

# Catchments

## **Recommendations in response to submissions on the Proposed Regional Plan for Northland - Section 42A hearing report**

Date: 3/07/2018  
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Version: Final

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## Purpose and format of the report

1. This report provides the hearing panel the rationale for the recommended changes to the catchment provisions in the Proposed Regional Plan for Northland (the Plan) in response to submissions. The recommended changes are set out in the document *Proposed Regional Plan for Northland – S42A recommended changes*.
2. The recommendations made in this report are the opinion of the author and are not binding on the hearing panel. It should not be assumed that the hearing panel will reach the same conclusions.
3. The authors recommendations may change as a result of presentations and evidence provided to the hearing panel. It's expected the hearing panel will ask authors to report any changes to their recommendations at the end of the hearing.
4. The recommendations focus on changes to the Plan provisions. If there is no recommendation, then it's to be assumed that the recommendation is to retain the wording as notified.
5. Generally, the specific recommended changes to the provisions are *not* set out word-for-word in this report. The specific changes (including scope for changes) are shown in the document *Proposed Regional Plan for Northland – S42A recommended changes*.
6. This report is structured to address matters raised in submissions by catchment (rather than by submission topic) as this is likely to be the most convenient approach for submitters.
7. Matters covered by submissions that are more general in nature (E.g. those submissions that refer to all catchments) are addressed in the "General matters" section.
8. The approach of addressing matters raised in submissions (rather than addressing submissions and/or and submission points individually) is consistent with Clause 10 of Schedule 1 to the RMA.
9. This report should be read in conjunction with section 12 Catchment areas in the Section 32 report.

## Report author

10. My name is Justin Murfitt and I have overall responsibility for this report. I work for the Northland Regional Council (regional council) as the Resource Management Planning and Policy Manager. I have a Bachelor of Resource Studies from Lincoln University. I was intimately involved in the development of the catchment specific provisions for the Doubtless Bay, Waitangi, Mangere, Whangarei Harbour and Pouto catchments.
11. I have worked at the regional council since March 2008 in a range of roles relating to resource management policy analysis and development. Prior to that I was employed in the private sector as a planning consultant in Whangarei for approximately six years.
12. The following council staff and consultants have assisted me with the preparation of this report:
  - Duncan Kervell, Land Manager, Northland Regional Council
  - Ben Tait, Policy Specialist, Northland Regional Council
  - Fred Morgan, Policy Analyst, Northland Regional Council
13. Although this is a council hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court December 2014. I have complied with that Code when preparing this report and I agree to comply with it when giving oral presentations.

## About the catchment provisions

14. The relevant provisions in the Proposed Regional Plan for catchments addressed in this report are:

<b>Definitions</b>
<ul style="list-style-type: none"><li>• Catchment plan</li><li>• Pastoral Land use</li><li>• Erosion Control Plan</li><li>• High Sediment Yielding Land</li></ul>

**Rules**

- E.0.1 Erosion control plans in the Doubtless Bay catchment – controlled activity
- E.0.2 Water takes from Lake Waiporohita – discretionary activity
- E.0.3 Water takes from a lake in a the Pouto Catchment – permitted activity
- E.0.4 New plantation forestry in the Pouto Forestry Restriction Area – restricted discretionary activity
- E.0.5 New plantation forestry within 20 metres of outstanding Pouto Lakes – restricted discretionary activity
- E.0.6 Erosion control plans in the Waitangi catchment – controlled activity
- E.0.7 Access of livestock to the bed of a water body or permanently flowing water course in the Mangere catchment – permitted activity
- E.0.8 Erosion Control Plans in the Mangere catchment – controlled activity
- E.0.9 Access of livestock to the bed of a water body in the Whangarei Harbour catchment – permitted activity
- E.0.10 Erosion Control Plans in the Whangarei Harbour catchment – controlled activity

**Policies**

- D.2.5 Recognising community and tangata whenua values

**Maps**

- High Sediment Yielding Land
- Catchment Specific Layers (priority catchment boundaries)
- Whangarei swimming sites stock exclusion areas

**Appendices**

- Appendix H4 (new)

15. This topic deals solely with these provisions that apply to catchments in section E of the Proposed Regional Plan and associated maps in the catchment specific layers. However, there are overlaps between catchment specific provisions and those that apply regionwide (E.g. stock exclusion and water take rules and definitions). Therefore, the recommendations in this report will in some cases refer to other section 42A reports.
16. The catchment specific provisions in section E of the Proposed Regional Plan are an outcome of collaborative planning processes undertaken in five priority catchments across Northland. Catchment groups made up of key interests in the catchment were established and tasked with recommending catchment-specific measures to manage water related issues in their respective catchments. These have been expressed in catchment plans for the five priority catchments - these can be viewed on council's website: <https://www.nrc.govt.nz/Your-Council/Council-Projects/Waiora-Northland-Water/catchment-plans/> While the catchment plans are non-statutory documents, they include recommendations for catchment specific rules that (after section 32 RMA evaluation and due consideration by council) have been included in the Proposed

Regional Plan. The catchment specific rules are designed to take precedence over other rules in the plan (whether more or less restrictive).

## Overview of submissions

17. A total of 9 submissions were received on general matters relating to the catchment provisions. Submissions on catchment specific sections were as follows: Doubtless Bay catchment 11 submissions, Waitangi catchment 10, Pouto catchment 5, Mangere catchment 13 and Whangarei Harbour received 15 submissions.
18. The major focus of submissions on the catchment provisions related to the Erosion Control Plan and livestock exclusion rules. While there was a good degree of support for the intent of the Erosion Control Plan rules (which apply in all priority catchments except Pouto), Beef and Lamb NZ sought amendment so that industry 'Farm Environment Plans' could be used as an alternative means of compliance with the Erosion Control Plan rules. Others sought amendment so the scope of the rules was widened to include nutrients and riparian management (Bay of Islands Maritime Park Inc) and certainty that the Erosion Control Plans are to be developed in conjunction with landowners (Balle Bros Group). Some submitters sought amendment to the effect that the Erosion Control Plan rules would not impact profitability (Lemon R, Lemon E) and that the practicalities of farm management are considered (Josephsons Farms Ltd).
19. In relation to catchment specific livestock exclusion rules that apply in the Mangere and Whangarei Harbour catchments (Rules E.0.7 and E.0.9 respectively), Beef and Lamb NZ again sought that 'Farm Environment Plans' be used as an alternative means of compliance with rules. Federated Farmers of NZ sought longer timeframes in both Mangere and Whangarei Harbour catchments, while Whangarei District Council supported retaining the timeframe applying above swimming sites in Rule E.0.9. Puhipuhi Mining Action Group sought that catchment specific provisions be applied to the region generally.
20. Original submissions on the Pouto catchment rules were generally in support although one submitter sought further restrictions on plantation forestry in the catchments of outstanding lakes.
21. The following sections of this report respond to the submissions relating to each individual catchment separately. A number of submissions addressed the catchment provisions in a general way or focused on the definitions relevant to the catchment provisions – these are

covered in the section of this report titled 'General Matters'. Further submissions have not been specifically addressed unless there is material reason to do so.

## Doubtless Bay catchment

### Submissions

22. There are two rules in the Proposed Regional Plan that are specific to the Doubtless Bay catchment – a requirement for Erosion Control Plans by 2025 if undertaking pastoral land use on areas mapped as High Sediment Yielding land (Rule E.0.1) and a discretionary activity rule for any water take from Lake Waiporohita (Rule E.0.2). There was a significant degree of support for the Erosion Control Plan provisions applicable in the Doubtless Bay catchment although several submitters sought changes or expressed concerns with implementation. Beef and lamb NZ sought that Farm Environment Plans be identified as a means of compliance with the rule, while Balle Bros Group and Josephson Farms Ltd respectively sought that the Erosion Control Plans be developed in conjunction with landowners and that the practicalities of farm management were considered in the context of the wider sediment issue. The submissions that either oppose or seek amendment to Rule E.0.1 are discussed below (submissions in support have not been addressed unless there is material reason to do so).

