

BEFORE THE HEARING COMMISSIONERS
KAIPARA DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991 (**the Act**)

AND

IN THE MATTER of a resource consent application to subdivide

BY **Mangawhai Hills Limited**

Applicant

TO **Kaipara District Council**

Territorial Authority

STATEMENT OF EVIDENCE OF BURNETTE ANNE O'CONNOR

ON BEHALF OF BERGGREN TRUSTEE CO. C/- MARIA BERGGREN

(Planning)

6 May 2024

INTRODUCTION

1. My full name is Burnette Anne O'Connor. I am a planner and a Director of The Planning Collective Limited. I hold the qualification of Bachelor Resource and Environmental Planning (Hons) obtained from Massey University in 1994. I am a full member of the New Zealand Planning Institute and a member of the Resource Management Law Association. I have been accredited under the Ministry for the Environment's "Making Good Decisions" programme as a Commissioner and Chair.
2. I have over 27-years' experience as a planner. I have worked in Warkworth, and surrounding areas, as an independent planning consultant for the last 22 years.
3. I have been involved in numerous land use and subdivision proposals, coastal and residential consenting matters and private plan change requests. I also provide policy advice to local authorities. A statement of my relevant experience is appended as **Attachment A**.
4. I am generally familiar with the site and surrounding area and I last visited the site on Friday 29th April 2024.
5. I confirm that the evidence I present is within my area of expertise and I am not aware of any material facts which might alter or detract from the opinions I express. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note January 2023. The opinions expressed in this evidence are based on my qualifications and experience and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position.

SCOPE OF EVIDENCE

1. My evidence will address the matters relevant and within scope of matters raised in the submission lodged on behalf of Berggren Trustee Co Limited. In summary the submission raises the following matters:
 - The proposed Development Area provisions.
 - Objectives and policies.
 - Rules – density, subdivision, community facilities, development standards.
 - Effects on the environment – traffic and roading, landscape and urban design, ecology and infrastructure.

2. I have reviewed the following documents:
 - a. Mangawhai Hills Section 32 report and related Appendices submitted with the Application as notified;
 - b. The s42a report and the Supplementary s42A report prepared by Jonathan Clease on behalf of Kaipara District Council;
 - c. The planning evidence and related Attachments prepared by Alisa Neal and Melissa McGrath for the Applicant;
 - d. The urban design evidence and related attachments prepared by Garth Falconer for the Applicant;
 - e. The corporate evidence of Mr Patrick Fontein;
 - f. The economic evidence prepared by Philip Osborne for the Applicant
 - g. District, regional and national planning documents relevant to the assessment of the Proposal.

STATUTORY CONTEXT

3. I generally agree with the Statutory context as set out in the s42A except I do not agree with the statement at paragraph 14 that *Provided that the proposed rezoning aligns with the outcomes sought in the District Plan objectives and policies, the change in zone will be in accordance with the role and function of the Council.*
4. In my opinion the current District Plan is significantly out of date hence the review process the council has embarked on. S31 (1) (a) of the Act states that territorial authorities are to *establish, implement and review 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* and sub-section (aa) states *“the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district:”*.
5. Given the age of the Operative Kaipara District Plan – November 2013 and the significant changes in national planning direction since that Plan was prepared, I do not consider that the proposal will be in accordance with the role and function of council simply if the proposed rezoning aligns with the outcomes sought in the District Plan objectives and policies.

6. S31 (1) (f) states any other functions specified in this Act. Section 75 (3) states that a district plan must give effect to any national policy statement, a national planning standard and any regional policy statement. In my opinion the Proposal has to give effect to these documents in addition to the objectives and policies of the Operative Plan to achieve the requirements of s31 of the Act.

BERGGREN TRUSTEE CO LAND AND SURROUNDING ENVIRONMENT

7. As shown on Attachment A to the submission filed, Berggren Trustee Co Limited (Submitter #4) owns the land legally described as Allotment 247 PSH of Mangawhai. The property has a land area of 24.5 hectares and other than shares in the various access lots that provide legal access to the property from Moir Street, Mangawhai, and an easement for electricity, there are no other registrations on the Record of Title.
8. The submitter's property is within the Plan Change area and the land is generally as explained by the Applicant's experts and as further discussed in the expert evidence filed for the hearing in support of the submission made by Berggren Trustee Co Limited – Maria Berggren.
9. The land is used for pastoral grazing, is steep in parts and undulating in others. There are wetland features as addressed in the ecological evidence of Messers Klassen and Straka. There are views to the east that take in the Mangawhai dunes and islands in the far distance.
10. As set out in the submission lodged it is logical and necessary for connectivity and urban form reasons to include the Berggren Trustee Co land, and other sites in the south, in the plan change area. Without including this land, the plan change would be disconnected from the village and the existing urban area. This is confirmed in the economic evidence of Mr Osborne where he states, *"however the development abuts general residential development to the south and east along Moir Road indicating that the PC84 site represents a 'plug in' expansion of Mangawhai's existing residential area and will contribute directly to its urban environment."*
11. I also note that the corporate evidence of Mr Fontein¹ and the urban design expert evidence of Mr Falconer² both reinforce the importance of connectivity to achieving a well-functioning urban environment and quality outcomes.

¹ Corporate evidence Patrick Fontein, paragraphs 17, 19

² Urban Design evidence of Mr Falconer, paragraphs 34, 35 and 55.

NATIONAL POLICY STATEMENTS AND NATIONAL ENVIRONMENTAL STANDARDS

National Policy Statement Urban Development 2022:

12. The National Policy Statement Urban Development May 2022 states that

1.3 (1) *This National Policy Statement applies to:*

(a) all local authorities that have all or part of an urban environment within their district or region (ie, tier 1, 2 and 3 local authorities); and

(b) planning decisions by any local authority that affect an urban environment. However, some objectives, policies, and provisions in Parts 3 and 4 apply only to tier 1, 2, or 3 local authorities.

13. Kaipara District Council states it does not have all or part of an urban environment within the district. Kaipara District Council is not listed in the Appendix as a Tier 1 or Tier 2 and is not a tier 3 local authority unless there is all or part of an urban environment within the District.

14. In my opinion I consider that Mangawhai is intended to be urban in character and is intended to be part of a housing and labour market of at least 10,000 people.

15. The evidence of Mr Osborne states that Mangawhai is expected to have a population of 12,700 people by 2051 – this is within the long term³ as that is defined in the NPS UD. This is Mangawhai alone and doesn't include the wider influence of population who live in the Auckland region but work or utilise services in the Mangawhai area.

16. Regardless of whether or not Mangawhai is an urban environment I consider it good practise to address the provisions of the NPS UD, in particular the objectives and policies.

17. Specifically, Policy 1 is of relevance and importance because it reflects what is required to achieve a well-functioning urban environment. Variety of site sizes and good accessibility have been highlighted in the evidence of Mr Fontein and Mr Falconer as key attributes and objectives of the Proposal.

18. The certainty of road connections and the ability to create them within the plan change area are vital to achieving a well-functioning urban environment that has *good accessibility for all people between housing, jobs, community services, natural spaces and open spaces, including*

³ NPS UD defines long term as between 10 and 30 years.

by way of public or active transport and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and support reductions in greenhouse gas emissions.

