

Operative Kaipara District Plan

Private Plan Change 83 by The Rise Limited

Section 42A Report

Request to rezone 56.9 hectares of Rural Zone land to Residential

7 February 2024

Report prepared by

Jonathan Clease

Consultant Planner

Private Plan Change 83 – The Rise, Mangawhai

Section 42A of the Resource Management Act 1991- Planning Report

Private Plan Change Request	
Applicant	The Rise Limited
Property Location	56.9 Ha as shown in the application with frontage to Cove Rd, Mangawhai Heads Rd, Pigeonwood Place, and Pipit Lane
Plan Change Purpose	To rezone the site from a Rural Zone to a Residential Zone with the introduction of a Cover Road North Precinct
Hearing Commissioners	David Hill (Chair) Justine Bray Cllr. Michael Howard
Notification period	25 th July 2023 – 23 rd August 2023
Further Submission period	3 rd October 2023 – 17 October 2023
Hearing date	Tuesday 26 – Thursday 28 th March 2024
Hearing location	Mangawhai Bowling Club, 219 Molesworth Dr

Introduction

Qualifications and Experience

1. My full name is Jonathan Guy Cleese. I am employed by a planning and resource management consulting firm Planz Consultants Limited as a Senior Planner and Urban Designer. I hold a Bachelor of Science (Geography), a Master of Regional and Resource Planning, and a Master of Urban Design. I am a Full member of the New Zealand Planning Institute and currently sit on the NZPI Board.
2. I have some twenty five years' experience working as a planner, with this work including policy development, providing s42A reports on plan changes, the development of plan changes and associated s32 assessments, and preparing resource consent applications. I have worked in both the private and public sectors, in both the United Kingdom and New Zealand.
3. I have recently been involved in the review of the Operative Kaipara District Plan (**ODP**) and the development of the provisions for the residential, commercial, industrial, and subdivision chapters in the draft Proposed Kaipara District Plan. I have likewise been assisted in the development of second-generation Timaru, Selwyn, and Waimakariri District Plans and the preparation of s42A reports on the Rural, Village, Medium Density, and Future Urban Zones as part of the review of the Waikato District Plan. I recently prepared the s42A reports on PC68, PC72, and PC79 in Prebbleton on the outskirts of Christchurch, with these private plan changes in combination seeking over 2,000 lots.

Scope of Report

4. I have been asked by Kaipara District Council (**the Council**) to prepare this report under section 42A of the Resource Management Act 1991 (**the RMA**) to document the assessment of the subject private plan change request (**PPC83**) to the District Plan.
5. This report effectively acts as an audit of the detailed information lodged (and subsequently updated) with the plan change request. The request was lodged with the Council on 18 November 2022 and prepared by Barker & Associates on behalf of The Rise Limited (**the Applicant**).
6. A full copy of the plan change request, the amended request as a result of a Request for Further Information, submissions, summary of submissions, and other relevant documentation can be found on the Council's website¹.
7. The purpose of this report is to both assist the Hearing Commissioners in evaluating the request and deciding on submissions made on PPC83, and to assist submitters in understanding how their submission affects the planning process. This report includes recommendations on matters raised in submissions, and any changes to the District Plan considered appropriate having considered the statutory requirements.
8. **For the avoidance of doubt, it should be emphasised that any conclusions reached or recommendations made in this report are not binding on the Hearing Commissioners. It**

¹ [Private Plan Change 83 - The Rise Limited, Kaipara District Council](#)

should not therefore be assumed that the Hearing Commissioners will reach the same conclusions or decisions having considered all the evidence from the Applicant and submitters.

9. Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
10. In preparing this report I have:
 - a) Visited the site and the surrounding area of Mangawhai on several occasions since the plan change application was submitted, with the most recent site visit being on Monday 21st January 2024;
 - b) Reviewed the original plan change request, the Request for Further Information (RFI) and the updated plan change documentation received in response;
 - c) Reviewed several technical reports provided by the applicant on 31 January 2024 that provide further information beyond that originally supplied in the RFI response;
 - d) Read all the submissions received on the plan change request;
 - e) Considered the statutory framework and other relevant planning documents; and
 - f) Reviewed, and where necessary relied on, the peer reviews provided by other technical experts engaged by the Council to assist with the reporting on this private plan change, as follows:

Appendix 1:	Recommended text amendments to the PPC83 provisions
Appendix 2:	Water Servicing (Melissa Parlane, Council Asset Manager);
Appendix 3:	Stormwater servicing (Carey Senior, Awa);
Appendix 4:	Wastewater servicing (Clinton Cantrell, SCO Consulting;
Appendix 5:	Transport Review (Lucas Gerhard van der Westhuizen, Flow Transportation Specialists);
Appendix 6:	Ecological Review (Stephen Brown, Wildlands);
Appendix 7:	Economic Review (Derek Foy, Formative Ltd)

Statutory Framework

11. The functions of Council as set out in s31 of the RMA include the establishment, implementation and review of objectives, policies and methods to:
 - a) achieve integrated management of the effects of the use, development and protection of land and associated natural and physical resources; and
 - b) control any actual or potential effects of the use, development or protection of land.
12. Provided that the proposed rezoning aligns with the outcomes sought in the District Plan objectives and policies, the change in zone will be in accordance with the role and function of the Council.
13. The process for making a plan change request and how this is to be processed is set out in the 1st Schedule of the RMA.

14. Section 73(2) of the RMA allows for any person to request that a change be made to the District Plan, in accordance with the process set out in Part 2 or Part 5 of Schedule 1².
15. Clause 22 of Part 2 of Schedule 1 requires that the plan change request: explain the purpose of, and reasons for, the proposed change; contain an evaluation report prepared in accordance with section 32 of the RMA; and where environmental effects are anticipated, describe those effects in such detail as corresponds with the scale and significance of the actual or potential environmental effects anticipated from the implementation of the change.
16. In this case, the tests to be applied to the consideration of PPC83 under Schedule 1 Part 2 of the RMA are summarised below and include whether:
 - a) It accords with and assists the Council to carry out its functions (s74(1)(a) and s31).
 - b) It accords with Part 2 of the Act (s74(1)(b)).
 - c) It accords with a national policy statement, a national planning standard and any regulation (s74(1)(ea) and (f)).
 - d) It will give effect to any national policy statement, the New Zealand Coastal Policy Statement, national planning standard or operative regional policy statement (s75(3)(a)(b)(ba) and (c)).
 - e) The objectives of the request are the most appropriate way to achieve the purpose of the RMA (s32(1)(a)).
 - f) The provisions in the plan change are the most appropriate way to achieve the objectives of the District Plan and the purpose of the request (s32(1)(b)).
17. In evaluating the appropriateness of PPC83, the Council must also:
 - a) Have particular regard to an evaluation report prepared in accordance with s32 (s74(1)(d) and (e)).
 - b) Have regard to any proposed regional policy statement, and management plans and strategies prepared under any other Acts and consistency with the plans or proposed plans of adjacent territorial authorities (s74(2)).
 - c) Take into account any relevant planning document recognised by an iwi authority (s74(2A)).
 - d) Not have regard to trade competition or the effects of trade competition (s74(3)).
 - e) Not be inconsistent with a water conservation order or regional plan (s75(4)).
 - f) Have regard to actual and potential effects on the environment, including, in particular, any adverse effect in respect to making a rule (s76(3)).
18. The functions of the Council set out in s31 of the Act that are required to be maintained when evaluating the appropriateness of PC83 include the establishment, implementation and review of objectives, policies, and methods to:
 - a) Achieve integrated management of the effects of the use, development and protection of land and associated natural and physical resources (s31(1)(a)).

² Part 5 of Schedule 1 relates to the use of the 'streamlined planning process' and is not relevant to this plan change.

- b) To ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district (s31(1)(aa)).
 - c) Control any actual or potential effects of the use, development, or protection of land (s31(1)(b)).
19. The request considers the actual and potential effects of the plan change on the environment, and where necessary, I have made further comment and assessment of these later in this report, including by reference to the specialist assessments undertaken by the Council's experts. Similarly, an assessment of PC83 against the various statutory documents is set out further below.

PC83 Acceptance, Notification and Submission Process

20. PPC83 was lodged on 18 November 2022, with Council issuing a RFI dated 20 December 2022. Further information was provided back to the Council on 28 February 2023. However, following review of this information an additional request for further information/clarification was issued on 15 March 2023 with this request responded to by the applicant by 16 May 2023. Following this further review, the application was accepted for public notification at Council's meeting held on 28 June 2023³.
21. A copy of the notified application is available on the Council's website⁴.
22. PPC83 was publicly notified in the Mangawhai Focus and Kaipara Lifestyler on 25 July 2023, with the submission period closing on 23 August 2023. A total of 69 submissions were received, with one submission (#49) being subsequently withdrawn on 19 October 2023. All submissions were then summarised and publicly notified for further submissions in the Mangawhai Focus, Kaipara Lifestyler and Northern Advocate on 3 October 2023. The period for further submissions closed on 17 October 2023. Three further submissions were received.
23. The submissions, submission summary, and further submissions are available at the plan change webpage⁵. From my reading, there are 44 submissions in opposition, 3 in support, and 21 that seek amendments to the plan change rather than complete rejection or have not stated their position.
24. PPC83 has reached the point where a hearing is now required⁶. Following the hearing, the Council is required to give a decision on the plan change and the associated submissions⁷.

Procedural Matters

Additional applicant reports

25. Following their review of issues raised in submissions, the applicant has commissioned further technical reports on 3-waters and transport matters. These additional reports were provided to Council on 31 January 2024 and are now available on the PPC83 section of the Council's website.

³ Under Clause 25(2)(b) RMA

⁴ <https://www.kaipara.govt.nz/the-rise>

⁵ Ibid.

⁶ Clause 8B, Schedule 1 RMA

⁷ Clause 10, Schedule 1 RMA

Council experts have reviewed these reports prior to producing their separate assessments attached as appendices to this evidence.

26. In my experience it is normal practice for applicants to review and respond to issues raised by submitters. Council experts have likewise reviewed and responded to the issues raised. Liaison between Council and the applicant's experts is necessary in order to properly understand the analysis that underpins assessment of potential effects and the need for mitigation or rules to be incorporated into the ODP.
27. It is understood that the applicant will be incorporating the findings of their new reports into their hearing evidence. In accordance with the procedural Minute 1 issued by the Hearings Panel⁸ on 18th January 2024, the applicant's evidence is to be made available to submitters two weeks before submitter evidence is due. This timetabling is to enable submitters the opportunity to review any new material provided by the applicant and to respond to it in their own evidence.

Conflict of interest

28. Several submitters⁹ raise concerns regarding a conflict of interest between PPC83 and the Mayor. I understand that the mayor is a shareholder in the applicant company. Councillors are always mindful of the need to appropriately manage any potential conflicts of interest. The Mayor recused himself from the decision on whether or not the Council should accept PPC83 for notification¹⁰. Consistent with the approach taken at notification, I anticipate that the Mayor will also recuse himself when the Council comes to consider whether or not to accept the Hearing Panel's recommendations on PPC83. I have been appointed as an independent planner, to provide an independent expert assessment of the plan change. I am not employed by the Council.

Late and withdrawn submissions

29. Submission 49 was withdrawn by the submitter on 19 October 2023. No late submissions were received.

Submission scope

30. Submission 56 by R & R Davies seeks that four titles located in the southeastern corner of the plan change site be rezoned to a commercial or industrial zone. Given that the purpose of PPC83 is to rezone the entire site to residential, it is questionable whether a submission seeking a change to the zoning to Business Zone of a part of the wider site falls within the scope of the plan change as notified. I note that the submission does not seek to extend the geographic scope of the plan change, rather it concerns the zoning of an internal portion of the site. I also note that the ODP has a single Business Zone, rather than separate Commercial and Industrial Zones.
31. Ultimately questions of scope are as much legal as they are planning considerations.
32. The submitters may therefore wish to provide the Hearings Panel with a legal opinion on the matter of scope to assist in their deliberations regarding whether they can progress to a merit-

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https://www.kaipara.govt.nz/uploads/districtplan_operative/planchanges/PPC83%20The%20Rise/First%20Direction%20of%20Hearing%20Panel%20-%202018%20January%202024.pdf

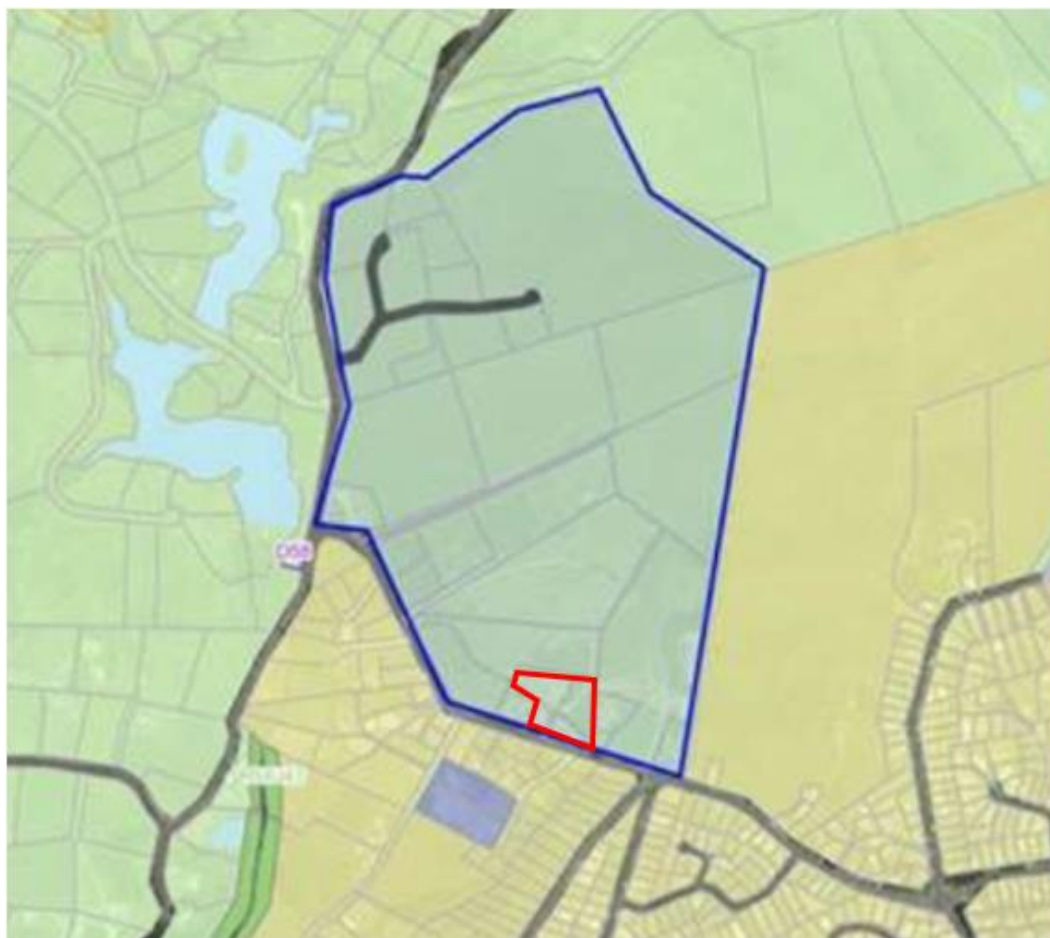
⁹ Submitter 2, 10, 13, 38

¹⁰ Kaipara Council minutes, 28 June 2023

based determination. Mr Bangma will also address this matter in his opening legal submissions on behalf of the Council.

33. In the event that the Hearings Panel considers some or all of these sites do fall within scope, I discuss the merit of such inclusion in the below section on urban form.

34. **Figure 1. Submitter 56 sites shown in red**

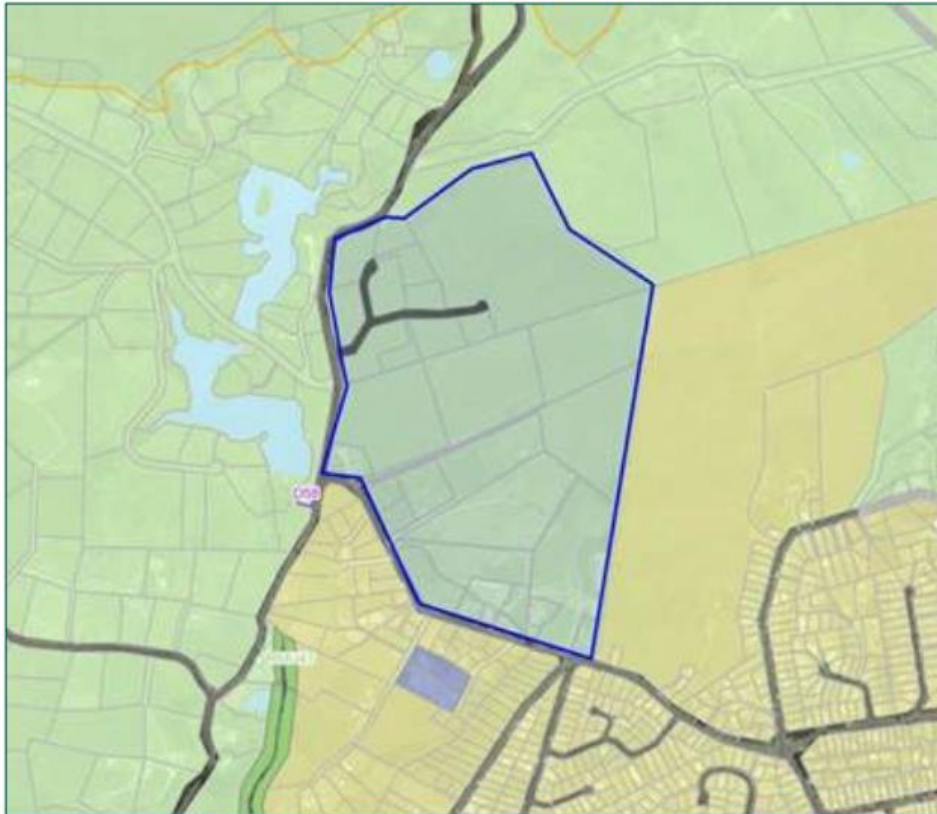


The Plan Change Proposal

Current ODP Zoning

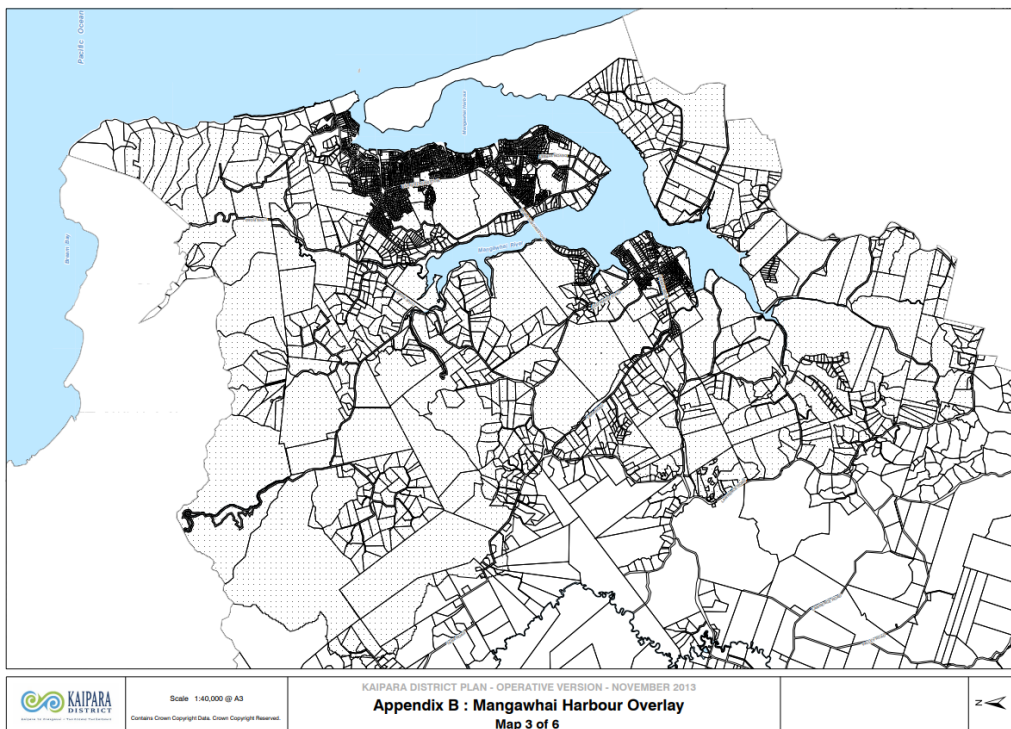
35. The 56.9ha application site is located on the eastern side of Cove Road, Mangawhai. The site is a Rural Zone under the ODP and is subject to the Harbour Overlay and Indicative Growth Area – Greater Growth Area Catchment Overlay.
36. For completeness, the site is not identified in the ODP as containing any significant landscape or ecological values, and neither does it contain any heritage items, sites of cultural significance, or regionally significant network infrastructure.

