



**PROPOSED FAR NORTH DISTRICT PLAN
RECOMMENDATIONS OF THE INDEPENDENT HEARINGS
PANEL**

RECOMMENDATION REPORT 8

**Hearing 8: Open Space Zones, Engineering Standards, and
Mineral Extraction**

March 2026

Recommendation Report 8

Recommendation Report 8 is to be read in conjunction with the **Preamble Report** and **Recommendation Reports 9, 11, 16 and 17**.

Recommendation Report 8 contains the Panel's recommendations on: Part 3 – Area Specific Matters – Open Space and Recreation zones¹; Engineering Standards; and Part 2 – General District-Wide Matters – Mineral Extraction Overlay.

Recommendation Report 8 also contains consequential amendments resulting from recommendations from other recommendation reports.

Recommendation Report 8 contains the following appendices:

Appendix 1: Schedule of Hearing Attendances

Appendix 2: Hearings Panel Recommended Amendments to the PDP – tracked from the notified version (provisions not subsequently renumbered) including:

Appendix 2.1 Natural Open Space Zone

Appendix 2.2 Open Space Zone

Appendix 2.3 Sport and Active Recreation Zone

Appendix 2.4 Mineral Extraction Overlay (Deleted)

Appendix 2.5 Mineral Extraction Chapter (Recommended New Provisions)

Appendix 2.6 Mineral Extraction Zone (Recommended New Provisions)

Appendix 3: Recommended Amendments to the Planning Maps

Appendix 4: Summary table of the Hearings Panel recommended decisions on each submission point including:

Appendix 4.1 Recommended Decisions on Submissions - Open Space and Recreation Zones

Appendix 4.2 Recommended Decisions on Submissions - Engineering Standards

Appendix 4.3 Recommended Decisions on Submissions - Mineral Extraction

The Independent Hearings Panel for this hearing comprised Robert Scott – Independent panel member and Chairperson; Peter Kensington - Independent panel member and Steve McNally – Council member.

¹ Natural Open Space zone; Open Space zone; and Sport and Active Recreation zone.

Contents

1. INTRODUCTION.....	1
1.1 Report Structure.....	1
1.2 Section 32AA of the RMA.....	1
1.3 Consequential Amendments	2
2. Procedural Issues	2
2.1 Engineering Standards	2
2.2 Activity Status – Mineral Extraction zone.....	2
2.3 Question to Council Planner	2
2.4 National Planning Instruments	2
3. Topic 1: Open Space and Recreation Zones.....	3
3.1 Relevant Provisions	3
3.2 Key Issues	3
3.2.1 Key Issue 1 - KiwiRail - Open Space Zone Setback	4
3.2.2 Matters Raised in Submissions and Evidence.....	4
3.2.3 Hearing Panel’s Evaluation.....	4
3.2.4 Hearings Panel Recommendations	4
3.3 Key Issue 2 – Doug’s Opuia Boat Yard	5
3.3.1 Matters Raised in Submissions and Evidence.....	5
3.3.2 Hearings Panel Evaluation.....	5
3.3.3 Hearings Panel Recommendations	5
3.4 Key Issue 3 – Sport and Active Recreation Zone Objectives and Policies	5
3.4.1 Reference to “active” in Sport and Active Recreation Zone Rules	5
3.4.2 Hearings Panel Recommendations	5
4. Topic 2 - Engineering Standards	6
4.1 Relevant Provisions	6
4.2 Background	6
4.3 Overview of Submissions Received	6
4.4 Key Issues	7
4.5 Key Issue 1 - Engineering Standards Approach in the PDP	7
4.5.1 Matters Raised in Submissions and Evidence.....	7
4.5.2 Hearings Panel Evaluation.....	8
4.5.3 Hearings Panel Recommendations	9
4.6 Key Issue 2 – Need for a Stormwater Management Chapter	9
4.6.1 Matters Raised in Submissions and Evidence.....	9
4.6.2 Hearings Panel Evaluation.....	10

4.6.3	Hearings Panel Recommendations	10
5.	Topic 3: Mineral Extraction Overlay	10
5.1	Relevant Provisions	10
5.2	Background	10
5.3	Overview of Submissions Received	10
5.4	Key Issues	11
5.5	Key Issue 1: Make the Mineral Extraction Overlay a Mineral Extraction Zone.....	11
5.5.1	Matters Raised in Submissions and Evidence.....	11
5.5.2	Hearings Panel Evaluation.....	11
5.5.3	Hearings Panel Recommendations	13
5.6	Key Issue 2: Linkage to Natural Environment Chapters	13
5.6.1	Matters Raised in Submissions and Evidence.....	13
5.6.2	Hearings Panel Evaluation.....	14
5.6.3	Hearings Panel Recommendations	14
5.7	Key Issue 3: Mineral Extraction Chapter – Objectives and Policies	15
5.7.1	Matters Raised in Submissions and Evidence.....	15
5.7.2	Hearings Panel Evaluation.....	15
5.7.3	Hearings Panel Recommendations	17
5.8	Key Issue 4: Mineral Extraction Zone - Rules and Standards	19
5.8.1	Matters Raised in Submissions and Evidence.....	19
5.8.2	Hearings Panel Evaluation.....	20
5.8.3	Hearings Panel Recommendations	23
5.9	Key Issue 5: The Spatial Extent of Existing Quarries Within the Mineral Extraction Zone	24
5.9.1	Matters Raised in Submissions and Evidence.....	24
5.9.2	Hearings Panel Evaluation.....	27
5.9.3	Hearings Panel Recommendations	28
6.	Conclusion	29

RECOMMENDATION REPORT 8

1. INTRODUCTION

1.1 Report Structure

This is Recommendation Report 8 prepared by the Independent Hearings Panel appointed to hear and make recommendations with respect to submissions and further submissions lodged on the Proposed Far North District Plan (**PDP**).

This recommendation report makes findings and recommendations relating to submissions on the provisions in the following parts, sub-parts, chapters and sections of the PDP. This recommendation report also makes findings and recommendations relating to Engineering Standards, and how they are incorporated in the PDP.

PDP Part	PDP Sub-Part	PDP Chapter or Provisions
Part 2 – District Wide Matters	General District-Wide Matters	Mineral extraction overlay
Part 3 – Area Specific Matters	Zones	Open Space and Recreation zones:
		Natural open space zone
		Open space zone
		Sport and active recreation zone

1.2 Section 32AA of the RMA

The requirements in clause 10 of the First Schedule of the Act and particularly s32AA RMA are relevant to our considerations of the PDP provisions and the submissions received on those provisions. These are outlined in full in the **Preamble Report**.

We have not produced a separate evaluation report under s32AA. Where we have adopted the recommendations of Council’s hearing report authors, we have adopted their reasoning, unless expressly stated otherwise. This includes the s32AA assessments within or attached to the relevant hearing reports, provided within evidence for Submitters, and/or within the Council’s rights of reply. Those reports are part of the public record and are available on the Council website.

Where our recommendation differs from the hearing report authors’ recommendations, we have incorporated our own s32AA evaluation into the body of our recommendation report as part of our reasons for recommended amendments, as opposed to including this in a separate table or appendix.

As per Section 4.2 of the **Preamble Report** where we generally agree with the Council recommendations relating to the relief sought by those submitters who did not wish to speak at the hearing, we have concluded that these matters are not in contention. In that regard, we have focussed our discussion in this recommendation report on those submitters who presented evidence to us.

1.3 Consequential Amendments

This recommendation report contains consequential amendments, including to or from other plan chapters.

There were a number of amendments to the definitions associated with Open Space zone chapters, and open space and related activities, recommended by reporting officers in the Open Space Zones hearing report that were not challenged in evidence by submitters. We agree with the amendments the definitions of ‘Sport and Active Recreation Activity’, the deletion of ‘Sport and Recreation Facility’ and the introduction of a new definition for ‘Park Furniture’. These amendments are included in **Recommendation Report 17, Appendix 2.1 - Definitions**.

2. Procedural Issues

2.1 Engineering Standards

Our **Minute 4** related to the hearing of submissions relating to engineering standards which was initially allocated to Hearing 1 but was reallocated to Hearing 8 to allow Council officers some additional time to work with the Resource Consents team and Development Engineers to consider and determine the most appropriate approach in general (including the appropriateness of referring to Engineering Standards within the District Plan, and an integrated approach across all PDP chapters).