19. If the connections within the plan change area and to Moir Street cannot be realised with certainty I consider the proposal does not achieve policy 1, and consequently would not achieve optimal urban design outcomes or may not contribute to limiting adverse effects on the competitive operation of land markets because the southern portion of the plan change area could be stranded and not able to be developed at all, or certainly not in an efficient way, if proper road, cycling and pedestrian connections to the southern portion are not delivered. The southern portion of the land would effectively be 'fake capacity' on zoning maps. I note Mr Osbornes evidence addresses the concepts of feasible capacity and states at paragraph 16 that *To place the extent of these factors in context most HBA's undertaken around the country have resulted in feasible capacity that is under half that of theoretical (with realisable being lower still).*
20. If such an outcome were to occur then the efficiency in terms of the numbers of houses able to be delivered by the plan change area will be significantly impacted. The southern portion of the land would effectively be 'fake capacity' can be connected to the reticulated wastewater system and is therefore able to be developed efficiently. The northern portion has to be serviced by an onsite wastewater disposal system/s. This means that the ability to increase density in the northern portion of the land area is limited by the need to provide onsite servicing.
21. Without certainty of road connections to Moir Street the objectives of the Mangawhai Hills Development Area cannot be realised, and the assessments in support of the plan change, specifically the urban design evidence and assessment will be based on outcomes that cannot be achieved.
22. It is imperative that plan changes secure the vital infrastructure and connections at the time of development otherwise poor urban outcomes and the inefficient use of land are likely outcomes. The development potential of a plan change area needs to have a degree of accuracy to enable reliable infrastructure planning to occur this includes all types of infrastructure services that future communities will require – education, roads, community facilities, recreational facilities etc.

National Policy Statement for Freshwater Management – amended January 2024 and National Environmental Standard Freshwater:

23. The provisions of the National Policy Statement (“NPS”) and National Environmental Standards (“NES”) are relevant. With respect to the submitter’s property the main issue is the presence of wetland features.
24. The evidence of Messers Klassen and Straka address the wetland features on the site and as shown on the Structure Plan.
25. In my opinion the alternative road option from Moir Street set out in the evidence of Mr Arthanari better achieves the objectives and policies of the NPS and NES relating to freshwater.

Other Relevant NPS and NES:

26. There are other relevant NPS and NES however the scope of the submission does not require further comment or assessment as there is no disagreement or contention with respect to the assessments provided.

EFFECTS OF THE PROPOSAL ON THE ENVIRONMENT

Ecology:

27. As set out above, the evidence on Messers Klassen and Straka addresses the natural freshwater features on the submitter’s property. These natural features are noted to be indicative and include permanent and ephemeral wetland features.
28. I agree that the Development Area provisions should acknowledge the features on the Submitter’s site are indicative and include rules that require updated assessments to be provided of wetland extent and quality, at the time of a development proposal for housing and / or subdivision.

Civil Engineering:

29. The evidence of Ms Farley sets out the relevant civil engineering considerations that require further consideration. The management of stormwater in a coordinated and specific manner is important given the topographical and land stability issues identified in the plan change area.
30. As set out above in relation to transport connections, it is important that key infrastructure requirements are secured at this planning stage via the proposed provisions to ensure the plan change land can be developed effectively and efficiently. Paragraph 18 of Ms Farley’s evidence

sets out the constraints regarding the required stormwater attenuation and recommends that appropriate sites for stormwater ponds should be identified on the Structure Plan with provisions included in the Development Area to secure the construction and vesting of the ponds as public stormwater infrastructure.

31. Ms Farley’s evidence (paragraph 29) notes the constraints with respect to the road connection to Moir Street noting that “...the topography of the land in conjunction with the ecology and hydrology will make the north south primary road access (“Primary Road 2”) highly constrained and difficult to achieve in terms of required gradients, widths, and associated earthworks”.
32. As above, these key features of the plan change need to be secured with certainty now so that the objectives of the Proposal can be achieved.

OBJECTIVES AND POLICIES

33. The s42A report addresses the provisions of the Northland Regional Policy Statement. In addition to the points set out in the s42A report I consider the following provisions relevant:

Issue 2.4:

2.4 Regional form

Unplanned and un-coordinated development and poor urban design can lead to reduced levels of amenity, higher infrastructure costs, and reduced community wellbeing.

Issue 2.4 is addressed by the following objectives:

- | | |
|---|--------------------|
| 3.6 Economic activities – reverse sensitivity and sterilisation | 3.11 Regional form |
| 3.8 Efficient and effective infrastructure | |

Objective 3.8:

3.8 Efficient and effective infrastructure

Manage resource use to:

- (a) *Optimise the use of existing infrastructure;*
- (b) *Ensure new infrastructure is flexible, adaptable, and resilient, and meets the reasonably foreseeable needs of the community; and*
- (c) *Strategically enable infrastructure to lead or support regional economic development and community wellbeing.*

Objective 3.8 addresses the following issues:

- | | |
|--|-------------------|
| 2.3 Infrastructure and economic activities | 2.4 Regional form |
|--|-------------------|

Objective 3.8 is achieved by the following policies:

- | | |
|-------------------|--|
| 5.1 Regional form | 5.2 Effective and efficient infrastructure |
|-------------------|--|

Objective 3.11:

3.11 Regional form

Northland has sustainable built environments that effectively integrate infrastructure with subdivision, use and development, and have a sense of place, identity and a range of lifestyle, employment and transport choices.

Objective 3.11 addresses the following issues:

2.3 Infrastructure and economic activities 2.4 Regional form

Objective 3.11 is achieved by the following policies:

5.1 Regional form 5.2 Effective and efficient infrastructure

Policy 5.1.1:

5 Policies and methods - Regional form and infrastructure

5.1 Regional form

The objectives relevant to policy and method package 5.1 are:

3.5 Enabling economic wellbeing 3.8 Efficient and effective infrastructure
3.6 Economic activities – reverse sensitivity and sterilisation 3.11 Regional form
3.7 Regionally significant infrastructure

5.1.1 Policy – Planned and coordinated development

Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:

- (a) Is guided by the 'Regional Form and Development Guidelines' in Appendix 2;*
- (b) Is guided by the 'Regional Urban Design Guidelines' in Appendix 2 when it is urban in nature;*
- (c) Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects;*
- (d) Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;*
- (e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;*
- (f) Ensures that plan changes and subdivision to / in a primary production zone, do not materially reduce the potential for soil-based primary production on land with highly versatile soils¹⁰, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and*
- (g) Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and / or district or regional plan provisions.*
- (h) Is or will be serviced by necessary infrastructure.*

Note: in determining the appropriateness of subdivision, use and development (including development in the coastal environment – see next policy), all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to natural character, features and landscapes, heritage, natural hazards, indigenous ecosystems and fresh and coastal water quality.

Policy 5.2.3:

5.2.3 Policy – Infrastructure, growth and economic development

Promote the provision of infrastructure as a means to shape, stimulate and direct opportunities for growth and economic development.

Policy 6.1.1 Efficient and effective planning and Method 6.1.4 – Statutory plans and strategies:

34. The provisions in the RPS promote good urban design outcomes and the 7 C's referred to in the urban design evidence of Mr Falconer. These are specifically referenced in the Explanation to Policy 5.1.1 and in appendix 2 which contains the Regional Form and Development Guidelines.
35. I have attached the relevant RPS provisions and Appendix 2 as **Attachment B** to this evidence. I note that s75 (3) (c) states that the district plan must give effect to the RPS.
36. In order to give effect to the RPS, in relation to the provisions relevant to the scope of the submission I that I have set out above, the plan change must achieve *connectivity to the existing urban development – Mangawhai village, and make opportunities to access a range of transport modes; be integrated with the development, funding, imp[lamentation, and operation of transport, energy, water, waste and other infrastructure; and is or will be serviced by necessary infrastructure*⁴.
37. In terms of the road connection to Moir Street this needs to be secured for the first stage of any housing or subdivision development, at least through to Tara Road so that the plan change will have certainty of connection to Mangawhai village in an efficient and effective way and so that the plan change area can be developed, as sought by the objective of the Proposal.
38. Without the required certainty of coordinated provision of the transport, and other required infrastructure the Proposal will not give effect to the RPS.
39. The stated objective of the Proposal is to deliver viable and sustainable housing. This is supported by six specific objectives stated in the proposed Development Area provisions. DEV1-03 is to *provide a connected, legible and safe multi-modal transport network in the Mangawhai Hills Development Area.*
40. The proposed connections have to be delivered and therefore there needs to be certainty these connections can be provided, specifically Primary Road 2, otherwise the stated

⁴ Northland Regional Policy Statement, Policy 5.1.1.

objectives cannot be achieved.

