

**SECTION 42A REPORT –
PROPOSED PLAN CHANGE 4 –
FIRE SAFETY RULES (LAND USE)**

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PART A: OVERVIEW

1 Section 42A Report

Plan Change 4 is a plan change to the Operative Kaipara District Plan (“**District Plan**”) and makes changes to various fire safety provisions in the land use parts of the District Plan. The Plan Change specifically addresses “**Structural Fires**”, which are fires affecting buildings and structures. “Wildfires” are already addressed in the District Plan. The particular issues relating to structural fires are water supply and site access. These are considered to be relevant Resource Management Act 1991 (“**RMA**”) issues, based on addressing health and safety concerns and the protection of property and the environment generally.

The Plan Change process has reached the point that it has been notified and Submissions and Further Submissions have been received. Those Submissions and Further Submissions are to be considered by appropriately qualified and accredited Commissioners under Sections 39A and 39B(3)(a) of the RMA who have been appointed by Kaipara District Council (“**Council**”).

It is common practice for an officer of Council or an appointed consultant to prepare a report to assist the Commissioners with information on the plan change and the submissions that have been made on the plan change. This Section 42A Report (“**report**”) has been prepared by Peter Reaburn (a consultant planner to Council). The report provides an overview of proposed Plan Change 4 and a discussion of the issues raised in the submissions that have been received. The report also assesses the proposal in terms of the Policy Framework – Part 2 RMA, the New Zealand Coastal Policy Statement, the relevant sections of the Northland Regional Policy Statement and the relevant sections of the District Plan.

The report contains recommendations on the issues that have been raised on Plan Change 4. However, it is important to record that decisions are to be made by the Independent Commissioners. Submitters who are not satisfied with the decisions that the Commissioners make can lodge an appeal to the Environment Court. An appeal must be filed with the Environment Court within 30 days of receipt of Council’s decision. (It is to be noted that the Commissioners’ decision is that of Council as they have been delegated that function under the RMA).

All Submissions and Further Submissions have been reviewed. The report does not address each submission individually. It is the issues raised in submissions that are the focus of the information and review provided to the Commissioners. However reference is made to some individual submissions that are representative of particular points of view.

Qualifications and experience of report writer

As this report has been prepared as expert advice to the Commissioners, it is expected practice that the report writer’s qualifications and relevant experience is outlined, and that the “Code of Conduct” be acknowledged.

My name is Peter Dean Reaburn. I am a Town Planner and Director with the company Cato Bolam Consultants, Auckland. I have a Bachelor of Regional Planning (Honours) degree from Massey University. I have over 37 years planning/ resource management experience including managerial positions at a number of district councils. I have been a planning consultant since 2000. I have successfully completed the Ministry for the Environment course Making Good Decisions and have acted as an Independent Commissioner in relation to a range of resource consent and plan change matters. I have been a full member of the New Zealand Planning Institute since 1982 and from 1997 – 2000 was on the Executive of the Council of that Institute. I am also a member of the Resource Management Law Association.

I have a good knowledge of the Kaipara District. Cato Bolam Consultants provided consultant planning advice on Council's resource consents for a number of years from 2010 and continues to assist in this role. I was involved on behalf of clients (principally, the Environmental Defence Society) in the District Plan development process and hearings.

Specific to this hearing, I have been aware of the issues the community has experienced in having to apply for resource consents to depart from the fire safety standards in the District Plan. I also provided some input into the original Plan Change on this matter (Plan Change 2). I have only recently been engaged in respect of Plan Change 4.

I have read the Code of Conduct for expert witnesses contained in the Environment Court's Consolidated Practice Note 2014 and I agree to comply with this Code of Conduct. The evidence in my report is within my area of expertise, except where I state that I am relying on the evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed.

2 Introduction to the Plan Change

The Section 32 Evaluation Report on Plan Change 4 (“**Section 32 Report**”) gives a comprehensive background, analysis and explanation of the Plan Change¹. In my view it contains a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the Plan Change². It is accordingly not intended in this report to repeat material already provided in the Section 32 Report, apart from referring to extracts. Rather, this report focuses on issues that are raised in submissions.

When the District Plan was made operative on 01 November 2013, it included standards which can be summarised as follows (these appear in Rules 12.10.26; 13.10.26; 14.10.26; 15A.10.25; 15B.10.25 and 15A.10.3b(c)):

Any building is permitted if:

- a) *It does not impede the movement of fire service vehicles or equipment or generally restrict access for fire fighting purposes;*

¹[http://www.kaipara.govt.nz/site/kaiparadistrictcouncil/files/pdf/district_plan/Plan%20change%204%20Fire%20safety%20rules%20and%20use/S32%20PC4%20FSR\(LU\)%20Final%2026092016.pdf](http://www.kaipara.govt.nz/site/kaiparadistrictcouncil/files/pdf/district_plan/Plan%20change%204%20Fire%20safety%20rules%20and%20use/S32%20PC4%20FSR(LU)%20Final%2026092016.pdf)

² See Section 32 (1) (c)

- b) *Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008;*
- c) *The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 'Model Bylaw for Fire Prevention'; (and)*
- d) *The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest.*

The New Zealand Fire Service (“NZFS”) “**Code of Practice**” referred to in standard “c” is central to the concerns that have led to Plan Change 4, and subsequently is the key issue raised in submissions on the Plan Change (it appears to be agreed that “b” should be deleted). The Code of Practice is Appendix 2 to the Section 32 Report, and can be found at: http://www.kaipara.govt.nz/site/kaiparadistrictcouncil/files/pdf/district_plan/Plan%20change%204%20Fire%20safety%20rules%20and%20use/S32%20apx%201-16/PC4S32%20Apx%202%20NZFS%20firefighting%20WS-COP%20complete.pdf . Briefly, the standard method for establishing the required firefighting water supply for new development is by use of Tables 1 and 2 in the Code of Practice. For reticulated areas, the Code of Practice specifies the minimum water pressure of the water main and the maximum number of fire hydrants to provide this water pressure. For non-reticulated areas, the Code of Practice specifies a minimum volume of water to be dedicated to fire fighting and stored within 90m of the structure. In non-reticulated areas (commonly the case in Kaipara District), sprinklered housing (single family homes) requires storage of 7,000ltr (7m³) of water and non-sprinklered housing requires storage of 45,000ltr (45m³) of water.

The Section 32 Report gives a useful summary of the reason for this plan change, as follows³:

Council, since the Plan became Operative, identified that complying with the Fire Safety Rules (Land Use) were creating a level of community frustration which required all infringements to the rules to be processed by way of resource consents. Council, when it identified issues in implementing the Fire Safety Rules (Land Use), held meetings with developers to outline the new requirements. Council also had meetings with NZFS (Whangarei Branch). The outcome of meetings with NZFS established a process whereby applicants for building consents that had not provided a water supply for firefighting in accordance with the relevant District Plan Fire Safety Rules (Land Use), were required to consult with NZFS once they completed the Fire Fighting Facilities Checklist which outlined what their proposal entailed. If NZFS approved what was proposed, they would provide their signoff to the proposal. It is to be noted that all applications approved provided 10,000ltr of water stored for fire fighting purposes. The 10,000ltr of water became the standard response. This was then noted in reports and decisions in respect of the resource

³ Section 1.4 of the Section 32 Report

consent concerned. It is to be noted that all building consents lodged with Council are checked to determine whether they comply with all relevant District Plan rules.

Council has granted 177 resource consents in respect of the Fire Safety Rules (Land Use) between 01 November 2013 (when the District Plan became operative) and 01 June 2016. Around 110 of these consents were single breach consents in respect of the Fire Safety Rules (Land Use) only.

It is considered that requiring resource consents for this is a disproportionate mitigation measure when compared to risks. This is the underlying basis of Plan Change 4.

The key part of Plan Change 4 proposes the following changes to remove parts b) and c) from the standards referred to above (there are also other changes to Issues, objectives, policies, methods and outcomes).

It is the intention of Plan Change 4 to remove from the Fire Safety Rules (Land Use) the need for a resource consent for those who do not wish to comply with the Code of Practice when developing their properties. However, it is proposed to retain the Code of Practice as a matter that will be considered at the time of subdivision (in Rules 12.15.4, 13.14.4, 14.13.4, and 15B.14.4). The following extract from the Section 32 Report explains this in context⁴:

It is considered that implementing the Code of Practice at a land use stage for new development is a disproportionate action to mitigate the risk posed by structural fires events and in particular does not capture sites which already have been developed. It is considered that implementation of the Code of Practice is more appropriate at subdivision stage where the issue of appropriate provision of water for fire fighting purposes should be addressed upfront. It is considered that for existing sites, particularly where there are no reticulated water supplies that have sufficient capacity for fire fighting purposes, an Advice Note is a more appropriate measure.

3 Summary Conclusions of this Report

As matters for the Commissioners to consider, the review of submissions conducted for this report has resulted in the following recommendations being made:

- (a) The proposed Issue 2.3.14 contains a level of detail that is inconsistent with other stated Issues. It is recommended that wording in the Issue be refined as follows:

Issue

2.3.14 Potential adverse effects to life, property and environment from fires in buildings and structures

The risk to life, property and the environment is affected by the variable ability across the district to respond to fires in buildings. The ability to respond is the greatest in those areas that have a public reticulated water supply and a fire station close by (within 5 minutes drive). Settlements that do not have a public reticulated water supply nor a close-by fire service are more at risk. In these other parts of the district some reliance can be placed

⁴ Section 1.3 of the Section 32 Report

on utilising domestic water supplies or other static water supplies such as lakes, streams, the sea and swimming pools. However these supplies, and any stored water on site dedicated for firefighting purposes, may not be sufficient to save a building by the time the Fire Service arrives on the site. In settlements without a reticulated water supply a dedicated firefighting supply, utilising water tanks and special couplings can reduce risk, however there are issues of financial and amenity cost. These need to be balanced against alternative measures that may be available in these areas to minimise risk.