2.2 Activity Status – Mineral Extraction zone

The Panel received correspondence from a submitter² challenging the scope of a proposed discretionary activity status recommended by the reporting planner for subdivision of land that is outside, but within 100m of, any boundary of a Mineral Extraction zone. This issue was addressed in **Minute 17** where we determined that there is scope for us to consider this recommendation as set out in paragraph 13 of the addendum to the Council hearing report for mineral extraction.

2.3 Question to Council Planner

Following the hearing of evidence and to assist us in our deliberations we asked the Council reporting officer to provide further comment on a number of matters relating to the mineral extraction provisions. That request was sent out in **Minute 21** and the information was provided to us in the reporting officer’s response dated 27 March 2025.

2.4 National Planning Instruments

As discussed in section 3.2 and 3.3 in the **Preamble Report**, where any national policy or environmental standard was notified prior to the hearing these provisions have been incorporated in the hearing report and addressed at the hearing and in our evaluations and recommendations. With regard to the ten national policy statements and environmental standards that came into effect on 15 January 2026 (i.e. after all hearings had been completed) we have determined (following legal advice) that the Council can only give

² Waiaua Bay Farm Limited (submitter 463)

effect to those documents through a Schedule 1 variation or plan change process. See also Minutes 40-42 which address this matter.

3. Topic 1: Open Space and Recreation Zones

3.1 Relevant Provisions

The relevant provisions we address in this recommendation report for the Open Space and Recreation Zones topic are:

- Natural Open Space zone (NOSZ);
- Open Space zone (OSZ); and
- Sport and Active Recreation zone (SARZ).

The Natural Open Space zone generally applies to public land that is administered by government agencies and includes a variety of parks and historic reserves. In most cases these areas have a high degree of biodiversity requiring active management.

The Open Space zone applies to a range of open spaces including large parks areas and smaller neighbourhood parks. These spaces are primarily used for passive recreation and provide opportunities for relaxation and socialising. Some of these open spaces are located near the coast, lakes, rivers and streams and play a key role in both providing ecological protection as well as access to and along these areas.

The Sport and Active Recreation zone applies to a range of dedicated indoor and outdoor organised sports and active recreation facilities. This zone includes sports fields, hard-court areas, recreational and sporting facilities, and associated buildings.

A comprehensive Council hearing report was prepared by Ms Sarah Trinder for this topic. It addressed submissions related to each open space zone chapter and the relief sought by submitters. The hearing report identified that there were 190 primary submission points and 237 further submissions for the following submitters:

- a. Non-governmental organisations, such as Our Kerikeri Community Charitable Trust (S271) and Royal Forest and Bird Protection Society of New Zealand (S511).
- b. Central and local government, such as Carbon Neutral NZ Trust (S529) and KiwiRail Holdings Limited (S554.040).
- c. Individuals, such as Aksel Danger Bech (S186) and Trent Simpkin (S283).

3.2 Key Issues

Key issues were identified in the hearing report. These essentially followed the structure of the provisions (Overview, Objectives, Policies and Rules) with additional key issues associated with specific provisions and/or submitters. The Council assessment of the submissions in the above key topics resulted in a number of amendments to the provisions of all three open space zones (including objectives, policies rules and standards) and some changes to the definitions.

We have considered the changes recommended by the Council reporting planner that were not contested in evidence and (except for the matters discussed below) we generally agree with the responses and proposed amendments.

Despite the number of submissions received, most of the issues raised by submitters were not contested in evidence or at the hearing and accordingly, this recommendation report has consolidated those key issues to issues raised in evidence at the hearing from:

- KiwiRail regarding the Open Space zone Setback
- Doug's Boatyard.

There was also one issue resulting from questions from the Panel relating the Sport and Active Recreation zone Objectives and Policies.

3.2.1 Key Issue 1 - KiwiRail - Open Space Zone Setback

3.2.2 Matters Raised in Submissions and Evidence

We received a letter from KiwiRail supporting their request for a 5 metre setback for buildings and structures from the rail corridor boundary in all zones adjacent to the rail corridor, including the Natural Open Space zone (NOSZ); Open Space zone (OSZ); and Sport and Active Recreation zone (SARZ).

KiwiRail's submission also sought the inclusion of two matters of discretion in each zone provision where there is non-compliance with the setback standard.

3.2.3 Hearing Panel's Evaluation

In the hearing report the reporting planner was of the view that the scale of the issue does not necessitate a setback standard within the rule. Especially as the Natural Open Space zone setback is already 10m. The reporting planner also stated that currently there are no Open Space zoned properties adjacent to the rail corridor.

We questioned this approach at the hearing and asked whether the rule be included for consistency, and to account for potential future plan changes. In the right of reply the reporting planner has agreed to the relief sought by Kiwi Rail in the interests of consistency. We agree.

3.2.4 Hearings Panel Recommendations

We recommend, in the interests of consistency with other open space zone provisions, that Open Space zone standard OSZ-S3 be amended as follows:

OSZ-S3 The building or structure, or extensions or alterations to an existing building or structure must be set back at least 1.2m from all site boundaries, except that the setback must be at least 3m measured from a road boundary and 5m from the rail corridor.

Accordingly, we recommend that KiwiRail's submission point (S416.066) be accepted.

3.3 Key Issue 2 – Doug’s Opuā Boat Yard

3.3.1 Matters Raised in Submissions and Evidence

Doug Schmuck who owns and operates Doug’s Opuā Boat Yard appeared and spoke to his submission concerning the boat yard at Opuā. Mr Schmuck’s concern was regarding the mapping of the proposed Open Space zone on sections of the Coastal Marine Area adjoining his boatyard. Mr Schmuck also sought a change of zoning within the Council reserve adjoining the boat yard to Light Industry zone to recognise existing access and usage easements associated with his existing slipway and he also sought the proposed Mixed Use zone over his land be amended to Light Industry zone.

3.3.2 Hearings Panel Evaluation

At the hearing Mr Schmuck confirmed that he did not seek any changes to the Open Space zone provisions. We thanked Mr Schmuck for his evidence and understood his concerns. However, the Panel has decided that this matter is best addressed at the rezoning hearings and in particular **Hearing 15C – Rezoning General**. Please refer to **Recommendation Report 15C** for our finding on this submission.

3.3.3 Hearings Panel Recommendations

That the concerns of requested relief Mr Schmuck be addressed at Hearing 15C – Rezoning General and included in recommendation report 15C.

3.4 Key Issue 3 – Sport and Active Recreation Zone Objectives and Policies

3.4.1 Reference to “active” in Sport and Active Recreation Zone Rules

The Hearings Panel questioned the reporting planner on the use of the word “active” in the zone name for the Sport and Active Recreation zone and its apparent omission from the objectives and policies and several rules where it only refers to “Sport and Recreation Activity”. In the right of reply, the reporting planner explained that the use of the term ‘sport and recreation activity’ was used in the objectives and policies as a direct link to the amended definition of a sport and recreation activity. This was intended to avoid any confusion between the provisions and the definition.

The reporting planner has since recommended that “active” be added to both the definition of “sport and recreation activity” and into the objectives, policies and rules.

We agree with this approach and consider that these changes will avoid potential confusion in the administration of the PDP and ensure consistency between definitions of the PDP and the provisions. Lastly, we are satisfied that there is scope in other submissions seeking to amend the Plan to ensure consistency in the terms of how definitions are used within/between chapters to ensure consistencies and avoid unintended consenting requirements to allow these changes.

3.4.2 Hearings Panel Recommendations

For the reasons outlined above, the Hearings Panel recommends that:

- the references to ‘sport and recreation’ in the objective SARZ-O1, Policies SARZ-P1, P2 And P4, Rule SARZ-R3 and OSZ-R6 be replaced with ‘*sport and active recreation*’.

- the definition for sport and recreation activity be amended to '*sport and active recreation activity*'.

We reiterate here that amendments to all Definitions are identified in **Recommendation Report 17, Appendix 2.1** - Definitions.

4. Topic 2 - Engineering Standards

4.1 Relevant Provisions

This topic considers how the Council's engineering standards relate to the provisions of the PDP. This recommendation report does not address submission points on engineering related district plan provisions. The consideration of amendments to specific engineering provisions was addressed at subsequent hearings and in the corresponding recommendation reports.

4.2 Background

It is common practice for district resource consents and associated conditions to refer to, or require, compliance with Council engineering standards which are not strictly standards in a district plan. This is to ensure that infrastructure (both public and private) is appropriately designed to protect the health and wellbeing of residents, as well as the health of the receiving environment both on-site and within the surrounding area. We note that it is also common practice for those standards to be periodically updated but not through a plan preparation process under the RMA.