Figure 2: ODP Zoning. Yellow = Residential Zone; green = Rural Zone



37. The site is located within the 'Mangawhai Harbour Overlay'¹¹ (**Harbour Overlay**).

Figure 3. Harbour Overlay (shown as light grey/ dots)



¹¹ ODP Appendix B, Map 3

38. I understand that the geographic extent of the Harbour Overlay was based on hydrological catchments, rather than landscape or ecological values. The Harbour Overlay therefore covers all of the existing urban parts of the township as well as adjacent rural areas. I note that the ODP Harbour Overlay predates the Northland Regional Policy Statement (NRPS) and the mapping of the Coastal Environment. The NRPS mapping excludes the site (and other inland areas) from the coastal environment. As such the ODP does not give effect to the NRPS in regard to this matter. I anticipate that ultimately the geographic extent of the Harbour Overlay will be aligned with the Coastal Environment as shown in the NRPS via the District Plan Review process.
39. ODP Chapter 4 sets out the policy outcomes associated with the various overlays. It is important to note that Chapter 4 only includes policies, with any rules necessary to implement the overlay policies instead located within the various zone chapters. The primary focus of the Harbour Overlay is on the need to protect ecological values around the periphery of the Mangawhai Harbour, maintain public access to the harbour margins, and ensure that subdivision and development in the wider catchment does not adversely affect these values, whilst concurrently not placing undue restrictions on the ability for activities to be undertaken within the Harbour Overlay area¹². The Overlay results in an increase in the minimum site size¹³ from 600m² which is applicable to those parts of the Residential Zone that are both serviced and are located outside of any overlay, to 1,000m².
40. I note that as PPC83 is framed as a Precinct within the Residential Zone, it does not seek to amend the Harbour Overlay or to delete its application to the PPC83 site.

PPC83 Purpose

41. The purpose of the plan change is stated in the application as follows:
- To rezone the location to a Residential Zone. The key features of the plan change are:*
- *Rezone 56.9ha of land at Cove Road from Rural Zone with Harbour Overlay to Residential Zone, including consequential amendments to the ODP Maps;*
 - *The creation of a precinct (Cove Road North Precinct) over top of the Residentially Zoned land with core provisions that protect ecological features, promote high quality urban design, ensure a safe transport network, and enhance landscape and amenity; and*
 - *Any necessary consequential amendments to the ODP provisions.*
42. The proposal as notified included subdivision provisions to enable a minimum lot size of 400m², a minimum average lot size of 600m², and a minimum lot size of 1,000m² for the northern edge of the site identified as the northern sub-precinct area and located on a north-facing slope that runs down to Tangaroa Road. Following a review of the concerns raised in submissions, the applicant has since modified the proposal¹⁴ by increasing the minimum lot size up to 600m². The increase in the minimum lot size was also a matter that was sought by a significant number of submitters.
43. The proposal is estimated to yield approximately 380 lots, allowing for land set aside for local roads, stormwater, ecological areas, and the possible retention of some of the lots as larger lifestyle properties (at least in the short-medium term). I note that this household yield figure is simply the applicant's estimate for the purposes of informing servicing demand and traffic generation – no rules are proposed which limit the overall development to only providing 380 households. Whilst on its face this estimate seems 'light', I do not think the northern sub-precinct is

¹² ODP Objectives 4.4.11-13 and Policies 4.5.16-20

¹³ ODP Rule 13.10.3a

¹⁴ Revised PPC83 ODP provisions, received 31 January 2024

proposed to have a 1,000m² minimum, and land will also be required for ecological protection, roading, and stormwater. The fragmented ownership of the site likewise means that it is readily plausible that not all of the site will be redeveloped to suburban densities (at least over the short-to-medium term). I therefore consider the estimated yield of 380 lots to be plausible for the purposes of informing likely demand on services.

44. The proposal includes a concept plan¹⁵ for the site which shows the location of key features and road connections. The concept plan has evolved with the latest response received by The proposed subdivision rules include requirements to provide for the management of ecological values and the adequacy of servicing solutions following detailed design.

Figure 4. Proposed Concept Plan

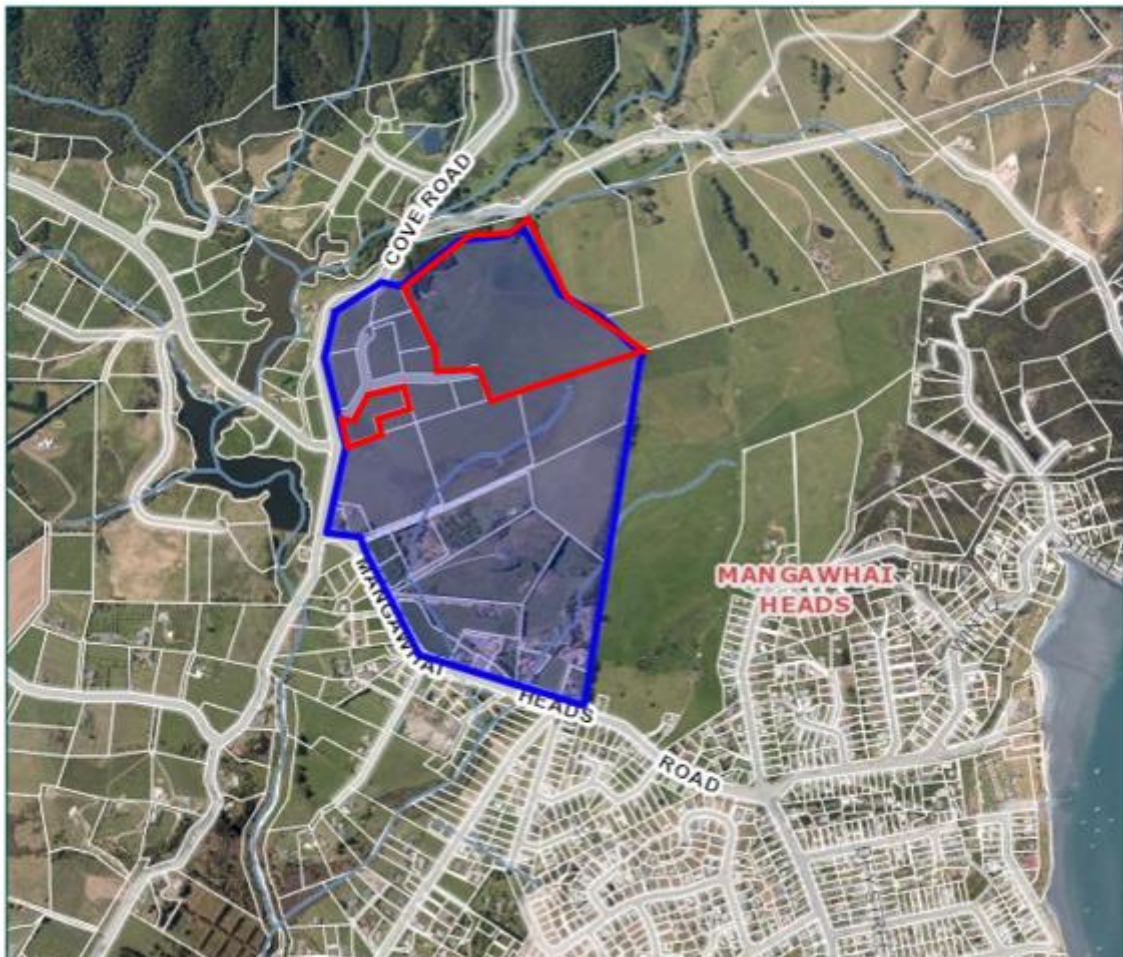


¹⁵ It is noted that the Concept Plan is now somewhat outdated due to revised roading layouts shown in the applicant's latest Integrated Transport Assessment

Site Description

45. The site is not under single ownership. The PPC83 applicant owns two lots located at the northern end of the site, shown in red in Figure 2 below. The balance of the site is shown in blue and is comprised of some 32 titles. Not all of the titles contain dwellings, with approximately 25 dwellings located across the site from my site visit observations. Whilst the site has a Rural Zoning, its character is therefore not dissimilar from land developed for rural-residential/lifestyle block purposes. As such the lots are a mix of pastoral farmland, gardens, and residential dwellings with accessory buildings. The northeastern lot owned by the applicant is the largest lot on the site and therefore has a pastoral rather than lifestyle block appearance.
46. The northwestern corner of the site has been recently developed as lifestyle blocks (Pigeonwood Place and Pipit Lane), with the conditions of the underlying subdivision consent requiring the establishment of large, planted buffer strips between several of the lots. The ongoing retention of these strips will remain through the existing subdivision consents regardless of the outcome of this plan change process.

Figure 5. PPC83 site location¹⁶



47. The site's topography is that of gently rolling farmland. Pigeonwood Place follows the top of a shallow ridge that extends further to the east through the site. Land to the north of this ridge runs down towards Tangaroa Road, with land on the southern side of the ridge running down

¹⁶ Base map source: PPC83 Application s32 Report, pg. 10

into a valley and associated watercourse that runs in a northeast- southwest direction through the centre of the site. The land then rises gradually to the east of this central valley, with a second smaller watercourse cutting across the southeastern corner of the site. Both waterways travel via culverts under Mangawhai Heads Road before ultimately discharging into the upper reaches of the Mangawhai Estuary.

48. In addition to the two small waterways, the site also includes a pocket of native bush located immediately north of Pipit Lane at the northern edge of the site, along with remnant wetland areas in the valley floors. The ecological values of the site are discussed in more detail in the ecological report attached as **Appendix 6**.
49. The site is bounded to the west by Cove Road which is a collector road that connects Mangawhai to Langs Breach and Waipu through the eastern end of the Brynderwyn Hills. The bush-covered Brynderwyn Hills form a visually prominent feature to the north of the site, with Cove Road entering into the forested hills approximately 1km north of the Pigeonwood Place intersection. The land between the site and the Brynderwyn Hills on either side of Tangaroa Road is a gated community comprised of large lifestyle blocks. Land on the western side of Cove Road is likewise comprised of lifestyle blocks located within 'The Sanctuary' subdivision which includes several small lakes.
50. The southern edge of the site fronts onto Mangawhai Heads Road, with the southern side of Mangawhai Heads Road comprised of lifestyle blocks that transition into suburban residential development along Jack Boyd Drive as you move east towards the beach.
51. The eastern side of the site is bounded by a large block of Residentially Zoned land which is yet to be developed and as such is currently formed as pasture.
52. I discuss the site's place in the wider context of Mangawhai township later in this report when I consider urban form outcomes.

Assessment of the Request and Issues Raised by Submitters

53. This section provides an assessment of the material included within the request, submissions received, and outlines the expert advice received to inform the overall recommendations within this report.
54. In addition to an assessment against the higher order statutory planning documents, I consider that the key matters either raised by submitters, or necessary to be considered in ensuring that the Council's statutory functions and responsibilities are fulfilled in terms of assessing this plan change, are:
 - a) Land Suitability (Geotech, Land Contamination);
 - b) Infrastructure Servicing (Water, Wastewater, and Stormwater/ flood risk);
 - c) Ecology;
 - d) Transportation;
 - e) Urban Form, character, and community facility capacity.
55. Given the number of submitters and the various issues raised, the approach to the reporting below is issue-based. Individual submissions are for the most part not therefore referenced. I confirm however that I have read and am familiar with the content of every submission and further submission that has been lodged.

Land Suitability

56. In relation to the land affected by PPC83, in my view there are two primary matters to consider under this topic:
- a) Geotechnical natural hazards e.g. liquefaction and land stability; and
 - b) Land Contamination.
57. These are considered in turn below. The use and development of versatile soils is considered in more detail in the below section on the National Policy Statement on Highly Productive Land.

Geotechnical Considerations

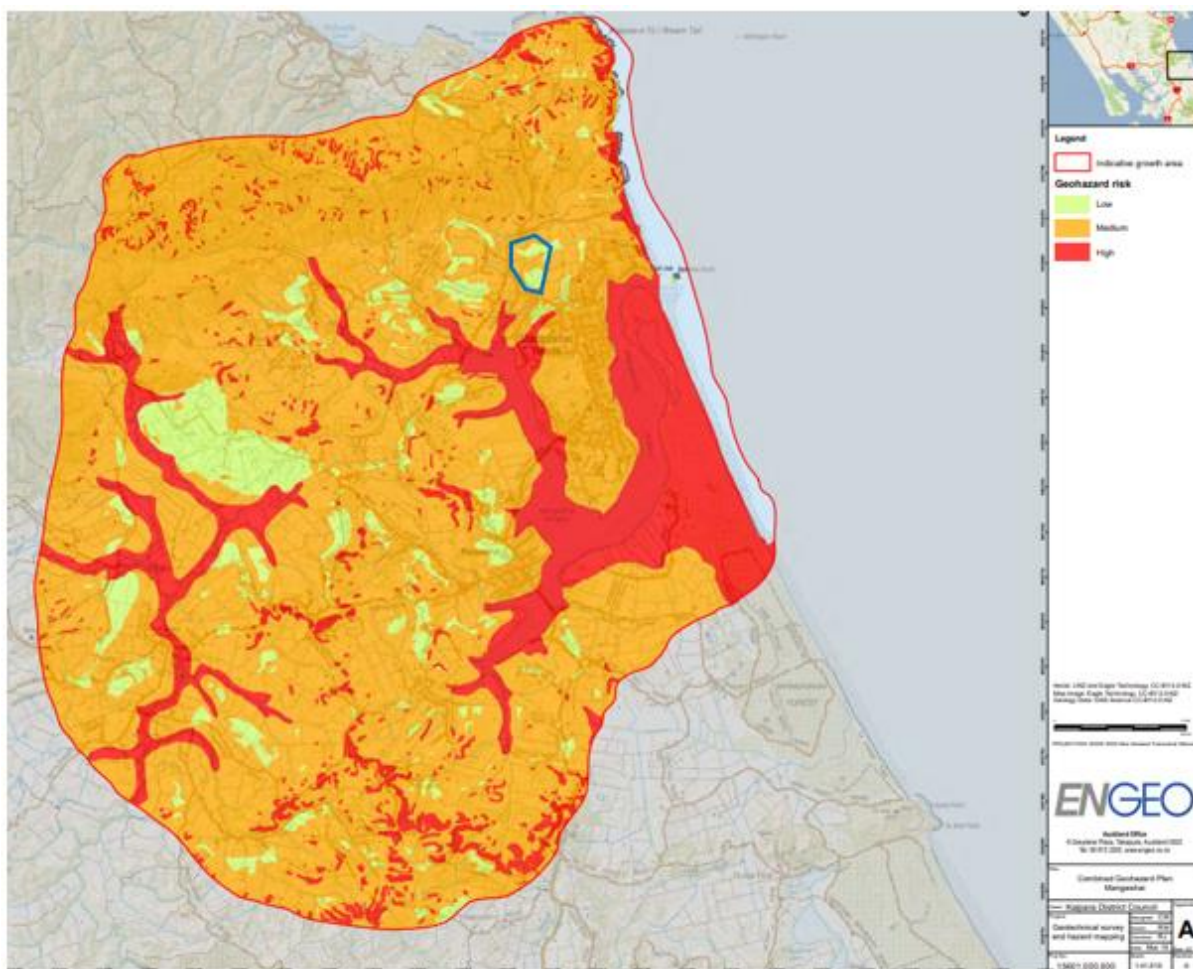
58. The request included a brief geotechnical letter prepared by Wiley Geotechnical Ltd (**WGL**) dated 10 June 2022¹⁷. WGL had previously produced a geotechnical report investigating the suitability of the lots owned by the applicant for residential development. Based on this original geotechnical investigation, WGL consider it 'likely' that the wider plan change area including land not owned by the applicant is suitable for increased residential development from a geotechnical perspective. WGL outline however that further investigation is required at subdivision stage to confirm suitability and the extent of geotechnical constraints. They note that whilst they have not undertaken a more detailed assessment of the central and southern portions of the site, based on GNS mapping and WGL's local knowledge of the area there is no initial indication of major geotechnical constraints in the central or southern parts of the site. They identify that the central watercourse is likely to 'pose significant constraints to residential development' to immediately adjacent land.
59. The Council commissioned a high-level geotechnical assessment of the wider Mangawhai area in 2019 from geotechnical engineering firm Engeo Ltd¹⁸. In summary, this report identified that most of the wider Mangawhai area is subject to medium risk of geotechnical hazards (primarily slope instability), with the low-lying areas adjacent to the Mangawhai Estuary subject to high risk (due primarily to heightened risks of liquefaction during a seismic event). The site does not include any high risk areas. Approximately 50% of the site is identified as have medium risk and 50% of the site low risk. The presence of a reasonable portion of the site having a low risk is uncommon in Mangawhai where most areas contain a medium risk.
60. The site is not therefore identified as being exposed to a significant geotechnical risk such that it would preclude rezoning (see **Figure 6** below). The area immediately adjacent to the central watercourse is shown on the Concept Plan as being retained and enhanced as a naturalised watercourse and therefore will not be subject to future residential building sites. Whilst approximately half the site is low risk, a reasonable portion of the site will require a more detailed geotechnical assessment as part of any future subdivision consent process. Such further assessment is common (and is reflected by the Engeo report finding that the majority of existing urban Mangawhai is subject to medium geotechnical risks).

¹⁷ PC83 Application – Appendix 5

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https://www.kaipara.govt.nz/uploads/District%20Plan%20Review/geotech%20reports/Final%20ENGE0%202019.04.16%20-%20KDC%20Mangawhai%20Geotechnical%20Report_compressed.pdf

61. **Figure 6. Mangawhai geotechnical risks;** site shown in blue



62. Whilst PPC83 proposes a number of bespoke subdivision rules that replace the standard ODP provisions, the new subdivision Rule 13.13X retains the need for applications to comply with the relevant performance standards in section 13.10 and 13.14 of the ODP. Rule 13.14.1 requires all subdivision applications to demonstrate that the new lot/s will contain a geotechnically stable building platform with associated access. Rule 13.14.1 also includes a note that Council may require a geotechnical and engineering assessment to confirm that a stable building area is provided. I am therefore satisfied that geotechnical risks are first not so significant as to preclude rezoning, and that secondly the existing ODP rules provide adequate scope for considering geotechnical design and risk mitigation as part of the subdivision consent process.