- (b) The proposed Objective 2.4.15 is considered, alongside other existing objectives, to be the most appropriate way to achieve the purpose of the RMA. In particular, the objective provides clarity in respect of the issue of addressing adverse effects on health and safety, property and the wider environment arising from structural fires.
- (c) That there be a general change in wording, from “fire fighting” to “firefighting”.
- (d) That, in respect of access to water supply for firefighting purposes, the following additional criterion be added to the Subdivision Performance Standards in Rules 12.15.4, 13.14.4, 14.13.4 and 15B.14.4:-

The extent to which there is adequate access to water supply for firefighting purposes, having regard to SNZ PAS 4509:2008.

- (e) That the explanation to the policies be reworded as follows, so that it is more consistent with current intentions and the objectives.

Provisions in a District Plan are not the only method of minimising fire risk. The Building Code contains measures that are applied at the time a building consent is lodged. The New Zealand Fire Service Firefighting Supplies Code of Practice SNZ PAS 4509:2008 is a New Zealand Standard that contains guidance on an adequate water supply, and access to it, for firefighting purposes. Where a public reticulated water supply exists the standards can be met without the need for further measures. For new sites the District Plan can promote the Code of Practice at subdivision stages to assist in minimising fire risk spread for the community. ~~Council or the community for areas where there is no reticulated water supply can provide static supplies for firefighting purposes in the form of tanks situated at strategic locations that can service a wider area.~~ Other measures that could be further investigated include static supplies for firefighting purposes in the form of tanks situated at strategic locations that can service a wider area, portable dams or improved tanker water supplies for fire appliances.

- (f) That the Outcome wording be amended as follows, so that it is more consistent with the new Objective:

2.7.13 A community where the risks to life, property and the surrounding environment from fire ~~is~~ are minimised.

- (g) That, in order to encourage consideration of the Code of Practice, the following Note be added to the relevant rural and urban land use rules:

The New Zealand Fire Service Firefighting Supplies Code of Practice SNZ PAS 4509:2008 is a New Zealand Standard that contains guidance on an adequate water supply, and access to it, for firefighting purposes. This is not a mandatory requirement in non-reticulated areas, however provision of water supply in accordance with the Code of Practice is encouraged.

PART B: SUBMISSIONS

4 Notification, Submissions and Further Submissions

The Plan Change was publicly notified on Friday 14 October 2016 with submissions closing at 5.00pm on Friday 25 November 2016⁵.

There are 29 Submissions, all received within time. These are listed in Council's Submitter number order below.

Submission PC.1	Miss Kathy Newman
Submission PC4.2	Mr Antonius Perry
Submission PC4.3	Mr Ian Fish
Submission PC4.4	Ms Caria Hood
Submission PC4.5	Mr Graham Drury
Submission PC4.6	Mr Ian Clarke
Submission PC4.7	Mr Stephan Sosich
Submission PC4.8	Mr Stephan Sosich
Submission PC4.9	Mr Clive Boonham
Submission PC4.10	Mr Barry and Mrs Jan Clark
Submission PC4.11	Mr Robert Corbett
Submission PC4.12	Prue Innes
Submission PC4.13	Mr Patrick Sparks
Submission PC4.14	Theresa Pearson
Submission PC4.15	Bill Butterfield
Submission PC4.16	Mr Grant and Mrs Fiona Douglas
Submission PC4.17	Henk and Christa van der Woerd
Submission PC4.18	Douglas and Anne Somers-Edgar
Submission PC4.19	Philip and Beverly Revell
Submission PC4.20	Dr Jorg Nordmeier
Submission PC4.21	Annette and Bryan Hurring
Submission PC4.22	M J Ruiterman
Submission PC4.23	Ian Chisholm
Submission PC4.24	Steve Fitt
Submission PC4.25	James Bremner
Submission PC4.26	Robin Johnson
Submission PC4.27	Far North District Council
Submission PC4.28	New Zealand Fire Service
Submission PC4.29	Mr Jonathan Larsen

A full copy of the submissions can be found at:

http://www.kaipara.govt.nz/site/kaiparadistrictcouncil/files/pdf/district_plan/Plan%20change%204%20Fire%20safety%20rules%20and%20use/Annotated%20Submissions.pdf

⁵ See

http://www.kaipara.govt.nz/site/kaiparadistrictcouncil/files/pdf/district_plan/Plan%20change%204%20Fire%20safety%20rules%20and%20use/Public%20Notice%20PC4%2012102016.pdf

(Hard copies will be provided to Commissioners).

A Summary of Submissions⁶ was notified on Friday 17 March 2017 with the Further Submissions period closing on Monday 03 April 2017.

There are 59 Further Submissions received (including one late Further Submission). These are listed in Council's Further Submitter number order below.

FSPC4.1	Alan Vowles
FSPC4.2	Clive Wood
FSPC4.3	Helen Curreen
FSPC4.4	Kenneth Marment
FSPC4.5	Ian Fish
FSPC4.6	Debra Searchfield
FSPC4.7	Katherine Newman
FSPC4.8	Asa Robinson
FSPC4.9	Prue Innes
FSPC4.10	Jonathan Drucker
FSPC4.11	David Stewart
FSPC4.12	Carla Hood
FSPC4.13	Beverly Revell
FSPC4.14	Thomas Williams
FSPC4.15	Jim Bremmer
FSPC4.16	Judi Boonham
FSPC4.17	Clive Boonham
FSPC4.18	Noel Foster
FSPC4.19	Jorg Nordmeier
FSPC4.20	John Bull
FSPC4.21	Roger Bull
FSPC4.22	Ria MacFarlane
FSPC4.23	Robin Johnson
FSPC4.24	Grant Douglas
FSPC4.25	Robert Corbett
FSPC4.26	Karen Chisholm
FSPC4.27	Ian Chisholm
FSPC4.28	Barbara Pengelly
FSPC4.29	Kevin Wood
FSPC4.30	Miguel Hamber
FSPC4.31	Alan Preston
FSPC4.32	Bryan Tuck
FSPC4.33	Mary Howard
FSPC4.34	Joy Murray

⁶ See:

http://www.kaipara.govt.nz/site/kaiparadistrictcouncil/files/pdf/district_plan/Plan%20change%204%20Fire%20safety%20rules%20and%20use/PC4%20Summary%20complete.pdf (a hardcopy will be provided to Commissioners)

FSPC4.35	Phillip Murray
FSPC4.36	John and Margaret Henderson
FSPC4.37	Mangawhai Ratepayers and Residents Association (c/- Barbara Pengelly)
FSPC4.38	Patrick Sparks
FSPC4.39	Ian Clarke
FSPC4.40	Craig Jepson
FSPC4.41	Arnold Leeder
FSPC4.42	David Cole
FSPC4.43	Chris Bennett
FSPC4.44	Steve Fitt
FSPC4.45	Karl Dixon
FSPC4.46	Tracz Family Trust (c/- Adrian Tracz)
FSPC4.47	Grant Walter
FSPC4.48	Tessa Pearson
FSPC4.49	Antonius Perry
FSPC4.50	Thomas Parsons
FSPC4.51	Ursula Bode
FSPC4.52	Christian Simon
FSPC4.53	Mark Molloy
FSPC4.54	Stephan Sosich
FSPC4.55	Graham Drury
FSPC4.56	New Zealand Fire Service (c/- Jaiman Patel)
FSPC4.57	Far North District Council (c/- Tammy Wooster)
FSPC4.58	Bryan Stevens
FSPC4.59	Gordon Palmer (late)

The one late Further Submission, from Gordon Palmer, was received by Council late on 10 April 2017 i.e. one week after the closing date. A decision on whether to accept the late submission needs to be made by the Commissioners under Section 37 of the RMA. Relevant considerations are that the Further Submission is in like form to other Further Submissions and there should be no party prejudiced by the acceptance of the late submission. However there has been no explanation for why the Further Submission was lodged late. On balance, it is considered appropriate that the Commissioners accept this late submission.

For completeness, it is noted that an email was received by Council from Marion Pilmer on 03 April 2017. The email was not able to be viewed (the attachment could not be opened) and subsequent Council staff contact with Ms Pilmer did not result in the required clarification being received. If the email was intended as a Further Submission it was therefore not valid.

An issue is raised in Further Submissions about the time given to lodge Further Submissions. The Public Notice was given in the Northern Advocate newspaper and placed on Council's website on Friday 17 March 2017, with the Further Submissions period closing on Monday 03 April 2017. That gave in excess of the required 10 working days to lodge a Further Submission.

5 Key Issues raised in Submissions

Council's Summary of Submissions document helpfully categorises the subject matter of submissions. The subjects categorised, and the number of submitters raising the matter, are as listed in the table below.

For the purposes of this report it has been regarded as appropriate to establish "Issues Categories" as a basis for considering the matters raised in submissions. The Issue categories are listed below (in the order they are discussed in this report) and cross-referenced in the table.