#### ***Erosion Control Plan Rule E.0.1***

##### *Submissions and analysis*

23. Balle Bros Group: The submitter seeks amendment so that Erosion Control Plans are developed in unison with the landowner. While this is not specified in the Rule E.0.1, in practical terms this is likely to be the case in most circumstances as the landowner will either engage a suitably qualified person to develop the plan or can approach council for assistance to do so (council currently provides this service through its Land Management department). In either case the landowner is necessarily involved in the process and no changes to Rule E.0.1 are recommended in response to this submission.
24. Beef and Lamb NZ: The submitter seeks amendment to Rule E.0.1 to the effect that activity undertaken in accordance with an industry developed good management plan (such as a Beef and Lamb NZ Land or Farm Environment Plan) are not subject to Rule E.0.1 (i.e. the implementation of the industry plan would be 'deemed' to meet the requirements of Rule E.0.1). There are numerous 'industry plans' available to landowners

with a range of different purposes and levels of detail. The intent of Rule E.0.1 is that the Erosion Control Plan be tailored to identify sources of sediment and erosion mitigation measures on a site-specific basis - council cannot be confident all 'industry plans' would achieve this. However, an industry plan may well meet the requirements of the rule or the content of an industry plan may be easily transposed in to and Erosion Control Plan. Therefore, no changes to Rule E.0.1 are recommended as a result of this submission.

25. Federated Farmers: The submitter seeks amendment to Rule E.0.1 to add Information and monitoring requirements as a matter of control. The introductory text to Section C Rules states that all controlled activities are subject to information requirements – as such the Rule E.0.1 was already subject to these requirements and the change sought by the submitter does not need to be added into Rule E.0.1. For clarification and consistency, similar conditions in Rules E.0.6, E.0.8 and E.0.10 are also recommended to be removed.
  
26. Hayes, M: The submitter opposes Rule E.0.1 on the grounds of potential economic impacts on farms, the science base being incomplete and practical implementation issues, however no specific change to the rule is identified. The Erosion Control Plan rules are in effect a precautionary approach applied to activity with potential for adverse effects (i.e. sediment in waterways from hill slope erosion). The alternatives to these rules are a) do nothing b) require landowners to meet a water quality standard in receiving environment or c) require resource consent for pastoral activity in areas mapped as High Sediment Yielding Land from the operative date of the rule. I am of the view that doing nothing will not address the potential for adverse effects. Requiring adherence to a water quality standard would be extremely difficult to administer as it would be very difficult to establish a cause / effect relationship between any given piece of land and a water quality standard related to sediment. Requiring consent from the operative date of the rule would mean landowners face administrative / compliance costs without a lead in time or the ability to identify and consider mitigation options through the process of developing an Erosion Control Plan. Essentially, the rules as written encourage identification of good practice but also utilise the consent process where this has not been undertaken. I am therefore of the view that the Erosion Control Plan rules are the most efficient and effective approach to minimising potential effects as they encourage identification of sediment sources and intervention options while also allowing landowners an alternative to test the costs and benefits of various actions through the consent process if preferred. It should be noted that the rule does not require Erosion Control Plans be implemented by 2025, just that they are developed for areas of High Sediment Yielding land in pastoral use. Implementation issues and the costs and benefits thereof can be identified / addressed in

the development of the Erosion Control Plan. If a landowner is concerned about the costs of implementation, they can use the alternative option available and opt for a resource consent process whereby a merits review / objection process is available. I do not consider the submission makes a case for deletion or change to Rule E.0.1 and therefore no changes are recommended in response to the submission.

27. Josephsons Farms Ltd: The submitter identifies concerns with the implications of Rule E.0.1 and seems to suggest they would rather obtain a resource consent than develop an Erosion Control Plan for the land in question (which is an option under Rule E.0.1 as the Erosion Control Plan rules allow landowners to opt for the consent process after 1 January 2025 rather than develop an Erosion Control Plan). The submitter does not appear to seek changes or necessarily oppose Rule E.0.1 and on the evidence presented appears to be actively managing erosion in a manner consistent with the intent of Rule E.0.1. I therefore do not consider there is a case to change or delete the Rule E.0.1 on the basis of this submission.
  
28. Royal Forest and Bird Protection Society NZ: The submitter appears to be concerned that Rule E.0.1 (and the Erosion Control Plan rules for other catchments) would allow pastoral land use without considering / addressing the impact of nutrients on water quality (i.e. the submitter appears to consider it would in effect 'authorise' nutrient discharges to water or possibly preclude other management options to manage nutrients). The collaborative catchment planning process identified sediment as a major concern in the four catchments where the Erosion Control Plan rules apply and these rules are designed as a precautionary approach to target areas that have the potential to generate disproportionately high amounts of sediment if used for pastoral purposes. There is no evidence to suggest that nutrient discharges in these areas are of significant concern or that Erosion Control Plan rules would preclude the management of nutrients by other means (i.e. additional rules could be applied to manage nutrients in the future if proven necessary). The Erosion Control Plan rules are a restriction on the use of land under s9(2) RMA and do not therefore authorise nutrient discharges. Also discharges of nutrients to land are covered by other rules in the plan founded on s15 RMA (such as Rule C.6.3.1 Farm wastewater discharges to land and Rule C.6.9.3 Discharge of fertiliser) and the Erosion Control Plan rules and any consents granted under these rules would not provide an 'exemption' from compliance with such controls. I therefore do not consider there is a case to change or delete the Rule E.0.1 on the basis of this submission.

29. Other submitters (Waldron S, Honeymoon Valley Landcare Group and Dairy NZ) support Rule E.0.1 as notified and as such no changes are recommended as a result of these submissions.

#### *Recommendation*

30. I recommend no changes to Rule E.0.1 be made in response to these submissions, but draw submitters attention to recommended changes to the definition of Pastoral land use, Erosion Control Plan and new Appendix H.4.

### **Water takes from Lake Waiporohita Rule E.0.2**

31. There were two submissions on Rule E.0.2 which states that all water takes from Lake Waiporohita are discretionary activities. Balle Bros Group support the rule as notified while Federated Farmers of NZ support the intent but seek amendment to exempt s14(3)(b) RMA takes (for stock drinking and domestic use) from the rule.

#### ***Submissions and analysis***

32. Federated Farmers: Lake Waiporohita is identified as an outstanding lake for the purposes of the National Policy Statement for Freshwater Management on the basis of its significant biodiversity values. It is also understood to have very high cultural values. The lake is a small perched lake at 6.96ha and shallow at a mean depth of 2.13 metres and sits within a 52ha catchment dominated by pasture. It is classed as eutrophic (nutrient enriched) and algal blooms have been common over the last 15 years<sup>1</sup>. Section 14(3)(b) of the RMA provides for the taking and use of freshwater for an individual's reasonable domestic needs and the reasonable needs of a person's animals for drinking water *provided* the take or use does not, or is not likely to have an adverse effect on the environment. Section 14(3)(b) of the RMA does not limit the volume able to be taken other than it is to be 'reasonable'. Given the lake catchment is dominated by pastoral land use, takes for stock drinking could be of a quantity that would be likely to have an adverse effect on the lake. The extraction of water from such a small, shallow nutrient enriched lake has the potential to worsen water quality issues with a consequential adverse effect on biodiversity values, especially if these coincide (or the volume increases) with warmer weather when the lake is vulnerable to algal blooms. I consider allowing such 14(3)(b)

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<sup>1</sup> <https://www.nrc.govt.nz/contentassets/605334d50c5e46fb928497869d5165f3/lake-waiporohita-management-plan-website.pdf>

RMA takes would therefore be likely to have an adverse impact and do not consider allowing such takes to be consistent with s14(3)(b) RMA. I note the text below Rule E.0.2 outlining the 'RMA activities this rule covers' did not specify s14(3)(b) takes for domestic or stock drinking were covered – this is an oversight as Rule E.0.2 clearly restricts the taking for any purpose and this was explicitly considered in the Section 32 Report (Section 12.2). I therefore recommend this be added for clarity.

