|-----------------------|---------------|----------------|
| C McPherson | 19.1                  | Reject        | a.             |

### b. Noise

#### Submission Information

33. J Jansen seeks to ensure that the plan provisions maintain the airport as a good residential neighbour.

34. M Brown, C Gilchrist, M Larkin & S Westgate request that the position of the Outer Control Boundary on proposed Resource Areas Map 76R be reassessed and redrawn to reflect the current reality, and future predictions based on the current situation, as reported by Council's acoustic consultants.

### Discussion

35. It is unclear what exact relief is sought by J Jansen, however the reason for the submission indicates that maintaining the same noise effects (and not increasing) is what is of importance, particularly in regards to the number of helicopter movements. As discussed in the Airport s32 Report the operative 'Airport Environment' chapter provides rules for landuse in the Airport Environment and applies to activities not falling within the purpose of designation DW 124 Whangarei Airport, Aerodrome. The notified SPA chapter does the same. Provisions regarding Noise and Vibration for the Airport are contained within the Noise and Vibration Chapter (**NAV**) made operative in May 2016.
36. The basis of the submissions made by M Brown, C Gilchrist, M Larkin & S Westgate (all of which reference the S Westgate submission) is that they seek a reassessment of the 'Outer Control Boundary' (**OCB**), as shown on notified Resource Area Map 76R (which depicts the same OCB as operative map 46R), as they consider it is '*flawed*' and '*bears no relationship to the actual noise levels as monitored by acoustic consultants*'. Subsequently the submitters consider that the associated consent requirements for new and existing dwellings within the OCB are 'unnecessary' and result in 'unnecessary compliance costs'.
37. Rules pertaining to the OCB are currently contained in the NAV Chapter of the WDP, and not in the Airport Environment which the SPA (PC143) seeks to replace. Chapter 24 'Whangarei Airport' of the operative WDP explains that there are two boundaries used for managing effects; the Air Noise Margin (**ANM**) and the OCB. The ANM defines an area within which high levels of aircraft noise (65Ldn and above) are generated. The OCB is further away from the Airport and defines an area of moderate levels of aircraft noise (55Ldn to 65Ldn). Chapter 24 of the WDP further details that development is controlled in these areas to avoid, remedy or mitigate adverse effects of aircraft noise on health and amenity. Residential activities and other noise-sensitive activities are subject to control because these are the most likely to suffer adverse effects from aircraft noise.
38. It appears that the submitters are seeking that the area mapped as being within the OCB be reduced to better align with the Db55Ldn contour, which they consider has retreated markedly since 2002 and that a more appropriate delineation would be along Handforth Street, above Johnson Street, Mistral Place and the corresponding section of Beach Road. The submissions reference two reports prepared by Marshall Day Acoustics, one in 2009 and the other in 2014, and state that these reports '*confirm the retreat of the Db55Ldn boundary.*'
39. Consequential changes have been made to the NAV chapter in the proposed plan changes, so I consider that there is scope to request the changes from the submitters. Commentary was sought from Jon Styles from 'Styles Group, Acoustics & Vibration Consultants' due to the technical nature of the relief sought. Mr Styles advice, attached as **Attachment 6 of Part 1** of the s42A Report indicates that he does not support the relief sought as any re-assessment of the OCB would require a more detailed

understanding of the future operations of the airport over the next ten to twenty years and that additional information to that provided by the submitters would be required to understand whether or not there is a need to amend the OCB. Mr Styles further indicates that in his opinion, the additional information required to make this assessment would include;

- Predicted growth (or decline) of the airport operations generally;
- Predicted growth of flight numbers;
- The type of aircraft that are likely to use the airport; and
- Whether flights at night time might be necessary.

40. Based on the advice received from Mr Styles that insufficient technical information has been provided to understand the effects of the relief sought, I recommend that these submission points be rejected.

Recommendation

41. I recommend that the Commissioner reject the submission points as outlined below and:

- a. Not make consequential changes to the NAV Chapter.

| Submitter   | Submission# & Point # | Accept/Reject | Recommendation |
|-------------|-----------------------|---------------|----------------|
| J Jansen    | 121.1                 | Reject        | a.             |
| M Larkin    | 175.1                 | Reject        | a.             |
| M Brown     | 177.1                 | Reject        | a.             |
| C Gilchrist | 178.1                 | Reject        | a.             |
| S Westgate  | 196.1                 | Reject        | a.             |

**c. SPA Objectives**

Submission Information

42. Population Health Unit of the Northland District Health Board (**Public Health Northland**) seeks to amend SPA-O2 as follows:

*Provide for the sustainable, efficient and effective ongoing operation, maintenance, upgrade and development of Whangarei Airport.*

43. Public Health Northland seek to amend SPA-O3 as follows:

*Manage Mitigate or avoid the adverse effects (including reverse sensitivity effects) associated with Whangarei Airport which could compromise the amenity, health and well-being of the surrounding community.*

Discussion

44. I do not support the amended wording in SPA-O2 requested by Public Health Northland. Sustainable management is addressed under Part 2 of the RMA and does not require duplication within the policy framework of the SPA. On this basis it is my opinion that including the term “sustainable” adds no value to SPA-O2 and is therefore unnecessary.

45. I do not support the amended wording requested by Public Health Northland in SPA-O3. The Airport is a regionally significant resource contributing to the social and economic well-being of Whangarei and the Northland Region, as well as to elsewhere within New Zealand as part of a national network of airports. I acknowledge that airport operations can result in adverse effects (particularly noise and vibration), however, based on the submission, the relief sought seems to specifically focus on the potential adverse effects resulting from the use of leased based fuel (avgas) by small planes. The wording as provided would however apply to all adverse effects which could compromise the amenity and wellbeing of the surrounding area, not only those associated with avgas use by small planes.
46. In my opinion it is not possible or appropriate to expect that the Airport “mitigate or avoid” all adverse effects that could compromise amenity and wellbeing as this would likely impact on the Airport’s ability to continue to operate. The notified wording in my opinion promotes appropriate management of any potential adverse effects on these aspects whilst still providing for the ongoing operation of the Airport. Additionally, the notified wording aligns with the intent of an ‘Airport Zone’ as per the Standards, with the relevant objectives of the Northland Regional Policy Statement (**NRPS**), and the Long-Term Plan 2018-2028, as discussed in the Airport s32 Report.
47. I support Public Health Northland’s requested inclusion of the word “health” but recommend that “safety” also be included, as this is consistent with RMA terminology. Wording to reflect this has been included in **Attachment 1**.

Recommendation

48. I recommend that the Commissioners accept or reject the submission points as outlined below and:
- a. Retain SPA-O2 as notified.
  - b. Amend SPA-O3 as set out in **Attachment 1**.

| Submitter               | Submission# & Point # | Accept/Reject  | Recommendation |
|-------------------------|-----------------------|----------------|----------------|
| Public Health Northland | 207.74                | Reject         | a.             |
| Public Health Northland | 207.76                | Accept in part | b.             |

**d. Policies**

Submission Information

49. Public Health Northland seek to amend SPA-P2 as follows:

*Provision for controlled, sustainable growth in aircraft movements...*

Discussion

50. I do not support the requested amendment to SPA-P2 for the same reasons as discussed in Topic c of this report in regard to a similar submission made by Public Health Northland.

Recommendation

51. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Retain SPA-P2 as notified.

| Submitter               | Submission# & Point # | Accept/Reject | Recommendation |
|-------------------------|-----------------------|---------------|----------------|
| Public Health Northland | 207.75                | Reject        | a.             |

**e. SPA-R3 – Access to Aircraft or Airport Facilities**

Submission Information

52. Public Health Northland seek to amend SPA-R3 as follows:

*The activity requires direct or reasonable access to aircraft or airport facilities and emergency services to transport goods or to provide passenger services.*

Discussion

53. The submission received from Public Health Northland in regard to SPA-R3 seeks to provide access for emergency services to aircraft and airport facilities and states that the rule “*outlines the access to aircraft in regards to transporting goods or providing passengers service; however there is no access to aircraft or the airport facilities for emergency service vehicles*”.

54. I support the intent of the amendment requested. I agree that it is important for “emergency services” to be able to access aircraft and airport facilities as a permitted activity. In my opinion, the provisions already provide for “emergency services” as a permitted activity within the SPA. Emergency Services is defined as follows in the WDP:

*Means the activities of authorities who are responsible for the safety and welfare of people and property in the community and include fire, ambulance and police services.*

55. As part of the notified definition it is stated that emergency services is included within the “community activities” definition grouping. “Community activities” are specifically provided for as a permitted activity in SPA-R4 where the activity is an ancillary activity to airport operations. As such the requested change from Public Health Northland is unnecessary in my opinion and duplicates the permitted activity status that already applies in SPA-R4.

Recommendation

56. I recommend that the Commissioner reject the submission point as outlined below and:

- a. Retain SPA-R3 as notified.

| Submitter               | Submission# & Point # | Accept/Reject | Recommendation |
|-------------------------|-----------------------|---------------|----------------|
| Public Health Northland | 207.77                | Reject        | a.             |

**f. SPA-R4 Community Activities**

Submission Information

57. Fire and Emergency New Zealand (**Fire NZ**) seek to retain SPA-R4 as proposed.

Discussion

58. I agree that SPA-R4 should be retained as notified.

Recommendation

59. I recommend that the Commissioners accept the submission point as outlined below and:

a. Retain SPA-R4 as notified.

| <b>Submitter</b> | <b>Submission# &amp; Point #</b> | <b>Accept/Reject</b> | <b>Recommendation</b> |
|------------------|----------------------------------|----------------------|-----------------------|
| Fire NZ          | 165.78                           | Accept               | a.                    |

## B. PC144 Port Zone (Author: Ms Belgrave)

60. Section B addresses submissions on PC144. Topic headings for the submissions assessed under PC144 are as follows:

- a. National Planning Standards
- b. Definitions
- c. SPPO Objectives
- d. SPPO Policies
- e. SPPO R2 – Port Activities
- f. SPPO R3 – Ancillary Activities to Port Activities
- g. SPPO R4 – Helicopter Facilities
- h. SPPO R5 – Building Height
- i. SPPO R8 – Outdoor Areas of Storage or Stockpiles.
- j. SPPO R10 – Sea-Farers Mission and Managers Accommodation
- k. SPPO R12 – Repair and Maintenance Services
- l. SPPO R13 – Marine Industry
- m. SPPO R15 – General Industry
- n. SPPO R18 – Commercial Activities
- o. SPPO R19 – Waste Management Facilities.
- p. Commercial Activities
- q. Industrial Activities
- r. Rural Production Activities
- s. Noise
- t. Plant Nursery
- u. Transport
- v. Other Provisions

### a. National Planning Standards

#### Submission Information

61. WDC Planning and Development Department (**WDC Planning**) seek to amend SPPO Appendix 1 to reflect the changes to the zone colour mapping to be consistent with the Standards.

#### Discussion

62. The Standards have been introduced to improve the efficiency, effectiveness and consistency of NRPS, Regional Plans and District Plans in New Zealand. I support the amendments sought by WDC Planning, as in my opinion it is appropriate to amend SPPO Appendix 1 to create consistency with the Standards.

