

Operative Kaipara District Plan

Private Plan Change 84 by Mangawhai Hills Limited

Section 42A Report

**Request to rezone 218.3 hectares of Rural Zone land to the
Mangawhai Hills Development Area**

22 April 2024

Updated Report prepared by

Jonathan Clease

Consultant Planner

Private Plan Change 84 – Mangawhai Hills Limited, Mangawhai

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

Private Plan Change Request	
Applicant	Mangawhai Hills Limited
Property Location	218.3 Ha as shown in the application with the site largely bounded by Cove Rd, Tara Road, Moir Road, and Old Waipu Road
Plan Change Purpose	To rezone the site from a Rural Zone to the 'Mangawhai Hills Development Area' to enable residential activities
Hearing Commissioners	Greg Hill (Chair) Barry Mosley Cllr. Gordon Lambeth
Notification period	29 th August 2023 – 26 th September 2023
Further Submission period	5 th December 2023 – 19 th December 2023
Hearing date	Tuesday 28 th May to Thursday 30 th May 2024
Hearing location	Mangawhai Bowling Club, 219 Molesworth Dr, Mangawhai.

Introduction

Qualifications and Experience

1. My full name is Jonathan Guy Cleese. I am a Director at planning and resource management consulting firm Planz Consultants Limited and practice as a 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 assisted in the development of the 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.
4. **I was the s42A report author for PPC83 'The Rise' in Mangawhai Heads. This separate plan change was recently heard in the week of 25th March 2024. Much of the background to the growth and planning of Mangawhai and the statutory framework is of equal applicability to PPC84 and therefore there is a degree of overlap and commonality between the two reports for these separate plan changes.**

Scope of Report

5. 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 (**PPC84**) to the ODP.
6. 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 5th March 2023 and prepared by Barker & Associates on behalf of Mangawhai Hills Limited (**the Applicant**).
7. 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.
8. The purpose of this report is to both assist the Hearing Commissioners in evaluating the request and deciding on submissions made on PPC84, and to assist submitters in understanding how

¹ <https://www.kaipara.govt.nz/mangawhaihills>

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.

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

This report is an updated version of the initial report dated 12 April. The report is arranged by topic. The Hearings Panel requested, via Minute 3, that it would be of assistance to the Panel if the report included a summary of the submission points relating to that topic at the end of each section. This is a factual addition to the report that does not alter its substance.

10. I include a copy of my recommended amendments to the PPC84 text as **Appendix 1A**.

I include a copy of submission points that were not explicitly addressed in my initial s42A report, along with a brief assessment of them, as **Appendix 1B**. For completeness, this appendix also includes a list of the 'overall position' submission points to ensure that all individual submission points are captured in this updated report. It is noted that 'overall position' style submission points are also common in the 'zoning' theme which is included as a table at the end of the section on urban form. It was common for the 'overall position' submission points to include a lengthy list of all the reasons in support or opposition. I have not sought to further 'slice and dice' the single submission point of overall support or opposition into further 'sub-points' covering the multitude of reasons given for that support or opposition. Submission points that appear at the end of the below thematic assessments are therefore those that were originally summarised as being explicitly on that single theme.

To assist the Panel, I also include a map showing the location of submitters' properties, where these are located in close proximity to the plan change site (**Appendix 1C**). There were a number of submissions that did not include a property address and therefore the map simply shows the locations of those submissions that identified a home address near the site.

In order to retain the paragraph numbering used in the initial report, new text inserted into this version does not have paragraph numbering. The insertion of additional tables means that there are some consequential changes to formatting and in particular how figures 'fit' onto pages. Rearranging the text to avoid blank spaces would have meant having to change paragraph ordering and associated numbering. On balance I have decided to leave numbering unchanged and accepted that there are some blank half pages where figures no longer fit neatly.

11. 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.

12. 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 25th March 2024;

- b) Reviewed the original plan change request, the Request for Further Information (RFI) and the updated plan change documentation received in response;
- c) Read all the submissions and further submissions received on the plan change request;
- d) Considered the statutory framework and other relevant planning documents; and
- e) 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 1A: Recommended text amendments to the PPC84 provisions;**
- Appendix 1B: Assessment on submission points not explicitly addressed in the initial s42A report;**
- Appendix 1C: Map of submitter properties located near the PPC84 site;**
- Appendix 2: Geotechnical Review (Callum Sands, Hawthorn Geddes Ltd);**
- Appendix 3: Water Servicing (Melissa Parlane, Council Asset Manager);**
- Appendix 4: Stormwater servicing (Carey Senior, Awa);**
- Appendix 5: Wastewater servicing (Clinton Cantrell, SCO Consulting);**
- Appendix 6: Transport Review (Rachel Gasson, Commute);**
- Appendix 7: Ecological Review (Stephen Brown, Wildlands);**
- Appendix 8: NES-F Review (Annabeth Cohen, Awa);**
- Appendix 9: Economic Review (Derek Foy, Formative).**

Statutory Framework

- 13. 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.
- 14. 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.
- 15. 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.
- 16. 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.
- 17. 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.

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

18. In this case, the tests to be applied to the consideration of PPC84 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)).
19. In evaluating the appropriateness of PPC84, 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)).
20. The functions of the Council set out in s31 of the Act that are required to be maintained when evaluating the appropriateness of PC84 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)).
 - 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)).
21. 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 PPC84 against the various statutory documents is set out further below.

PC84 Acceptance, Notification and Submission Process

22. PPC84 was lodged on 5th March 2023, with Council issuing a Request for Further information (RFI) dated 3 April 2023. Further information was provided back to the Council on 24 May 2023, with an archaeological assessment and Cultural Effects assessment received in June and July 2023 respectively. Following this further review, the application was accepted for public notification at the Council Meeting held on 26 July 2023³.
23. A copy of the notified application is available on the Council's website⁴.
24. PPC84 was publicly notified on the 29th August 2023, with notices included in the Mangawhai Focus (21st August 2023), and the Northern Advocate and Kaipara Lifestyler on 29th August 2023. The submission period closed on 26 September 2023. A total of 76 submissions were received, including three late submissions (#36, 37, and 74).
25. All submissions were then summarised and publicly notified for further submissions in the Mangawhai Focus (4th December 2023), and the Kaipara Lifestyler and Northern Advocate on 5th December 2023. The period for further submissions closed on 19th December 2023. Twelve further submissions were received.
26. The submissions, submission summary, and further submissions are available at the part of the Council's website relating to the plan change. From my reading, there are 45 submissions in opposition or partial opposition, 24 submissions that support the plan change, and 5 that do not state an opinion either way.
27. PPC84 has reached the point where a hearing is now required⁵. The Hearing Panel has been delegated the power to hear submissions and make a recommendation on the plan change and submissions to the Council⁶.

Procedural Matters

Late and withdrawn submissions

28. Three late submissions⁷ were received one day after the closing date. The Panel confirmed the admission of these three submissions in Minute 2, dated 4th April 2024.
29. Two submissions have been withdrawn (M Hewitt #39 and Moana Views Committee #45), along with one further submission (Department of Conservation #FS08).

Submission scope

30. The submission by Ms Paula Renner seeks that her property located at 110 Moir Street be rezoned to a commercial zone. 110 Moir Street is located within the PPC84 area. Given that the purpose of PPC84 is to rezone the entire site to a bespoke Development Area, it is questionable whether a submission seeking a change to the zoning of this specific part of the site to a Commercial Zone falls within the scope of the plan change as notified. I note that the submission

³ Under Clause 25(2)(b) RMA.

https://www.kaipara.govt.nz/uploads/districtplan_operative/planchanges/PPC84%20Mangawhai%20Hills/PPC83%20Extracts%20KDC%20Council%20Meeting%2026072023%20accepting%20plan%20change.pdf

⁴ <https://www.kaipara.govt.nz/mangawhaihills>

⁵ Clause 8B, Schedule 1 RMA

⁶ Clause 10, Schedule 1 RMA and Minutes of Extraordinary General Meeting of the Council, dated 3 April 2024.

⁷ Denev Hayward #36, Ryan Moffat #37, Candy Best #74

does not seek to extend the geographic extent of the plan change, rather it concerns the zoning of an internal portion of the site.

31. Ultimately questions of scope are more of a legal than a planning consideration. The submitter 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-based determination. Mr Bangma will also address this matter in his opening legal submissions on behalf of the Council.
32. In the event that the Hearings Panel considers the submission seeking to re-zone 110 Moir Street to commercial does fall within scope, I discuss the merits of such inclusion in the below section on urban form.

Current Operative District Plan (ODP) Zoning

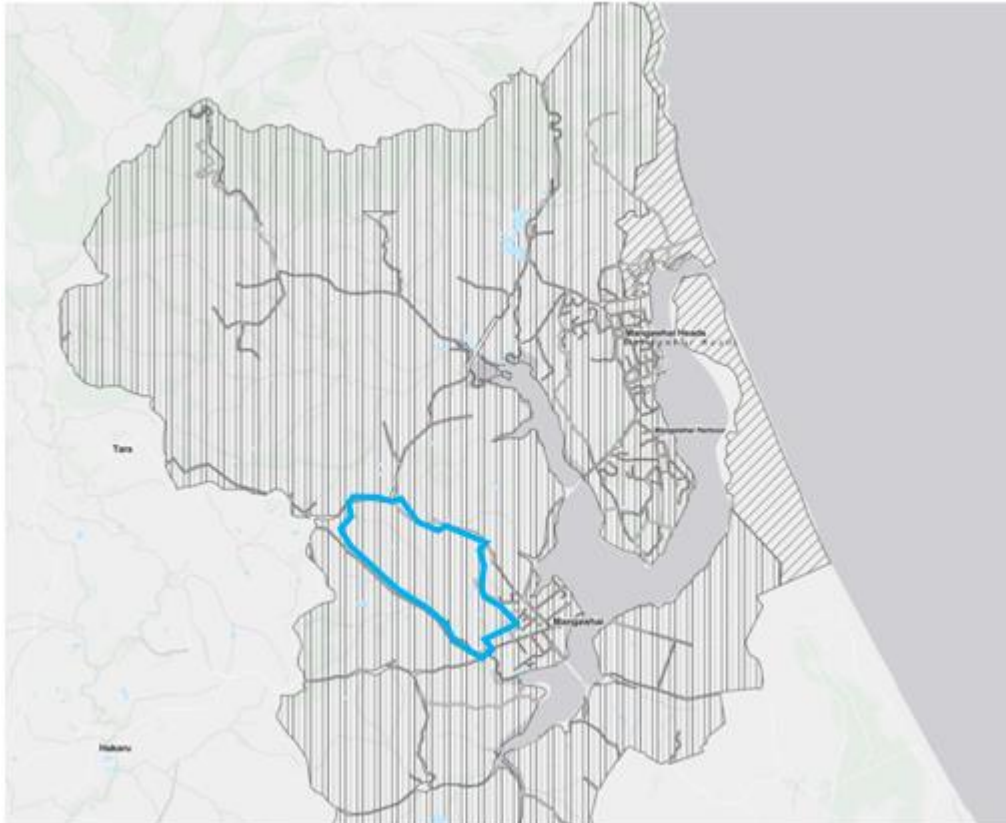
33. The 218.3 ha application site is located to the north of Mangawhai Village and consists of a large block of land that is generally bounded by Cove Road to the north, Moir Road to the south, Old Waipu Road to the east, and Tara Road to the west. The site has a Rural Zone under the ODP (**Figure 1**) and is subject to the Harbour Overlay. It sits outside of the Indicative Growth Area – Greater Growth Area Catchment Overlay.
34. For completeness, the site is not identified in the ODP as containing any significant landscape values, and neither does it contain any heritage items, regionally significant infrastructure, sites of cultural significance, or Statutory Acknowledgement Areas. A narrow finger of the upper harbour extends into the southwest corner of the site adjacent to Tara Road and is identified in the Northland Regional Policy Statement (**NRPS**) as being within the Coastal Environment.

Figure 1: ODP Zoning. Yellow = Residential Zone; green = Rural Zone



35. The site is located within the 'Mangawhai Harbour Overlay'⁸ (**Harbour Overlay**), as shown in **Figure 2** below.

Figure 2. Harbour Overlay (shown as grey lines)



36. 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 that drain towards the harbour. 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 apart from the lower portions of the stream in the southwest corner. As such the ODP does not give effect to the NRPS in regard to this matter.
37. 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 Managwhai 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 of the ability for activities to be undertaken within the Harbour Overlay area⁹. The Overlay results in an increase in the minimum site size¹⁰ in the Residential Zone from 600m² for those parts of the Residential Zone that are both serviced and are located outside of any overlay, to 1,000m².

⁸ ODP Appendix B, Map 3

⁹ ODP Objectives 4.4.11-13 and Policies 4.5.16-20

¹⁰ ODP Rule 13.10.3a

38. I note that as PPC84 does not seek to amend the Harbour Overlay or delete its application to the PPC84 site. The plan change likewise sets the minimum site size at 1,000m² which aligns with the Harbour Overlay directions for Residential Zoned areas.

PPC84 Proposal and Purpose

39. The purpose of the plan change is stated in the application as follows¹¹:

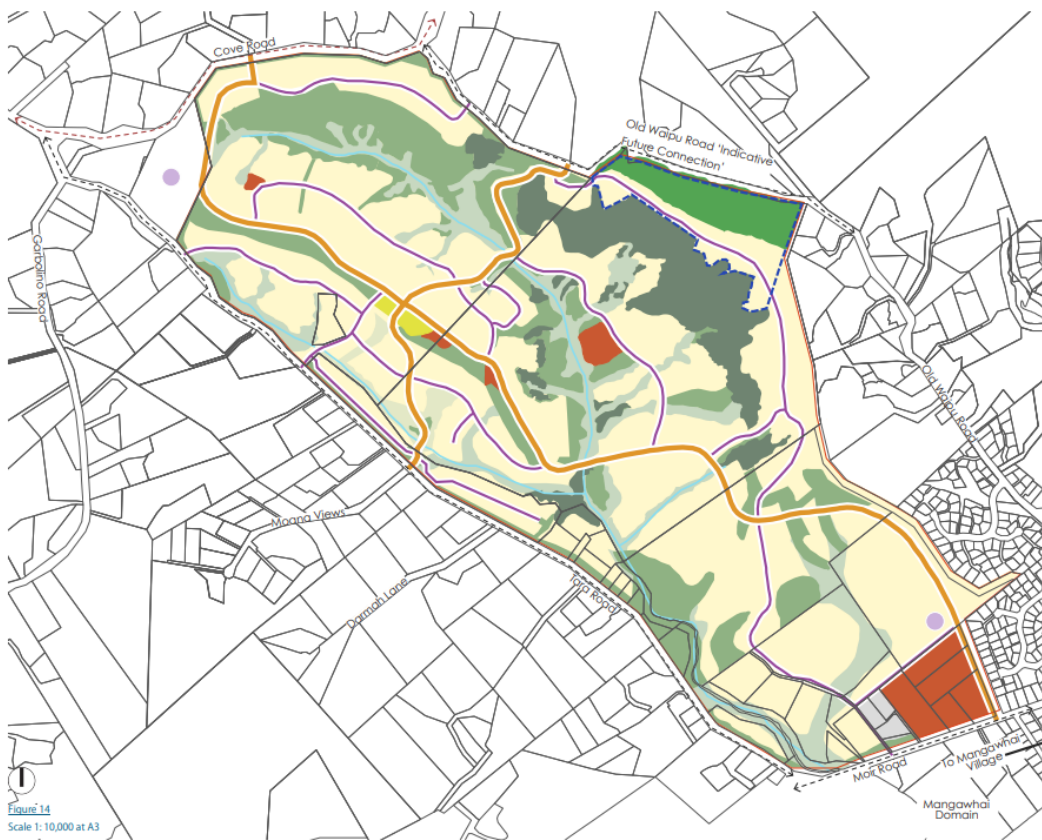
The purpose of the plan change is to deliver viable and sustainable residential housing. The plan change also seeks to apply a development area to the plan change area to provide for future residential development.

40. The proposal as notified is framed as a Development Area. This approach is conceptually similar to the zoning of the Mangawhai Central block, which is addressed in Chapter 16 of the ODP. The proposed provisions therefore function as a stand-alone zone and self-contained set of provisions. As a stand-alone zone/ chapter the provisions are drafted to align with the formatting and numbering directed in the National Planning Standards (**NPS**) which provide a single national format for all new RMA plans. The formatting therefore differs from how the balance of the ODP is arranged, however as a self-contained set of provisions I do not consider this difference in formatting to create any challenges to plan interpretation or use. Having the provisions formatted in a way that aligns with the NPS has the advantage of making it much easier to carry forward the proposed provisions into the next iteration of the District Plan, with Council in the process of preparing a replacement District Plan for notification in late 2024/ early 2025.
41. The proposed approach of a stand-alone set of provisions can be contrasted with PPC83 which was framed as a precinct that applied over the existing Residential Zone Chapter and as such sought to amend the Residential Zone provisions rather than introduce an entirely new zone.
42. An important element of the plan change is the inclusion of a Structure Plan which identifies the key road links, areas for ecological restoration, and areas that are suitable for residential development, as shown in **Figure 3**.

Figure 3. Proposed Concept Plan

¹¹ PPC84 s.32, section 5.2, pg. 18

5.1 Structure Plan



A collaborative urban design approach with planning, ecology, landscape and engineering has driven the development of the conceptual structure plan to guide future development within the site.

A comprehensive analysis of the existing environmental qualities, features and characteristics informed the identification of appropriate opportunities and constraints. This has subsequently informed the development of the conceptual structure plan which indicates key structural elements of movement and land use as well as specific open space and other place making recommendations.

Legend

- Plan Change Area
- Landscape Protection Area
- Indicative Primary Road
- Indicative Secondary Road
- Existing Roads / Connections
- Western by-pass link / collector road
- Indicative linear Open Space
- Streams
- Indicative community Hub
- Opportunities for active Open Space
- Existing Native Vegetation
- Additional Native Revegetation (incl southern slopes)
- Riparian Restoration
- Predominantly exotic vegetation
- Proposed Residential Area (subject to Plan Change)
- Existing Residential
- Institutional (Church and Cemetery)

Figure 14
Scale 1: 10,000 at A3

43. The Structure Plan requires that a significant portion of the site (approximately 112ha of the 218.3 hectare site) be set aside for ecological restoration, leaving approximately 106ha for residential development. It also includes a 'Landscape Protection Area' (blue dashed line) to the northeast of the site that covers the eastern side of the high ridge running along the site's eastern boundary, with the majority of this landscape area containing mixed exotic and native bush.
44. The Structure Plan road network is ordered by two north-south and east-west primary roads (shown in orange), with a small 'community hub' located at the crossroads. A series of secondary roads are shown in purple, with it anticipated that additional local roads will be developed subsequently through the subdivision process.
45. Due to the site's steep topography and remnant bush and wetland areas, I understand that the end outcome sought by the plan change is one of small nodes or groups of houses set within a framework of restored ecological areas. As such, the end result is expected to differ from typical suburban developments that consist of a grid network and a series of relatively uniform rectangular sections.
46. The estimated housing yield of the plan change is approximately 600 lots, which equates to some 5.6 households per hectare of the 106ha developable area, or 2.74 households per hectare across the entire site. Whilst the proposed minimum lot size is 1,000m², the estimated yield indicates that the majority of lots will be larger than the minimum, and also includes an allowance for land set aside for local roads, stormwater, wastewater disposal fields, potentially larger lots on steeper slopes, and the fragmented ownership (and potentially differing development aspirations) of the southern third of the site that is not owned by the applicant. It

is noted that the land use rules are proposed to permit two residential units per lot (DEV1-R2). From my reading of the proposed rule a minimum of 1,000m² still needs to be provided per unit so in practice two units on the same lot could only be provided if that lot was larger than 2,000m², as opposed to two units being permitted on a site of 1,000m². This potential ambiguity was noted by the Berggren Trustee Co Ltd (submitter #4) and I agree that the wording of the rule should be clarified.

47. Whilst the 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 600 households), I consider that the estimate is reasonable for assessing a change in zone given the topography of the site which works against efficient subdivision down to the minimum permitted site sizes. Whilst some lots may contain a minor or second unit, experience in other Districts where minor/ second units are permitted shows that the take-up of such opportunities is relatively modest, especially as the units can't be separately on-sold given they are contained within a single title.

Site Description

48. The site is not under single ownership. The PPC84 applicant owns the northern approximately two thirds of the site, with the southern balance area held by numerous different lifestyle block owners and a church (in the southeastern corner). **Figure 4** below shows the site boundaries in red, with the land that is not owned by the applicant shown in blue.

49. **Figure 4. PPC84 site location**¹²



50. The northern two thirds of the site is what is known locally as Frecklington Farm. It is developed as a dairy farm, with a farmhouse and agricultural outbuildings located towards the middle of the site's western frontage to Tara Road. The southern third that is not held by the applicant contains approximately 20 dwellings that obtain access off Tara Road and Moir Street. A large

¹² Base map source: PPC84 Application s32 Report, pg. 11

lot in the southeast corner is in the process of being developed for a church, with the hardstand and building platform visible in the below image (**Figure 5** – church site in orange). A waterway which connects to the upper reaches of the Harbour is visible in Figure 6 running along the site’s southwestern edge. Immediately outside of the site’s southeastern boundary on Moir Street is a large, roughly square, block comprised of five titles (shown in yellow). This block has a residential zoning in the ODP and has been acquired by the Council with the intention of it being developed as sports fields and public open space. Immediately west of the proposed sports fields are three lots that also have a residential zoning. Whilst the proposed Structure Plan includes both these three residentially zoned lots and the Council recreation site, it is my understanding that these properties do not form part of the plan change area i.e. the plan change does not seek to amend the current residential zoning of these properties, and their inclusion in the Structure Plan is for context purposes only. This is a matter that the applicant may wish to confirm in evidence.

Figure 5. PPC84 southern end not held by the applicant¹³.