### ***Recommendation***

33. I recommend the relief sought by Federated Farmers in relation to Rule E.0.2 not be accepted for the reasons outlined above, however I recommend section 14(3)(b) should be added to the note 'The RMA activities this rule covers'. I consider this amendment can be made as a clarification given this was always the intent and the fact s14(3)(b) takes were to require consent was explicitly considered in the s32 evaluation (Section 12.2).

### ***Evaluation of recommended changes***

34. The changes have minor effect and were expressly considered in the relevant Section 32 evaluation and are therefore within the scope of a change under clause 16, Schedule 1, RMA.

## **Pouto catchment**

### **Submissions**

35. There are three rules in the Proposed Regional Plan specific to the Pouto catchment. Rule E.0.3 relates to water takes from and Rules E.0.4 and E.0.5 that restrict new plantation forestry within the catchments of outstanding lakes. Most submitters (Balle Bros Group, Federated Farmers and Kaipara District Council) supported the Pouto catchment rules as notified. One submitter (Smart P) sought amendment to Rules E.0.4 and E.0.5 so that the controls also applied to existing plantation forestry on the basis that it was affecting water levels in lakes - in other words the relief sought would require the replanting of plantation forestry to obtain resource consent whereas the rules as notified only applied to new plantation forestry (afforestation).

## Submissions and analysis

36. Smart P: It is unclear whether the relief sought in the submission seeks the restriction on replanting of plantation forestry be limited to the outstanding Pouto lakes or is to be applied more widely (i.e. all Pouto lake catchments or all lakes in all priority catchment areas). Either way, council has limited discretion on the extent it can impose RMA restrictions on plantation forestry due to the National Environmental Standards for Plantation Forestry (NES-PF). The NES-PF only allows plans to be more stringent in limited circumstances. These circumstances are set out in Clause 6 of the NES-PF and include the ability to be more stringent if the rule gives effect to national instruments (such as the National Policy Statement for Freshwater Management) or provides for the protection of significant natural areas<sup>2</sup>. Significant natural area is defined as:

An area of significant indigenous vegetation or significant habitat of indigenous fauna that

- a) is identified in a regional policy statement or a regional or district plan as significant, however described; and
- b) is identified in the policy statement or plan, including by a map, a schedule, or a description of the area or by using significance criteria

The outstanding lakes in the Pouto catchment are identified as 'outstanding' primarily on the basis of their ecological values, which have been well documented in lake surveys by both council and NIWA<sup>3</sup>. So, council has discretion to be more stringent than the NES-PF in relation to these outstanding lakes. As to whether Rules E.0.4 and E.0.5 should be amended to require consent to replant existing plantation forest, I do not consider there are sufficient grounds to make the change sought in the submission and no evidence is provided in the submission to support such an amendment. The intent of the rules is to manage the effects of any significant increase in plantation forestry, rather than existing forestry. It would be difficult to justify the costs of requiring forest owners to obtain consent to replant an area already established as plantation forest and the uncertainty this would bring for forest managers/owners. I therefore consider the change sought would result in undue process costs and uncertainty for forest owners that would outweigh any likely beneficial effects on these lakes. I also note the submitter has not undertaken an analysis of the costs and benefits or provided detailed evidence to support the proposed approach.

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<sup>2</sup> Clause 6(2)(b) Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017

<sup>3</sup> <https://www.nrc.govt.nz/resources/?url=%2FResource-Library-Summary%2FResearch-and-reports%2FLakes%2FNorthland-Lakes-Ecological-Status-2013%2F>

## Recommendation

37. I do not recommend any change to the Pouto catchment rules in response to the submissions received and recommend the relief sought by Smart P be declined. While there are recommended amendments in the Section 42A report to Rule C.5.1.1 Minor Takes – Permitted Activity in response to other submissions, I do not consider there is a need for consequential amendments to Rule E.0.3 for consistency. The Pouto catchment group considered water take provisions in detail and did not qualify the approach in the Pouto catchment by reference to region-wide rules (unlike the Whangarei Harbour and Mangere catchment plans which in relation to livestock exclusion used terminology such as "...as per the regional plan with the additional requirement that..."). The Pouto catchment plan process also highlighted that the Pouto lakes were highly valued as a water resource being the only reliable source of surface water in the area and that they are unlikely to come under increased pressure as a result of significant land use change / intensification or population increase (the only likely activity to potentially affect water quantity in lakes was significant increase in new plantation forestry which is addressed by Rules E.0.4 and E.0.5). I also note the three submitters on this rule were all in support (Kaipara District Council, Balle Bros Group and Federated Farmers). I therefore do not consider there is a case to amend Rule E.0.3 to reflect recommended changes to Rule C.5.1.1. I do however recommend that Rule E.0.5 be amended to insert the RMA activities the rule covers (Restrictions on the use of land (s9(2)) as this was an omission.

## Evaluation of recommended changes

38. The changes have minor effect and are within the scope of a change under clause 16, Schedule 1, RMA.

## Waitangi catchment

### Submissions

39. The only rule specific to the Waitangi Catchment is Rule E.0.6 – Erosion Control Plans in the Waitangi Catchment. As with Doubtless Bay, there was a reasonable degree of support (including Dairy NZ, Federated Farmers, Upperton T and Way D). Six submitters sought amendment to the rule with concerns again tending to focus on implementation and farm operational matters. These are discussed below.

## Submissions and analysis

40. Balle Bros Group: The submitter seeks amendment so that Erosion Control Plans are developed in unison with the landowner. While this is not specified in the Rule E.0.6 (or other similar rules), in practical terms this is likely to be the case in most circumstances as the landowner will either engage a suitably qualified person to develop the plan or can approach council for assistance to do so (council currently provides this service through its Land Management department). In either case the landowner is necessarily involved in the process and no changes to Rule E.0.6 are recommended in response to this submission.
41. Bay of Islands Maritime Park Inc: The submitter supports the intent of Rule E.0.6 but suggests there should be more 'rules' on sediment, nutrient and riparian management (assumedly specific to the Waitangi catchment), but does not specify the nature or intent of such rules. In response, the Plan already contains rules for the purposes of managing sources of sediment (such as controls on earthworks C.8.3.1), sources of nutrients (such as controls on the discharge of farm wastewater Rule C.6.3.1 and fertiliser Rule C.6.9.3) and riparian areas (such as vegetation clearance Rule C.8.4.2) - the submitter has not provided evidence of the need for further rules to be applied to the Waitangi catchment or assessment of costs and benefits of such, nor do they provide any suggested text. In the absence of such details I do not recommend additional rules in response to this submission. The submitter also states the speed of implementation should be increased (I assume this means the 2025 date in Rule E.0.6 should be brought forward). In response, the timeframe was developed with the demand on council resources in mind (assistance by council's Land Management staff in the development of Erosion Control Plans is likely to be high) and to allow landowners time to develop Erosion Control Plans. In any case, it remains to be seen how uptake by landowners progresses and I do not recommend a change in timeframe.
42. Bainbridge J: The submitter appears to oppose the requirement for Erosion Control Plans on the basis implementation of the plan will not be enforced, but also states Councils assistance to develop Farm Water Quality Improvement and Erosion Control Plans will be beneficial. Council currently provides assistance to develop soil conservation plans for free and implementation of these plans is not currently enforced. The intent of the Erosion Control Plan rules is to highlight areas of particular concern in terms of sediment generation and to target landowner attention and efforts to these areas. I do not recommend amendments to the rule to the effect that Erosion Control Plans be implemented (and implementation enforced) as landowners do not have an indication of

likely implementation costs and therefore cannot determine the financial impact. I therefore do not recommend changes to Rule E.0.6 in response to this submission.