#### Recommendation

63. I recommend that the Commissioners accept the submission point as detailed below and:

- a. Amend SPPO Appendix 1 in accordance with the legend set out in **Attachment 3** of **Part 1** of the s42A Report.

| Submitter    | Submission# & Point # | Accept/Reject | Recommendation |
|--------------|-----------------------|---------------|----------------|
| WDC Planning | 236.122               | Accept        | a.             |

## b. Definitions

### Submission Information

64. Northport Ltd (**Northport**) request that the definition of Port activities be amended as follows:

*Port Activities means the use of land and/or buildings within the Port Zone for port related activities, including; but not limited to:*

- a. *Cargo handling, including the loading, unloading, storage, processing and transit of cargo;*
- b. *Debarking;*
- c. *Fumigation;*
- d. *Transport, storage and goods handling activities;*
- e. *Maritime passenger handling/services;*
- f. *Construction, maintenance and repair of port operations and facilities;*
- g. *Port administration;*
- h. *Refuelling/fuel handing facilities;*
- i. *Activities associated with surface navigation, berthing;*
- j. *Maintenance or repair of a reclamation or drainage system;*
- k. *Marine and port accessory structures and services;*
- l. *Port and ancillary port activities;*
- m. *Repair and maintenance services and facilities ancillary to Port Activities;*
- n. *Waste management facilities for quarantine purposes;*
- o. *Ship repair, maintenance and associated facilities and activities;*
- p. *General Marine industry and related activities; and*
- q. *Any business or activity that relies on the port to be able to undertake its business or operation.*

65. Marsden Maritime Holdings Limited (**MMH**) seek to amend the definition of Port Activities as follows:

*Port Activities means the use of land and/or buildings within the Port Zone for port related activities, including; but not limited to:*

- a. *Cargo handling, including the loading, unloading, storage, processing and transit of cargo;*
- b. *Debarking;*
- c. *Fumigation;*

- d. *Transport, storage and goods handling activities;*
- e. *Maritime passenger handling/services;*
- f. *Construction, maintenance and repair of port operations and facilities;*
- ~~g. *Port administration;*~~
- h. *Port and ancillary port activities, including administration;*
- i. *Refuelling/fuel handing facilities;*
- j. *Activities associated with surface navigation, berthing;*
- k. *Maintenance or repair of a reclamation or drainage system;*
- l. *Marine and port accessory structures and services;*
- m. *Repair and maintenance services and facilities ancillary to Port Activities;*
- n. *Waste management facilities for quarantine purposes;*
- o. *Ship repair, maintenance and associated facilities and activities;*
- p. *General Marine industry and related activities; and*
- q. *Any business or activity that relies on the port to be able to undertake its business or operation.*

#### Discussion

66. The Northport and MMH submissions effectively seek the same relief, with minor changes relating to the reference to port administration. I generally support the definition of “Port Activities” as notified, although I agree that a number of the requested changes provide greater clarity on those activities typically associated with port facilities. My position is summarised as follows:

- I agree that the addition of “port and ancillary port activities” will improve clarity and understanding of activities captured under this definition, particularly ancillary activities.
- I do not agree that it is necessary to amend the definition in so far as it relates to “port administration.” In my opinion, the separate identification of port administration, as notified, provides a clearer and more concise description of port-related activities.
- Provided that “repair and maintenance services and facilities” are restricted to those that are ancillary to port activities, I consider this to be an appropriate addition to the definition. As stated within the submission, I agree that these activities (if operating in an ancillary manner to port activities) are already provided for as permitted activities within the SPPO. However, for the avoidance of doubt, I agree that the proposed amendments are appropriate to improve clarity and ensure consistency for plan users. A consequential change is needed to SPPO-R12 in my opinion as a result of the amendment to the definition to clarify that repair and maintenance services and facilities are only permitted where it is related to port activities.
- I do not support the inclusion of “waste management facilities for quarantine purposes” within the definition of Port Activities. I do not consider that sufficient information has been provided within the submission to understand the nature, scale, and type of waste management facilities required

or intended to be captured by this addition, or to understand the potential implications of providing for such facilities as permitted activities within the SPPO. Notwithstanding the above, I agree that quarantine facilities are a necessary component of typical port operations and consider that should additional information and justification be provided at the hearing, my position on this matter may change.

- Given my recommendation to support the inclusion of “repair and maintenance services and facilities ancillary to port activities” within the definition as discussed above, I do not consider it necessary to include “ship repair, maintenance and associated facilities and activities” within the same definition. In my opinion, the former adequately encapsulates these services as they relate to ships and other vessels and as such, I consider this requested addition to be an unnecessary duplication.
- I do not support the inclusion of “general marine industry and related activities” within the definition of Port Activities. I consider that marine industry<sup>1</sup> activities that are not ancillary to port activities should not be permitted within the SPPO and instead should be considered through a resource consent process. With regard to specific activities captured under the definition of marine industry, I note that vessel repair and maintenance as well as cargo handling and processing are already included within the definition of port activities, and are therefore provided for within the SPPO. It is my opinion that other marine industry activities, including the production and processing of boats, accessory goods or seafood, that are not associated with or ancillary to port activities require consideration to determine the appropriateness of operating within the SPPO as per SPPO-R13. This consideration will ensure the limited available land within the SPPO is protected to provide for the safe and efficient operation and expansion of the port. Should a consent application be made, SPPO-P2 provides policy support for such activities provided that a direct requirement to establish within proximity to the Port can be demonstrated, and that the activity will not compromise or constrain current and future port activities.
- I do not consider it appropriate to include “any business or activity that relies on the port to be able to undertake its business or operation” within the definition of Port Activities. In my opinion the wording of the proposed additions is vague and the implications of providing for such a broad range of activities is unclear. Activities ancillary to port activities are provided for and defined which, in my opinion, is a more appropriate and consistent method of managing these activities within the SPPO chapter.

67. Following my consideration of the above submission points relating to the definition of “Port Activities”, I consider that further consequential changes are required. In particular I recommend that SPPO-R3 Ancillary Activities to Port Activities should now be deleted. In my opinion this rule is redundant in light of my recommended change to the definition of “Port Activities” to include “port and ancillary port activities” in clause (a) which would clarify that ancillary activities to the port are permitted. Furthermore,

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<sup>1</sup> Marine Industry means manufacture, repair, storage or maintenance associated with production or processing of boats, accessory goods or seafood. This definition is included within the Industrial Activities definition grouping.

in my opinion the notified definition of “non-port related activities” should be deleted. Given the specificity of the definition of “Port Activities” it is clear in my opinion what activities in the SPPO are permitted and therefore the definition of “non-port related activities” is redundant and should be deleted.

Recommendation

68. I recommend that the Commissioners accept in part the submission points as detailed below and:
- a. Amend the definition of “Port Activities” as outlined in **Attachment 1 of Part 1** of the s42A Report.
  - b. Undertake consequential amendments to delete the definition of “non-port related activities”, amend SPPO-R12 to include “Excluding for Port Activities” and delete SPPO-R3 Ancillary Activities to Port Activities.

| Submitter | Submission# & Point # | Accept/Reject  | Recommendation |
|-----------|-----------------------|----------------|----------------|
| Northport | 132.2                 | Accept in part | a.             |
| MMH       | 259.7                 | Accept in part | a.             |

**c. SPPO Objectives**

Submission Information

69. Public Health Northland seek to amend SPPO-O2 as follows:

*Recognise the unique characteristics of the Port and provide for:*

- 1. *The efficient, effective and sustainable ongoing operation of Port activities within the SPPO without undue constraints; and*
- 2. *The sustainable future development and expansion of Port operations and activities within the SPPO.*

70. Population Health Northland seek to amend SPPO-O3:

*Manage the adverse effects of the port and port activities on the environment in a sustainable manner, and ensure no compromise to the well-being and amenity of the surrounding community.*

71. Population Health Northland seeks to amend SPPO-O4:

*Maintain, and where practicable enhance public access, use and enjoyment of the coastal marine area, provided it does not adversely affect the efficient and safe operation of the port and does not have any adverse effects on the wellbeing of those using the area.*

72. Northland Regional Council (**NRC**) seek to revisit the policy direction that relates to managing the coastal marine area to ensure there is no duplication with NRC responsibilities.

73. Patuharakeke Te Iwi Trust Board (**PTB**) support SPPO-O4 and SPPO-O6.

Discussion

74. I do not support the request made by Public Health Northland to amend the wording of SPPO-O2 to include the term ‘sustainable’ into the objective. Sustainable management is addressed under Part 2 of the RMA and does not require duplication within the policy framework of the SPPO. On this basis it is

my opinion that including the term “sustainable” adds not value to SPPO-O2 and is therefore unnecessary.

75. I do not agree with the proposed amendments to SPPO-O3 as requested by Public Health Northland. My position is summarised as follows:

- I do not support the reference to sustainability for the reasons outlined previously. Sustainable management is addressed under Part 2 of the RMA and does not require duplication within the policy framework of the SPPO.
- I do not consider that it is appropriate to require the port to “ensure there is no compromise to the well-being and amenity of the surrounding community”. The Port is a regionally and nationally significant physical resource which contributes to the social and economic benefit of the people and communities of the Whangarei District and Northland Region<sup>2</sup>. As a result of its location and function, it is accepted that the port is likely to generate adverse effects. The provisions of the SPPO seek to actively manage these effects as far as practicable without impeding the Port’s ability to continue to operate or expand as required.

76. I do not support Public Health Northland requested amendments to SPPO-O4. As stated previously, I do not consider it appropriate to expect that the port will not generate any adverse effects on users of the Port and coastal marine area (**CMA**). With regard to the concerns raised in the submission relating to the wellbeing of users of these areas, I note that adverse effects generated by port activities are managed under other SPPO provisions and that consideration of hazardous substances fall outside the scope of the SPPO chapter<sup>3</sup>. The purpose of SPPO-O4 is to ensure that continued public access is provided to the CMA where it is safe to do so and where it will not compromise port activities.

77. NRC have sought that the policy framework of the SPPO is revisited in so far as it relates to the CMA. However, no requested amendments have been provided and as a result, it is unclear as to the specific relief sought by the submitter. SPPO-O4 addresses the need to maintain access, use and enjoyment of the CMA, and does so through the control and use of land as provided for by section 31 of the RMA. It is my opinion that the notified wording of SPPO-O4 accurately reflects the intent of the objective and does not appear to reference controlling or managing activities undertaken within the CMA. Upon review of the wording and section 6(d) of the RMA however, I have noted that the objective should reference “to and along” for consistency with the wording in the RMA. I recommend that a similar consequential change is made to SPPO-P4.3 and the matter of discretion in SPPO-R9.5 for consistency.

78. I acknowledge PTB’s support for SPPO-O4 and SPPO-O6 and agree that both objectives should be retained, noting my minor recommended amendment to SPPO-O4 discussed above.

### Recommendation

79. I recommend that the Commissioners accept and/or reject the submission points as detailed below and:

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<sup>2</sup> See paragraphs 10 – 11 on page 6 of the Port s32 report.

<sup>3</sup> Hazardous substances are controlled under the proposed HAZ Chapter.

- a. Retain SPPO-O2 as notified.
- b. Retain SPPO-O3 as notified.
- c. Amend SPPO-O4 and make similar consequential amendments to SPPO-P4.3 and SPPO-R9.5 as set out in **Attachment 2**.
- d. Retain SPPO-O6 as notified.

| Submitter               | Submission# & Point # | Accept/Reject | Recommendation |
|-------------------------|-----------------------|---------------|----------------|
| Public Health Northland | 207.78                | Reject        | a.             |
| Public Health Northland | 207.79                | Reject        | b.             |
| Public Health Northland | 207.80                | Reject        | c.             |
| NRC                     | 264.18                | Reject        | c.             |
| PTB                     | 173.9                 | Accept        | c, d.          |

#### d. SPPO Policies

##### Submission Information

80. Public Health Northland seek to amend SPPO-P3:

*To ~~manage~~ mitigate adverse effects of the Port and associated port activities, by:*

...

*2. ~~Controlling~~ Minimising adverse effects of noise and light spill while recognising the operational requirements of the Port; and....*

81. Public Health Northland seek to Insert under SPPO-P3:

*To manage adverse effects of the Port and associated port activities, by:*

*...2 (a) Ensuring biosecurity surveillance measures are implanted to avoid mosquito breeding environments (for e.g., avoiding plants that collect water (such as bromeliads)) ...*

82. NRC seek to revisit the policy direction that relates to managing the coastal marine area to ensure there is no duplication with NRC responsibilities.

83. PTB support SPPO-P6.

##### Discussion

84. I agree in part with the proposed amendments to SPPO-P3 as requested by Public Health Northland, with my position summarised as follows:

- I do not agree that it is appropriate to “mitigate” as opposed to “manage” the adverse effects of the Port and associated activities and therefore do not support this amendment requested to SPPO-P3. In recognition of the nature and scale of typical port operations, I do not consider it possible or appropriate to require adverse effects generated by these activities to be mitigated in all instances. Instead, the policy direction of the SPPO seeks to recognise the operational requirements and constraints of these facilities by managing adverse effects on the environment. In particular, by limiting building heights, controlling noise and light spill, and managing effects of

earthworks. This management approach is in my opinion consistent with the policy direction of the remaining special purpose zones providing for Regionally Significant Infrastructure, including the airport (SPA) and hospital (SPH).

- I agree that it is more appropriate to ‘minimise’, as opposed to ‘control’ adverse effects of noise and light spill. I consider that the proposed wording better reflects the intent to actively manage adverse effects generated by Port activities and as such support the relief requested by Public Health Northland.

85. I do not support the relief sought within the Public Health Northland submission relating to incorporating biosecurity surveillance measures into the SPPO provisions. I do not consider this to be an appropriate addition to SPPO-P3 as biosecurity is managed via alternative legislative tools and governing bodies<sup>4</sup> and in my opinion, this request falls outside of the scope of the plan change.