The hearing report advised that the PDP was notified containing provisions that require a 'management approach in accordance with the Far North District Council Engineering Standards 2022 (**Engineering Standards**)'. The Engineering Standards were incorporated by reference into the PDP pursuant to Clause 34(2)(c) of the RMA.

The Hearings Panel were advised that provisions relating to three waters management are currently located across the zone chapters and in the subdivision chapter. The PDP requires three waters management systems to be designed in accordance with the Engineering Standards. Various aspects of three waters management are also managed through Bylaws and the Northland Regional Plan.

With regard to transportation matters, the Transport chapter also contains provisions that require proposals to be in accordance with the Engineering Standards. These include requirements for the design of roads and street lighting. The Subdivision chapter includes general 'where relevant' links to the Engineering Standards as matters of control for Subdivision.³

4.3 Overview of Submissions Received

A total of 20 original submissions and 49 further submissions were received on the Engineering Standards topic.

³ Paragraph 43 of the Hearing Report - Engineering Standards

As set out in the hearing report the main submissions on the Engineering Standards topic came from:

- A local engineering firm;
- Nga tai Ora – Public Health New Zealand;
- Far North District Council; and
- Local property owners.

4.4 Key Issues

The key issues identified in the hearing report and in evidence are set out below:

- Key Issue 1: Engineering standards approach in the PDP
- Key Issue 2: Need for a new stormwater management chapter.

4.5 Key Issue 1 - Engineering Standards Approach in the PDP

4.5.1 Matters Raised in Submissions and Evidence

The hearing report states that the PDP submission review process⁴ and subsequent further work with Council staff has identified that the current approach of incorporating the Engineering Standards by reference and requiring compliance in accordance with the standards has several issues. These have been summarised as follows:

- Assessing, monitoring and enforcing compliance with the Engineering Standards is difficult for applicants as well as the Council. The Engineering Standards is a large technical document, so ensuring the standards are being met can be challenging.
- The Engineering Standards contains highly specific and detailed Engineering Standards, such as the colour of pipes. While these aspects are valid engineering concerns, they do not necessarily have RMA related effects that need management under a district plan.
- By referencing the Engineering Standards in the PDP, any updates or changes to the Engineering Standards require a full first schedule plan change in order to be reflected in the PDP. Since notification of the PDP, the Engineering Standards have already been revised.
- Engineering standards are inconsistently referenced throughout the Plan. The referencing is general and does not direct an applicant to the appropriate section(s) of the Engineering Standards.

The hearing report identified three options to address how engineering standards relate to the district plan provisions and these are:

Option 1 – Status Quo

⁴ Considering submissions from Reuben Wright (S178.018), Nga Tai Ora – Public Health Northland and various other submitters (S516.034, S516.042, S371.028, S344.009).

Retain reference to the adherence to Engineering Standards in various subdivision, land use and transportation related provisions.

The submissions received stated that this current approach was inflexible in some areas of the PDP and inconsistent in others

Option 2 – Hybrid Approach

Delete reference to the Engineering Standards in rules and standards but retain reference in policies and/or as a matter of control or discretion and zone rules.

Option 3 – Decouple Engineering Standards Completely

There would be no dedicated reference to the Engineering Standards in the PDP provisions.

The hearing report recommends Option 3 but a number of provisions (especially in the subdivision and transportation chapters) will need to be redrafted to achieve minimum requirements to protect the environment, people and Council assets. This can be achieved by including rules that refer to attenuation to protect downstream environments and the capacity / levels of service in Council infrastructure, including the lifespan of assets. The specific provisions to be amended have been identified as:

- TRAN-S5 Requirements for street lighting.
- TRAN-S4 Requirements for road design.
- Subdivision matters of control.
- Plan wide Stormwater Management rules.
- Plan wide Wastewater disposal rules.
- Use of definitions.

We note that submission points from Far North District Council (**FNDC**) (S368.101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114) seek to amend the Impermeable surfaces rules, stating that the Engineering standards apply to all land development. We were advised that FNDC was no longer pursuing this relief given the recommended approach taken to engineering standards discussed below.

4.5.2 Hearings Panel Evaluation

We received evidence on this topic from John Papesh and Brad Hedger (FS309) at the hearing. Mr Papesh is a civil engineer with local engineering firm, Haigh Workman, and he appeared in support of the Haigh Workman submission (S215). Mr Papesh supported the decoupling of the Council’s engineering standards from the PDP provisions.

As we have not received any evidence in opposition to Council’s preferred option, we have concluded that Council’s preferred approach is therefore not in contention. We have reviewed the three options presented by the Council and we appreciate the need for district wide engineering standards to apply with regard to public and private infrastructure being, three waters or roading infrastructure. We also appreciate the difficulty integrating engineering standards, which need to be flexible and updated periodically to reflect best practice, into the more rigid district planning framework.

We agree with the reporting planner that Option 3 is the preferred approach, subject to those provisions being drafted in the chapters listed above. While we endorse this approach as part of our finding on this topic, we have more to say on the specific provisions in **Recommendation Report 11** (Transport and Infrastructure) and in **Recommendation Report 16** (Subdivision).

4.5.3 Hearings Panel Recommendations

The Hearings Panel recommends that:

1. The submission points from Reuben Wright (S178.018), Nga Tai Ora (S516.034, S516.042), Bunnings Limited (S371.028) and Paihia Properties (S344.009) are accepted in part and the Engineering Standards are no longer referenced in provisions in the PDP.
2. The submission points from FNDC (S368.101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114) are rejected and no changes are made to the provisions highlighted in those submission points.
3. The relationship of the PDP to the Engineering Standards is amended and subsequent amendments to address this approach are addressed at the transport, zone and subdivision hearings.

4.6 Key Issue 2 – Need for a Stormwater Management Chapter

4.6.1 Matters Raised in Submissions and Evidence

Haigh Workman Limited (S215.052), with support and opposition from various further submitters, requested a new chapter be inserted into the ‘General District – wide Matters’ section of the Plan addressing Stormwater Management (or impermeable surfaces generally). They requested that this is a full chapter with an overview, objectives, policies and rules, and that the chapter works in a similar way to the Earthworks chapter.

Mr Papesh appeared at the hearing and spoke to this submission on behalf of Haigh Workman. Mr Papesh’s evidence focussed on a perceived lack of consistency in the PDP with regard to stormwater management.

In response to our questions Mr Papesh stated that the recommended decoupling of engineering standards from the PDP provisions would go a long way to addressing these concerns.

The Council response to this submission in the hearing report also acknowledged the inconsistencies with regard to stormwater management in the PDP and the reporting officer stated:

I agree with this reasoning as the PDP team has identified inconsistencies in the way that the Engineering Standards have been applied and referenced in rules between zones, land use and subdivision. The proposed new approach of decoupling of the Engineering Standards will eliminate this inconsistency.⁵

⁵ paragraph 77 - Hearing report, Engineering standards

The hearing report also stated that a number of specific stormwater related provisions (including objectives, policies, rules and standards) will be addressed under the Subdivision topic in Hearing 16.

Ultimately, the reporting planner concluded that the decoupling of the engineering standards together with the further consideration of stormwater related provisions in Hearing 16 will be sufficient to address the concerns of the submitter without the need for a new stormwater management chapter.

The reporting officer also noted that the inclusion of a stormwater management chapter was also not specifically provided for in the national planning standards for district plans.

4.6.2 Hearings Panel Evaluation

We are grateful to Haigh Workman and Mr Papesh for making their submission and bringing this matter to our attention. While we acknowledge matters raised in the submissions and evidence presented to us at the hearing, we agree with the reporting planner that these matters can be addressed through the proposed decoupling of the engineering standards from the PDP and these issues can be addressed through specific stormwater related provisions in other parts of the PDP including the Subdivision chapter of the PDP

4.6.3 Hearings Panel Recommendations

The Hearings Panel recommend that for the above discussed reasons, submission S215.052 is rejected, and there is no need for a stormwater management chapter to be added to the PDP.

5. Topic 3: Mineral Extraction Overlay

5.1 Relevant Provisions

The relevant provisions we address for this topic relate to the Mineral Extraction Overlay found in the notified PDP in Part 2 – District-Wide Matters - General District-Wide Matters.

5.2 Background

The PDP as notified, addressed the issue of mineral extraction as an ‘overlay’ rather than as a ‘zone’. The Overview to the mineral extraction overlay chapter recognises that mineral resources are strategically important natural resources to the District. It recognises that mineral extraction contributes socially and economically through the creation of jobs and provision of minerals, primarily aggregates for use and development of sites, rural production activities, roading and infrastructure to the region and in some cases the nation.