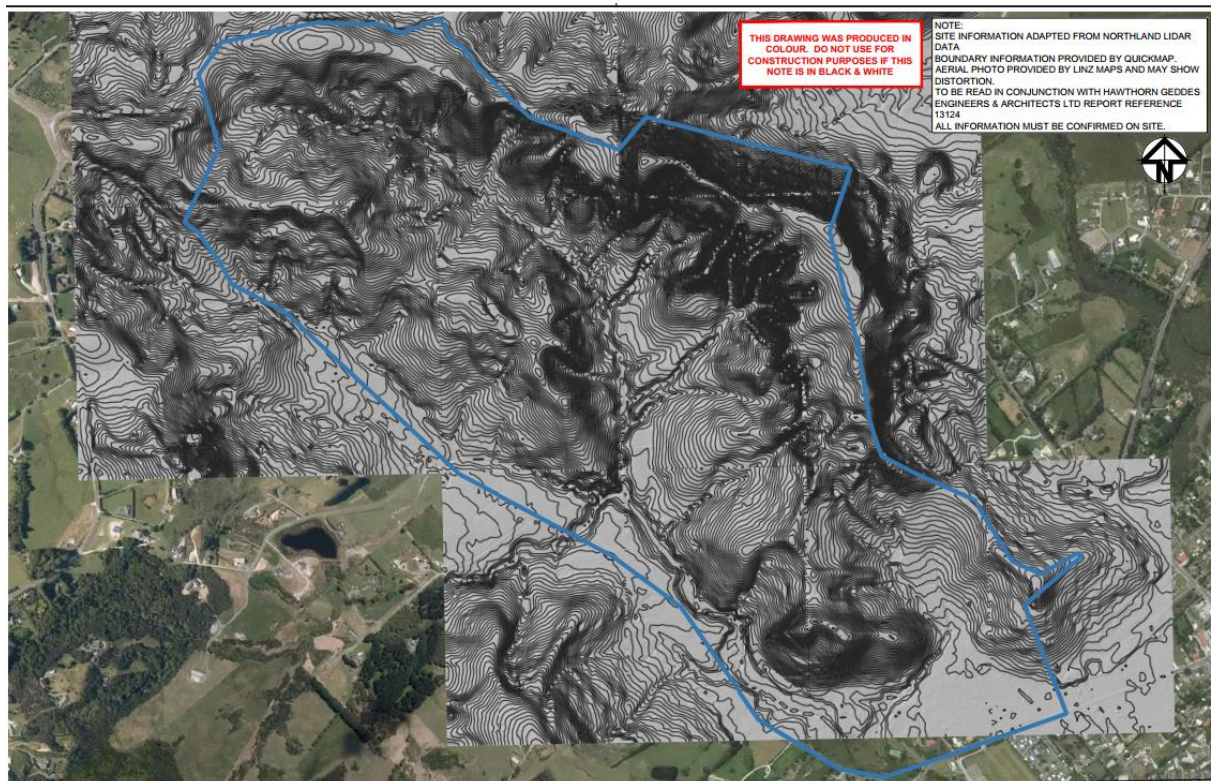


51. The site has a complex topography that broadly rises in elevation from south to north, with the highest portion of the site located in the northeastern corner adjacent to Old Waipu Road. A ridgeline runs along the eastern boundary with a smaller ridgeline running through the middle of the site. Between these two ridges is a valley with associated waterways and wetland areas in the bottom. The western flank of the central ridge runs down towards Tara Road with a separate waterway running along the western edge of the site adjacent to Tara Road. A low knoll is located in the middle of the southern portion of the site. **Figure 6** below shows the site topography¹⁴.

¹³ Base image source: Google Earth

¹⁴ Callum Sands Geotech review, Appendix 1, Sheet 3

52. **Figure 6. Site topography**



53. This varied topography has facilitated a diverse ecological context. Ecological values are discussed in more detail below, however for now it is noted that the site contains numerous small waterways, wetlands, and native bush remnants.
54. Tara Road to the west and Cove Road to the north are both collector roads that connect Mangawhai to Langs Beach and Waipu through the eastern end of the Brynderwyn Hills. The land between the site and the Brynderwyn Hills is pastoral in appearance and is comprised of a mix of farms and rural lifestyle blocks. Lifestyle blocks are likewise located to the west off Tara Road. A Council-held cemetery is located adjacent to the site's northwestern corner, accessed off Cove Road.
55. Moir Street to the south runs through Mangawhai Village, with the village commercial area located approximately 600m from the southern edge of the site. The Mangawhai primary school is located approximately 1km from the southern end of the site. To the southeast the site is bounded by residential development accessed off several local roads that in turn connect to Old Waipu Road, with the northeastern edge bounded by rural land and lifestyle blocks.
56. 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

57. 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.
58. 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.

59. 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 specifically referenced. I confirm however that I have read and am familiar with the content of every submission and further submission that has been lodged.

I provide a table of the summary of submissions by topic at the end of each thematic section i.e. submissions that raise concerns regarding transport are summarised in a table at the end of the section on transportation matters. **Appendix 1B** includes submission points on matters that were not explicitly addressed in my initial s42A report, along with a brief assessment of the matters raised. **Appendix 1B** also includes for reference a summary of the submissions points that were in either overall support or overall opposition to the plan change.

Land Suitability

60. In relation to the land affected by PPC84, 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.
61. These are considered in turn below. The use and development of versatile soils is considered in more detail later in this report in the section on the National Policy Statement on Highly Productive Land 2022.

Geotechnical Considerations

62. The request included a brief geotechnical letter prepared by Tetra Tech Coffey Ltd (**TTC Report**)¹⁵. The TTC Report in turn referenced an earlier geotechnical investigation undertaken by Wiley Geotechnical Limited¹⁶ for the previous owner of Frecklington Farm. The Wiley Report was written to support a subdivision application to develop the northern two thirds of the site into 79 rural lifestyle blocks with a balance lot as a proposed open space reserve. This earlier consent application was ultimately withdrawn following a change in ownership of the farm.
63. Drawing on the original Wiley Report, TTC concluded that¹⁷:
- “the site is geotechnically suitable for the proposed plan change for residential subdivision. Potential geohazards that may exist on the site and are expected to require geotechnical investigation and assessment have been identified as detailed in the Wiley Report. A site-specific investigation will be carried out to support the subdivision resource consent. This investigation*

¹⁵ PC84 Application – Appendix 10

¹⁶ TTC Report, Appendix B

¹⁷ PPC84, Appendix 10, section 5, pg. 3

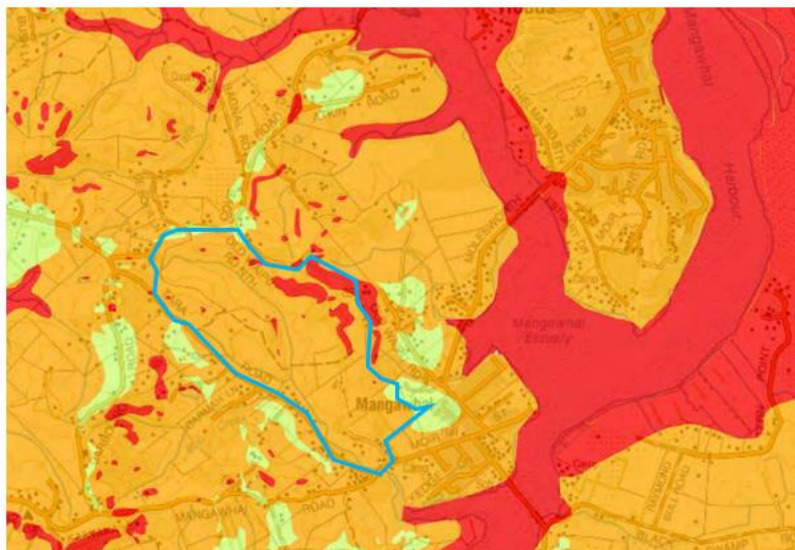
will include a geotechnical site walkover, hazard mapping and identification of areas for site-specific investigations comprising hand-augured boreholes, excavator trial pits, machine bore holes and piezocone penetration testing, Detailed assessment of potential geohazards will be carried out it provide design input for recommended building platforms and suitable foundation types.

64. I note that the Wiley Report was prepared to inform a rural lifestyle subdivision of the northern portion of the site. The level of investigation therefore needs to be read in the context of the proposed outcome being 1-2ha lots with tailored building platforms rather than a more intensive suburban density subdivision, with minimum lots sizes of 1,000m². The Wiley Report likewise did not include any assessment of the southern third of the site that was located outside of Frecklington Farm. In terms of slope stability, the Wiley Report identified¹⁸:

"Areas throughout the site were observed to have evidence of historical large-scale instability. Small scale instability was also observed in the form of soil creep and shallow slumping with hummocky ground widespread. Steeper sloping ground and high seasonal groundwater levels are considered to be the main drivers behind those observations. Slope stability analysis shall likely be required on some of the lots with steeper sloping ground for further field assessments shall be required. This may be carried out at the stage when proposed building platforms are being identified during detailed design phase of the subdivision process".

65. The Council has previously commissioned a high-level geotechnical assessment of the wider Mangawhai area in 2019 from geotechnical engineering firm Engeo Ltd¹⁹. In summary, this report identified that most of the wider Mangawhai area is subject to a medium risk of geotechnical hazards (primarily slope instability), with the low-lying areas adjacent to the Mangawhai Harbour subject to high risk (due primarily to heightened risks of liquefaction during a seismic event). All of the site is identified as being within the medium risk area, with discrete areas of high risk due to slope instability adjacent to the eastern ridgetop.

66. **Figure 7. Mangawhai geotechnical risks** - medium risk in orange and high risk in red

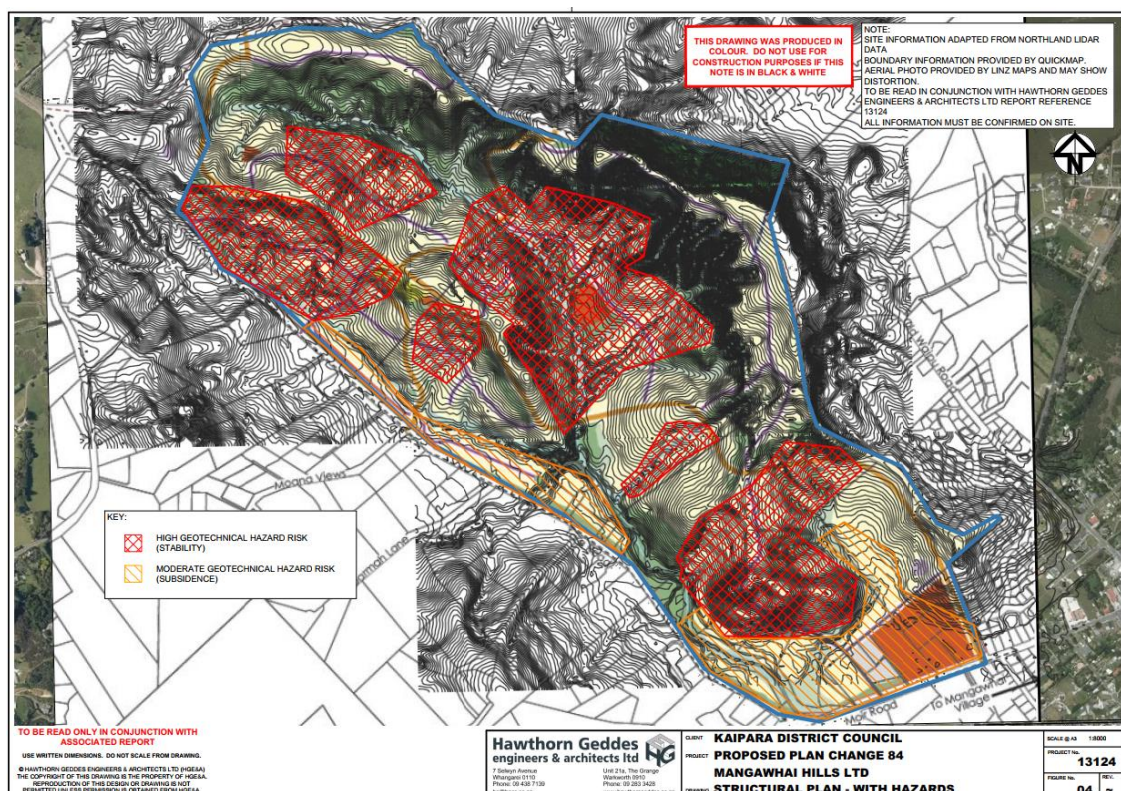


¹⁸ PPC84, Appendix 10, Wiley Report, pg. 4

¹⁹

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

67. In recognition that the Wiley Report was commissioned for a rural lifestyle level of density, and that the Engeo Report was a high-level desktop-based study, the Council commissioned a review of the TTC Report by Mr Callum Sands, a geotechnical engineer with Hawthorn Geddes Ltd. Mr Sand's report is attached as **Appendix 2**.
68. Mr Sands has identified a number of areas of the site that are potentially exposed to moderate to high slope instability and other low-lying areas that may be subject to settlement and/or liquefaction. He concludes that it is likely that a portion of the land identified on the Structure Plan as a proposed residential area may not be suitable for large-scale, high density²⁰ residential development. The portion of land that Mr Sands considers may not be suitable for residential development (i.e. 1,000m² residential lots) is shown in red and orange cross-hatch, overlaid over the proposed structure plan, on **Figure 8** below.
69. **Figure 8. Site hazards overlaying the Structure Plan**



70. Mr Sands recommends in relation to these areas that further geotechnical investigation is made to verify the suitability of the land to support the proposed density, or that alternatively the structure plan be revised. He considers it is *“likely that portions of the land designated as Proposed Residential Development on the Mangawhai Hills Structure Plan are not suitable for high-density development, and better align with lifestyle blocks sized lots at 1 to 2 hectares”*. He considers that the balance of the site not shown in red or orange cross-hatch is likely to be suitable for residential development to a density of 1,000m² following more detailed assessment via the subdivision consent process.

²⁰ Mr Sands Geotechnical review, pg. 7. I note the reference to ‘high density’ in this context is a reference to the density proposed by the applicant i.e. 1,000m² minimums, in contrast to rural lifestyle densities.

71. In light of the geotechnical issues identified by Mr Sands, in my opinion there are three options before the Panel. The first is for the applicant to provide additional geotechnical information prior to the hearing to enable the rezoning and associated Structure Plan to occur with confidence that those parts of the site currently identified by Mr Sands as being potentially unsuitable for residential development (i.e. the areas shown in red or orange in **Figure 8**) are not exposed to significant geotechnical hazards. This is my preferred option.
72. The second option is to confirm the plan change and structure plan as proposed and rely on the subsequent subdivision consent process to be informed by more detailed geotechnical investigations. This second option relies first on the proposed ODP provisions being sufficiently robust to ensure such assessments are undertaken, and secondly on potentially significant amendments to the Structure Plan layout being necessary to align with new geotechnical information. Section 106 of the RMA provides a further mechanism by which subdivision in areas exposed to unacceptable natural hazard risk might be declined.
73. The proposed rule package includes a building platform rule (DEV1-S12) where the matters of discretion include an assessment of geotechnical stability and the avoidance of natural hazards. The rule package also includes consideration of 'land stability upon completion' as a matter of discretion for the earthworks rule (DEV1-S11). I note that the proposed subdivision rule (DEV1-R19) does not include any matters of discretion relating to geotechnical or natural hazard matters, although such additional matters could be readily added.
74. The Ministry for the Environment (**MfE**) has prepared a consultation draft for a proposed National Policy Statement for Natural Hazard Decision-making (**pNPS-NHD**)²¹. In summary, the pNPS-NHD provides the following directions:
- A single objective that seeks that the risks of natural hazards be minimised;
 - Policy 1 requires planning decision-makers to determine the level of natural hazard risk as high, moderate, or low.
 - Policy 3 requires a precautionary approach be adopted within areas where the natural hazard risk is uncertain, unknown, or little understood, and the risks could be intolerable.
 - Policy 5 seeks that new development be avoided in areas of high risk unless that risk can be reduced to a tolerable level. For areas of moderate risk, mitigation measure should be taken to reduce the risks to new development to as low as reasonably practicable;
 - Policy 6 prefers nature-based solutions over hard-engineering solutions; and comprehensive area-wide measures are preferred over site-specific solutions.
75. I readily acknowledge that as a consultation draft the pNPS-NHD does not have any statutory status. It does nonetheless capture MfE's current thinking on how hazard risk should be managed. Whilst the pNPS-NHD is currently in draft form, I consider that it is commonly accepted as being poor practice to rezone rural areas to enable more intensive forms of residential development if those areas are exposed to natural hazard risks that cannot be readily mitigated. On the information currently available I am therefore cautious about rezoning the entire site with a Structure Plan that enables residential development in areas that may be exposed to

²¹ <https://environment.govt.nz/assets/publications/RMA/Proposed-National-Policy-Statement-for-Natural-Hazard-Decision-making-2023.pdf>

unacceptable levels of natural hazard risk. Even if the rule package and associated matters of discretion were made more robust, I consider it to be poor practice to identify land at a zone/ structure plan level as being suitable for residential development when parts of that land have been identified as being exposed to potentially significant hazard risks. This approach differs from other matters where it is appropriate to rely on the later subdivision consent process to resolve items of design detail such as open space boundaries, local road alignments and the like, and where there is less consequence if the effects are not adequately managed.

76. I note that Mr Sands has identified only parts of the site as being potentially exposed to higher hazard risks. It may well be that informed by further investigation either the risks can be confirmed as being able to be mitigated, or that the Structure Plan can be amended to better identify areas that are not suitable for housing.
77. Lastly, a third option is that the areas identified by Mr Sands as being subject to either high slope instability or moderate settlement/liquefaction risk are shown as being suitable for a lower density of housing i.e. 1 ha rural lifestyle blocks. This is on the basis that with larger lot sizes and a lower density of housing it is more likely that suitable building areas can be identified and less bulk earthworks needed to form driveways and building platforms relative to suburban densities.
78. The areas identified by Mr Sands as being potentially exposed to higher risk do not apply to the site in its entirety. Furthermore, if the applicant is able to provide further information prior to the hearing, a more refined/ informed outcome may well be acceptable. However, as things stand there is an important information gap. I do not consider it appropriate to rely on a subsequent subdivision consent process to resolve this gap, given that high hazard exposure goes to the heart of the appropriateness (or not) of a change in zoning.
79. I will provide the Hearing Panel with an updated statement of my position via my rebuttal evidence on these matters, after the applicant has exchanged its evidence-in-chief and in the event that further geotechnical information is able to be provided.

For completeness, I note that no submission points were received relating to geotechnical hazard risks. The above assessment is therefore my response to s6(h) 'the management of significant risks from natural hazards' as part of Council's functions and responsibilities when assessing changes to its District Plan²². Submissions that raised concerns regarding flood risk are assessed in the below section on stormwater/ flood matters.

Land Contamination

80. 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 subsequent subdivision or change in use in practice it makes sense to consider contamination risk as part of rezoning requests given that a successful change in zoning will facilitate future subdivisions.
81. 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

²² S74(1)(b)

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 southern end of the site as lifestyle blocks further confirms that significant contaminating activities are unlikely to have occurred.

82. In my experience it is reasonably common for past farming activities to have resulted in localised areas of contamination such as sheep dips, demolition of old farm buildings, domestic rubbish pits, or storage areas for fuel and 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.
83. The NES-CS regulations apply separate to the ODP and therefore remain in play regardless of any amendments to the District Plan proposed through PPC84. I note that the existing ODP subdivision rules²³ 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 PPC84-specific subdivision and earthworks rules to ensure NES-CS matters are noted as part of subsequent consent processes.
84. 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.

For completeness, no submission points were received that raised concerns with contamination risk. This section is my assessment of the need for plan changes to give effect to NES, which includes the NES-CS²⁴.

Infrastructure Servicing (Water/Wastewater/Stormwater)

85. The application includes a Land Development Report prepared by Chester Consultants Ltd (**Chester report**)²⁵, which has been reviewed by Council's experts.
86. Concerns regarding the capacity, costs, and design of 3-waters infrastructure was one of the most common concerns raised by a number of submitters opposing the plan change²⁶.

Water Supply

87. The Chester Report identifies that Mangawhai is not currently serviced by a comprehensive public reticulated water network, beyond a small Council scheme that services a limited portion of Mangawhai Heads. Future subdivisions over the plan change area will therefore 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.

²³ Rule 13.11.1, Note 3

²⁴ S74(1)(ea) & (f)

²⁵ PPC84 application, Appendix 7

²⁶ Owen #5, Boonham #6, Parker #11, Horizon Surveying #20, Marment #32, Reid #34, Mangawhai Matters #44, Harris #68, Maclennon #70

88. The Chester report confirms that future dwellings will be serviced by rainwater capture, and recommends that the PPC84 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 PPC84 provisions include a table²⁷ that provides a specific minimum tank size relative to both the area of roof catchment and the number of bedrooms (as proxies for both water capture and use). The matters of discretion relating to water supply²⁸ include reference to the need to meet firefighting water needs in line with the standard ODP text on this matter introduced via Plan Change 4²⁹ i.e. in terms of firefighting supply, PPC84 adopts the standard approach in the ODP.
89. 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 3**. Ms Parlane confirms that the applicant's assessment is correct insofar as Mangawhai has a small potable water treatment and reticulation network that does not reach the PPC84 site, and that there are no plans or budgeted spending to extend the network.
90. 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 supports the proposed approach of matching on-site storage capacity to roof size and bedroom numbers as an appropriately calibrated response to align storage with likely demand.
91. The Northland Regional Council³⁰ have raised concerns regarding the resilience of relying on roof water capture. The submission states that "current NRC advice indicates that an on-site storage capacity of 50,000 litres for an average household of up to 4 people would provide for an appropriate level of water resilience". This advice broadly aligns with the nuanced table proposed by the applicant, albeit that the table provides for less storage for smaller dwellings. The NRC also raises concerns regarding the ability to physically fit the required tanks on a 1,000m² site. In the event that a minimum sized site of 1,000m² is developed to the full extent of the permitted building coverage of 30%, that would still leave some 700m² of site area in which to locate two x 25,000lt tanks that each have a footprint of approximately 9m².
92. 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. The nuanced table that calibrates roof catchment area and the number of bedrooms provides an appropriate tool for delivering adequate water storage and supply.