Land Contamination

63. Contaminated soils are managed under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**the NES-CS**). The standards are applicable if the land in question is, or has been, or is more likely than not to have been used for a hazardous activity or industry and the applicant proposes to subdivide or change the use of the land, or disturb the soil, or remove or replace a fuel storage system. Whilst the NES-CS does not apply to plan changes per se, because it applies to any subdivision or change in use it makes sense to consider contamination risk as part of rezoning requests given that a successful change in zoning will facilitate future subdivisions.

64. The application did not include a Preliminary Site Investigation (**PSI**). I understand from the Council that PSIs are not typically expected in Kaipara unless there is a specific reason to believe that the site in question is contaminated. From my site observations, I note that the site appears to have always been in pastoral use i.e. it is not an industrial brownfield site. The site topography likewise makes it unlikely to have been used in the past for intensive horticulture involving the frequent application of pesticides or herbicides. The more recent use of the site as lifestyle blocks further confirms that significant contaminating activities are unlikely to have occurred.
65. One of the lots in the southeastern corner of the site fronting onto Mangawhai Heads Road is currently in use as the base for an arborist/ tree removal and chipping business, with heavy machinery (loaders) present on site. Such activities, along with past farming activities elsewhere on the wider site, may have resulted in localised areas of contamination such as sheep dips or storage areas for fuel or agri-chemicals. I would anticipate that a PSI would be undertaken as part of the subdivision consent process, and that if the PSI identified specific risk areas then a Detailed Site Investigation would be undertaken with soil sampling and if need be a Remedial Action Plan being prepared to address localised hot spots.
66. The NES-CS regulations apply separate to the ODP and therefore remain in play regardless of any amendments to the District Plan proposed through PPC83. I note that the existing ODP subdivision rules¹⁹ include a note alerting Plan users to the need to also refer to the NES-CS when considering subdivision applications. I consider that there is merit in carrying this note through to the PC83-specific subdivision rules to ensure NES-CS matters are noted as part of the subdivision consent process.
67. Whilst there is a risk of soil contamination being present, these risk factors are not untypical of rural landholdings. The PSI process and subsequent ability to document and undertake site remediation where necessary provides a well-established process for managing the risk to human health when changes in land use occur. At this stage of the development process there is nothing to suggest that the potential contamination is of a type or extent that would render the land incapable of being remediated or made safe for residential development.

Infrastructure Servicing (Water/Wastewater/Stormwater)

68. The application includes a Land Development Report prepared by JAS Civil Ltd²⁰. Following submissions, the applicant has commissioned a further 3-waters report from Chester Consultants Ltd (**Chester report**), which has been reviewed by Council's experts.
69. Concerns regarding the capacity, costs, and design of 3-waters infrastructure was one of the most common concerns raised by the majority of submitters opposing the plan change.

Water Supply

70. The applicant's servicing report prepared by JAS Civil identifies that there is limited reticulated water supply at Mangawhai and that this supply is limited to servicing the local shopping area and limited ancillary areas with there being no imminent plans to upgrade this reticulated water supply. Without an upgrade of the public supply, future subdivisions over the plan change area will need to obtain their water supply from on-site tanks filled with rainwater off the house roofs, and supplemented by tanker truck when required on a house-by-house basis.

¹⁹ Rule 13.11.1, Note 3

²⁰ PC83 application, Appendix 3

71. The Chester report confirms that future dwellings will be serviced by rainwater capture, and recommends that the PPC83 provisions include reference to the need to specify minimum tank sizes and the installation of water saving fixtures and fittings to ensure captured water is efficiently utilised. The Chester report recommends that the PPC83 provisions be amended to include a table²¹ that provides a specific minimum tank size relative to both roof catchment and the number of bedrooms (as proxies for both water capture and use).
72. The applicant's water supply assessment has been reviewed by Ms Melissa Parlane, Asset Management and Capital Delivery Manager for the Council. Ms Parlane's review is attached as **Appendix 2**. Ms Parlane confirms that the applicant's assessment is correct insofar as Mangawhai has a small water treatment and limited reticulation network that does not reach the PPC83 site, and that there are no plans or budgeted spending to extend the network.
73. Ms Parlane identifies that the lack of reticulated water supply is common, with the majority of Mangawhai township reliant on site-by-site rainwater harvesting and storage. Ms Parlane confirms that reliance on rainwater harvesting is likewise common throughout the rural areas and smaller townships across Northland and is generally effective for meeting household demands. She notes that such a solution can prove challenging for sites smaller than 600m², both in terms of smaller sites typically resulting in correspondingly smaller roof areas, and in terms of physically accommodating a water storage tank on the site.
74. I am therefore satisfied that the proposed water supply solution is both typical of household supplies for smaller townships and has been proven to be sufficient (at least for typical suburban sites that are larger than 600m²). The existing ODP provisions regarding the adequacy of water supply remain in play, however in line with the recommendations in the Chester report, I agree with the need for the amended PPC83 provisions that clarify what 'adequate supply' means in practice.
75. In addition to meeting general household needs, water is also required to be provided for fire fighting water supply. The JAS Civil report indicates that dedicated firefighting water supply storage tanks can be situated throughout a subdivision where they would normally be underground and located within widened road reserves. Flow diversions from the reticulated stormwater network would be routed through the tanks to provide intermittent circulation and re-filling. Water from these tanks would typically be extracted using a portable pump or fire appliance. Alternatively, JAS Civil indicate that firefighting water supply could be provided at each site to meet relevant Engineering Standards and the Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008. The Chester report confirms this approach.
76. The submission by Fire and Emergency NZ²² raises concerns that provisions for firefighting water supply have been left out of the proposed plan provisions and seek the inclusion of a new rule to ensure that the site(s) is/are adequately serviced which for a single dwelling will generally include storage of 10,000 litres of water within 90m of an identified building platform.
77. As noted in the Chester report, the ODP provisions relating to fire-fighting water supply were settled via consent order on an appeal to Plan Change 4²³. Of relevance to the Residential Zone, subdivision is a controlled activity under Rules 13.11.1, with the consent order inserting an

²¹ The Table draws on a guide developed by the pre-amalgamation Auckland Regional Council
https://at.govt.nz/media/302079/AT_RDC_LearningResource_CountrysideLivingGuideToolbox_Devicedesigndetails.pdf

²² Submission 19 by Fire and Emergency NZ

²³ ENV-2018-AKL-00012

additional matter of control and associated advice note relating to the adequate supply of fire fighting water. The first clause of proposed subdivision rule 13.13.X includes a statement that the PPC83 site is not subject to rule 13.11.1 (presumably because a controlled subdivision pathway is not proposed). This exemption inadvertently has the effect of also removing the fire fighting matter of control.

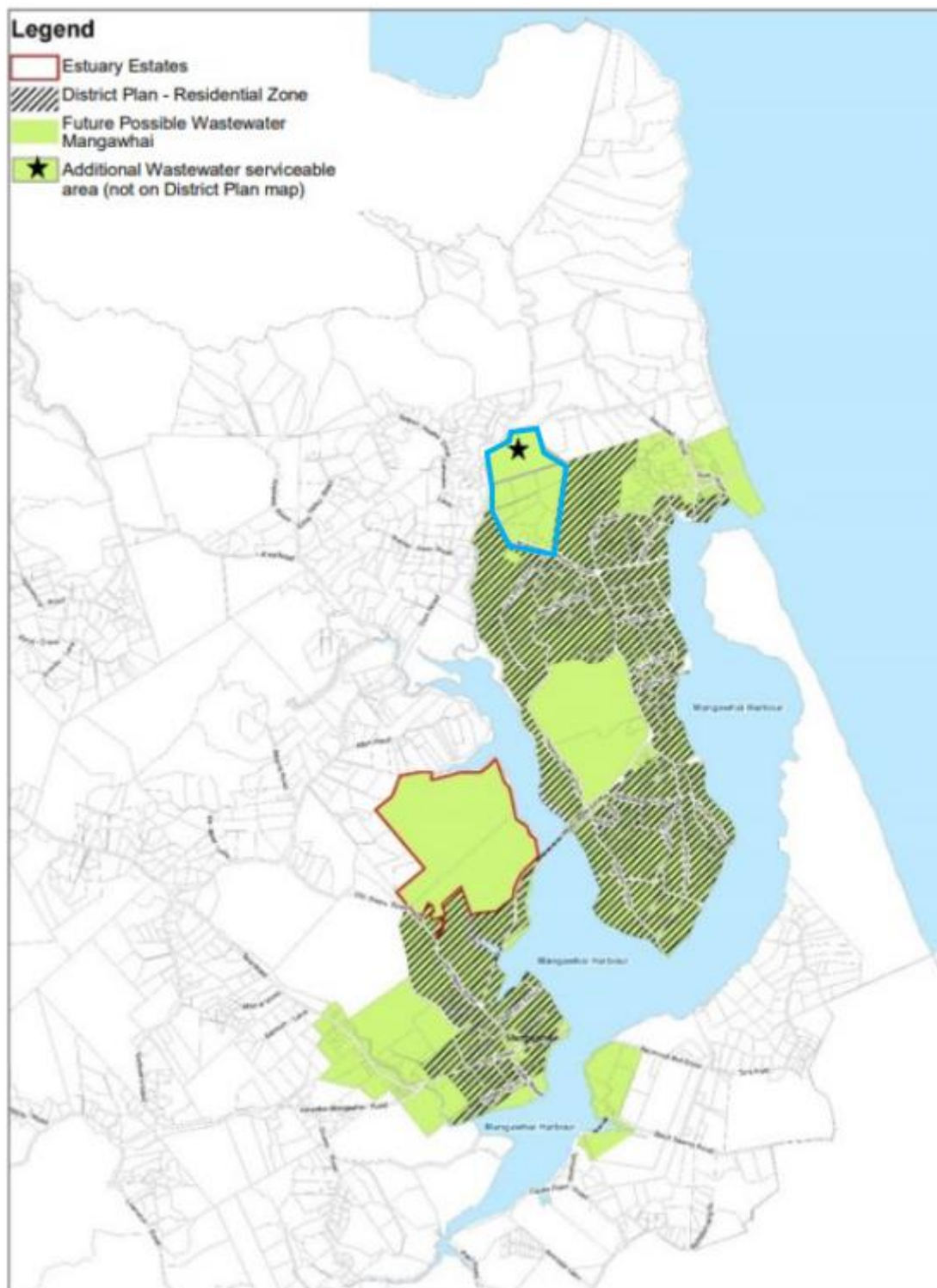
78. I therefore recommend that an additional matter of discretion be added to proposed rule 13.13.X that mirrors the settled ODP wording on this matter.

Wastewater

79. The ability to service the site with wastewater was assessed in the JAS Civil report and subsequent Chester report. Both reports identify that it is possible to extend and connect to the Council's reticulated wastewater network which currently runs along Mangawhai Heads Road at the southern end of the site.
80. The applicant's reports have been reviewed by Mr Clinton Cantrell from SCO Consulting Ltd on behalf of Council, with his review attached as **Appendix 4**. Mr Cantrell describes how Mangawhai is currently serviced by the Mangawhai Community Wastewater Scheme (**MCWWS**), which encompasses the reticulation, treatment, and disposal of treated wastewater.
81. Council has recently developed spatial plans to help guide growth in the District's key townships. I discuss the Mangawhai Spatial Plan 2020 in more detail in the below section on urban form. In terms of wastewater servicing it is however useful to note that the Spatial Plan includes a map of the parts of Mangawhai that are anticipated to be serviced by reticulated wastewater infrastructure. The mapped areas align with the District Plan in terms of anticipated growth areas and also reflect the recently approved Private Plan Change 78: Mangawhai Central and the growth areas identified in the Spatial Plan (which were in turn identified in part due to their ability to be readily serviced).
82. The area shown to be serviced includes the site, with the northern third of the site denoted by a black star in **Figure 7** below.
83. Mr Cantrell identifies that the wastewater treatment plant has a current capacity for 3,000 connections/ households. There are 2,764 existing connections meaning there is further capacity for some 236 additional households. He identifies that the Council has committed to undertaking short-term upgrades this year that will increase the capacity to 3,550 connections. In accordance with the anticipated growth areas identified in the Spatial Plan and the associated need to service these areas, the Council has also committed to further expanding the capacity to 5,470 connections, via increased capacity for treated wastewater discharges to the Council-owned golf course in Mangawhai. This later increase is currently programmed for 2026/27. The two programmed upgrades will provide capacity for a further 2,706 connections i.e. an effective doubling of the size of the MCWWS compared to current levels. This will enable both the PPC83 site and other existing residentially zoned but unbuilt areas such as Mangawhai Central and the adjacent block to the east to be serviced.
84. The golf course discharge upgrade will be subject to obtaining any necessary regional and land use consents. Whilst subject to a future consenting process, I understand from Mr Cantrell that the proposed discharge solution is plausible. Mangawhai is the fastest growing township in Kaipara District and as such the Council is committed to delivering servicing solutions to enable growth in line with recent structure planning exercises i.e. in the unlikely event that the golf course solution does not proceed, the Council will need to deliver an alternative solution.

85. I also note that the build-out of rezoned land invariably occurs in stages over a number of years. Local examples are the block to the east of the site which has been zoned for residential use but is yet to be developed. The large Mangawhai Central development is likewise being built in stages spread across several years. As such it is realistic that if PPC83 is approved, the development of occupied dwellings (and therefore additional wastewater generation) will occur gradually and with timing that aligns with the programmed upgrades.

86. **Figure 7. Future reticulated wastewater coverage**



87. Whilst connection to the Council’s reticulated MCWWS is the preferred option, the Chester report notes that a site-specific localised treatment and disposal solution is technically feasible as an alternative. The area of large lots along the northern edge of the site may alternatively be able to utilise individual septic tank solutions if the individual lots are greater than 3,000m², and subject to meeting Northland Regional Plan requirements²⁴.
88. In addition to treatment and discharge, the MCWWS also requires adequate capacity to be available in the piped network that connects individual sites to the treatment plant i.e. wastewater conveyancing. The local pipe network involves wastewater being gravity fed downhill from the site to the existing pipes in Jack Boyd Drive. The wastewater is then pumped uphill to reach the wastewater treatment plant. Mr Cantrell identifies that the current pipeline in Jack Boyd Drive will require upgrading (enlarging). The pump station will have sufficient capacity to accommodate the additional flows from the site, although ultimately will need some modest upgrades once full development in the wider area occurs. The upgrades to both the pipework and the pump station are technically straight forward. Where development requires localised upgrades to occur it is common for these works to either be undertaken at the developer’s expense or via a development agreement with Council.
89. The proposed PPC83 subdivision rules include a detailed section on wastewater capacity (Rule 13.14.6(B)), which enables consideration of the adequacy of wastewater infrastructure and the funding of any localised upgrades to be assessed when subdivision consents are applied for.
90. In summary, I am satisfied that there is sufficient programmed capacity in the MCWWS to meet the likely servicing demand for the PPC83 site and other residentially zoned but unbuilt areas in Mangawhai. In the unlikely event that the planned upgrades cannot obtain the necessary consents, then the onus will be on the Council to deliver an alternative solution to meet the growth needs of the fastest growing township in the District. The proposed subdivision rules enable a detailed assessment of capacity at the time development occurs, and enable subdivision consents to be declined if sufficient capacity is not available and alternative solutions are not acceptable.

Stormwater and Flooding

91. Concerns regarding the exacerbation of existing flood risks and the management of stormwater was a common issue raised by many submitters²⁵. These matters were initially addressed in the JAS Civil report, with the Chester report providing a more fulsome assessment of both issues following the applicant’s review of submissions.
92. The Chester report identifies that the site is effectively at the top of the localised catchment. As such it is not subject to any significant overland flow of floodwaters generated from off-site locations. Within the site the flood-prone areas are along the existing streams and the lower-lying land at the bottom (southern) end of the site adjacent to Mangawhai Heads Road. Apart from the relatively small area of north-facing slopes at the northern end of the site, stormwater generated on the site currently travels along the on-site watercourses and then exits via two culverts under Mangawhai Heads Road before entering the upper reaches of the Mangawhai Estuary.
93. **Figure 8** below is taken from the JAS Civil report²⁶ and provides a visual indication of the parts of the site and the wider area that are exposed to flood risk.

²⁴ Noting submission 48 from NRC which seeks a minimum 2,000m² if on-site disposal is proposed.

²⁵ Submissions 1, 2 4-7, 12, 13, 16, 20, 26, 27, 32, 36-39, 41, 42, 52, 53, 56, 60, 62, 63, 64, 68.

²⁶ PPC83 application, JAS Civil report, Figure 4.1

Figure 8. Flood risk



94. The Chester report identifies that during high rainfall events, these culverts can reach capacity with floodwaters backing up on the low-lying parts of the site until they ultimately overtop the road and then flow south over the road and into properties on the southern side. The Chester report states that modelling of flood flows has shown that increasing the diameter of the culverts would not be effective in mitigating flood risks due the tidal nature of the immediate downstream catchment i.e. if flooding occurs at high tide, the culverts have limited capacity (regardless of size) due to backed-up tidal waters. The Chester report identifies that it is therefore important that the on-site stormwater system is designed to be neutral in terms of the volume of stormwater discharged beyond the site compared with pre-development levels for the 10-year and 100-year rainfall events.
95. The Chester report has been reviewed by Mr Carey Senior of Awa Environmental Ltd on behalf of the Council. Mr Senior agrees with the Chester report's description of the stormwater environment, the associated flood risks, and the methodology underpinning the Chester report's analysis. The Chester report and Mr Senior's review both recognise that the site and the downstream area are subject to flood risk. Urbanisation of the catchment will increase that risk through increasing both the volume and velocity of discharges due to the increase in impervious surfaces. Both assessments therefore support the need for the bespoke subdivision rules relating to stormwater management proposed in PPC83 (Rule 13.14.5(3)).

96. It is noted that PPC83 as notified proposed to amend the ODP limit on impervious surfacing from 40% to 60%. I note that the increase in impervious surfacing allowance may in part have been to better enable a greater range of housing typologies/ smaller site sizes and was to complement the associated amendment to enable lots down to a minimum of 400m² in area. With the applicant having since amended their position regarding minimum lot sizes (by increasing the minimum to 600m² to align with the ODP Residential Zone standards), it may well be that there is little need to enable the associated increase in additional impervious surfacing.
97. It is noted that PPC83 as notified proposed to amend the ODP limit on impervious surfacing from 40% to 60%. I understand that the increase in impervious surfacing allowance may in part have been to better enable a greater range of housing typologies/ smaller site sizes and was to complement the associated amendment to the density controls to enable lots down to a minimum of 400m² in area. With the applicant having since amended their position regarding minimum lot sizes (by increasing the minimum to 600m² to align with the ODP Residential Zone standards (for reticulated areas outside of any overlays), it may well be that there is little need to enable the associated increase in additional impervious surfacing. I discuss the proposed rule package regarding site sizes and surfacing controls in the later section in urban form.
98. In my view (and that of many submitters), the management of stormwater and flood risk is one of the most challenging aspects of the proposal. The design of integrated stormwater solutions that are capable of detaining stormwater so that off-site discharges are neutral between pre and post development conditions is made more challenging due to the hilly topography of the site and in particular the fragmented nature of the site ownership. This fragmented ownership (and therefore likely staging of development due to differing aspirations of the various landowners), makes the design and construction of a single integrated stormwater management system across the entire site unlikely to occur. Instead it is likely that the site will be developed in stages, with each stage needing to have its own stormwater solution. I accept that with careful engineering design such individualised solutions are possible, and therefore I do not see this issue as preventing the site's rezoning. It is however a matter that will require careful consideration through the subdivision process. I therefore confirm the need for the bespoke stormwater provisions proposed by the applicant. The challenges of designing effective stormwater solutions, combined with the challenges of providing sufficient rainwater capture and storage on small sites, feed into my later recommendations regarding density (and in particular the degree of enablement for multi-unit housing typologies) and site coverage controls.
99. The Northland Regional Council²⁷ has sought that the concept plan be amended to show those parts of the site that are currently subject to a 1:100 year flood event as shown on the NRC hazard maps. These hazard areas largely overlap with both the parts of the site likely to be needed for stormwater storage, and the parts of the site where there are watercourse and wetland remnants. As such I consider that there would be benefit in the ODP showing these areas as a blue/ green network. I appreciate that the exact extent of these areas will be dependant on the final stormwater detention solutions and the degree to which such systems are design in a comprehensive manner or on a more site-by-site basis. Nonetheless, given that the concept plan is indicative rather than directive in nature, I do consider that there is merit in graphically showing those parts of the site that are unlikely to developed. I note that inclusion of blue/green areas on concept/ structure plans is common for plan changes and associated District Plan provisions.