We were advised that mineral extraction in the Far North is restricted to aggregate extraction and the mineral extraction overlay has been applied to known resources based on existing and/or consented mineral extraction activities.

5.3 Overview of Submissions Received

There were a total of 69 submissions points and 168 further submission points on the mineral extraction overlay.

As would be expected, a large number of submissions were received from the commercial operators in the mineral extraction industry, including the Mineral Extraction Group – made up of operators Imery (S65), Ventia (S424) and Bellingham (S7). There were also submissions from a range of individuals and community/environmental organisations that included Forest and Bird (S511) and Kapiro Conservation Trust (S442).

5.4 Key Issues

The key issues identified in the hearing report and in evidence are:

- Key Issue 1: Make the Mineral Extraction Overlay a Mineral Extraction Zone
- Key Issue 2: Linkage to Natural Environment Chapters
- Key Issue 3: Mineral Extraction – Objectives and Policies
- Key Issue 4: Mineral Extraction zone Rules and Standards
- Key issue 5: The spatial extent of existing quarries within the Mineral Extraction zone.

We have followed this logical structure in our assessment, evaluation and recommendations below.

5.5 Key Issue 1: Make the Mineral Extraction Overlay a Mineral Extraction Zone

5.5.1 Matters Raised in Submissions and Evidence

This was the key issue at the hearing relating to the structure of the PDP and the use of an overlay to provide for mineral extraction. Submissions received from a number of mineral extraction (quarry) operators identified issues with the structure of PDP and use of an overlay to recognise and provide for mineral extraction. They submitted that linking an overlay to an underlying zone causes unnecessary confusion and frustration. They contend that the rationale for this is not clear, particularly for existing and consented activities. They referred to inconsistency with regard to expected actions as part of a mineral extraction activity (i.e. rehabilitation) with the underlying zoning. An example of this referred to in the Imery and Ventia submissions was that quarry rehabilitation (and activity expected and required by the mineral extraction overlay) was likely to be a non-complying activity in the underlying rural zone as it was not related to farming or primary production.

There were also submissions from Forest and Bird and Kapiro Conservation Trust raising concerns with how the overlay provisions interact with other district-wide chapters such as the Ecosystems and Indigenous Biodiversity chapter. There are also concerns with regard to the provision of farm quarries within the mineral extraction overlay rather than the Rural Production zone chapter.

5.5.2 Hearings Panel Evaluation

As notified, the Mineral Extraction Overlay was applied to 11 existing quarries in the Far North District, which were zoned Mineral Extraction zone in the Operative District Plan. We were advised by the reporting officer that the existing quarries were a mix of sizes, and that some operated under existing resource consents and others under confirmed existing use rights pursuant to section 10 of the RMA. The quarries are distributed spatially across the

District from north to south, but are predominantly located in the eastern sections of the District. We were advised that all 11 mineral extraction sites subject to the overlay were in the Rural Production zone.

The approach taken by the Council was to have an overlay to enable and manage mineral extraction activity, but with other rules applying to the underlying zoning to manage setbacks on adjoining rural land and to enable the subdivision of land subject to the mineral extraction overlay.

The reporting officer agreed with the submitters that an overlay approach resulted in a potentially confusing situation. The reporting officer therefore recommended an approach similar to the ODP whereby the Mineral Extraction Overlay would be converted to a Mineral Extraction Zone. This approach was universally supported by the various mineral extraction operators.

The Hearings Panel agrees with the submitters that the application of an overlay to enable mineral extraction activities, while well-intentioned, resulted in confusing, contradictory and potentially perverse or unintended outcomes. We agree that the creation of a mineral extraction zone would be the most appropriate way to recognise, provide for and manage this industry of district wide importance.

We note that the method adopted by the Council officers was to have objectives and policies for mineral extraction in the 'Part 2 General District Wide Matters' of the PDP and the rules and standards for the specific zone in the 'Part 3 Area Specific Matters – zone' sections of the PDP. We asked the Council to clarify this approach and to explain why these provisions could not be applied within a single chapter.

This detail was provided to us in the Council right of reply and further explained to us in response to our **Minute 21** seeking further comment.

The Council has confirmed that it is their intention to have a District-Wide Mineral Extraction chapter (with objectives and policies) and an Area Specific Mineral Extraction zone. Our understanding of the explanation for this is that the District Wide Mineral Extraction chapter (objectives and policies) apply to mineral extraction activities across all zones and the ability to include specific Mineral Extraction rules and standards in any Area Specific zones. The area specific Mineral Extraction zone provides objectives, policies, rules and standards which apply to specific quarries and these are also mapped. The response to Minute 21 states:

The dual chapter/ district wide plan approach is more efficient and effective as it allows the plan user to be directed to the relevant chapter which is applicable to the consideration of their land use instead of duplicating the objectives and policies for mineral extraction across all relevant zone chapters, or merging all rules for mineral extraction into a single District-Wide chapter for mineral extraction. The combined chapter approach would not achieve the same outcome and would result in duplication which is not effective or efficient.

The following additional text is recommended by the Council officer in the Overview section of the Part 2 - District-Wide - Mineral Extraction chapter:

This chapter also provides for mineral extraction activities, exploration and prospecting outside of the Mineral Extraction zone with rules contained in the zones and the relevant district wide chapters.

The following additional text is recommended in the Part 3 - Area Specific - Mineral Extraction zone:

All objectives and policies relating to this zone are contained within the Mineral Extraction chapter in the General District Wide Matters section.

While it is somewhat novel to have two mineral extraction chapters in the PDP, we are satisfied that this approach is optimal and is the most efficient and effective way to identify and manage mineral extraction within existing quarries (including potential future expansion), as well as managing mineral extraction district wide i.e. within other zones and in particular the Rural Production zone. On that note, we acknowledge the specific provisions within the Rural Production zone that enable and provide for Farm Quarries, expansion of Mineral Extraction activities and separation of new rural activities from existing quarries and the Mineral Extraction zone. We discuss specific mineral extraction provisions within the Rural Production zone further in **Recommendation Report 9**.

5.5.3 Hearings Panel Recommendations

The Hearings Panel recommend that:

- a) the Mineral Extraction overlay be deleted. The deleted provisions are identified in **Appendix 2.4**.
- b) a new Mineral Extraction chapter is introduced in the District-Wide chapter (in Part 2 of the PDP). This Mineral Extraction chapter is to include Objectives and Policies for mineral extraction activities on a district wide basis. The new provisions are shown in **Appendix 2.5**.
- c) a new Mineral Extraction zone is introduced. The new Mineral Extraction zone is to contain rules and standards for mineral extraction activities on a district wide basis. The new Mineral Extraction zone, rules and standards, provisions are shown in **Appendix 2.6**. This recommendation will also require consequential amendments throughout the PDP to reference the new Mineral Extraction zone.
- d) the E-plan map viewer be amended to refer to and identify a 'Mineral Extraction zone' in the PDP.

Accordingly, the Hearings Panel recommend that the submissions seeking clarification of how the notified Mineral Extraction overlay works and/or that the mineral extraction overlay be replaced with a mineral extraction zone are accepted or accepted in part.

We consider the spatial extent of the new Mineral Extraction zone later in this recommendation report.

5.6 Key Issue 2: Linkage to Natural Environment Chapters

5.6.1 Matters Raised in Submissions and Evidence

The evidence and presentation at the hearing from Forest and Bird (S511) highlighted their concerns that there was a disconnect between the enabling mineral extraction provisions

and the district-wide provisions in the Ecosystems and Indigenous Biodiversity chapter and the National Policy Statement for Indigenous Biodiversity (**NPS-IB**). Forest and Bird also referred to a number of policies that were potentially inconsistent with the RPS and NPS-IB. This was addressed in the hearing report as follows:

The intention of the plan is that the Ecosystems and Indigenous Biodiversity chapter applies on a District-Wide basis, including for mineral extraction activities. Any new mineral extraction activity proposed that affects indigenous biodiversity would likely require resource consent under the Ecosystems and Indigenous Biodiversity chapter and would be assessed against both sets of objectives and policies (Mineral Extraction and Ecosystems and Indigenous biodiversity chapters).⁶

5.6.2 Hearings Panel Evaluation

We agree with the reporting officer on this matter. That is, the PDP needs to be read as a whole. We have taken this approach with other submissions seeking cross-references across various chapters. In this case, plan users and quarry operators undertaking activities within a Mineral Extraction zone are required to comply with both the Mineral Extraction zone rules and standards, and the provisions in the Ecosystem and Indigenous Biodiversity chapter. Any proposal involving clearance of indigenous vegetation would need to comply with the permitted thresholds in the Ecosystems and Indigenous Biodiversity chapter or would require a resource consent.