86. As stated previously, it is not clear as to the specific relief sought by NRC’s submission relating to reference to the CMA. SPPO-P4 seeks to provide policy direction for the implementation of SPPO-O4, relating to controlling the use and development of land to maintain public access to the coast. I have already addressed this matter in Topic c above where I have recommended a consequential change to SPPO-P4-3 to include “and along” for consistency in drafting.

87. I note PTB’s support for SPPO-P6 and agree that it should be retained as notified.

Recommendation

88. I recommend that the Commissioners accept and/or reject the submission points as detailed below and:
- a. Amend SPPO-P3 as set out in **Attachment 2**.
  - b. Amend SPPO-P4 as set out in **Attachment 2**.
  - c. Retain SPPO-P6 as notified.

| Submitter               | Submission# & Point # | Accept/Reject  | Recommendation |
|-------------------------|-----------------------|----------------|----------------|
| Public Health Northland | 207.79                | Accept in part | a.             |
| Public Health Northland | 207.81                | Reject         | a.             |
| NRC                     | 264.18                | Reject         | b.             |
| PTB                     | 173.10                | Accept         | c.             |

**e. SPPO R2 – Port Activities**

Submission Information

89. Northport requests that the proposal for the activities in SPPO-R2 to be permitted activities is retained.

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<sup>4</sup> Biosecurity is managed under the Biosecurity Act 1993 and Section 30 of the RMA, and as such, is a function of Ministry for Primary Industries, other government departments, and Regional Councils.

Discussion

90. I agree that SPPO-R2 should be retained as notified.

Recommendation

91. I recommend that the Commissioners accept the submission point as outlined below and:

- a. Retain SPPO-R2 as notified.

| <b>Submitter</b> | <b>Submission# &amp; Point #</b> | <b>Accept/Reject</b> | <b>Recommendation</b> |
|------------------|----------------------------------|----------------------|-----------------------|
| Northport        | 132.3                            | Accept               | a.                    |

**f. SPPO R3 – Ancillary Activities to Port Activities**

Submission Information

92. Northport requests that the proposal for the activities in SPPO-R3 to be permitted activities retained.

Discussion

93. I agree that SPPO-R3 should be retained as notified.

Recommendation

94. I recommend that the Commissioners accept the submission point as outlined below and:

- a. Retain SPPO-R3 as notified.

| <b>Submitter</b> | <b>Submission# &amp; Point #</b> | <b>Accept/Reject</b> | <b>Recommendation</b> |
|------------------|----------------------------------|----------------------|-----------------------|
| Northport        | 132.3                            | Accept               | a.                    |

**g. SPPO R4 – Helicopter Facilities**

Submission Information

95. Northport requests that the proposal for the activities in SPPO-R4 to be permitted activities is retained.

Discussion

96. I agree that SPPO-R4 should be retained as notified.

Recommendation

97. I recommend that the Commissioners accept the submission point as outlined below and:

- a. Retain SPPO-R4 as notified.

| <b>Submitter</b> | <b>Submission# &amp; Point #</b> | <b>Accept/Reject</b> | <b>Recommendation</b> |
|------------------|----------------------------------|----------------------|-----------------------|
| Northport        | 132.3                            | Accept               | a.                    |

**h. SPPO R5 – Building Height**

### Submission Information

98. Northport seeks to increase the maximum crane height in Port Management Area A to 110m above ground level.
99. Northport requests that the maximum height for containers in Port Management Area B be increased to 30m to align with the equivalent standard in Port Management Area A (SPPO-R5.4).
100. MMH seek to amend the SPPO so that the maximum height for buildings and containers in Port Management Area B is 25m.

### Discussion

101. I disagree with the submission from Northport which seeks to increase the maximum crane height in Port Management Area A to 110m above ground level. In my opinion, Northport have provided insufficient justification and technical information to support the increase in height from the 85m notified maximum. It is not clear from the submission what potential effects the requested increase in crane height could have on the surrounding environment in terms of landscape and cultural values. Height was assessed in the Port s32 Report<sup>5</sup>. This included Option 3 of having no building height for structures such as cranes. Ultimately this option was not assessed as the most appropriate because it would not result in the management of effects, particularly in terms of amenity and significant view shafts to Whangarei Heads.
102. Whilst the SPPO objectives and policies as notified acknowledge providing efficiently and effectively for Port activities and operations, recognising the social and economic benefits given that the port is regionally significant infrastructure, in my opinion this needs to be balanced with the other objectives, policies and values for the zone such as landscape and cultural values. A 110m height limit is a significant change, and in my opinion a landscape and cultural impact assessment from suitably qualified practitioners should be provided to assess the potential effects that this could have on the surrounding environment before the requested change can be considered. I consider it appropriate that this assessment is provided before or at the hearing to support Northport's submission point. Until then, I recommend that this submission point be rejected, and a discretionary activity status for any crane over 85m in height is retained to enable a case by case assessment of any building/structure that exceeds this limit.
103. Requests were made by Northport and MMH to amend the maximum height for containers in Port Management Area B to 30m and 25m respectively. In addition, I note that PTB made a further submission<sup>6</sup> opposing the maximum building heights because it would be inconsistent with SPPO-P6 – Cultural Values. I do not support the relief requested. It is not clear why an amendment to the maximum height from the 20m notified is required in either instance.

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<sup>5</sup> Refer to paragraphs 130 – 135 on pages 32 – 36 of the Port s32 Report.

<sup>6</sup> Further submission x342 - PTB

104. Consultation with PTB prior to the notification of the SPPO provisions revealed concerns with height limits, particularly around containerisation, given the impact that this could have on the significant natural landscapes and viewshafts to Whangarei Heads from the Port which are of important cultural value to iwi and hapu groups. In recognition of the cultural values, a height limit of 20m for Port Management Area B in my opinion is appropriate, given that this area is not directly part of the operational area of the Port currently. As noted above, in my opinion a landscape assessment and cultural impact assessment, particularly assessing the potential bulk and blocking effects of higher height limit of 25 – 30m, should be completed by suitably qualified practitioners and provided in order to assess the potential effects and merits of this change. I consider it appropriate that this assessment be provided before or at the hearing to support Northport and MMH submission points. Until then, I recommend that both submission points be rejected, and the 20m maximum height limit for containers be retained with a discretionary activity status for any containers exceeding this limit.

Recommendation

105. I recommend that the Commissioners reject the submission points as detailed below and:

- a. Retain SPPO-R5 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| Northport | 132.4                 | Reject        | a.             |
| Northport | 132.5                 | Reject        | a.             |
| MMH       | 259.4                 | Reject        | a.             |

**i. SPPO R8 – Outdoor Areas of Storage or Stockpiles**

Submission Information

106. WDC Planning seek to amend SPPO-R8 to state a maximum height of 20m for storage and stockpiles as follows:

*Where:*

1. *The outdoor area of storage or stockpile complies with rules SPPO R6 – R7; and*
2. *The maximum height of the area of storage or stockpile is 20m above ground level.*

Discussion

107. I agree with the requested amendment and accept that it will provide greater consistency and clarification with the other height rules in the SPPO chapter and across the other proposed chapters. In particular, I note that there is a loophole in the notified rule which does not provide any height limit for outdoor storage or stock piles which are not located by the boundary of the zone and other adjoining zones. This has the potential to create adverse effects and allow for an unrestricted height of storage and stock piling within the Port. I concur that outdoor areas of storage or stockpiles should have limits attached, consistent with the different height limits which are applied to various other structures and aspects of the Port. I agree with the 20m height limit requested by WDC Planning which is consistent with the lower height limits applied in Port Operations Area A and Port Management Area B.

Recommendation

108. I recommend that the Commissioners accept the submission point as outlined below and:

- a. Amend SPPO-R8 as outlined in **Attachment 2**.

| Submitter    | Submission# & Point # | Accept/Reject | Recommendation |
|--------------|-----------------------|---------------|----------------|
| WDC Planning | 236.121               | Accept        | a.             |

**j. SPPO R10 - Sea-Farers Mission and Managers Accommodation**

Submission Information

109. Northport request that the seafarers mission be provided for as a permitted activity (SPPO-R10).

Discussion

110. I do not agree that it is appropriate to provide for sea-farers mission and managers accommodation facilities as permitted activities within the SPPO. The SPPO currently contains one sea-farers mission, which will continue to operate under existing use rights. However, in the instance that this facility expands or is relocated, in my opinion any such proposals should be considered against the policy framework of the SPPO. The resource consent process will provide an opportunity to ensure such sensitive development is appropriately located within the SPPO, minimising reverse sensitivity effects, and to ensure that the future operation and potential expansion of the Port is not compromised.

111. The policy framework of the SPPO provides support for sea-farers missions, provided that current and future port activities are not compromised or constrained. I consider that a restricted discretionary activity status will provide a directive and streamlined consenting pathway, with the three matters of discretion ensuring a targeted assessment of any future consent application.

112. A full assessment of the proposed rule framework surrounding the sea-farers mission has been undertaken within the Port Zone s32 report<sup>7</sup>. A restricted discretionary status was assessed as the most appropriate because it:

*Sets clear expectations for future developments while managing the environmental effects of relocating/constructing such a facility and effectively providing for the needs of the Port. Greater direction is provided as to what the relevant matters that need to be assessed within a resource consent application are for the sea-farers mission and managers accommodation. While the matters of discretion are restricted, the consent process is streamlined and somewhat simplified, resulting in reduced processing costs.*

*When compared to option 3 (being a non-complying activity status), option 2 provides a clearer indication that the sea-farers mission and managers accommodation is appropriate within the SPPO subject to assessment against the matters of discretion and relevant objectives and policies. (A restricted discretionary activity status) provides for the sea-farers mission and managers accommodation while safeguarding the Port operations and managing any adverse reverse sensitivity effects.*

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<sup>7</sup> Paragraphs 154 – 158 on pages 40 – 43 of the Port Zone s32 Report.

113. I agree with the assessment undertaken within the s32 Report for SPPO-R10 and nothing in the Northport submission changes my opinion on this matter.

Recommendation

114. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Retain SPPO-R10 as outlined in **Attachment 2**.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| Northport | 132.6                 | Reject        | a.             |

**k. SPPO R12 – Repair and Maintenance Services**

Submission Information

115. Northport supports SPPO-R12 subject to the amendment to the definition of Port Activities being accepted.

Discussion

116. As outlined within Topic b above, I support Northport’s proposed amendments to the definition of “Port Activities” to include “repair and maintenance services and facilities ancillary to port activities” as sought by submission 132.2. In Topic b I have recommended a consequential amendment to SPPO-R12 to include “excluding for port activities” to clarify the application of this rule and my revised definition of “Port Activities”.

Recommendation

117. I recommend that the Commissioners accept the submission point as detailed below and:

- a. Amend SPPO-R12 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| Northport | 132.7                 | Accept        | a.             |

**l. SPPO R13 – Marine Industry**

Submission Information

118. Northport supports SPPO-R13 subject to the amendment to the Port Activities definition being accepted.

Discussion

119. As per submission 132.2, Northport have requested that “general marine industry and related activities” are included within the definition of Port Activities. For the reasons outlined within Topic b above, I do not agree that it is appropriate to amend the definition as requested. As such, it is my understanding that Northport opposes SPPO-R13 as notified.

120. For the same reasons outlined within Topic b, it is my opinion that marine industry<sup>8</sup> activities not ancillary to port activities should not be permitted within the SPPO, and instead should be subject to consideration through a resource consent process. As notified, marine industry activities are classified as restricted discretionary activities within Port Management Area B, and non-complying activities within Port Management Area A. I consider that these activity statuses accurately reflect the policy direction and intended development outcomes for the zone, in particular those relating to protecting SPPO land and the safe and efficient operation and expansion of the port.
121. The policy framework of the SPPO chapter provides limited support for non-port related activities to establish and operate within this special purpose zone. Assessment by way of resource consent will require such activities to demonstrate a functional need to be located within proximity to the Port and to ensure that current and future port activities are not compromised or constrained by such development. Any development that cannot satisfy these requirements will be encouraged to locate elsewhere, outside of this special purpose zone, to a more appropriately zoned location that would accommodate such industrial activities.
122. On this basis, I consider that SPPO-R13 should be retained as notified and do not propose any amendments.

Recommendation

123. I recommend that the Commissioners reject the submission point as detailed below and:
- a. Retain SPPO-R13 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| Northport | 132.7                 | Reject        | a.             |

**m. SPPO R15 – General Industry**

Submission Information

124. Northport supports SPPO-R15 subject to the amendment to the Port Activities definition being accepted.

Discussion

125. Northport’s submission 132.2 regarding the proposed amendments to the definition of “Port Activities” did not seek to include General Industry activities. It is therefore not clear what specific relief is sought through this submission. As such, on this basis of insufficient information, I consider that SPPO-R15 should be retained as notified and do not propose any amendments.