43. Beef and Lamb NZ: The submitter seeks amendment to Rule E.0.6 to the effect that activity undertaken in accordance with an industry developed management plan (such as a Beef and Lamb NZ Land or Farm Environment Plan) are deemed to comply with the rule. There are numerous 'industry plans' available to landowners with a range of different purposes (such as nutrient management) and levels of detail. The intent of Rule E.0.6 is that the Erosion Control Plan be tailored to identify sources of sediment and erosion mitigation measures on a site-specific basis (please also refer to recommended changes to the definition of Erosion Control Plan) - council cannot be confident all 'industry plans' would address these matters in sufficient detail and there is potential for significant variation in the way in which industry plans address matters such as erosion. I have recommended changes to the definition of Erosion Control Plan to provide greater detail on the content of these plans and I consider this approach will provide greater consistency and confidence that erosion issues will be addressed adequately. That said, in some instances an industry plan may well meet the requirements of the Erosion Control Plan definition (as per the changes recommended below) or the content of an industry plan can be transposed into an Erosion Control Plan. I therefore do not consider the rule should be amended so that industry plans are 'automatically' accepted as a means of compliance. Therefore, no changes to Rule E.0.6 are recommended as a result of this submission.
44. Lemon E and Lemon R: The submitters state that the maps (I assume this is a reference to the maps of High Sediment Yielding land) are not accurate and that tree planting should not affect farmers ability to graze livestock or affect profitability. These submissions do not provide examples of mapping inaccuracy or specify site-specific changes to maps – without such detail it is difficult to understand the issue raised and I therefore do not recommend changes to the maps in the absence of clear examples. As to the ability to graze livestock and profitability, I would point out that land identified as High Sediment Yielding land can continue to be used for grazing until 1 January 2025 as a permitted activity. I would also advise that Erosion Control Plans do not necessarily mean tree planting will replace pasture or that livestock will be excluded from areas of High Sediment Yielding land. While tree planting may well reduce income from pastoral production, in some cases, tree crops may provide a greater income / return than pastoral use. I also note that landowners will necessarily be involved in the development of plans (in conjunction with suitably qualified professionals) and concerns about farm profitability can

be considered. I therefore do not recommend changes to Rule E.0.6 in response to this submission.

## **Recommendation**

45. I do not recommend any change to Rule E.0.6 in response to the submissions received, but recommend Clause 3 of the Matters of control be deleted for the purposes of clarification (given this is addressed for all controlled activities in the introduction to rule – Section C). I also highlight the recommended changes to the definition of Erosion Control Plan and the new material added in Appendix H.4 to provide greater clarity as to the content to be included in Erosion Control Plans.

## **Evaluation of recommended changes**

46. The changes have minor effect and are within the scope of a change under clause 16, Schedule 1, RMA.

## **Mangere Catchment**

### **Submissions**

47. There are two rules specific to the Mangere catchment – Rule E.0.7 relating to livestock access to waterways and Rule E.0.8 requiring Erosion Control Plans be developed for pastoral use of mapped High Sediment Yielding land. Rule E.0.7 attracted nine submissions, most of which seek amendments. Rule E.0.8 received four, with an even split between those supporting and those seeking changes. These are addressed below.

#### ***Rule E.07 Access of livestock to the bed of a water body***

##### *Submissions and analysis*

48. Bainbridge J: The submitter supports the fact Rule E.07 does not include a requirement for riparian setbacks when excluding stock from waterways on the basis such a requirement would result in the growth of weeds and associated management issues. No changes are therefore sought or recommended in response to this submission.
49. Beef and Lamb NZ: The submitter seeks amendment to Rule E.0.7 so that it permits livestock access to waterbodies where this occurs in accordance with an industry farm environment plan. The relief sought does not provide confidence that the reduction in

E.coli and sediment intended by the livestock exclusion rules will be achieved as essentially, council would be 'delegating' exceptions to the rule to 'industry' plans with little discretion over the rigour applied or certainty that consistent approaches were being applied. In my view there is a need for council to control 'exceptions' to the livestock exclusion rules by way of a resource consent to ensure consistency, that like circumstances are treated alike and that adverse effects are appropriately managed. I also consider using 'farm plans' to identify or allow exceptions from rules is inappropriate because non-compliance with these rules should not be determined through a farm plan as this would effectively result in a 'de facto' consent process. I therefore do not recommend changes to Rule E.0.7 as a result of this submission.

50. Federated Farmers: The submitter seeks three changes to Rule E.0.7. These are: that a minimum size threshold be applied to natural and significant wetlands for the purposes of excluding livestock (5ha is suggested); that significant wetlands be mapped for purposes of livestock exclusion; and the date for excluding beef and dairy support cattle and deer from permanently flowing hill country rivers, streams and drains greater than 1metre and 30cm deep in the Mangere catchment be extended (from 2025 to 2030). Minimum size thresholds for significant wetlands have been defined in Appendix 5 of the Regional Policy Statement for Northland (For example, marshes and fens larger than 0.05ha are significant wetlands, as are bogs larger than 0.2ha and swamps larger than 0.4ha). The submission provides no evidence for a 5ha minimum size for livestock exclusion purposes but I note the matter has been considered in response to submissions on the region-wide livestock exclusion rules and the staff recommendation is to apply a minimum size threshold of 2000 square metres for the purposes of excluding stock from natural wetlands – this would mean livestock would still need to be excluded from the majority of significant wetlands. I recommend for consistency, that the same change be made to Rule E.0.7, noting that the Mangere catchment plan states (in relation to livestock exclusion) *“As per the regional plan [emphasis added] with the additional requirement that beef cattle, dairy support cattle and deer are to be excluded from permanently flowing rivers and drains on land with slope of >15° from 1 January 2025 (i.e. hill country areas)”*. Other changes I recommend for consistency relate more to terminology than substantive livestock exclusion requirements and it is logical to make these amendments for consistency. I therefore consider the changes can be made without compromising the intent of the catchment plan. In response to the relief sought that significant wetlands be mapped, while this would be ideal (and approximately 400km<sup>2</sup> of wetlands have been mapped to date), there are reasons why this is not currently practical, including insufficient resolution in aerial imagery, borders of wetlands often vary significantly over time and the

fact that many wetlands require site visits to determine significance (or even whether they are in fact support wetland vegetation). The submitter also seeks the date for excluding beef and dairy support cattle and deer from permanently flowing hill country rivers, streams and drains greater than 1 metre wide and 30cm deep be extended from 2025 to 2030 – essentially to have a single date of 1 January 2030 for excluding beef and dairy cattle and deer from waterways in the Mangere hill country. This is sought on the basis landowners may need to seek duplicate consent processes to depart from the permitted activity rules if the separate dates are retained (i.e. one consent process for rivers >1 metre wide and 30cm deep after 2025 and another for smaller waterways after 2030). The Mangere catchment is somewhat different to many other areas of Northland in that the hill country in pasture tends to be gentler in contour and therefore can be more intensively farmed. For example, the region as a whole is approximately 50% lowland and 50% hill country whereas the Mangere catchment is approximately 30% hill country (1459ha hill country and 4779ha lowland) – this suggests the requirement to exclude stock in hill country is not as problematic as it would be in other parts of the region. The staged approach to livestock exclusion ensures the larger hill country rivers (>1 metre wide and 30cm deep) are addressed first – this is consistent with region-wide stock exclusion Rule C.8.1.1 and I see no reason why this should differ for hill country waterways in the Mangere catchment. While I understand the concern around the potential for duplicated consent processes I do not consider this will occur in every case and two consent processes within a five year period is not considered overly onerous. I do not consider a change to the dates in the rule is warranted. I note this issue could also arise in relation to the region-wide livestock exclusion rules which apply a similar staged approach.