We note that the reporting officer, in the right of reply, has recommended a reference back to the Ecosystems and Indigenous Biodiversity chapter could be included in the Overview section of the Mineral Extraction chapter. While we do not favour the proliferation of cross-references within the PDP, we accept that it is appropriate to do so in this case given the link to RMA Part 2 matters, the NPS-IB and RPS provisions in relation to indigenous biodiversity.

5.6.3 Hearings Panel Recommendations

The Hearings Panel adopts the recommendations of the reporting officer and recommends that the Overview for the Mineral Extraction chapter is amended as follows:

....
Depending on the scale, mineral extraction can have adverse effects including on amenity, landscape values, natural character, indigenous biodiversity values.

....
This chapter also provides for mineral extraction activities, exploration and prospecting outside of the Mineral Extraction zone with rules contained in the zones and the relevant district wide chapters, including the Natural Environment Values chapters and Coastal Environment chapter. ...

⁶ Paragraph 83 of Hearing Report – Mineral Extraction

5.7 Key Issue 3: Mineral Extraction Chapter – Objectives and Policies

5.7.1 Matters Raised in Submissions and Evidence

Objectives

We note that the wording of the objectives for the new Mineral Extraction chapter are essentially unchallenged other than those submissions that seek that they be applied as a zone district wide matter rather than as an overlay. No changes were recommended from the hearing report.

Policies

There was broad support for the policy framework as notified, but with a number of submitters seeking amendments to the policies, mostly aimed at strengthening them. We have reviewed the hearing report recommendations on those submissions that were not contested at the hearing and we agree with the reporting officer's recommended amendments.

At the hearing, the evidence of Mr Williams for Forest and Bird (S511) questioned some of the wording in policies ME-P3 – ME-P6 on the grounds that they were not consistent with the NPS-IB and the NZCPS. His primary contention was that mineral extraction activities should not be expressly provided for outside the Mineral Extraction zone. Instead, the effects of Mineral Extraction activities should be managed appropriately under the relevant policies and rules contained in other chapters of the plan.

Forest and Bird also identified an inconsistency with activity status within the Coastal Environment, Natural features and landscapes; Natural character, and Ecosystems and Indigenous Biodiversity chapters and sought clear policy (and rules) changes that excluded any Mineral Extraction within these areas outside the Mineral Extraction zone. The Council reporting officer agreed and suggested amendments to policies ME-P3, P4 and P6.

5.7.2 Hearings Panel Evaluation

Objectives

The Hearings Panel agree that wording of the new Mineral Extraction chapter objectives are appropriate.

Policies

We note here that the whole Mineral Extraction chapter is new and therefore provisions are all underlined. However, for clarity here, we have accepted the right of reply amended version of the Mineral Extraction chapter policies below and shown our additional recommended amendments as track changes.

For policy ME-P1 we have considered the assessment criteria in the Northland Regional Policy Statement, specifically 5.1.4 Policy – Regionally significant mineral resources; and we consider that, at least, criteria (a), (b), (c), (g) and (h) are relevant. However, we note that this regional policy is not 'assessment criteria' it is 'policy' criteria'. Therefore, we find that policy ME-P1 should be amended as follows to reflect the 'policy' criteria.

ME-P1 Identify the extent of regionally significant mineral resources using the assessment policy criteria in the Northland Regional Policy Statement.

The Hearings Panel have considered the new Mineral Extraction chapter policies and consider that further wording is required in policy ME-P2 to ensure 'other adverse effects are avoided, remedied or mitigated'. ME-P2 is therefore recommended to be amended as follows:

ME-P2 Enable new and provide for the expansion of existing mineral extraction activities where significant adverse effects are avoided and other adverse effects are avoided, remedied or mitigated.

We agree with Forest and Bird and the reporting officer that policies ME-P3, P4 and P6 be amended to make it clear that mineral extraction is only enabled in other zones where it is located outside of the defined, identified and/or scheduled Coastal Environment, Outstanding Natural Features and Outstanding Natural Landscapes overlays and that adverse effects on indigenous biodiversity are avoided, remedied, mitigated, offset or compensated in accordance with the Ecosystems and Indigenous Biodiversity chapter. We agree. However, we also consider that policy ME-P3 requires a link to the regional policy 5.1.2. We recommend the following wording:

ME-P3 Provide for mineral extraction, and processing outside the a Mineral Extraction zone where:

- a. ~~there is a public benefit derived from the activity it meets the criteria for Regionally Significant Mineral Resources in the Northland Regional Policy Statement;~~*
- b. it is located outside of the Coastal Environment, Outstanding Natural Features and Outstanding Natural Landscapes overlays;*
- c. adverse effects on indigenous biodiversity are avoided, remedied, mitigated, offset or compensated in accordance with the Ecosystems and Indigenous Biodiversity chapter;*
- d. the location is sufficiently away from Urban zones, Carrington Estate zone, Kauri Cliffs zone, Orongo Bay zone, Quail Ridge zone and Māori Purpose ~~Special Purpose~~ zones and the Settlement zone and Rural Residential zones;*
- e. significant adverse effects are avoided; and*
- f. other adverse effects are avoided, remedied or mitigated.*

We also consider amendments and corrections, as outlined below, are required in policy ME-P12 to better reflect and consider mineral extraction activity.

ME-P12 Consider the following matters where relevant when assessing and managing the effects of mineral extraction activities: ~~Manage land use and subdivision (including mineral extraction activities) to address the effects of the activity requiring resource consent,~~

~~including (but not limited to) consideration of the following matters where relevant to the application:~~

- a. *the size and scale of extraction or processing activities;*
- b. *the size, scale, and location of ancillary activities, buildings or structures;*
- c. *the expected length of operations of the extraction site;*
- d. *the design and layout of the site, access roads and supporting facilities;*
- e. *the area which the mineral extraction operation will service and the demand for mineral resources within this area;*
- f. *noise, vibration, dust and light spill, particularly after daylight hours and on weekends;*
- g. *the surrounding road network and the safety of road users;*
- h. *the natural environment including watercourses within the extraction site and the effects from the site on the surrounding environment;*
- i. *land instability and the potential exacerbation of natural hazard risk;*
- j. *visual amenity, natural character and landscape values;*
- k. *historic heritage and cultural values, and whether the provision of a cultural impact assessment is necessary to understand these values and effects on them;*
- l. *ecological values;*
- m. *the management of tailings, overburden and sediment controls;*
- n. *the adequacy of a Mineral Extraction Activity Management Plan to ~~manage~~ avoid, remedy or mitigate adverse effects; and*
- o. *options anticipated for the rehabilitation of the site, either by a staged process or at the end of the economic life of the ~~quarry~~ mineral extraction activity, including responsibility for implementation and the need for bonds;*
- p. *hours of operation; and*
- q. *number of people proposed to be employed, and parking spaces and amenities provided onsite.*

5.7.3 Hearings Panel Recommendations

The Hearings Panel recommends the following additional amendments to the policies of the Mineral Extraction chapter:

- ME-P1 *Identify the extent of regionally significant mineral resources using the assessment policy criteria in the Northland Regional Policy Statement.*
- ME-P2 *Enable new and provide for the expansion of existing mineral extraction activities where significant adverse effects are avoided and other adverse effects are avoided, remedied or mitigated.*
- ME-P3 *Provide for mineral extraction, and processing outside the a Mineral Extraction zone where:*
- ~~b. — there is a public benefit derived from the activity it meets the criteria for Regionally Significant Mineral Resources in the Northland Regional Policy Statement;~~
 - c. *it is located outside of the Coastal Environment, Outstanding Natural Features and Outstanding Natural Landscapes overlays;*
 - d. *adverse effects on indigenous biodiversity are avoided, remedied, mitigated, offset or compensated in accordance with the Ecosystems and Indigenous Biodiversity chapter;*
 - e. *the location is sufficiently away from Urban zones, Carrington Estate zone, Kauri Cliffs zone, Orongo Bay zone, Quail Ridge zone and Māori Purpose ~~Special Purpose~~ zones and the Settlement zone and Rural Residential zones;*
 - g. *significant adverse effects are avoided; and*
 - h. *other adverse effects are avoided, remedied or mitigated.*
- ME-P12 *Consider the following matters where relevant when assessing and managing the effects of mineral extraction activities: ~~Manage land use and subdivision (including mineral extraction activities) to address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application:~~*
- a. *the size and scale of extraction or processing activities;*
 - b. *the size, scale, and location of ancillary activities, buildings or structures;*
 - c. *the expected length of operations of the extraction site;*
 - d. *the design and layout of the site, access roads and supporting facilities;*
 - e. *the area which the mineral extraction operation will service and the demand for mineral resources within this area;*
 - f. *noise, vibration, dust and light spill, particularly after daylight hours and on weekends;*
 - g. *the surrounding road network and the safety of road users;*