- 1 General / Decision Options
- 2 Is there a Fire Safety Issue the District Plan needs to Address?
- 3 Methods to Address Fire Safety
- 4 The Code of Practice - Legal Issues
- 5 Standards for access
- 6 Costs of the Rules
- 7 Benefits of the Rules
- 8 Efficiency and Effectiveness
- 9 Risk of Not Acting

Summary of Submissions Categories	Number of Submitters	Issue Categories in this Report	Part of Report
Amenity	7	Cost of the Rules	11
Costs to Comply	7	Cost of the Rules	11
Issues	7	Is there a Fire Safety Issue the District Plan needs to Address?	7
Legislation	18	The Code of Practice - Legal Issues	9
Miscellaneous	23	Standards for access (or addressed under other headings)	10
Objectives	5	Wording of Provisions	16
Oppose Plan Change	5	Decision Scope	6
Other Methods	7	Evaluation and Wording of Provisions	16
Outcomes	3	Evaluation and Wording of Provisions	16
Policies	12	Evaluation and Wording of Provisions	16
Role of the Code of Practice in the District Plan	29	Methods to Address Water Supply in the Event of Fire	8
Rural and Maori Purpose Zone Rules	18	Evaluation and Wording of Provisions	16

Summary of Submissions Categories	of Subject	Number of Submitters	Issue Categories in this Report	Part of Report
Subdivision Rules		6	Evaluation and Wording of Provisions	16
Support C Boonham		16	Decision Scope	6
Support Plan Change		2	Decision Scope	6
Urban Rules		4	Evaluation and Wording of Provisions	16

6 Decision Scope

There are two submissions in support of the Plan Change, with the remainder either seeking changes or that the Plan Change not proceed.

In brief, the following is a cross-section summary of the form of relief sought by various parties:

- 1 Mr Boonham's submission, supported by many other submissions, is that the fire safety rules have not been shown to improve the firefighting abilities of the district and are not justified considering the financial and amenity costs. The relief sought is that the land use and subdivision rules be deleted and that a new Plan Change be introduced that deletes any rules based on the Code of Practice.
- 2 Mr Larsen's submission, also supported by other submissions, is that the provisions need to be substantially modified, including deletion of rules requiring compliance with the Code of Practice.
- 3 The NZFS submission supports, with requested amendments, some parts of the Plan Change, however generally opposes the Plan Change in that it narrows the scope of the fire safety rules in the District Plan. NZFS would be comfortable with the status quo provisions, with alternative measures to address the concerns that have led to the Plan Change.
- 4 The Far North District Council position is one of support of the Plan Change.

Having regard to the Plan Change as notified and the relief sought in submissions, the following is considered to be the scope of decision-making (see also Section 6.3 of the Section 32 Report):

- 1 The Plan Change may be withdrawn i.e. the status quo option.
- 2 The proposed land use provisions as listed below may be amended (as sought in submissions), or deleted, in part or as a whole.
 - (a) Issue 2.3.14
 - (b) Objective 2.4.15
 - (c) Policies 2.5.17(a), 2.5.17(b), 2.5.17(c)
 - (d) Other Methods 2.6.2.5, 2.6.2.6, 2.6.2.7, 2.6.2.8
 - (e) Outcomes 2.7.13

- (f) Rules 12.10.26 b) and c); 15A.10.25 b) and c); and 15B.10.25 b) and c) and Note 2 following each of those rules
 - (g) Rules 13.10.26 b), c) and d) and 14.10.26 b), c) and d) and Note 1 following each of those rules
 - (h) Rule 15A.10.3b(c) (second bullet point only)
- 3 The existing subdivision provisions as listed below may be amended (as sought in submissions), or deleted, in part or as a whole (Note: these rules were specifically made open for submissions in the Public Notice for the Plan Change).
- (i) Rules 12.15.4 2 (b); 13.14.4 2 (b); 14.13.4 2 (b); and 15B.14.4 2 (b)

In respect of the many submitters who seek withdrawal of the Plan Change and a new Plan Change deleting any reference in the District Plan to Fire Safety Rules and the NZFS Code of Practice, it is noted that much of what those submitters seek to achieve is available within the scope of the Plan Change and relief sought in submissions. The rules⁷ exceptions that are considered to be outside scope (i.e. have not been notified as being open for submissions) are:

- (a) The following rule in the Rural Rules 12.10.26; 15A.10.25 and 15B.10.25

The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest.

- (b) The Kaipara District Council Engineering Standards 2011 in s8 Water Supply and Reticulation, noting that the Standards are frequently mentioned in the District Plan's assessment criteria and (in respect of commercial zones only) dwellings.

8.2 Design Requirements

The following requirements shall be met:

- a) *Water supplies to all developments shall meet the requirements of the Building Act; and*
- b) *Reticulated water supplies to all developments shall:*
 - (i) *include an isolation valve installed immediately after the meter on every new connection;*
 - (ii) *have an approved backflow preventer installed on every new commercial or industrial connection;*
 - (iii) *be adequate for fighting purposes in accordance with New Zealand Fire Service's Code of Practice SNZ PAS 4509:2008*

⁷ Note that there are also existing issues, objectives and policies referred to in Section 7 of this report that address fire and are not the subject of the Plan Change.

PART C: EVALUATION

7 Is there a Fire Safety Issue the District Plan needs to Address?

A large number of submissions seek the withdrawal of the Plan Change. A number of submissions also question whether there is an issue to be addressed.

It is accordingly appropriate to examine the basis for the Plan Change, having regard to Section 32 RMA requirements.

Section 31 of the RMA sets out the functions of territorial authorities under the Act. Relevant functions include (underlining added):

- (a) *the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:*
- (b) *the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—*
 - (i) *the avoidance or mitigation of natural hazards;* and
 - (ii) *the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and*
 - (iia) *the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:*
 - (iii) *the maintenance of indigenous biological diversity.*

The RMA defines “natural hazard” as meaning (underlining added):

any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment

As “fire” has the potential to adversely affect human life, property, or other aspects of the environment it appears that even structural fire would meet the definition of a Natural Hazard. It is accordingly a matter that needs to be considered in a district plan. This was confirmed by the Environment Court in the following extract from *Maurice R Carter Limited vs Christchurch City Council* (C79/2001):

[13] *Secondly, Mr Hearn submitted that there is nothing in the Fourth Schedule of the RMA suggesting it is a power of a territorial authority to impose controls for the protection of property against fire. Strictly that is correct. However paragraph (1)(a)(i) of Part II of the Second Schedule⁸ expressly provides for provision in district plans of matters relating to "the avoidance or mitigation of natural hazards" which, as we have noted above, include fire. Since the Act is written in a comprehensive way and*

⁸ The Second Schedule was repealed in the 2003 RMA amendment, however Section 31 RMA, as quoted, is relevant

the use of "land" includes building" we think it is beyond serious doubt that the general power to control use of land so as to avoid or mitigate fire damage (the effects of fire) include the specific powers to control the location of buildings, and the planting of trees. We agree with Mr Hardie for the CCC that s.5(2) and s.7(f) of the RMA give jurisdiction for the imposition of a fire rule.

The Natural Hazards Chapter of the District Plan (Chapter 7) identifies two issues that relate to fire (these are not subject to the Plan Change):

7.4.1 There is risk to life, property and the environment from hazards including fire; flooding in low lying areas; coastal erosion; landslips; and storm damage."

and

7.4.3 Inappropriately located activities and development increase the likelihood of significant property damage caused by hazards, such as wild fire, land instability and subsidence.

- *Locating structures (especially dwellings) in close proximity to bush or shrubland areas or conversely allowing forestry activities close to existing residential buildings (locating property and residential activity in proximity to wild fire hazard areas)."*

The Section 32 Report highlights a concern⁹ that, while fire is identified as a natural hazard, it is not clear whether this includes structural fires. The Report states:

It is further considered that the most relevant objectives that follow from the above issues do not clarify the District Plan's uncertain position on structural fires as the following objectives are generic in nature and can be applied to all natural hazards, including wild fires:

7.5.1 To control subdivision and development so that it does not induce natural hazards or exacerbate the effects of natural hazards.

7.5.3 To improve public awareness of natural hazards as a means of helping the community to avoid such hazards.

7.5.4 To consider natural hazards at the time of any subdivision, land use development or when there is a significant change in land use proposed (for example a new Growth Area).¹⁰

The Section 32 Report goes on to state that¹¹:

NZFS believes it has a responsibility under the Fire Service Act 1975 to provide for fire fighting activities in a safe, effective and efficient manner and that this role fits within the sustainable management purpose of the RMA, in particular s5(2) - health and safety.¹²

⁹ Section 32 Report, Section 2.2

¹⁰ These objectives are not subject to the Plan Change

¹¹ Section 32 Report, Page 22

¹² The NZFS submission states similar reasons

There is also a RMA basis to consider the structure itself. A structural fire can have social and economic consequences, as mentioned in part 3.2.2 of the Section 32 Report.

While reasons are not specifically stated in the Section 32 Report, there are also potentially wider environmental consequences of structural fire. As well as there being an issue of structural fire being caused by adjoining forest / vegetation fire, there is also potential for the reverse – structural fire being the cause of destroying natural resources.

Chapter 2 - District wide Objectives includes reference to the following issues (underlining added) (these are not subject to the Plan Change):

2.3.7 The safe and efficient development and management of infrastructure, including transport networks, utilities, utility networks, to support growth and contribute to the social and economic wellbeing of the community.

The provision of infrastructure is important to avoid potential adverse effects on the environment resulting from more intensive land use and development, particularly residential and business growth (e.g. the contamination of water-bodies from human effluent).