51. Hartigan B and Hartigan L: The submitter opposes Rule E.0.7 on the understanding it effectively 'bans' grazing of livestock from the entire area. It appears the submitter has misunderstood the intent of the hill country map layer and Rule E.0.7 which does not 'ban' grazing but rather requires livestock be excluded from waterways by a specified date (depending on the type of stock and size of waterways). It may be that the names of the hill country / lowland map layers (titled livestock exclusion areas) has somewhat understandably led to this conclusion. The content of the submissions suggests the submitters have already embarked on stock exclusion measures. Given these circumstances I do not consider the submission warrants changes to Rule E.0.7.
52. King G: The submitter opposes rules to exclude livestock from waterways on the basis effects are minor in many cases (cites hobby farms) and that urban waterways are just as polluted. In response there is clear evidence that preventing livestock access to

waterways can reduce both faecal contaminants and sediment discharges – faecal source tracking indicates livestock are the main source of E.coli in Northland’s waterways and that sediment loads from the beds and banks of rivers can be reduced significantly by stock exclusion (between 30-90%<sup>4</sup>). I therefore do not recommend changes to Rule E.0.7 in response to this submission.

53. Minister of Conservation: The submitter supports the rule and seeks those elements that require livestock be excluded from all permanently flowing rivers, streams and drains be retained. I do not recommend any changes to the rule in this regard and therefore recommend the submission be accepted. I do however note that there are staff recommendations on Rule C.8.1.1 that may result in consequential changes to Rule E.0.7 for consistency – for example use of the term artificial watercourse instead of drain. Where possible I recommend such consequential changes be made for clarity and consistency across region-wide and catchment specific livestock exclusion rules.
54. Ravensdown Ltd: The submitter seeks that Rule E.0.7 be reviewed to address the apparent inconsistencies with Rules C.8.1.1 and E.0.9 regarding livestock exclusion from hill country waterways. The submitter is correct in that Rules C.8.1.1, E.0.9 and E.0.7 differ in their requirements for livestock exclusion in hill country areas – this is deliberate as livestock exclusion in the Mangere catchment was specifically considered through a collaborative catchment planning process whereby sediment and E.coli were identified as a particular concern. The Mangere Catchment is also somewhat different to other areas of Northland in that hill country in pasture tends to be gentler contour (while Northland is around 50% hill country and 50% lowland, the Mangere catchment is 30% hill country) and therefore costs are likely to be lower. For these reasons, Mangere hill country also tends to have higher stocking rates and the benefit of stock exclusion from hill country waterways is higher. Rule E.0.9 applies different stock exclusion requirements in the Whangarei Harbour catchment - again as a result of a collaborative catchment planning process which identified water quality improvements at freshwater swimming sites as a key objective (see below). I consider the variation in livestock exclusion requirements in Rules C.8.1.1, E.0.7 and E.0.9 are valid and therefore do not recommend any change to Rule E.0.7 in response to this submission.

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<sup>4</sup> Monaghan R and Quinn J., 2010. Appendix 9: Farms, in: National Institute of Water and Atmospheric Research, Waikato River Independent Scoping Study NIWA Hamilton; And McKergow L.A, Tanner C. Monaghan R.M., and Anderson G., 2007 Stocktake of diffuse pollution attenuation tools for New Zealand Pastoral farming systems. NIWA client report HAM2007-16, Hamilton.

55. Royal Forest and Bird Protection Society: The submitter seeks a number of amendments to livestock exclusion Rule C.8.1.1 (such as inclusion of sheep and earlier dates by which exclusion is to be achieved) – the submission on Rule E.0.7 refers to these amendments and by inference seeks similar changes to Rule E.0.7. Given the generic nature of the relief sought I refer the reader to the section 42A report on Rule C.8.1.1 and the recommendations therein. I consider the dates in E.0.7 appropriate as they allow landowners time to fund and undertake exclusion works – to include sheep in livestock exclusion rules adds considerably to costs (as fencing is more expensive) and they tend not to enter water as much as cattle and therefore the environmental benefits of exclusion from waterways are lower. As such I do not recommend any change to Rule E.0.7 in response to this submission.

### *Recommendation*

56. I note that amendments are recommended to region-wide livestock exclusion Rule C.8.1.1. For reasons of consistency in terminology between region-wide and catchment specific livestock exclusion rules I recommend several consequential amendments be made to Rule E.0.7 to reflect changes recommended to Rule C.8.1.1. In my view, these changes do not affect the intent or scope of the Mangere specific rule and will reduce unnecessary complexity (i.e. they are to ensure consistent terminology is used rather than changing the scope and intent of the rule). I note that the Mangere catchment plan states in relation to stock exclusion (at Page 26), regional rules are to apply with the additional requirement that beef cattle, dairy support cattle and deer are to be excluded from permanently flowing rivers and drains (in hill country areas) – in other words the primary intent of the catchment plan was to require these livestock types also be excluded from hill country rivers and drains, in all other respects the intent was to mirror the regional approach. The changes to Rule C.8.1 relating to natural wetlands (i.e. the amendment to apply a 2000 square metre size threshold to natural wetlands for the purposes of stock exclusion) can therefore also be made to Rule E.0.7 without compromising the intent of the catchment plan which focused on rivers and drains in hill country areas – this change is also within scope of the relief sought by Federated Farmers (albeit they sought a more generous threshold). Therefore, in my view there are grounds to make consequential changes to Rule E.0.7 for consistency with regional rule C8.1.1. For detail on the reasons for these recommended changes please see the section 42A report on Rule C.8.1.1.

### ***Rule E.0.8 Erosion control plans in the Mangere catchment***

#### *Analysis*

57. Balle Bros Group: The submitter seeks amendment so that Erosion Control Plans are developed in unison with the landowner. While this is not specified in the Rule E.0.8 (or other similar rules), in practical terms this is likely to be the case in most circumstances as the landowner will either engage a suitably qualified person to develop the plan or can approach council for assistance to do so (council currently provides this service through its Land Management department). In either case the landowner is necessarily involved in the process and no changes to Rule E.0.8 are recommended in response to this submission.
58. Beef and Lamb NZ: The submitter seeks amendment to Rule E.0.8 to the effect that activity undertaken in accordance with an industry developed management plan (such as a Beef and Lamb NZ Land or Farm Environment Plan) are deemed to comply with the rule. There are numerous 'industry plans' available to landowners with a range of different purposes (such as nutrient management) and levels of detail. The intent of Rule E.0.8 is that the Erosion Control Plan be tailored to identify sources of sediment and erosion mitigation measures on a site-specific basis (please also refer to recommended changes to the definition of Erosion Control Plan) - council cannot be confident all 'industry plans' would address these matters in sufficient detail and there is potential for significant variation in the way in which industry plans address matters such as erosion. I have recommended changes to the definition of Erosion Control Plan to provide greater detail on the content of these plans and I consider this approach will provide greater consistency and confidence that erosion issues will be addressed adequately. That said, in some instances an industry plan may well meet the requirements of the Erosion Control Plan definition (as per the changes recommended below) or the content of an industry farm plan can be transposed into an Erosion Control Plan. I therefore do not consider the rule should be amended so that industry plans are 'automatically' accepted as a means of compliance. Therefore, no changes to Rule E.0.8 are recommended as a result of this submission.
59. Dairy NZ and Federated Farmers of NZ: Both submitters support retention of Rule E.0.8 as notified as such no changes are recommended in response to these submissions.