²⁷ Rule DEV1-S15 and associated Table DEV1-2

https://at.govt.nz/media/302079/AT_RDC_LearningResource_CountrysideLivingGuideToolbox_Devicedesigndetails.pdf

²⁸ Rule QEV1-S15(3)(c)

²⁹ PC4 was settled via consent order - ENV-2018-AKL-00012

³⁰ Submission #49

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
Water supply				
Mangawhai Church Trust	43.3	Water supply	Support in part	<p>Submitter seeks for a sustainable water supply be established for Mangawhai.</p> <p>Submitter seeks for further certainty that developments can be accommodated within the three waters reticulation.</p>
Northland Regional Council	49.1	Water supply	Support in part	<p>Amend rule DEV1-R2 as follows:</p> <p>DEV1-R2 – Residential Unit</p> <p>1. Activity status: Permitted</p> <p>Where:</p> <p>a. The residential unit(s) provide a minimum net site area of 1,000m² per residential unit.</p> <p>b. Up to two residential units are constructed per site.</p> <p>c. It complies with:</p> <p>i. DEV1-S13 Vehicle Crossings</p> <p>ii. DEV1-S14 Roads, Vehicle Access, Pedestrian Walkways and Cycleways</p> <p>iii. DEV1-S15 Water Supply. iv. DEV1-S16 Stormwater Disposal. v. DEV1-S17 Wastewater Disposal.</p> <p>vi. DEV-S18 Minimum Floor Level</p> <p><u>vii. 50,000 litres of onsite potable water storage per residential unit is provided.</u></p>

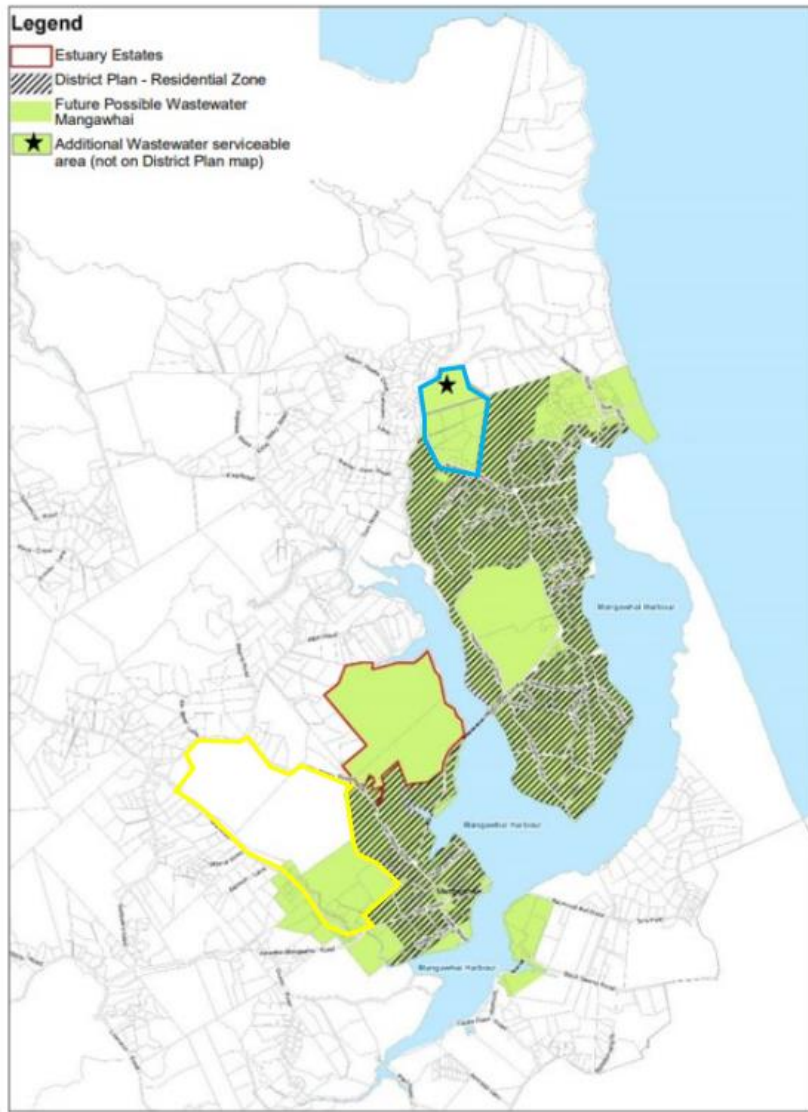
Wastewater

93. The ability to service the site with wastewater was assessed by the applicant in the Chester Report.
94. In essence there are three options identified for servicing the site with wastewater infrastructure:
- a) Connection to the Council’s reticulated network;
 - b) A private stand-alone reticulated treatment plant located on the site;
 - c) septic tanks on individual lots;
95. The preferred option put forward by the applicant is that the southern third of the site (approximately 100 lots) will connect to the Council reticulated wastewater network, with the

500 lot northern balance area serviced by a stand-alone treatment plant and wastewater disposal field.

Connection to the Council network

96. The Chester Report has been reviewed by Mr Clinton Cantrell from SCO Consulting Ltd on behalf of Council, with his review attached as **Appendix 5**. 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.
97. The 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 both 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). The area shown to be serviced includes the southern third of the site, with the northern two thirds outside of the programmed reticulation area. **Figure 9** shows the planned extent of the reticulated network in green, with Mangawhai Central in red, PPC83 in blue, and PPC84 in yellow.
98. ***Figure 9. Future reticulated wastewater coverage***



99. Mr Cantrell identifies that the wastewater treatment plant has a current capacity for 3,550 connections/ households, based on recent upgrades that are in the process of being commissioned. There are 2,764 existing connections meaning there is further capacity for approximately 800 additional households.
100. 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 existing residentially zoned but unbuilt areas such as Mangawhai Central, the PPC83 site (in the event that plan change is confirmed), and additional greenfield areas to be serviced.
101. 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 from a technical engineering perspective. 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

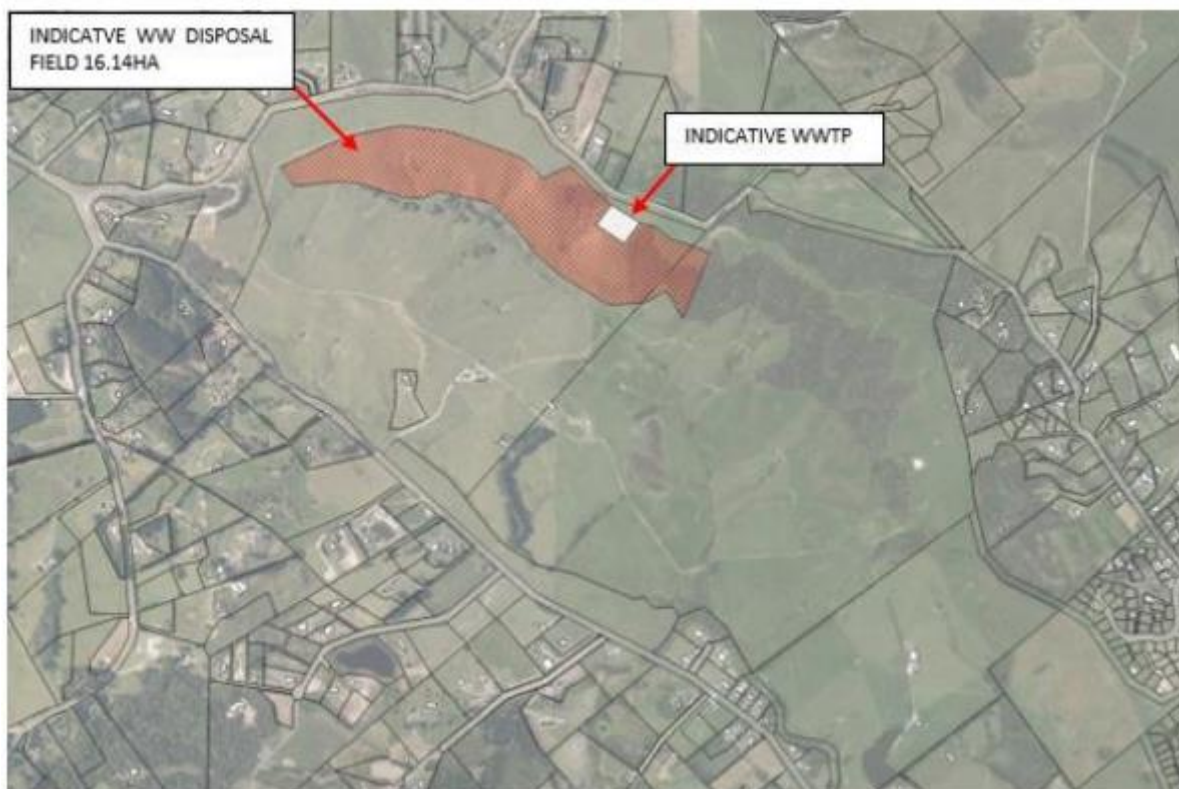
planning exercises i.e. in the unlikely event that the golf course solution does not proceed, the Council will need to deliver an alternative solution.

102. Mr Cantrell considers that with appropriate staging to align PPC84 build-out with planned network upgrades, it is possible to service all 600 lots relying on the MCWWS, albeit that connections for the northern two thirds of the site would need to be staged to occur after the more substantive capacity upgrades have been undertaken.

Stand-alone treatment plant

103. The Chester Report identifies that as the northern area is outside of the programmed reticulation network, the ability to connect in the future is not guaranteed. The applicant has therefore explored the provision of an on-site treatment and disposal solution. It is anticipated that such a system would remain in private ownership, with funding for its ongoing maintenance and operation undertaken via a body corporate or similar legal mechanism.
104. The private plant and associated disposal field is proposed to be located at the northern end of the site, with the plant located adjacent to Old Waipu Road and the disposal field located at the top of the northern 'bowl' or valley head in an area shown on the Structure Plan as a native revegetation area (**Figure 10**).
105. Mr Cantrell confirms that in principle an on-site solution is technically feasible as an alternative. He does however raise concerns that the indicative treated wastewater irrigation field of 16ha may be too small to manage the volume of treated wastewater that is expected to be generated by 500 lots. The applicant has lodged an application with NRC (APP.045654.01.01) for the necessary regional consents, with processing of the application well advanced. It may be that the status of the application will be known by the time the hearing occurs.
106. Mr Cantrell recommends that rather than developing a stand-alone plant, consideration should be given to negotiating a developer contribution to bring forward the proposed upgrades to the public system as an option that may provide better overall value for the community and also reduce long-term operational and compliance risks. In short, connection of the whole site to the public system is Mr Cantrell's preferred option, however development of a stand-alone system is also plausible and acceptable (subject to obtaining the necessary NRC consents).
107. **Figure 10. Proposed on-site wastewater treatment facilities³¹**

³¹ Image source: Chester Report Figure 8-6, Pg. 21



On-site individual septic tanks

108. In a scenario where connection to neither a public nor private reticulated system is available, a third alternative is for lots to be serviced by individual septic tanks. Septic tanks are commonly used for larger rural lifestyle blocks across Northland and are proven systems. Mr Cantrell identifies that whilst such an option is again plausible, the minimum site size would need to be increased to provide sufficient room for individual site disposal fields. I recommend an amendment to the residential unit and subdivision rules to increase the minimum lot size to 3,000m² where reticulation is not available (which would align with the ODP requirement for non-reticulated sites in the Residential zone – rule 13.10.3a(b)).
109. The submission from the Northland Regional Council likewise raises concerns that the minimum site size should be increased if individual septic tank solutions are proposed. The NRC seek the minimum lot size be doubled to 2,000m² to ensure a 1,500m² disposal field along with land set aside for the building platform and curtilage. Mr Cantrell notes that in this scenario, due to the much larger site sizes required, the overall unit yield is likely to be much less than the 600 households currently proposed.
110. In my view whilst individual septic tanks are proven solutions for more isolated dwellings, I am cautious about the appropriateness and potential cumulative effects of relying on such solutions for a large urban area comprising several hundred lots. This is especially the case for a site that directly drains into the Harbour and where a key driver of the establishment of the Council’s reticulated network in Mangawhai was to reduce nutrient loading in the Harbour generated by the historically widespread use of septic tanks.
111. Given that both public and private reticulated supply options are feasible, I am reluctant to rely on the widespread use of septic tanks as an alternative solution. I accept that given the site’s varied topography, and the concept of grouping housing in amongst ecological restoration, that there may be occasional larger sites or small groups of houses that are better serviced via septic

systems than reticulation. This is especially the case if some larger rural lifestyle lots are proposed in response to further geotechnical investigations. However, in the main I recommend that future development should be reticulated. I therefore recommend several amendments to the provisions as follows:

- a) Improved policy direction that wastewater be reticulated;
- b) Increased minimum lot size to 2,000m² and an average of 3,000m² for both residential units (land use) and subdivision, where no reticulation is provided;
- c) Additional matters of discretion for non-reticulated systems to enable consideration of cumulative effects across the catchment.

112. In summary, I am satisfied that there is sufficient programmed capacity in the MCWWS to meet the likely servicing demand for the PPC84 site and other residentially zoned but unbuilt areas in Mangawhai. Connection to the Council system will however need to be staged to align with the physical build-out of plant capacity. As an alternative, an on-site private treatment plant is a plausible solution. Finally, whilst on-site septic tanks are a third solution and may be appropriate for isolated dwellings or small groups of houses, their application on a widespread basis is not recommended as being good practice for larger urban areas adjacent to sensitive harbour environments. If reliance on individual tanks was the only solution then I would be very cautious about recommending approval of the plan change without more information on cumulative effect risks. Given however that connection to reticulation (either public or private) is the preferred solution by both the applicant and Council, and that the applicant is well-advanced in seeking the necessary consents from NRC for a private system, I am satisfied that the site can be appropriately serviced for wastewater. Subject to the above recommended amendments, the proposed PPC84 provisions enable a detailed assessment of wastewater capacity and design at the time development occurs, and enable subdivision consents to be declined if sufficient capacity is not available and alternative solutions are not acceptable.

Submitter Name	#	Topic	Support/Op pose/Support in Part	Relief Sought
Wastewater				
D. Parker	11.3	Wastewater	Oppose in part	Submitter seeks for wastewater infrastructure upgrades to occur prior to enabling PPC84.
Horizon Surveying	20.4	Infrastructure	Support in part	Submitter seeks for caveats to be utilised, with the added requirement of a Master Plan Strategy to extend the Mangawhai Community Wastewater System and to establish a Mangawhai Wastewater Treatment Plant Advisory Group.

Submitter Name	#	Topic	Support/Op pose/Support in Part	Relief Sought
K. James & H. Canton	31.2	Wastewater and stormwater	Support in part	Submitter seeks a new provision in which stormwater and wastewater are disposed via land or wetlands to a maturation pond which also provides for stormwater with final discharge to the estuary.
K. Marment	32.6	Wastewater	Support in part	Submitter seeks for a provision to be included which directs that wastewater produced from the proposed development be treated onsite, and not directed to the Mangawhai Wastewater System. Provision for a water supply system that can cope with droughts without drawing from groundwater is also sought.
Northland Regional Council	49.2	Wastewater	Support in part	The submitter seeks that operative rule 13.14.6 – wastewater disposal in the district plan applies to development in the Mangawhai Hills Development Area and the alternative wording for the rule proposed in the plan change document is not adopted. Submitter also seeks that rules state a minimum of 2000m ² be required where no wastewater connection is available to ensure future development can provide 1500m ² of land per household for wastewater disposal within the net site area of the allotment.
S. Brabant	60.1	Wastewater	Oppose	The submitter requests a further wastewater assessment be undertaken and requests a more detailed report on the three wastewater options proposed with an independent validation on the feasibility of the options.
Mangawhai Church Trust	43.4	Wastewater	Support in part	Submitter seeks for further certainty that developments can be accommodated within the three waters reticulation.

Stormwater and Flood Hazard

113. 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, beyond a small stream that enters the site via a culvert beneath Tara Road opposite Domain Lane, and then connects with the waterway in the site's southwestern corner.
114. **Figure 11** below shows those parts of the site that are currently prone to flood risk under a 1:100 year event. The upper reaches are prone to river/ fluvial flood risk (darker blue), whereas the lower reaches are prone to coastal inundation (green).

115. Within the site the flood-prone areas are concentrated along the existing streams/ valley floors and the lower-lying land at the bottom (southern) end of the site adjacent to the Tara Road/ Moir Road intersection. I note that the areas at risk of flooding generally align with the 'green' areas shown on the proposed Structure Plan. Utilising flood prone land for ecological restoration rather than housing broadly aligns with the relief sought by NRC that the Structure Plan shows areas that are prone to flood risk.

116. **Figure 11. Flood hazards**³²



117. NRC have also sought that no residential building platforms or wastewater disposal areas be located within areas exposed to a 1:100 year event hazard area. Proposed rule DEV1-S12(1)(d) controls building platforms and requires that such platforms not be located within areas that are subject to inundation in a 2% AEP storm or flood event (equivalent to a 1:50 year event). Depending on any evidence provided by NRC, this clause could be amended to control platforms subject to a 1% AEP event if greater control of hazard risk was found to be necessary.

118. The Chester Report models stormwater volumes generated under current pastoral conditions and compares them with volumes likely under a full build-out of the proposal. The Chester Report recommends that development achieves stormwater runoff neutrality for the 100 year ARI rainfall event i.e. up to this event the site post-development generates no more stormwater volume than what currently occurs. A draft Stormwater Management Plan (**SMP**) for the site has been developed to inform the proposed PPC84 rules relating to stormwater management. The proposed rules (DEV1-S16) seek that individual sites provide retention of the first 5mm of rainfall for all impervious surfaces via infiltration or water reuse i.e. roof tanks, and provide detention of 1/3 of the 2 year ARI 24-hour rainfall event with a climate change component included and any retention volumes excluded.

³² Image source: Figure 4-1 Chester Report which in turn is derived from NRC region-wide natural hazard maps

119. The Chester Report has been reviewed by Mr Carey Senior of Awa Environmental Ltd on behalf of the Council (**Appendix 4**). Mr Senior agrees with the Chester Report’s description of the stormwater environment, the associated flood risks, the methodology underpinning the Chester Report’s analysis, and the appropriateness of the SMP produced by Chesters to guide catchment-wide outcomes. The Chester Report and Mr Senior’s review both recognise that discrete portions of 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. Mr Senior identifies that whilst proposed Rule DEV1-S16 is generally appropriate for effectively managing stormwater and flood risk, in order to align with the Flood Risk Assessment undertaken in the Chester Report, clause 1(b) should be amended to require detention to mitigate the 100-year ARI storm event³³, rather than the 1/3 of the 2 year ARI storm event.
120. It is noted that PPC84 as notified proposes to increase the ODP limit on impervious surfacing from 40% (for Residential Zones) to 50%. Mr Senior considers that the stormwater modelling and associated rule framework is sufficient to deal with any increased stormwater runoff generated by an increase in impervious surfaces to 50%.
121. In my view 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 the fragmented nature of the ownership of the southern end of the site. 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.
122. Whilst the key focus has been on managing stormwater volumes, the quality of stormwater is also important, especially as it discharges directly into the Harbour. 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 discharge³⁴. 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.

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
Stormwater				

³³ ARI is the average time period between floods of a certain size. For example a 100 year ARI will occur on average once every 100 years. Alternatively, AEP is the probability of a certain size of flood flow occurring in a single year i.e. 1% AEP.

³⁴ <https://acrobat.adobe.com/id/urn:aaid:sc:ap:9733d2ea-fc47-4889-93cc-3033bc2cc000>

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
C. and R. Owen	5.8	Stormwater	Support in part	Submitter seeks for greater holding capacity on site.
C. and R. Owen	5.9	Stormwater	Support in part	Submitter seeks for impermeable service limits to be reduced.
C. and R. Owen	5.10	Stormwater	Support in part	Submitter seeks for council to investigate and implement future proofing the stability and stormwater on Tara Road for any proposed development.
G. Arnerich	14.1	Stormwater	Oppose	Delete PPC84 in its entirety.
D. Parker	11.4	Stormwater	Oppose in part	Submitter seeks for a comprehensive assessment to be undertaken which seeks to determine the hydrology of the stormwater catchment. The submitter also seeks for a more comprehensive flood hazard risk assessment be undertaken.
K. & S. Gow	28.3	Stormwater	Support in part	Submitter seeks for stormwater drainage designed to capture runoff.
Mangawhai Matters Society Inc.	44.1	Stormwater	Support in part	Submitter seeks for either the Kaipara District Council or the developer to provide "whole of site" primary and secondary stormwater system installation as part of this application.
T. Harris	68.2	Stormwater	Oppose	Delete PPC84 in its entirety.
W. & F. MacLennan	70.3	Floodwater Management	Oppose	Submitter seeks a further assessment is undertaken which determines potential flooding effects on Tara Road.
Northland Regional Council	49.3	Flood Hazard	Support in part	Submitter seeks for the precinct plan to show areas subject to a 1:100 ARI and to disallow residential building platforms or wastewater disposal areas within the 1:100 ARI flood hazard areas.

Servicing rule framework

123. The proposed PPC84 rules framework is intended to work as follows:

- DEV1-R19 provides for subdivision. Subdivision has a base status as a restricted discretionary activity. Somewhat unusually, the subdivision matters of discretion do not include the ability to consider 3-waters servicing.

- In order to retain restricted discretionary status, subdivision applications need to comply with a number of standards (DEV1-S10, S12-17). Where any of these standards are not met the subdivision becomes a fully discretionary activity;
- DEV1-S15 sets out the requirements for water supply, DEV1-S16 for stormwater management, and DEV1-S17 for wastewater. The base activity status of these rules is permitted provided the rule is met, and restricted discretionary where it is not;
- The proposed rule framework therefore means that in the event that the 3-waters rules are complied with, there is no ability for Council to consider the detailed design of the water system in question via the subdivision consent process;
- I am unclear as to whether this consequence is intentional or not. I am uncomfortable with the proposed rule framework including a pathway by which Council has no opportunity to assess the detail of the proposed 3-waters systems and note that robust analysis of infrastructure design and capacity was an issue raised by a number of submitters. I therefore recommend that consideration of 3-waters infrastructure be added as a matter of discretion, in a similar way in which the layout of roads is a matter of discretion (DEV1-R19(b)), despite road layout also being a matter that is subject to DEV1-S14;
- For stormwater specifically, DEV-S16 specifies the key target or outcomes for stormwater solutions to deliver. Clause(1)(a) seeks a volume reduction of a minimum of 5mm for impermeable surfaces. Clause (1)(b) specifies detention, and is recommended to be amended by Mr Carey as set out above;
- Clause (1)(c) requires system design to be in accordance with the Council’s engineering standards;
- Where either these requirements are not met, or are part of a restricted discretionary subdivision consent, the matters of discretion set out the range of things Council can assess in determining the adequacy or not of the proposed stormwater system;
- Of particular note, clause (2)(g) enables an assessment of the extent to which the proposed design meets the Mangawhai Hills Development Area Stormwater Management Plan i.e. the document that the Chester Report is based upon. I understand from Mr Senior that it is well-established practice for Councils in the Upper North Island to prepare (or have applicants prepare) catchment-based stormwater management plans. These plans are reviewed and accepted by Council engineering staff as being an appropriate tool box for managing stormwater outcomes across the given catchment. SMPs value is that they enable ad hoc or disconnected development in the same catchment to be assessed cumulatively or as an integrated system so that across the catchment acceptable stormwater outcomes are achieved.