²⁷ Submission 48

100. Whilst the key focus has been on managing stormwater volumes, the quality of stormwater is also important, especially as it discharges directly into the Mangawhai Estuary. New land development activities will need to obtain resource consents from the Northland Regional Council in regard to the water quality of stormwater discharges, unless they can be designed to fall within the ambit of an existing global consent held by the Council for stormwater discharge²⁸. This separate regional consenting process, combined with the ability for the design of stormwater systems to be considered as a part of the subdivision consent, provides the regulatory ability to ensure that stormwater is appropriately treated on-site. The treatment of stormwater is standard practice when land is urbanised and effective system designs are well-established.

Ecology and the NPS-FM, NES-FM, and NPS-IB

101. The National Policy Statement for Freshwater Management (**NPS-FM**), and the associated National Environmental Standards for Freshwater Management (**NES-FM**), together provide nationally consistent policy direction and regulation to control activities that may affect freshwater environments, including freshwater wetlands. The National Policy Statement on Indigenous Biodiversity (**NPS-IB**) likewise provides consistent national direction on how effects on indigenous biodiversity are to be managed. Given that this national direction is closely linked to an assessment of the site's ecological values, I discuss both the policy direction and the potential effects in the same section of this report.
102. The application included an ecological assessment prepared by Wild Ecology Ltd²⁹. This report identified that the site has a long history of farming use and as such the ecology of the site is largely comprised of exotic pasture grasses, along with garden areas associated with lifestyle blocks. Native ecological values are limited to an area of bush located adjacent to the site's northern boundary (and already protected via a conservation covenant), and riparian/ wetland values associated with the watercourses. The Wild Ecology report identifies that the northern bush area has moderate ecological value whilst the waterways are of low value due to degradation associated with long-established farming activities.
103. The Wild Ecology report has been reviewed by Mr Stephen Brown from Wildland Consultants Ltd on behalf of Council (attached as **Appendix 6**). Mr Brown has confirmed that the methodology used by the applicant's ecologist is both in common usage and provides an appropriate assessment framework for the sort of change in use anticipated by PPC83. He has likewise confirmed that the Wild Ecology report's conclusions align with his own on-site observations i.e. that the northern bush remnant is of moderate ecological value and that the balance of the site has low values.
104. The identified presence of both watercourses and remnant wetland areas means that the NPS-FM and NES-FM are in play for the site.
105. The NPS-FM introduces the concept of Te Mana o te Wai, which refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.
106. There is a hierarchy of obligations set out in Objective 2.1, which prioritises:
- a) first, the health and well-being of water bodies and freshwater ecosystems;

²⁸ <https://acrobat.adobe.com/id/urn:aaid:sc:ap:9733d2ea-fc47-4889-93cc-3033bc2cc000>

²⁹ PPC83 application, Appendix 6

- b) second, the health needs of people (such as drinking water); and
 - c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
107. Policy 6 refers to there being no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted. Policy 9 seeks that the habitats of indigenous freshwater species are protected. Policy 15 refers to communities being enabled to provide for their social, economic, and cultural well-being in a way that is consistent with this National Policy Statement.
108. The NPS-IB came into effect on 4th August 2023 i.e. after the PPC83 application was notified. The NPS-IB has a single Objective 2.1 which in summary seeks to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity. This outcome includes protecting and restoring indigenous biodiversity while providing for the social, economic, and cultural wellbeing of people and community now and in the future.
109. Of particular relevance to PPC83, Policy 3 seeks to adopt a precautionary approach when considering adverse effects, Policy 8 seeks to recognise and provide for the importance of maintaining indigenous biodiversity outside of Significant Natural Areas (**SNAs**), Policy 13 seeks that the restoration of indigenous biodiversity is promoted and provided for, and Policy 14 seeks that an increase indigenous vegetation cover in both urban and non-urban environments is promoted.
110. Of note, Clause 3.5(b) requires local authorities to consider “that the protection, maintenance, and restoration of indigenous biodiversity does not preclude subdivision, use and development in appropriate places and forms”.
111. The combination of the NPS-FM and the NPS-IB mean that particular care needs to be taken to retain and restore freshwater habitats, and that there is no overall loss in indigenous biodiversity.
112. Both ecologists support the retention of the native bush area on the site’s northern edge, recognising that it is already protected via a conservation covenant. They also both support the need to manage land development effects in close proximity to the watercourses and remnant wetland areas and identify that the subdivision process provides the opportunity to enhance ecological values through riparian and wetland restoration. They therefore both support the subdivision rules regarding the need for a detailed ecological assessment and associated ecological enhancement and management plans (Rule 13.13X(3)-(4))³⁰. The implementation and ongoing maintenance of restored ecological values are matters that can be dealt with as subdivision consent conditions, consent notices, or developer covenants.
113. In addition to any provisions in the ODP, it is important to emphasise that works affecting riparian and wetland ecological values are also controlled through both the Northland Regional Land and Water Plan, and the regulations contained within the NES-FM which are administered by the Northland Regional Council. I further note that the parts of the site containing riparian and wetland values are relatively small in extent and also generally overlap with those parts of the site that are subject to flood risk and that are likely to be needed to be set aside for stormwater management purposes. As such the stormwater and ecological rules will in practice work together to maintain these areas as green open space that is free of buildings. I consider that the overall site is capable of urbanisation and is not reliant on the need to build over

³⁰ I note that the ODP also controls indigenous vegetation clearance in the Residential Zone under Rule 13.10.2a

wetland or watercourse environments i.e. housing development and the retention and restoration of freshwater ecosystems can co-exist, subject to more detailed regional resource consent processes.

114. In response to submitters³¹ seeking rules prohibiting cats and dogs, Mr Brown recommends that the ODP includes a provision that restricts the number of cats to one per dwelling, and that any property containing dogs is to be securely fenced to prevent dogs from straying into neighbouring high value ecological areas. I note that controls on cats and dogs is a matter that is also raised in the Cultural Impact Assessment which is discussed separately below. I consider that rather than a dedicated rule, the need to place controls on cats and dogs be included as an additional matter of discretion to the proposed ecological enhancement rule. That said, if following the receipt of submitter evidence there is a clear need for more explicit controls on keeping of cats and dogs then I note that there are a number of 'precedent' rules controlling pets in the various Northland Plans that provide a helpful template for how such a rule could be drafted.
115. Submission 8 and 63 have sought that if PPC83 is approved, that the ODP includes a requirement that a predator-proof fence is erected along the boundary between the site and the submitters' land to the north. The submitters in particular identify that due to predator trapping that they have undertaken, kiwi are becoming more common on the land to the north of the site. ODP Appendix F includes a map of 'Kiwi habitation density' which shows all the land around Mangawhai as having a 'low density'. That said, I have no reason to doubt the submitters' observations of kiwi being present in the wider area. I have above agreed with Mr Brown's conclusions that there is merit in including explicit consideration of the need to limit cats and dogs as part of the subdivision consent process. I also agree with his conclusions that there is little benefit in requiring predator-proof fencing along the site's northern boundary given that the balance of the boundaries around the adjacent land are not predator-fenced and that keeping mustelids in captivity is already controlled via the Northland Regional Pest Management Plan.
116. Subject to minor amendments to the proposed subdivision rules, I consider that the potential effects of PPC83 on ecological values can be appropriately managed, and indeed the plan change has the potential to result in an overall enhancement and long-term protection of these values in accordance with the directions in both the NPS-FM and NPS-IB.

Transportation/Traffic Effects on the Roding Network

117. PPC83 included an Integrated Transport Assessment (**ITA**) prepared by Engineering Outcomes Ltd. That report was recently superseded by a replacement ITA prepared by Traffic Planning Consultants Ltd (**TPC report**) which was received by the Council on 30th January 2024. The TPC report (and previous PPC83 transport material) has been reviewed by Mr Gerhard van der Westhuizen from Flow Transportation. I understand that in developing his evidence, Mr van der Westhuizen has liaised with the Northland Transportation Alliance (**NTA**) who oversee the Council's transport planning and asset management functions. The NTA is a collaboration between the various Councils in Northland to ensure sufficient expert traffic engineering resourcing is available and to coordinate land transport planning across territorial boundaries.
118. The assessment of transportation issues has been an iterative process, with both the applicant's and the Council's traffic experts having changed since PPC83 was notified (albeit in the case of

³¹ Submitter 2, 4, 8, 11, 14, 22, 27, 30, 31, 46, 50, 53, 62, 63, 64

Flow from one colleague to another with an appropriate briefing handover). Mr van der Westhuizen identifies that considerable progress has been made in agreeing appropriate modelling inputs, obtaining representative baseline traffic counts, and revising the proposed internal roading network to improve connectivity.

119. I anticipate that this iterative approach to refining the assessment of transport effects and associated PPC83 rules will continue. In this regard I note Mr van der Westhuizen's first recommendation that further sensitivity testing be undertaken of the modelling underpinning the SIDRA analysis (by factoring up the anticipated PPC83 traffic generation by 1.5). I understand from Mr van der Westhuizen's evidence that the applicant has agreed to provide further commentary on the sensitivity of the SIDRA modelling as part of their transport evidence. Mr van der Westhuizen has recommended that the minimum site size be limited to 1,000m² as a proxy for limiting overall trip generation from the site. The additional sensitivity testing will help inform whether an increase in the minimum lot size is necessary on transport grounds and as such I am unable to reach a definitive recommendation on this matter at this point in time.
120. A number of Mr van der Westhuizen's recommendations relate to the detail of specific intersection designs, such as making the Pigeonwood Place intersection stop-controlled, and making the proposed future 'Road 6' intersection opposite Jack Boyd Drive an urban roundabout. He likewise recommends upgrades to the Cove Rd/ Mangawhai Heads Rd intersection. In my experience it is uncommon for specific local road intersection design solutions to be specified as part of Plan Change processes. The scope to assess intersection design instead forms part of the subdivision rules, with consideration of the detailed design solutions undertaken at the time a subdivision application is made.
121. Upgrades to external intersections on collector roads are a different matter. The Cove Rd/ Mangawhai Heads Rd intersection is clearly the key intersection in the nearby existing road network. There do not appear to be significant capacity issues/ level of service constraints at this intersection, and I do not understand the SIDRA modelling to show congestion issues are anticipated under PPC83 built-out. The issue then becomes one of safety rather than efficiency. There are then two planning matters to resolve. The first is the intersection design (and whether the preferred solution needs to be stated in the District Plan), and secondly the timing of the upgrade and whether it is necessary to include a new rule be added to prevent the occupation of any new dwelling prior to this intersection being upgraded. The key outcome sought by Mr van der Westhuizen is that "each dwelling should have safe vehicle and active mode connections to the existing road network environment (including connections to existing roads, footpaths and/or shared paths)"³².
122. In carefully considering Mr van der Westhuizen's recommendations, I have reviewed the existing subdivision matters of discretion under Rule 13.14.2. in my view these existing matters provide a comprehensive list of the transport-related issues to assess at the time of subdivision. That said, I also recognise that both additional SIDRA intersection modelling is to be undertaken, and there is the potential for submitters to also provide evidence regarding the safety and functioning of the local road network. As such I am open to the need for a more explicit rule on this matter if justified by subsequent evidence.
123. Both transport experts identified the importance of providing a pedestrian footpath around the site's existing road frontages with Cove Rd and Mangawhai heads Rd. A second internal pedestrian and cycle network is identified within the site. Mr van der Westhuizen identifies the importance of a good quality external pathway in the event that the internal network takes time

³² Transport Appendix, para. 6.46

to eventuate due to the site's fragmented ownership. He recommends a new rule preventing any dwelling from being occupied until a pedestrian and cycle shared path has been established along these two road frontages. He notes that the formation of a shared path is likely to require the acquisition of third-party land (within the PC83 site) to ensure sufficient width is available along the full length of the two road frontages.

124. I agree that pedestrian footpaths around the site perimeter are important from an urban design perspective. I am however cautious that a rule preventing the occupation of any dwelling until a full shared path has been developed would make any development on the site extremely challenging to undertake. The fragmented ownership means that a full shared path is likely to take a number of years to develop, whereas a pedestrian-only footpath is able to fit within the existing publicly held road reserve (with the existing ditch along Mangawhai Heads Rd piped and filled).
125. The fragmented ownership is a challenge for the timely provision of roading infrastructure. On the one hand there is a risk that a series of individually small subdivision will occur, each of which at a level where wider upgrades are not warranted, and that over time intensification occurs without the connected network that underpins the applicant's urban design assessment as to the suitability of the anticipated end outcome. On the other hand preventing any development from occurring until the full connections are in place is likely to mean that the site is effectively sterilised and no development occurs at all. The site currently contains numerous lifestyle blocks, with this density of housing common around the edges of nearly all of the District's townships. Formed cycle and pedestrian pathways are not anticipated by residents in rural areas, with informal pedestrian access available along grassed verges. As areas urbanise and the number of residents increases, ultimately a point is reached where the community seeks urban levels of service and road formation rather than rural outcomes. As with the discussion later in this report regarding the provision of business land, there is something of a chicken and egg situation created whereby the impetus for urban road edge formation (and lower speed limits) only occurs following urbanisation, yet there is pressure to prevent urbanisation until these things are in place. At this point I am satisfied that the existing ODP subdivision provisions, coupled with a requirement for subdivision layouts to be in general accordance with the concept plan, are adequate for managing the provision of a connected road and pedestrian network over time. I note that the PPC83 transport assessment matters include "the extent to which any road, cycling and pedestrian connections are established in accordance with the Cove Road North Precinct Map 1 and Cove Road North Precinct Concept Plan 1"³³. I accept that this means there may well be a lower level of service provided for the first residents in any new development. As with above discussion on the key road intersection upgrades, I am open to continuing to explore how best to ensure the rules deliver the necessary connectivity through the evidence exchange and hearing process.
126. Both transport engineers identify the benefits in the speed limits on Cove Road being reduced to 50 or 60 kph, in line with what would become a more suburban rather than rural lifestyle area. Mr van der Westhuizen correctly identifies that changes to speed limits are not within the control of any applicant. That said, in my experience plan changes to rezone rural blocks of land to suburban densities invariably see the frontage roads change from a rural speed limit (typically 70-100 kph) to a limit that is more appropriate to what becomes an urbanised part of the township. Whilst such a change is not guaranteed to occur, there are clear processes in place

³³ Noting that the Concept Plan requires updating to reflect the enhanced road and pedestrian connections shown in the applicant's TPC Report

to assess the need for a change to posted speed limits as the surrounding road environment changes.

127. Commercial development is subject to an existing rule that is triggered when vehicle trips exceed 20 movements (one-way). A resource consent is then required as a restricted discretionary activity with a comprehensive set of assessment matters that in my view canvass the transport issues in play. As such I consider that the existing ODP provisions relating to non-residential activity (and that the PPC83 area remains subject to), adequately address traffic generation effects in the event that a future non-residential activity seeks to establish on the site.
128. Overall there appears to be adequate capacity in the existing road network, pending further sensitivity testing of the modelling. The revised internal layout shows improved connectivity. The fragmented ownership however creates challenges of the timely provision of a connected network, and in particular the delivery of a safe pedestrian and cycle route between the site and the existing footpath network, and in the upgrade of the Cove Rd/ Mangawhai Heads Rd intersection. Whilst on their face the existing ODP subdivision rules should be adequate for delivery an acceptable outcome over time, I do note Mr van der Westhuizen's caution on this matter and I remain open to refining the provisions to ensure an acceptable transport solution is able to be delivered.

Urban Design, Urban Form and the NPS-UD

129. The National Policy Statement on Urban Development (**NPS-UD**) provides high national level direction regarding the delivery of sufficient zoned capacity to meet residential and business needs over the short to long term. Such capacity is to be located in areas that result in a 'well-functioning urban environment'. Because the strategic direction in the NPS-UD is so closely linked with an assessment of urban design/ urban form outcomes, both matters are discussed in this section of the report.
130. I note at the outset of this section that as the name suggests, the NPS-UD only applies to urban environments. With the exception of larger Tier 1 and Tier 2 urban environments that are listed in the NPS-UD, urban environments are defined in the NPS-UD as:
Any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:
 - (a) *Is, or is intended to be, predominantly urban in character; and*
 - (b) *Is, or is intended to be, part of a housing and labour market of at least 10,000 people.*
131. These two tests are conjunctive and therefore both must be met for an area to be 'urban' in the context of the NPS-UD. Mangawhai township is clearly urban in character. The township is however well short of having a population of over 10,000 people, with this population not being reached even with the build-out of Mangawhai Central and other urban zoned areas. The township may well reach this population threshold at some point in the future, however this is not intended to occur for at least the next decade. Mangawhai is likewise sufficiently separated from other townships that, in my opinion, it is not in aggregate part of a single housing and labour market of more than 10,000 people.
132. The Council recently considered the application of the NPS-UD to the District and resolved that the NPS-UD did not apply to Kaipara as nowhere in the District reached the threshold for being

an urban environment³⁴. I note that this Council resolution post-dates the consideration of the Mangawhai Central/ PPC78 plan change. Whilst a separate township, I also note that the Hearings Panel that recently considered the PPC81 application relating to rezoning the Dargaville Racecourse reached a similar conclusion that the NPS-UD did not apply to Dargaville. The PPC81 Hearings Panel nonetheless considered that PPC81 met the NPS-UD direction regarding the qualities that constitute a well-functioning urban environment³⁵.

133. Whilst in my view the NPS-UD does not therefore apply, for the avoidance of doubt I have nonetheless been mindful of its directions. Regardless of whether or not the NPS-UD is in play in a legal sense, I consider that the directions set out in the NPS-UD provide a helpful framework regarding the sorts of matters that it is good practice to consider when assessing proposals to both expand existing urban areas and the features that contribute to the delivery of a well-functioning urban environment. In understanding what a well-functioning urban environment might look like in a Mangawhai context, it is helpful to first summarise the existing township planning processes that have occurred over the last two decades.
134. As will be very familiar to many submitters, the growth of Mangawhai has occurred rapidly in recent times. The statutory framework has likewise evolved through recent National Policy Statements, amendments to the RMA, and non-RMA planning processes such as the development of township spatial plans.