Recommendation

126. I recommend that the Commissioners reject the submission point as detailed below and:

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<sup>8</sup> Marine Industry means manufacture, repair, storage or maintenance associated with production or processing of boats, accessory goods or seafood. This definition is included within the Industrial Activities definition grouping.

- a. Retain SPPO-R15 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| Northport | 132.7                 | Reject        | a.             |

**n. SPPO R18 – Commercial Activities**

Submission Information

127. Northport supports SPPO-R18 subject to the amendment to the definition of Port Activities being accepted.

Discussion

128. Northport’s submission 132.2 regarding the proposed amendments to the definition of “Port Activities” did not seek to include Commercial Activities. As such, it is not clear what specific relief is sought through this submission. Therefore, on this basis of insufficient information being provided, I consider that SPPO-R18 should be retained as notified and do not propose any amendments.

Recommendation

129. I recommend that the Commissioners reject the submission point as detailed below and:

- a. Retain SPPO-R18 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| Northport | 132.7                 | Reject        | a.             |

**o. SPPO R19 – Waste Management Facilities**

Submission Information

130. Northport supports SPPO-R19 subject to the amendment to the Port Activities definition being accepted.

Discussion

131. As per submission 132.2, Northport have requested that “waste management facilities for quarantine purposes” are included within the definition of Port Activities. For the reasons outlined within Topic b above, I do not agree that it is appropriate to amend the definition at this time as requested. However, as stated previously I am open to reconsidering my position on this matter should further information and clarification be provided at the hearing. Therefore, based on the information available at this time, it is my understanding that Northport opposes SPPO-R19 as notified.

132. With regards to SPPO-R19 and as stated within the Section 32 Report<sup>9</sup>, waste management facilities are not considered to align with the proposed objectives and policies for the SPPO. Instead, there are alternative zones to cater for such activities in appropriate locations within the District. A non-complying

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<sup>9</sup> Paragraphs 168 – 170 on pages 47 – 48 of the Port Zone (SPPO) Section 32 Report.

activity status will result in consenting costs and reduce flexibility for the establishment of these activities within the SPPO, which in my opinion is necessary to protect the limited land within the SPPO for port activities.

133. On this basis, I consider that SPPO-R19 should be retained as notified and do not propose any amendments.

Recommendation

134. I recommend that the Commissioners reject the submission point as detailed below and:

- a. Retain SPPO-R19 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| Northport | 132.7                 | Reject        | a.             |

**p. Commercial Activities**

Submission Information

135. MMH seek to include an appropriate mechanism as part of PC144 that will allow commercial activities to proceed as a permitted activity in the SPPO where they are located adjacent to Marsden Bay Drive.

Discussion

136. I do not support the relief requested by this submitter. In my opinion, it is not appropriate for commercial activities to be a permitted activity in the SPPO where they are located adjacent to Marsden Bay Drive, as this would be inconsistent with the notified SPPO objectives and policies and the purpose of the zone in the Standards.
137. The notified SPPO provisions provide for commercial activities as a non-complying activity recognising that it is necessary to protect the limited land within the SPPO for port activities, which is the primary purpose of the zone under the Standards. I do not consider it appropriate for commercial activities to be permitted within the zone given the current and future operations of the Port, including potential expansion; in my opinion a permitted activity approach as sought in MMH submission will not adequately avoid the establishment of commercial activities within the SPPO which could compromise the efficient and effective functioning of this regionally significant infrastructure.
138. In my opinion commercial activities are inappropriate to be specifically provided for and enabled within the SPPO, particularly given that there are other zones (including zones surrounding the Port) which provide specific provision for commercial activities. A full s32 assessment for “commercial activities” is undertaken in the Port s32 Report<sup>10</sup>. The s32 report considered both options of a non-complying activity status and permitted activity status. The report concluded that a permitted activity approach was not appropriate because:

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<sup>10</sup> See paragraphs 165 - 170 on pages 45 - 48 of the Port s32 Report.

*While it will result in greater flexibility and least compliance costs for MMH and Northport, it will not adequately avoid the establishment of the specified activities within the SPPO. Permitting these activities will not provide an appropriate level of protection for the Port nor will it safeguard Port land for future growth and expansion. This is inconsistent with the proposed SPPO objectives and policies and the draft NP Standards.*

139. I agree with the assessment in the s32 for commercial activities and the activity status applied, and nothing identified within the submission from MMH changes my view. In my opinion, insufficient evidence has been provided by MMH to support the need for commercial activities to be permitted in the SPPO. I note that commercial activities south west of Marsden Bay Drive may be appropriate if the zoning were different. Both MMH and Northport were consulted prior to the notification of the provisions regarding the spatial extent of the SPPO and in particular whether the land south west of Marsden Bay Drive was needed for port purposes. No formal feedback was received on this matter. In the absence of this feedback, in my opinion the zoning (and therefore activities permitted in the zone) need to be restricted to port operations.

Recommendation

140. I recommend that the Commissioners reject the submission point and:

- a. Retain commercial activities as notified (SPPO-R18).

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| MMH       | 259.1                 | Reject        | a.             |

**q. Industrial Activities**

Submission Information

141. MMH seek to amend the SPPO so that industrial activities are a permitted activity.

Discussion

142. I do not support MMH request to amend the SPPO policy and rule framework to allow industrial activities to occur within the SPPO as a permitted activity. The SPPO chapter acknowledges that the Port will likely be expanding in the near future, and an important part of facilitating the expansion of this regionally significant infrastructure is recognising that the Port land is limited. Therefore, the chapter provides that establishment of non-port related activities within the SPPO should be avoided unless it is clearly demonstrated pursuant to SPPO-P2 that there is a direct requirement for such activities to establish within the SPPO and that those activities will not constrain the safe and efficient operation of current and future port activities. Current lawfully established industrial activities operating within the zone will have existing use rights, the chapter acknowledges that some industrial activities could occur within the SPPO until such time as the land is needed for the expansion of the Port, provided those uses will not compromise the land for future Port activities and operations.

143. The activity status for industrial activities in SPPO-R11 – R15 is assessed in the Port s32 Report<sup>11</sup>. A restricted discretionary activity status has been proposed for establishing industrial activities within the SPPO. This approach was assessed as the most appropriate so that any industrial use can be considered on a case by case basis in terms of its compatibility with port operations and activities and any potential effects on Port operations remaining viable in the long term. In my opinion these considerations cannot be achieved through a permitted activity status, which ultimately would be inconsistent with the policy direction and purpose of the SPPO zone. I agree with the assessment in the s32 Report and nothing identified within the submission from MMH changes my view.

Recommendation

144. I recommend that the Commissioners reject the submission point as detailed below and:

- a. Retain industrial activities as notified (SPPO-R11- R15).

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| MMH       | 259.2                 | Reject        | a.             |

**r. Rural Production Activities**

Submission Information

145. MMH seek to amend the SPPO so that rural production activities are a permitted activity.

Discussion

146. I do not support this request and consider that MMH have provided insufficient justification to support the need for rural production activities to be a permitted activity within the SPPO. Amending the activity status for rural production activities as requested would in my opinion be inconsistent with the policy direction and the purpose of the SPPO under the Standards. There zones such as the Rural Production Environment which specifically cater for rural production activities within appropriate locations within the District.

147. The activity status for rural production activities in SPPO-R21 is assessed in the Port s32 Report<sup>12</sup>. A non-complying activity status was assessed as the most appropriate compared to a permitted activity status because:

*While a non-complying activity status will result in consenting costs and reduce flexibility for the occurrence of these activities within the SPPO, it is considered necessary to protect the limited land within the SPPO for port activities which is the primary purpose of the SPPO under the draft NP Standards. The activities proposed to be non-complying are considered to be inappropriate to be specifically provided for and enabled within the SPPO, as there are other zones within the WDP that provide specific provision for them. Some of the activities specified above are sensitive land uses which could compromise the safe, efficient and effective operation of the Port now and in the future, and given the nature of port environments are not suitable to establish within the*

<sup>11</sup> See paragraph 159 – 164 on pages 43 - 45 of the Port s32 Report.

<sup>12</sup> See paragraphs 165 - 170 on pages 45 - 48 of the Port s32 Report.

area. A non-complying activity status provides clear direction that this is the case. Research on the approaches undertaken in other port zones has confirmed that the activities above are commonly non-complying activities in port environments.

148. I agree with the assessment in the s32 Report for rural production activities (SPPO-R21). In my opinion, permitting rural production activities within the zone will not provide the necessary protection for the limited supply of Port land which is required to enable port activities which serve as important resources contributing to the social and economic needs of the Northland Region. Nothing identified within the submission from MMH changes my opinion.

Recommendation

149. I recommend that the Commissioners reject the submission point as detailed below and:

- a. Retain rural production activities as notified (SPPO-R21).

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| MMH       | 259.3                 | Reject        | a.             |

**s. Noise**

Submission Information

150. Northport seek to introduce a Port Noise Management Area to the list of zones in NAV6.5(1) and the table below it. This would introduce sound insulation requirements for future dwellings at Reotahi and One Tree Point.

Discussion

151. I understand that Northport has engaged an acoustics expert to prepare a port noise model in accordance with the requirements of the Port Noise Standard, and that this work is progressing in parallel with the submission made and will inform subsequent engagement.
152. I acknowledge the practical basis for Northport’s request to introduce a Port Noise Management Area and insulation sound requirements for residential dwellings surrounding the Port, in order to manage potential reverse sensitivity effects from future dwellings at Reotahi and One Tree Point, particularly given the recent “up-zoning” of the rural village residential zone land at Reotahi which will introduce the potential for additional dwellings within an area that is subject to port and refinery related noise.
153. In my opinion, Northport has provided insufficient technical information and evidence for both the Port Noise Management Area and sound insulation requirements. However, given the technical nature of Northport’s request, advice was sought from Jon Styles (see **Attachment 6** of **Part 1** of the s42A Report). Mr Styles advice confirms that a Port Noise Management Area could be appropriate and in principle is supported, however a significant amount of technical information is required before the potential adverse noise effects can be assessed, the costs of insulation determined, and the appropriate policy and rules drafted.

154. I rely on the expertise of Mr Styles, and on this basis, it is my opinion that the noise requirements for the Port as set out in the NAV chapter are retained. Given the absence of technical information, in my view, it is appropriate that this information is provided before or the hearing to support this submission point so that it can be considered.

Recommendation

155. I recommend that the Commissioners reject the submission and:

- a. Retain the SPPO provisions as notified.
- b. Not make changes to NAV6.5 as requested.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| Northport | 132.8                 | Reject        | a, b.          |

**t. Plant Nursery**

Submission Information

156. PTB seek to develop wording to provide for a minor nursery as an ancillary activity to port operations with a permitted activity status.

Discussion

157. The Port is a significant resource contributing to the social and economic wellbeing of the Northland Region. It is important that the SPPO provisions seek to retain the integrity of the land and ensure that the zone can provide for and enable its primary purpose, port activities and operations. In my opinion, a minor nursery should not be considered as ancillary to the port operations as it is not a key component of ensuring the ongoing operations and functioning of port activities, and it is not appropriate for a minor nursery to be a permitted activity within the SPPO as this would be inconsistent with the policy direction of the zone and the Standards as a special purpose zone.

158. The establishment of a minor nursery should in my opinion be dealt with on a case by case basis through a non-complying resource consent process. While I acknowledge that a minor nursery may be an appropriate use of any surplus port land in the interim until it is needed in the future as the port expands and grows, in my opinion this should be subject to an assessment and consideration to ensure that there are no adverse effects nor will that activity compromise future port operations. In my opinion the objectives and policies, and in particular SPPO-P2, would provide a basis to support a potential resource consent being obtained by PTB to establish a minor nursery.

Recommendation

159. I recommend that the Commissioners reject the submission point as detailed below and:

- a. Not include a provision making a minor nursery a permitted activity

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| PTB       | 173.11                | Reject        | a.             |

**u. Transport**

Submission Information

160. B and A Burrows support the discouragement of incompatible activities within the SPPO and seek that amendments are made to re-route heavy traffic away from Marsden Point Road, via SH15A, or preferably to rail.