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
Infrastructure				

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
Berggren Trustee Co Ltd	4.12	Infrastructure	Oppose in part	Submitter seeks for the provisions of the Development Area to clearly provide for the infrastructure servicing options.
Mangawhai Matters Society Inc.	44.3	Infrastructure	Support	The submitter seeks for provisions to be included in the assessment of all subdivision applications consequential to PPC84 which clarifies how the cost of infrastructure is to be funded, in particular what level of the Development Contributions component from each lot is set as the lot owner's financial contribution to the public cost of public infrastructure to service the development. This is to include: roading, wastewater, freshwater and stormwater infrastructure.
F. Lienert	13.2	Infrastructure	Oppose	Submitter seeks for council to consider infrastructure and roading.
S. & J. McInteer	59.2	Utilities	Support in part	Add – no further information given.

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

124. The National Policy Statement for Freshwater Management (**NPS-FM**), and the associated National Environmental Standards for Freshwater Management (**NES-F**), 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.
125. The application included an ecological assessment prepared by Ms Brittany Price from Bioresearches Ltd³⁵. The ecological assessment included a walk-over of the northern two thirds of the site, but did not include site visits to the southern rural lifestyle properties, with the ecological values of these properties inferred from a review of aerial photography and available literature. Ms Price's report identified that the site has a long history of farming use and as such the ecology of the site consists of extensive areas of exotic pasture grasses, along with watercourses and seepage wetlands, areas of native and mixed native and exotic bush, and garden areas associated with lifestyle dwellings. The Bioresearches report first assessed terrestrial ecological values (primarily focused on the remnant bush areas), and then provided a separate assessment of freshwater ecological values (primarily focussed on the waterway and remnant wetland areas).

³⁵ PPC84 application, Appendix 11

126. The terrestrial assessment identified that a large 14.7ha bush remnant adjacent to old Waipu Road has high ecological value³⁶, with a nearby 6.5ha mixed native/ exotic bush area on the northeastern edge of the site having moderate values. Other bush remnants were considered to be of low value due to their small size, degraded nature and minimal understorey due to cattle browsing.
127. The Bioreserches report did not undertake specific surveys of lizards, birds, or bats. The assessment of habitat suitability for these species was therefore based on a literature review of surveys in the wider area, and Ms Price's experience regarding habitat suitability for supporting various types of wildlife. Ms Price identified that the two large bush remnants contain high quality habitat for indigenous lizard species, albeit that the separation of the bush from larger areas and lack of connectivity decreases the ability for stable populations to persist³⁷. Ms Price assessed the two large bush remnants as having moderate habitat value for native birdlife and she considered it to be unlikely that at-risk or threatened bird species are present within the site, even on an intermittent basis. Neither long-tail or short-tail bats were expected to utilise the site given the nature of the bush species present.
128. In terms of freshwater ecological values, Ms Price identified two main watercourses fed by a network of seepage wetlands. Ms Price undertook a survey of in-stream fish and invertebrate species. Short-fin eel and bullies were present, but no long-fin eel or inanga/ whitebait species were identified. Ms Price concluded that³⁸:
- Overall, the watercourses within the PPC area were considered to be of a low-moderate ecological value based on the limited riparian vegetation and stock-damaged that has resulted in the formation of degraded wetland environments, polluted water quality, poor macroinvertebrate scores and presence of only common indigenous and pest fish. Due to the close proximity of the site to the coast, the ecological value as been assessed as low-moderate due to the possibility of at-risk migrant fish being present.*
129. The site contains a number of seepage wetlands. These areas were assessed by Ms Price as meeting the definition of a wetland under the NPS-FM and NES-F, with the ecological value of the wetlands assessed as being low due to the dominance of exotic species, stock damage, and the lack of any buffer planting³⁹. A larger wetland identified from aerial photography in the southwest corner of the site was assessed as potentially containing high values due to the raupō-reedland ecosystem type having an endangered threat status and the wetland having the potential to be utilised by at risk or threatened bird species as habitat.
130. In summary, the large native bush remnant is assessed as having high ecological value, as is the wetland in the southwest corner of the site. The mixed native/ exotic bush remnant is assessed as having moderate value, whilst the waterways, wetlands, and small bush remnants are assessed as having either low or negligible ecological values. The location of these features is summarised in **Figure 12** below⁴⁰.
131. **Figure 12: Existing ecological features**

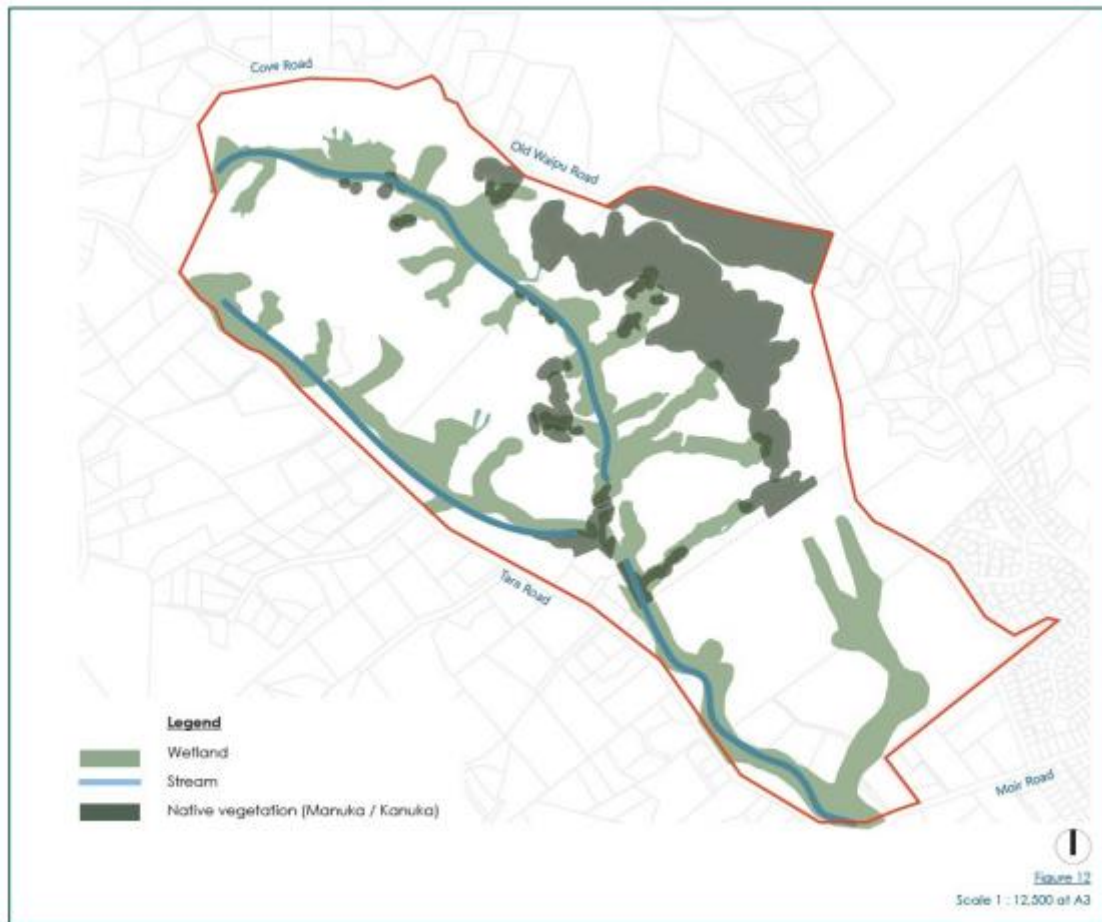
³⁶ Bioreserches Report, pg. 12

³⁷ Ibid, pg. 17

³⁸ Ibid, pg. 21

³⁹ Ibid, Pg. 21

⁴⁰ PPC84 Appendix 4 Urban Design Assessment, Figure 12



132. The Bioresearches report then assessed the effects (and benefits) of the proposal on ecological values. The plan change proposed to utilise approximately 85ha of land for ecological protection and restoration including the protection of the large bush remnants and the planting and protection of 10m wide riparian margins (as required under the NES-F). Ms Price concluded that the proposed plantings should result in a significant improvement in ecological connectivity of habitat areas, and the quantity and diversity of native vegetation. This additional planting, in combination with the removal of stock from riparian and wetland areas, means that in her view the plan change should result in a large net gain/ positive ecological effects.
133. The Bioresearches report has been reviewed by Dr Stephen Brown from Wildland Consultants Ltd on behalf of the Council (attached as **Appendix 7**). Dr 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 PPC84. He has likewise confirmed that the Bioresearches report’s conclusions generally align with his own on-site observations regarding the parts of the site that contain ecological value.
134. Whilst being in general agreement, Dr Brown identifies a number of differences in his conclusions:
- a) He confirms the need to undertake a robust ground-truthing of the southern third of the site in order to assess ecological values of this area⁴¹;
 - b) He considers that the site may well provide habit for fernbird (provisionally identified on the site by Dr Brown) and Australasian bittern⁴². Accordingly he recommends that the

⁴¹ The need for ground-truthing the southern area was also raised by Berggren #4, Warden #26

⁴² Also referenced by Warden #26

PPC84 provisions include as a matter of discretion the ability to assess controls on domestic cats and dogs⁴³;

- c) He considers that the larger exotic trees and kanuka may provide a habitat for bats, and as such a bat survey should be undertaken prior to development occurring;
- d) The proposed walking and cycle trails through the native bush area will need to be designed to minimise adverse ecological effects;
- e) He identified several areas of potential wetland not identified in the Bioresarches report (shown in Figure 1 of Dr Brown’s evidence). Given that these potential areas are relatively discrete, there would be benefit in such an assessment being undertaken prior to the hearing in order to inform whether any amendments to the Structure Plan are necessary; and
- f) He considers that some wetlands may have low-moderate or moderate value depending on their size and habitat value i.e. wetland ecological significance is potentially more nuanced than that described in the Bioresarches report.

135. Whilst Dr Brown differs on certain matters in terms of the values of the existing environment and as a consequence the steps necessary to maintain these values, he is in general agreement that the plan change will result in ecological gains should development occur in accordance with the Structure Plan. He likewise agrees that the proposed rezoning will not cause adverse effects on freshwater values (assuming the required consent processes are followed under the NES-F), and that the removal of stock and the revegetation of riparian and wetland areas will likely result in the enhancement of freshwater values.

PPC84 ecology-related rules and the NPS-FM, NES-F, NPS-IB

136. The plan change is based on the delivery of outcomes that are in general accordance with the Structure Plan, with a key component being a significant enhancement of on-site ecological values and the protection of existing bush, riparian, and wetland areas. Given the ecological values present on the site, it is important to have confidence that the proposed rule framework will be effective in delivering the outcomes sought.

137. Of relevance to ecological outcomes, the proposed provisions include the following policy framework:

DEV-O1	Mangawhai Hills Development Area
Sustainable and environmentally conscious residential living opportunities are provided for in the Mangawhai Hills Development Area whilst ecological, landscape, amenity, servicing and transportation effects are managed.	
DEV1-O4	Indigenous Biodiversity
Identify, protect and promote the restoration and enhancement of indigenous biodiversity within the Mangawhai Hills Development Area	
DEV1-O5	Freshwater Management
Subdivision and development are undertaken in a manner that adopts an integrated approach to the effects of land use and development on freshwater values.	
DEV1-P3	Ecological Values

⁴³ The need to control cats and dogs was also raised by Owen #5

<p>Protect, and promote the restoration and enhancement of the values of natural wetland features, intermittent and permanent streams, and indigenous vegetation identified within the site when undertaking subdivision and development, with particular regard to:</p> <ol style="list-style-type: none"> 1. Maintaining and enhancing the interconnected network between the ecological features. 2. Riparian restoration and extension of ecological linkages. 3. Methods of enhancement and permanent protection of the indigenous terrestrial and freshwater biodiversity values of the Development Area. 4. Appropriate building setbacks. 5. Management of earthworks and vegetation clearance. 6. Management and treatment of stormwater. 	
DEV1-P6	Subdivision
<p>The Mangawhai Hills Development Area provides for high quality subdivision that implements the Mangawhai Hills Structure Plan where:</p> <ol style="list-style-type: none"> 1. The subdivision and development identifies, protects and promotes the restoration and enhancement of the full extent of natural wetland features, intermittent and permanent streams, and indigenous vegetation and related buffer areas. 	

138. I consider that the proposed policy framework provides an appropriate level of direction as to the outcomes sought. The policies are then implemented via a series of rules.

139. DEV1-R7 controls earthworks. Whilst earthworks are proposed to be controlled in the Landscape Protection Area, there is no such limitation on earthworks in either the large native bush areas or within wetland or riparian areas. Whilst such works are separately controlled under the NES-F (for freshwater habitats), it appears incongruent with the policy outcomes to enable earthworks as a permitted activity in such areas. I consider that restricted discretionary status is appropriate given that the issues at hand are discrete/ limited to consideration of ecological values. Such an activity status enables proposals to undertake earthworks in native bush, riparian, and wetlands areas to be assessed on a case-by-case basis. It is therefore recommended that an additional clause be added to the rule, along with an additional matter of discretion, as follows:

DEV1-R7(d) There are no earthworks located within the Existing Native Vegetation areas, Streams, or Riparian Restoration areas within the Mangawhai Hills Structure Plan.

DEV-R7(2)(i) Effects on ecological values.

140. DEV1-R8 controls indigenous vegetation clearance. Such clearance is permitted unless it is located with the 'Existing Native Vegetation areas' shown on the Structure Plan, or is part of a continuous area of predominantly indigenous vegetation that is both greater than 3m in height and greater than 50m² in area (which would exclude wetland and riparian areas due to the plant height criteria). Removal is also permitted within all areas where it falls within a list of exceptions which include the formation of walking tracks up to 3m wide, fencelines, utilities, fire breaks by fire authorities.

141. I do not consider the removal of indigenous vegetation from wetlands and riparian margins or the formation of 3m wide walkways through the northeastern bush area which has high ecological values to be appropriate as a permitted activity. I therefore recommend that this rule be amended to exclude vegetation clearance as a permitted activity in these areas.

142. The implementation of the above rules on earthworks and vegetation removal relies on the Structure Plan being broadly accurate in terms of the geographic extent of bush and riparian/wetland features. I therefore support Dr Brown's recommendation that the additional areas of potential wetland identified on his site visit would ideally be assessed prior to the hearing so that the Structure Plan could be confirmed as being generally accurate. Given that the applicant's experts do not have access to the southern portion of the site, I accept that the extent of ecological areas for the southern portion can only be indicative in nature, however as the southern area primary and secondary roads largely avoid wetland areas this lack of ground-truthing may not be as material.
143. DEV-S7 requires building setbacks of 10m from wetlands and streams, and 5m from the edge of any riparian, wetland, or indigenous planting, with these provisions dovetailing well with NES-F requirements.
144. DEV1-R19 controls subdivision. The base activity status is restricted discretionary, increasing to fully discretionary where the rule standards are not met. The rule includes a requirement to demonstrate *“(d) Native revegetation planting to a minimum of 10m from the edge of natural wetlands, intermittent and permanent streams, and indigenous vegetation identified within the Mangawhai Hills Structure Plan is established”* and *“(e) Any amenity landscape feature, bush area, indigenous vegetation planting is protected”*. It is assumed that clause (d) is intended to apply to the ecological restoration of features within the stage that the subdivision consent covers, otherwise a discrete subdivision in the north of the site will not technically be able to comply due to not delivering ecological restoration in the south of the plan change area.
145. The subdivision rule matters of discretion include matter *“(f) Measures and mechanisms for ownership and maintenance to protect, restore and enhance all indigenous terrestrial and freshwater biodiversity values”*.
146. The PPC84 provisions include a section setting out the information requirements that are expected to accompany a consent application. DEV1-REQ2 sets out the subdivision matters. Clause (2) includes a requirement that *“any subdivision consent application shall be supported by an Ecological Planting and Management Plan prepared by a suitably qualified ecologist to ensure that existing natural features and ecological values on site are appropriately enhanced, protected and maintained as part of the site development”*. The clause then goes on to list the matters to be included in that plan, including the mechanisms for ensuring indigenous vegetation is protected in perpetuity and how restoration plantings are to be established and maintained. The list of matters to be addressed is generally appropriate, however relying on Dr Brown's recommendations I would add an additional line item under DEV1-REQ2(2)(c)(v) as follows: *the need for any controls on domestic cats and dogs to protect native wildlife.*
147. I likewise consider that the information requirements should include details of any proposed road crossings over wetlands and waterways, noting that the applicant's assessment is based on any such crossings utilising existing culverts or incorporating bridges and arched culverts in order to minimise effects on these features: *An assessment of effects on freshwater and ecological values from the design of road crossings over waterways and wetlands and the degree to which proposed alignments make use of existing culverts and/or incorporate bridges and arched culverts.*
148. I note that whilst the Ecological Planting and Management Plan would encompass methods for managing effects on vegetation clearance and earthworks where these activities are undertaken as part of subdivision works, land use activities can be undertaken separately, or in

advance of, subdivision. As such it is important to have separate controls on these activities as set out above.

149. 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 Plan and the regulations contained within the NES-FM which are administered by the Northland Regional Council.
150. The NPS-IB came into effect on 4th August 2023 i.e. after the PPC84 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.
151. Of particular relevance to PPC84, 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.
152. 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”.
153. The NPS-IB means that particular care needs to be taken to retain and restore freshwater habitats, and that there is no overall loss in indigenous biodiversity.
154. 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.
155. 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;
 - 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.
156. 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.
157. The NPS-FM is implemented via the NES-F which sets out a set of nationally consistent rules that control activities that could potentially affect freshwater environments. Ms Cohen from Awa Environmental Ltd has provided an assessment of the NES-F rules as they pertain to the PPC84 site (**Appendix 8**).

158. In summary, the NES-F controls, as a restricted discretionary activity, the following activities where they occur within the specified setbacks from a waterway or freshwater wetland and would result in changes to the hydrological function of the wetland:
- vegetation clearance (10m);
 - earthworks (100m);
 - taking, use, damming or diversion of water (100m); and
 - discharging of water (100m).
159. Compliance with the required setbacks relies first on having accurately defined the geographic extent of wetlands. The application proposes that any road crossings required over waterways and wetlands will be bridges or arched culverts (with existing farm culverts utilised where possible), in order to avoid full or partial wetland drainage. The construction of roads is nonetheless likely to require vegetation removal, earthworks, and land disturbance adjacent to wetlands and waterways and therefore it is considered highly likely that the proposal will trigger the need for NES-F consents from the NRC.
160. Whilst restricted discretionary activity implies that the activity is broadly anticipated (subject to site-specific assessment), the NES-F sets a high bar for such applications to be granted under NES-F s.45C(6):

(6) A resource consent for a restricted discretionary activity under this regulation must not be granted unless the consent authority has first—

- (a) satisfied itself that the urban development—
 - (i) will contribute to a well-functioning urban environment; and
 - (ii) will provide significant national, regional, or district benefits; and
- (b) satisfied itself that—
 - (i) there is no practicable alternative location for the activity within the area of the development; or
 - (ii) every other practicable alternative location in the area of the development would have equal or greater adverse effects on a natural inland wetland; and
- (c) applied the effects management hierarchy.

161. Given the high bar, it would be efficient if the additional potential wetlands identified by Dr Brown were able to be assessed prior to the hearing to add confidence that the road layout shown on the Structure Plan has a good prospect of being able to be delivered by being able to plausibly obtain the necessary consents under the NES-F.
162. The NES-F likewise controls discharges of both stormwater and treated wastewater to rivers and wetlands. Ms Cohen identifies that the area necessary for the on-site discharge of treated wastewater may affect both the volume and quality of water entering the upper reaches of the central stream and associated wetlands and as such may present consenting challenges under the NES-F. It may well be that by the time of the hearing that a decision has been issued by the NRC on the proposed on-site wastewater plant, or that the applicant is able to provide the Panel with an update on how the application for regional consents is progressing.
163. Overall, the NES-F provisions set a high bar for approving applications that would adversely affect freshwater river and wetland environments. Provided that the proposed road layout on the Structure Plan is aligned to avoid wetlands as far as possible, I consider that there is a plausible consenting pathway available to enable the Structure Plan to be successfully delivered.

164. In conclusion, the site contains a number of both bush and waterway/ wetland features that currently contain a range of ecological values from low to high. The protection and restoration of these features is a critical element of the PPC84 proposal and therefore it is important to have confidence that the outcomes proposed are capable of being delivered through the PPC84 provisions. In addition to the ODP provisions, the NES-F and associated controls in the Northland Regional Plan provide a complementary layer of control, particularly for freshwater ecosystems. Subject to the amendments set out above and the need for additional assessment of several discrete areas of potential wetland, I am comfortable that the provisions, in combination with the NES-F, are sufficient for appropriately managing ecological effects. I likewise recognise that both ecologists agree that if the outcomes sought through PPC84 are successfully implemented then there is a high likelihood that the plan change will deliver a significant enhancement of ecological values and positive environmental benefits.