The District Plan seeks to provide for the safe and efficient development and operation of infrastructure, including transport networks, network utilities and renewable energy generation to support this growth. It also seeks to recognise the role of infrastructure in enabling people and community to provide for their social, economic and cultural wellbeing and for their health and safety. However the Plan must also provide for the sustainable management of its infrastructure resources to avoid, remedy or mitigate any actual or potential adverse effects they will create on the environment.

2.3.8 Natural Hazards have the potential to adversely impact on communities and the natural environment. Whilst some of these hazards are poorly understood, hazard risk needs to be managed to take account of climate change.

There is limited information on existing hazards in the District, both with respect of hazards associated with natural processes and the environment and hazards associated with land use activities and processes (technological hazards such as contaminants).

The relevant objectives are:

2.4.9 To enable the development and operation of utilities, utility networks and the transport network (including the state highway network) throughout the District, particularly where this is undertaken in conjunction with land use development and change.

2.4.10 To take a precautionary approach to managing hazards and their potential effects on communities and the natural environment.

Taken together, it can be argued that the Chapter 7 and Chapter 2 provisions already provide an adequate basis for fire rules, including the amendments now proposed in the Plan Change.

However the Plan Change introduces greater specificity and clarity by introducing provisions particular to buildings and structures. It is proposed in the Plan Change to add a new issue and objective into Chapter 2 - District-wide Objectives, as follows:

Issue

2.3.14 Potential adverse effects to life, property and environment from fires in buildings and structures

The risk to life, property and the environment is affected by the reporting of and responding to fires in buildings. The District is served by a number of volunteer fire fighting forces that need to assemble before a fire appliance is sent to the site of an incident. Response times vary depending on the distance of the incident to the fire station concerned. Firefighting appliances carry a limited water supply and an additional water supply is often required at the source of the fire to put out fires. Additional water supplies are variable across the District. In respect of the various settlements in the District, not all have reticulated water supplies that have sufficient capacity for fire fighting purposes. In addition, static water supplies such as lakes, streams, the sea and swimming pools may be too far from source of the fire for practical use. Dwellings located in the rural heartland and in some settlements where there is no reticulated water supply, provide for their own domestic water needs storing water in tanks which is often insufficient as an additional source for firefighting. Given service levels for the rural heartland of the Kaipara District, it is likely that stored water on site dedicated for fire fighting purposes, may not even be used by the Fire Service to save the buildings by the time the Fire Truck arrives on the site. Where there may be a domestic water tanks on-site dedicated for fire fighting purposes, special couplings are required by the Fire Service to enable this water to be used. In rural areas the issue of reporting and responding to a fire can mean that the dedicated water supply for fire fighting purposes may not prevent the loss of a building.

Objective

- i. To encourage and promote fire safety measures for buildings and structures to minimise fire risk to life, property and the environment.*

The NZFS submission generally supports the objective, however seeks deletion of the words “for buildings and structures” so that the objective has a more general application. That appears unnecessary considering the other provisions already existing in the District Plan, and the declared focus of the Plan Change in providing for clarity in relation to structural fires.

The NZFS submission, and other submissions, raise concern about the new Issue. The NZFS submission raises relevant concerns about the consistency, detail and appropriateness of the new Issue wording. Other submissions raise concerns about the meaning of the Issue.

The new Issue 2.3.14 can be refined to more concisely describe the structural fire risk issue in various parts of the district.

A possible rewording of Issue 2.3.14 is:

Issue

2.3.14 *Potential adverse effects to life, property and environment from fires in buildings and structures*

The risk to life, property and the environment is affected by the variable ability across the district to respond to fires in buildings. The ability to respond is the greatest in those areas that have a public reticulated water supply and a fire station close by (within 5 minutes drive). Settlements that do not have a public reticulated water supply nor a close-by fire service are more at risk. In these other parts of the district some reliance can be placed on utilising domestic water supplies or other static water supplies such as lakes, streams, the sea and swimming pools. However these supplies, and any stored water on site dedicated for firefighting purposes, may not be sufficient to save a building by the time the Fire Service arrives on the site. In settlements without a reticulated water supply a dedicated firefighting supply, utilising water tanks and special couplings can reduce risk, however there are issues of financial and amenity cost. These need to be balanced against alternative measures that may be available in these areas to minimise risk.

Section 32 (1)(a) of the RMA requires an examination of:

...the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act;

The objective addresses risk to life, property and the environment.

With regard to health and safety, the Section 32 Report addresses “Risk” in Part 3.2.2 and records that there were no fatalities due to fires within the Kaipara District between the period 2011/2012 to 2015/2016. With regard to property, opposing submissions raise the issue of whether it is realistically possible for District Plan rules to mitigate property damage in the event of a fire, especially in the more remote locations found in the Kaipara District. Similarly, with regard to the wider environment, opposing submissions raise a question as to whether there is any evidence of adverse effects to the wider environment from structural fires.

Sections 11 and 12 of this report address costs and benefits of methods to give effect to the objectives. It is possible to have an objective and no rules. The focus of opposing submissions is on the rules, however the starting point of assessment should be the objective, which does not specifically refer to whether or not there will be rules (the words used are “encourage and promote”). The question at the objectives level of the hierarchy is whether the objective is consistent with the purpose of the Act.

The meaning of “effect” in Section 3 of the RMA includes:

(f) Any potential effect of low probability which has a high potential impact.

Fire, as a natural hazard, has the potential for high potential impacts. On this basis I consider a potential effect, even of low probability, to be an adequate basis for an objective that seeks to encourage and promote fire safety measures for buildings and structures to minimise fire risk to life, property and the environment.

Having regard to the above and the analysis in the Section 32 Report, I consider the new Objective 2.4.15, together with the existing objectives in the District Plan, to be the most appropriate way to achieve the purpose of the Act.

8 Methods to Address Fire Safety

Section 3.7 of the Section 32 Report addresses the Building Act 2004 and the Building Code. The Report notes that health, safety, escape and sustainability are key matters related to the purpose of the Building Act which underpins the Building Code.

Clause C1 of the Building Code sets out the following three overarching objectives:

- *To safeguard people from an unacceptable risk of injury or illness caused by fire;*
- *To protect 'other property' (i.e. property not in the same allotment or ownership) from damage caused by fire;*
- *To facilitate firefighting and rescue operations.*

Single household units and small multi-unit dwellings are covered by Acceptable Solution C/AS1. Fire alarms are required. However sprinklers are not required for most single household units.

Relevant to Kaipara District, much of which is rural, NZFS strongly recommends that sprinklers are installed in all structures (and specifically houses) sited more than a 10 minute response time from a fire station¹³. This suggests that NZFS sees a gap between what the Building Code requires and what NZFS would like to achieve.

In respect of the concern that the Building Code does not require sprinklers, the Section 32 Report states that it is considered appropriate in respect of the District Plan to have an advice note promoting sprinklers. It is further considered that the Other Methods in Chapter 2 should state that, at the time a building consent is lodged, the Building Code will be implemented.

These extra provisions proposed in the Plan Change are supported by NZFS. Their usefulness as part of the District Plan can be questioned, as they relate to the building consent process rather than resource management processes. In respect of health and safety matters the purposes of the Building Act 2004 and the Building Code are similar to the purpose of the RMA as specified in Section 5. After assessing the provisions of the Building Code, the Section 32 Report author concludes "*...that there can be reliance on the Building Code for fire safety for people*". The extra provisions proposed therefore provide a cross-reference consistent with the proposed objective and from that point of view I do not recommend they be removed.

The Building Code does not address the adequacy of water supply to a building, or access for firefighting purposes. In its submission NZFS focuses on the provision of water supply and firefighting access to new developments as being the issues the District Plan should address (separation to vegetation being the other matter to be considered).

¹³ Clause 1.1 of the Code

Having regard to the District Plan Objectives, I consider it to be appropriate that the District Plan adopts Methods (although not necessarily rules) to manage fire safety in respect of water supply and firefighting access to new developments.

The Section 32 Report (Section 2.3) provides a review of the methods used in a range of district plans around the country. In reviewing the approaches taken by other district plans, it appears consistently to be the case that water supply and access for firefighting purposes is required, usually, but not always, by way of reference to the Code of Practice. However there is an inconsistency in the methods used. There is most consistency in the approach to addressing fire safety matters at the time of subdivision. I note, in addition to the examples given in the Section 32 Report, the Auckland Unitary Plan has rules relating only to subdivision, as below.

E38 Subdivision – Urban

E38.6 General standards for subdivision – E38.6.3 Services (2) Where no reticulated water supply is available, sufficient water supply and access to water supplies for firefighting purposes in accordance with the NZ Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 must be provided.

E39 Subdivision – Rural

E39.6 General standards for subdivision – E39.6.1.3 Service (2) Where no reticulated water supply is available, sufficient water supply and access to water supplies for firefighting purposes in accordance with the NZ Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 must be provided.

It is much less commonly the case that there are land use rules. However, two examples are given below.