- h. the natural environment including watercourses within the extraction site and the effects from the site on the surrounding environment;*
- i. land instability and the potential exacerbation of natural hazard risk;*
- j. visual amenity, natural character and landscape values;*
- k. historic heritage and cultural values, and whether the provision of a cultural impact assessment is necessary to understand these values and effects on them;*
- l. ecological values;*
- m. the management of tailings, overburden and sediment controls;*
- n. the adequacy of a Mineral Extraction Activity Management Plan to manage avoid, remedy or mitigate adverse effects; and*
- o. options anticipated for the rehabilitation of the site, either by a staged process or at the end of the economic life of the ~~quarry~~ mineral extraction activity, including responsibility for implementation and the need for bonds;*
- p. hours of operation; and*
- q. number of people proposed to be employed, and parking spaces and amenities provided onsite.*

The Hearings Panel recommend that the submissions and further submissions be accepted, accepted in part or rejected, as set out in **Appendix 4.3**.

5.8 Key Issue 4: Mineral Extraction Zone - Rules and Standards

5.8.1 Matters Raised in Submissions and Evidence

We received a number of submissions on the rules and standards for mineral extraction. Most of these concerned the issue of buffer areas within and adjoining (i.e. outside a zone). With regard to the latter, we acknowledge that any rule applying to mineral extraction adjoining the Mineral Extraction zone would need to be imposed within the rule pertaining to that zone, which in most (if not all) cases would be the Rural Production zone.

The reporting planner recommended consequential changes to Subdivision Rule SUB-R16 so that it only relates to land within the Mineral Extraction zone (Discretionary Activity) with a new rule SUB-RXXX relating to subdivision within 100m of a Mineral Extraction zone (discretionary activity).

The hearing report also discussed reciprocal rules to apply to the Rural Production zone requiring 100m setbacks for new “sensitive activities” from the Mineral Extraction zone.

We also received planning evidence from Mr McPhee for Ventia Limited (**Ventia**) (S424), a quarry operator near Paihia. Mr McPhee generally supports the controlled activity status

for the expansion of existing mineral extraction but questioned why mineral extraction activities are a discretionary activity in the Mineral Extraction zone, when the policy direction in ME-P2 uses the word 'enable'. He also questioned why the controlled activity rule CON-3 is required in MEZ-R4 (the extraction volumes do not increase by more than 10%), noting that the Northland Regional Council has moved away from controlled volume threshold for mineral extraction activities.

5.8.2 Hearings Panel Evaluation

There was some discussion at the hearing regarding what an appropriate buffer distance should be for sensitive activities adjoining a Mineral Extraction zone. The hearing report helpfully included a summary of other separation distances from other district plans which ranged from 200m to 500m (where blasting was involved). The reporting officer recommended retaining the setback at 100m and not increasing it on the following basis:

- the majority of mineral extraction activities are located in remote rural areas, surrounded by large land parcels, where there is limited development pressure (including dwellings); and
- the operators have not provided evidence at this time to demonstrate that there have been reverse sensitivity issues arising with the current 100m setback, nor have they provided any detailed evidence to demonstrate that a larger setback is necessary;

We agree with this approach and reasoning. In making this finding we acknowledge that each of the Mineral Extraction identified sites are currently operating as either lawfully established by way of existing use rights, or under current resource consents. On that basis they are already part of the existing environment and a number, where there are potential buffer issues, are already built into the existing environment.

With regard to the setback required for quarry operators within the Mineral Extraction zone, we acknowledge that the Mineral Extraction Overlay (as notified) included a rule applying to expansion of a mineral extraction activity: ME-R2 CON-4 that required a 30m buffer from the overlay boundary. In response to submissions from a number of quarry operators, this has been recommended to be reduced to 10m. We note that the reporting officer provided the justification that a 10m buffer was common to conditions imposed on recent mineral extraction resources consents. We agree with this approach and note that there was no opposition to this in the evidence we received. We also agree with the reporting officers suggested, consequential amendments to rules in the Subdivision chapter SUB-R16 and a proposed new rule.

We have also considered the evidence of Mr McPhee for Ventia regarding the need for a volume limitation (now MEZ-R4 CON 3) as part of the controlled activity status for the expansion of mineral extraction activities. In evidence Mr McPhee questioned the need for the controlled activity standard and what it was intending to control. This is a fair question. In our view there is direct link between the effects of mineral extraction activities (and in particular the effects of noise, traffic and dust) and the volumes being extracted. In our experience the mitigation measures associated with mineral extraction (and often imposed as conditions) are often linked to the volumes being extracted. We are also cognisant that an expansion of a mineral extraction activity does not necessarily mean an increase in volumes. It is common for minerals in one area to be extracted and then rehabilitated and the expansion move to new areas for extraction, but the extracted volumes remain the

same. In that sense, if an expansion also coincides with a significant volume increase, we are minded that this should trigger additional assessment for a discretionary activity. We note that the reporting officer, in the right of reply, observed that the management plan conditions in MEZ-S1 require details on the total volume to be extracted and that this also forms part of the conditions of consent. For these reasons we recommend that the volume limit in MEZ-R4 CON-3 remain. We also discuss rule MEZ-R4 further next.

Matters Raised by the Panel in Minute 21

Following the completion of Hearing 8 we issued Minute 21 requesting some further comment from the reporting officer. Included in that request, we asked reporting officer to further consider the evidence Forest and Bird as to whether a restricted discretionary activity status was merited for the expansion of an existing mineral extraction activity under Rule MEZ-R4, as opposed to the recommended controlled activity status.

The Forest and Bird evidence sought that any expansion needed additional oversight on the basis that there was a lack of evidence provided to the Council on any ecological values that may be present prior to setting the boundaries of the Mineral Extraction zone. The Forest and Bird evidence also raised concerns that the matters of control in the rule contain no reference to ecological values⁷.

We have given this evidence further consideration and have had further regard to the Council's obligations under the NPS-IB, RPS and the provisions in the Ecosystem and Indigenous Biodiversity chapter of the PDP. We agree with Forest and Bird that there needs to be a higher level of scrutiny as part of any expansion of a Mineral Extraction Activity within the zone. We agree that this should be a restricted discretionary activity in the first instance and defaulting to a full discretionary activity where compliance with listed standards is not achieved.

We agree with Forest and Bird that MEZ-R4 should be a restricted discretionary activity, with associated amendments to provide for matters of discretion.

We note that the reporting officer, in response to Minute 21, has engaged with the reporting officer for Hearing 4 (which included the Ecosystem and Indigenous Biodiversity chapter) and we acknowledge their agreement and collaboration to recommend amended provisions and matters of discretion.

However, we consider that the Matters of Discretion need to also consider planting and screening (potential with landform) in the context of potential effects on visual amenity values and we have therefore further amended the matters of discretion as follows:

Matters of discretion are restricted to:

- i. measures to manage off-site effects including dust, odour, lighting, visual amenity values (such as with planting and/or landform screening), traffic generation, noise and vibration;*
- ii. ~~mitigations proposed to manage effects on identified values within and beyond the Mineral Extraction overlay~~ measures to avoid, remedy or*

⁷ Paragraphs 49-51 - Forest and Bird Speaking Notes, Hearing 8 - Mineral Extraction.

mitigate adverse effects on identified ecological and landscape values within and immediately beyond the Mineral Extraction zone;

- iii. *landscaping and screening*
- iv. *the tenure of activities including extraction, processing and sales;*
- v. *the proposed rehabilitation programme including provision for clean-filling, recontouring and revegetation;*

.....

Therefore, we recommend rule MEZ-R4 is amended as follows:

- Amend the activity status of MEX-R4 from ‘Controlled’ to ‘Restricted Discretionary’ and amend the matters of discretion.