### *Recommendation*

60. I do not recommend any changes to Rule E.0.8 in response to submissions. I do however recommend Clause 3 of the Matters of control be deleted for the purposes of clarification (given this is addressed for all controlled activities in the introduction to rule – Section C). I also highlight the recommended changes to the definition of Erosion Control Plan and the new material added in Appendix H.4 to provide greater clarity as to the content to be included in Erosion Control Plans.

### *Evaluation of recommended changes*

61. The recommended changes to Rule E.0.8 have minor effect and are within the scope of a change under clause 16, Schedule 1, RMA.

## **Whangarei Harbour Catchment**

### **Submissions**

62. There are two provisions specific to the Whangarei Harbour catchment: Rule E.0.9 which applies a shorter timeframe for livestock exclusion from waterways above two popular swimming sites in the catchment and Rule E.0.10 requiring Erosion Control Plans for pastoral land use in mapped areas of High Sediment Yielding Land by 1 January 2025. Both rules attracted eight submissions which were evenly divided in terms of support or opposition. These are addressed below.

### ***Rule E.0.9 Access of livestock to the bed of a water body***

#### *Submissions and analysis*

63. Beef and Lamb NZ: The submitter seeks amendment to Rule E.0.9 so that it permits livestock access to waterbodies where this occurs in accordance with an industry farm environment plan. The relief sought does not provide confidence that the reduction in *E.coli* and sediment intended by the livestock exclusion rules will be achieved as essentially, council would be ‘delegating’ exceptions to the rule to ‘industry’ plans with little discretion over the rigour applied or certainty that consistent approaches were being applied. In my view there is a need for council to control ‘exceptions’ to the livestock exclusion rules by way of a resource consent to ensure consistency, that like circumstances are treated alike and that adverse effects are appropriately managed. I also consider using ‘farm plans’ to identify or allow exceptions from rules is inappropriate

because non-compliance with rules should not be determined through a farm plan as this would effectively result in a 'de facto' consent process. I therefore do not recommend changes to Rule E.0.7 as a result of this submission.

64. Federated Farmers: The submitter seeks the timeframe for livestock exclusion above the Whangarei swimming sites be extended to 1 January 2025 on the basis that the timeframe as notified (two years after the operative date) could cause significant hardship for landowners. I do not consider the timeframe overly onerous – estimates of the total length of rivers currently unfenced above the two swimming sites (lowland and hill country) are 22.3km for the Raumanga and 67km for the Hatea, with costs estimated at \$178,400 and \$536,000 respectively. Properties in the catchments upstream of the swimming sites are predominantly smaller lifestyle blocks and therefore costs would be typically spread across numerous landowners. I also note Council has secured central government funding to assist landowners with costs of livestock exclusion which will reduce 'hardship'. Land Management staff have also advised uptake of fencing assistance in these areas has been slow and the rule and timeframe as notified will encourage progress with livestock exclusion and better meets the swimming water quality objective of the rule. I therefore do not recommend the relief sought be granted.
65. Kallu R: The submitter seeks amendment to the Proposed Regional Plan map of the Whangarei swimming sites stock exclusion areas on the basis the waterway on the property drains to the west to the Hikurangi swamp rather than towards the Hatea or Raumanga swimming sites. After looking at the maps in relation to the property in question, I note the property is effectively bisected by the boundary of both the Whangarei Catchment and the Whangarei swimming sites stock exclusion areas maps (on an approximate North to South axis). The eastern portion of the site is within these maps while the western portion that includes the stream mentioned in the submission is excluded. Therefore, the stream on the property does not fall within the Whangarei swimming sites stock exclusion areas map and would not be subject to Rule E.0.9. I also note the western portion of the site containing the stream is mapped as Hill Country and therefore livestock exclusion for beef, dairy support and deer would not be required in terms of Rule C.8.1.1. I therefore do not recommend a change to map as sought.
66. Minister of Conservation: The submitter supports Rule e.0.9 as notified and therefore no change is recommended.
67. Ravensdown Ltd: The submitter seeks that Rule E.0.9 be reviewed to address the apparent inconsistencies with other livestock exclusion rules (E.g. Rules C.8.1.1 and E.0.7

regarding livestock exclusion from hill country waterways. The submitter is correct in that Rules C.8.1.1, E.0.9 and E.0.7 differ in their requirements for livestock exclusion in hill country areas – this is deliberate as livestock exclusion in the Mangere catchment was specifically considered through a collaborative catchment planning process whereby sediment and E.coli were identified as a particular concern. Rule E.0.9 applies different stock exclusion requirements in the Whangarei Harbour catchment - again largely as a result of a collaborative catchment planning process which identified water quality improvements at freshwater swimming sites as a key objective (see below). I consider the variation in livestock exclusion requirements in Rules C.8.1.1, E.0.7 and E.0.9 are valid and therefore do not recommend any change to Rule E.0.9 in response to this submission.

68. Whangarei Harbour Catchment Group, Patuharakeke Te Iwi Trust Board Inc and Whangarei District Council: These submitters support Rule E.0.9 as notified and therefore no change is recommended.

#### *Recommendation*

69. I do not recommend any changes to Rule E.0.9 in response to submissions. I do however recommend a change be made to Table 14 to clarify that the element of the rule applying upstream of the swimming sites applies to permanently flowing rivers (rather than including intermittently flowing rivers as per the definition of rivers in the RMA). This will provide consistency with other livestock exclusion rules. I also note King G (see below) has identified a missing footnote in Table 14 that I recommend be added as it was intended to explain how the waterways greater than 1 metre wide and 30cm deep were to be defined and the same omission appears to have occurred with all livestock exclusion rules. The explanatory footnote should therefore be added to Rule E.0.9 (please also refer to the staff recommendations for Rule C.8.1.1). I note that amendments to the region-wide livestock exclusion Rule C.8.1.1 are recommended in response to other submissions. To provide an appropriate level of consistency between region-wide and catchment specific livestock exclusion rules and to avoid unnecessary complexity, I recommend consequential changes be made to Rule E.0.9 reflecting changes to livestock exclusion Rule C.8.1.1. These changes do not affect the intent or scope of the Whangarei Harbour catchment specific rule (i.e. they are to ensure consistent terminology is used rather than changing the scope of the rule). I note that the Whangarei Harbour catchment plan states in relation to stock exclusion (at Page 33), regional rules are to apply with the additional requirement that beef cattle, dairy support cattle and deer are to be excluded from rivers upstream of the Hatea and Raumanga swimming sites within two years of the rule

becoming operative - in other words the primary intent of the catchment plan in relation to stock exclusion was to exclude livestock from rivers above the swimming sites. Therefore, there are grounds to make consequential changes to Rule E.0.9 for consistency with regional rule C.8.1.1. Further, the Whangarei Harbour catchment plan was silent on wetlands and therefore I consider the change to Rule C.8.1 relating to wetlands can also be made to Rule E.0.9 as a consequential amendment and will avoid unnecessary inconsistencies. For detail on the reasons for these recommended changes please see the section 42A report on Rule C.8.1.1.