S42A REPORT

41. As set out in paragraph 3 of this evidence I do not agree that with the statement at paragraph 14 of the s42A report that Provided that the proposed rezoning aligns with the outcomes sought in the District Plan objectives and policies, the change in zone will be in accordance with the role and function of the Council. This is because there are other functions as stated in s31 (1) (f) of the RMA and as set out in s75 a district plan must give effect to any national policy statement and the regional policy statement. The Kaipara District plan was formulated after the Northland Regional Policy Statement became operative and well before various National Policy Statements came into effect. The objectives of the Operative Kaipara District plan therefore do not necessarily align with other functions of the council as stated in s75 of the Act.
42. I agree with the s42A report author that *the site is in principle well located for forming a logical urban expansion of the township. The southern portion of the site is identified as a growth area, and the northern portion is shown as being suitable for rural lifestyle use. The Spatial Plan drew heavily on the ability to service growth areas with reticulated wastewater.*⁵
43. I agree with the author that the geotechnical – land stability issue should be resolved prior to rezoning for reasons stated in this evidence relating to feasible development capacity and related issues.
44. I agree with the statement in the Supplementary s42A report, at paragraph 345, that “....*unless a southern connection to Moir Street can be delivered, that the locational benefits of the site being in close proximity to the village centre and school are significantly weakened*”.
45. Also within paragraph 345 the issue regarding the practical ability to upgrade the Tara Road intersection also needs to be acknowledged as this upgrade may require the use of private land.
46. In my opinion the matters raised in evidence in support of the submission made for Berggren Trustee Co Limited – Maria Berggren, are fundamental to the Proposal and have to be resolved with certainty for the plan change to meet the tests for approval.
47. I address the changes to the Structure Plan and Development Area provisions set out in the

⁵ S42A Supplementary Report, paragraph 339.

Applicants evidence in the following section of my evidence.

THE PROPOSED DEVELOPMENT AREA PROVISIONS

48. DEV1-R16 relates to roads. Where the Standard is met the activity is permitted and is proposed to be a Restricted Discretionary activity where the Standards are not met.
49. The Standards set out at DEV1-S13 require roads to be located in accordance with the indicative roads shown on the Structure Plan. As detailed in the evidence of Mr Arthanari and Ms Farley, there is no certainty that these roads can be provided, specifically Primary Road 2, which is an integral connection, and the indicative secondary road from Moir Street.
50. Given this situation it is therefore likely that future proposals for housing and / or subdivision will need to be assessed as a Restricted Discretionary activity in relation to the roading standard. There is only one matter in the stated matters of discretion, (m) that relates back to the objectives in respect of securing a connected, legible and safe multi-modal transport network. It is highly likely that development could proceed without any connection to the village via Moir Street being achieved. A road connection back to Moir Street, whilst stated to be a key feature of the locational benefits of the plan change area may never be realised especially when matter of discretion (m) could conflict with matter of discretion (n) which is *The predominance of walking and cycling over vehicle access and roading function*".
51. In my opinion the lack of providing a connection to Moir Street, and at least through to Tara Road with the first stages of development should at least be assessed as a Discretionary activity given the nature of effects that could arise if no connection to Moir Street were provided. This would require more directive objectives and policies to be included in the Development Area provisions to enable robust assessment.
52. If the activity status remains as Restricted Discretionary for when the permitted standards are not met, then there need to be more directive matters of discretion such as *The provision of road, pedestrian and cycling access to Moir Street*.
53. I also consider there needs to be criteria, or a clear pathway to assess roads to be provided in different locations to the locations shown on the Structure Plan given the constraints and relative uncertainty that these road connections can be provided as shown.
54. Currently the provisions as drafted seem to allow a gap in terms of there being less roading requirements should housing development be undertaken without subdivision as a precursor activity. The provisions need to be amended to secure the same roading requirements for

subdivision as set out at DEV1-REQ2 , for housing occurring without subdivision. Reference to DEV1-REQ2 could be added to DEV1-R2. DEV1-R2 also states 1 residential unit per 1,000m² and also states that there is a maximum of 1 unit per site. This indicates that housing has to occur post subdivision , unless it is assessed as a Restricted Discretionary activity. As above the matters of discretion for the assessment in DEV1-R2.1 need to be more directive in terms of core infrastructure needing to be provided e.g connection to Moir street and integrated stormwater detention. In my opinion matter of discretion f. is not sufficient to ensure the required outcomes are achieved.

55. I agree with the further suggested changes to the provisions set out in paragraph 24. of the evidence of Ms Farley and the evidence of Messers Klassen and Straka regarding ensuring wetland features on the Structure Plan are identified as indicative. In my opinion there will also need to be further changes to DEV1-S19 which refers to the wetland restoration and stream riparian restoration areas identified on the Structure Plan.

CONCLUSIONS

56. The Proposal will not pass the statutory tests unless the provisions are amended as set out in this evidence to provide certainty of road connections and that the Moir Street connection, at least through to Tara Road is provided with the first stage of development.
57. Greater certainty of the realisable capacity of the plan change area needs to be ascertained so that there can be robust planning for, and delivery of the required infrastructure. If an insufficient number of lots are able to be created then the costs to deliver the stated road, pedestrian and cycle connections, planting etc may be economically unviable. If the outcomes cannot or will not be achieved then the purpose and objective /s of the Proposal will likewise not be met.

Burnette O'Connor

6 May 2024

Attachment A

Statement of Experience Burnette O'Connor

Burnette O'Connor

Planner / Director

The Planning Collective Limited



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Bachelor of Resource and Environmental Planning (BREP) (hons), Massey University
Member of NZPI (Full) and RMLA

Burnette has over 28 years' experience in resource management including resource consenting, plan change requests, policy advice and expert evidence at council and Environment Court hearings. Burnette excels at project delivery. She has a pragmatic, positive and proactive approach focussed on achieving positive outcomes for clients, the community and the environment. Burnette has extensive experience in project management of all types and scale of resource management projects. Having worked as a Team Leader and Consent Planner for Far North District Council and the former Rodney District Council, Burnette possesses distinct comprehension of rural and urban environments, as well as their interface.

Key Skills

- Preparation and Processing of Plan Changes and Notices of Requirement
- Project Management of larger scale projects and multidisciplinary project teams
- Resource consents, environmental planning, due diligence assessment and risk analysis
- Presentation of expert evidence for Council and Environment Court Hearings
- District Plan Appeals
- Environment Court mediation and Alternative Dispute Resolution
- Rural Character and Landscape studies
- Rural planning and policy advice
- Land development.
- Mana whenua and stakeholder consultation and engagement
- Mentoring of Graduate and Intermediate Planners.

Career Experience / Background

- Aug 2019 – Present Planner/Director at The Planning Collective Ltd
- Sept 2017 – Aug 2019 Senior Associate – Barker & Associates
- Feb 2001 – Sept 2017 Planner/Director at OPC Ltd

- April 1998 – Sept 2000 Team Leader Resource Consents – Rodney District Council
- Sept 1996 – April 1998 Resource Consents Planner – Rodney District Council
- Nov 1994 – Aug 1996 Resource Consents Planner – Far North District Council

Plan Changes

Burnette has been involved in both preparing and assessing Plan Changes including the preparation of s32 analyses. Notably Burnette was the project lead and expert planner for Plan Change 25 Warkworth North and has also obtained zone changes for land holdings at Snells Beach and the Karaka Growth Nodes in South Auckland.

Resource Consents and Designations

Burnette has prepared and obtained many landuse, subdivision and coastal resource consents for clients who include district and regional council's as well as individuals and companies. Notices of Requirement have also been prepared and processed including for Requiring Authorities such as Ministry of Education and New Zealand Transport Agency. This work has also included lodging submissions, preparing expert evidence, and attendance at Council hearings and the Environment Court. Additionally, Burnette has experience with the COVID-19 Recovery (Fast-track Consenting Act) 2020.