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
Ecology				
Berggren Trustee Co Ltd	4.2	Freshwater	Oppose in part	Submitter seeks for DEV1 – P5 to be amended as it has no specific rules to secure the stated outcomes.
Berggren Trustee Co Ltd	4.11	Ecology	Oppose in part	Submitter seeks for any provisions relating to terrestrial vegetation, wetland and other freshwater resources need to acknowledge that what is shown on the Structure Plan is indicative only and not ground truthed. Submitter seeks for a more detailed assessment prior to the development at the submitters site with related objectives, policies or rules recognising this
C. and R. Owen	5.3	Ecological	Support	Submitter seeks for a new comprehensive pest plan to be implemented for both pest animals and pest plants. The pest plan should consider species protection and should seek to enhance existing protection and promote responsible pet ownership awareness.
J. Warden	26.1	Ecology	Support in part	Submitter seeks for further clarification as to locations of confirmed wetland areas within the PPC84 area.
J. Warden	26.6	Ecological	Support	Submitter seeks for greater consideration be had for the protection of ecological features, with respect to animal controls.
J. Warden	26.2	Indigenous vegetation	Support in part	Submitter seeks for further consideration of areas assessed in the Ecological Impact Assessment with consideration to indigenous vegetation.
J. Warden	26.3	Fauna Habitat	Support in part	Submitter seeks for greater consideration be given to potential avifauna species which may reside within

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
				the PPC84 area and be at greater risk than assessed in the EIA.
J. Warden	26.5	Setbacks	Support in part	Requests further consideration of setback rules to manage the effects on wetland features.
J. Warden	26.6	Ecological	Support	Submitter seeks for greater consideration be had for the protection of ecological features, with respect to animal controls.
K. Marment	32.1	Environment	Support in part	Submitter seeks vegetation to be retained, with particular regard to existing vegetation near wetlands which feed the Tara Stream.
K. Marment	32.2	Environment	Support in part	Submitter seeks for “skyline view” from all direction—ie Tara Road and Mangawhai protected and no structures built on skyline.
K. Marment	32.3	Environment	Support in part	Submitter seeks for 45% of land to be zoned as “green zones” with public access via walking or biking.
N. Campbell	47.2	Zoning	Oppose	The submitter seeks for the described area to be zoned or covenanted as Native Bush Reserve.
N. Campbell	47.4	Zoning	Oppose	Submitter seeks for the area of the ridge proposed to be zoned residential, to be retained as rural, or be zoned as public reserve, or bush reserve.

Transportation/Traffic Effects on the Roding Network

165. Concerns relating to traffic, the proposed road connections, and the provision of adequate cycling and walking links were raised by a large number of submitters in opposition to the Plan Change⁴⁴. PPC84 included an Integrated Transport Assessment (ITA) prepared by Mr Kelly from Traffic Planning Consultants Ltd (**TPC report**) dated May 2023. The TPC report has been reviewed on behalf of the Council by Ms Rachel Gasson from Commute Transportation Consultants Ltd (**Appendix 6**). I understand that in undertaking her assessment, Ms Gasson 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.

⁴⁴ Submitters 2, 3, 4, 11, 13, 14, 27, 28, 57, 58, 60, 62, 68, 73

166. There is agreement between Ms Gasson and Mr Kelly that there is no crash history in the surrounding road network that would indicate any systemic safety issues with the existing road layout and operation under current traffic volumes. Both experts likewise agree that from a transport perspective the site is well located to promote walking and cycling given the site's proximity to Mangawhai Village/ Moir Street and the emerging commercial centre in Mangawhai Central. The experts confirm that there is no public transport bus service available in Mangawhai, although school buses to high schools in Wellsford and Maungaturoto run along Moir Street, Tara Road, and Cove Road.
167. Ms Gasson identifies two main concerns with the assumptions underpinning the applicant's transport assessment. The first concern is that the ITA has been based on the traffic generated by an overall yield of up to 600 additional dwellings. The 600-household figure is simply the applicant's 'best guess' at likely yield, and whilst I agree that it appears reasonable, there is no rule that limits housing to this number. Ms Gasson therefore recommends the inclusion of a staging rule to require a further ITA, should the cumulative development across the plan change area generate more than 600 dwellings. I understand Ms Gasson's key concern being that the modelling underpinning the applicant's assessment needs to be sensitivity tested to ensure that in the event that, say, 700 houses are ultimately built, the road network will still function to an acceptable standard. In my experience such trigger rules can be challenging to enforce as it requires Council to maintain a rolling database of the number of dwellings being consented in a given area. It also means that the obligation to undertake a fresh ITA falls on the person building for example the 601st dwelling which can be disproportionate when only a handful of dwellings above the trigger are proposed.
168. That said, I agree that there would be benefit in the applicant's modelling being sensitivity tested to provide comfort that the adjacent roading network will continue to function adequately in the event that overall yield is somewhat higher than what is currently estimated. Ideally this sensitivity testing could be undertaken by the applicant's transport expert prior to the hearing. If additional modelling and associated safety assessments can demonstrate that there is a reasonable buffer above 600 households before any unacceptable transport effects arise then there would be no need to introduce a staging rule or household cap.
169. Ms Gasson's second concern is that the applicant's ITA is based on the road network shown on the Structure Plan being implemented i.e. it is based on the effects arising following the formation of all of the proposed road links including in particular a proposed connection to Moir Street in the south of the site and a proposed future connection to Mangawhai Central to the east. Given the fragmented ownership of the southern half of the site, and the lack of certainty regarding the formation of connections to the south and east, Ms Gasson identifies the need for the ITA to assess the effects arising from a scenario where the plan change area is largely built out but the provision of a fully connected network is delayed or is unable to be implemented in its entirety.
170. The key movement direction is north to south, with future residents looking to access Moir Street/ Mangawhai village and school, or alternatively travelling to and from the emerging commercial centre in Mangawhai Central and Mangawhai Heads via Molesworth Drive. The proposed structure plan looks to facilitate these key movements via a north-south primary road that connects to Moir Street via the church site, and secondly an east-west primary road that links to the northern portion of Old Waipu Road. From there, the east-west connection could link to Molesworth Drive via either Old Waipu Road being physically formed along its length to the south (noting that the middle section is currently unformed paper road), or alternatively

linking into the top end of Mangawhai Central via an as-yet-to-be formed (or consented) connection.

171. I understand that Ms Gasson supports the proposed primary and secondary road network shown on the Structure Plan. In particular she supports the north-south and east-west primary roads which divide the site up into quarters. Her concern is that several key connections may not be able to be completed for some time. There are two key gaps in the proposed road network concerning the ability to link first to Moir Street, and secondly the ability for Old Waipu Road to be formed along its length and/or a connection formed into the top of Mangawhai Central.
172. The southern connection to Moir Street relies on being able to gain access through the church land. Legal road currently extends into the church site (shown as green in **Figure 13** below). This length is formed and visually appears as the church's driveway but is legally held by the Council as vested road. There is a separate short length of disconnected and unformed paper road that runs along the eastern edge of the site/ rear of the residentially zoned properties accessed off Old Waipu Road (shown in blue)⁴⁵. There is a short gap of approximately 90m between the two portions of legal road, shown as a red circle. The structure plan envisages the blue section being stopped and realigned a little to the west to provide a residential section-deep row of lots between the proposed realigned road and the eastern edge of the plan change area. Alternatively, the current blue alignment could be retained, with a new connection formed between the blue and green sections.
173. **Figure 13. Southern Moir Street connection**



174. The Church have submitted on the plan change⁴⁶. They support the plan change and associated rezoning of their land, provided infrastructure can be provided, and critically provided that the proposed southern access road does not pass through their site. They identify that they hold resource consent for a substantial church complex including a 502 seat auditorium, separate

⁴⁵ This section of paper road is sought to be retained as green space by Marshall #7, Bolton #10, Jenner #12, Lienert #13, Gow #28, Francis #29, Campbell #47

⁴⁶ Mangawhai Church Trust, operating as the Causeway Church #43

100 seat chapel, ancillary office buildings, a preschool for up to 100 children, and an associated carpark for 126 vehicles. They consider that the provision of a primary road and associated traffic movements would not be compatible with their aspirations for their site.

175. Ms Gasson has confirmed with NTA that the alliance does not seek to use Public Works Act mechanisms to acquire non-strategic sections of local roads. As such the formation of the southern link to Moir Street is reliant on a private commercial agreement being reached between the applicant and the Church (which judging from the Church's submission appears unlikely at this point in time). Due to a combination of the size of the Church's landholdings, local topography, fragmented ownership, and the location of waterways and wetlands in the southwestern corner of the site, the purple secondary road shown connecting to Moir Street to the west of the Council recreation land is likely to face similar implementation challenges. There therefore appears to be no other plausible routing options for creating a southern road link to Moir Street.
176. Turning to the east-west connection, there is no issue with being able to form a connection from the site to Old Waipu Road itself, given that the site directly adjoins the upper section of Old Waipu Road (**Figure 14**). Adjacent to the northeastern corner of the site, Old Waipu Road is physically formed as a metaled road that functions as a short cul-de-sac providing access to several rural lifestyle properties located on the northeastern side of the road. Upgrading the formation of this section of road to create a link north to Cove Road appears relatively straight forward. The key issue is that whilst helpful, access to Cove Road is not the key movement direction. In order for Old Waipu Road to form a link to Mangawhai Village, it is necessary to connect the northern section of the road to the southern formed portion (shown in green), via the middle unformed section of the road (shown in red).

177. **Figure 14. Old Waipu Road connection.**



178. Whilst a legal paper road exists, it is understood that the underlying topography and alignment is potentially challenging for delivering a safe and efficient road link. The Council does not currently have any funding allocated in its Long Term Plan for the formation of this link.

179. An alternative to utilising Old Waipu Road is to form a link east towards the top of the Mangawhai Central area, and link into that internal road network to in turn access south to Molesworth Drive. I understand that there are no consented plans to create the necessary road network within this part of Mangawhai Central.
180. Whilst ideally one or both of these key road links would be formed at an early stage of the development of PPC84, this is by no means certain. As such there is a strong possibility that much of the site will be developed with the only plausible road link to the village being via Tara Road. Ms Gasson notes that the applicant's ITA modelling was based on an assumption that the other road links would be available, and therefore made a relatively small allocation of new trips to Tara Road (equivalent to the traffic generated by 50 households). The ITA confirmed that under this light additional load, the Tara Road/ Moir Street intersection would continue to perform adequately. Pending further sensitivity testing, Ms Gasson is of the preliminary view that Tara Road is likely to still perform to acceptable standards but that the Tara Road/ Moir Street intersection will be likely to require upgrading to manage safety outcomes.
181. Ms Gasson therefore recommends that further sensitivity testing is undertaken to better understand the safety and functioning of the adjacent road network in the event that one or both of the key new routes is not available. Ideally the applicant's transport expert would be able to undertake this additional modelling prior to the hearing. If additional modelling and safety assessments shows that the adjacent road network will continue to perform adequately then there would be no need for additional rules to manage transport outcomes. If alternatively significant safety and/or efficiency (congestion) effects would arise then depending on the findings there may be a need to either introduce a staging rule to cap the number of houses that are able to be developed prior to these other routes being formed, or a rule requiring the Tara Road/ Moir Street intersection and/or the east-west primary road intersection with Tara Road be upgraded to cope with the increased traffic loading.
182. If the applicant is unable to provide further sensitivity testing in advance of the hearing, then the alternative would be to introduce a rule that requires such testing to be undertaken once 50 new houses are proposed, to align with the modelled allocation in the applicant's current ITA. Such a rule would only be triggered by future development under a scenario where the proposed new routes are not able to be delivered. Given the potentially significant increase in traffic that might be generated onto Tara Road, I am reluctant to rely solely on the subdivision consent process and associated matters of discretion for managing this effect, as there appears to be few (if any) alternative routing options available if further modelling identifies significant safety or efficiency effects that cannot be easily mitigated.
183. Given the likely ongoing importance of Tara Road as the primary means of accessing the site, Ms Gasson identifies that the provision of pedestrian and cycle connections between the site and the village is critical⁴⁷. There is an existing footpath on the western (far) side of Tara Road that currently extends from the Moir Street intersection north to where it currently terminates some 270m short of Damah Lane (shown in green on **Figure 15**). She recommends that a rule be included to ensure this footpath is extended north to align with the site's proposed east-west primary road connection to Tara Road (opposite the Moana Views cul-de-sac – shown in red). In the event that the southern connection through the Church site is not available, Ms Gasson recommends that the footpath be widened to enable it to function as shared path for cyclists. She also recommends that given the footpath is on the far side of Tara Road, that a pedestrian crossing facility also be installed at the intersection of Tara Road and the new

⁴⁷ Enhanced pedestrian footpaths on Tara Road were sought by Arnerich #14

primary road. These are matters that are generally able to be resolved via the subdivision consent process. For this site, given that Tara Road is the primary (and potentially only) means of up to 600 households accessing the village and school, having confidence that safe pedestrian and cycle facilities will be available assumes greater importance than what would be the case if there were multiple alternative routes available. As such I am comfortable recommending the inclusion of such a rule, in the event that the preferred southern connection through the Church is not confirmed by the time development starts.

184. Ms Gasson identifies that the intersection of the proposed new east-west primary road and Tara Road (opposite Moana Views – shown in blue circle in **Figure 15**) will require upgrading at an early stage of development. The design and nature of such upgrades will depend on the early delivery of alternative routes to spread traffic load, otherwise this intersection will be required to function as the primary access into the wider site⁴⁸.

185. **Figure 15. Tara Road pedestrian and cycle facility and intersection upgrade**



186. As a planner and urban designer, I note that if the southern connection cannot be formed, then there is a risk that new households located in the southern third of the site will need to travel some distance north to reach the internal east-west road, before then looping back south via Tara Road in order to be able to access the village (see **Figure 16**). This arrangement requires people to travel some distance out of their way and potentially negates much of the site's locational advantages of being located in close proximity to the village. I therefore recommend that the Structure Plan be updated to show two further indicative road access points onto Tara Road to minimise the extent of the 'loop' journey (shown as blue arrows).

⁴⁸ Enhanced intersection upgrades (or alternative road locations) were sought by Owen #5, Mitchell #16, Van Niekerk #18, Moynihan #33, Wilson #65, Neal #72

187. **Figure 16. Loop routing required if southern connection is not available**



188. I readily acknowledge that these locations have not been ground-truthed and that there may be topographical or other reasons why such provision in these general locations is not practical. They likewise will require bridging over the existing waterway which may present consenting challenges. I am therefore very open to the applicant proposing alternative solutions/ locations for reducing the extent of the loop journey in the event that the southern connection is unable to be delivered.
189. Ms Gasson seeks a number of refinements to the proposed internal road dimensions set out in PPC84 Tabel DEV1.1 to better provide for pedestrians and road function. I rely on Ms Gasson’s opinion as to the appropriate widths and facilities in terms of amendments to the Table. Ms Gasson likewise recommends amendments to the number of dwellings that can be serviced off private accesses. I understand that it can be problematic for Council when private accesses are developed incrementally, or larger lots subsequently further subdivided, such that the number of dwellings tips over into requiring the vesting of an access that has been formed to private driveway standards rather than road standards.
190. Overall, the proposed structure plan roading layout is supported from a transport perspective, with the concerns resting primarily on whether or not the external links can be delivered. It appears that there *may* be adequate capacity in the existing road network in the event that these links cannot be provided, however this needs to be confirmed via further sensitivity testing by the applicant of their modelling. Tara Road is likely to be a key road corridor in the event that either or both of the alternative access routes are not available. As such it is important that pedestrian and cycle facilities are delivered along this road, along with the potential need to upgrade the Tara Road/ Moir Street intersection to ensure it continues to operate in a safe and efficient manner.
191. Further modelling will inform the content of the rule package. If that further modelling is not able to be undertaken by the applicant prior to the hearing, then a staging rule could be used to conservatively cap development to no more than 50 houses prior to the southern access

being secured, with the cap triggering a sensitivity test to determine the extent of traffic effects if additional traffic movements are loaded onto Tara Road.

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
Transport				
A. van Niekerk	2.3	Transport	Oppose	Submitter opposed any site access directly opposite the entrance to Moana Views at 161 Tara Road. Submitter seeks for council to reject this part of the proposal.
B and S. Pulham	3.1	Transport	Oppose	Submitter opposes rezoning of land to Residential Zone. Does not specify requested relief.
B and S. Pulham	3.2	Transport	Oppose	Submitter opposes the proposed Mangawhai Development Area as shown on the 5.1 Structure Plan in particular the proposed indicative Access and Movement Network..
B and S. Pulham	3.3	Transport	Oppose	Submitter opposed the proposal that “any necessary consequential amendments to the KDC Plan Maps” is permitted as part of PC84.
Berggren Trustee Co Ltd	4.3	Transport	Oppose in part	Submitter seeks for the inclusion of provisions which set out a clear trigger for when the Primary Road needs to be connected between Cove Road and Moir Street.
	4.9	Transport	Oppose in part	Submitter seeks for Development Area provisions to be included to secure required road upgrades recommended in the Transportation Assessment.
C. and R. Owen	5.4	Transport	Oppose	Submitter opposed any site access directly opposite the entrance to Moana Views at 161 Tara Road. Submitter seeks for council to reject this part of the proposal.
D. Bolton	10.2	Zoning	Oppose	Retain the paper road as greenspace in its entirety. Retain existing planting and create a densely vegetated between the proposed development and the top of the existing Vista Verano Subdivision.

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
D. Parker	11.2	Roading	Oppose	Submitter seeks for residential expansion to be focused to the southeast of the district.
E. Jenner	12.1	Zoning	Support in part	Submitter seeks for the existing 20 metre paper road width be retained as reserve and planted accordingly.
G. Arnerich	14.2	Roading	Oppose	Delete PPC84 in its entirety.
G. Mitchell	16.3	Transport	Oppose	Submitter opposes any site access directly opposite the entrance to Moana Views at 161 Tara Road. Submitter seeks for council to reject this part of the proposal.
J. Warden	26.8	Public Access	Support	Submitter seeks for additional pedestrian access north along Cove Road to be incorporated into the scheme plan.
K. & S. Gow	28.1	Reserve	Support in part	Submitter seeks a reserve to be implemented the width of the paper road OR alternatively the submitter requests covenants which restricts building to single storey dwellings
G. Van Niekerk	18.3	Transport	Oppose	Submitter opposed any site access directly opposite the entrance to Moana Views at 161 Tara Road. Submitter seeks for council to reject this part of the proposal.
J. Warden	26.7	Roading	Oppose	No specific decision requested.
K. & S. Gow	28.4	Roading and transport	Support in part	Submitter seeks for the road widths for new roads within the PPC84 development be consistent with current Council Standards.
K. & S. Gow	28.4	Roading and transport	Support in part	Submitter seeks for adequate design is implemented on the Moir Road/ Ulrich Drive intersection.
K. & S. Gow	28.6	Roading and transport	Support in part	Submitter seeks for alternative design for the Old Waipu Road/Molesworth Drive.
K. Francis	29.1	Roading and transport	Oppose	Amend – no decision specified.
K. Marment	32.4	Roading and Transport	Support in part	Submitter seeks for streets to include shared paths for cyclists and pedestrians.
K. Moynihan	33.3	Roading	Oppose	Submitter opposed any site access directly opposite the entrance to Moana Views at 161 Tara Road.

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
				Submitter seeks for council to reject this part of the proposal.
M. Hewitt	39.3	Transport	Oppose	Submitter opposed any site access directly opposite the entrance to Moana Views at 161 Tara Road. Submitter seeks for council to reject this part of the proposal.
Mangawhai Church Trust	43.2	Roading and transport	Oppose	The submitter seeks for the removal of any primary or secondary roads from the submitter's property in their entirety.
Moana Views Committee	45.3	Transport	Oppose	Submitter opposed any site access directly opposite the entrance to Moana Views at 161 Tara Road. Submitter seeks for council to reject this part of the proposal.
N. Campbell	47.3	Zoning	Oppose	Submitter seeks for the paper road to be used as a walkway and cycleway.
N. Gestro	48.1	Zoning	Oppose	Submitter seeks for further clarification of the plans for Old Waipu Road North, and any possible connection to Old Waipu Road. The submitter also seeks for the developer to clarify how the proposed road can intersect with Old Waipu Road.
N. Gestro	48.2	Zoning	Oppose	Submitter seeks greater clarification of the paper road and how it will be managed in relation to the proposed plan change.
S. Brabant	60.1	Roading and transport	Oppose	Submitter seeks for an independent traffic report be undertaken.
S. Hartley	62.1	Roading and transport	Support in part	Submitter seeks for further consideration of alternative transport/movement options which extends beyond the immediate surrounding environment to connect to other destinations.
S. Hartley	62.2	Roading and transport	Support in part	Submitter seeks for key cycle destinations such as the primary school, Mangawhai Central, Mangawhai Village, the estuary and the hotel should be explicitly recognised and provided for.
S. Hartley	62.3	Roading and transport	Support in part	The submitter seeks for cycle linkages into Mangawhai Central be recognised and provided for to

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
				avoid the need for major intersections upgrading and multi lane roads. Submitter seeks that this connection to Mangawhai Central is provided through the provision of an explicit precinct rule without which no direct motor vehicle link to Old Waipu Road should be permitted.
S. Hartley	62.4	Roading and transport	Support	Submitter seeks for development contributions to supplement the improvements needed to support the PPC84.
T. & J. Wilson	65.3	Transport	Oppose	Submitter opposed any site access directly opposite the entrance to Moana Views at 161 Tara Road. Submitter seeks for council to reject this part of the proposal.
W. Neal	72.3	Transport	Oppose	Submitter opposed any site access directly opposite the entrance to Moana Views at 161 Tara Road. Submitter seeks for council to reject this part of the proposal.
N. Campbell	47.1	Transport	Oppose	Submitter seeks the paper road becomes a native reserve, with Council records of native bush areas updated to include this area.

Urban Design, Urban Form and the NPS-UD

192. The National Policy Statement on Urban Development (**NPS-UD**) provides high level national 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.

193. 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.

194. 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.

195. 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 environment⁴⁹. 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 environment⁵⁰.
196. 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.
197. 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

198. 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/ upper end of the Mangawhai Harbour 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 Harbour 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 baches and holiday homes, along with a large camping ground and golf course.
199. 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 Central⁵¹ (**PPC78**), with the PPC78 plan change building on an earlier 'Estuary Estates' plan change in 2007. Mangawhai Central currently

⁴⁹ 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>

⁵⁰ PPC81 Hearings Panel recommendation to Council, 28 July 2023, para. 54-55

⁵¹ See ODP, Appendix E for the Mangawhai Central Structure Plan

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.