Township form

135. Mangawhai is somewhat unusual in that two decades ago its form was closer to that of being two separate townships. Mangawhai Village is located towards the western end of the Mangawhai Estuary and is home to the long-established village centre that includes a historic waterfront tavern and the township's only primary school. Mangawhai Heads conversely evolved as a separate settlement that is centred around a relatively narrow peninsula that projects out into the Estuary and that also has direct connection to the surf beach at its northeastern end. Mangawhai Village has traditionally serviced the surrounding rural hinterland, whilst Mangawhai Heads has contained a relatively high proportion of batches and holiday homes, along with a large camping ground and golf course.
136. Over the last two decades both settlements have expanded and have consequently grown closer together. The linking of the two settlements has recently been further strengthened via the emerging development of Mangawhai Central³⁶ (PPC78), with the PPC78 plan change building on an earlier 'Estuary Estates' plan change in 2007. Mangawhai Central currently includes a new Bunnings hardware store, New World supermarket, and a range of smaller shops and services. The Mangawhai Central zoning also provides for some 1,000 dwellings to be built wrapping around the commercial centre.
137. A new pedestrian/ cycle bridge has been recently completed running alongside the road bridge that connects Mangawhai Central to Mangawhai Heads, such that Mangawhai is now functionally becoming a single township comprised of three, linked, nodes that collectively wrap around the northern and western sides of the Estuary.

³⁴ Council minutes 29th March 2023, agenda item 5.7
<https://pub-kaipara.escribemeetings.com/Meeting.aspx?Id=940c6936-f470-4e18-8bca-4758105240e4&Agenda=Agenda&lang=English&Item=38&Tab=attachments>

³⁵ PPC81 Hearings Panel recommendation to Council, 28 July 2023, para. 54-55

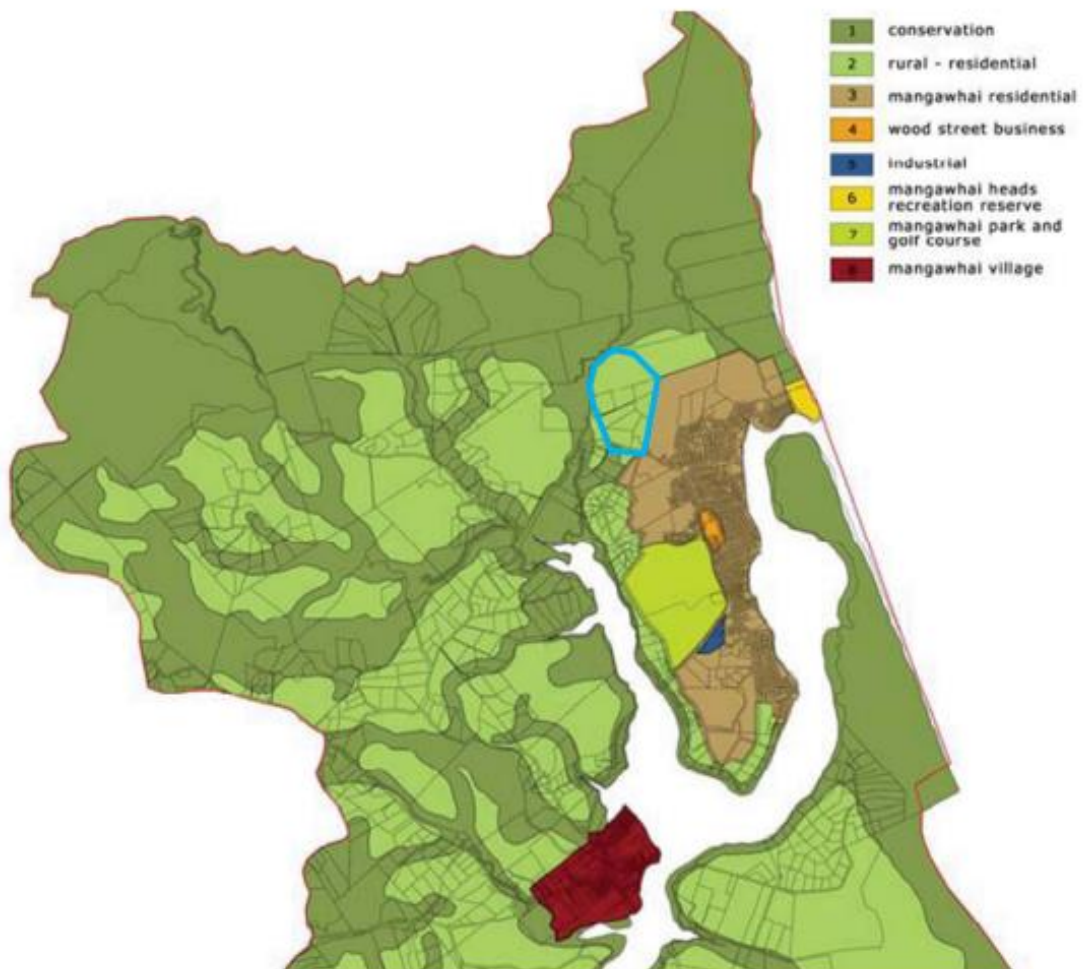
³⁶ See ODP, Appendix E for the Mangawhai Central Structure Plan

ODP Structure Plan/ Growth Area - Mangawhai

138. The ODP provides policy direction on the anticipated growth of the various townships in the District. It includes a structure plan for Mangawhai along with associated policy direction contained in Chapter 3A of the ODP. The structure plan that was incorporated into the ODP was developed earlier in 2005, and as such is now some 20 years old. The ODP structure plan is shown in **Figure 9** below. It identifies the site as being suitable for 'rural-residential' development.

Figure 9. ODP structure Plan for Mangawhai

Figure 3A-1: Mangawhai Structure Plan - Policy Areas



139. The ODP also includes maps that identify anticipated growth areas for various townships in Appendix A to the ODP (**Figure 10** below). The Appendix A map for Mangawhai identifies roughly

the southern two thirds of the site as a growth area, noting that it predates the Pigeonwood Place/ Pipit Lane subdivision.

140. In my view there is an element of tension in the ODP mapped outcomes between the spatial plan and the Appendix A growth maps, whereby at least for the southern two thirds of the site, Appendix A anticipates growth to suburban rather than the rural residential densities shown on the structure plan.

141. The location of PPC83 is nonetheless in general accordance with the direction of township growth anticipated at a policy level in the ODP, albeit that the intensity of development to suburban rather than rural residential densities constitutes a shift in outcome from that anticipated when the structure plan was originally developed. The application includes an assessment of PPC83 against the ODP Chapter 3A policy provisions³⁷. I agree with that assessment and consider that apart from the increase in density, the overall outcomes enabled by the proposed rule package generally align with the ODP policy direction for Mangawhai.

142. **Figure 10. ODP Appendix A growth areas (shown in dark grey)**

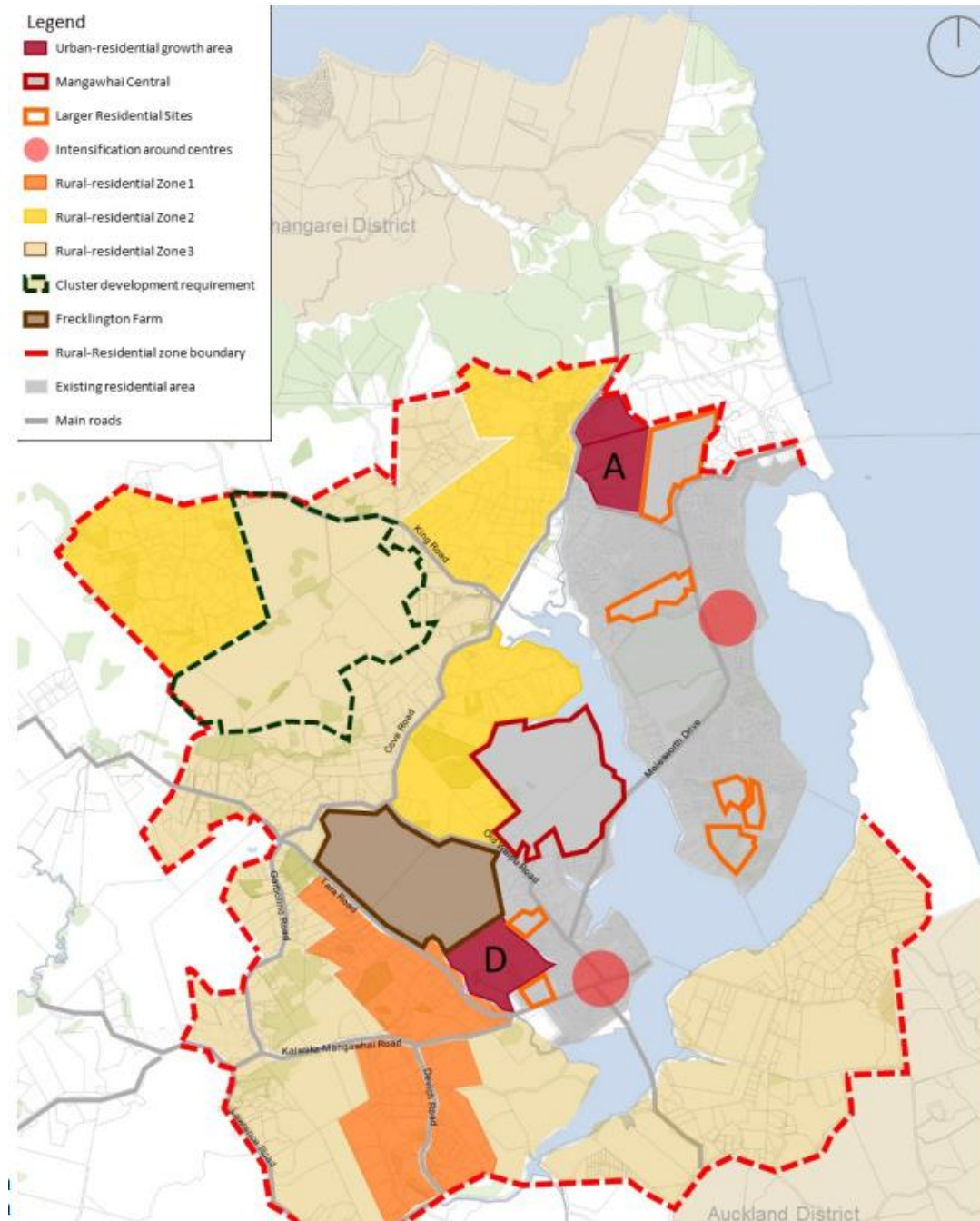


³⁷ PPC83 s32 assessment, section 7.3.3

Mangawhai Spatial Plan 2020³⁸

143. In preparation for a District Plan Review, the Council has recently prepared spatial plans for the District's main townships. A stand-alone spatial plan for Mangawhai was completed in 2020 and is shown in **Figure 11** below.

144. **Figure 11. Mangawhai Structure Plan Growth Options³⁹**



145. The 2020 spatial plan provides a timely update that captures the changes that have occurred to the township over the twenty years since the original structure plan was produced. Of note it

³⁸ <https://www.kaipara.govt.nz/uploads/spatial%20planning/Mangawhai%20Spatial%20Plan.pdf>

³⁹ Ibid, pg. 29

includes the Mangawhai Central PPC78 area and identifies the need to intensify both commercial and residential activity around the two established commercial centres in Mangawhai Heads and Mangawhai Village. It also identifies the need to provide greater definition of the various rural residential zones around the periphery of the township through a gradation of densities that are reflective of topography and proximity to the township. Of significance to PPC83, the structure plan identifies the site as being one of two priority growth areas for urban density residential activity (shown in red as 'Area A').

146. In identifying the two growth areas, the spatial plan process involved a broad assessment of opportunities and constraints for various blocks around the edge of the township and their suitability for meeting future residential demand. This assessment included consideration of landform/ topography, ownership fragmentation, natural hazard risk, wastewater serviceability, versatile soils, transport connectivity, and the presence of landscape, ecological, and cultural values. Following this sieving exercise, the structure plan identified that the two growth areas were the most suitable locations for residential development⁴⁰. Importantly, the structure plan recognised the need for rezoning to be subject to the more comprehensive assessment that is now occurring through PPC83.
147. Whilst PPC83 necessarily focusses on the site in question, it does so in the context of this wider structure planning exercise which has examined growth location options across the wider area. This broad assessment has identified that the PPC83 site is one of the two most suitable locations in the township for accommodating future growth.

Proposed District Plan (PDP)

148. The Council is in the early stages of reviewing its District Plan. As part of the pre-notification plan development process, the Council released an exposure draft version of the Plan for public feedback in August 2022 (the **exposure draft**). Consistent with the growth directions identified in the recent structure plan, the exposure draft showed the site as having a low density residential zoning (**Figure 12**).

Figure 12. Exposure draft zoning of the site⁴¹



⁴⁰ Mangawhai Structure Plan 2020, pg. 27

⁴¹ Light yellow = Low density residential zone; brown = rural lifestyle zone; olive green = General rural zone

149. As shown in Figure 12, the proposed zone is consistent with the low density residential zone also being proposed across the balance of the Mangawhai Heads urban area.
150. The exposure draft has no statutory weight given the preliminary stage of the District Plan Review process. It does however provide useful context regarding Council’s staged and integrated approach to growth management in Mangawhai via the development of a structure plan informed by serviceability, followed by programmed wastewater asset upgrades to align reticulated capacity with growth areas, and then ultimately implemented via an updated District Plan. PPC83 is consistent with this integrated approach.

National Policy Statement on Urban Development 2020 (NPS-UD)

151. The Government gazetted the National Policy Statement for Urban Development 2020 (NPS-UD) on 20 July 2020. The NPS-UD was in response to growth pressures and escalating housing costs being faced nationally. As such it had a particular focus on ensuring councils (and in particular the larger metro councils) were providing sufficient housing and business capacity to meet anticipated demand, along with ensuring that such provision was in locations where growth was integrated with infrastructure and services and would result in a well-functioning urban environment.

Development Capacity – is more required in Mangawhai?

152. Objective 6 of the NPS-UD seeks that local authority decisions on urban development that affect urban environments are integrated with infrastructure planning and funding decisions; strategic over the medium term and long term; and are responsive, particularly in relation to proposals that would supply significant development capacity.
153. This Objective is implemented by:
- Policy 2, which requires that “at least” sufficient development capacity is provided within the district to meet the expected demand for housing, in the short, medium and long terms.
 - Policy 6, which guides decision-makers to have particular regard to (amongst others) “*any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity*”; and
 - Policy 8 which requires councils to be responsive to proposals in unanticipated locations that provide significant capacity and that result in a well-functioning urban environment.
154. A number of submitters raised concerns that further development was not needed to meet demand in Mangawhai. An assessment of supply and demand in Mangawhai has been undertaken by Mr Derek Foy of Formative Ltd on behalf of the Council, and is attached as **Appendix 7**. Mr Foy identifies that there is significant existing capacity provided within Mangawhai, primarily through the zoned but un-built parts of Mangawhai Central, the large block immediately to the east to the site, and through a scattering of larger sites across the township. He identifies that this existing capacity is sufficient to meet anticipated demand over the medium term (next 10 years). That said, Mr Foy acknowledges that Mangawhai is located within the outer edges of the ‘Auckland halo’ and as such demand is not directly linked to growth in employment and the underlying economy which typically drives township growth. Demand can instead be induced via a ‘build it and they will come’ approach whereby if more sections are available and the land market is more competitively priced, then more people will take the opportunity to buy property in Mangawhai for use as holiday homes, as a retirement destination, or as a ‘work from home’ option with intermittent commuting to Auckland or

Whangarei. Demand is therefore reasonably elastic and may expand to meet any expansion in capacity.

155. I accept Mr Foy's conclusion that PPC83 is not required in order to meet a capacity shortfall. That said, even if the NPS-UD were in play, it raises no policy hurdles to providing more capacity than is required, provided that such capacity is able to be serviced and is well located. In the event that capacity outpaces demand, then the land market is simply more competitive and ultimately some areas will remain undeveloped i.e. the NPS-UD directions in essence err on the side of there being less downside for the wider community in terms of oversupplying capacity and associated access to a range of housing at varying price points than there is in undersupply and associated limited access to housing.

Is the outcome of a well-functioning urban environment delivered if there is a lack of land available for employment and services?

156. A well-functioning urban environment is not just about access to serviced homes. Resilient communities also need ready access to employment opportunities and the wide range of community facilities, shops, and services⁴² that constitute a genuine township rather than a commuting dependant dormitory suburb.
157. Mr Foy raises concerns regarding the under-provision of both commercial/ retail facilities and business-zoned land that is able to generate the employment necessary to support a growing residential base. In identifying this concern, Mr Foy notes that Mangawhai may require less employment land than other townships of a similar size due to the high proportion of holiday homes and permanent residents who are retired.
158. The ongoing development of Mangawhai Central will add additional retail (and employment) opportunities. The 2020 structure plan identified the need for further additional business land to be made available, particularly along the road corridor connecting Mangawhai Village to Mangawhai Heads, in addition to new community facilities such as a library and Council offices/ meeting space. The structure plan likewise identified the need for ongoing liaison with the Ministry of Education regarding the provision of a second primary school, along with exploring the eventual establishment of a high school, given secondary students currently have to travel to Wellsford (Rodney College) or Maungaturoto (Otamatea High School).
159. Submitter 56 (R & R Davies) seek that four properties in the southeastern corner of the site be rezoned to enable commercial or industrial activities to occur. As noted above, the merit of this submission is subject to considerations of scope. I note that the ODP has a single business Zone (rather than separate industrial and commercial zones), with the type of activity and its compatibility with residential neighbours then controlled via the ODP rules package. Provided scope is available, then I consider that there is merit in including a small business zone at the southern end of the plan change to provide the opportunity for local convenience retail activities to establish over time (and to provide more certainty for the existing non-residential operations). Ready access to local shops facilitates walkable neighbourhoods, helps to address in part the shortage of business land in the township.
160. I agree that as townships grow it is important that residential growth is supported by the commensurate provision of employment, retail, and community facilities. A 'chicken and egg' situation can however arise whereby new facilities such as schools or retail areas are not needed unless there is a growing residential catchment to provide the additional demand, yet there can be a reluctance to increase the residential catchment without these additional facilities being

⁴² NPS-UD, Policy 1(c)

in place (or at least programmed). In my view retail and community facilities follow residential development rather than lead it. For a business to establish or agencies such as the Ministry of Education to invest significant capital in building a new school, they need certainty that a larger residential catchment will be in place to justify the additional spending/ business investment. I accept that there may be a lag between when new houses are occupied and when new supporting facilities come on-line, however the risk of this lag occurring is preferable to creating a bar to new residential development on the grounds that the facilities to support that development do not currently exist.

161. Both the spatial plan and the exposure draft identified the need for additional business land and services, with the exposure draft also showing land to be zoned for commercial and light industrial activities in both Mangawhai and Kaiwaka. I accept that the District Plan Review process will take some years to conclude, but likewise it will be several years before PPC83 homes will be occupied. Whilst acknowledging that there is a tension with the timing of residential and commercial/ community facility development, on balance I lean towards providing for residential growth first with supporting facilities to follow, than preventing such growth until supporting facilities are in place. This is particularly so when the Council is in the early stages of progressing a District Plan Review that provides the regulatory vehicle for zoning additional business land if necessary.

Does the site concept plan deliver a well-functioning urban environment?

162. Moving from a township-level assessment of the site's location, it is also important to assess how the site will function internally, how it connects with adjacent road networks, and how its edges and interface will be treated. Ideally in time the site should blend seamlessly with the existing urban area so that it forms a natural extension to the township.
163. The PPC83 application included both urban design and landscape assessments⁴³ prepared by Urbanism+ and Simon Cocker Landscape Architecture respectively. Both of these reports are comprehensive and address the necessary matters relevant to their topic.