#### *Evaluation of recommended changes*

70. The recommended changes to Rule E.0.9 have minor effect and are within the scope of a change under clause 16, Schedule 1, RMA.

#### ***Rule E.0.10 Erosion control plans in the Whangārei Harbour catchment***

##### *Submissions and analysis*

71. Balle Bros Group: The submitter seeks amendment so that Erosion Control Plans are developed in unison with the landowner. While this is not specified in the Rule E.0.10 (or other similar rules), in practical terms this is likely to be the case in most circumstances as the landowner will either engage a suitably qualified person to develop the plan or can approach council for assistance to do so (council currently provides this service through its Land Management department). In either case the landowner is necessarily involved in the process and no changes to Rule E.0.10 are recommended in response to this submission.
72. Beef and Lamb NZ: The submitter seeks amendment to Rule E.0.10 to the effect that activity undertaken in accordance with an industry developed management plan (such as a Beef and Lamb NZ Land or Farm Environment Plan) is deemed to comply with the rule. There are numerous 'industry plans' available to landowners with a range of different purposes (such as nutrient management) and levels of detail. The intent of Rule E.0.10 is that the Erosion Control Plan be tailored to identify sources of sediment and erosion mitigation measures on a site-specific basis (please also refer to recommended changes to the definition of Erosion Control Plan) - council cannot be confident all 'industry plans' would address these matters in sufficient detail and there is potential for significant variation in the way in which industry plans address matters such as erosion. I have recommended changes to the definition of Erosion Control Plan to provide greater detail

on the content of these plans and I consider this approach will provide greater consistency and confidence that erosion issues will be addressed adequately. That said, in some instances an industry plan may well meet the requirements of the Erosion Control Plan definition (as per the changes recommended below) or the content can be transposed into an Erosion Control Plan. I therefore do not consider the rule should be amended so that industry plans are 'automatically' accepted as a means of compliance. Therefore, no changes to Rule E.0.10 are recommended as a result of this submission.

73. Kelly C: The submitter queries the application and implications of Rule E.0.10 rather than specifying any changes sought. For example, the submission queries whether an Erosion Control Plan is needed given low stocking rates and the extent of council support for developing and implementing the Erosion Control Plans. In response, any pastoral use (including grazing sheep) of areas mapped as High Sediment Yielding land will require either an Erosion Control Plan or resource consent after 1 January 2025. Council currently provides a free service (by Land Management staff) to develop soil conservation and Farm Water Quality Improvement plans and also supports implementation of these plans through subsidised poplars / willows and fencing. While I cannot guarantee these services will be maintained in the long term, the 2018-2028 Long Term Plan proposes a significant increase resourcing for land management and soil conservation programmes. Given no specific changes are specified I do not recommend any amendment to Rule E.0.10 in response to this submission.
74. King G: The submitter appears to be referring to livestock exclusion Rule E.0.9 rather than Rule E.0.10 and it appears this may have been misallocated in the Summary of Decisions Requested Report. In any case, the submitter is correct in that Table 14 includes an asterisk that should denote a footnote that appears to have been omitted – this was intended to explain how the waterways greater than 1 metre wide and 30cm deep were to be defined and the same omission appears to have occurred with all livestock exclusion rules. The explanatory footnote should therefore be added to Rule E.0.9.
75. Dairy NZ, Federated Farmers, Patuharakeke Te Iwi Trust Board Inc and Whangarei Harbour Catchment Group: These submitters all sought that Rule E.0.10 be retained as notified. No changes are recommended in response to these submissions.

#### *Recommendation*

70. I do not recommend any changes to Rule E.0.10 in response to submissions. I do however note the changes recommended to the definition of Erosion Control Plan and

new Appendix H.4 detailing Erosion Control Plan requirements (in response to the submission by Landcorp Farming Limited).

## General submissions on catchment provisions

76. This section addresses submissions that relate generally to the catchment provisions such as the definitions or those submissions that sought wider application of the catchment provisions.

### Submissions and analysis

77. There were nine submissions that can be described as general – several (such as Beef and Lamb NZ and McIntyre S) sought generic changes to catchment specific rules, while another (Puhipuhi Mining Action Group) sought that the catchment provisions be applied more widely to the region. The submission by Haititaimarangai Marae 339 Trust sought that the plan identify catchment specific values and objectives (Para 34 Page 12) and associated policies (Page 24). These submissions are addressed below.
78. Beef and Lamb NZ: The submitter seeks inclusion of policies that incentivise collaborative approaches to research, the management of land and water resources and the adoption of farm specific environment plans. As discussed above, they also seek amendments so that farm environment plans provide an alternative means of compliance with both Erosion Control Plan and livestock exclusion rules. In response, I do not consider there is a need to include policy in the regional plan to incentivise collaborative approaches to research, the management of land and water resources and the adoption of farm specific environment plans. This is a non-regulatory method that does not fit well with the structure and approach adopted for the Proposed Regional Plan. I also consider that regional plan content has limited influence on such methods which are more properly considered through annual/long term plan processes given there are financial, resourcing and operational implications. I therefore do not recommend changes as sought. The matter of amending rules to allow farm environment plans to prove an alternative means of compliance has been discussed above in relation to both livestock exclusion and Erosion Control Plans – I do not consider such an approach provides council with the certainty that effects will be managed consistently or that the intent of the rules will be met. To my mind the consent process is more appropriate to manage ‘exceptions’ to these rules and I do not recommend changes in response to this element of the submission.

79. Lewis N: The submitter seeks a rule be added to the Mangere catchment specific provisions requiring road sealing. This is not a matter for a regional plan and is a decision for the relevant road controlling authority (Whangarei District Council) to be considered through annual/long term plan processes and operational decision-making. I therefore do not recommend changes in response to the submission.
80. McIntyre S: The submitter seeks that all catchment specific livestock exclusion rules be amended to require all non-dairy livestock (including sheep) be excluded according to the same timelines as dairy cattle. This amendment would bring the deadline for non-dairy stock significantly forward and is likely to impose significant costs on non-dairy farmers in the short term. The beef industry is not as advanced as the dairy sector in terms of livestock exclusion from waterways and tend also to rely on waterways for stock drinking to a far greater extent. I consider the timeframes proposed would be unrealistic given the likely costs of compliance (noting that non-dairy livestock tend to be grazed on steeper contour where fencing costs and power reticulation are significantly higher). I also consider the requirement to exclude sheep would have similar cost implications given fencing costs are higher and as they tend not to be attracted to water to the same extent as cattle, potential water quality benefits of excluding them are expected to be less (I note the draft stock exclusion regulations mooted in the 2017 by the then government did not include sheep). The submitter does not provide evidence of the costs and benefits of such a change (and I consider costs are likely to outweigh benefits) and therefore no changes are recommended in response to this submission.
81. Northland Fish and Game: The submitter supports the approach taken to develop catchment plans and in particular the catchment specific livestock exclusion rules, but seeks that these rules are integrated with the rest of the plan to avoid confusion (I assume this would mean relocating rules to the relevant section of the plan). I do not consider this change is needed as plan users are likely to read the rules specific to each catchment, however the hearing committee may consider some cross-references may be useful. The submission also seeks that catchment plans be revised to give effect to new livestock rules or regulations and that council guarantees Schedule 1 RMA is used for all future plan changes. Catchment plans are not a regulatory mechanism (do not have the effect of rules or regulations) and therefore do not need to be amended in the event regional rules change or regulations are applied. They are also not equivalent to 'plan changes' and were not developed (nor were they required to be) using Schedule 1 RMA. All RMA plan changes however must follow the Schedule 1 process. I do not recommend any changes in response to this submission.