Discussion

161. I do not support the relief requested by this submitter. I assume from the content of the submission that the primary concern of the submitter relates to traffic/transport matters, particularly with regards to heavy vehicles associated with the Port and nearby heavy industry land uses utilising Marsden Point Road to gain access to State Highway 1, as opposed to utilising State Highway 15A. Marsden Point Road is not located within the SPPO, and in any event, the SPPO chapter cannot re-direct traffic or control the routes and roads that traffic utilise. As such, this submission appears to be outside the scope of the District Plan functions.

Recommendation

162. I recommend that the Commissioners reject the submission point as outlined below and:
- a. Retain the SPPO chapter as notified, subject to the amendments recommended in this report.

| Submitter       | Submission# & Point # | Accept/Reject | Recommendation |
|-----------------|-----------------------|---------------|----------------|
| B and A Burrows | 22.3                  | Reject        | a.             |

**v. Other Provisions**

Submission Information

163. Northport seek to retain the Port Zone and exempt the Port Zone from all other plan changes.

Discussion

164. I agree that the Port Zone should be retained as notified, noting that some amendments have been recommended to the provisions for the zone elsewhere in this report.
165. Based on the submission, I understand that Northport are seeking to be exempt from all other plan changes in the Urban and Services plan change package as they are perceived as being too prescriptive, onerous, difficult to understand and that they will have adverse implications for business across the district (including the port). In my opinion, Northport have provided insufficient information to clearly understand what the potential adverse implications of the other plan changes might be on businesses including the port. Further, I do not support the relief requested by this submitter as in my opinion it is not appropriate for the port to be excluded from all other plan changes. There are a number of district wide issues e.g. noise, which are directly applicable and relevant to the port and need to be considered alongside the SPPO chapter.

Recommendation

166. I recommend that the Commissioners accept in part the submission point as outlined below and:

- a. Retain the SPPO as notified subject to amendments recommended elsewhere in this report.
- b. Do not exempt the SPPO from other plan changes.

| <b>Submitter</b> | <b>Submission# &amp; Point #</b> | <b>Accept/Reject</b> | <b>Recommendation</b> |
|------------------|----------------------------------|----------------------|-----------------------|
| Northport        | 132.1                            | Accept in part       | a, b.                 |

## C. PC145 Hospital Zone (Author: Mr Badham)

167. Section C addresses submissions on PC145. Topic headings for the submissions assessed under PC145 are as follows:

- a. Zone Extent
- b. Overview
- c. SPH Objectives
- d. SPH Policies
- e. Definitions – Hospital
- f. SPH-R1 Any activity not otherwise listed in this chapter
- g. SPH-R2 Hospital
- h. SPH-R3 to R8 Various Activity Rules
- i. SPH-R9 Building Height
- j. SPH-R10 Building Height in Relation to Boundary
- k. SPH-R11 Building Setbacks
- l. SPH-R12 Building Coverage
- m. SPH-R13 Impervious Areas
- n. SPH-R15 Car Parking
- o. SPH-R16 to R24 Various Activity Rules
- p. Adjacent Properties
- q. Flooding
- r. Transport
- s. Trees
- t. Noise

### a. Zone Extent

#### Submission Information

168. Northland District Health Board (**NDHB**) seeks to make changes to the Planning Maps as necessary and/or make other such amendments so that the landholdings identified in the submission are shown as Hospital Zone.

#### Discussion

169. The extent of the Hospital Zone as notified is outlined below in Figure 1.

170. The Hospital Zone is intended to apply to all NDHB landholdings at Hospital Road. NDHB have included a list of these properties within their submission, citing that some properties have been missed or incorrectly included in the Hospital Zone. However, no map was provided within the submission to confirm where these additional properties are located. Clarification was sought from NDHB representative Ian McAlley who provided a map showing which properties NDHB requested to be included and removed. These are indicated in Figure 1 below. This includes a small area of land adjacent

to the Raumanga Stream to be added and a portion of land.<sup>13</sup> I support these zoning changes as they reflect the true extent of NDHB landholdings and fix an unintended error in the notified mapping for the Hospital Zone. I recommend a consequential amendment to the SHP Overview to amend the area of the of the Hospital to more accurately reflect the recommended extent of SPH zoning.

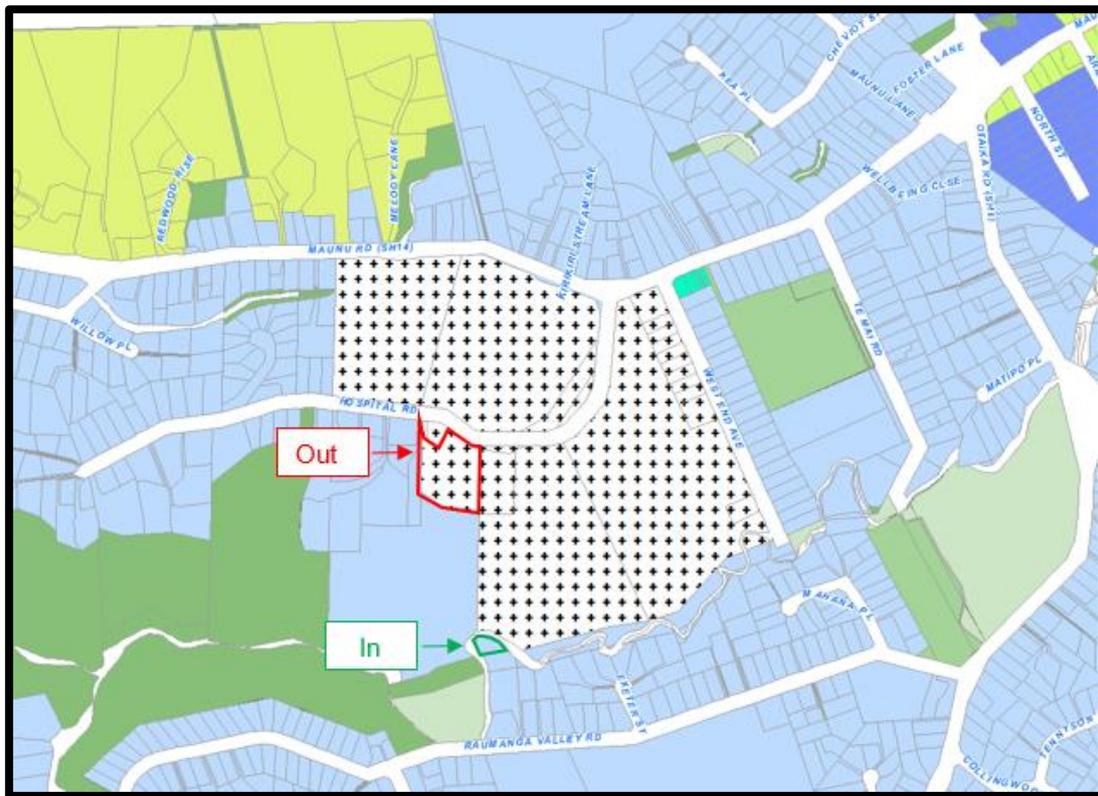


Figure 1 - Extent of proposed Hospital Zone as notified

Recommendation

171. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Amend Planning Map 66Z as set out in **Attachment 1 of Part 8** of the s42A Report.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.30                | Accept        | a.             |

**b. Overview**

Submission Information

172. NDHB seek to amend the overview as follows:

*The Hospital Zone (SPH) recognises the significance of the facilities at the Whangarei Hospital (“Hospital”) site, and their importance to the Whangarei District and to the Northland Region as regionally significant infrastructure. The purpose of the SPH is to provide for the ongoing operation of the Hospital, its future development and redevelopment, including associated private health care, training and research, commercial, education, accommodation, administration and residential care facilities.*

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<sup>13</sup> Covered in the submission of Legend Investors Ltd sub 131/1

The Hospital is strategically located on approximately 23.5ha of land on the southern side of State Highway 14 in the Maunu area of Whangarei City. It is bordered by Open Space and Residential Zones and has potential for extensive further greenfield development.

The Hospital is the most significant medical facility within the Northland Region. ~~It is expected that there~~ There will be further development of facilities within the SPH to cater for expanding populations within both Whangarei District and the wider Northland Region. A wide range of health-services related-services is expected to the health sector and Hospital activities will be provided within the SPH as the Hospital responds to meet the health care needs of the expanding populations. New and expanded buildings and facilities are expected will be established within the Hospital site to provide the necessary services for both inpatients and outpatients and also for community and private health care services.

...

Some activities may be sensitive to the external effects of activities occurring within the SPH. Some activities proposed outside of the SPH may not be compatible with, or may present a risk of reverse sensitivity to, activities required to occur within the SPH. It is anticipated that such sensitive activities will be carefully managed during their establishment, and that development within the SPH will have regard to the potential adverse effects which may arise beyond the site whilst recognising the Hospital is an existing use in the environment and is Regionally Significant Infrastructure.

### Discussion

173. I generally support the overview as notified, although I accept that some of the changes requested by NDHB provide greater clarity. My position is summarised as follows:

- I do not support the changes to the first paragraph. Including these additional activities in the text is inconsistent with the manner in which these activities are addressed in the rules in the proposed chapter.
- I agree with the addition of “extensive” in the second paragraph.
- I agree with some, but not all changes in the third paragraph.
- I do not support the addition to the last paragraph. The first paragraph of the overview already recognises the Whangarei Hospital as regionally significant infrastructure. The overview is read as a whole, so in my opinion it is superfluous to repeat this in the last paragraph of the overview.

### Recommendation

174. I recommend that the Commissioners accept in part the submission point as outlined below and:

- a. Amend the overview as detailed in **Attachment 3**.

| Submitter | Submission# & Point # | Accept/Reject  | Recommendation |
|-----------|-----------------------|----------------|----------------|
| NDHB      | 206.1                 | Accept in part | a.             |

## c. SPH Objectives

### Submission Information

175. NDHB seek to amend SPH-O1 as follows:

*Enable and provide for:*

1. The efficient and effective operation, expansion and future development of the Hospital within the SPH;
2. A wide range of hospital and health care related activities to meet the current and future population and health care needs of the Whangarei District and the Northland Region as population and health demands grow.; and
3. Integration of associated commercial, administration and ancillary Hospital activities with health care services, which enable patients, staff, consultants, contractors and visitors to efficiently use the Hospital site and avoid travelling to multiple sites for similar and/or associated services.

176. NDHB request that SPH-O2 be amended as follows:

Manage adverse effects from the provision of hospital activities on the surrounding environment, whilst recognising the Hospital is defined as Regionally Significant Infrastructure.

177. NDHB seek to retain SPH-O3 as notified.

178. NDHB seeks to delete SPH-O4 in its entirety.

### Discussion

179. I agree with the requested amendment to SPH-O1.1. I agree that it is desirable to enable the “efficient” as well as effective operation, expansion and future development of the Hospital. I agree in part with the requested amendments to SPH-O1.2. I agree with inclusion of “wide” and “current and future” as I consider this provides greater clarity and meaning to the objective. I do not support the addition of “health care related” activities as it is not a defined term in the WDP, the proposed notified version of the Urban & Services Plan Changes or the Standards, nor has the submitter requested / suggested a definition for this term. As such in my opinion this terminology would be unclear for plan users. I do not support the inclusion of a new SPH-O1.3. In my opinion, the wording is confusing and unnecessary as the intent of the objective is to enable and provide for hospital activities.

180. I do not recommend any amendments to SPH-O2. The wording requested is in my opinion superfluous as SPH-O3 already contains an objective which recognises and provides for the Whangarei Hospital as regionally significant infrastructure. All of the proposed objectives would have to be considered collectively in any resource consent application, so in my opinion it is unnecessary to repeat similar wording in SPH-O2.

181. I agree that SPH-O3 should be retained as notified.

182. I disagree with the request to delete SPH-O4 in its entirety. The SPH zone is a limited resource and it is important that fragmentation of it is avoided in any future subdivision. In my opinion it is entirely appropriate that a subdivision be considered by WDC on a case by case basis pursuant to this objective.