Whanganui District Plan

Rural Rules 3.5.4 (f), 3.9.4 (f) and 3.11.4(j)

All new habitable structures to be used for residential, commercial or industrial purposes shall be provided with a fire fighting water supply and access to this supply in accordance with New Zealand Fire Service Fire Fighting Water Supply Code of Practice 2008 SNZ PAS 4509:2008

Christchurch District Plan

Built form standards - Rural Banks Peninsula Zone

17.2.3.13 Water supply for firefighting

- 1. Provision for sufficient water supply and access to water supplies for firefighting shall be made available to all buildings (excluding accessory buildings that are not habitable buildings) via Council's urban reticulated system (where available) in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice (SNZ PAS 4509:2008).*

2. *Where a reticulated water supply compliant with SNZ PAS 4509:2008 is not available, or the only supply available is the controlled restricted rural type water supply which is not compliant with SNZ PAS 4509:2008, water supply and access to water supplies for firefighting shall be in accordance with the alternative firefighting water sources provisions of SNZ PAS 4509:2008.*

There is an inconsistency of Methods adopted in District Plans to address essentially the same issue. In that respect there may be merit in the issue raised in some submissions, that clearer Methods could or should be provided on a national basis.

This was a major subject of a Department of Internal Affairs June 2016 Regulatory impact statement “Fire Services Review: detailed policy design”¹⁴. The report recommended a Mandatory Code to ensure firefighting water supplies.

The NZFS submissions refer to the then Fire and Emergency New Zealand Bill that has now passed in to law¹⁵. In their Further Submission NZFS states that mandatory compliance with “the” Code of Practice is likely to be required.

In respect of ‘Previously approved Code of Practice for firefighting water supplies saved’ Clause 33 of the First Schedule to the new Act states:

Provisions of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008 continue to apply until the Minister approves a code of practice for firefighting water supplies under section 72.

The Act states:

Section 72: Minister may approve code of practice for firefighting water supplies’

- (1) *The Minister may approve a code of practice for firefighting water supplies that FENZ recommends to the Minister under section 73.*
- (2) *Before approving a code of practice for firefighting water supplies, the Minister must be reasonably satisfied that FENZ has complied with its obligation under section 73(2).*

Section 73 – Duty to develop, consult on, recommend the approval of, and publish and notify code of practice for firefighting water supplies’

- (1) *For the purposes of section 72, FENZ must develop, consult on, recommend the approval of, and publish an approved code of practice for firefighting water supplies (code of practice) in accordance with this section.*
- (2) *FENZ must develop a code of practice in consultation with-*
 - (a) *Local advisory committees; and*
 - (b) *Any local authority, association of local authorities or any other appropriate authorities or organisations*

¹⁴ <http://www.treasury.govt.nz/publications/informationreleases/ris/pdfs/ris-dia-fsrd-jun16.pdf>

¹⁵ The Bill gained Royal Assent on 11 May 2017, and is now the Fire and Emergency New Zealand Act 2017 (“FENZA”).

- (3) *After developing a code of practice in accordance with subsection (2), FENZ must submit the code of practice to the Minister for approval...*

Section 74 - Powers in relation to checks as to adequacy of firefighting water supplies.

FENZ may check, and require checks to be made as to, the adequacy of firefighting water supplies, including tests of water volume and pressure, as FENZ considers necessary or desirable, in order to check compliance with a code of practice for firefighting water supplies—

- (a) *in any water main; or*
(b) *in any area.*

It appears that the Act envisages a new Code of Practice to replace the existing one, which would be consistent with the current Code of Practice now being overdue for review (a point made in some opposing submissions to this Plan Change).

A legal view has been obtained by Council in relation to whether the reference to the current Code of Practice in Clause 33 means that is a Code included in Section 74. While Section 74 refers to “a” Code of Practice this is not considered to include the current Code of Practice. Rather, it is considered the reference is to a Code of Practice approved under Section 72 of the Act. In this respect it is noted that “code of practice for firefighting water supplies” is defined in Section 6 of the Act to specifically mean a Code of Practice approved by the Minister under Section 72 as follows:

Code of practice for firefighting water supplies means a code of practice—

- (a) *that is approved by the Minister under section 72; and*
(b) *that relates to firefighting water supplies, including standards of water supply and access to, and volume and pressure of, water supply.*

This view is reinforced by the specific language used to refer to the current Code of Practice in clause 33, Schedule 1, which is consistent with the current Code of Practice, while remaining in force until a new Code of Practice is approved under Section 72, not being “a code of practice for fire fighting water supplies” for the purposes of the Act.

It is not clear how Section 74 is to be administered in relation and any new Code of Practice, but, if the above view is accepted, that is a matter that needs consideration only when a future Code of Practice is put in place.

This report therefore proceeds on the basis that the new Act does not in itself require compliance with the current Code of Practice, and that a District Plan method may still need to be considered.

The Methods identified and discussed in Section 6 of the Section 32 Report are considered to be appropriate ones to assess. These are:

- 1 *Status Quo - Retain existing provisions where the Code applies to all development through land use rules and is assessed at the time of subdivision, in both reticulated and non-reticulated areas. Retain setback to vegetation - the 20m dripline rule.***

- 2 Provide a more flexible approach in administering existing Fire Safety Rules (Land Use) using the 'alternative' provisions of clause 4.4 where proposals will be assessed by NZFS in accordance with Appendices H and J of the Code of Practice to determine compliance as part of a building application. Retain all rules as written, including the vegetation setback rule - the 20m dripline rule.**
- 3 Delete the Fire Safety Rules (Land Use) from District Plan and replace with an Advice Note. Reference to Code retained in Subdivision Rules. Delete the vegetation setback rule for the Residential and Business Zones and retain in the Rural Zones - the 20m dripline rule. It is to be noted that the Code will still be applied to developments that require Council reticulation through the Kaipara District Council Engineering Standards 2011.**

Method 3 is the Plan Change option. The other two options are variations of the status quo.

Method 2 raises the question as to whether flexibility could be applied to permitted activity dwellings. To date, Council has considered it necessary to require a resource consent. There does appear to be some scope available under the Code of Practice Clause 4.4, however that is a process that involves a separate approval process which I consider to be undesirable practice, particularly in respect of permitted activities.

In any case, this method would appear to have limitations, based on the need still to have an alternative consistent with Appendices H and J of the Code of Practice. It is assumed that NZFS agreement to the many resource consents that have been granted for a reduction to a 10,000 litre tank size is consistent with Appendices H and J, however NZFS may be able to assist the Commissioners further with information on what the scope for agreed protocols may be.

It is noted that the fourth method listed in Section 6 of the Section 32 Report - amend rules by setting a lower volume of water being required onsite for firefighting purposes than the volumes required under the Code of Practice – was originally proposed in Plan Change 2, but seemingly opposed by all parties.

There is however an alternative fourth Method that should be examined, and that is:

- 4 Deletion of both the land use and subdivision rules and replacement by advice notes.**

In this option, the Code of Practice would only be referred to in Advice Notes, although the Code would (through provisions not subject to the Plan Change) still be applied to developments that require Council reticulation through the Kaipara District Council Engineering Standards 2011. The Method would therefore only relate to water supply.

Finally, a variation of Method 4 (Method 5) would be:

- 5 "Other Methods" including community tank supplies and / or extra trailer tanks for fire appliances.**

Again, the Code of Practice would still be applied to developments that require Council reticulation through the Kaipara District Council Engineering Standards 2011, including in respect of access to sites.

9 The Code of Practice - Legal Issues

I note that this Section of my report has been reviewed by Council's lawyers.

Mr Boonham and Mr Larsen, in particular, raise issues about the legality of the Code of Practice, the scope of the Code and the procedure by which it has been included in the District Plan.

Issues relating to the legality of the Code of Practice relate to whether it has been appropriately authorised under the Fire Service Act 1975. It is not considered necessary or appropriate for that issue to be addressed as an issue for this Plan Change. The Code of Practice, as it stands, is capable of being referenced in a District Plan. In that respect Clause 30 of the First Schedule to the RMA provides:

30 *Incorporation of documents by reference in plans and proposed plans*

(1) *The following written material may be incorporated by reference in a plan or proposed plan:*

(a) *standards, requirements, or recommended practices of international or national organisations*

SNZ PAS 4509:2008 is a Standards New Zealand document and is therefore a document that may be referenced in a District Plan. The document is in fact referenced in many District Plans.

The Code of Practice was inserted into the District Plan subsequent to a submission made by NZFS at the time of the District Plan Review. A concern raised by Mr Larsen in his submission is that the document was not made available for perusal in terms of Clause 34 of the First Schedule to the RMA.

This is not a matter considered to be relevant to this Plan Change, as it relates to existing provisions in the District Plan that have not been challenged. Clause 34 applies prior to public notification of a plan. In this case, the Code references were inserted after notification, and in that respect Clause 34 does not appear to apply. In respect of relief sought in submissions, opposing views can be made in further submissions.

In any case it is noted that sub-clause (5) of Clause 34 provides:

A failure to comply with this clause does not invalidate a plan or proposed plan that incorporates material by reference.

A number of submissions state that the Code of Practice is confined to urban fire districts and is therefore not applicable in rural areas.

The Code of Practice does appear inconsistent in this respect. However it contains parts that are explicitly relevant to rural areas, for instance water supply in non-reticulated areas. The following is stated under 1.1 Aims:

Where this code identifies firefighting water supply requirements for any of the three water supply systems above, these requirements can be used to provide advice for similar systems outside fire districts, that is, in rural areas.

As noted, the Code of Practice is referred to in many District Plans, including in relation to rural areas.

Accordingly, it is considered that there are no legal issues barring a Method that refers to the Code of Practice in the District Plan, including as existing and as may be possible under any of the Methods outlined above.

10 Access

The effect of the Plan Change is that the current requirement to comply with the Code of Practice for land use developments is removed.