District Plan Process

Burnette was closely involved in the writing hearing and decision reports for rural and coastal matters for the Rodney District Plan 2000. She also undertook a capacity analysis and drafted provisions for the Countryside Living zone, including transferable title right subdivision options for the draft Auckland Unitary Plan.

Rural Character and Landscape Studies

- Rural character studies of the Rodney District and the Hauraki District for the Council's District Plan reviews.
- A landscape study of the Waikato Region as part of the Environment Waikato RPS review.

Environment Court Appeals/Mediation

Extensive expert evidence to the Environment Court relating primarily to rural and coastal planning matters. Expert evidence has also been provided in respect of a road stopping matter and various urban planning issues.

Burnette has been involved in the settlement of many appeals through the mediation process both on behalf of private and public sector clients.

Commissioner Work

Burnette is a qualified Independent Hearings Commissioner and Chair. She has been appointed as a Commissioner for Kaipara and Whangarei District Councils. Burnette has acted as a Commissioner on private plan changes, subdivision and landuse hearings and resource consent hearings.

Mentoring

Burnette has acted as a mentor for First Foundation assisting scholars to achieve goals through work experience and tertiary education. She has also been a mentor for the New Zealand Planning Institute programme to mentor graduate planners and has offered planning work experience to students

considering undertaking a planning degree or requiring work experience.

Summary

Burnette is highly experienced in all aspects of planning. She is very familiar with planning environments; Councils; rural and urban communities particularly in Auckland and Northland.

Relevant Experience / Key Projects

- Obtaining consent for a Retirement Village in Riverhead, Auckland through the COVID-19 Recovery (Fast-Track Consenting) Act pathway (2023)
- Expert witness at the Dome Valley Landfill Hearing (2023) and other Environment Court cases
- Warkworth North Private Plan Change – application to rezone approximately 100 hectares of land from Future Urban to a range of urban land uses.
- Rural Plan Changes to Whangarei District Plan
- Proposed Auckland Unitary Plan (PAUP) – policy advice to Auckland Council on rural land use and subdivision including transferable title rights; private client work, rezoning, air quality and related matters
- Review and advise on the Rural Chapter and Coastal Chapter of the Rodney District Plan review (2000) and undertake Section 32 analysis of Rural Character and Landscape to inform the District Plan review (2008)
- Environment Waikato Landscape Study – Section 32 Landscape analysis for Outstanding Natural Landscapes for the Environment Waikato RPS review (2009)
- Planner – Carrington Farms vs Far North District Council and Te Runanga a Iwi o Ngāti Kahu regarding issues with subdivision near urupā
- Alteration to Designation – Te Kura Kaupapa o Whangaroa
- Karaka North Village Growth Node rezoning rural to urban
- Warkworth Community Centre
- Redevelopment of heritage buildings in Warkworth including the Town Hall, BNZ Bank building, Anglican Church, and the former Rodney Motors building
- Two private plan changes in Snells Beach rezoning land from Residential – Large Lot to Residential – Single House
- Rezoning and development of land at Silverdale, Auckland from rural to urban. The development included a Retirement Village
- Kerikeri / Waipapa Gateways
- Expert witness for a range of Far North and Whangarei District Environment Court appeals
- Shakespeare Regional Park Predator Fence to create a mainland island
- Rural and Highly Valued Natural Resources Chapters of Rodney District Plan 2000 – hearings reports, decision reports and appeals
- Obtained subdivision consent in Lytton West, Gisborne to create 155 residential sites and associated JOAL's and roads to vest (2021)
- Obtained subdivision consent in Warkworth, Auckland (Rockford Point) to create 41 residential lots and associated roads, esplanade reserve to vest, etc (2021)

Attachment B

RPS provisions and Appendix 2

particularly residential development, it can impact on the electricity supply to Northland and affect the operations of nationally significant industries such as the Marsden Point oil refinery.

The state and availability of natural resources is relatively more important for Northland's economy than for many other regions in New Zealand. About 20% - 25% of Northland's Gross Domestic Product is derived either directly (farming, forestry, fishing and mining) or indirectly (the processing of these products and tourism) from the use of natural resources. For example, aquaculture and commercial shellfish gathering rely on good quality water.

Poor quality regulation and high compliance costs can act as a brake on business growth, investment and job creation. Councils need to be mindful of the impact of regulation on the economy – good quality regulation can be used to stimulate economic growth. The Ministry of Economic Development has identified that compliance costs can act as a brake on business growth.

Consistency in interpreting and implementing the law has been identified by government as a desirable yet problematic feature of any regulatory environment. Businesses require a reasonable degree of certainty to operate with confidence, especially when it comes to investing, but they also often want individually tailored approaches (that is, flexibility).

There are benefits, costs and risks associated with both consistency and flexibility. Variations in management approaches are more likely to be accepted if there is a clear justification for them. If the justification is not clear, then perceptions of fairness and equity are likely to suffer. Costs of compliance are not likely to be accepted, people are less likely to comply voluntarily and businesses may not be attracted. Variations that reflect local circumstances are likely to be legitimate; variations based on poor performance are not. Approaches that are effects-based, consistent, create a level playing field and can combine the best aspects of certainty and flexibility, such as performance standards, are most likely to be supported.

2.4 Regional form

Unplanned and un-coordinated development and poor urban design can lead to reduced levels of amenity, higher infrastructure costs, and reduced community wellbeing.

Issue 2.4 is addressed by the following objectives:

- | | |
|--|---------------------------|
| 3.6 <i>Economic activities – reverse sensitivity and sterilisation</i> | 3.11 <i>Regional form</i> |
| 3.8 <i>Efficient and effective infrastructure</i> | |

Explanation:

Regional form is about the physical arrangement within and between urban and rural communities. Under the Resource Management Act 1991 (RMA), Northland's physical resources, including buildings and infrastructure, must be sustainably managed.

These resources are important for our social, cultural, and economic wellbeing, including our mental and physical health, our sense of place and safety, and our ability to access services.

Ad-hoc / un-planned subdivision, use and development in inappropriate locations have had adverse effects on our urban and rural communities. It has resulted in reduced levels of service, unplanned infrastructure extensions / upgrades and reduced the viability of business through reverse sensitivity. This in turn has adverse effects on the surrounding communities.

Northland only has one city (Whāngārei) but it also has a number of towns and urban areas that have grown rapidly in the last 10 years. These include Kerikeri, Mangawhai, Bream Bay and Paihia and some coastal communities such as Tutukākā, Pārua Bay and Taipā / Mangōnui.

Alongside the growth of our urban areas, there has been demand for rural residential or lifestyle type development, particularly in rural locations surrounding our larger towns and in rural areas near the coast.

It is important that our urban and rural areas are serviced by appropriate infrastructure, are sustainable and able to provide a safe and healthy environment for their residents and visitors. It is also important our rural areas are productive and provide for a variety of uses and that our urban areas are energy efficient and sustainable.

Good planning and urban design can improve Northlanders' social and cultural wellbeing, strengthen our sense of place, enhance our ability to access services and connect with friends and our wider community. When it is done well planning and urban design can ensure that our special natural places are protected, enhance amenity values and attract economic opportunities.

Quality of infrastructure and quality of life are key factors in creating a successful region. Good planning and urban design can have significant positive effects on both.

Objective 3.7 is achieved by the following policies:

5.3 Regionally significant infrastructure

Explanation:

Northland needs to provide for regionally significant infrastructure. Quality regionally significant infrastructure can attract business and investment to the region, making Northland better able to compete in the national economy, as well as helping to protect health and safety and provide other important social and community functions. Regionally significant infrastructure may however have adverse effects on the environment.

It is important therefore to set the overall integrated direction at the regional level promoting recognition of these benefits alongside the need to avoid, remedy or mitigate adverse effects. Such a framework must however also recognise that the constraints of infrastructure provision mean that adverse effects cannot always be practicably avoided or internalised.