### Recommendation

183. I recommend that the Commissioners accept or reject the submission points as outlined below and:

- a. Amend SPH-O1 as set out in **Attachment 3**.
- b. Retain SPH-O2 – O4 as notified.

| Submitter | Submission# & Point # | Accept/Reject  | Recommendation |
|-----------|-----------------------|----------------|----------------|
| NDHB      | 206.2                 | Accept in Part | a.             |
| NDHB      | 206.3                 | Reject         | b.             |
| NDHB      | 206.4                 | Accept         | b.             |
| NDHB      | 206.5                 | Reject         | b.             |

#### d. SPH Policies

##### Submission Information

184. NDHB request that SPH-P1 be amended as follows:

*To recognise the regional significance of Whangarei Hospital by providing for a wide range of existing and future hospital, health care and ancillary activities within the SPH.*

185. NDHB request that SPH-P3 be amended as follows:

*To avoid the establishment of industrial activities within the SPH, ~~unless they are medical research facilities.~~*

186. NDHB request that SPH-P5 be amended as follows:

*~~To recognise that~~ The efficient operational requirements of Whangarei Hospital ~~may~~ will require buildings and structures that are of a larger height and bulk when compared to the surrounding environment.*

187. NDHB seek to delete SPH-P6 in its entirety.

##### Discussion

188. I do not support the inclusion of “health care” activities within SPH-P1 for the reasons given above with respect to SPH-O1 – O2 in Topic c above, because “health care activities” is not a defined term. “Ancillary activities” is proposed to be defined as “an activity that supports and is subsidiary to a primary activity” in accordance with the Standards. I agree that its addition to SPH-P1 would provide clarity around the provision of “ancillary activities.”

189. I do not support the revised wording of SPH-P3 as requested. SPH-P3 is a strong avoidance policy and provides the policy basis for the prohibited activity status for “industrial activities” in SPH-R24. As notified, the following definition for “industrial activities” was proposed:

*Industrial Activity means an activity for the primary purpose of:*

- a) manufacturing, fabricating, processing, packing, storing, maintaining, or repairing goods; or*
- b) research laboratories used for scientific, industrial or medical research; or*
- c) yard-based storage, distribution and logistics activities; or*
- d) any training facilities for any of the above activities.*

190. On the basis of the notified definition, it is important in my opinion that “medical research facilities” are excluded from SPH-P3. Such facilities could be reasonably anticipated within a Hospital Zone, and it is important that they are not inadvertently prohibited based on the notified definition. I do however highlight that the Standards have a revised definition of “industrial activity” which no longer refers to “research facilities.” WDC – Planning (236.37) have made a submission seeking to amend the notified

definition. If this submission point is accepted, then I agree that it would be logical to consequentially amend SPH-P3 as a result.

191. I do not support the requested rewording of SPH-P5. In my opinion the notified wording is clearer and achieves the outcome sought by the NDHB in this submission point.

192. I do not support the deletion of SPH-P6 for the same reasons I have provided in response to the similar request to delete SPH-O4 in topic c above.

Recommendation

193. I recommend that the Commissioners accept or reject the submission points as outlined below and:

- a. Amend SPH-P1 as set out in **Attachment 3**.
- b. Retain SPH-P3 as notified, unless the WDC Planning submission point 236.37 is accepted, then it may be appropriate to accept the change to SPH-P3.
- c. Retain SPH-P5 as notified.
- d. Retain SPH-P6 as notified.

| Submitter | Submission# & Point # | Accept/Reject  | Recommendation |
|-----------|-----------------------|----------------|----------------|
| NDHB      | 206.6                 | Accept in part | a.             |
| NDHB      | 206.7                 | Reject         | b.             |
| NDHB      | 206.8                 | Reject         | c.             |
| NDHB      | 206.9                 | Reject         | d.             |

**e. Definitions – Hospital**

Submission Information

194. NDHB requests that the definition of Hospital be amended. WDC Planning have also requested an amendment to the definition. These requested amendments are outlined below (with the WDC Planning amendment highlighted green):

*Means any regionally significant infrastructure that provides for the health care, medical, surgical or psychiatric care, and treatment and rehabilitation of persons. Includes the following ancillary activities to provide for the above and for use by patients, staff, consultants, contractors and visitors:*

- a) Offices and administration facilities;
- b) Retail including pharmacies, food and beverage activities outlets, bookstores, gift shops, and florists;
- c) Commercial services including banks and dry cleaners;
- d) Ambulance facilities and first aid training facilities;
- e) Conference facilities;
- f) Helicopter facilities and Helicopter Landing Areas enabling helicopter movements for emergencies and patient, staff, consultant and contractor transportation;
- g) Hospices;

*h) Hospital maintenance, operational and service facilities, including kitchens, storage facilities, waste processing and laundries;*

*i) Medical research and testing;*

*j) Mortuaries;*

*k) Rehabilitation and recreational facilities; and*

*l) Training, educational facilities and places of assembly;*

*m) Car parking;*

*n) Private specialist and general medical facilities, services and practices;*

*o) Staff, patient and visitor accommodation;*

*p) Emergency Services; and*

*q) Care Centres*

*This definition is included within the Community Activities definition grouping*

### Discussion

195. I generally support the definition of “Hospital” as notified, although I accept that some of the changes requested provide greater clarity. My position is summarised as follows:

- In my opinion, it is appropriate to have two separate definitions. One for “Hospital” and the other for “Hospital Related Activities.” This is in response to the changes sought by WDC Planning in relation to the Standards definition of “ancillary activity” which has led to consequential changes in the Hospital Chapter to how “primary” and “ancillary activity” are referred to in rules. As currently worded, I consider that the term “ancillary” within the definition of “Hospital” creates a circular definition which could result in confusion of application of the applicable definitions for plan users in the future. Therefore, in **Attachment 1** of **Part 1** of the s42A Report I have recommended the definition is split in to two, and a consequential change is made to SPH-R2 to confirm that “Hospital and Hospital Related Activities” are permitted activities. Further I recommend, a consequential change to SPH-R18 to include “Retail Activities (excluding Hospital Related Activities).” This second consequential amendment is designed to ensure that the activities listed in clause (b) of the proposed definition of “Hospital Related Activities” are not inadvertently considered as “Retail Activities” and therefore classified as non-complying activities pursuant to SPH-R18.
- I agree with the addition of the term “and rehabilitation” of persons in my recommended definition for “Hospital”. In my opinion, it is reasonable to anticipate that the Hospital will include the provision of rehabilitation services.
- I agree with the inclusion of “and administration facilities” in clause (a). In my opinion it is reasonable to provide for administration facilities within my recommended definition for “Hospital Related Activities”.
- I agree with WDC Planning’s request to delete “retail including” in clause (b) of my recommended definition for “Hospital Related Activities”. I agree that providing for all retail is too broad and

contradicts with SPH-R18 which specifies a non-complying activity status for “retail activities”, which I consider is appropriate given the assessment undertaken in the Hospital s32 Report.<sup>14</sup> I agree with the addition of “bookstores, gift stores” as requested by NDHB. The activities provided in this clause are, in my opinion, reasonable to anticipate and provide for in the Hospital.

- I do not support the addition of “and Helicopter Landing Areas enabling helicopter movements for emergencies and patient, staff, consultant and contractor transportation” in clause (f) of my recommended definition for “Hospital Related Activities”. This wording in my opinion is unnecessary and complicates the definition. “Helicopter facilities” is simpler and more appropriate in my opinion.
- I support the addition of “operational” and “storage facilities, waste processing” in clause (h) of my recommended definition for “Hospital Related Activities”. In my opinion, it is reasonable to anticipate that the Hospital will include the provision of these activities and including them in the definition provides greater clarity.
- I do not support the addition of “and recreational” facilities in clause (k) of my recommended definition for “Hospital Related Activities”. This would contradict the non-complying activity status for “recreational facilities” in SPH-R22, which I consider is appropriate given the assessment undertaken in the Hospital s32 Report.<sup>15</sup>
- I do not support the addition of “educational facilities and places of assembly” in clause (l) of my recommended definition for “Hospital Related Activities”. These activities are already specified as permitted activities where the activity is ancillary to the Hospital in SPH-R6 and SPH-R8, which I consider is appropriate given the assessment undertaken in the Hospital s32 Report.<sup>16</sup> In my view this approach is clearer and simpler to interpret than including these activities within the definition.
- I do not support the addition of “car parking” in a new clause. Car parking is addressed in SPH-R15 and district wide provisions in the Transport Chapter also apply. Including car parking in the definition would in my opinion be confusing and inconsistent with the approach taken in the SPH Chapter.
- I support the addition of a “private specialist and general medical facilities, services and practices” in my recommended definition for “Hospital Related Activities”. In my opinion, it is reasonable to anticipate that the Hospital will include the provision of these activities and including them in the definition provides greater clarity.
- I do not support the addition of “staff, patient and visitor accommodation” in my recommended definition for “Hospital Related Activities”. “Visitor accommodation” is provided for as a permitted activity in SPH-R3 where it is an ancillary activity to the Hospital for the purposes of non-permanent accommodation for hospital staff, patients or family. I consider that this is appropriate

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<sup>14</sup> See paragraphs 130-133 on pages 36-37 of the Hospital s32 Report.

<sup>15</sup> See paragraphs 107-110 on pages 26-27 of the Hospital s32 Report.

<sup>16</sup> See paragraphs 107-110 on pages 26-27 of the Hospital s32 Report.

given the assessment undertaken in the Hospital s32 Report.<sup>17</sup> Including the additional clause in the definition would in my opinion be confusing and inconsistent with the approach taken in the SPH Chapter.

- I do not support the addition of “emergency services” in my recommended definition for “Hospital Related Activities”. “Emergency services” are provided for as a permitted activity in SPH-R7 where the activity is ancillary to the Hospital, which I consider is appropriate given the assessment undertaken in the Hospital s32 Report.<sup>18</sup> Including the additional clause in the definition would in my opinion be confusing and inconsistent with the approach taken in the SPH Chapter.
- I do not support the addition of “care centres” in my recommended definition for “Hospital Related Activities.” “Care centres” are provided for as a restricted discretionary activity in SPH-R16, which I consider is appropriate given the assessment undertaken in the Hospital s32 Report.<sup>19</sup> Including the additional clause in the definition would in my opinion be confusing and inconsistent with the approach taken in the SPH Chapter.

Recommendation

196. I recommend that the Commissioners accept in part the submission points as outlined below and:

- a. Amend the definition of “Hospital” and include a new definition of “Hospital Related Activities” as outlined in **Attachment 1** of **Part 1** of the s42A Report.

| Submitter    | Submission# & Point # | Accept/Reject  | Recommendation |
|--------------|-----------------------|----------------|----------------|
| NDHB         | 206.11                | Accept in part | a.             |
| WDC Planning | 236.36                | Accept in part | a.             |

**f. SPH-R1 Any activity not otherwise listed in this chapter**

Submission Information

197. NDHB seeks to delete SPH-R1 in its entirety.

Discussion

198. I do not support this request. SPH-R1 is consistent with the approach taken in other chapters and states that any activity not otherwise listed in the SPH chapter is a permitted activity (provided that a resource consent is not required or the activity is not prohibited under any other rule in the District Plan). This is important as it clarifies that other provisions, such as those in the Transport, Noise and Vibration and Three Waters chapters are also applicable. The approach within the SPH chapter has been to list those activities that are not directly related to hospital activities (e.g. care centres, residential activities, rural production activities or industrial activities) and state the activity status for them. The default to a

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<sup>17</sup> See paragraphs 102-106 on pages 24-26 of the Hospital s32 Report.

<sup>18</sup> See paragraphs 107-110 on pages 26-27 of the Hospital s32 Report.

<sup>19</sup> See paragraphs 126-129 on page 33-35 of the Hospital s32 Report.

permitted activity means that those activities which are not captured by the specific provisions are permitted and enabled within the SPH chapter.

Recommendation

199. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Retain SPH-R1 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.10                | Reject        | a.             |

**g. SPH-R2 Hospital**

Submission Information

200. NDHB request that SPH-R2 be amended to include a discretionary activity status when an activity is not considered within the definition of “Hospital.”

Discussion

201. I do not support this request. This request relates to NDHB’s requests addressed in Topic e and f above. In my opinion the change requested would be inconsistent with the structure of the Urban & Services Plan Changes and will create inconsistency and confusion for plan users, and SPH-R2 should remain, noting my recommended consequential change outlined in Topic e to include “and Hospital Related Activities”.

Recommendation

202. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Amend SPH-R2 as per **Attachment 3**.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.12                | Reject        | a.             |

**h. SPH-R3 to R8 Various Activity Rules**

Submission Information

203. NDHB seek to delete SPH-R3 to R8.

204. Ministry of Education seek to retain SPH-R8 as notified.

Discussion

205. I do not support NDHB’s request to delete SPH-R3 to R8. This request relates to NDHB’s requests addressed in Topic e, f and g above. SPH-R3 includes an important requirement that “visitor accommodation” is permitted where “the visitor accommodation is an ancillary activity to the hospital for the purposes of non-permanent accommodation for hospital staff, patients or family.” A full s32

assessment for “visitor accommodation” is undertaken in the Hospital s32 Report.<sup>20</sup> SPH-R3 was assessed as the most appropriate:

*“Option 2 is considered to be an efficient and effective option as it will remove unnecessary consenting barriers to the provision of visitor accommodation ancillary to the Hospital which may be necessary to support the current operation and future expansion of hospital activities within the SPH. In addition, Option 2 provides for future growth and expansion of hospital related activities, recognising the contribution these make to the economic and social wellbeing of the District.”*

206. With regard to SPH-R4-R8, it is important in my opinion that these rules remain as notified as it clarifies the activity status for these activities and is consistent with the structure of the Urban & Services Plan Changes.