It is also the intention to retain the subdivision provisions that refer to the Code of Practice. However in that respect it should be noted that those provisions relate to Water Supply standards and it is not clear whether this covers access to that water supply. Subdivision access standards are addressed in separate rules. The Engineering Standards 2011 do not refer to a requirement that access be in accordance with the Code of Practice.

What would remain should the Plan Change proceed is what was originally notified in the District Plan Review, which is a requirement that:

Any building is permitted if:

- a) *It does not impede the movement of fire service vehicles or equipment or generally restrict access for firefighting purposes.*

In addition the vehicle access and driveway rules require:

Access and manoeuvring areas shall comply with the New Zealand Building Code acceptable solutions C/AS1 Part 8.1 (Fire Service Vehicular Access 2010);

C/AS1 Part 8.1 requires accesses to have a minimum width of 4.0m and clear passageway of no less than 3.5m to within 18m of a building.

The question arises as to whether the above provisions are sufficient without an additional reference to the Code of Practice.

It is not clear whether this outcome was intentional, as the Section 32 Report does not specifically address this matter.

Some submissions, and Mr Larsen's submission in particular, raise issues about the access requirements and consistency between the Code of Practice and Council's Engineering Standards. The NZFS Further Submission acknowledges the inconsistency, however notes that the issue was raised at the District Plan Review hearings and was not resolved.

The tentative recommendation in this report is that the Code of Practice is referred to as a matter to consider under the assessment criteria for the Subdivision Performance Standards in Rules 12.15.4, 13.14.4, 14.13.4 and 15B.14.4. The recommendation is tentative as further information

may be made available at the hearing that suggests either that this addition is not required, or that an alternative may be more appropriate. The further assessment criterion suggested is:

The extent to which there is adequate access to water supply for firefighting purposes, having regard to SNZ PAS 4509:2008.

11 Cost of the Rules

Where there is reticulated water supply, there are no costs for property owners when they build on their properties.

Methods 1 or 2 (Retain existing Fire Safety Rules / in addition providing a more flexible approach in administrating the existing Rules)

With regard to non-reticulated areas, which is the case commonly in Kaipara district (including Mangawhai), Section 6.5 of the Section 32 Report canvasses financial costs to comply with the fire safety rules. In brief, the following is stated in respect of providing tank water supplies:

Scenario- type of tank and how the provisions are met (these scenarios do not include the 25,000ltr for household purposes)	Cost to comply with Fire Safety Rule
10,000ltr plastic tank for firefighting plus resource consent	10,000ltr tank (\$2,485) plus resource consent (\$1,000) = \$3,485.00
12,000ltr concrete tank for firefighting plus resource consent	12,000ltr tank (\$3,269) plus resource consent (\$1,000) = \$4,269.00
1x25,000ltr plastic tanks - 15,000ltrs for household purposes and 10,000ltr for firefighting plus resource consent	25,000ltr tank (\$3,055.00) plus resource consent (\$1,000) = \$4,055.00
1x25,000ltr concrete tank - 15,000ltrs for household purposes and 10,000ltr for firefighting plus resource consent	25,000ltr tank concrete (\$3,507.00) plus resource consent (\$1,000) = \$4,507.00
3x25,000ltr plastic tanks 45,000ltrs for firefighting)	3x25,000ltr plastic tanks (3 x \$3,055.00) = \$9,165.00
3x25,000ltr concrete tanks 45,000ltrs for firefighting)	3x25,000ltr concrete tanks (3 x \$3,507.00) = \$10,521.00

The required ‘coupling’ may be bought already attached to a tank in which case the prices above will be higher or the coupling may be bought separately. The price of a coupling is approximately \$1,474.00 (for a plastic tank).

Hardstands and driveway/access to the water supply is estimated at \$2,900 for a hardstand area of 11m x 4.5m to water supplies and 30m of driveway/access to support a 20 tonne fire appliance.

The Section 32 Report acknowledges costs are likely to vary depending on where the alternative supply is located and of course there is a large variation in some rural areas. On the other hand, it is likely that access and manoeuvring areas would also be used for domestic purposes.

A 45,000 litre supply is the “default” position under the Code of Practice. The cost of that supply is significant, as indicated in the table.

However, it has become well understood that a smaller water supply can suffice, and be approved after consultation with NZFS. A resource consent cost of \$1,000 can be more than balanced by the savings of a smaller tank. Resource consents have been frequently granted, after consultation with NZFS, for a 10,000 litre tank supply.

The reference to the costs of resource consent in the table can potentially be addressed in Method 2 as outlined, if a suitable protocol could be established with NZFS, which could, for instance, clarify the standard circumstances under which a 10,000 litre tank supply will be accepted.

It is also noted that Mr Larsen in his submission has raised the possibility of a less expensive coupling, which could also be used (for instance in emergency drought conditions) for domestic supply. Should the Commissioners decide that the land use rules should remain as sought by NZFS, then this is a matter that could be potentially be discussed and agreed with NZFS as a protocol.

However, there would still be a cost of up to \$4,000 per dwelling. Further, as noted in the Section 32 Report, alternative measures (Method 2) may prove difficult to arrange / implement.

Another “cost” highlighted in submissions is the cost to amenity of having unsightly water tanks located on residential sites, particularly the smaller sites found in towns such as Mangawhai.

Method 3 (Delete the Fire Safety Rules (Land Use) and replace with an Advice Note (this is the proposed Method) / Method 4 Delete the Fire Safety Rules (Land Use and Subdivision) and replace with Advice Notes)

Method 3 retains the subdivision provisions, and all new sites in reticulated areas would then meet the Code of Practice standards. Method 4 would remove most (not all – the access requirements would remain) provisions requiring compliance with the Code of Practice, which would then be an advisory document to take into account. Under both of these methods permitted activities, such as the building of a house, would not be subject to a fire safety rule. In respect of the Code of Practice, reliance would then be placed on encouragement in respect of permitted activities and possible conditions in respect of some resource consents.

The financial and possible amenity costs of these options would be substantially reduced for individuals who chose not to install tanks for dedicated fire safety purposes.

The costs would be the risk that an inadequate water supply would lead to fatalities, or damage to property or the environment that may have been mitigated if an adequate water supply were available.

Method 5 (alternative methods)

Sections 3.4 and 3.5 of the Section 32 Report address options for communal firefighting as an alternative to strict compliance with the Code of Practice. These alternatives include an agreement between NZFS and Council that an alternative volume of water storage be provided in the form of tanks strategically placed in Mangawhai and potentially other communities without reticulated water supplies but with firefighting capability (similar to an agreement that has been reached between NZFS and Gisborne District Council); and the option of a mobile water supply. The advantages of these options is that they can address existing as well as new developments. As communal options, they may also result in less overall financial cost, although direct comparisons of costs are difficult to calculate.

The issue with Method 5 is that it is not “on the table” as an option the Commissioners can confidently take account of, at least without the certainty of a financial commitment being made.

12 Benefits of the Rules

The benefit of Method 1 (retaining the Fire Safety Rules), or any alternative Method that retains some of the fire safety rules is that adequate water supply for firefighting purposes may avoid fatalities or mitigate damage to property or damage to the environment.

Unlike costs, these benefits are more difficult to quantify. Having a dedicated water supply available for firefighting has the potential for benefits as that water supply may be able to be used to lessen risk. However it appears that there is no information on whether access to a water supply provided in accordance with the Code of Practice has made any difference in respect of what the Objective seeks to achieve. In that respect, the opposing submissions are clearly of the view that water tanks make no difference, as the damage will have occurred before the fire appliance arrives (see, for instance, Part 8 of Mr Larsen’s submission). The NZFS Further Submission points out that an onsite water supply can still be effective in controlling the spread of fire and a fire may not reach “flashover” before the time an appliance arrives.

It may be helpful to the Commissioners for NZFS to provide actual examples of these benefits at the hearing, so that a more confident assessment of benefits can be made against costs.

13 Efficiency and Effectiveness

An assessment of efficiency and effectiveness is given in Section 6.6 of the Section 32 Report.

A major issue with the current rules, and in particular the land use rules, is that they are not efficient. In order to achieve reduced costs of providing water supply in accordance with the Code of Practice it is necessary for those who are building to apply for and obtain a resource consent. The number of resource consents granted for lesser water volumes suggests that lower volumes of water are effective for fire safety.

Following on from the Benefits discussion above, there is a question as to whether the rules are being or will be effective in reducing the risk of fatality or mitigating damage to property and the environment.

Method 2 may prove more efficient, if a protocol can be agreed between NZFS and Council. The concern raised in the Section 32 Report, that the implementation of the Fire Safety Rules (Land Use) would not be clear and certain, could be resolved by making agreed protocols well known and understood. The Plan Change could be amended to make reference to the alternatives possibility.

NZFS appears prepared to further pursue this option and has been invited in this report to provide further information in relation to the possible alternatives at the hearing. This could also address the concerns mentioned in the Section 32 Report, that there is the potential for different outcomes depending on who is involved in the assessment of alternatives.

Methods 3 and/or 4 would be efficient from the point of view that there would be certainty that water supply for fire safety purposes would not be a requirement. However, in respect of Method 4 there is a question as to whether the Objective could be effectively achieved via reliance on advice notes and encouragement.

Method 3 (as is proposed) is relatively efficient compared to Methods 1 and 2 in that it focuses on subdivision procedures rather than individual site development.

14 Risk of Not Acting

An assessment of the risk of not acting is given in Section 6.6 of the Section 32 Report.