Range of housing typologies and density

164. The ODP currently sets a land use rule for dwellings to be located within a minimum lot size of 600m² for serviced sites located outside of overlay areas, with this minimum increasing to 1,000m² for sites located within an Overlay⁴⁴. Land use applications that do not meet the minimum lot size have a fully discretionary activity status. Because much of urban Mangawhai is located within the Mangawhai Harbour Overlay, the minimum is therefore 1,000m² for the township. The same minimums are required under the separate subdivision rules⁴⁵, albeit that a modest reduction to 750m² (and average of 900m² per lot across the balance lot) are provided for Integrated Development applications involving multiple lots for serviced areas within the overlays⁴⁶. Subdivision applications to create compliant lots are a controlled activity. Applications to create Integrated Development lots are a restricted discretionary activity (for 10 or fewer lots), or a discretionary activity for more than 10 lots. Applications to create undersized lots have a non-complying activity status.
165. I understand from Council that because both landuse (dwelling density) rules and subdivision rules are contained within the same chapter, Council practice is that if a subdivision consent is granted to enable an undersized lot, the landuse component is also deemed to have been

⁴³ PPC83 Application, Appendix 7 (Urban Design) and Appendix 8 (Landscape)

⁴⁴ Rule 13.10.3a

⁴⁵ Rule 13.11.1

⁴⁶ Rules 13.12.1 and 13.13.1

approved i.e. land owners do not have to return for a second land use consent to put a dwelling on the lot, as the effects have already been assessed.

166. PPC83 as notified sought to amend the density rules to enable three different outcomes, namely 1) a reduction in the minimum down to 400m²; 2) a clear consenting pathway for multi-unit development as a restricted discretionary consent; and 3) larger lots of a minimum of 1,000m² along the northern edge of the site.
167. It sought to achieve these outcomes via a land use rule that removed any minimum lot size requirement for a single dwelling on a site (as the minimums will be determined by a separate subdivision rule), and made more than one dwelling a restricted discretionary activity (with additional matters of discretion being in play for three or more dwellings on the same lot).
168. It concurrently sought to introduce a new subdivision rule (13.13X) that has a restricted discretionary activity as the 'base' status (as opposed to a controlled status in the ODP). The minimum lot size is now proposed to be 600m², increasing to 1,000m² in the Northern Sub-precinct. No direction is provided in the notified rule regarding activity status if the minimum sizes are not met.
169. I discuss each of these three approaches in turn.
170. **Minimum site size:** A significant number of submitters raised concerns with the proposed minimum site density rules. Following review of submissions, the applicant has amended the proposed rule package to increase the minimum lot size from 400m² to 600m². A minimum size of 600m² is still smaller than the majority of sites in Mangawhai (although I understand from the Council that numerous resource consents have been granted for subdivisions between 600-1,000m² due in large part to the ODP being somewhat outdated and no longer giving effect to the NRPS in terms of the extent of the coastal environment. It is however consistent with the minimum size that is deemed appropriate for the balance of the District's suburban residential areas that are located outside of overlays. Having reviewed the purpose of the Mangawhai Harbour Overlay, I consider that the reduction in density from 1,000m² in the ODP to 600m² in PPC83 will not adversely affect the character, amenity, and ecological values of the Harbour given the site's distance from the Harbour. I likewise acknowledge the findings in the Mangawhai Spatial Plan which identified the merit in enabling a gradual increase in density within the residential area to facilitate a greater range of housing typologies and sizes and to assist in accommodating urban growth pressures. In my experience working in other urban areas, a minimum lot size of 600m² is more than sufficient to enable the development over time of a pleasant suburban residential environment with good levels of amenity and an appropriate balance between buildings and gardens/ open space.
171. **Multi-unit enablement:** The proposed rules also provide a consenting pathway to develop more than one dwelling on a lot (and multi-unit typologies) via a restricted discretionary consent (rule 13.10.3a(2)). This is a significant change from the ODP approach to the Residential Zone where multi-unit housing is not enabled and where any proposals for dwellings on lots below the minimum lot size have a fully discretionary activity status (and non-complying status for subdivision below the permitted minimums). The ODP likewise does contain a medium density residential zone as a zoning option for the District. The introduction of a medium density residential zone is a matter that was included in the exposure draft, however as noted above the exposure draft has no legal status and the merits of both introducing a medium density zone and the geographic extent of such a zone were it to be introduced remain subject to testing through a future review process.

172. I readily acknowledge the benefits of enabling housing choice in terms of townships containing a range of housing typologies, sizes, and price points to enable different types of housing to meet the community's diverse housing needs. Having a range of house and section sizes likewise makes it easier for people to remain in the community as they age and potentially desire having a low-maintenance property with a smaller garden area. That said, I am cautious that the PPC83 site is an appropriate location for facilitating medium density housing outcomes, especially in the absence of a more comprehensive review of where such housing forms are most appropriate through a District Plan Review process. As identified in the NPS-UD, higher density forms of housing are best located in close proximity to commercial centres and public transport routes to enable more people to readily meet their day-to-day needs. Such locations also enable the loss of one type of amenity such as having larger private gardens to be offset by having easy access to alternative forms of amenity such as public parks and community facilities. No public transport (beyond school buses) is available in Mangawhai and is unlikely to be provided for the foreseeable future given the township's distance to other larger urban centres such as Whangarei. The suitability of the PPC83 site for medium density housing is further complicated by the water supply and stormwater servicing issues and the formation of internal roading and pedestrian links discussed above. The lack of reticulated water supply and the difficulty in designing and installing a single comprehensive stormwater solution across a large site in multiple ownership mean that in practice the delivery of medium density housing with sufficient on-site roofwater capture, storage, and stormwater detention areas is likely to be challenging.
173. I therefore recommend that the proposed rule package be amended by removing the medium density provisions and reverting to the ODP approach of such proposals having a fully discretionary activity status for the land use rule and non-complying activity status for undersized lots in the subdivision rules.
174. The proposed PPC83 rules are intended to work as an integrated package. The 'as notified' approach of providing for medium density housing was, I assume, a key driver behind associated amendments to rules controlling building and impervious surfacing coverage, the size of outdoor living spaces, and building setbacks from boundaries. The above recommendation to remove the medium density housing pathway has consequential implications of the suitability of a number of the other PPC83 rule amendments. I am comfortable that the proposed boundary setback rules are appropriate (and the effects of these are largely internalised within the site). My concerns regarding the challenges in managing stormwater in particular, combined with the distance from the range of facilities that makes medium density housing appropriate, mean that I do not see the need to have differentiated private outdoor space, building coverage, and impervious surfacing controls relative to the ODP Residential Zone in general.
175. If the Hearings Panel are however minded to retain the multi-unit consenting pathway, then I confirm that the proposed PPC83 matters of discretion enable the Council to assess what I consider to be the relevant issues in play. I also confirm that the outdoor living space and site coverage rules are appropriate for facilitating medium density outcomes. In short, the Hearings Panel will need to determine if there is merit in providing a consenting pathway for multi-unit developments as a restricted discretionary activity. If they determine that there is merit in such a pathway, then the rule package proposed by PPC83 is appropriate for delivering such an outcome. If conversely the Hearings Panel determine that the site is not appropriate for such forms of housing, then the need for a number of the differentiated rules from the current ODP provisions falls away.
176. **Northern sub-predict:** A number of submitters who live in the Bream Tail development have sought that the minimum lot size for the northern slopes be increased from 1,000m² as

proposed to something more akin to lifestyle block sizes i.e. ranging from 0.4-4ha in area depending on submitter. I agree that the northern slopes are visually distinguishable from the balance of the site due to the topography sloping down to the north compared with the majority of the site which is formed as a bowl that faces south back towards the township. The northern slopes comprise a transitional edge between the township and the Bream Tail lifestyle block development and thereafter the forested Brynderwyn Hills.

177. PPC83 recognises the different landscape context and interface of the northern slope and seeks to differentiate the outcomes for this area via the use of a sub-precinct with bespoke controls relating to lot size, building height, and building colours. I discuss each of these proposed rules in turn, along with site coverage and perimeter landscaping controls.
178. **Northern sub-precinct - lot size:** The northern slope is proposed as a large lot sub-precinct with a minimum site size of 1,000m². Development to quarter acre minimum densities will indisputably result in a change in landscape outcome from the current open pastoral appearance of this hillside, however with quarter acre minimum sized sites will retain ample room for amenity landscape planting. The provision of larger lots on this slope enables a transition in development densities from smaller suburban sized sections in the township, through larger garden-dominated lots on the northern edge, and then to the large lifestyle blocks in Bream Tail. I am therefore comfortable with the lot size for this sub-precinct as proposed in PPC83.
179. **Northern sub-precinct - height:** the proposed PPC83 provisions also include a more restrictive height limit of 6m for the northern sub-precinct (compared with 8m for the balance of the site)⁴⁷. I understand that the intention of this rule is to ensure that dwellings on the northern slopes are single storey and therefore the visual prominence of their massing is reduced. I am cautious as to the workability of a 6m height limit for housing on sloping topography. Unless a dwelling is designed to step down a slope in line with the underlying contour, invariably the design of an internal single level floorplan involves the construction of a basement (or at least high foundations) on the down-slope side of the building. At the downslope point the height from existing ground level to dwelling roofline will often exceed 6m. That said, presumably the applicant has modelled the outcomes sought in their rule package and is confident that the proposed rule is workable in practice. In my experience, controls on dwelling heights only make a material difference to mitigating visual impact if the structure is located on a ridgeline and is therefore viewed against a backdrop of sky rather than hillside. Given that the rule has been proposed by the applicant as a method for controlling landscape outcomes, I am comfortable to remain in the absence of any evidence showing that it will be challenging to comply with
180. **Northern sub-precinct – building and accessway location and colour:** the PPC83 provisions include a requirement for buildings and accessory buildings to be setback at least 10m from ‘existing indigenous vegetation’. I understand that this vegetation would include both the bush block on the northern edge of the site and the large native buffer areas established between the existing lots on the Pigeonwood Place/ Pipit Lane development. I am comfortable with outcome sought and note that there were no submission opposing this requirement). I am cautious as to the ambiguity of the rule wording as the site develops over time i.e. any ‘late-comer’ housebuilders will need to be setback from any native plant that has in the interim been planted in a neighbouring garden. I recommend that the setback be amended to refer to indigenous vegetation that is subject to a conservation covenant or subdivision consent

⁴⁷ Rule 13.10.5(c)

condition so that it captures the existing large bush features without capturing later garden plantings.

181. The PPC83 provisions propose a rule controlling the colour of both buildings and accessways in the sub-precinct. I am familiar with rules (or consent conditions) that seek to control building colour in other sensitive landscape locations. Rather than specifying colours per se, the rules seek to control reflectance value. All of the major paint brands (and a number of cladding manufacturers such as coloursteel) produce readily accessible reflectance values for their products. Darker colours have a lower reflectance value and therefore a building finished in say a charcoal colour will be less visually prominent than one finished in white cladding. Controls on reflectance values still enable a wide choice in both colour finishes and cladding material choice so compliance is readily achievable. I therefore support this proposed control as an important method for reducing the visual prominence of future structures.
182. I am less convinced of the need to control the colour finishes of accessways and have not previously come across District Plan controls that seek to regulate driveway colours. The proposed rule seeks that “the construction material of any accessway or driveway is of a dark colour”, which in my view is both ambiguous as a rule trigger and challenging to enforce. Given the large size of the proposed lots and the opportunity to establish extensive garden planting, in my experience accessways are not particularly visible elements in hillside suburbs. As such I am not convinced as to the need for, or the workability of, the proposed colour control on accessways. I therefore recommend that this element of the rule be deleted.
183. **Northern sub-precinct – site coverage:** The PPC83 provisions do not propose a differentiated approach to controlling either building coverage or impervious surfacing for the northern sub-precinct. The standard ODP Residential Zone controls are 35% building coverage and 40% impermeable coverage. PPC83 proposes to amend these rules to 45% building coverage and 60% impermeable coverage. I discuss these changes to the balance of the site in the above section on plan provisions. In terms of the northern sub-precinct, given the larger minimum lot size of 1,000m², even if the Hearings Panel are minded to retain the notified coverage rules as part of facilitating multi-unit housing forms, I do not consider the changes to either building coverage or impervious surfacing to be appropriate for the northern sub-precinct as the large site areas would in turn enable vary large buildings i.e. 450m² footprint buildings on a 1,000m² site. If the Panel seek to retain the PPC83 notified coverage rules of the balance of the site, I recommend that the operative ODP controls on these two matters be retained for the northern sub-precinct to ensure that an appropriate balance between buildings/ hard surfacing and garden planting is maintained.
184. **Northern sub-precinct – landscaping adjacent to northern edge:** Several submitters⁴⁸ seek the inclusion of a requirement to establish a landscaped strip along the site’s northern boundary and interface with the Tangaroa Place properties. Mr Brown considered this request from an ecological perspective and identified that additional native landscaping along the site’s northern boundary would have a positive ecological effect, however it was not necessary as ecological mitigation. The justification for the rule instead turns on the creation of an appropriate interface and level of amenity with lifestyle block properties. I agree that a landscaped permitter would assist in creating a clear transition between the application site and these larger rural properties to the north. The proposed PPC83 rules include a landscaped strip requirement along the site’s frontage with Cove Road to mitigate landscape/ amenity effects with the lifestyle blocks to the west. I consider that a similar treatment is appropriate

⁴⁸ Submission 8, 63

along the site's northern edge, with the rule requirements mirroring those proposed for Cove Road, with a 2m minimum depth. I note that given the northern precinct is comprised of lots that are over 1,000m², having to landscape the northern edge of property boundaries is not unduly onerous or limiting of development potential.

185. **Landscape change:** Any rezoning to the wider site will result in a change in land use away from farming/ lifestyle block use and towards residential activities. Such a change in use will inherently result in a change in landscape as a predominantly pastoral hillside shifts to a more suburban residential appearance. Whilst there is a change in outcome, such a change is not necessarily adverse – from my observations much of suburban Mangawhai visually presents as a pleasant suburban environment that is typical of coastal communities and has a good level of visual amenity.
186. The rural land to the east of the site has an existing residential zoning and as such is expected to also change in character and appearance over the coming years. To the south the site is bounded by existing suburban development which it will match in appearance. That leaves the site edges to the north (Tangaroa Place) discussed above, and west (Cove Road).
187. **Cove Road frontage:** The western frontage to Cove Road faces towards established lifestyle blocks in 'The Sanctuary' development and adjacent properties. The proposed PPC83 provisions include rules to provide increased building setbacks of 5m (compared with 3m proposed elsewhere)⁴⁹, combined with a requirement to establish a landscape strip along this frontage⁵⁰. I understand that the intention is that lots adjacent to the Cove Road frontage are to obtain their vehicle access off internal roads i.e. there is no direct driveway access proposed from Cove Road, thereby enabling a continuous planted edge to be developed over time. I consider that the proposed frontage rules and associated landscaping will provide an appropriate interface with the rural lifestyle areas on the far side of Cove Road.
188. I separately recommend that the existing 5m building setback requirement be retained for sites with frontage to Mangawhai Heads Road so that setbacks are consistent with the existing built form on the southern side of that road and are likewise consistent with setbacks common elsewhere in the township⁵¹.
189. Given the more suburban character of the southern side of Mangawhai Heads Road (at least towards its southern end) I do not consider that the Cove Road landscaping requirements need to apply to Mangawhai Heads Road.

Transport modal choice and connectivity

190. As discussed above in the transport section, PPC83 is generally well-located relative to existing urban areas, with connections to the existing road networks readily available. The Concept Plan provides for internal roads to be connected over time as the site develops, with these connections improved as a result of liaison between the various transport experts. The site likewise provides good opportunities for modal choice (walking and cycling), especially within the site, and makes provision for linking pathways with green open space areas adjacent to watercourses and connecting to two small local parks shown on the concept plan. Mr van der Westhuizen has identified challenges to the timely implementation of a connected pedestrian and cycle network if small ad hoc subdivision are undertaken given the site's fragmented ownership. At this point the Concept Plan shows a satisfactory end outcome, and the subdivision rules provide the means to get there over time, albeit that there may well be timing

⁴⁹ PPC83, proposed rule 13.10.7(3)(d)

⁵⁰ Ibid, rule 13.10.7a(1)(b)

⁵¹ As sought by submitter 21 – G. Duff.

issues with connectivity for the earlier stages. The challenges with the timely provision of multi-modal travel options is another reason against providing for more intensive townhouse forms of development at this point in time.

191. As identified above, the site is comprised of multiple titles under a range of different owners. As such the proposed internal road network can only be indicative as its eventual implementation will be reliant on the plans of the existing homeowners, a number of whom may have no desire to develop⁵². Short of the Council designating these road connections (which Council does not in general do unless road connections are of much wider strategic significance to the District), there is no legal mechanism by which these road links can be formed if landowners are unwilling to sell. The concept plan therefore provides a long-term indication of how the site could be internally developed over time. In reality it is likely to be done in stages, which is part of the reason why the concept plan shows multiple internal road connections with the external road network in order to facilitate a flexible approach to staging.
192. Given that Mangawhai Heads Road is a key pedestrian route to both the beach and the wider township, the provision of pedestrian footpaths (and ideally also shared cycle paths) along the site frontages with Cove Road and Mangawhai Heads Road has been recommended in the above transport section. The degree of ownership fragmentation means that at least in the short-medium term the site is likely to be somewhat disconnected internally, which adds further impetus to the importance of good quality pedestrian and cycle links around the site's perimeter.
193. I identify several minor amendments to the concept plan and PPC83 rules which are discussed in the below section on plan provisions. Subject to these amendments I am satisfied that the proposal will deliver appropriate outcomes both internally and around the site edges as one of two identified urban growth areas in Mangawhai.

Other Matters

Construction effects

194. The construction phase facilitated by a change in zone can give rise to the following effects:
 - a) Increase in noise, dust and heavy traffic dust during construction and the adverse health impacts arising; and
 - b) Pollution, contamination of waterways, quality of potable water, rubbish and health and safety.
195. I consider that effects resulting from construction can be appropriately managed and consider that this can be addressed by specific assessment at the time of subdivision through existing mechanisms, including the use of conditions to control noise through the NZ Standard for construction noise implemented through ODP rule 13.10.15; management of vibration through ODP rule 13.10.17; management of dust through the Northland Regional Air Quality Plan; and through subdivision consent (and any related regional consent) conditions relating to the management of construction phase effects on water quality.

Reverse sensitivity

196. Several submitters raise reverse sensitivity issues with the boundary interface between the site and adjacent farmland. Reverse sensitivity is a well-recognised planning concept. In essence it refers to an existing environment with long-established activities that are either operating in

⁵² Submitter 39 L & N Adams, 44 M & A Geary, 57 R Humphries, 67 T Gardner

accordance with resource consents or are consistent with the outcomes anticipated in the existing zoning. In this instance the submitters in question are undertaking pastoral farming operations. New activities then establish that are more sensitive or expect a higher level of amenity than is currently provided, such as a shift from adjacent land being used as paddocks, to new houses and gardens. The new residents then complain about the amenity-related effects of the existing operations, which in turn either results in these existing activities having to close or modify their operations, or limits further intensification of the activities.