Recommendation

207. I recommend that the Commissioners reject or accept the submission points as outlined below and:

a. Retain SPH-R3-R8 as notified.

| Submitter             | Submission# & Point # | Accept/Reject | Recommendation |
|-----------------------|-----------------------|---------------|----------------|
| NDHB                  | 206.13                | Reject        | a.             |
| Ministry of Education | 267.8                 | Accept        | a.             |

**i. SPH-R9 Building Height**

Submission Information

208. NDHB request that SPH-R9 be amended as follows:

*The maximum height is 32m, except that over 25% of the site the maximum height is 50m.*

Discussion

209. I acknowledge the practical justification for the requested height increase, including information provided by NDHB regarding floor to floor height ratios for modern hospitals being increased and proposals for future designs that show up to 10 storeys being required. However, it is my opinion that NDHB has provided insufficient technical information to understand the potential effects that the requested height limit increase could have on the surrounding environment. Building height was assessed in the Hospital s32 Report.<sup>21</sup> The s32 Report assessed various alternative options including Option 4 which assessed a height limit of 45m as suggested in feedback from NDHB prior to notification. Ultimately this option was not assessed as the most appropriate:

*“While a 45m height limit will provide greater flexibility for the future development and expansion of the Hospital than Option 2, the DHB has not provided any technical information to justify this height limit. Therefore, little is known or understood about the potential effects that applying this height limit could have on the surrounding environment. This would not constitute the appropriate*

<sup>20</sup> See paragraphs 126 – 129 on page 33-35 of the Hospital s32 Report.

<sup>21</sup> Refer to paragraphs 111 – 116 on pages 27 – 31 of the Hospital s32 Report.

*management of adverse effects on the surrounding environment as per the proposed SPH objectives and policies.”*

210. A 50m height limit, albeit only applying to 25% of the site under the NDHB’s requested wording, would represent a 56% increase in the height limit. This is a significant change in my opinion, and further assessment from a suitably qualified landscape architect should be provided to assess the potential effects that this could have on the surrounding environment. I consider it appropriate that this assessment is provided before or at the hearing to support this submission point. Until then, I recommend that this submission point be rejected, and a discretionary activity status for any building over 32m in height is retained to enable a case by case assessment of any buildings that exceed this limit. In my opinion this is appropriate as the objectives and policies for the SPH zone seek to strike a balance between providing the ability for the Hospital to develop in the future while managing any adverse effects on the surrounding environment. This is particularly important because the hospital is surrounding on all sides by Residential Zones, which anticipate and provide for residential activities.

Recommendation

211. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Retain SPH-R9 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.14                | Reject        | a.             |

**j. SPH-R10 Building Height in Relation to Boundary**

Submission Information

212. NDHB request that SPH-R10 be amended as follows:

*1. The height is equal to 3m plus the shortest horizontal distance between that part of the building and any site boundary adjoining any Residential or Open Space Zone.*

*2. The SPH adjoins West End Avenue height in relation to boundary shall be measured from the opposite side of West End Avenue and height in relation to boundary shall not be measured from the common boundary of the SPH and Hospital Road or Maunu Road.*

Discussion

213. I do not support this requested change. Part of the reason for this request from NDHB is that:

*As notified, this rule would result in no height in relation to boundary measurements being taken from West End Avenue, Hospital Road, or Maunu Road because the SPH does not adjoin other zones on this boundary, it adjoins the road.<sup>22</sup>*

214. This is incorrect. The application of zones to roads is addressed in the proposed How the Plan Works chapter and more specifically, HPW-R6 which states:

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<sup>22</sup> See page 22 of the NDHB submission.

*All public roads (including state highways), railways and rivers are zoned, although they are not coloured on the planning maps to avoid confusion. Roads, railways and rivers are zoned the same as the zoning of adjoining sites. Where a different zone applies on either side of the road, railway or river then the zoning will apply to the centreline of the road, railway or river.*

215. In my opinion it is appropriate that SPH-R10 remain as notified as it provides a graduating height limit from any site boundary of the SPH adjoining a Residential or Open Space Zone. The drafting of this rule is consistent with drafting throughout the notified chapters of the Urban & Services Plan Changes. The rule is designed to control the height of Hospital buildings where they are close to the boundary of adjoining Residential and Open Space Zones. This acknowledges the shading, privacy and general amenity effects that a tall building can have when located in close proximity to a boundary of an adjoining property that does not form part of the SPH. I therefore do not agree with removing this requirement where it adjoins Residential or Open Space Zones on Hospital Road or Maunu Road. In my opinion it is appropriate that any development that infringes this limit be considered on a case by case basis as a discretionary activity.

Recommendation

216. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Retain SPH-R10 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.15                | Reject        | a.             |

**k. SPH-R11 Building Setbacks**

Submission Information

217. NDHB request that SPH-R11 be amended as follows:

*1. The building is setback at least:*

*a. 4.5m from any road boundaries.*

*b. 3.0m from any Residential and Open Space Zones.*

*~~e. 27m from mean high water springs or the top of the bank of any river that has a width exceeding 3m, excluding~~*

Discussion

218. I do not support the request to delete clause (c) of this rule. The 27m setback from mean high water springs is an important setback that is applied generally across the various zones in the proposed Urban and Services chapters. More specifically a setback from rivers is included in SPH-R11 as there is a river that runs along the southern boundary of the SPH and in my opinion it is important that consideration is given to the appropriate setback in terms of hazards (flooding) and the future protection of potential public access along the river (e.g. through the future potential provision of esplanade reserves or strips).

Recommendation

219. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Retain SPH-R11 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.16                | Reject        | a.             |

**I. SPH-R12 Building Coverage**

Submission Information

220. NDHB seek to retain SPH-R12 as notified.

Discussion

221. I agree that SPH-R12 should be retained as notified.

Recommendation

222. I recommend that the Commissioners accept the submission point as outlined below and:

- a. Retain SPH-R12 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.17                | Accept        | a.             |

**m. SPH-R13 Impervious Areas**

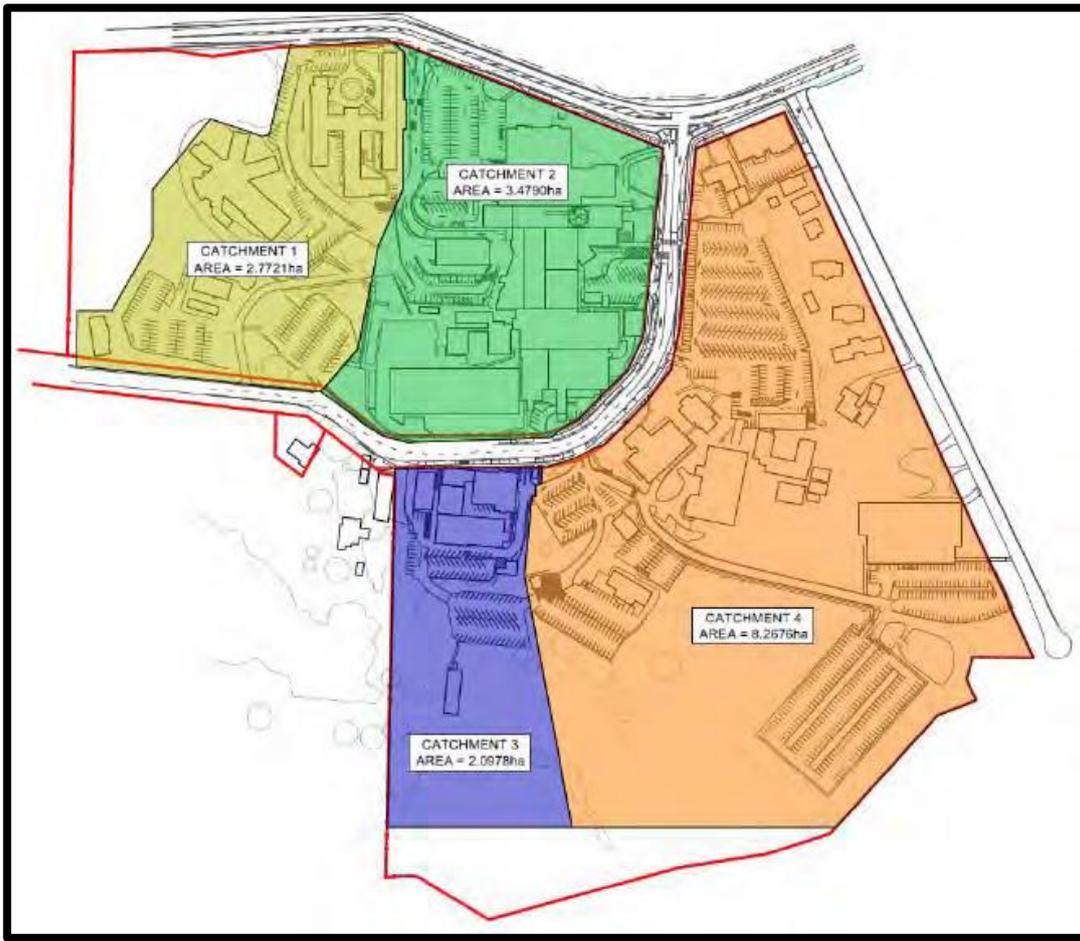
Submission Information

223. NDHB request that SPH-R13 be amended as follows:

*1. Any impervious area does not increase the cumulative total impervious area to be more than 80% of the area of the SPH; and*

*2. Development or redevelopment of impervious area within each catchment zone of the SPH is permitted without additional attenuation or treatment, with existing stormwater controls maintained in order to satisfy this condition; and*

| <u>Catchments (Shown Below)</u> | <u>Total Impervious Surface (%)</u> |
|---------------------------------|-------------------------------------|
| <u>1</u>                        | <u>54.1</u>                         |
| <u>2</u>                        | <u>81.4</u>                         |
| <u>3</u>                        | <u>56.9</u>                         |
| <u>4</u>                        | <u>44.8</u>                         |



3. Diversion of stormwater runoff from lawfully established (prior to the date of this plan change) impervious areas directed into an authorised stormwater network or a combined sewer network that does not increase the stormwater runoff to the combined sewer network (unless approved by the combined sewer operator).

Discussion

224. I do not support the requested amendments to this rule. The reason given for this submission point is that “it is unclear how existing impervious areas will be treated under a redevelopment scenario.” Section 10 of the RMA provides protection to existing impervious areas where they are lawfully established and the effects are the same or similar in character, intensity and scale to those which existed before the proposed rule was notified. Furthermore, specific matters of stormwater management and attenuation are in my opinion more appropriately addressed in the proposed Three Waters Chapter and reference to the Environmental Engineering Standards 2010.

Recommendation

225. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Retain SPH-R13 as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.18                | Reject        | a.             |

## n. SPH-R15 Car Parking

### Submission Information

226. NDHB request that SPH-R15 be amended as follows:

~~1. Any parking space is not within 50m of an adjoining zone.~~

~~2. Any formed parking space is not within 2m of a road boundary;~~ and

2. Any formed parking space located within 4.5m of a road boundary or a Zone boundary shall be screened from the adjoining road or Zone by a minimum 2m wide landscaping strip with a minimum plant height of 0.9m and a maximum plant height of 1.15m (excluding any tree planting).

### Discussion

227. I agree with the requested amendment. In particular I agree that 50m limit referred to in this rule is unduly restrictive and that the primary concern for this rule is visual and amenity effects on adjoining properties associated with large car parking areas. I concur that these effects can be adequately mitigated by the requirement of suitable landscaping. However, in my view the minimum plant height should be removed and reliance placed on the maximum plant height of 1.15m.

### Recommendation

228. I recommend that the Commissioners accept in part the submission point as outlined below and:

a. Amend SPH-R15 as outlined in **Attachment 3**.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.19                | Accept        | a.             |

## o. SPH-R16 to R24 Various Activity Rules

### Submission Information

229. NDHB seek to delete SPH-R16 to R24 in their entirety.

### Discussion

230. I do not support NDHB's request to delete SPH-R16 to R24. This request relates to NDHB's requests addressed in Topic e, f, g and h above where I have recommended the rejection of similar relief associated with the requested amendment to the definition of "Hospital". It is important in my opinion that these rules remain as notified as it clarifies the activity status for these activities and is consistent with the structure of the Urban & Services Plan Changes.