82. Smart P: Addressed above in Pouto section.
83. Puhipuhi Mining Action Group: The submitter seems to be suggesting that catchment specific rules apply region-wide. The catchment specific rules were included in the Proposed Regional Plan following a lengthy collaborative planning process and designed to respond to catchment specific issues and are therefore not applicable on a regional scale. The amendment sought would be significant and the submission does not provide evidence to support such a change. The submitter also seeks changes to stock exclusion rules so that all catchments are subject to the same rules and that all farmed stock are required to be excluded from all waterways by 2020 (including Hill Country waterways). I consider this change would result in extremely high costs over a very short timeframe which is not justified in terms of environment benefits – given the submitter does not provide any evidence to demonstrate the benefits outweigh the likely costs I do not consider a change of this magnitude can be supported. The relief sought relating to livestock crossing points is already addressed in the notified versions of the catchment specific livestock exclusion rules and Rule C.8.1.1 by Clause C.8.1.1(4)(b). The submitter also seeks an amendment to include a method to identify bores used for domestic purposes (this is not a catchment specific matter), but I note Rule C.8.5.3 requires consent as a controlled activity for construction of a bore, in which case council has a means of identifying bore locations. I therefore do not recommend any changes in response to this submission.
84. Haititaimarangai Marae 339 Trust: The submitter at Para 34 and at Page 24 seeks that the Plan identify values related to freshwater and include catchment specific objectives and policies. This is on the basis that it is not clear what the objectives are for the Doubtless Bay, Mangere, Pouto, Waitangi and Whangarei Harbour catchments. The catchment specific rules are the result of a collaborate planning process in each of the catchments which (in catchment plans) identified values, objectives and a range of regulatory and non-regulatory implementation measures– the catchment specific rules are essentially the regulatory methods developed in each catchment plan. While the catchment plans do identify objectives for each catchment, these are not equivalent to freshwater objectives envisaged by the National Policy Statement for Freshwater Management 2017 (NPS-FM) and relate more to the outcome sought rather than the attributes in Appendix 2 of the NPS-FM. In my view, the values identified and outcomes sought in all five catchments have a high degree of commonality and therefore I do not consider including separate objectives specific to each catchment is necessary. However, I do see merit in an objective that identifies outcomes sought that are common to all five

catchments, namely reducing the amount of sediment entering water bodies, improving the quality of fresh and coastal water for recreational and cultural uses, protecting ecosystem health and natural character (particularly in relation to outstanding lakes) and enabling the take and use of freshwater where this would not compromise other values. I consider the objective would identify the key values identified in the collaborative planning process and expressed in catchment plans. I recommend the objective is supported by a policy to ensure the outcomes sought in catchment plans are considered in decision making. I consider the new objective and policy will adequately encapsulate the core values and outcomes sought across all five catchments relevant to regional functions and regional plan content under the RMA.

## **Recommendation**

85. The only change I recommend in response to these general submissions is to include a new objective and policy at the start of the catchment section outlining the key outcomes sought in the Doubtless Bay, Mangere, Pouto, Waitangi and Whangarei Harbour catchments. I consider the core matters to be included in the objective are sufficiently 'common' across the five catchments that a single objective will suffice.

## **Evaluation of recommended changes**

86. Section 32AA, RMA requires an evaluation of proposed changes to the Plan. The changes, while potentially more than minor in effect, are considered to be within the scope of the preferred management options as set out in Sections 12.1 to 12.7 of the Section 32 report and therefore do not require further evaluation.

## **Catchment related definitions and maps**

87. The definitions specific to catchment plans include:
- Catchment plan
  - Erosion Control Plan
  - High Sediment Yielding Land
  - Pastoral Land use

These are addressed individually below.

## **Catchment Plan - Submissions and analysis**

88. Royal Forest and Bird sought that the definition of catchment plan be deleted as it is not used in plan. While this is the case for plan provisions, the term is used in the introductory text to section E of the plan and is useful as a reference to the catchment plans developed by catchment groups. The only other submitter on this topic (Whangarei Harbour Catchment Group) supported the definition as notified.

### ***Recommendation***

89. I see no harm and some merit in retaining the definition and therefore do not recommend any change as a result.

## **Erosion Control Plan - Submissions and analysis**

90. Landcorp Farming Limited sought amendment to the definition of Erosion Control Plan to provide greater clarity and guidance for landowners regarding what is expected to be addressed in an Erosion Control Plan. A particular concern raised was the 'regional council approval' process and what is meant by a 'suitably qualified professional' (both used in the notified version of the Erosion Control Plan definition). This is a valid concern as the definition in effect relates to permitted activity standards – in other words determining whether permitted activity status applied would rely on the discretion of council. The definition could also be improved to provide more clarity as to the matters to be addressed in Erosion Control Plans. The term suitably qualified professional should also be clarified. I therefore recommend changes to remove the reference to 'regional council approved plan' and to include specific matters to be addressed in Erosion Control Plans. I also recommend that the term 'suitably qualified professional' be clarified. I therefore recommend the relief sought by Landcorp Farming Limited in relation to this definition is accepted. I note the submission also sought that where landowners already have a Farm Environment Plan, it will be deemed to be an approved plan to the extent that it addresses the matters it covers. I do not consider this should be included in the definition as an existing plan cannot be assumed to address the required content. Royal Forest and Bird Protection Society were the only other submitter on matter and supported the definition as notified.

### ***Recommendation***

91. I recommend changes to the definition of Erosion Control Plan to remove the term 'council approved' and provide greater clarity as to what constitutes a suitably qualified

professional. I also recommend detail on the content and scope of Erosion Control Plans be included in an Appendix (Appendix H.4).

## **High Sediment Yielding Land -Submissions and analysis**

92. There were two submissions specifically on this topic: Whangarei Harbour Catchment Group supported the definition as notified, while Simpson A sought amendment to the maps of High Sediment Yielding Land on his property in the Waitangi Catchment on grounds they are inaccurate. Mr Simpson did not provide any evidence identifying mapping errors or identify actual map changes sought in the submission – it is therefore difficult to undertake any analysis or recommend changes to these maps. Landcorp Farming Ltd also sought a policy to recognise that site-specific information (such as that identified in a Farm Plan) should be used to determine whether the relevant overlay provisions apply to an activity. I do not consider such a policy is warranted or appropriate given this is better determined through the development of the Erosion Control Plan or consent process, nor did the submission provide examples of instances of where such a policy would be triggered on the basis of inaccurate mapping. Therefore, no changes are recommended to either the maps or the definition.

## **Pastoral land use - Submissions and analysis**

93. Beef and Lamb NZ consider the definition confusing and sought amendment to or removal of the second part of the definition. Tegel Foods also sought changes to clarify the intent and remove the reference to 'herbaceous species'. Ravensdown Ltd supported the definition as notified. The definition informs the application of the Erosion Control Plan rules by identifying pastoral land use which has the potential to generate elevated sediment loads if undertaken in areas mapped as High Sediment Yielding Land. I consider the definition could be improved to more accurately describe the activity in simpler terms but recommend retaining the text that excludes forested areas and woody vegetation as this provides a clear indication that land with this type of cover is not considered pastoral land use and is unlikely to exacerbate the sediment effects.

### ***Recommendation***

94. I recommend the submissions seeking change to the definition be accepted in part and the definition of pastoral land use be amended to better describe the activity in simpler terms.

## **Evaluation of recommended changes**

95. Section 32AA, RMA requires an evaluation of proposed changes to the Plan. The changes, to the definitions while potentially more than minor in effect, are considered to be within the scope of the preferred management option as set out in Section 12.1 of the Section 32 report and therefore do not require further evaluation.