197. In order for reverse sensitivity risk to be significant, the operations in question need to be generating effects that extend beyond their site boundaries. These effects in turn need to be at a level where they are likely to give rise to amenity-related complaints. The sites in question are all bounded by lifestyle blocks or large lots, with dwellings in close proximity. They should therefore already be operating in a manner that is not giving rise to unacceptable effects beyond their boundaries. Obviously a change in zoning will enable more residential neighbours, with dwellings located closer to the shared boundaries, and therefore there is the potential for effects that are currently acceptable in a large lot context to no longer be acceptable once neighbouring sites have intensified. That said, it is common for farmland to adjoin residential properties – the existing edges of not just Mangawhai but all of the District’s townships display such an interface.
198. In my view pastoral farming activities are relatively benign and are common along rural-urban edges. These can be readily differentiated from the sorts of rural activities that regularly do give rise to amenity-related complaints, such as intensive farming, quarries, dairy sheds and associated effluent ponds, mushroom factories, or rural machinery depots.
199. Whilst the plan change will clearly result in an increase in residential neighbours, the submitter sites already have lifestyle block neighbours and appear to be operating in a reasonably benign manner. The limited effects beyond site boundaries is consistent with similar operations elsewhere in Kaipara that co-exist next to suburban environments. As such I am not convinced that reverse sensitivity risk is at the point where either the plan change should be declined or additional interface rules are necessary beyond the landscape buffer along the northern edge of the site recommended above. Pending consideration of any submitter evidence identifying the extent and nature of off-site effects generated by the submitter activities, I am unable at this point to recommend further mitigation such as minimum lot sizes or building setback rules that could be as being both necessary and effective in managing amenity-issues at the interface.

Recommended amendments to the ODP provisions

200. Following the above assessment of effects and the recommendations of the various Council experts, I have reviewed the proposed PPC83 provisions in terms of their effectiveness to deliver the PPC83 purpose as stated in proposed Objective 1, namely to deliver:
Residential living opportunities and housing choice is enabled in the Cove Road North Precinct whilst landscape, ecological, infrastructure, transport, and character and amenity effects are managed.
201. I provide a track changed version of the provisions in **Appendix 1**. This appendix uses as its base the latest version of the provisions provided by the applicant on 30th January which incorporate changes recommended by the applicant’s new transport and 3-waters experts.
202. A number of the proposed amendments are simply minor changes to improve clarity and to remove ambiguity. The rationale for other recommended changes is summarised as ‘comment boxes’ in the appendix.

203. In reviewing the amendments, I note that PPC83 is framed as a Precinct within a Residential Zone. This means that unless the Precinct rules state otherwise, the operative Residential Zone rules (and policies) apply. This is a different method to Mangawhai Central/ PPC78 which was framed as a Development Area and as such is in essence its own stand-alone zone, with its own fully self-contained set of provisions.
204. I have identified above that whilst I support the plan change overall, I do not support the creation of a multi-unit consenting pathway as a restricted discretionary activity in the absence of a wider review of the suitable locations and provisions associated with a medium density residential zone (such as would occur via a District Plan Review). The recommended deletion of a number of PPC83 provisions aimed at facilitating multi-unit development means that the existing ODP Residential Zone provisions can now be relied on to a greater extent than what was originally proposed.
205. As a final comment on the recommended text changes, I note that very few submitters sought specific text amendments. The majority of submissions were either simply seeing the plan change be declined, or if approved were seeking outcomes that are closer to the ODP provisions. In terms of scope, my recommendations generally fall between these two points i.e. PPC83 as notified, and a decline or adoption of the ODP Residential Zone provisions.
206. In summary, and drawing on the above assessment, the key changes recommended are as follows:
- Inclusion of the Concept Plan to ensure key outcomes on which the various experts rely is considered at the time of subdivision. This Concept Plan needs to be updated to reflect the changes to the internal roading network recommended by the applicant's new transport expert and supported by Mr van der Westhuizen. I likewise recommend that the Concept Plan show indicatively those parts of the site that are likely to be utilised for the blue/ green network i.e. the watercourses and flood-prone areas along the southern edge;
 - The proposed objective and policy is generally appropriate. Given that the ODP provisions restrict lots to a minimum of 1,000m², the recommended approach of 600m² minimums remains sufficient to deliver the proposed objective and policy 1, even if multi-unit enablement is removed;
 - Deletion of the multi-unit pathway as a restricted discretionary activity and clarification that subdivision applications that do not meet minimum lot size requirements are a non-complying activity (in line with the approach for the balance of the Residential Zone);
 - Consequential to the removal of the multi-unit pathway, reversion back to the ODP Residential Zone provisions relating to building coverage, impervious coverage, and private outdoor space requirements;
 - Carry-over of a note drawing Plan users attention to the need to comply with NES-CS requirements when undertaking subdivisions;
 - Carry-over of a matter of discretion and associated note regarding firefighting water supply;
 - General support for the more detailed water capture and storage rules proposed in the applicant's latest text version;

- Amendments to the ecology clauses in the subdivision rule to enable consideration of effects on the ecological values on adjacent properties, and whether there is a need to control cats and dogs;
 - Introduction of a landscape strip requirement along the northern edge of the Northern Sub-precinct; and
 - If sufficient scope is available, the rezoning of the Davies property (submitter 56) to a Business Zone.
207. Depending on the results from further sensitivity modelling of the proposal's effects on the surrounding road network and submitter evidence, there may also be a need for amended provisions regarding the timing and nature of upgrades to the Cove Road/ Mangawhai Heads road intersection, the Jack Boyd Rd intersection, and the delivery of a shared walking and cycle path around the site perimeter road network.

Statutory Analysis

208. As noted earlier, the District Plan (including as amended by any plan change) must **give effect to** any operative national policy statement (s75 (3)(a)) and any regional policy statement (s75(3)(c)); **have regard to** any management plan or strategy prepared under other Acts (s74(2)(b)(i)); **take into account** any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district (s75(2A)); and must **not be inconsistent with** any regional plan (s75(4)(b)). The content of these documents as they relate to PPC83 is discussed in the application and is set out further below.
209. I have concluded above that the proposal gives effect to the NPS-UD, NPS-FM, NPS-IB, and NES-SC and I have had regard to the Mangawhai Spatial Plan 2020 (prepared under the Local Government Act). In addition to these documents, the other statutory documents of relevance to this plan change are as follows:
- RMA s74(2) directions regarding the Climate Change Response Act;
 - New Zealand Coastal Policy Statement;
 - National Policy Statement for Highly Productive Land;
 - Northland Regional Policy Statement;
 - Northland Regional Water and Soil Plan;
 - Northland Regional Air Quality Plan;
 - Proposed Northland Regional Plan;
 - Iwi Management Plans and Statutory Acknowledgement Areas;
 - Kaipara Operative District Plan.
210. For completeness I note that as the proposal is a change to an Operative District Plan, the change is not required to be in accordance with the frameworks set out in the National Planning Standards. The application discusses the use of a precinct as the most appropriate planning tool for the plan change area⁵³. I agree with that assessment.

⁵³ PPC83 application, s32 assessment, Section 6.2

Climate Change Response Act 2002

211. S74(2) RMA has recently been amended so that:

when preparing or changing a district plan a territorial authority shall have regard to...:

(d) Any emissions reduction plan made in accordance with section 5Z1 of the Climate Change Response Act 2002; and

(e) Any national adaptation plan made in accordance with section 5Z1 of the Climate Change Response Act 2002

212. This requirement applies to plan changes notified after 30 November 2022. Given that PPC83 was notified on 25 July 2023, this requirement therefore applies.

213. The Emissions Reduction Plan (**ERP**) seeks to “put New Zealand on a path to achieve our longterm targets and contribute to global efforts to limit temperature rise to 1.5°C above pre-industrial levels. The actions in this plan enable us to meet our first emissions budget.

214. In relation to planning outcomes, the ERP shares many of the same aspirations as the NPS-UD. It aims to provide a higher-density, compact urban form that is integrated with existing and planned infrastructure with good accessibility to community services and commercial activities by a variety of forms of transport. The ERP also seeks to:

- Reduce reliance on cars and support people to walk, cycle and use public transport⁵⁴;
- Encourage non-built infrastructure solutions, including for stormwater i.e naturalised swales rather than concrete pipes⁵⁵;
- Discourage development in areas that are vulnerable to the impacts of climate change⁵⁶.

215. The National Adaptation Plan (**NAP**) sets out what the Government must do over the next few years to enable better understanding of the risks of climate change and to take action to address them⁵⁷. In relation to the built environment, part of the focus is to:

- (a) Create climate resilient development in the right location; and
- (b) Identify the climate risks that need to be assessed most urgently, drive climate-resilient development in the right locations and help communities assess adaption options.

216. Neither the ERP nor the NAP provide specific direction in the manner of a NPS. They instead set broad direction as to the matters to be considered. As set out above, the site is not located in an area at risk of coastal inundation. Whilst a small portion of the site is subject to flood risk (and these risks may increase over time as a result of climate change), the design of stormwater solutions through the subdivision consent process will need to take changing rainfall patterns into account. The Spatial Plan identifies the site as one of the two best locations for urban growth in Mangawhai, with that assessment taking into account proximity to town centres and amenity areas such as the beach, and the PPC83 concept plan includes provision for enhanced cycling and walking connections both within the site and between the site and adjacent urban areas. Overall, I consider PPC83 to be consistent with the NAP and ERP for the reasons set out above.

⁵⁴ ERP, pg. 169

⁵⁵ Ibid, pg. 127

⁵⁶ Ibid, pg. 128

⁵⁷ NAP, pg.2

New Zealand Coastal Policy Statement

217. The New Zealand Coastal Policy Statement (**NZCPS**) guides local authorities in their management of the coastal environment. Although the site itself is not located within the coastal environment, activities inland can have impacts on coastal water quality. Objective 6 of the NZCPS seeks to enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that: the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits.
218. The plan change is not located within the Coastal Environment as identified within the Northland Regional Policy Statement. Given the distance of the site from the coastal marine area (defined as the area between the line of mean high water springs, being the landward boundary of part of the beach covered by the ebb and flow of the tide) there is more than adequate separation between any activities that may occur on the site and any of the more sensitive parts of the coastal environment. As such, any effects from the activity will relate solely to indirect impacts on the coastal environment from potential site run off as opposed to the proposal itself being located within a coastal environment. As discussed above, the plan change proposes the implementation of controls around the treatment and disposal of stormwater and the management of construction-phase earthworks to ensure that sediment does not unnecessarily enter waterways. The proposal therefore gives effect to the NZCPS.

National Policy Statement for Highly Productive Land (NPS-HPL)

219. The NPS-HPL commenced on 17 October 2022 i.e. prior to PPC83 being notified. Prior to the NPS-HPL being gazetted, urban development over versatile soils ('Highly Productive Land/ 'HPL') was simply a matter to be considered, in the absence of any more specific higher order direction on this issue. Now the District Plan (and any associated plan changes) must give effect to the NPS-HPL.
220. The NPS-HPL has a single objective that "*highly productive land is protected for use in land-based primary production, both now and for future generations*". Of direct relevance to PPC83, the objective is to be achieved via policies that seek that the urban rezoning; subdivision; or development for rural lifestyle purposes; are all avoided unless the exemptions in the NPS-HPL apply⁵⁸.
221. Regional Councils have three years from when the NPS-HPL came into effect to map HPL via a change to the regional policy statement⁵⁹. Until this process occurs, HPL is deemed to be any land identified as Land Use Capability (**LUC**) Class 1, 2, or 3 as mapped by the New Zealand Land Resource Inventory (**NZLRI**)⁶⁰, and provided that it is not land that is already identified for future urban development.
222. The application includes a map of the site overlaying the NZLRI mapping of the wider area, which is included as **Figure 13** below. The entirety of the site consists of variations of LUC4, which means that it is not HPL and therefore the policy direction in the NPS-HPL does not apply.
223. Whilst the urbanisation of the site will result in the loss of land from its current pastoral use, the productive potential of the site appears to be limited in a practical sense due to its fragmented ownership, sloping topography, and proximity to residential neighbours which can

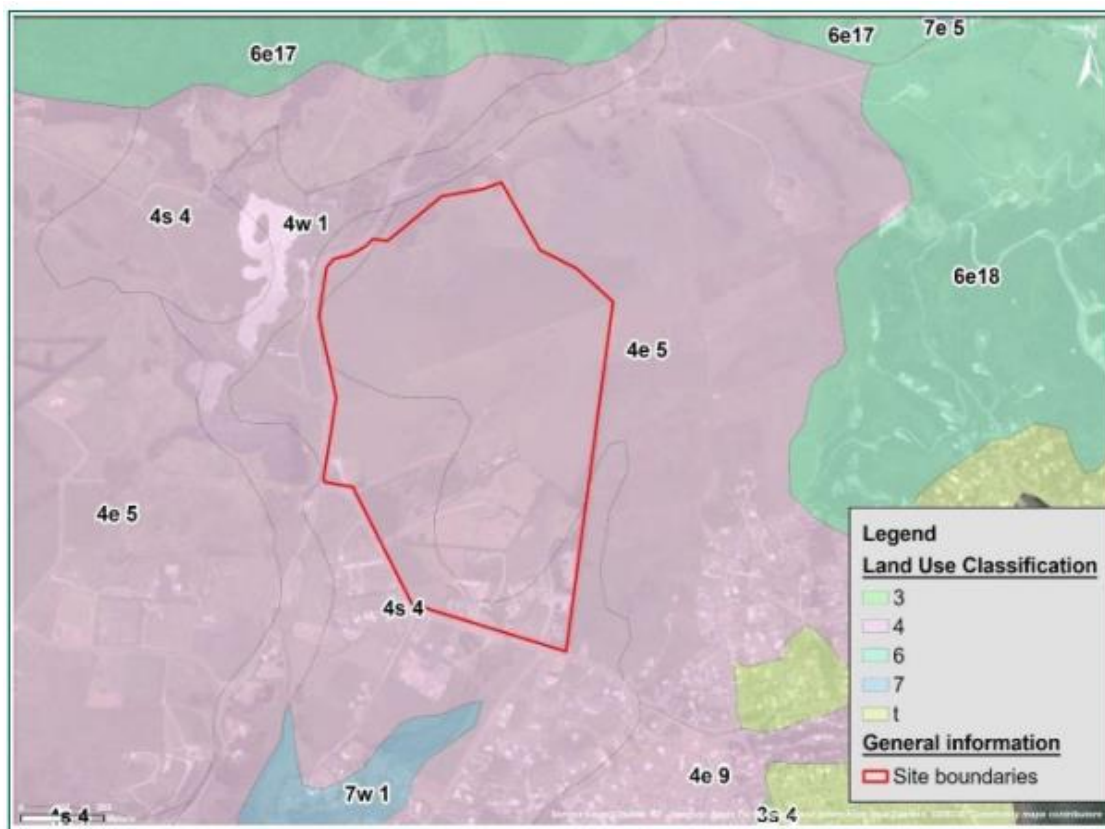
⁵⁸ NPS-HPL, Policies 5, 6, and 7

⁵⁹ NPS-HPL, clause 3.5(1)

⁶⁰ NPS-HPL, clause 3.5(7)

generate boundary interface issues with spraying, odour, and heavy machinery operation associated with farming activities.

Figure 13. LUC of the site⁶¹



Northland Regional Policy Statement (NRPS)

224. The Northland Regional Policy Statement (NRPS) was made operative on 9th May 2016. It identifies significant resource management issues for the region and provides broad direction for the management of natural and physical resources of the Northland Region and Coastal Marine Areas. The application includes a brief assessment of the proposal against the NRPS which I agree with⁶². In addition to the assessment undertaken by the applicant I note the following additional matters.
225. The PPC83 site is not identified as being within any landscape or coastal overlays or any areas exposed to high risks of natural hazards in the NRPS.
226. The proposal includes the enhancement of waterways and wetland remnants throughout the site as part of the blue-green network. As discussed above in the section on ecology, I consider the proposed subdivision rules relating to both ecological and stormwater management, in combination with the separate regulatory requirements in the Northland Land and Water Plan and the NES-FM mean that the extent and diversity of indigenous ecosystems and habitats will not be adversely affected (and indeed should be protected and enhanced). The proposal therefore gives effect to NRPS policy 3.3 and 3.4.

⁶¹ PPC83 application, s.32 report, Figure 5

⁶² PPC83, s32 assessment, section 7.1

227. The capture and use of potable water is discussed above in the servicing section. Rainwater capture is a long-established solution for household supply in Northland. Subject to site design demonstrating sufficient roof area and water tank storage capacity, I consider that the proposal is capable of delivering an appropriate level of potable water supply. The proposal therefore gives effect to NRPS Objective 3.10.
228. The management of stormwater on the site to mitigate flood risk is likewise discussed in the above section on servicing. Small portions of the site adjacent to the watercourses are flood prone, as is land downstream of the site's discharge points. It is therefore important that any future subdivision is designed to be neutral in terms of the volume of stormwater discharges between pre and post development states. The proposed rules relating to stormwater management are considered to be sufficient for ensuring that the proposal gives effect to NRPS Objective 3.13 and Policies 4.2.1 and 4.3.4.
229. New developments are required through NRPS Policy 5.1.1 to deliver positive urban design outcomes that are consistent with the 'seven Cs' as set out in the New Zealand Urban Design Protocol⁶³. The Applicant's urban design assessment draws on the framework provided by the Urban Design Protocol to demonstrate that the proposal will deliver acceptable urban design outcomes. I agree with that assessment.
230. In summary, the site is not identified in the NRPS as containing any particular features or values that are worth of specific consideration. I consider that the proposed change in zone and associated ODP provisions do give effect to the NRPS.

Northland Regional Water and Soil Plan (NRWSP)

231. The Northland Regional Water and Soil Plan (**NRWSP**) was originally made operative on 28 August 2004, with amendments made in 2014 to address an earlier version of the NPS-FM. The NRWSP manages the effects of land use activities on water and soil resources throughout Northland by imposing specific controls on discharges, land uses, and the taking, use, damming and diversion of water. The various regional plans are briefly addressed in section 7.2 of the applicant's s32 report. In summary, the NRWSP establishes the regulatory framework for managing the matters subject to regional consents i.e. water take, use, and discharge consents. Any subsequent use and development of the PPC83 site needs to be undertaken within this regulatory framework. Earthworks, stormwater, and wastewater systems will need to either be designed to comply with the NRWSP, or will need to obtain the necessary consents and be subject to assessment through those consenting processes.
232. In broad terms I consider that the effects associated with requirements under the NRWSP can be considered at the time of detailed development and the necessary consents obtained. The proposal is therefore not inconsistent with the NRWSP.

Northland Regional Air Quality Plan (NRAQP)

233. The Northland Regional Air Quality Plan (**NRAQP**) was made operative on 1 August 2005. The NRAQP promotes the sustainable management of the region's air resources and seeks to maintain the existing high air quality the region experiences. The primary NRAQP matter of relevance to PPC83 is the management of airborne dust during construction-phase earthworks. Dust control strategies as part of subdivision bulk earthworks are well-proven and are common mitigation requirements that contractors expect to have to implement via consent conditions.

⁶³ New Zealand Urban Design Protocol, Ministry for the Environment, 2005,

As such, I am satisfied that the manner in which land development is undertaken consequent to PPC83 will not be inconsistent with the outcomes sought in the NRAQP.

Proposed Northland Regional Plan (pNRP)

234. The Proposed Northland Regional Plan (**pNRP**) was notified on 6 September 2017 and submissions closed on 15 November 2017. Hearings were completed in 2018 with NRC's decision being issued on 4 May 2019. The latest Appeals Version of the PRP was made available in August 2020. The PRP will not be deemed fully operative until all Environment Court appeals are resolved. It is my understanding that all appeals have been resolved, with the NRC now taking the necessary procedural steps to make the pNRP operative. As appeals have been resolved, the rules in the pNRP have legal effect⁶⁴. In my view considerable weight should also be provided to the objectives and policies. Whilst not yet operative, the Hearings Panel must have regard to the pNRP⁶⁵.
235. The pNRP combines the current operative regional plans into a single regional plan for the Northland Region. In a nutshell it seeks to manage the use, development, and protection of Northland's natural and physical resources.
236. The management of water quality under Objective F.1.2, natural hazard risks under Objective F.1.10 and Policy D.6.5, and economic well-being under Objective F.1.5 and Policy D.2.2 do not seek materially different outcomes to those discussed above in regard to the operative NRPS and regional plans, with similar conclusions regarding the consistency of PPC83 against these directions.