231. A full s32 assessment for "care centres" is undertaken in the Hospital s32 Report.<sup>23</sup> A restricted discretionary activity status was assessed as the most appropriate:

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<sup>23</sup> See paragraphs 126 – 129 on page 33-35 of the Hospital s32 Report.

*While there will be consenting costs associated with a restricted discretionary rule when compared to a permitted activity status, it is considered that this is necessary to allow for consideration on a case by case basis against the matters of discretion to determine whether a care centre is appropriate within the SPH. Further, a restricted discretionary activity status is considered to be more appropriate than a discretionary or non-complying activity status as it provides a clearer indication that a care centre may be appropriate within the SPH subject to assessment against the matters of discretion.*

232. The activity status for residential activities, retail activities, entertainment facilities, service stations, funeral home, recreational facilities and rural production activities in SPH-R17-R23 is assessed in the Hospital s32 Report.<sup>24</sup> The non-complying activity status was assessed as the most appropriate:

*While a non-complying activity status will result in consenting costs and reduce flexibility for the development of the above activities within the SPH, it is considered necessary to protect the limited land within the SPH for hospital activities which is the primary purpose of the SPH under the draft NP Standards. These activities are considered inappropriate to be specifically provided for within the SPH as there are other zones within the WDP that provide specific provision for them. A non-complying activity status provides clear direction that this is the case.*

233. The activity status for industrial activities (excluding medical research facilities) in SPH-R24 is assessed in the Hospital s32 Report.<sup>25</sup> A prohibited activity status was assessed as the most appropriate:

*Under the draft NP Standards the purpose of the Hospital Zone is to provide primarily for the ongoing operation of a locally or regionally important primary medical facility, and associated health care services and healthcare facilities. Industrial activities (excluding medical research facilities) are not compatible with hospital related activities and do not have a direct requirement to establish in the SPH. Further there is limited land available within the SPH and this should be protected for its primary purpose. The Heavy Industry and Light Industry Zones provide for the development of industrial activities. A prohibited activity status is necessary as it clearly states that industrial activities (excluding medical research facilities) are never appropriate within the SPH.*

234. I agree with the assessment in the s32 Report for SPH-R16-R24 and nothing identified within the submission from NDHB changes my opinion.

Recommendation

235. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Retain SPH-R16 – R24 as notified, noting the consequential change to SPH-R18 outlined in Topic e.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.20                | Reject        | a.             |

<sup>24</sup> See paragraph 130-133 on pages 36-37 of the Hospital s32 Report.

<sup>25</sup> See paragraph 134-136 on pages 37-39 of the Hospital s32 Report.

**p. Adjacent Properties**

Submission Information

236. J Cooper requests amendments to the Hospital Zone, including in relation to privacy and overshadowing, residential amenity and character, and fencing; OR, include reasonable provisions to the Hospital Zone that protect the interests of those who own residential properties adjacent to the proposed zone.

Discussion

237. I do not support the relief requested by this submitter. It is not clear whether the provisions outlined in the submission are intended to be objectives, policies, rules or all of the above. It is my opinion that SPH-O2 and SPH-P4 provide appropriate policy direction to manage adverse effects from development within the SPH on the surrounding environment. This is supported by rules (including SPH-R9-R11 and R14) which will assist in managing adverse effects on the surrounding environment by controlling development at the interface between the SPH and adjoining zones. While I acknowledge that the provisions within the proposed SPH chapter are more permissive than the WDP, in my opinion this is necessary to recognise the regional significance of the Whangarei Hospital and the requirement to provide for a Hospital Zone as per the Standards.

Recommendation

238. I recommend that the Commissioners reject the submission point as outlined below and:

- a. Retain the SPH provisions as notified.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| J Cooper  | 28.1                  | Reject        | a.             |

**q. Flooding**

Submission Information

239. NDHB seek to remove the flood susceptible area notation on Resource Area Map 66R from the site and include a new rule as follows:

SPH-RXX – Flooding

Activity Status: P

Where:

1. Development provides a minimum freeboard of 500mm above the specified flood level (RL14.34m) of the Northland Regional Council hydrological model. Where development results in loss of flood volume, a similar flood area and volume shall be provided as part of the development.

Activity Status when compliance not achieved: D

Discussion

240. A flood susceptible area overlay applies in the WDP to the southern portion of the subject site as shown below in Figure 2. Rules regarding flood susceptible areas are contained in Chapter 56, and more



### Discussion

244. NZTA have not provided any details of the requested policy or restricted discretionary activity rule relating to this submission point. NZTA refer to details being provided during the plan change process. Nothing has been received since the submission point was made, and it is assumed that NZTA will present more detail in this regard at the hearing.
245. In the meantime, I am unable to respond to the submission point without this detail. As such it is my opinion that the submission point should be rejected on the basis of insufficient information. I also highlight that it is my preliminary view that it may be more appropriate that such a provision, if desirable, is dealt with in the proposed Transport Chapter.

### Recommendation

246. I recommend that the Commissioners reject the submission point as detailed below and:
- a. Not include a new transport management policy or restricted discretionary activity rule in the proposed SPH chapter.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NZTA      | 240.94                | Reject        | a.             |

## s. Trees

### Submission Information

247. NDHB seeks to include a new rule regarding permitting trimming or removal of trees, including listed Heritage Trees and other protected trees, as follows:

#### SPH-RXX – Tree Removal

Activity Status: P

Where:

1. Development of Hospital buildings requires the trimming or removal of a tree, including a Heritage Tree and/or a tree protected by other means.

### Discussion

248. The Hospital site currently contains two Heritage Tree listings in the WDP:
- #339 – Pohutukawa (*Metrosideros excelsa*), Puriri (*Vitex lucens*), 7 English Oak (*Quercus robur*) and 3 Totara (*Podocarpus totara*).
  - #510 – Camphor Laurel (*Cinnamomum camphora*)
249. Heritage Trees are listed in Appendix 2 of the operative WDP. Objectives and policies are included in Chapter 14 with rules provided in Chapter 59. The operative Heritage Tree provisions are currently subject to another separate plan change, PC129 – Notable and Public Trees which relocates provisions for scheduled trees into a single Notable and Public Tree (**NPT**) chapter. The existing trees scheduled for the Hospital site are carried over as protected Notable Trees. This plan change was notified on 9

May 2018 and a hearing held on 3 December 2018. The plan change is currently subject to Environment Court appeals with mediation having recently taken place. NDHB is not a party to those appeals.

250. In my opinion, it is inappropriate to accept the relief requested by NDHB with regard to scheduled trees within the WDP. The Heritage Trees have been identified for protection in the WDP, with their protection proposed to be carried over into the proposed NPT chapter. These chapters include provisions which manage pruning, works within the dripline and removal of Heritage Trees / Notable Trees. These provisions are, in my opinion, outside of the scope of the Urban & Services Plan Changes.
251. Irrespective of scope, the relief requested means that these trees would be able to be removed without any consideration of possibly designing around these trees or proposing mitigation or offset. In my view, it is appropriate that such a proposal be considered on a case by case basis which will require a consideration of the value of the trees against the importance of allowing the future redevelopment of the Hospital as regionally significant infrastructure.
252. The submission point from NDHB also seeks a permitted activity status for the removal of trees “protected by other means.” Further detail is provided in the reasons for this request, where the NDHB refers to other trees which “have been protected through landuse consent processes.”<sup>26</sup> In my opinion, the requested relief is unworkable. If a tree or trees is protected by a resource consent condition or by other means (e.g. a covenant on a record of title), a rule in this WDP cannot supersede this existing protection. Rather, it is my understanding that NDHB would have to seek to change the conditions of any such consents pursuant to section 127 of the RMA.

Recommendation

253. I recommend that the Commissioners reject this submission point as outlined below and:
- a. Not include an additional rule for tree removal in the proposed SPH chapter.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.29                | Reject        | a.             |

**t. Noise**

254. NDHB have made two requests to amend the rules in the operative NAV Chapter of the WDP.
255. The first request relates to amending NAV.6.1 Noise Arising from Activities within Zones as follows:

That noise emitted as a permitted activity from the Hospital Zone (SPH) and received in the Living Zones is no more than 65 dB LAeq (Daytime 0700 to 2200 hours), 60 dB LAeq (Night-time 2200 to 0700 hours) and 80 dBLAF(max).

256. The second request relates to amending NAV 6.7 Aircraft and Helicopter Landing Areas as follows:

Helicopter landing areas, including those used for military training activities, shall comply with and be measured and assessed in accordance with NZS 6807:1994 “Noise Management and Land Use Planning for Helicopter Landing Areas”. NAV.6.7 shall not apply to emergency helicopter movements, including ancillary Hospital

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<sup>26</sup> See page 33 of NDHB submission.

*related helicopter movements within the SPH. Noise from aircraft other than helicopters shall comply with NZS6805:1992 "Airport Noise Management and Land Use Planning." The use of aircraft and helicopters undertaking rural production activities on an intermittent and infrequent basis are exempt from compliance with NAV.6.7.*

Discussion

257. Consequential changes, including a proposed noise limit for the Hospital Zone, have been made to the NAV chapter in the proposed plan changes, so I consider that there is scope to request the changes from NDHB. However, it is my opinion that NDHB has provided insufficient technical information to understand the effects of the requested changes to the NAV chapter rules. More specifically, the requested change to NAV.6.1 would increase the noise limits for the SPH when measured at the boundaries of the Residential Zones. It is not within my area of expertise to recommend whether this is an appropriate noise limit to apply. However, I highlight that the noise limits requested appear to be very high and are equivalent to those currently applying internally within the Business 2 Environment (essentially the operative light industry zone) and the Airport Environment in the NAV Chapter within the WDP. I consider that the nature and characteristics of activities provided for within the proposed Hospital Zone are markedly different from those within these existing zones. Furthermore, applying these high noise limits at the boundary of Residential Environments would, in my opinion, represent a significant increase from what currently is permitted and may compromise the amenity and character values anticipated within these zones that primarily anticipate sensitive residential activities.
258. I also question whether the change to NAV.6.7 is necessary as the rule already specifically excludes "emergency helicopter movements". I consider that an assessment from a suitably qualified and experienced Acoustician should be provided to determine whether these changes are acceptable. I consider it appropriate that this assessment is provided before or at the hearing to support these submission points. Until then, I recommend that these submission points be rejected.

Recommendation

259. I recommend that the Commissioners reject the submission points as outlined below and:
- a. Not make consequential changes to NAV.6.1.
  - b. Not make consequential changes to NAV.6.7.

| Submitter | Submission# & Point # | Accept/Reject | Recommendation |
|-----------|-----------------------|---------------|----------------|
| NDHB      | 206.23                | Reject        | a.             |
| NDHB      | 206.24                | Reject        | b.             |

**5. Conclusion**

260. After carefully considering the submissions and further submissions received in relation to each topic, we recommend that PC143, PC144 and PC145 be amended to the extent detailed in the preceding sections of this report and as illustrated in **Attachment 1** for PC143, **Attachment 2** for PC144 and **Attachment 3** for PC145. We further recommend that those submissions and further submissions that

support the provisions as notified, or that request the recommended changes be accepted in whole or in part, and that all other submissions be rejected.

261. The revised provisions in **Attachment 1** for PC143, **Attachment 2** for PC144 and **Attachment 3** for PC145 have been detailed and compared above against viable alternatives in terms of their costs, benefits, efficiency and effectiveness and risk in accordance with the relevant clauses of s32AA. Overall, it is considered that the revised provisions represent the most efficient and effective means of achieving the RMA and the plan changes.

### **Authors**



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## Attachment 1: Recommended Airport Chapter

<https://kete.wdc.govt.nz/ws/dstpln/2018/PC8888/FINAL%20-%20Part%207%20Attachment%201%20-%20Recommended%20Airport%20Chapter.docx?Web=1>

## Attachment 2: Recommended Port Chapter

<https://kete.wdc.govt.nz/ws/dstpln/2018/PC8888/FINAL%20-%20Part%207%20Attachment%202%20-%20Recommended%20Port%20Chapter.docx?Web=1>

## **Attachment 3: Recommended Hospital Chapter**

<https://kete.wdc.govt.nz/ws/dstpln/2018/PC8888/FINAL%20-%20Part%207%20Attachment%203%20-%20Recommended%20Hospital%20Chapter.docx?Web=1>