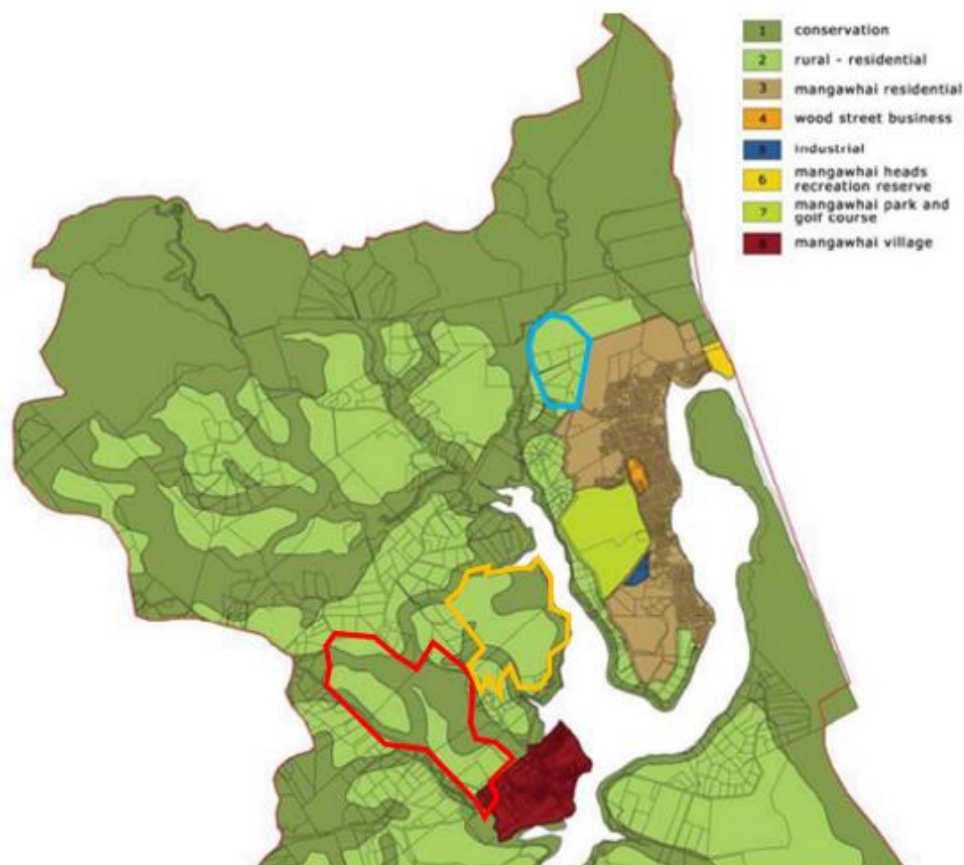
200. A new pedestrian/ cycle bridge has been recently completed running alongside the road bridge that connects Mangawhai Central to Mangawhai Heads, with the Council in the process of constructing a stated walking/ cycle path running along Molesworth Drive. Mangawhai is now functionally becoming a single township comprised of three, linked, nodes that collectively wrap around the northern and western sides of the Harbour.

ODP Structure Plan/ Growth Area - Mangawhai

201. 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 17** below. It identifies the site as being suitable for a mix of 'rural-residential' development and conservation.

Figure 17. ODP structure Plan for Mangawhai (PPC84 in red, PPC83 in blue, Mangawhai Central in orange)

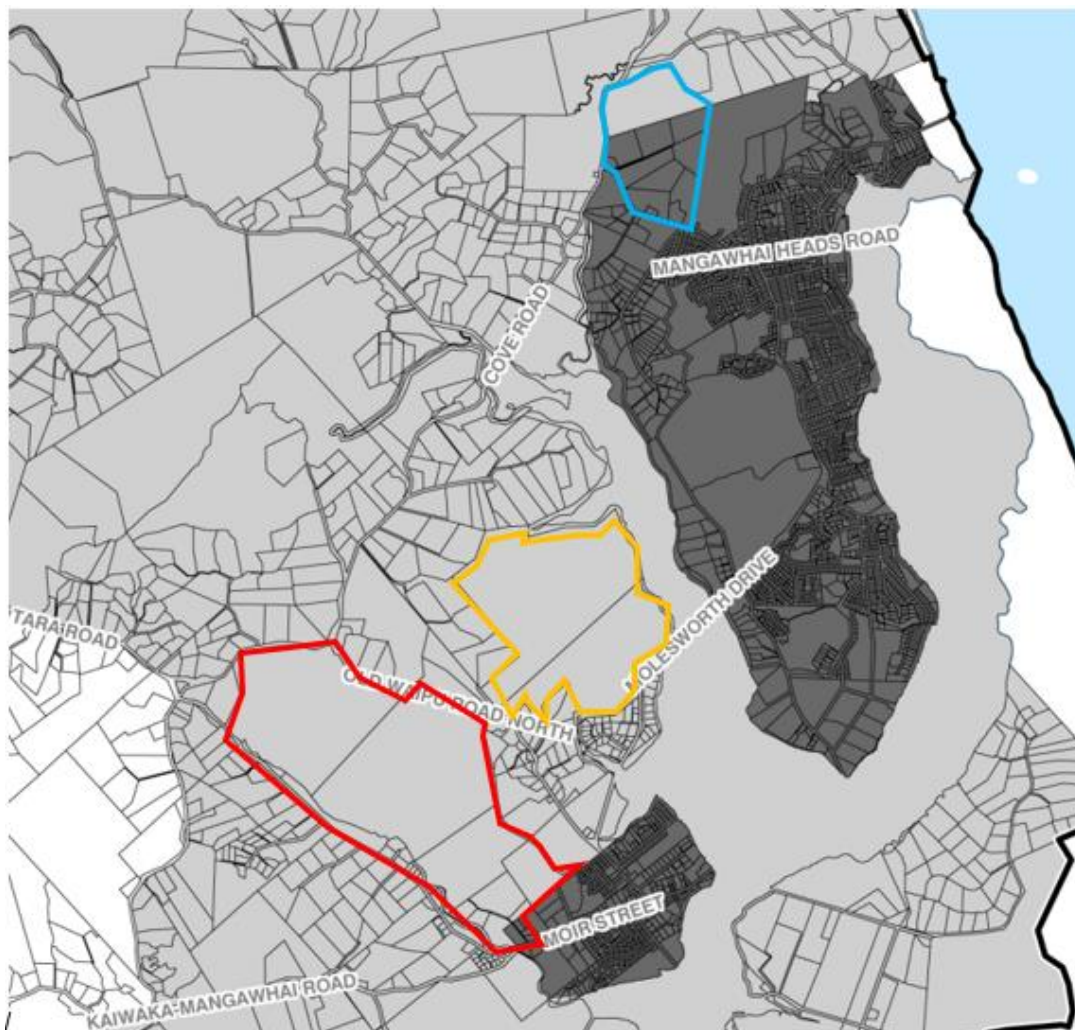
Figure 3A-1: Mangawhai Structure Plan - Policy Areas



202. The ODP also includes maps that identify anticipated growth areas for various townships in Appendix A to the ODP (**Figure 18** below). The Appendix A map for Mangawhai does not identify

the site as a growth area (just as Mangawhai Central and the northern third of PPC83 are not identified).

203. In my view both the Chapter 3A suture plan and the Appendix A map are quite outdated. Significant growth has occurred outside of the areas identified 20 years ago. That said, PPC84 does propose that a substantial area of land be set aside for conservation activities and that the overall density across the site is lower than that typically found in urban environments (whilst being somewhat higher than in rural residential contexts).
204. The application includes an assessment of PPC84 against the ODP Chapter 3A policy provisions⁵². 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.
205. **Figure 18. ODP Appendix A growth areas (shown in dark grey)**

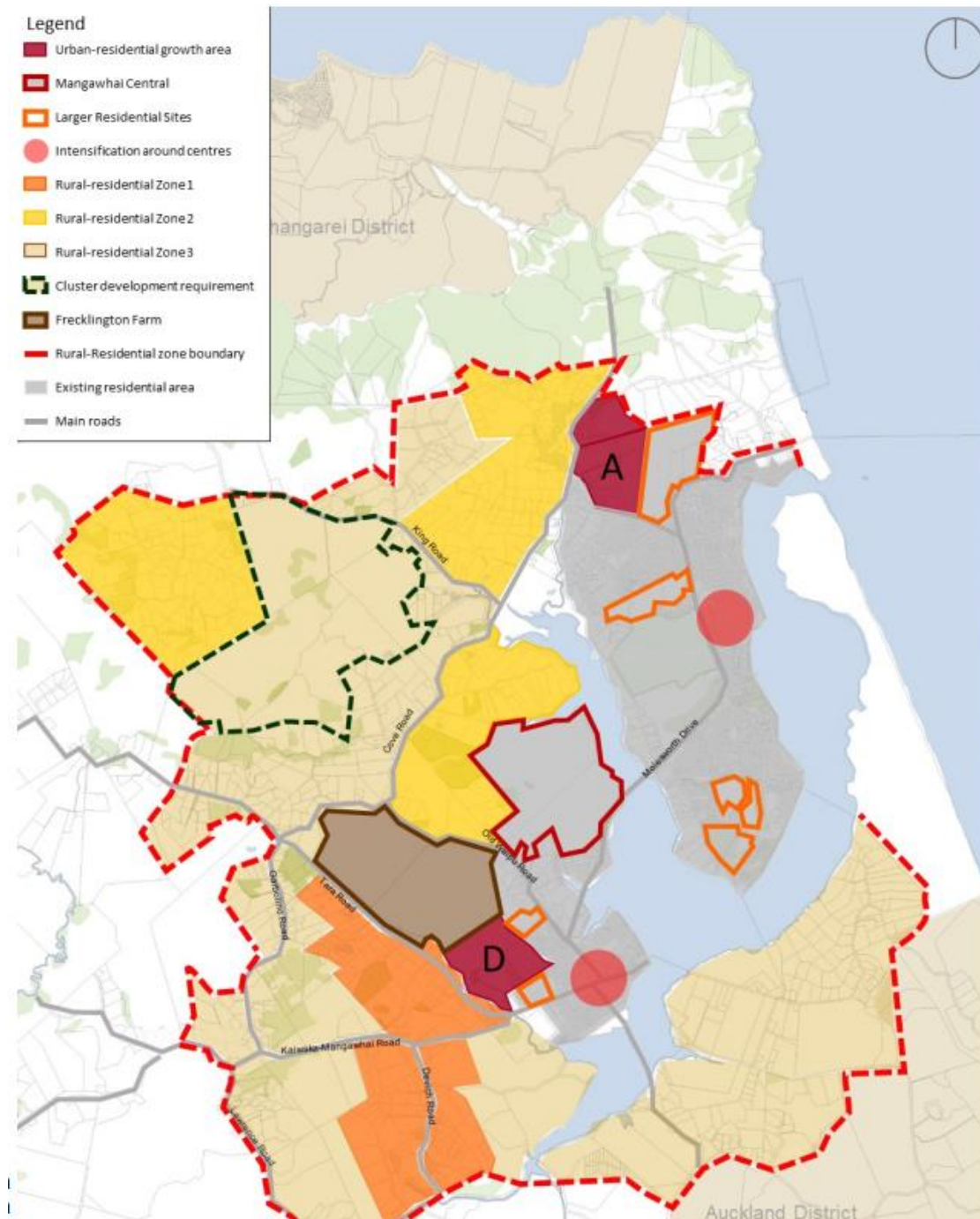


⁵² PPC84 s32 assessment, section 7.3

Mangawhai Spatial Plan 2020⁵³

206. 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 19** below.

207. **Figure 19. Mangawhai Structure Plan Growth Options⁵⁴**



208. 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

⁵³ <https://www.kaipara.govt.nz/uploads/spatial%20planning/Mangawhai%20Spatial%20Plan.pdf>

⁵⁴ 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 PPC84, the spatial plan identifies the southern third of the site as being one of two priority growth areas for urban density residential activity (shown in red as 'Area D'). It anticipated development of Area D to be to 600m²/ lot minimums, with an overall yield of approximately 300 dwellings. The northern two thirds (shown in brown) is explicitly identified as 'Frecklington Farm'. Figure 3-4-6 of the Mangawhai Spatial Plan includes Frecklington Farm in a 'rural-residential' category yielding 79 lots, which aligns with the number of lots that were proposed via a subdivision consent that was before Council at the time the Spatial Plan was being prepared. The Spatial Plan therefore appears to be reflective of the development proposals that were in process at the time the spatial plan was prepared, in combination with the extent of wastewater servicing programmed at the time.

209. 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 spatial plan identified that the two growth areas were the most suitable locations for residential development⁵⁵. Importantly, the spatial plan recognised the need for rezoning to be subject to the more comprehensive assessment that is now occurring through PPC84.
210. Whilst PPC84 necessarily focusses on the site in question, it does so in the context of this wider spatial planning exercise which has examined growth location options across the wider area. This broad assessment has identified that the southern end of the PPC84 site is one of the two most suitable locations in the township for accommodating future growth.
211. PPC84 is less well aligned with the Spatial Plan in terms of the northern part of the site, where rural-residential outcomes are anticipated. In essence the Spatial Plan proposes 600m² suburban densities in the south and rural residential densities in the north whereas PPC84 takes a more bespoke or nuanced approach of mixing density with large-scale ecological restoration across the entire block. In doing so it increases the overall yield from 380 lots to 600. I consider that PPC84 provides a more considered/ detailed assessment of how the block might be developed than the high-level Spatial Plan, whilst nonetheless remaining broadly consistent with the outcomes sought whereby the site transitions from its current rural condition to a mix of suburban and larger lot outcomes. I note that the overall higher yield is only possible due to the northern area now being able to be serviced by reticulated wastewater through either matching staging with Council wastewater treatment plant upgrades or through developing a private treatment plan – neither of which were options at the time the spatial plan was developed.

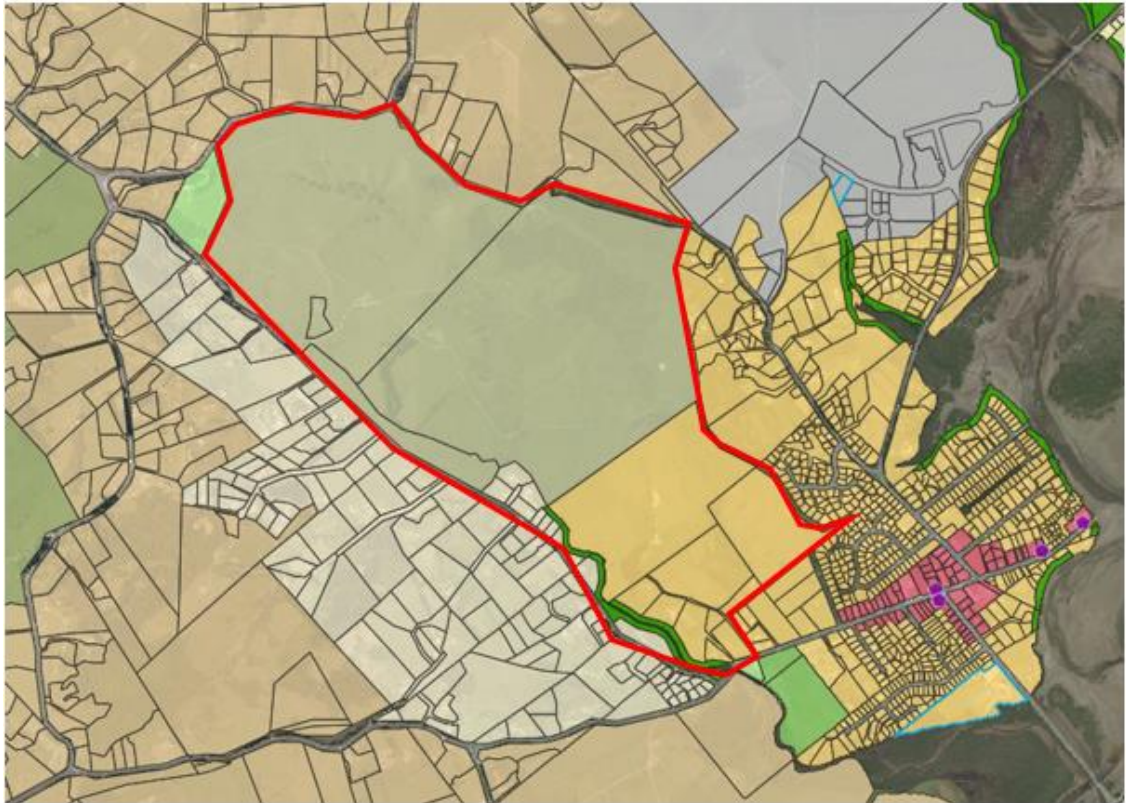
Proposed District Plan (PDP)

212. 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**). The exposure draft zoning for the site is shown

⁵⁵ Mangawhai Spatial Plan 2020, pg. 27

in **Figure 20** below. The southern third of the site is shown as having a medium density residential zoning (orange), with the northern two thirds having a General Rural Zoning (olive green). Land to the west of Tara Road has a Large Lot Residential Zoning, as does the strip of lifestyle blocks on the eastern side of tara Road (light grey). The land to the north and east is shown as a Rural Lifestyle Zone (light brown), with Mangawhai Central shown as dark grey.

Figure 20. Exposure draft zoning of the site



213. 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 Spatial 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. PPC84 is consistent with this integrated approach for the southern third of the site, and proposes a more bespoke outcome with its own wastewater servicing solution for the northern two thirds.

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
Zoning				

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
A. van Niekerk	2.1	Zoning	Support in part	Seeks for council to either reject rezoning from Rural to Residential or amend the rezoning to Rural-Residential zone 1.
A. van Niekerk	2.2	Zoning	Support	Retain non-residential aspects of the development proposed.
C. and R. Owen	5.1	Zoning	Support in part	Submitter seeks council either reject the proposed zone change, OR request that the area under PPC84 be zoned as Rural-Residential Zone 1.
C. and R. Owen	5.2	Zoning	Support in part	Retain non-residential aspects of PPC84 as notified.
G. Mitchell	16.1	Zoning	Support in part	Seeks for council to either reject rezoning from Rural to Residential or amend the rezoning to Rural Residential Zone 1.
G. Mitchell	16.2	Zoning	Support	Retain non-residential aspects of the development proposed.
G. van Dalsum	17.1	Zoning	Support	Retain PPC84 in its entirety as notified.
G. Van Niekerk	18.1	Zoning	Support in part	Seeks for council to either reject rezoning from Rural to Residential or amend the rezoning to Rural Residential Zone 1.
G. Van Niekerk	18.2	Zoning	Support	Retain non-residential aspects of the development proposed.
Horizon Surveying	20.1	Zoning	Support	Retain proposed rezoning of PPC84 land from rural to residential as notified.
Horizon Surveying	20.2	Zoning	Support	Retain the and Structure Plan as notified.
Horizon Surveying	20.3	Zoning	Support	Retain the proposed zone change and Structure Plan as notified.
K. & S. Gow	28.2	Zoning	Support	Submitter requests for setbacks to be introduced.
K. Moynihan	33.1	Zoning	Support in part	Seeks for council to either reject rezoning from Rural to Residential or amend the rezoning to rural residential zone 1.
K. Moynihan	33.2	Zoning	Support	Retain non-residential aspects of the development proposed.
M. Bell	38.1	Zoning	Support	Retain PPC84 in its entirety as notified.

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
M. Hewitt	39.1	Zoning	Support in part	Submitter requests Council reject this Plan Change request and that Frecklington Farm remain within the Rural Zone. Alternatively, an amendment for rezoning from residential to rural-residential zone 1 is sought.
M. Hewitt	39.2	Zoning	Support	Retain non-residential aspects of the development proposed.
Moana Views Committee	45.2	Zoning	Support	Retain non-residential aspects of the development proposed.
R & J. Panhuis	53.1	Zoning	Support	Retain PPC84 in its entirety as notified.
R. Burgess	54.1	Zoning	Support	Retain PPC84 in its entirety as notified.
S. & J. McInteer	59.1	Zoning	Support in part	Amend – no further information given.
S. Manwaring	63.1	Zoning	Support	Retain PPC84 in its entirety as notified.
T. & J. Wilson	65.1	Zoning	Support in part	Seeks for council to either reject rezoning from Rural to Residential or amend the rezoning to Rural Residential Zone 1.
T. & J. Wilson	65.2	Zoning	Support in part	Retain non-residential aspects of PPC84 as notified.
W. Neal	72.1	Zoning	Support in part	Seeks for council to either reject rezoning from Rural to Residential or amend the rezoning to rural-residential zone 1.
W. Neal	72.2	Zoning	Support in part	Retain non-residential aspects of PPC84 as notified.
D. Bolton	10.1	Zoning	Oppose	Submitter seeks for the land owned by the Causeway Church to remain zoned as rural until landowner provides a detailed plan for consideration. Any development on their site should be separated from the existing developments.
D. Parker	11.6	Density	Oppose in part	The submitter seeks for density to be consistent with the draft DP zoning which is a mix of GRZ and MDRZ.
J. Archer	21.1	Zoning	Oppose	Delete PPC84 in its entirety and retain rural-residential zoning.
J. Bloggs	22.1	Zoning	Oppose	Amend – does not specify

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
Moana Views Committee	45.1	Zoning	Oppose	Submitter requests Council reject this Plan Change request and that Frecklington Farm remain within the Rural Zone. Alternatively, an amendment for rezoning from residential to rural-residential zone 1 is sought.
Rachel. McQuerry	57.1	Zoning	Oppose	Delete PPC84 in its entirety.
T. Harris	68.1	Zoning	Oppose	Delete PPC84 in its entirety.
W. & F. MacLennan	70.2	Zoning	Oppose	Submitter seeks for the proposed development to be consistent with the Mangawhai Spatial Plan.
L. Leslie	76	Zoning	Oppose	Retain current zoning as per operative Kaipara District Plan.

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

214. 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?

215. 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.

216. 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.

217. A number of submitters raised concerns that further development was not needed to meet demand in Mangawhai⁵⁶. 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 9**. 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 PPC83 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.
218. I accept Mr Foy's conclusion that PPC84 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?

