



## SECTION 42A REPORT

### Mineral Extraction

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**Appendix 1A: Notified version of Mineral Extraction Overlay Chapter**

**Appendix 1B: Recommended Mineral Extraction – District Wide Objectives and Policies**

**Appendix 1C: Recommended Mineral Extraction Zone Chapter (and Consequential Amendments)**

**Appendix 2: Recommended Decisions on Submissions for Mineral Extraction Topic**

**Appendix 3: Supporting Maps**

**Appendix 4: Summary of Resource Consent Information**

**Appendix 5: Area and Parcel of Land Quarries**

**List of Abbreviations**

**Table 1: List of Submitters and Abbreviations of Submitters’ Names**

<b>Submitter Number</b>	<b>Abbreviation</b>	<b>Full Name of Submitter</b>
S65	Imery’s	Imery’s Performance Minerals Asia Pacific
S424	Ventia	Ventia Limited
S364	DOC	Director-General of Conservation (Department of Conservation)
S368	FNDC	Far North District Council
S7	Bellingham	Bellingham Quarries Ltd
S511	Forest & Bird	Royal Forest and Bird Protection Society of New Zealand
S463	WBFL	Waiaua Bay Farm Ltd
S442	KCT	Kapiro Conversation Trust (2)

**Note:** This table contains a list of submitters relevant to this topic which are abbreviated and does not include all submitters relevant to this topic. For a summary of all submitters please refer to Section 5.1 of this report (overview of submitters). Appendix 2 to this Report also contains a table with all submission points relevant to this topic.

**Table 2: Other abbreviations**

<b>Abbreviation</b>	<b>Full Term</b>
FNDC	Far North District Council
NPS	National Policy Statement
PDP	Proposed District Plan
RMA	Resource Management Act
RPS	Regional Policy Statement



## **1 Executive summary**

1. The Far North Proposed District Plan ("PDP") was publicly notified in July 2022. The Mineral Extraction Chapter is located in the general district wide section of the PDP.
2. 18 original submissions (with 69 individual submission points) and 32 further submissions (with 168 individual submission points) were received on the Mineral Extraction overlay chapter. 4 original submission points indicated general support for the provisions to be retained as notified, 26 submission points indicated support in part, with changes requested, whilst 23 submission points opposed the provisions.
3. The submissions can largely be categorised into several key themes:
  - a) Mineral extraction framework and relationship with other chapters
  - b) Spatial extent of Mineral Extraction overlay / zone
  - c) Policies
  - d) Rules overview
  - e) Standards (Mineral Extraction Area Management Plan)
  - f) General Support and Other Matters (not addressed elsewhere).
4. This report has been prepared in accordance with Section 42A of the Resource Management Act ("RMA") and outlines recommendations in response to the issues raised in submissions. This report is intended to both assist the Hearings Panel to make decisions on the submissions and further submissions on the PDP and also provide submitters with an opportunity to see how their submissions have been evaluated, and to see the recommendations made by officers prior to the hearing.
5. The key changes recommended in this report relate to:
  - a) District-wide Chapter to include Objectives and Policies for Mineral Extraction Activities on a District Wide basis;
  - b) A Mineral Extraction Zone (to replace the Mineral Extraction Overlay) containing rules and standards; and
  - c) Consequential amendments to several policies and rules to clarify intent, reflect industry practice and standards, improve consistency with other parts the PDP, and replace reference from 'Mineral Extraction Overlay' to 'Mineral Extraction Zone'.



- d) Amendments to Rule SUB-R16 to apply clearly to the Mineral Extractions zone only. In addition a new discretionary activity status for the subdivision of land within 100m of a Mineral Extraction Zone.

## **2 Introduction**

### **2.1 Author and qualifications**

6. My name is Lynette Morgan, and I am employed as a Policy Planner in the District Planning Team at the Far North District Council.
7. I hold the qualifications of Post Graduate Diploma of Public Policy from the University of Victoria and a Bachelor of Laws from the University of Otago.
8. I have 8 years in central government policy development including the development, report writing, drafting and carriage of Local Government and related Legislation through the New Zealand House of Representatives. I have one year of Local Government policy development formation, drafting and writing of bylaws and delegations and over 25 years of practise in the Law.