To ensure that the benefits of regionally significant infrastructure can be fully realised, it is also important to recognise the long-term needs of infrastructure providers to operate, maintain and enhance assets.

Recognition and promotion of the benefits of regionally significant infrastructure includes avoiding the unplanned overloading of essential infrastructure.

3.8 Efficient and effective infrastructure

Manage resource use to:

- (a) *Optimise the use of existing infrastructure;*
- (b) *Ensure new infrastructure is flexible, adaptable, and resilient, and meets the reasonably foreseeable needs of the community; and*
- (c) *Strategically enable infrastructure to lead or support regional economic development and community wellbeing.*

Objective 3.8 addresses the following issues:

2.3 Infrastructure and economic activities

2.4 Regional form

Objective 3.8 is achieved by the following policies:

5.1 Regional form

5.2 Effective and efficient infrastructure

Explanation:

This objective recognises that upgrades to existing infrastructure and the building of new infrastructure are costly activities and resources are limited, so it is important to get the best out of existing infrastructure. This includes using demand management tools to manage the need for new infrastructure by making resource consumption more efficient.

Behaviour change through initiatives such as promoting resource efficiency in households and businesses (for example, energy efficient technology and

appliances, efficient urban design principles such as passive solar heating and improved transport options) can significantly reduce or manage demand. This has a number of benefits, for example, the efficient use of energy minimises the pressure on energy generation and distribution and reduces business and household energy costs, improves transport energy efficiency and reduces greenhouse gas emissions. Additional co-benefits include improved mobility, improved health in insulated homes and increased comfort of commercial buildings.

Strategic planning for land use can also reduce demand on infrastructure such as public transport and reticulated water, as well as ensuring existing infrastructure can continue to operate efficiently by avoiding effects from incompatible activities. Where new or upgraded infrastructure is proposed, opportunities to use sustainable materials and practices should be explored.

Infrastructure should, as a principle, have sufficient flexibility, adaptability and resilience to meet the reasonably foreseeable needs of the future. Part of this objective therefore seeks to help future-proof infrastructure for long-term use and ensure it can more efficiently adapt to changing technological, operational, economic, environmental and social conditions.

Infrastructure can also be an important tool in promoting economic development and community wellbeing. Part of maximising the value of infrastructure and ensuring its effectiveness is planning for the right infrastructure in the right place at the right time. This objective aims to ensure that planning for infrastructure is targeted to areas and sectors where it will have the most impact.

Population projections, environmental monitoring trends, anticipated economic development and social indicators (like social deprivation and access to drinking water) could be used to develop critical thresholds for ensuring infrastructure adequately meets the reasonably foreseeable needs of the community. By following this approach, the objective aims to improve the overall affordability and effectiveness of infrastructure.

There is also a need to integrate strategic infrastructure planning between Northland and other regions, including Auckland. To this end, infrastructure can often be used to achieve multiple outcomes. For example:

- A well-functioning and effective transport system can improve business efficiency, innovation, competition and trade, support concentrations of economic activities and facilitate a mobile and flexible work force.
- An effective broadband fibre network can provide economic benefits through new and innovative ways of doing business, access to new markets, improving communication and enhancing access to information and educational opportunities.
- A well-coordinated water storage system and reticulation network can provide water for multiple purposes including domestic and municipal supply, irrigation and the needs of industry.

- Good physical connections;
- An adequate range of transport choices (including public transport in urban areas); and
- Vibrant, safe and cohesive town centres with a range of residential and business opportunities.

Developing sustainable built environments means consolidating new urban development⁸ within and adjacent to existing settlements.

There are significant opportunities that arise through consolidated development including:

- Avoiding unplanned 'overloading' of essential infrastructure;
- Improved energy efficiency through the integration of land-use and infrastructure;
- Creating opportunities for residents to work within close proximity to their homes;
- Protecting areas of high natural character and sensitive landscapes; and
- Promoting the ongoing viability of existing town centres by creating a sense of place and identity with sufficient levels of services.

It is acknowledged that rural settings are largely made up of businesses (including but not limited to primary production and their support industries). The objective seeks development that is compatible with surrounding uses and values, is served by an appropriate level of infrastructure and is appropriate within the context of the surrounding environment.

3.12 Tangata whenua role in decision-making

Tangata whenua kaitiaki role is recognised and provided for in decision-making over natural and physical resources.

Objective 3.12 addresses the following issues:

2.5 *Issues of significance to tangata whenua – participation in resource management*

Objective 3.12 is achieved by the following policies:

8.1 *Participation in decision-making, plans, consents and monitoring*

8.3 *Māori land and returned Treaty settlement assets*

8.2 *Iwi and hapū management plans*

Explanation:

Tangata whenua are the kaitiaki of their traditional taonga, while the regional and district councils have delegated authority from the Crown to manage Northland's natural and physical resources.

In keeping with the partnership principles of the Treaty of Waitangi and the Resource Management Act 1991 (sections 6(e), 7(a) and 8), the regional and district councils

⁸ For the purpose of Objective 3.11 'urban development' means development intended for mixed-use, commercial, industrial activities and all development where the primary purpose is residential use, except where it is ancillary to a lawfully established rural activity.

5 Policies and methods - Regional form and infrastructure

5.1 Regional form

The objectives relevant to policy and method package 5.1 are:

- | | |
|--|---|
| 3.5 <i>Enabling economic wellbeing</i> | 3.8 <i>Efficient and effective infrastructure</i> |
| 3.6 <i>Economic activities – reverse sensitivity and sterilisation</i> | 3.11 <i>Regional form</i> |
| 3.7 <i>Regionally significant infrastructure</i> | |

5.1.1 Policy – Planned and coordinated development

Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:

- (a) Is guided by the 'Regional Form and Development Guidelines' in Appendix 2;*
- (b) Is guided by the 'Regional Urban Design Guidelines' in Appendix 2 when it is urban in nature;*
- (c) Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects;*
- (d) Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;*
- (e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;*
- (f) Ensures that plan changes and subdivision to / in a primary production zone, do not materially reduce the potential for soil-based primary production on land with highly versatile soils¹⁰, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and*
- (g) Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and / or district or regional plan provisions.*
- (h) Is or will be serviced by necessary infrastructure.*

Note: in determining the appropriateness of subdivision, use and development (including development in the coastal environment – see next policy), all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to natural character, features and landscapes, heritage, natural hazards, indigenous ecosystems and fresh and coastal water quality.

Explanation:

This policy aims to create a framework for getting the right development in the right place at the right time. It is a strategic and pro-active policy, designed to give effect to section 30(1)(gb) of the Resource Management Act 1991 (RMA), which gives regional councils the function of strategically integrating infrastructure with land use.

¹⁰ Highly versatile soils are Land Use Capability Classes 1c1, 2e1, 2w1, 2w2, 2s1, 3e1, 3e5, 3s1, 3s2, 3s4 - as mapped in the New Zealand Land Resource Inventory.

This policy gives effect to Objective 3.11 by ensuring there is a planned and co-ordinated approach to developing the built environment that anticipates and addresses cumulative effects. Well-designed development also provides for the wellbeing of people and communities now and into the future.

5.1.1(f) applies to subdivision and plan changes on land with highly versatile soils in primary production zones. Proponents should clearly demonstrate that the benefits to the public (social, economic, environmental and cultural) arising from subdivision or a plan change and subsequent development are greater than the benefits that would have occurred from productive use of the land. If the public benefits of retaining land with highly versatile soil for primary production activities is equal to or greater than the public benefits that would be gained from a proposed development it is expected that the land in question will remain available for primary production.

Appendix 2 contains the Regional Form and Development Guidelines. They will help new development to achieve sustainable regional form. Some developments will be able to support certain aspects of the guidelines more than others and, in certain situations, some guidelines may need to be traded off against others. This aside, it is important that all guidelines are appropriately considered when councils are managing development.