219. 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 services⁵⁷ that constitute a genuine township rather than a commuting dependant dormitory suburb⁵⁸.
220. 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.
221. The ongoing development of Mangawhai Central will add additional retail (and employment) opportunities. The 2020 spatial plan identified the need for further additional business land to be made available, particularly along the Molesworth Drive road corridor connecting Mangawhai Village to Mangawhai Heads, in addition to new community facilities such as a library and Council offices/ meeting space. The spatial 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

⁵⁶ Muller #51, others as general comments questioning the need for the plan change

⁵⁷ NPS-UD, Policy 1(c)

⁵⁸ The need to also provide schools and community facilities is raised by Gow #28, Muller #51, McQuerry #57, Hanna #67, Leslie #76

students currently have to travel to Wellsford (Rodney College) or Maungaturoto (Otamatea High School).

222. Ms Paula Renner (#52) has sought that their 1ha property at 110 Moir Street be rezoned to Commercial (shown in red in **Figure 21** below). As noted above, the merit of this submission is subject to considerations of scope. Provided scope is available, then I consider that, relying on the evidence of Mr Foy regarding the need for additional commercial land, 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. I agree with the submitter that the site is well located relative to the existing Village centre and that Moir Street currently functions as a mixed-use corridor leading into the township.

223. **Figure 21. Location of 110 Moir Street**



224. In the event that the Panel determine that the submission is beyond scope, I note that under the proposed PPC84 provisions the submitter would have the option of applying for a resource consent as a discretionary activity. The key policy tests being that the proposal would maintain acceptable amenity outcomes for neighbours and that retail distribution effects on the existing village centre would be appropriately managed. This considering pathway would be significantly easier than that provided under the current Rural Zone policy and rule framework.
225. 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 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.

226. PPC84 includes provision for commercial, education, and community facilities where they maintain the amenity of the adjoining residential activities, with their scale and size restricted in order to maintain the vitality and vibrancy of the existing commercial zones within Mangawhai (DEV1-O6 and DEV1-P7).
227. The policy direction is then implemented via rules that provide for home businesses (DEV1-R3), visitor accommodation (DEV1-R4, up to 6 guests), and a small 'community hub' located at the internal crossroads of the two primary roads as shown on the Structure Plan (DEV1-R5). The community hub rule requires individual activities to be no larger than 250m² GFA, and the cumulative net floor area of these activities across the *Mangawhai Hills Development Area* to not exceed 1,000m² net floor area. Proposals that exceed these requirements become fully discretionary activities.
228. I note that the church site already holds a resource consent for a mix of spiritual, preschool, and office/ community activities that will take up the full net floor area allocation. As the church site is included within the plan change area any new non-residential activity (including any within the community hub) will automatically trigger a fully discretionary resource consent which is not the intent of the rule. The constraint placed on the ability to deliver the proposed community hub is identified as an issue by the Berggren Trustee Co Ltd (Submitter #4). Given Mr Foy's evidence that there is a proportionate shortfall of such activities, combined with the clear intent of the plan change to enable the establishment of a central community hub, I consider that the rule should be amended if scope permits. Such an amendment could be as simple as amending clause 4 so that there is a permitted pathway for activities *within the community hub* up to 1,000m², with activities located elsewhere in the plan change subject to a fully discretionary status through not meeting clause (2) i.e. they are not located in the community hub, as follows:

DEV1-R5(4)(a) The cumulative total of commercial activities, educational facilities, and community facilities within the Community Hub area on the Mangawhai Hills Structure Plan Mangawhai Hills Development Area does not exceed 1000m² net floor area.

229. 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 PPC84 homes are likely to 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.

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
Community facilities / reserves				

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
Berggren Trustee Co Ltd	4.6	Community Facilities	Oppose in part	No specific decision requested.
Mangawhai Matters Society Inc.	44.4	Community Infrastructure, Parks and Reserves	Support in part	The submitter seeks that the process for considering the PPC84 application include and provide for an opportunity for the public and for the Council to consider options to work with the developer which lead to the establishment of either a separate entity or for Council to take responsibility for land areas including picnic and recreational areas, ridge esplanade strip, walking tracks and outstanding bush areas.
D. Parker	11.5	Reserves and recreational spaces	Oppose in part	Submitter considers that an agreement between developer and council on facilities such as neighbourhood reserves is required.
K. & S. Gow	28.7	Schooling	Support	Submitter seeks for a new local high school to be built in the Mangawhai Area.
P. Renner	52.1	Zoning	Support n part	Rezone the submitters property at 110 Moir Street as Commercial.

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

230. 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.
231. The PPC84 application included both urban design and landscape assessments⁵⁹ prepared by Barker and Associates and Greenwood Associates respectively. Both of these reports are comprehensive and address the necessary matters relevant to their topic.

Range of housing typologies and density

232. The ODP currently sets a land use rule for residentially zoned 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 Overlay⁶⁰. 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. PPC84 is consistent with this established requirement.

⁵⁹ PPC84 Application, Appendix 4 (Urban Design) and Appendix 5 (Landscape)

⁶⁰ Rule 13.10.3a

233. The proposal will not facilitate a range of housing typologies given that the minimum site size will invariably give rise to stand-alone family homes. There is still likely to be a range in densities and lot sizes, however this range will be towards larger lots rather than smaller sites. Given the site topography in combination with its potential wastewater servicing via a private plant, I acknowledge that increased density/ smaller sections may not be appropriate for this site.
234. **Landscape change:** Any rezoning of 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.
235. The PPC84 concept is not framed as a standard suburban subdivision. Instead it is envisaged that new housing areas will be set within the extensive ecological enhancement and vegetated areas. As such visually I consider that it will integrate well with both the township to the south and rural lifestyle development in the wider area, which likewise consists of housing set within extensively landscaped gardens and rural small holdings.
236. The Landscape Report identifies a number of natural features such as bush and riparian/ wetland areas and includes a recommendation that these be retained. These recommendations overlap with the ecology outcomes discussed above and in essence mean that there is both a landscape and ecological rationale underpinning the Structure Plan and rule package that shows these natural features being retained and enhanced.
237. The Landscape Report identifies that a part of the site is located on the eastern side of a ridgeline that runs along the northeastern edge of the site. These eastern flanks are more visually prominent. The PPC84 Structure Plan shows this area as a ‘Landscape Protection Area’. I note that neither the ridgeline or the eastern flanks are identified in the ODP as being an Outstanding Natural Landscape or protected ridgeline. The southern end of the ridgeline merges with already residentially zoned parts of Mangawhai, with several rural lifestyle properties located along the top of the ridge (at the northern end of old Waipu Road) and lower down the eastern flanks.
238. There is no proposed policy direction regarding this area. There are three rules that provide more bespoke controls on development within this area. The first is DEV1-S2 which controls building height. The standard height limit is proposed to be 8m, with this reducing to 5m for buildings within the Landscape Protection Area, which functionally restricts buildings to being a single storey with a low-profile roofline⁶¹.
239. The second rule is DEV1-R7 which controls earthworks. This rule includes a specific matter of discretion (clause (2)(h)) that enables Council to consider “effects on the overall form, integrity and extent of the Landscape Protection Area from land modification” when assessing earthworks in this part of the site.
240. The third rule sets out a requirement that buildings not contain mirror glazing and be finished in colours/ cladding that has a reflectance value of less than 25% and a roof value that is less than 20% (DEV1-S9(2)). Reflectance values are a tool for measuring how much light is reflected back. Dark colours reflect less, whilst lighter colours reflect more and therefore are more visually prominent. As an example a house on a hill that is painted white will be much more

⁶¹ Greater setbacks from the ridgeline are sought by Mangawhai Matters #44, Campbell #47

visually obvious than one that is painted dark green or charcoal. In my experience controls on reflectance values are becoming increasingly common in District Plans for sites in visually prominent locations. The major paint companies and cladding suppliers have easily accessible tables/ pamphlets that set out the reflectance values of their products. I therefore consider the proposed controls on reflectance values to be both appropriate and readily enforceable.

241. Whilst the additional provisions relating to the Landscape Protection Area are a relatively light touch, the majority of this area is shown on the Structure Plan as being a mixed exotic/ native bush that the ecological reports identified as having moderate ecological values. The combination of the Structure Plan showing a limited portion of this area as being suitable for housing, combined with rules that limited vegetation removal, mean that the key controls on development in this area are via the provisions relating to ecology rather than landscape.
242. Outside of the Landscape Protection Area, rule DEV1-S9(1) requires buildings to again not include mirror glazing, with at least 70% of the external surface having a reflectance value of less than 35% and roofs with less than 20%⁶².

Submitter Name	#	Topic	Support/Op pose/Support in Part	Relief Sought
Urban design /landscape				
A. van Niekerk	2.4	Urban Design – colour pallet	Support	Submitter seeks for provisions to be included which direct the colour pallet of residential housing.
Berggren Trustee Co Ltd	4.10	Landscape and Urban Design	Oppose in part	Submitter seeks for cultural elements of landscape values to be included in the Development Area Provisions.
C. and R. Owen	5.5	Urban Design – colour pallet	Support in part	Submitter seeks for provisions to be included which direct the colour pallet of residential housing.
G. Mitchell	16.4	Urban Design – colour pallet	Support	Submitter seeks for provisions to be included which direct the colour pallet of residential housing.
G. Van Niekerk	18.4	Urban Design – colour pallet	Support	Submitter seeks for provisions to be included which direct the colour pallet of residential housing.
K. Moynihan	33.4	Urban Design	Support	Submitter seeks for provisions to be included which direct the colour pallet of residential housing.
M. Hewitt	39.4	Urban Design – colour pallet	Support	Submitter seeks for provisions to be included which direct the colour pallet of residential housing.
Moana Views Committee	45.4	Urban Design – colour pallet	Support	Submitter seeks for provisions to be included which direct the colour pallet of residential housing.

⁶² The need for rules controlling building colour were raised by submitters Berggren #4, Owen #5, Mitchell #16, Van Niekerk #18, Moynihan #33, Wilson #65, Neal #72

Submitter Name	#	Topic	Support/Op pose/Support in Part	Relief Sought
T. & J. Wilson	65.4	Urban Design – colour pallet	Support	Submitter seeks for provisions to be included which direct the colour pallet of residential housing.
W. Neal	72.4	Urban Design – colour pallet	Support	Submitter seeks for provisions to be included which direct the colour pallet of residential housing.
Mangawhai Matters Society Inc	44.2	Ridgeline Development	Support	Submitter seeks for Kaipara District Council to consider taking into ownership an equivalent of an esplanade reserve along the top of the ridge part of the subject land. The submitter also seeks that setbacks from the reserve are implemented rather than from the edge of the ridge.

243. **Perimeter Road frontage treatment:** The proposed PPC84 provisions include rules to require a minimum building setback of 5m from road boundaries (DEV1-S5) and low or visually permeable fencing (DEV-S6) throughout the development. For lots that have frontage to the external permitter roads that face towards rural or lifestyle areas (Cove Road, Rara Road, and Old Waipu Road), there is an additional requirement to provide a continuous landscape strip along the road frontage (excluding driveway accesses). The strip is to be a minimum of 3m deep and comprise of species that are capable of achieving a minimum of 2m height and planted at a density to achieve canopy closure within 3-5 years (DEV1-S6(4)). The provision of this landscape strip likewise forms a matter of discretion for subdivision applications (DEV1-R19(d)).

244. I understand that the intent of the rule is to maintain a streetscape that is compatible with existing rural lifestyle character of these permitter roads which is visually dominated by vegetation and open space rather than buildings. This planted perimeter strip is shown on the Structure Plan. I note that for sections of these frontage, there are natural features such as bush remnants or waterways that will provide the necessary landscaped edge. I likewise note that the majority of the existing lifestyle properties at the southern end of the site already have landscaped hedging and tree planting along their road boundaries and therefore already deliver the outcomes sought in the rule.

Transport modal choice and connectivity

245. As discussed above in the transport section, PPC84 is generally well-located relative to the existing urban areas. It potentially has a good level of connectivity to these adjacent urban areas, in the event that the key north-south and east-west connections can be formed. In the event that provision of these connections does not occur for some time, it is important that Tara Road is upgraded to provide a cycle and pedestrian pathway. It would also significantly improve connectivity if additional road connections could be provided to the southern end of Atara Road to enable more direct access from the middle and southern ends of the site to the village if a more direct access to Moir Road proves to be challenging to deliver.

246. The Structure Plan provides for internal roads to be connected over time as the site develops, and shows a satisfactory end outcome. The subdivision rules provide the means to get there over time, albeit that there may well be timing issues with connectivity for the earlier stages.
247. As identified above, the southern end of 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. 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 Structure Plan therefore provides a long-term indication of how the site could be internally developed over time.
248. Overall, I am satisfied that the Structure Plan (and the site's location in general) provides an appropriate location for the urban expansion of Mangawhai in a manner that will result in a well-functioning urban environment. The formation of the two key road links is a challenge, which increases the importance of being confident that the necessary Tara Road upgrades are incorporated into the PPC84 provisions as this road link is integral to the site being able to overcome these connectivity shortcomings in the short-medium term.

Other Matters

Construction effects

249. 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.
250. 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. Whilst PPC84 is framed as its own stand-alone set of provisions, the proposed rules controlling noise and vibration (DEV1-R9-R10 cross-reference back to the standard ODP controls on these matters.

Reverse sensitivity

251. Several submitters⁶³ 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 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

⁶³ Reid #34, Reid #64, Reid #73,

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.

252. 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.
253. 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.
254. 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.

Statutory Analysis

255. 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.
256. 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.

257. For completeness I note that the site is not located in an area where the following NPS or NES would be in play and as such the following documents are not considered further:

- NPS-Renewable Electricity Generation;
- NPS-Electricity transmission;
- NPS-Greenhouse Gas Emissions from Industrial Process Heat;
- NES-Plantation Forestry;
- NES-Air Quality;
- NES-Telecommunications facilities;
- NES-Electricity Transmission Activities;
- NES-Marine Aquaculture; and
- NES-Storing Tyres Outdoors.

Climate Change Response Act 2002

258. 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

259. This requirement applies to plan changes notified after 30 November 2022. Given that PPC84 was notified on 25th August 2023, this requirement therefore applies.

260. The Emissions Reduction Plan (**ERP**) seeks to “*put New Zealand on a path to achieve our long-term 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.*”

261. 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 transport⁶⁴;

⁶⁴ ERP, pg. 169

- Encourage non-built infrastructure solutions, including for stormwater i.e naturalised swales rather than concrete pipes⁶⁵;
 - Discourage development in areas that are vulnerable to the impacts of climate change⁶⁶.
262. 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 them⁶⁷. 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.
263. 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 beyond a small portion of the southwest corner which is shown on the PPC84 structure plan as being used for ecological restoration. 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 structure plan likewise shows extensive parts of the site including riparian margins and wetland areas as being ecologically enhanced with tree planting. The end outcomes envisaged in the structure plan show the replacement of a dairy farm and associated stock methane emissions with a significant increase in tree and bush cover.
264. The Mangawhai Spatial Plan identifies the southern third of 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 PPC84 structure plan includes provision for enhanced cycling and walking connections both within the site and between the site and adjacent urban areas. Overall, I consider PPC84 to be consistent with the NAP and ERP for the reasons set out above.

New Zealand Coastal Policy Statement

265. The New Zealand Coastal Policy Statement (**NZCPS**) guides local authorities in their management of the coastal environment. A small tongue of the upper Harbour extends into the southwest corner of the site. This portion of the site is currently comprised of waterways and wetlands/ riparian margins. The Structure Plan shows these existing features being retained and enhanced, with the NES-FM likewise controlling works in riparian margins and wetlands. The area is likewise mapped in the NRPS as being flood prone, which in combination with the proposed rules to manage housing platforms in flood-prone areas, means that development of the portion of the site in the coastal environment is not anticipated.
266. Although the majority of the site 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

⁶⁵ Ibid, pg. 127

⁶⁶ Ibid, pg. 128

⁶⁷ NAP, pg.2

values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits.

267. Potential effects of the proposal on the coastal environment primarily relate to indirect impacts on water quality and sedimentation generated by 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 NRPS and associated regional plans likewise control discharges to waterways and water quality, noting that the proposal will result in the removal of a large dairy farm and associated effects, means it gives effect to the NZCPS.

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

268. The NPS-HPL commenced on 17 October 2022 i.e. prior to PPC84 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-HPL⁶⁸.
269. 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 PPC84, the objective is to be achieved via policies that seek that urban rezoning; subdivision; or development for rural lifestyle purposes; are all avoided unless the exemptions in the NPS-HPL apply⁶⁹.
270. Regional Councils have three years from when the NPS-HPL came into effect to map HPL via a change to the regional policy statement⁷⁰. 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**)⁷¹, provided that it is not land that is already identified for future urban development.
271. **Figure 22** below shows the plan change site, with LUC 3 land shown in light green. It is noted that there is no LUC 1 or LUC 2 land located either on the site or in the wider area.

Figure 22. LUC of the site⁷²

⁶⁸ Loss of productive farmland was a matter raised by Reid #34, Reid #64, Reid #73, and the need for assessment under the NPS-HPL by NRC #49

⁶⁹ NPS-HPL, Policies 5, 6, and 7

⁷⁰ NPS-HPL, clause 3.5(1)

⁷¹ NPS-HPL, clause 3.5(7)

⁷² Manaaki Whenua Landcare Research 'Our Environment' on-line mapping tool



272. The site does not generally contain any HPL. There is however a small tongue of LUC 3 land that extends north into a portion of the church site from the Moir Street land recently acquired by Council for open space and recreation. The portion of LUC 3 land within the Plan Change area is approximately 3ha in area and is largely covered by the proposed church building platform, hardstand and an associated stormwater pond.
273. The application includes an assessment of soil categorisation⁷³. This report recognises that the mapping in the NZRLI is necessarily high level and therefore a more detailed ‘ground-truthing’ exercise has been undertaken in accordance with the LUC classification and methodology. The report concludes that due to the recent church development the soil underlying the church area no longer meets LUC 3 criteria. I note that whilst the report identifies the Council-held recreation land as meeting LUC 3 criteria from a soil science perspective, this land already has an urban residential zoning and therefore is not subject to the NPS-HPL⁷⁴.
274. When NRC come to map HPL, they may exclude land if the NRC accept more detailed mapping that uses the LUC classification system⁷⁵. The NRC may also exclude small, discrete areas of LUC 1-3 land if ‘they are separated from any large and geographically cohesive areas of LUC 1-3 land’⁷⁶. It would appear that this area readily meets the tests for being excluded, based on the findings of the applicant’s soil report and given that the adjacent LUC 3 land already has an urban residential zoning in the ODP and therefore the LUC 3 soil present on the church site is both small and isolated. That said, until NRC mapping is completed, the identification of HPL is subject to clause 3.5(7) as follows:

Until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this National Policy Statement as if references to highly productive land were references to land that, at the commencement date:

⁷³ PPC84 s.32, Appendix 14

⁷⁴ NPS-HPL, clause 3.5(7)(b)(ii)

⁷⁵ NPS-HPL, clause 3.4(5)(a)

⁷⁶ NPS-HPL, clause 3.4(5)(d)

(a) Is

(i) zoned for general rural or rural production; and

(ii) LUC 1, 2, or 3 land; but

(b) Is not:

(i) identified for future urban development; or

(ii) Subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

275. The church site is currently zoned rural and contains LUC 3 soil (in terms of the NZLRI), so both legs of clause (a) are met.

276. In terms of Clause (b)(i), the term ‘identified for future urban development’ is defined in the NPS-HPL as meaning:

(a) Identified in a published Future Development Strategy as land suitable for commencing urban development over the next 10 years; or

(b) Identified:

(i) In a strategic planning document as an area suitable for commencing urban development over the next 10 years; and

(ii) At a level of detail that makes the boundaries of the area identifiable in practice.

277. As set out above, Council has resolved that the District does not contain any urban environments in terms of the NPS-UD, and therefore is not obliged to produce a Future Development Strategy (**FDS**) under the NPS-UD. As such, no FDS exists and therefore clause (a) of the definition is not met.

278. The church site is however identified in the recent Mangawhai Spatial Plan as being an urban residential growth area. The Spatial Plan is a ‘strategic planning document’⁷⁷ in terms of clause (b)(i). The Spatial Plan maps of the proposed growth areas are accurate to cadastral boundaries, so clause (b)(ii) is also met. There are no staging provisions in the Spatial Plan that would limit growth from occurring within a 10-year period, and indeed the southern portion of the plan change area is identified as a ‘priority area’ for urban growth, which would imply that development of it is anticipated within a short-medium time frame. I note that the MfE guidance that accompanies the NPS-HPL indicates that the 10-year time frame also relates to decisions about servicing and Council infrastructure programming and funding⁷⁸. In this respect I note that the southern portion of the site has long been identified as an area to be serviced in the ODP Chapter 3A maps (Figure 9 above), with the ability to service this area confirmed in the evidence of Mr Cantrell. As such I consider that the Church site can be excluded from HPL via meeting the 3.5(7)(b)(i) test as being land that is identified for future urban development.

279. In addition to being identified in the Spatial Plan, the church site is also identified in the ODP Chapter 3A Structure Plan as being suitable for ‘rural residential’ development. The ODP is an RMA rather than LGA document. Whilst the Chapter 3A Structure Plan is not a zoning per se, it does signal an intent in an RMA document that the site is suitable for rural residential development, and therefore arguably the site also meets the 3.5(7)(b)(ii) test as being identified

⁷⁷ NPS-HPL separately defines a ‘Strategic Planning Document’ as meaning ‘any non-statutory growth plan or strategy adopted by local authority resolution’.

⁷⁸National Policy Statement for Highly Productive Land: Guide to Implementation, March 2023, page 16.

in a Council adopted plan change (being the ODP) to rezone it from general rural to rural lifestyle.

280. If the Panel are not satisfied that the church site meets the criteria for exclusion under 3.5, then an assessment is required under clause 3.6(4) and (5) as follows:

Territorial authorities that are not Tier 1 or 2 may allow urban rezoning of highly productive land only if:

- (a) The urban zoning is required to provide sufficient development capacity to meet the expected demand for housing or business land in the district; and*
- (b) There are no other reasonably practicable and feasible options for providing the required development capacity; and*
- (c) The environmental, social, cultural and economic benefits of rezoning outweigh the environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.*

(5) territorial authorities must take measures to ensure that the spatial extent of any urban zone covering highly productive land is the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment.