### **2.2 Code of Conduct**

9. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
10. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners ("Hearings Panel").

## **3 Scope/Purpose of Report**

11. This report has been prepared in accordance with Section 42A of the Resource Management Act to:
  - a) assist the Hearings Panel in making their decisions on the submissions and further submissions on the Proposed District Plan; and
  - b) provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
12. This report responds to submissions on Mineral Extraction overlay chapter.
13. Wherever possible, I have provided a recommendation to assist the Hearings Panel.



14. Separate to the Section 42A report recommendations in response to submissions, Council has made a number of Clause 16(2) amendments to the PDP to achieve consistent formatting of rules and standards, including inserting semi colons between each standard, followed by "and" after the second to last standard (where all of the standards must be met to comply) or "or" after the second to last standard (when only one of the standards must be met to comply). These changes are neutral and do not alter the effect of the rules or standards, they simply clarify the intent. The Clause 16 corrections are reflected in Appendix 1B to this Report. Attached also is appendix 1A which is a complete deletion of the notify chapter.

## **4 Statutory Requirements**

### **4.1 Statutory documents**

15. I note that the Mineral Extraction overlay chapter Section 32 report provides detail of the relevant statutory considerations applicable to the chapter.
16. It is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here. Consequently, no further assessment of these documents has been undertaken for the purposes of this report.
17. However, it is important to highlight the higher order documents which have been subject to change since notification of the Proposed Plan which must be given effect to. Those that are relevant to the Mineral Extraction Overlay chapter are discussed below.

#### **4.1.1 Resource Management Act**

18. The Government elected in October 2023, has repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 on the 22 of December 2023 and has reinstated the RMA as Zealand's primary resource management policy and plan making legislation. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation to begin in 2024. The government has indicated that this replacement legislation will be introduced to parliament this term of government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until new replacement legislation is passed.

#### **4.1.2 National Policy Statements**

##### **4.1.2.1 National Policy Statements Gazetted since Notification of the PDP**

19. The PDP was prepared to give effect to the National Policy Statements that were in effect at the time of notification (27 July 2022). This section



provides a summary of the National Policy Statements, relevant to the Mineral Extraction topic that have been gazetted since notification of the PDP. As District Plans must be “prepared in accordance with” and “give effect to” a National Policy Statement, the implications of the relevant National Policy Statements on the PDP must be considered.

*National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB)*

20. The National Policy Statement for Indigenous Biodiversity (NPS-IB) took effect on 4 August 2023. This was after the PDP was notified (27 July 2022), but while it was open for submissions. The objective of the NPS-IB is to maintain indigenous biodiversity so there is at least no overall loss in indigenous biodiversity. The objective is supported by 17 policies. These include Policy 1 and Policy 2 relating to the principles of the Treaty of Waitangi and the exercise of kaitiakitanga by tangata whenua in their rohe.
21. The NPS-IB is relevant where mineral extraction activities inter-sect with areas of indigenous biodiversity, though clause 3.11(1) provides exceptions and a pathway for mineral extraction and aggregate extraction activities that provide significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand.

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

22. The National Policy Statement for Highly Productive Land (NPS-HPL) took effect on 17 October 2022, The NPS-HPL has a single objective: Highly productive land is protected for use in land-based primary production, both now and for future generations. The objective is supported by nine policies and a set of implementation requirements setting out what local authorities must do to give effect to the objective and policies of the NPS-HPL, including restrictions on the urban rezoning, rural lifestyle rezoning, and subdivision of highly productive land and requirements to protect highly productive land from inappropriate use and development.
23. The NPS-HPL is relevant where mineral extraction activities intersect with areas of “highly productive land”, though clause 3.9(2)(j)(iii) and (iv) provides exceptions for mineral extraction and aggregate extraction that provides significant public benefit “that could not otherwise be achieved using resources within New Zealand”.
24. Recent amendments to NPS-HPL were gazetted on 16 August 2024, resulting in the removal of consenting barriers for new infrastructure, including renewable energy projects, indoor primary production and greenhouses. Driving amendments, was the agriculture, horticulture and renewable energy sectors’ concerns surrounding the NPS restricting activities needing to be located on highly productive land. These amendments came into effect on 14 September 2024.