Iwi Management Plans (IMP) and Statutory Acknowledgement Areas

237. A statutory acknowledgment is a formal recognition by the Crown of the particular cultural, spiritual, historic and traditional associations that an iwi or hapū has within a statutory area. Statutory acknowledgements may only apply to Crown land and may consist of land, rivers, lakes, wetlands, a landscape feature, or a particular part of the coastal marine area. The Council is legally obliged to have regard to statutory acknowledgments and to record them in the District Plan. The ODP currently lists statutory acknowledgements in Appendix 17.2: Nohoanga Areas and Areas of Significance to Māori. The PPC83 site is not located within any of the identified areas (and does not contain any Crown land). It is however located in proximity to the Mangawhai Harbour, where the quality of stormwater discharges, control of sediment, and management of wastewater in particular are important matters to manage to ensure the quality of the Estuary environment is not degraded.
238. Under s74(2A) of the RMA, the Council, in considering this plan change, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority. Within Kaipara District there are two such documents:
- Te Uri o Hau Kaitiakitanga o Te Taiao – Te Uri o Hau Environmental Management Plan 2011;
 - Nga Ture mo Te Taiao o Te Roroa – Te Roroa Iwi Environmental Policy Document 2019
239. I understand from the Council that Ngati Manuhiri has a Treaty settlement process underway regarding the Mangawhai area. Ngati Manuhiri were notified of PPC83, with no submission having been received. I understand from the Council that there is an agreement between Ngati

⁶⁴ S86F RMA

⁶⁵ In accordance with s74(2)(a) RMA

Manuhiri and Te Uri o Hau that the latter will assess applications in Mangawhai on behalf of both groups. The application includes a detailed assessment of both of these documents⁶⁶. Following the RFI process, the applicant has also obtained a Cultural Impact Assessment prepared by Te Uri o Hau Environs Holdings Ltd, dated June 2023 (the **CIA**). The CIA includes an assessment of the plan change against the relevant statutory documents set out above, with a particular lens of the direction these documents provide on issues of interest to mana whenua. I rely on the CIA in terms of that assessment.

240. I note that no submissions were received from mana whenua.
241. In summary, the CIA does not raise any fundamental concerns or opposition to the site being rezoned. The CIA identifies particular areas of interest to mana whenua including the maintenance and enhancement of indigenous biodiversity, and the protection of water quality in both the on-site waterways and with downstream discharges into the Mangawhai Estuary. The CIA concludes with a series of recommendations regarding these matters, along with identifying the need for an accidental discovery protocol to be in place when earthworks are undertaken to manage any archaeological discoveries, and the opportunity through the development process for the site to reflect mana whenua stories and values. I note that Heritage New Zealand Pouhere Taonga⁶⁷ also raise concerns regarding the need for an archaeological assessment to be undertaken prior to earthworks commencing on the site.
242. The ODP already controls earthworks in the Residential Zone via Rule 13.10.1a, with the proposed PPC83 provisions including confirmation that the earthworks rules remain in play⁶⁸. This rule limits earthworks within an Overlay area to no more than 100m³ within a site over any 12-month period. Given the extent of bulk earthworks required to form even small-scale subdivisions on sloping sites, this rule will invariably be triggered. The matters of discretion include consideration of the effects on cultural and heritage values, including any consultation undertaken with Tangata Whenua⁶⁹. The matters of discretion also include the requirement for consent holders to provide an Excavation and Fill Management Plan to the Council for their approval prior to works commencing, with matter (iii) of the plan to include *“an assessment of the site’s ecological, landscape, amenity and heritage values, including details on any recorded archaeological sites and registered historic places, historic areas, and waahi tapu, and the need for an archaeological-historic places site survey of the area to be developed”*. I consider that the recommendation in the CIA is adequately provided for via the existing earthworks provisions. If however the Hearings Panel determined the need for more explicit recognition of the need for an Accidental Discovery Protocol, then it would be straight forward to add the following as an additional matter of discretion to Rule 13.10.3a *“the need for earthworks to be undertaken in accordance with an Accidental Discovery Protocol to manage the discovery of archaeological material”*.
243. The need to carefully manage stormwater and ecological values have been discussed above. The CIA adds an additional layer of cultural values across these matters. I am satisfied that the proposed detailed subdivision rules regarding ecology and stormwater, along with the separate regulatory framework provided in the NRWLP and NES-FM will also address the outcomes sought regarding these matters by mana whenua.

⁶⁶ PPC83, s32 assessment, Section 7.5

⁶⁷ Submitter 25

⁶⁸ Rule 13.10.3a(2)(note 2)

⁶⁹ Rule 13.10.1a, Matter (xi)

Consistency with the plans of adjacent territorial authorities

244. I do not consider there to be any directly relevant provisions in the District Plans of neighbouring territorial authorities that are affected by PPC83. The most applicable matters to PPC83 include:
- a) Effects on the strategic and arterial road network from people commuting between Mangawhai and Whangarei or Mangawhai and Auckland; and
 - b) Development on or near the boundaries of Whangarei and Auckland Council that may influence housing sufficiency and the coordination of infrastructure services.
245. The plan change is at a scale that it is unlikely to impact on the above cross-boundary interests. I note that neither neighbouring Council have submitted on the plan change or raised concerns with cross-boundary issues. Notwithstanding, matters relating to urban form, transport infrastructure, and housing capacity have been discussed above, and are considered to result in a well-functioning urban environment.

S32 - Consideration of alternatives, benefits and costs

246. The application contains an assessment of the proposal against s32 as an integral part of the application documentation. Under s74(1)(b), any changes to the District Plan must be in accordance with the provisions of Part 2 of the RMA. This sets out the purpose of the RMA (s5), matters of national importance that must be recognised and provided for (s6), other matters that particular regard is to be had to (s7), and the need to take into account the principles of the Treaty of Waitangi (s8).
247. Section 32 requires the consideration and evaluation of the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the Act i.e. Part 2 (s32(1)(a)); as well as an assessment of whether the provisions in the proposal are in turn the most appropriate way to achieve the objectives (of both the proposal and the existing District Plan objectives), having regard to the efficiency and effectiveness of the provisions and having considered other reasonably practicable options (s32(1)(b)).
248. I note here that it is common for plan changes seeking rezoning to simply adopt the ODP zone provisions and therefore the only amendment is a change to the planning maps. PPC83 includes a new precinct, with an associated new objective. This objective therefore needs to be tested against Part 2 of the RMA. Case law over recent years has identified that referral back to Part 2 is not usually required unless there is incompleteness, invalidity, or uncertainty in the relevant planning documents. In this case I have identified that the Mangawhai Harbour Overlay in the ODP does not align with the extent of the coastal environment as identified in the later NRPS. As such the ODP does not give effect to the NRPS, and therefore the restrictions placed on minimum lot sizes in Mangawhai may no longer be the most effective method for giving effect to Part 2, at least insofar as the PPC83 site is concerned.

Extent to which the Objectives of the Plan Change are the Most Appropriate Way to Achieve the Purpose of the Act

249. The plan change proposes to introduce a single new objective to the ODP, namely:
- Residential living opportunities and housing choice is enabled in the Cove Road North Precinct whilst landscape, ecological, infrastructure, transport, and character and amenity effects are managed.*
250. The purpose of the plan change is stated in the application as follows:

To rezone the location to a Residential Zone. The key features of the plan change are:

- *Rezone 56.9ha of land at Cove Road from Rural Zone with Harbour Overlay to Residential Zone, including consequential amendments to the ODP Maps;*
- *The creation of a precinct (Cove Road North Precinct) over top of the Residentially Zoned land with core provisions that protect ecological features, promote high quality urban design, ensure a safe transport network, and enhance landscape and amenity; and*
- *Any necessary consequential amendments to the ODP provisions.*

251. The assessment required under s32(1)(a) is therefore the extent to which the plan change's objective and purpose is the most appropriate way to achieve the wider purpose of the RMA. In considering the appropriateness of the proposal in achieving the purpose of the RMA, I consider that there are essentially just two options available, namely continuation of the status quo ODP Rural Zoning, or the proposal put forward in PPC83 (subject to any amendments to improve its efficiency and effectiveness). These two options are assessed below.
252. The only section 6 matter in play is s6(a), namely the preservation of the natural character of wetlands, rivers and their margins, and the protection of them from inappropriate subdivision, use, and development. In terms of other matters set out in s7 of the RMA, I consider that the efficient use and development of natural and physical resources (s7(b)), the maintenance and enhancement of amenity values (s7(c)), the intrinsic value of ecosystems (s7(d)), the maintenance and enhancement of the quality of the environment (s7(f)); and the effects of climate change (s7(i)) are relevant to the plan change.
253. As identified in the recent structure planning process, the site is well-located to deliver additional housing capacity in a location that is able to be efficiently serviced, thereby enabling the community to provide for its social and economic well-being. The PPC83 provisions, along with the balance of the ODP rules, are designed to manage effects on the environment, and in particular those relating to the life-supporting capacity of waterways and wetlands, along with maintaining an appropriate level of amenity for residents commensurate with a suburban location.
254. I am therefore satisfied that the proposal does better achieve the purpose of the Act than retaining the site as a Rural Zone which would not provide for additional housing and would not provide the impetus for protecting and restoring the waterways and wetlands present on the site.

Consideration of options

255. A Ministry for the Environment (MfE) guide to section 32 notes that case law has interpreted 'most appropriate' to mean "*suitable, but not necessarily superior*".

Option 1: Retain as Rural Zone

256. This is the option preferred by the majority of submitters who enjoy the current rural outlook and who are likewise concerned about ongoing expansion of Mangawhai and the impacts such would have on the existing village character of the township and associated pressure on infrastructure and roading capacity. As set out above, the site is appropriately located in terms of being able to connect to reticulated services, and is in a location that is relatively free of natural hazards, versatile soils, and areas with high ecological, landscape, or cultural values. It is likewise sited in a location that aligns with the District Plan policy guidance concerning the preferred directions in which Mangawhai is to grow. Given the ongoing demand for housing in Mangawhai and the identification of this block as a preferred location for growth in the most

recent township-focussed planning exercise undertaken for the township, I do not consider that retention of this block as rural land is efficient or effective in meeting the housing needs of the community.

Option 2: Rezone the site to Residential with a Precinct overlay

257. I consider that this option most readily aligns with the District Plan policy framework and the Mangawhai Structure Plan. As set out above, both the District Plan and the spatial plan anticipate that sites identified as being within growth areas are suitable in principle for development to urban residential densities, pending site-specific confirmation of details such as concept plan design and servicing via a plan change process.
258. A sub-option concerns the minimum lot size/ density outcomes i.e. alignment with the ODP Harbour Overlay/ 1,000m² minimums, or alignment with the NRPS regarding the extent of the coastal environment and associated opportunities to better provide for greater housing choice as identified in the recent spatial plan.
259. For the reasons set out above, I consider the change in zone (with amended provisions as recommended) to better achieve the objectives of the ODP than retaining the site as a Rural Zone.

Operative Kaipara District Plan

260. Section 32(1)(b) requires examination of whether the proposed plan change provisions are the most appropriate way of achieving the District Plan objectives. There are several objectives and policies specific to the form and development of Mangawhai township under ODP Chapter 3A. There are also objectives and policies addressing urban form and growth more generally in the balance of Chapter 3.
261. The applicant has undertaken a detailed assessment of the proposal against the District Plan's objectives and policies⁷⁰. I agree with the applicant's assessment that the proposal achieves the ODP's objectives. As noted above, there is some tension with the Mangawhai Structure Plan in the ODP insofar as that plan identifies the area as being suitable for rural residential rather than urban development. The purpose of a plan change is to respond to changing circumstances, which include the significant passage of time since that original structure plan was developed. The proposal is consistent with the balance of the ODP's objectives regarding urban growth management.

Efficiency and Effectiveness of the provisions and having considered other reasonably practicable options

262. "Effectiveness" is an assessment of the contribution new provisions make towards achieving the objective, and how successful they are likely to be in solving the problem they were designed to address.
263. In this case the proposed amendments to the Residential Zone provisions, and the introduction of a new precinct area and associated bespoke controls are considered to provide an appropriate zone framework for managing the future development of the site. I have recommended above a series of amendments to these provisions to further improve their effectiveness in managing effects and delivering the outcomes sought in the PPC83 Objective 1.

⁷⁰ PPC83, s32 assessment, Section 7.3

Conclusions and Recommendations

264. The statutory matters that must be considered in relation to a plan change require the assessment of sections 31, 32, 74 and 75, and regard must be had to the overall purpose and principles set out in Part 2 of the Act (where new objectives are proposed, or alternatively if any incompleteness, invalidity or uncertainty is identified in the existing planning documents).
265. As with all plan changes there is a complex web of both potential environmental effects and statutory directions that need to be considered. Turning first to potential effects, it is important to emphasise that at a plan change stage the key task is to identify whether the site is exposed to any significant constraints that would present a fundamental impediment to rezoning. It is common for sites to be subject to some degree of constraint, which can then create a 'chicken and egg' situation whereby submitters seek certainty that these issues can be resolved prior to the site being rezoned, but it is inappropriate to expect the applicant to commit to a resource consent level of detail for a rural block of land where urbanisation has not yet been confirmed in principle.
266. In my experience, sites that are subject to lesser levels of constraint are generally capable of resolution following more detailed design work. Consideration of the efficacy of these more detailed design solutions generally forms part of the later subdivision consent and regional consenting processes. It is however important to be confident that the regulatory framework (including any ODP text amendments proposed in the plan change) provides sufficient scope and direction to ensure any outstanding issues are able to be captured and assessed as part of these subsequent consent processes.
267. Drawing on the conclusions of the Mangawhai Spatial Plan, I am satisfied that the site is well located for forming a logical urban expansion of the township. Whilst generally suitable for urbanisation, the site does present challenges in terms of the delivery of an integrated movement network, and robust solutions for stormwater management. If the site did not have such fragmented ownership, the delivery of these two pieces of infrastructure would be straight forward. The fragmented ownership means that the site is likely to be developed in stages, potentially by different parties, and with a realistic potential for some lots within the area not developing for a long time due to individual landowner preferences. This staging issue is a challenge, and is a matter that the applicant may wish to provide further evidence on how it can be resolved.
268. I am satisfied that there are no fundamental barriers to rezoning in relation to the following matters:
- a) The site is not located in an area identified in either the ODP or the NRPS as having significant ecological, landscape, heritage, or cultural values;
 - b) The majority of the site is not exposed to an unacceptable risk of natural hazards. Flood risk is such that there are plausible solutions available through the subdivision consent and bulk earthworks phases of development. I accept that retaining stormwater volume neutrality may present challenges if the site is developed in stages, with a consequence that overall lot yield may ultimately need to be reduced in order to accommodate the necessary on-site detention;
 - c) The site is unlikely to be exposed to unacceptable soil contamination risks to human health. As with flooding it is standard practice for small, localised areas of potential contamination to be further investigated and if necessary remediated as part of standard subdivision consent processes;

- d) The site is able to be serviced for water supply via rainwater capture and on-site storage. This is the standard means of water servicing in many of Kaipara's townships, including the balance of Mangawhai township. The ODP includes controls on fire-fighting water supply and the revised PPC83 ODP provisions include refined requirements for the volume of storage to better reflect likely household demand;
- e) Council has programmed upgrades in place for the Mangawhai wastewater treatment plant, with an initial stage programmed for 2024 and subsequent upgrades programmed for 2027. Whilst the later upgrades are subject to obtaining the necessary resource consents, the upgrade strategy is plausible. The local wastewater conveyancing network will, in time, require upgrades to both pipe capacity and pump station. Neither elements constitute a significant capital expense, with the timing and funding of these upgrades a matter that can be resolved through the subdivision consent process and if need be developer agreements with the Council to part fund the upgrades to bring the works forward. If the WWTP has not been upgraded by the time subdivision consents are lodged, then the onus is on the developer to demonstrate that alternative solutions are plausible, or alternatively the subdivisions of the site will need to be deferred until reticulated services are available. Either way, construction of housing without an effective means of disposing of wastewater should not occur.
- f) Preliminary modelling shows that the traffic generated by the site should not have an unacceptable effect on the efficient functioning to the surrounding road network. Upgrades to improve safety are likely to be necessary for the Cove Rd/ Mangawhai Heads Rd intersection and the Jack Boyd intersection, along with the provision of a shared pedestrian and cycle path around the site edge. At this point I consider the proposed subdivision rules to be adequate without the need for more specific staging rules however this element is subject to consideration of further evidence. The revised internal road and pedestrian network shown in the applicant's new transport report is an improvement on the 'as notified' network. It is recommended that the Concept Plan be updated to reflect this improved layout, with the Concept Plan included in the ODP and subdivision applications required to be in general accordance with the layout shown to ensure the outcome of a well-connected neighbourhood is able to be delivered over time.
- g) The site contains a native bush area on its northern edge that has moderate ecological value, and waterways and remnant wetlands with low existing values. The proposed rule package includes provisions to ensure ecological values are maintained and enhanced through the subdivision consent process, which should in turn result in the rezoning delivering a net increase in ecological values. In addition to the ODP provisions, works adjacent to wetlands and waterways also remain subject to the regulations in the NES-FM and NRWSP. The location and extent of these ecological features is limited and therefore their retention and restoration does not preclude the balance of the site from being developed for residential purposes.
- h) The Council has recently completed the development of a new Spatial plan for Mangawhai. This Spatial plan examined the suitability of various areas on the edge of the township for urbanisation. Following a robust sieving exercise which assessed constraints, opportunities, and wider urban form outcomes, the site was one of two locations identified as being the most suitable for urbanisation.
- i) The PPC83 proposal includes a concept plan to show the key features and linkages both within the site as it develops over time, and around the site edges. Subject to the

amendments discussed above, I consider the concept plan and the associated rule package will deliver suitable connections and interface outcomes.

269. Turning now to the higher order policy framework, it is common for two NPSs to be in play when considering rezoning proposals, namely the NPS-UD and the NPS-HPL. As set out above, neither of these NPS apply to the PPC83 site. The NPS-FM and NPS-IB are both of relevance to the assessment of ecological and freshwater values, with the proposed rules and NES-FM regulations suitable for managing effects on these features and values. The CIA assesses the relevant Iwi Management Plans, with the recommendations largely aligned with the outcomes sought by the ecological and stormwater experts regarding native habitat restoration and controls on water quality. The site is located such that it gives effect to the NRPS directions of relevance to urban growth. As set out above, I consider at rezoning the site to a residential zone with a precinct overlay is a more efficient and effective method of giving effect to the ODP's objectives than retaining the site with a Rural Zone, and would therefore also give effect to Part 2 of the Act.
270. As such it is recommended that the plan change be accepted, subject to the recommended amendments to the concept plan and ODP provisions. It is accordingly recommended that those submissions in support of the plan change be accepted, and those submissions opposing the plan change be rejected.



Jonathan Cleese

Consultant Planner

7th February 2024

Appendix 1. Recommended text amendments to the PPC83 provisions

Appendix 2: Water Servicing (Melissa Parlane, Council Asset Manager)

Appendix 3: Stormwater servicing (Carey Senior, Awa)

Appendix 4: Wastewater servicing (Clinton Cantrell, SCO Consulting)

Appendix 5: Transport Review (Lucas Gerhard van der Westhuizen, Flow Transportation Specialists)

Appendix 6: Ecological Review (Stephen Brown, Wildlands)

Appendix 7: Economic Review (Derek Foy, Formative Ltd)