The Regional Form and Development Guidelines apply to development in urban and rural areas. While it is recognised that some aspects of the guidelines may not be appropriate considerations in a rural setting, the majority of guidelines should be considered when undertaking rural development.

The Regional Urban Design Guidelines are intended to apply to the region's urban¹¹ areas. However, in some cases developers may benefit from applying portions of the guidelines to rural developments.

It is also critical that infrastructure considerations are effectively integrated with plans for development. There are many advantages of planning in this way including:

- Creating more vibrant communities by recognising the role infrastructure plays in economic, social and cultural wellbeing by ensuring infrastructure is in the right place at the right time;
- Avoiding constraints on the use and development of infrastructure;
- Avoiding costly and untimely / unplanned upgrading of infrastructure; and
- Avoiding adverse environmental effects caused by a lack of infrastructure.

The Regional Urban Design Guidelines in Appendix 2 are adapted from the design qualities described in the New Zealand Urban Design Protocol. The guidelines seek to ensure that developments consider the following design elements:

- Context;
- Character;
- Choice;
- Connections;

¹¹ For the purpose of Regional Form 'urban' means all land zoned for mixed-use, commercial, industrial use and all zones where the primary purpose is residential use.

- Creativity;
- Custodianship; and
- Collaboration.

These guidelines are considered to be important tools to ensure new development is of a high quality and contributes to the identity of the place by providing attractive, user-friendly living environments.

5.1.2 Policy – Development in the coastal environment

Enable people and communities to provide for their wellbeing through appropriate subdivision, use, and development that:

- (a) *Consolidates urban development¹² within or adjacent to existing coastal settlements and avoids sprawling or sporadic patterns of development;*
- (b) *Ensures sufficient development setbacks from the coastal marine area to;*
 - (i) *maintain and enhance public access, open space, and amenity values; and*
 - (ii) *allow for natural functioning of coastal processes and ecosystems;*
- (c) *Takes into account the values of adjoining or adjacent land and established activities (both within the coastal marine area and on land);*
- (d) *Ensures adequate infrastructure services will be provided for the development; and*
- (e) *Avoids adverse effects on access to, use and enjoyment of surf breaks of national significance for surfing.*

Note: in determining the appropriateness of subdivision, use and development, all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to natural character, features and landscapes, heritage, natural hazards, indigenous ecosystems and fresh and coastal water quality.

Explanation:

Northland's unique coastal environment has a range of landscape, seascape and recreational qualities that make it a popular place for development. Most of our existing settlements are located in the coastal environment and this is also where most development in Northland is occurring. The coastal environment is of huge economic importance to the region (for example, tourism and aquaculture) and our coast is an attribute that sets us apart from other regions. Northland has one of the longest coastlines of any region in the country.

Inappropriate subdivision, use or development can compromise the special values that attract people to our coast and make it less desirable. This policy provides strategic direction for development of the coastal environment, recognising that there is particular pressure for development within this environment and that there are potential effects of development that are distinctive to this sensitive environment. For

¹² For the purpose of Policy 5.1.2 'urban development' means subdivision, land use or development intended for mixed-use, commercial, industrial activities and all development where the primary purpose is residential use, except where it is ancillary to a lawfully established rural activity.

5.2 Effective and efficient infrastructure

The objectives relevant to policy and method package 5.2 are:

3.8 *Efficient and effective infrastructure*

3.11 *Regional form*

5.2.1 Policy – Managing the use of resources

Encourage development and activities to efficiently use resources, particularly network resources, water and energy, and promote the reduction and reuse of waste.

Explanation:

This policy provides for the wise use of resources, including infrastructure. It recognises that more efficient use of resources means we can get more value out of resources and the infrastructure that is used to carry those resources. This approach can be applied to both large and small users of resources – indeed the positive effect of smart resource use by large numbers of small consumers (householders) is likely to be significant.

The types of measures that could be promoted include, but are not limited to, effective siting of development to maximise use of resources (such as sunlight or existing wastewater infrastructure) and either providing or future-proofing the ability to harness natural resources (for example, solar energy). Technologies that have the potential to optimise resource consumption such as green roofs, rain gardens, renewable energy technologies, rainwater storage, and grey water recycling techniques can also be promoted. Consideration should be given to appropriate incentives or economic instruments to encourage efficient use of resources.

The Regional Form and Development Guidelines in Appendix 2 contribute to the implementation of this policy.

It also links to inter-regional consideration of resource use and infrastructure.

5.2.2 Policy – Future-proofing infrastructure

Encourage the development of infrastructure that is flexible, resilient, and adaptable to the reasonably foreseeable needs of the community.

Explanation:

The intention of this policy is to ensure long-term consideration is given to the provision of new infrastructure. This policy complements Policy 5.2.1, which encourages wise resource use. Where new infrastructure is needed to satisfy demand, or where existing infrastructure is coming to the end of its life, consideration must be given to the long-term future need and demand for that infrastructure. The benefits of doing this are that it may be cheaper to make small extra capacity allowances at an early stage of development rather than expensive retrofitting if development overtakes infrastructure capacity. Alternatively, a flexible platform could be provided that allows for easy expansion. Efficient planning for infrastructure will also decrease the likelihood of disruption to users from maintenance or upgrading.

5.2.3 Policy – Infrastructure, growth and economic development

Promote the provision of infrastructure as a means to shape, stimulate and direct opportunities for growth and economic development.

Explanation:

This policy is about infrastructure-led growth. It is well recognised that effective growth cannot occur without planning for infrastructure; however, the smart use of infrastructure can actually create opportunities for growth and development. This approach is useful where resources are limited, where there are areas of deprivation and where value can be added to existing activities with the right leverage and investment.

To realise this policy, 'smart' infrastructure provision must be informed by an understanding of where the opportunities for growth lie including any 'trigger points'. Planning for different types of infrastructure can often take place separately. This policy encourages comprehensive planning, tying together the various different plans that include or rely on infrastructure planning to maximise effort.

Again, there is the potential to look inter-regionally as well as within the region for opportunities to improve economic wellbeing.

5.2.4 Method – Statutory plans and strategies

The regional and district councils shall, through regional and district plans, use assessment criteria or other suitable provisions to ensure that when a resource consent application, plan change, or notice of requirement for development is proposed that includes new or upgraded community infrastructure or infrastructure proposed by a network utility operator, weight will be given to the following:

- (a) The extent to which infrastructure can be operated, maintained, and upgraded efficiently with minimal adverse effects to meet the reasonably foreseeable needs of future generations (for example, to meet change as anticipated by regional / sub-regional growth strategies);*
- (b) The extent to which the infrastructure uses measures to achieve efficient use of resources;*
- (c) Where practicable, the potential for infrastructure to co-locate with, or accommodate, other infrastructure to achieve efficiencies; and*
- (d) Where multiple parties are involved, the extent to which providers propose to work together to co-ordinate activities and / or develop infrastructure implementation plans.*

In addition, in conjunction with Method 5.1.5(1)(a), all resource consents, notice of requirements and plan changes should be assessed against the Regional Form and Development Guidelines contained in Appendix 2.

Explanation:

This method encourages the regional and district councils to take future-proofing into account when considering proposals for infrastructure through a criteria-based assessment or other suitable provisions. Infrastructure providers may be able to demonstrate this through their own assessment processes. This should provide a consistent tool to assess infrastructure proposals and give additional weight and

6 Policies and methods - Efficient and effective planning

6.1 Efficient and effective planning

The objectives relevant to policy and method package 6.1 are:

3.5 *Enabling economic wellbeing*

3.12 *Tangata whenua role in decision-making*

6.1.1 Policy – Regional and district plans

Regional and district plans shall:

- (a) Only contain regulation if it is the most effective and efficient way of achieving resource management objective(s), taking into account the costs, benefits and risks;*
- (b) Be as consistent as possible;*
- (c) Be as simple as possible;*
- (d) Use or support good management practices;*
- (e) Minimise compliance costs and enable audited self-management where it is efficient and effective;*
- (f) Enable the aspects of subdivision, use and development that complies with the Regional Policy Statement; and*
- (g) Focus on effects and where suitable use performance standards.*

Explanation:

This policy emphasises the requirements of the RMA for regional and district plans to give effect to this regional policy statement and sets principles for how that would be achieved. While this policy largely reflects requirements of the Resource Management Act 1991 (RMA) (for example, section 32) and good planning practice, it is appropriate that we reinforce these 'principles' of plan development in the Regional Policy Statement (RPS).