*National Policy Statement for Freshwater Management (NPS-FM)*



25. Several amendments to the NPS-FM 2020 (under section 53(1) and 33(2)(a) of the RMA) have been made since July 2022 primarily relating to:
  - a) Clarifying definition of natural inland wetland.
  - b) Improving the clarity of policies and correct errors.
  - c) Providing a consenting pathway for quarrying activities, landfills and cleanfill areas, mineral mining and some urban development.

#### **4.1.2.2 National Policy Statements – Announced Future Changes**

26. In October 2023, there was a change in government and several announcements have been made regarding work being done to amend or replace various National Policy Statements.
27. The Government signalled end of August that changes to align National Direction will be introduced in Resource Management Reform Bill 2, due late 2024. Minister Bishop has specifically mentioned pathways for quarries. It is expected that the updates will include amendments to the NPS-IB and the NPS-HPL to include a consenting pathway for “quarrying activities” that is more enabling and similar to, or consistent with the pathways for “quarrying activities” provided in in the NPS-FW<sup>1</sup>. It may also include the removal of clauses that require quarry operators to demonstrate that the mineral extraction provides benefits “that could not otherwise be achieved using resources within New Zealand”.
28. The Government currently proposes a tight consultation timeline and have indicated that the changes are likely to take effect by mid-2025.

#### **4.2 Council’s Response to Current Statutory Context**

29. The evaluation of submissions and recommendations in this report are based on the current statutory context (that is, giving effect to the current National Policy Statements). I note that the proposed amendments and replacement National Policy Statements do not have legal effect until they are adopted by Government and formally gazetted.
30. Sections 55(2A) to (2D) of the RMA sets out the process for changing District Plans to give effect to National Policy Statements. A council must amend its District Plan to include specific objectives and policies or to give effect to specific objectives and policies in a National Policy Statement if it so directs. Where a direction is made under Section 55(2), Councils must directly insert any objectives and policies without using the Schedule 1 process and must publicly notify the changes within five working days of making them. Any further changes required must be done through the RMA

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<sup>1</sup> Clause 3.22((d)) of the NPS-FM



schedule 1 process (such as changing rules to give effect to a National Policy Statement).

31. Where there is no direction in the National Policy Statement under Section 55(2), the Council must amend its District Plan to give effect to the National Policy Statement using the RMA schedule 1 process. The amendments must be made as soon as practicable, unless the National Policy Statement specifies a timeframe. For example, changes can be made by way of a Council recommendation and decision in response to submissions, if the submissions provide sufficient 'scope' to incorporate changes to give effect to the National Policy Statements.
32. I have been mindful of this when making my recommendations and believe the changes I have recommended are either within scope of the powers prescribed under Section 55 of the RMA or within the scope of relief sought in submissions.

#### **4.2.1 National Environmental Standards**

33. On 2 October 2023, the National Environmental Standards for Plantation forestry was amended by the Resource Management (National Environment Standards Commercial Forestry) Amendment Regulations 2023. Regulation 4 replaced the word "plantation" with "commercial" and the NES was renamed to National Environmental Standards for Commercial Forestry.
34. Local authorities cannot have plan rules that are more lenient than the NES (s44A(2)(b)), and may only include more stringent controls through rules if the NES provides for this (s44A(2)(a)). Any rules that duplicate or conflict with the provisions of a NES must be removed from a plan. This must be done as soon as practicable after the NES comes into effect without using the Schedule 1 process.
35. Reference to the NES for Plantation Forestry has been amended to the NES for Commercial Forestry in the Notes of the recommended provisions contained in **Appendix 1C** to this report.