MEZ-R4	Expansion of existing mineral extraction activity	
Mineral Extraction zone	<p>Activity status: Controlled Restricted Discretionary</p> <p>Where:</p> <p>CON-1 RDIS-1</p> <p>A Mineral Extraction Activity Management Plan has been provided that contains the information required in MEZ-S1 Mineral extraction activity management plan.</p> <p>CON-2 RDIS-2</p> <p>The hours of operation remain the same.</p> <p>CON-3 RDIS-3</p> <p>The extraction volumes do not increase by more than 10%.</p> <p>CON-4 RDIS-4</p> <p>Any expansion does not occur within 10m of a site boundary where the boundary adjoins a site that is not part of the Mineral Extraction zone.</p> <p>CON-5 RDIS-5</p> <p>The vehicle access to the Mineral Extraction Activity remains unchanged.</p> <p>Matters of control discretion are limited restricted to:</p> <ul style="list-style-type: none"> i. <u>measures to manage off-site effects including dust, odour, lighting, visual</u> 	<p>Activity status where compliance not achieved: CON-1, CON-2, CON-3, CON-4 or CON-5: Discretionary</p>

<p>amenity (such as with planting and/or landform screening), traffic generation, noise and vibration;</p> <p>ii. mitigations proposed to manage effects on identified values within and beyond the Mineral Extraction zone. measures to avoid, remedy or mitigate adverse effects on identified ecological and landscape values within and immediately beyond the Mineral Extraction zone;</p> <p>iii. landscaping and screening;</p> <p>iv. <u>the tenure of activities including extraction, processing and sales;</u></p> <p>v. <u>the proposed rehabilitation programme including provision for clean-filling, recontouring, and revegetation;</u></p> <p>vi. <u>monitoring; and</u></p> <p>vii. <u>recommendations, proposed mitigation measures and conditions of the Mineral Extraction Activity Management Plan, including the means by which the Consent Holder will comply with the relevant rules in the Plan and the conditions of the consent.;</u> and</p> <p>viii. <u>The matters set out in MEZ-P12.</u></p>	
---	--

Lastly, we have considered the submissions and Council reporting on inclusion of “farm quarries” within the Mineral Extraction zone provisions and agree that farm quarries are different in terms of scale and purpose to commercial mineral extraction activities. We agree that the management of farm quarries (which are small in scale, non-commercial and intended to support a rural production activity) should be addressed in the Rural Production zone provisions (see also **Recommendation Report 9**).

5.8.3 Hearings Panel Recommendations

The Hearings Panel recommend:

- the amendments to the new Mineral Extraction zone rule MEZ-R4 as outlined section in 5.8.2 above. This is reflected in **Appendix 2.6**.
- consequential amendments to the Subdivision chapter in the form of amendment to SUB-R16 and the introduction of a new rule regarding subdivision within 100m of a Mineral Extraction zone as follows:

SUB-R16	Subdivision of a <u>land within site containing a the mineral extraction overlay zone</u>
----------------	--

<u>All-zones Mineral Extraction zone</u>	Activity status: Discretionary Where: DIS-4 A building platform for each allotment can be setback 100m or more from the Mineral extraction overlay.	Activity status where compliance not achieved: <u>N/A Non-complying</u>
--	---	--

<u>SUB-RXX</u>	<u>Subdivision of land within 100m of a Mineral Extraction Zone</u>	
<u>All zones</u>	<u>Activity status: Discretionary</u>	<u>Activity status where compliance not achieved: Not Applicable</u>

These amendments are shown in **Recommendation Report 16, Appendix 2.**

The Hearings Panel recommend that the submissions and further submissions be accepted, accepted in part or rejected, as set out in **Appendix 4.3.**

5.9 Key Issue 5: The Spatial Extent of Existing Quarries Within the Mineral Extraction Zone

5.9.1 Matters Raised in Submissions and Evidence

The Council's hearing report contained Appendix 3 pertaining to maps of the notified mineral extraction overlay and amendments to this to reflect the amendment to a new Mineral Extraction zone and amendments to the extents of areas included or excluded, based on approved resource consents etc.

We also received, in evidence and at the hearing, large amount of evidence regarding the spatial extent of the various mineral extraction areas. These were identified in the notified PDP as corresponding to an existing lawfully established or consented mineral extraction operation. Therefore, we have addressed this evidence below by quarry/quarry operator.

Puketona Quarry

The Puketona Quarry is located on Puketona Road (SH 11), Paihia and is reportedly the largest quarry in the Far North. It is operated by Ventia (NZ) Limited (Submitter 424). Ventia seek an increase to the extent of the Mineral Extraction zone

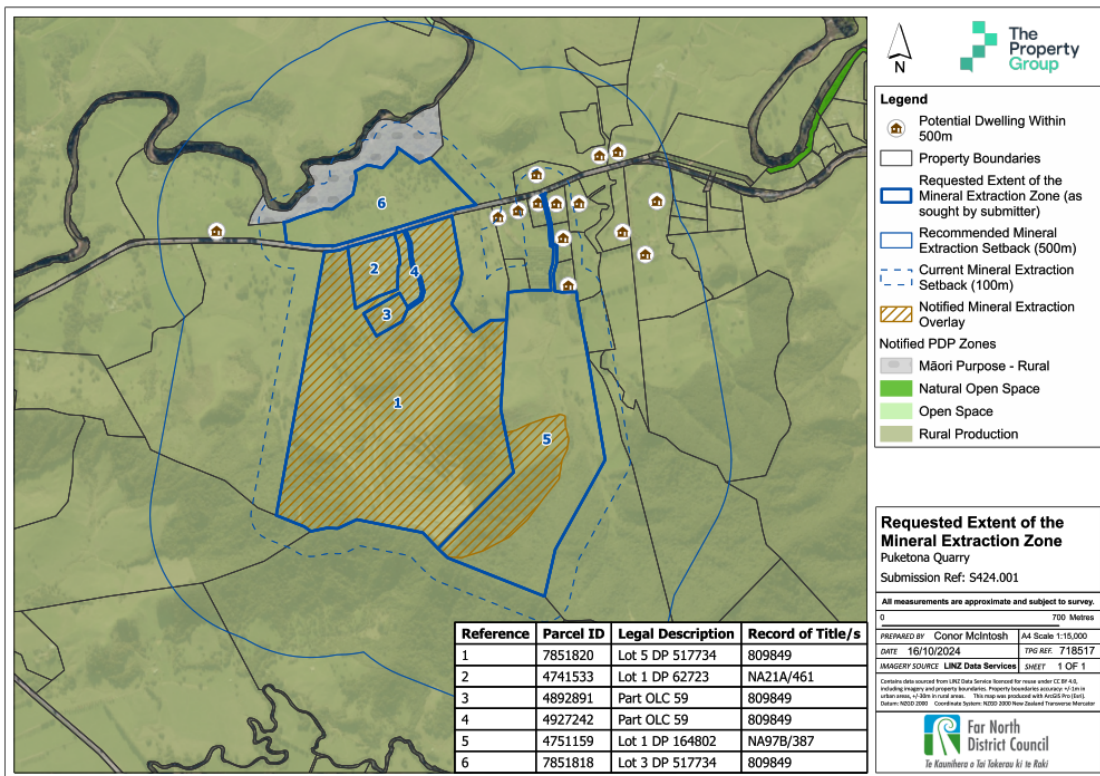


Figure 1: Puketona Quarry (Source: Hearing 8 Hearing Report)

Ventia seeks an extension to the quarry overlay (as it was notified) to encompass land immediately to the east. At the hearing, Mr McPhee presented us with an Environment Court consent order, dated 15 January 2007. That consent order stated:

It is recorded that the Far North District Council has resolved to initiate a plan change or variation process, at the request of McBreen Jenkins Limited, in respect of the extension of the minerals zone to include all or part of Lot 1 DP 164802 and to remove the Outstanding Landscape overlay from that site, PROVIDED THAT before the plan change or variation process is commenced, a management plan which includes rehabilitation for all parts of the minerals zone which are no longer actively quarried (on both Pt 6 DP 39381 and Lot 1 DP 164802) is prepared by McBreen Jenkins and approved by Council. It is recorded that Council has resolved to consult with and obtain agreement of all parties to these appeals before approving the management plan.⁸

Mr McPhee acknowledged that at this time no management plan had been provided but he opined that the PDP process was a “plan change” and that this site can meet the management plan requirements as set out in notified Standard ME-S1 (now MEZ-S1). Mr McPhee stated:

The matters required by the Environment Court consent order are addressed through the following information requirements within ME-S1:

⁸ Paragraph 19 - Evidence of Andrew McPhee, Hearing 8.

- areas for extraction (including pits and faces), storage (including overburden), stock piling, processing and distribution;
- the proposed methodology for clean filling any areas of the quarry;
- Rehabilitation anticipated for the site following the completion of mineral extraction.