We want Northland to be attractive for business and investment. One way we can help is by making our regional and district plans as 'business friendly' as possible (while still maintaining environmental standards).

While achieving efficient and effective planning involves more than just regulation, having clear policy to achieve better regulation to support appropriate subdivision, use and development (as defined elsewhere in the RPS through the other policies and methods) is a step in the right direction. Having this philosophy or policy at the regional and local level will keep us in step with national drivers of change, reduce cross-boundary issues and enable Northland to be a more competitive and attractive place to live and do business.

Strategies for effective regulation require policies such as this one to start something happening. The policy framework needs to be complemented by institutional capacity and processes for the development of "fit for purpose" regulations (this will need to come through methods in the RPS as well as alternative mechanisms outside of the RMA).

This policy aims to drive efficiency through district and regional plans and the implementation of this RPS. Consistency over like matters is efficient for councils, businesses, developers, communities and individuals. It can lead to smarter shared services, better market certainty and future investment. Ensuring our regulation is effective and not excessively costly is efficient. Monetary constraints increase the imperative for more efficient policy right across local government. Consistency is an obvious way forward where like issues exist.

Adopting or complementing good / best practice through other tools, including: performance standards; codes of practice; audited self-management; and certification or best practical environmental options should avoid regulation becoming out of date, promote ownership of environmental performance and reduce compliance costs.

Enabling subdivision, use and development in regional and district plans can be achieved in a number of ways. Most obviously this is through activity status (for example, permitted or controlled activities), but there are also other tools such as limiting notification of resource consent applications and setting out resource consent application information requirements.

Effects of activities should be the focus of plans. This encourages innovation and avoids unnecessarily restricting uses and developments that are able to meet environmental bottom lines. Performance standards are one tool to achieve this, and provide certainty about what needs to be achieved.

Plans should always try to encourage innovation, and this will be a result if this policy is implemented. There will be times where specific constraints are justified. However, plans should provide the ability to innovate and adapt where possible. They should also recognise restrictions on subdivision, use and development can have effects on economic, social and cultural wellbeing and regard shall be had to this when considering effects on high and outstanding natural character, outstanding natural features, outstanding natural landscapes and historic heritage.

6.1.2 Policy - Precautionary approach

Adopt a precautionary approach towards the effects of climate change and introducing genetically modified organisms to the environment where they are scientifically uncertain, unknown, or little understood, but potentially significantly adverse.

Explanation:

Climate change and the introduction of genetically modified organisms to the environment have a greater potential for significant but scientifically uncertain adverse effects than other natural processes and activities.

Taking a precautionary approach means that where there are threats of significant or irreversible adverse effects, and there is scientific uncertainty as to the extent of those effects, decision-makers shall assume the threat of significant or irreversible effects is a reality. The response should be in proportion to the degree of significance and irreversibility of the threat and the degree of scientific uncertainty.

When adopting a precautionary approach decision-makers may apply the following criteria:

Consideration of the degree of significance or irreversibility:

- the scale of the threat;
- the value of the threatened environment;
- whether the possible adverse effects are able to be managed or contained;
- the level of public concern; and
- whether there is a rational or scientific basis for the concern.

Consideration of the degree of scientific uncertainty:

- what would constitute sufficient evidence;
- the level of scientific uncertainty; and
- the potential to reduce scientific uncertainty.

6.1.3 Policy – Transferring council functions

Transfer and delegate regional and district council functions (as provided by sections 33 and 34 of the Resource Management Act 1991 (RMA)) where it would result in increased efficiencies and / or effectiveness in achieving resource management objectives.

Explanation:

Section 33 of the RMA allows regional and district councils to transfer any one or more of their functions, powers or duties to another public authority (including an iwi authority) which is not part of the local council (that is, not a committee within the council structure).

Section 34 of the RMA allows regional and district councils to delegate RMA functions to a council committee.

Many agencies including the regional council, district councils, government departments and agencies, and iwi authorities either are or could be actively involved in resource management. The work of all these bodies should be co-ordinated to provide for efficient and effective resource management and in some areas, delegation and transfer of functions may assist this.

Particular situations where the transfer or delegation of functions should be considered include cross-boundary situations, the same activity requiring resource consent from two or more councils, and where iwi authorities have the will and capacity.

6.1.4 Method – Statutory plans and strategies

The regional and district councils, when reviewing their plans, considering options for plan changes, or replacement of an entire plan, shall:

- (a) Demonstrate how Policy 6.1.1 is given effect;*
- (b) Consider: removing unnecessary regulation; opportunities for streamlined, efficient processes; increasing flexibility, certainty, confidence and consistency; and taking a risk-based approach;*

- (c) *Consider the benefits, costs and risks of combining planning documents and joint plan changes, in part or in total, including on specific resources or geographical areas;*
- (d) *Consider the use of good management practices (including environmental best practice guidelines, and codes of practice); and*
- (e) *Consider the use of audited self-management.*

Explanation:

Method 6.1.4(a) ensures Policy 6.1.1 is implemented.

Method 6.1.4(b) encourages plan and policy effectiveness reviews to focus on improving regulation. Conducting systematic reviews of Northland's planning documents against clearly defined policy goals, including consideration of costs and benefits, is fundamental to ensuring that regulations remain up to date, cost effective and fit for purpose. Whether councils are doing five-year, 10-year or rolling reviews, a focus on better regulation should be part of the process.

Once a regional or district council has conducted a review, it should publish reports on the performance of regulation and the performance of the council in applying those regulations, including compliance with regulatory quality measures, section 32 RMA analyses and the achievement of the anticipated results.

Method 6.1.4(c) encourages councils to *consider* joint planning. There are currently seven resource management planning documents in Northland. Prior to embarking on the new Regional Policy Statement (RPS), the regional council analysed the status quo and various combinations of plans. A combination of all the region's plans ('one plan') was found to be the best approach from a pure planning perspective, but that it required political buy-in from all the councils. At that time political buy-in was not possible, and so the regional council embarked on the second best option which was to develop a stand-alone new RPS.

There are however additional options that can be pursued such as joint plan changes, a combined regional plan, and a virtual one plan. There has been renewed discussion of these options around council tables; therefore, this method may have more chance of success than it has had in the past.

Method 6.1.4(d) encourages councils to consider using good practice mechanisms. The use of good practice mechanisms in regional and district plans can help to avoid regulation becoming out of date and provides greater impetus for industry to take responsibility and ownership of their actions and role in resource management.

Method 6.1.4(e) encourages councils to use audited self-management as a way monitoring compliance. Audited self-management can provide greater impetus for industry to take responsibility and ownership of their actions and reduce compliance costs.

6.1.5 Method – Statutory plans and strategies

The regional and district councils should apply Policy 6.1.2 when reviewing their plans or considering options for plan changes and assessing resource consent applications.

Explanation:

Method 6.1.5 implements Policy 6.1.2.

6.1.6 Method – Non-statutory plans and strategies

The regional council will develop a process (including evaluation criteria) for the consideration of requests for the transfer of powers under section 33 and delegation of functions under section 34 of the Resource Management Act 1991.

Explanation:

This method requires the regional council to develop a clear and transparent process for considering requests for transferring powers and delegating functions. It gives those that aspire to have regional council powers or functions a clear understanding of how the regional council will consider their proposal.