#### **4.2.2 National Planning Standards**

36. The National Planning Standards determine the sections that should be included in a District Plan, including the Strategic Direction chapters, and how the District Plan should be ordered. The Mineral Extraction provisions proposed and recommended in this report follow this guidance.

#### **4.2.3 Treaty Settlements**

37. There have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Far North District, since the notification of the PDP.





### **4.3 Iwi Management Plans**

38. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with the Council in 2022, after notification of the PDP in July 2022. Specific to the Mineral Extraction topic, the Ngāti Hine Environmental Management Plan seeks to promote innovative, sustainable management practices concerning mining and quarrying, including restoration and rehabilitation programmes.
39. The Ahipara Takiwā Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with Council in 2023, after notification of the PDP in July 2022. The Environmental Management Plan seeks the culturally appropriate management of natural resources and that the mana of Ngā Marae is upheld.

### **4.4 Section 32AA evaluation**

40. This report uses 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where changes to the provisions of the PDP are recommended, these have been evaluated in accordance with Section 32AA of the RMA.
41. The s32AA further evaluation for each key issue considers:
  - a) Whether the amended objectives are the best way to achieve the purpose of the RMA.
  - b) The reasonably practicable options for achieving those objectives.
  - c) The environmental, social, economic and cultural benefits and costs of the amended provisions.
  - d) The efficiency and effectiveness of the provisions for achieving the objectives.
  - e) The risk of acting or not acting where there is uncertain or insufficient information about the provisions.
42. The s32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor and consequential changes that improve the effectiveness of provisions without changing the policy approach are not re-evaluated.



## 4.5 Procedural matters

### Waiaua Bay Farm Ltd

43. Waiaua Bay Farm Ltd (WBFL) (S463) in their submission had indicated they would like to discuss their submission on the Mineral Extraction Overlay chapter. On 22 July 2024, I emailed Mr Steve Tuck to arrange an informal prehearing discussion. On 24 July 2024, Mr Tuck on WBFL's behalf responded:

*"With the time that has passed, WBFL's position on ME-P3 has changed. It no longer opposes the notified text, and on behalf of WBFL, I confirm that it withdraws submission point S463.088."*

44. I can confirm there were no further submissions in relation to that submission point by WBFL. This submission will not be addressed further in this report.

### Forest and Bird

45. Forest and Bird Protection Society New Zealand Inc representative Dean Baigent-Mercer and I had a phone conversation on 7 August 2024, to discuss their submission. They have also forwarded some additional information which they intend to present to the hearing panel. I specifically sought further understanding and clarity around their submission in relation to the perceived expansion of Puketona quarry and the definition of hand tools.
46. Mr Baigent-Mercer sent me via email a map they will be presenting at hearing that is related to an area of Mineral Extraction and indigenous biodiversity. He explained Forest and Bird understood the need for Mineral Extraction and understood its importance and significance for the Region. However, their concerns were around if the PDP was going to meet the needs and issues now raised in respect of the National Policy Statement for Indigenous Biodiversity 2023, especially when blasting was occurring in flood prone areas.

### Mineral Extractors Group

47. On 9 August 2024, I attended an informal pre-hearing meeting with the Mineral Extractors Group (Group) comprising of Mr Steve Sanson and Andrew McPhee from Bay of Islands Planning representing Imery's and Ventia, Mr Shawn McLean, quarry manager for Imery's and Mr Jarrod Bellingham on behalf of Bellingham's. The purpose of the meeting was to discuss the extractor groups submissions and their concerns which can be grouped as follows:
- a) they seek a Mineral Extraction Zone as opposed to a Mineral Extraction overlay as set out in the PDP;