Rehabilitation is specifically required by the Environment Court consent order and is required as is a matter of control for any expansion to mineral extraction activities. I therefore consider that rezoning the land, which is anticipated by the Environment Court consent order, is appropriate as any expansion to the existing mineral extraction activities needs to provide the information required by the Environment Court consent order.

It is reasonable to draw a conclusion that the Environment Court consent order required the management plan prior to rezoning being approved because the operative district plan is an effects-based district plan. The PDP is a hybrid district plan that is more activities based, as such it focusses on the activities that require consent within the zone.

I consider that the consent requirements in the PDP to expand mineral extraction activities is sufficient to give Council comfort that they have adequate control to rezone Lot 1 DP 164802 Mineral Extraction zone.⁹

The evidence for Ventia seeks the rezoning of Lot 1 DP164802 (Lot 1) but offers the exclusion of Area B as per the consent order.

Following the hearing and prior to the Council's right of reply, the Council sought legal advice regarding the status of the consent order. We were subsequently advised in the Council's right of reply that there is no time limited or expiry date on the Consent Order and that it remains current and valid as a whole.¹⁰

Bellingham Quarries (S7)

Jarrold and David Bellingham presented evidence describing the importance of aggregates to the Far North and the geographical scarcity of deposits within the District. While they operate quarries and mineral extraction sites, the evidence presented identified three sites which they considered met the criteria of 'significant extraction site'. These are:

- Hobbs Road Quarry, 61 Hobbs Road, Totara North;
- Te Hapua Quarry, Te Hapua Road approximately 5km from Waitiki Landing; and
- Tangoake Quarry, 538 Te Ahu Road, Te Kao.

We were advised by the reporting officer that these quarries all have resource consents and approved management plans.

⁹ Paragraphs 24-27, Evidence of Andrew McPhee for Ventia, Hearing 8.

¹⁰ Paragraph 22, Council Right of Reply, Hearing 8.

Evidence was presented in support of the proposed Mineral Extraction zone being applied to these sites.

5.9.2 Hearings Panel Evaluation

Puketona Quarry

In the Council's right of reply the reporting officer acknowledged the consent order as still being valid but noted concerns that a detailed assessment had yet been undertaken concerning the spatial merits of the expansion sought. In the Council officers' view any additional area to be considered in the Mineral Extraction zone would require a full assessment under s32 of the RMA and other relevant parts of the statutory framework.

We acknowledge that this is a somewhat special case due to the consent order creating a pathway for an agreed extension to the extent of the quarry, subject to a plan change and management plan being prepared. In that light we consider that there is potential merit to having Lot 1 DP164802 rezoned (or a substantial part of it) as requested.

However, our interpretation of the consent order is that a new management plan exercise needs to be undertaken for the land and we note that the consent order also refers to consultation with affected persons¹¹ which has not occurred either. In our view, the consent order clearly required further assessment to justify the exact location and extent of any expansion prior to a plan change process. In our view that would require a quarry management plan to be prepared and that would be supported by a s32 level of analysis to justify the exact zone parameters. We note that there should be other matters to address that involve effects beyond the site including ridgeline effects, visual effects and proximity to existing rural residential activities.

We have considered the Ventia submission and evidence to expand the existing quarry as set out in Mr McPhee's primary and supplementary evidence and whether this relief is generally in accordance with the approach taken by the Environment Court consent order. We are generally supportive of recognising that the Ventia Quarry (and potentially its proposed expansion area) is a regionally significant mineral resource as set out in Policy 5.1.4 of the RPS, within the context of the proposed new policy in the Mineral Extraction chapter, ME-P1.

That said, we note that the consent order is a recognition by the Environment Court of an agreement between the parties (namely the quarry operator, the Council and submitters in opposition) and that no evidence was presented or tested as part of that proceeding. On that basis we see the consent order more as an agreement between the parties than as a finding of fact on the merits or otherwise of the requested zone expansion. If the agreed plan change were to be progressed, then we assume that the merits of the new mineral extraction area would be fully tested as part of the plan change process (assisted by a proposed quarry management plan) and that all interested parties (i.e. adjoining property owners) would be able to participate in that process. Indeed, we note that the consent order, in paragraph 2, required engagement with the parties to the appeals with regard to the preparation of such a management plan.

We consider it a pity that no further progress on this plan change has occurred since the consent order was issued in January 2007 and that no section 32 or management plan has

¹¹ A matter which Mr Brett King also highlighted to us in his further submission (FS124).

been prepared or presented to us to support the requested relief. We agree with the reporting officer that we need to be presented with a combination of section 32 analysis and mineral extraction management plan details to give us comfort that expansion of the quarry is the best way to achieve the purpose of the RMA, and recognise the natural justice rights of adjoining landowners to be involved in that process. We note that we have considered allowing additional time for Ventia to provide this information, but ultimately determined that any further evidence on this matter would need to be subject to a further hearing (including further Council reporting and evidence) and we have determined that there simply is not sufficient time in the PDP hearing process to allow for that to occur in a fair, efficient and transparent manner.

Accordingly, we have determined that while there is clearly potential merit in providing for an expansion of the mineral extraction zone as requested at the Puketona Quarry, we were not presented with sufficient evaluation and evidence to support this request. We note that the consent order remains 'live' and that there remains an opportunity for Ventia to pursue a plan change (or Council variation) in the future in the manner set out in the consent order. Therefore, the submission points on this aspect are rejected.

Bellingham Quarries

We thank Messrs Bellingham for their evidence and the clarification of those active quarries where a mineral extraction zoning was sought. Having received the right of reply from the Council we agree with the reporting officer that the extent of Mineral Extraction zone applied to these quarries is in accordance with what they sought and is sufficient to give effect to the existing resource consents while also enabling future expansion within the zoning being provided.

Overall Spatial Extent of Mineral Extraction zone

With reference to our discussion above, we agree with the reporting officer regarding the spatial extent of the new Mineral Extraction zone as identified in the maps provided. These maps are provided in our recommendation as **Appendix 3**.

The Panel agrees with the reporting officer's recommendation and reasons in the hearing report that the Paranui Limeworks quarry operated by Bellingham's and the Whatuwhiwhi Quarry on the Carrington Estate not be included in the Mineral Extraction Zone. We also note that the Council's right of reply advised that Bellingham's no longer seek an extension of the Paranui Limeworks quarry due to the limited longevity of this site.

5.9.3 Hearings Panel Recommendations

With regard to Puketona Quarry, the Hearings Panel recommends no further change to the Mineral Extraction zone boundary on the basis that we have not been provided with sufficient analysis under s32 of the RMA or a quarry management plan to support the requested zoning. Therefore, the submission point S424.001 by Ventia is rejected.

With regard to the Bellingham's quarries (Hobbs Road Quarry, Tangoake Quarry; Te Hapua Quarry; and Larmer Road Quarry we agree with the extent of area identified for these quarries in the notified PDP, and that no additional extension under the new Mineral Extraction zone is required. Therefore, submission points S7.001, 0014 and 005 are rejected.

The Hearings Panel recommends that submission points S351.005 and S7.003 in relation to the Paranoi Limeworks quarry operated by Bellingham's and the Whatuwhiwhi Quarry on the Carrington Estate be rejected.

The hearings panel recommends that the spatial extent of the new Mineral Extraction zone is as identified in the maps provided as **Appendix 3**.

6. Conclusion

For the reasons set out in this recommendation report, we recommend amendments to the notified PDP provisions relating to Open Space zones (Natural Open Space zone, Open Space zone; Sport and Active Recreation zone); and the deletion of the Mineral Extraction overlay and its replacement with a new Mineral Extraction chapter containing objectives and policies, and a new Mineral Extraction zone containing the necessary rules and standards. We also recommend amendments to the planning maps to reflect the new Mineral Extraction zone and its spatial extent; and consequential amendments to other chapters.

The Hearings Panel recommended amendments are identified in **Appendices 2.1 – 2.6**.

We have had regard to the submissions and further submissions received, the evidence tabled and presented to us and to the Council's hearing reports (including the rights of reply). We have also incorporated our own s32AA evaluation when needed into the body of our recommendation report as part of our reasons for any recommended amendments.

Accordingly, we recommend that the submissions and further submissions should be accepted, accepted in part or rejected, as set out in this recommendation report and in the table of Recommended Decisions on Submissions in **Appendices 4.1 – 4.3**.

Overall, we consider that our recommendations will ensure the PDP achieves the statutory requirements, national and regional policy directions, and provide for the PDP being easier to implement and understand for users of it.