There has been considerable information collected and contained within the Section 32 Report and in Submissions and Further Submissions. While further information would always be helpful, particularly in relation to examples of how conformance with the Code of Practice has been effective, it is considered that the Commissioners have a good basis of information on which to make a decision. As noted, the largest information “gap” is that relating to whether a dedicated (tank) firefighting water supply has been shown to provide benefits that justify the costs.

15 Overall Evaluation of the Alternative Methods

Subject to further information that may be made available at the hearing, my assessment is that, with some minor changes, the Plan Change as proposed is the most appropriate method to achieve the objectives. The Plan Change provisions achieve an appropriate balance between costs and benefits and can be administered efficiently and effectively.

In this respect I support the assessment made in Section 6 of the Section 32 Report and give the following further assessment in summary:

- 1 It is appropriate that the District Plan adopt Methods including rules to manage the effects of fire safety in the district that cannot be effectively addressed by other methods.
- 2 The risk of structural fires occurring in the Kaipara district is low and mitigated by Building Code requirements of installing smoke alarms and ensuring means of escape from buildings in the event of fire.
- 3 Response times, particularly to structural fire events outside the settlements are such that water stored onsite may not even be used by the fire service to save a building by the time it arrives at the site concerned. The current land use requirements relating to onsite water

- supply are therefore not considered to be justified.
- 4 Implementing the Code of Practice at a land use stage for new development is therefore a disproportionate action to mitigate the risk posed by structural fires events and in particular does not capture sites which already have been developed.
 - 5 An Advice Note that recommends installing sprinklers in buildings is more appropriate.
 - 6 Method 5 as discussed in this Report would be consistent with the Objective, however is not considered to be necessary to meet the purpose of the Act. Nevertheless, I agree with the Section 32 Report writer that Council, NZFS and the community could give further consideration to the option of Council providing strategically located tanks specifically for the storage of water for firefighting purposes or providing volunteer fire brigades with mobile tankers or portable dams in communities that have a fire service (brigades) but not a reticulated water supply.
 - 7 It is appropriate that subdivision provisions referring to the Code of Practice be retained. This provides an appropriate balance between costs and benefits and is an approach consistent with that taken in the majority of district plans in New Zealand. Implementation of the Code of Practice is more appropriate at subdivision stage when the issue of appropriate provision of water for firefighting purposes should be addressed upfront.
 - 8 The Engineering Standards, which require the Code of Practice to be taken into account in respect of water supply in reticulated areas, still apply, and this is appropriate.
 - 9 Requirements for access for firefighting purposes are appropriately addressed in the District Plan by a further criterion in the water supply rules that makes reference to the Code of Practice.
 - 10 Considering the greater proximity of urban sites to firefighting resources, it is appropriate that the 20m clearance from vegetation requirement be deleted from the residential and business zones.

16 Evaluation and wording of the Proposed Provisions

I evaluate and recommend rewording of the proposed provisions for the reasons stated, as follows.

General

In his submission, Mr Larsen suggests that the term “firefighting” should replace “fire fighting” in all provisions. While both terms seem to be used in other documents “firefighting” does appear more common and replacement wording to that effect is recommended.

Mr Larsen also considers the term “structural” fires should be replaced with “structure” fires which he considers to be the norm. My review indicates that “structural” is a commonly used term and it is not recommended it be changed.

Policies (Section 2.5)

- 2.5.17(a) *To ensure new reticulated sites within the Reticulated Services Boundary are provided with an adequate supply of water for firefighting for the reasonably anticipated land use;*
- 2.5.17(b) *To promote in non-reticulated areas that there is an adequate alternative supply of water for firefighting purposes for the reasonably anticipated land use;*
- 2.5.17(c) *To encourage education on fire hazard and on fire risk reduction measures.*

The District Plan can promote measures at land use and subdivision stages to assist in minimising fire risk spread for the community. However, provisions in a District Plan are not the only method of minimising fire risk. The Building Code contains measures that are applied at the time a building consent is lodged. Council or the community, for areas where there is no reticulated water supply, can provide static supplies for firefighting purposes in the form of tanks situated at strategic locations that can service a wider area.

Having regard to the evaluation of Alternative Methods above it is considered that the policies are relevant and appropriate to achieving the purposes of the objectives. Policy (a) focuses on ensuring new reticulated sites (i.e. through subdivision) are provided with adequate water supply for firefighting. In that case, the rules refer to the Code of Practice. Policy (b) is an encouragement policy in non-reticulated areas (i.e. no specific requirement is intended). Policy (c) is a reference to Other Methods.

In his submission, Mr Boonham raises concerns about what the words “ensure”, “adequate supply” and “reasonably anticipated land use” mean. It is commonly the case that the detail of what policies set out to achieve is given in the rules, and that clarification is available in the District Plan rules. The subdivision rules refer to the Code of Practice in respect of water supply and reasonably anticipated land use would normally be interpreted as permitted activities in the relevant zone.

The Far North District Council submission raises a concern in respect of Policy (a) that existing reticulated water systems should be checked to see whether they can meet the Code. Council's engineering staff have confirmed that the results of key hydrants tested in May 2016 indicated that 95% of the reticulated water network is compliant with the Code.

The NZFS submission requests that policies (a) and (b) refer to access. While that is not considered appropriate, it is considered that the provisions should refer, in advice notes and criteria, to the access standards of the Code of Practice. This is further discussed below.

In his submission, Mr Larsen raises a concern that Policy (b) is not clear and may result in a requirement to meet the Code of Practice standards. This is not the intent of the policy, and there are no rules. However, it is the case that the policy is not clearly followed up with any other provision, a matter addressed under “Rules” below. NZFS suggests that this policy should “ensure” rather than “promote” adequate water supply (and access). This is consistent with NZFS's position that the land use rules should remain. It is not the recommendation of this report that the land use rules remain, and “promote” remains the appropriate term to use in the policy.

In respect of the explanation to the policies, Mr Larsen raises a concern about providing water

tanks all around the district. While the explanation does not specifically state that will occur, the current wording may be interpreted as indicating an intention which is not, currently at least, the case. The final sentence of the policy could either be deleted or replaced with wording as below.

While meeting the Code of Practice would not be a requirement in all cases, it is considered appropriate that reference to it be made in the Explanation, (slightly different wording is sought by NZFS).

The amended explanation would then be as follows:

The District Plan can promote measures at land use and subdivision stages to assist in minimising fire risk spread for the community. However, provisions in a District Plan are not the only method of minimising fire risk. The Building Code contains measures that are applied at the time a building consent is lodged. The New Zealand Fire Service Firefighting Supplies Code of Practice SNZ PAS 4509:2008 is a New Zealand Standard that contains guidance on an adequate water supply, and access to it, for firefighting purposes. ~~Council or the community for areas where there is no reticulated water supply can provide static supplies for firefighting purposes in the form of tanks situated at strategic locations that can service a wider area.~~ Other measures that could be further investigated include static supplies for firefighting purposes in the form of tanks situated at strategic locations that can service a wider area, portable dams or improved water tank trailers for fire appliances.

Other Methods (Section 2.6)

- 2.6.2.5 *Investigate the provision of additional water supply for firefighting purposes in non-reticulated residential areas where there is a fire service (e.g. Mangawhai, Kaiwaka and Te Kopuru) e.g. Community water tanks or providing volunteer fire brigades with mobile tankers or portable dams;*
- 2.6.2.6 *Implementation of the Building Code at the time of building consents;*
- 2.6.2.7 *Promote the installation of Sprinkler Systems by including an Advice Note on all Building Consents;*
- 2.6.2.8 *Support New Zealand Fire Services Fire Safety Education Initiatives.*

As a general issue relating to Other Methods it has been acknowledged earlier in this report that an understandable issue for NZFS, councils and all other affected parties is that the current Code of Practice is a non-mandatory document and there are varying approaches to its implementation around the country. It is not currently clear when or how this issue may resolved through the Fire and Emergency New Zealand Act 2017, and how that may subsequently affect the provisions of this Plan Change.

Mr Larsen raises practical concerns about Method 5. As this is an investigation method rather than a specific intention, the method is considered appropriate as-is.

NZFS raises a concern as to whether it is appropriate for a District Plan (under the RMA) to refer to separate procedures under the Building Act. I consider the reference is appropriate, recognising that there is a cross-over of objectives between the two Acts.

The reference to sprinklers is consistent with the encouragement / promotion aims of the objective.

Method 8 is acknowledged and supported in the NZFS submission, and is also consistent with the objective.

Outcomes (Section 2.7)

2.7.13 *A community where the risks to life and the surrounding environment from fire is minimised.*

NZFS suggests revised wording for the Outcome that is considered appropriate as it is relevant to the new Objective.

2.7.13 *A community where the risks to life, property and the surrounding environment from fire ~~is~~ are minimised.*

Rules 12.10.26; 15A.10.25 and 15B.10.25 (Rural Land Use Rules)

Any building is permitted if:

- a) *It does not impede the movement of fire service vehicles or equipment or generally restrict access for firefighting purposes; and*
- ~~b) *Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ-PAS 4509:2008;*~~
- ~~c) *The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 'Model Bylaw for Fire Prevention'; and*~~
- ~~d) *The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest.*~~

Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the dripline of any tree and that these setbacks are also appropriate from scrubland and other similar vegetated areas.