281. Relying on the evidence of Mr Foy, I do not consider the additional development capacity provided by rezoning the 3ha or so of HPL is *required* to meet a clear capacity shortfall. Given that much of the wider township is bordered by land that is not LUC 1-3, it is also highly likely that if a clear shortfall was identified that another 3ha of land adjacent to the urban edge could be identified that did not involve development of HPL.

282. In the event that the site does not meet the HPL exclusions discussed above, I do not therefore see a pathway through for rezoning the church site under clause 3.6(4). In that scenario the Panel have several options available:

- a) Not rezone the church site, with the consequence of there being a small Rural Zoned lot surrounded by urban;
- b) Show it as a deferred zone, with a rule that uplifts the deferral/ enables urban development once the site is shown in an operative NRPS as not being HPL (likely within the next 2 years).
- c) Identify it as being able to be developed for rural lifestyle purposes within the proposed Mangawhai Hills Development Area Zone i.e. a minimum lot size of say 5,000m². Zoning that enables Rural Lifestyle activities is not subject to 3.6 and instead is subject to 3.7 and 3.10. I consider the site could meet the criteria for rezoning to rural lifestyle in 3.10(1), relying on the applicant's soil report, the level of constraint/ development that has already occurred, and the site's small and fragmented location.

283. Ultimately, my recommendation is that the church site can be excluded due to its identification in the Mangawhai Spatial Plan. In practice, the church construction is currently underway and therefore regardless of zoning the productive potential of the small area of HPL has already been functionally lost, with this conclusion confirmed in the applicant's soil report.

Submitter Name	#	Topic	Support/Oppose/Support in Part	Relief Sought
Higher order documents				
Northland Regional Council	49.4	NPS-HPL	Support in part	Submitter seeks for the consideration of the soils assessment provided by the applicant will be required to determine if the rezoning of land is consistent with the NPS-HPL.

Northland Regional Policy Statement (NRPS)

284. 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 with⁷⁹. In addition to the assessment undertaken by the applicant I note the following additional matters.
285. The PPC84 site is not identified in the NRPS as being within any landscape or heritage overlays. Apart from the discrete riparian areas discussed in the above section on flood risk, the majority of the site is not identified as containing areas exposed to high risks of natural hazards in the NRPS.
286. 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.
287. 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.
288. 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, with the southwestern corner of the site also subject to coastal inundation. 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.

⁷⁹ PPC84, s32 assessment, section 7.1

289. 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 Protocol⁸⁰. Whilst the Applicant’s urban design Report does not explicitly reference the ‘Seven Cs’ as an assessment methodology, it nonetheless in my view provides an appropriate assessment of the sorts of urban design matters identified in NRPS Policy 5 and demonstrates that the proposal will deliver acceptable urban design outcomes.
290. 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)

291. 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 PPC84 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.
292. 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)

293. 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 PPC84 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. As such, I am satisfied that the manner in which land development is undertaken consequent to PPC84 will not be inconsistent with the outcomes sought in the NRAQP.

Proposed Northland Regional Plan (pNRP)

294. 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 pNRP 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 pNRP recently updated in February 2024 to reflect the updated provisions arising from the resolution of all appeals. 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

⁸⁰ New Zealand Urban Design Protocol, Ministry for the Environment, 2005,

effect⁸¹. 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 pNRP⁸².

295. 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.
296. 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 PPC84 against these directions.

Iwi Management Plans (IMP) and Statutory Acknowledgement Areas

297. 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 PPC84 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.
298. 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
299. I understand from the Council that Ngati Manuhiri has a Treaty settlement process underway regarding the Mangawhai area. Ngati Manuhiri were notified of PPC84, with no submission having been received. I understand from the Council that there is an agreement between Ngati 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 documents⁸³, and also includes a Cultural Impact Assessment prepared by Te Uri o Hau Environs Holdings Ltd, dated July 2023 (the **CIA**)⁸⁴. 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.
300. I note that no submissions were received from groups or tribal entities representing mana whenua.

⁸¹ S86F RMA

⁸² In accordance with s74(2)(a) RMA

⁸³ PPC84, s32, section 7.5

⁸⁴ PPC84, Appendix 15b

301. 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 Harbour. 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.
302. In general, the recommendations are matters that are appropriately considered as part of subsequent resource consent processes where conditions on sediment control, indigenous planting, fish passages etc are able to be required.
303. In terms of accidental discovery protocols, the application includes an Archaeological Report prepared by Geometria Limited⁸⁵. The Archaeological Report identifies that there are potential archaeological features present on the site but concludes that the values of these features are likely to be low and therefore concludes that urbanisation of the site will not give rise to unacceptable effects on archaeological values. Given that there is evidence of pre-1900 human activity having occurred on the site, the Archaeological Report identifies that any earthworks will need to be subject to obtaining an Archaeological Authority (AA) from Heritage New Zealand Pouhere Taonga, and that such an application would need to include consultation with mana whenua. The AA process is a separate regulatory process that is undertaken under the Heritage New Zealand Pouhere Taonga Act rather than via District Plan/ RMA consents.
304. Because an AA is required, there is no need for an accidental discovery protocol as the AA process will include any necessary conditions following a more detailed assessment of the part of the site where earthworks are proposed i.e. this site has known potential for archaeological features, and as such discovery of such will not be accidental or unanticipated.
305. I recommend that an advice note be added to the proposed earthworks rule DEV1-R6 to alert plan users that a separate regulatory process needs to be undertaken prior to undertaking earthworks activities:
- Note: an Archaeological Authority from Heritage New Zealand Pouhere Taonga will be required prior to undertaking earthworks.
306. The need to carefully manage stormwater and ecological values has been discussed above. The CIA adds an additional layer of cultural values across these matters. I am satisfied that the proposed detailed rules regarding ecology and stormwater, along with the separate regulatory framework provided in the NRP and NES-F will also address the outcomes sought regarding these matters by mana whenua.

Consistency with the plans of adjacent territorial authorities

307. I do not consider there to be any directly relevant provisions in the District Plans of neighbouring territorial authorities that are affected by PPC84. The most applicable matters to PPC84 include:
- a) Effects on the strategic and arterial road network from people commuting between Mangawhai and Whangarei or Mangawhai and Auckland; and

⁸⁵ PPC84, Appendix 15a

- b) Development on or near the boundaries of Whangarei District Council and Auckland Council that may influence housing sufficiency and the coordination of infrastructure services.
308. 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

309. 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).
310. 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)).
311. 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. PPC84 includes a new zone/ ODP chapter, with associated new objectives. These objectives therefore need 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.

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

312. The plan change proposes to introduce a suite of new objectives to the ODP, namely DEV1-O1 – DEV1-O6. Whilst there is no hierarchy between the proposed objectives, in my view DEV-O1 sets out the overarching outcome sought by the Plan Change which is:

Sustainable and environmentally conscious residential living opportunities are provided for in the Mangawhai Hills Development Area whilst ecological, landscape, amenity, servicing and transportation effects are managed.

313. The purpose of the plan change is stated in the application as follows⁸⁶:

The purpose of the plan change is to deliver viable and sustainable residential housing. The plan change also seeks to apply a development area to the plan change area to provide for future residential development.

314. The assessment required under s32(1)(a) of the RMA is therefore the extent to which the plan change's objectives and purpose are the most appropriate way to achieve the wider purpose of

⁸⁶ PPC84 s32, Section 5.2

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 PPC84 (subject to any amendments to improve its efficiency and effectiveness). These two options are assessed below.

315. The application includes an assessment⁸⁷ against Part 2 of the RMA which I agree with. I note that several section 6 matters are potentially in play. s6(a) is definitely relevant, namely the preservation of the natural character of wetlands, rivers and their margins, and the protection of them from inappropriate subdivision, use, and development. Matter s6(b) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is likely not in play given that whilst the site contains areas of indigenous vegetation and habitat, these areas are arguably not 'significant'. If I am incorrect on this (and noting Dr Brown's observations that parts of the site may provide habitat for at risk or threatened bird species), then in any event the PPC84 provisions seek to protect these areas and therefore s6(c) directions are met. Matter s6(d) relating to the maintenance and enhancement of public access along rivers and the Coastal marine Area is achieved by the potential to develop walking tracks adjacent to riparian areas where no such public access currently exists. s6(e) matters relating to cultural values have been assessed via a CIA and the recommendation in that report are able to be implemented via subsequent resource consent processes.
316. 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.
317. As identified in the recent spatial planning process, the site is well-located to deliver additional housing capacity in a location that is able to be efficiently serviced (especially the southern end), thereby enabling the community to provide for its social and economic well-being. The PPC84 provisions 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.
318. I am therefore satisfied that the proposal does better achieve the purpose of the Act than retaining the site as Rural Zoned land which would not provide for additional housing and would not provide the impetus for protecting and restoring the waterways, wetlands, and bush areas present on the site.

Consideration of options

319. 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

320. 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 this 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 in a staged manner, or alternatively develop its own private plant. Pending additional geotechnical information, a reasonable portion of the site

⁸⁷ Ibid, Section 9.1

is relatively free of natural hazards, does not contain versatile soils, and the proposed provisions appropriately manage areas ecological, landscape, and cultural values subject to the recommendations in this report. It is likewise sited in a location that broadly aligns with the District Plan policy guidance concerning the preferred directions in which Mangawhai is to grow in terms of more intensive housing at the southern end and larger lot residential that is integrated with ecological restoration in the north. Given the ongoing demand for housing in Mangawhai and the identification of the southern end of this block as a preferred location for growth in the most recent growth-management 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 a bespoke Mangawhai Hills Development Area

321. I consider that this option better 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 or rural lifestyle areas are suitable in principle for development, pending site-specific confirmation of details such as concept plan design and servicing via a plan change process.
322. 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

323. 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.
324. The applicant has undertaken a detailed assessment of the proposal against the District Plan's objectives and policies⁸⁸. 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 a mix of rural residential and conservation activities 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

325. "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.
326. In this case the introduction of a new Development 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

⁸⁸ PPC84, s32 assessment, Section 7.3 and Section 9.13

improve their effectiveness in managing effects and delivering the outcomes sought in the PPC84 Objective 1.

Recommended amendments to the ODP provisions

327. Following the above assessment of effects and the recommendations of the various Council experts, I have reviewed the proposed PPC84 provisions in terms of their effectiveness in delivering the PPC84 purpose as stated in proposed Objective 1, namely to deliver:

Sustainable and environmentally conscious residential living opportunities are provided for in the Mangawhai Hills Development Area whilst ecological, landscape, amenity, servicing and transportation effects are managed.

328. I provide a track changed version of the provisions in **Appendix 1**.

329. A number of the proposed amendments are simply minor changes to improve clarity and to remove ambiguity.

330. In reviewing the amendments, I emphasise that PPC84 is 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.

331. I have identified above that whilst I provisionally support the plan change overall, this is subject to further assessment regarding geotechnical hazards, the extent of wetlands (and therefore internal road alignment), the decision by NRC on the private wastewater disposal field, and traffic modelling of the effects on the adjacent road network in the event that either or both of the southern and eastern connections are not able to be formed.

332. The findings of additional assessments referred to above will inform the content of both the Structure Plan and the rule package and in particular the need for any more specific rules regarding the timing and implementation of road upgrades or staging/ housing caps until various road connections are formed. I anticipate that I will be able to respond to any additional modelling/ assessment and associated refined provisions provided via the applicant via my rebuttal evidence.

333. I confirm that unless otherwise stated I am comfortable with the proposed rule package relating to anticipated activities, built form, and amenity outcomes. I note that there were minimal submissions seeking amendments to these provisions.

334. 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 amendments to the roading layout shown on the Structure Plan. In terms of scope, my recommendations generally fall between these two points i.e. PPC84 as notified, and a decline of the plan change and retention of the status quo Rural Zoning.

335. In summary, and drawing on the above assessment, my key recommendations regarding the provisions are as follows:

- a. The proposed objective and policy framework is generally appropriate, pending greater clarity regarding hazard and transport outcomes.
- b. Depending on the outcome of further geotechnical assessment, an amendment of the structure plan to avoid housing in areas exposed to high hazard risk and greater policy and regulatory direction regarding the avoidance or management of hazard risk;

- c. Depending on the outcome of further assessment of wetland extent, an amendment to the Structure Plan to ensure new roads are not routed through wetland areas;
- d. Depending on the outcome of further transport modelling, inclusion of rules that require upgrades to the pedestrian/ cycle facilities on Tara Road, the Tara Road/ Moir Street intersection and the Tara road/Moana Views/ New east-west primary road intersection in the event that other connections are unable to be formed;
- e. Amendment of the Structure plan to show more southerly road connections to Tara Road (in the event that a southern connection to Moir Street cannot be formed) to avoid the need for circuitous internal journeys that negate the site's close proximity to the village and school;
- f. The Structure Plan is in my view the key tool for communicating the intended spatial outcomes for the site. This is especially the case given that the entire site is to have a single 'Development Area' zoning i.e. it is not split into residential and conservation/ open space zones. As such it is important that sufficient regard is able to be had to the Structure Plan when assessing subdivision consent applications and the extent and location of proposed residential lots.

The current subdivision rule DEV1-R19 includes alignment with the Structure Plan as a matter of discretion, however such alignment does not form part of the rule itself. I recommend that a new clause (1)(b) be added to the rule requiring subdivision proposals to be in general accordance with the Structure Plan. This will enable applications that are not in general accordance to have a fully discretionary activity status to enable Council to assess all aspects of a material change in layout or outcome.

- g. Including consideration of 3-water serving as a matter of discretion for subdivision applications;
- h. Amend DEV1-S16(1)(b) to require detention to mitigate the 100-year ARI storm event rather than the 1/3 of the 2 year ARI storm event, in order to align with the Flood Risk Assessment undertaken in the Chester Report;
- i. Subject to any evidence from NRC, it may be that DEV1-S12(1)(d) which controls building platforms should be amended so that it requires such platforms to not be located within areas that are subject to inundation in a 1% AEP storm event rather than the 2% AEP storm event as currently proposed;
- j. Amend Policy DEV1-P5(4) to emphasise that widespread use of individual septic tanks is not anticipated; Amend rules DEV1-R2 (residential units) DEV1-R19(a) (subdivision) to increase the minimum site area per residential unit to 3,000m² where reticulated wastewater connection is not available; amend rule DEV1-S17(4) to add an additional matter of discretion to enable consideration of cumulative effects if widespread use of individual septic tanks is proposed;
- k. Amend DEV1-REQ2(2) to include consideration of the need to control domestic cats and dogs as an ecological information requirement of ecological information requirement;
- l. Amend DEV1-REQ2(1) to include consideration of the design of road crossings over waterways and wetlands and the use where possible of bridges, arched culverts, or existing culverts;

- m. Amend DEV1-R7 to include an existing ODP note drawing Plan users attention to the need to comply with NES-CS requirements; and separately alerting them to their obligations regarding the need for an Archaeological Authority from HNZPT prior to undertaking earthworks;
- n. Amend DEV1-R7 so that earthworks within the existing native vegetation streams, and wetland areas identified on the Structure Plan are restricted discretionary rather than permitted; remove the (1)(c)(iii) exemption permitting earthworks in these areas for the purposes of forming 3m wide walking tracks;
- o. Amend Table DEV1.1 regarding the road widths and the number of lots able to be serviced off private accesses to align with Ms Gasson's recommendations;
- p. Amend rule DEV1-R2 to clarify that where two residential units are proposed on a site, that that site needs to be larger than 2,000m²;
- q. Amend rule DEV1-R5 to enable up to 1,000m² of non-residential activity within the Community Hub area, in addition to any non-residential activity located elsewhere within the plan change area;
- r. If sufficient scope is available, the rezoning of the Renner (submitter #52) property at 110 Moir Street to a Commercial sub-zone within the Business Zone.

Conclusions and Recommendations

336. The statutory matters that must be considered in relation to a plan change require the assessment of the plan change against the matters contained in sections 31, 32, 74 and 75 of the RMA, 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).
337. 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.
338. 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.
339. Drawing on the conclusions of the Mangawhai Spatial Plan, I am satisfied that the site is in principle well located for forming a logical urban expansion of the township. The southern portion of the site is identified as a growth area, and the northern portion is shown as being suitable for rural lifestyle use. The Spatial Plan drew heavily on the ability to service growth

areas with reticulated wastewater. The evidence of Mr Cantrell shows that reticulation of the northern two thirds of the site may well be possible, and that separately a private wastewater treatment plant (as currently proposed by the applicant) also offers a technically plausible solution. Because the proposal includes extensive areas of ecological restoration, the overall yield across the entire block is less than 3 houses per hectares, which in my view sits comfortably against rural lifestyle outcomes. As noted above, the Spatial Plan in essence proposed suburban density development at the southern end and large lot development for the north, whereas PPC84 looks to average out these densities across the site and integrate them within a framework of native plantings.

340. The ecological evidence is that the plan change provides a mechanism for delivering significant ecological gains, which I consider to be an important positive element of the proposal.
341. The proposal seeks that the entire site have a Mangawhai Hills Development Area Zoning. No differentiation is proposed in terms of zoning between those areas where housing is anticipated and where native planting is expected. As such, the spatial outcome delivered by the plan change relies heavily on the successful implementation of the proposed Structure Plan. Whilst I accept that the Structure Plan is indicative in terms of detail, (and that the southern end of the site has not been ground-truthed), it is important that confidence can be had at a plan change stage that the Structure Plan is generally accurate and that the areas identified for further housing are largely acceptable for such use.
342. Mr Sand's evidence raises significant concerns regarding the geotechnically suitability of parts of the site for residential use (at least to suburban densities). I do not consider it to be good practice to rezone land for residential use when that land may be exposed to a high risk of natural hazard. The identification of the extent of hazard, and the means by which it might be mitigated (for example having larger site sizes) is a matter that in my view needs to be resolved at the plan change stage rather than resource consent stage of the process.
343. Similar information gaps are present in terms of the identification of the extent of wetland areas, albeit that the geographic extent of the areas of concern are much smaller than the potential hazard areas.
344. Resolution of the geographic extent of wetlands and hazard areas will enable greater confidence to be placed on the structure plan layout in terms of the locations identified as being suitable for residential development and future road alignments.
345. The third key information gap relates to potential impacts on the safety and function of the road network. Ms Gasson supports the proposed 'end state' road network as delivering an appropriate level of connectivity for future residents. She identifies that the applicant's transport assessment has been modelled on this end state layout being in place. Given that there are potentially significant hurdles to the delivery of the primary connections to both the south and the east (at least in the short-medium term), there is a strong likelihood that the majority of trips will need to be made via Tara Road. In this scenario, it is likely that Tara Road will need upgrades to the new intersection to the site itself (opposite Moana Views), the Tara Road/ Moir Street intersection, and the provision of safe pedestrian and cycle facilities. I separately note that unless a southern connection to Moir Street can be delivered, that the locational benefits of the site being in close proximity to the village centre and school are significantly weakened. As such I consider that alternative access points from the site towards the southern end of Tara Road should be explored in order to reduce the extent of circuitous routing that would otherwise be necessary for future residents seeking to access the township. The detail of any transport-related staging or road upgrade rules is reliant on the outcomes of

further sensitivity testing of the transport model which is held by the applicant's transport expert.

346. I do not consider any of the above three matters to be insurmountable, however they all have material implications on the shape of the Structure Plan and the content of the final rule package.
347. 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 landscape, heritage, or cultural values;
 - b) Archaeological values have been identified as being low, and future earthworks are subject to separate regulatory approval processes under the Heritage New Zealand Pouhere Taonga Act;
 - c) The site is unlikely to be exposed to unacceptable soil contamination risks to human health. 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 proposed PPC84 provisions include appropriately calibrated requirements for the volume of storage to better reflect likely household demand;
 - e) The Council has programmed upgrades in place for the Mangawhai wastewater treatment plant, with an initial stage having been recently completed and subsequent upgrades programmed for 2027. Whilst the later upgrades are subject to obtaining the necessary resource consents, the upgrade strategy is technically plausible. Mr Cantrell's preferred solution is for the applicant to enter into negotiations with the Council to contribute towards the upgrade of the Council's system. He does however acknowledge that a private wastewater treatment plant is also technically plausible as an alternative solution and that there are therefore no barriers to the northern portion of the site in particular being able to be serviced for reticulated wastewater. Whilst individual septic tanks may be appropriate for more isolated or large lots, I do not support this third option as a widespread solution for several hundred dwellings. Given however that both public and private reticulated solutions are technically achievable I consider that the site can be appropriately serviced for wastewater.
 - f) Stormwater is able to be managed on-site via the subdivision consent process and in accordance with the SMP.
 - g) The proposed rule package requiring perimeter landscaping and managing building colours/ cladding reflectivity are appropriate, as are the built form and activity rules, subject to the amendments recommended above.
348. 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, the NPS-UD is not in play, and the NPS-HPL only applies to a very discrete pocket of land. The NPS-FM and NPS-IB are both of relevance to the assessment of ecological and freshwater values, with the proposed rules and NES-F 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 that rezoning the site as a Development Area that enables residential and conservation outcomes 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.

349. As such it is provisionally recommended that the plan change be accepted, subject to further assessment of the geotechnical, transport, and wetland issues set out above. These matters all appear to be capable of resolution, but they may well necessitate further refinement of the rule package and Structure Plan.
350. In the event that further assessment of the three critical matters does not present any insurmountable barriers, 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

12th April 2024

Appendix 1. Recommended text amendments to the PPC84 provisions

Appendix 2: Geotechnical Review (Callum Sands, Hawthorn Geddes)

Appendix 3: Water Servicing (Melissa Parlane, Council Asset Manager)

Appendix 4: Stormwater servicing (Carey Senior, Awa)

Appendix 5: Wastewater servicing (Clinton Cantrell, SCO Consulting)

Appendix 6: Transport Review (Rachel Gasson, Commute)

Appendix 7: Ecological Review (Stephen Brown, Wildlands)

Appendix 8: NES-F Review (Annabeth Cohen, Awa)

Appendix 9: Economic Review (Derek Foy, Formative)