7 Policies and methods - Natural hazards

7.1 Development in natural hazard-prone areas

The objectives relevant to policy and method package 7.1 are:

3.13 Natural hazard risk

7.1.1 Policy – General risk management approach

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.*

Explanation:

This policy is intended to enable the regional and district councils to deal with all natural hazards and areas not explicitly covered in Policies 7.1.2 and 7.1.3.

The policy acknowledges that there are large parts of Northland where natural hazard risk exists¹⁸ but which are not covered by 10-year and 100-year flood hazard areas or coastal hazard. This approach recognises that avoiding risk everywhere is impractical and seeks instead to ensure that development is appropriate to the level of risk faced and the relative vulnerability of different activities.

This policy will enable development to be considered on a site-specific or development-specific, case-by-case basis using standard engineering practices and risk management techniques. These may include:

- ISO 31000: 2009 (Risk Management Standard)
- NZS 9401: 2008 (Managing Flood Risk – A Process Standard)
- NZS 4404: 2010 (Land Development and Subdivision Infrastructure).

The policy also requires decision-makers to exercise a degree of caution that reflects the level of uncertainty with regards to the likelihood or consequences of a natural hazard event. In advance of new flood and coastal hazard areas being identified and mapped, this will help build resilience to the potential impacts of natural hazard events. This is also consistent with Policy 6.1.2.

¹⁸ Refer to Policy 7.1.2 explanation for description of 10-year and 100-year flood hazard areas.

Appendix 2 – Regional development and design guidelines

Part A) Regional form and development guidelines

New subdivision, use and development should:

- (a) Demonstrate access to a secure supply of water; and
- (b) Demonstrate presence or capacity or feasibility for effective wastewater treatment; and
- (c) If of an urban or residential nature connect well with existing development and make use of opportunities for urban intensification and redevelopment to minimise the need for urban development in greenfield (undeveloped) areas; and
- (d) If of an urban or residential nature provide, where possible, opportunities to access a range of transport modes; and
- (e) If of a community-scale, encourage flexible, affordable and adaptable social infrastructure that is well located and accessible in relation to residential development, public transport services and other development; and
- (f) Recognise the importance of and provide for parks, in regards to medium and large-scale residential and residential / mixed use development.
- (g) If of a residential nature be, wherever possible, located close to or sited in a manner that is accessible to a broad range of social infrastructure; and
- (h) Be directed away from regionally significant mineral resources and setback from their access routes to avoid reverse sensitivity effects; and
- (i) Be designed, located and sited to avoid adverse effects on energy transmission corridors and consented or designated renewable energy generation sites (refer to 'Regional form and infrastructure' for more details and guidance); and
- (j) Be designed, located and sited to avoid significant adverse effects on transportation corridors and consented or designated transport corridors; and
- (k) Be directed away from 10-year and 100-year flood areas and high risk coastal hazard areas (refer to 'Natural hazards' for more details and guidance); and
- (l) Seek to maintain or improve outstanding landscape and natural character values and provide for the protection of significant historic and cultural heritage from inappropriate subdivision, use and development (refer to 'Land, Water and Common Resources' for more details and guidance); and
- (m) Protect significant ecological areas and species, and where possible enhance indigenous biological diversity (refer to 'Maintaining and enhancing indigenous ecosystems and species' for more details and guidance); and
- (n) Maintain and improve public access to and along the coastal marine area, lakes and rivers; and
- (o) Avoid or mitigate adverse effects on natural hydrological characteristics and processes (including aquifer recharge), soil stability, water quality and aquatic ecosystems, including through low impact design methods where appropriate; and
- (p) Adopt, where appropriate, sustainable design technologies such as the incorporation of energy-efficient (including passive solar) design, low-energy street lighting, rain gardens, renewable energy technologies, rainwater storage and grey water recycling techniques; and
- (q) Be designed to allow adaptation to the projected effects of climate change (refer to 'Natural Hazards' for more details and guidance); and
- (r) Consider effects on the unique tangata whenua relationships, values, aspirations, roles and responsibilities with respect to the site of development; and

- (s) Encourage waste minimisation and efficient use of resources (such as through resource-efficient design and construction methods); and
- (t) Take into account adopted regional / sub-regional growth strategies; and
- (u) Where appropriate, encourage housing choice and business opportunities, particularly within urban areas.

Part B) Regional urban design guidelines

Context

Quality urban design sees buildings, places and spaces not as isolated elements but as part of the whole town or city. In this regard, quality urban design:

- (a) Takes a long-term view; and
- (b) Recognises and builds on landscape context and character; and
- (c) Results in buildings and places that are adapted to local climatic conditions; and
- (d) Celebrates cultural identity and recognises the heritage values of a place.

Character

Quality urban design reflects and enhances the distinctive character and culture of our urban environments, and recognises that character is dynamic and evolving, not static. In this regard, quality urban design:

- (a) Reflects the unique identity of each town, city and neighbourhood and strengthens the positive characteristics that make each place distinctive; and
- (b) Protects and manages our heritage, including buildings, places and landscapes; and
- (c) Protects and enhances distinctive landforms, water bodies and indigenous plants and animals.

Choice

Quality urban design fosters diversity and offers people choice in the urban form of our towns and cities, and choice in densities, building types, transport options, and activities. Flexible and adaptable design provides for unforeseen uses, and creates resilient and robust towns and cities. In this regard, quality urban design:

- (a) Ensures urban environments (including open spaces) provide opportunities for all, including people with disabilities; and
- (b) Encourages a diversity of activities within mixed use developments and neighbourhoods; and
- (c) Supports designs which are flexible, adaptable and which will remain useful over the long-term.

Connections

Good connections enhance choice, support social cohesion, make places lively and safe, and facilitate contact among people. Quality urban design recognises how all networks – streets, railways, walking and cycling routes, services, infrastructure, and communication networks – connect and support healthy neighbourhoods, towns and cities. Places with good connections between activities and with careful placement of facilities benefit from reduced travel times and lower environmental impacts. In this regard, quality urban design:

- (a) Creates safe, attractive and secure pathways and links between neighbourhoods and centres; and
- (b) Facilitates green networks that link public and private open space; and
- (c) Places a high priority on walking, cycling and where relevant, public transport; and
- (d) Improves accessibility to public services and facilities.

Creativity

Quality urban design encourages creative and innovative approaches. Creativity adds richness and diversity, and turns a functional place into a memorable place. Creative urban design supports a dynamic urban cultural life and fosters strong urban identities. In this regard, quality urban design:

- (a) Builds a strong and distinctive local identity; and
- (b) Uses new technology; and
- (c) Emphasises innovative and imaginative solutions.

Custodianship

Quality urban design reduces the environmental impacts of our towns and cities through environmentally sustainable and responsive design solutions. Custodianship recognises the lifetime costs of buildings and infrastructure, and aims to hand on places to the next generation in as good or better condition. In this regard, quality urban design:

- (a) Maintains landscape values, ecological services and cultural values; and
- (b) Considers the ongoing care and maintenance of buildings, spaces, places and networks; and
- (c) Manages the use of resources carefully, through environmentally responsive and sustainable design solutions; and
- (d) Incorporates renewable energy sources and passive solar gain; and
- (e) Incorporates the enhancement of the health and safety of communities.

Collaboration

Towns and cities are designed incrementally as we make decisions on individual projects. Quality urban design requires good communication and co-ordinated actions from all decision-makers: central government, local government, professionals, transport operators, developers and users. In this regard, quality urban design:

- (a) Supports a common vision that can be achieved over time; and
- (b) Uses a collaborative approach to design that acknowledges the contributions of many different disciplines and perspectives; and
- (c) Depends on leadership at many levels.

Part C) Māori urban design principles

Building Mana Whenua Partnerships for Urban Design is a policy brief developed by Manaaki Whenua Landcare Research. It identifies ways urban design can be

informed by mātauranga Māori. Developers, tangata whenua and councils may wish to refer to this document when planning or assessing development projects. *Building Mana Whenua Partnerships for Urban Design* can be located at www.landcareresearch.co.nz.