Note 2:

"In the interests of the protection of life and the surrounding environment, in all areas particularly non-reticulated areas over five minutes driving distance from a fire station, it is recommended that subject to the use of the building, a fire sprinkler system is installed in accordance with either the:

NZS 4517 (Fire Sprinkler Systems for Houses); or

NZS 4541 (Automatic Fire Sprinkler Systems); or

NZS 4515 (Fire Sprinkler Systems for Life Safety in Sleeping Occupancies up to 2,000m²).

Deletion of (c) in the rules appears to be accepted by submitters as being necessary / appropriate. Deletion of (b) is a major issue that has been canvassed in this report (and the Section 32 Report). The deletion is opposed by NZFS, but supported in many submissions (acknowledging that most submissions consider that not only this but all references to the Code of Practice should be removed).

While it is considered appropriate that the Code of Practice is removed as a rule, it could still be referred to as a note under these rules. This would be consistent with Policy 2.5.17(b). The further Note could read:

Note 3

The New Zealand Fire Service Firefighting Supplies Code of Practice SNZ PAS 4509:2008 is a New Zealand Standard that contains guidance on an adequate water supply, and access to it, for firefighting purposes. This is not a mandatory requirement in non-reticulated areas, however provision of water supply in accordance with the Code of Practice is encouraged.

Rules 13.10.26 and 14.10.26 (Urban Land Use Rules)

“Any building is permitted if:

- a) It does not impede the movement of fire service vehicles or equipment or generally restrict access for fire fighting purposes.*
- ~~*b) Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008;*~~
- ~~*c) The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 ‘Model Bylaw for Fire Prevention’; and*~~
- ~~*d) The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest.*~~

~~*Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the dripline of any tree and that these setbacks are also appropriate from scrubland and other similar vegetated areas.*~~

Note 1:

“In the interests of the protection of life and the surrounding environment, in all areas particularly non-reticulated areas over five minutes driving distance from a fire station, it is recommended that subject to the use of the building, a fire sprinkler system is installed in accordance with either the:

NZS 4517 (Fire Sprinkler Systems for Houses); or

NZS 4541 (Automatic Fire Sprinkler Systems); or

NZS 4515 (Fire Sprinkler Systems for Life Safety in Sleeping Occupancies up to 2,000m²).

In respect of parts b) and c) of these rules, the same comments as per the rural rules apply. The

suggested Note 3 in the rural rules is recommended as Note 2 in these rules.

The deletion of part d) of these rules appears to be accepted in submissions as being appropriate.

Rule 15A.10.3b(c) (Maori Purposes Maori Land Chapter Land Use Rules)

- c) *Where a public supply is not available, water supplies to all dwellings shall:*
- *meet the requirements of the Building Act 2004; and*
 - *be adequate for firefighting purposes in accordance with the New Zealand Fire Service's Code of Practice SNZ PAS 4509:2008;"*

The proposed deletion of reference to the Code of Practice in this rule is the same issue that has been raised in respect of the part b) rule in the rural and urban rules. Again, for reasons canvassed in this report (and the Section 32 Report), it is considered that the deletion is appropriate.

Rules 12.15.4, 13.14.4: 14.13.4 (subdivision rules – Rural, Commercial and Industrial zones) and 15B.14.4 (Maori Purposes: Treaty Settlement Subdivision Rules)

Retain Rules as follows:

- 1) *Where a Council water supply is available:*
 - a) *The written approval of Council's Asset Manager is obtained and provided with the application to confirm that the Council water supply can be extended to serve the subdivision;*
 - b) *All allotments are provided, within their net site area, with a connection to the Council water supply; and*
 - c) *All water pipelines vested with Council shall be protected by an Easement in favour of Council.*
- 2) *Where a public supply is not available, water supplies to all developments shall:*
 - a) *meet the requirements of the Building Act 2004; and*
 - b) *be adequate for firefighting purposes in accordance with the New Zealand Fire Service's Code of Practice SNZ PAS 4509:2008.*

NZFS (and the Far North District Council) supports retaining these rules. Opposing submissions seek removal of the reference to the Code of Practice.

As has been canvassed in this report, retaining these rules is seen as being appropriate to the objectives and policies. It targets the creation of sites in reticulated areas where it has been shown as being possible for the Code's standards to be met without significant extra cost to the community or those developing sites. There is accordingly an appropriate balance between costs and benefits. The approach is also consistent with that taken in many other district plans, and is supported in submissions by a major neighbouring Council (FNDC).

The Auckland Unitary Plan is considered to be a good example to use, as it is a very recent plan. In Auckland, a commonly worded subdivision consent condition is (underlining added):

(firefighting supply) At the time a building consent application is submitted for a dwelling in Lots 2 and 3, it must be demonstrated that sufficient water volume, pressure and flow will be provided in accordance with NZFS Fire Fighting Water Supplies CoP SNZ 4509:2008 and that this water supply be accessible for firefighting purposes. Should the water supply be provided by way of tank storage, this storage must be located a safe distance away from any habitable dwelling in accordance with the above CoP. If an alternative fire fighting water supply is to be provided the written approval of that system from the fire fighting service must be provided with the building consent application.

The Auckland approach is able to be applied in Kaipara's case to subdivision i.e. this Plan Change enables the same or similar outcomes, noting again that the Auckland Unitary Plan does not contain the type of land use rules sought to be deleted by this Plan Change from the Kaipara District Plan.

It has further been identified in Section 10 of this report that, to take into account access in accordance with the Code of Practice, an additional assessment criterion is recommended to be added to these rules, that reads:

The extent to which there is adequate access to water supply for firefighting purposes, having regard to SNZ PAS 4509:2008.

Kaipara District Council Engineering Standards 2011

Retain the following:

8.2 *Design Requirements*

The following requirements shall be met:

- a) *Water supplies to all developments shall meet the requirements of the Building Act; and*
- b) *Reticulated water supplies to all developments shall:*
 - (i) *include an isolation valve installed immediately after the meter on every new connection;*
 - (ii) *have an approved backflow preventer installed on every new commercial or industrial connection;*
 - (iii) *be adequate for fighting purposes in accordance with New Zealand Fire Service's Code of Practice SNZ PAS 4509:2008.."*

NZFS (and the Far North District Council) supports retaining these rules. Opposing submissions seek removal of the reference to the Code of Practice generally in the District Plan, however the Engineering Standards are not part of the scope of the Plan Change. In any case, the above is considered appropriate, for the same reasons that retaining the subdivision rules is appropriate.

17 Other Statutory Provisions

Statutory provisions that have not otherwise been covered in this report include the following.

Section 75(3) of the RMA sets out that a District Plan must give effect to:

- (a) *any National Policy Statement; and*
- (b) *any New Zealand Coastal Policy Statement; and*
- (c) *any Regional Policy Statement.*

National Policy Statement

There are no National Policy Statements that are considered to be relevant.

New Zealand Coastal Policy Statement

The NZCPS is not considered to be relevant in this case.

Regional Policy Statement

The NZFS submission refers to the following policy in the Northland Regional Policy Statement:

Subdivision, use and development of land will be managed to minimise the risks from natural hazards by:

- (a) *Seeking to use the best available information, including formal risk management techniques in areas potentially affected by natural hazards;*
- (b) *Minimising any increase in vulnerability due to residual risk;*
- (c) *Aligning with emergency management approaches (especially risk reduction);*
- (d) *Ensuring that natural hazard risk to vehicular access routes and building platforms for proposed new lots is considered when assessing subdivision proposals; and*
- (e) *Exercising a degree of caution that reflects the level of uncertainty as to the likelihood or consequences of a natural hazard event.*

NZFS considers that Plan Change 4 does not appropriately consider and give weight to this policy. However, having regard to the analysis in the Section 32 Report and in this report I consider effect is given to the RPS. The best available information has been used to conclude that the risk of structural fire can be appropriately minimised by the methods in the proposed Plan Change. The recommendations made in this report do however better address part (d) of the policy in respect of access.

Part 2 of the Resource Management Act

Parts 5.2 and 5.3 of the Section 32 Report address RMA Part 2 matters, the conclusion being that the Plan Change is consistent with Part 2. While inconsistency with Part 2 is raised, in particular, in the NZFS submission it is considered that the Section 32 Report conclusion, and the reasoning for the conclusion, remains correct. Only minor changes to the Plan Change are recommended in this report. In relation to the fundamental concerns relating to health and safety, I agree with the following assessment in the Section 32 Report:

It is not considered that this Plan Change compromises the purpose of the RMA. People and communities will still be able to provide for their health and safety and have the opportunity to install sprinkler systems in their dwellings at the time of building which in s1.1 of the Code is strongly recommended for “all structures (and specifically houses) sited more than a 10 minute response time from a fire station.” It is also to be noted that water for fire fighting purposes will still be required to be addressed at the time of subdivision. The proposal to require a 20m separation distance of a building in the ‘rural zones’ from “naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest” assists in the protection of these natural resources from fires that might originate in buildings or structures. In the urban areas the sites are smaller, and in particular with respect to residential sites, if the provisions were to be retained, a landowner is held to some extent accountable in terms of siting a building, in proximity to a neighbour’s trees and shrubs. It is not to be overlooked that trees and shrubs are a normal part of residential amenity and streetscape. It is also to be noted that most of the Kaipara settlements have fire services available to fight fires should they occur and this assists in mitigating the spread of fire across boundaries into neighbouring properties and vegetation.

18 Report Writer’s Conclusion

Subject to the minor amendments recommended, I am of the opinion that this Plan Change is in accordance with Council's functions as specified in Section 31 of the Act and that the matters in Part 2 of the Act have been provided for.