- b) the subdivision building platform setback distance in SUB-R16 is insufficiently small and may lead to reverse sensitivity issues; and
  - c) the requirement to use hand tools in ME-R1 is contrary to what is permitted by their current regional resource consents and industry practise which is blasting.
48. I shared with the Group a draft amendment to SUB-R16 – subdivision which is further described in Key Issue 4 below. There was no objection if the amendment was to be recommended to this Hearing Panel.
49. The key themes of the discussion included:
- a) the Group seeking a Mineral Extraction zone being established as opposed to an overlay so the framework for mineral extraction is clear and contained;
  - b) the group indicating the current setback in SUB-R16 is insufficient and seeking the distance of the setback distance be increased for building platforms;
  - c) other councils have larger set back distances<sup>2</sup>; and
  - d) the type of evidence required to effectively support the collective submissions by the Group.
  - e) The Group’s regional resource consents and the conflict with ME-R1.
  - f) Bellingham’s submissions S7.002- S7.006 supported a Mineral Extraction Overlay. In the meeting they advised they now supported a Mineral Extraction Zone.
50. The meeting concluded with the following matters to be considered further by the parties:
- a) FNDC would consider if a Mineral Extraction Zone could be recommended by 16 August 2024;
  - b) the Group were to decide if they wanted to recommend to the Panel an increased set back distance after receiving the information and, if so were to provide information to officers the following week.

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<sup>2</sup> I advised that Council provide examples to the Group of other Council’s setback distance. The information which was later provided to the Group by email on 16 August 2024.



- c) The Group did not advise they wished to provide further supporting information.

51. On 16 August 2024, the Group were advised by email that, after consideration, it was likely that officers would recommend a Mineral Extraction Zone as the preferred approach over the Mineral Extraction overlay that had been set out in the PDP.

## **5 Consideration of submissions received**

### **5.1 Overview of submissions received.**

52. A total of 69 original submission points and 168 further submission points were received on the Mineral Extraction Overlay Chapter.

53. The main submissions on the Mineral Extraction Chapter came from:

- a) The Mineral Extractors Group (The Group) made up of Imery's (S65) Ventia (s424) and Bellingham's (S7). Ventia and Imery's oppose the provisions and sought a Mineral Overlay Zone (MEZ). Bellingham's after the prehearing meeting also supported a MEZ.

- b) Groups and individuals representing environmental interests in particular Forest and Bird (S511) and Kapiro Conversation Trust (S442) who in part support the chapter but are concerned the chapter does not adequately address the NPS- IB, NCPS or other environmental issues.

54. The key issues identified in this report are set out below:

- a) Key Issue 1: Mineral extraction framework and relationship with other chapters

- b) Key Issue 2: Spatial extent of Mineral Extraction Overlay

- c) Key Issue 3: Policies

- d) Key Issue 3: Rules Overview

- e) Key Issue 4: Standards (Mineral Extraction Area Management Plan)

- f) Key Issue 5: General support and other matters (not addressed elsewhere)

55. Section 5.2 constitutes the main body of the report and considers and provides recommendations on the decisions requested in submissions. Due to the large number of submissions received and the repetition of issues, as noted above, it is not efficient to respond to each individual submission point raised in the submissions. Instead, this part of the report groups



similar submission points together under key issues. This thematic response assists in providing a concise response to, and recommended decision on, submissions.

56. To assist the hearings committee submissions of interests' groups and where there is the same advocate for example the Mineral Group of Imery's and Ventia who are represented by the same planning experts, Bay of Islands Planning those submissions where appropriate will be addressed together as one in the same.
57. Imery's and Ventia's submissions more often than not reflect each other. Where this occurred, I will not be reiterating the individual submissions but referring to the duplicate submission by the name **I & V** and addressing them as one and the same.
58. Similarly, Forest and Bird and KCT submissions also more often than not directly reflect each other. KCT have in effect 'adopted' the Forest and Bird submission. Where this occurred, I will not be reiterating the individual submissions but referring to the duplicate submission by the name **F&B-KCT** and addressing them as one and the same.

## 5.2 Officer Recommendations

59. A copy of the Mineral Extraction Overlay Chapter as notified is contained in **Appendix 1A – Notified Mineral Extraction Overlay Chapter** to this report.
60. A copy of the recommended plan provisions for the chapters is provided in **Appendix 1B and 1C– Recommended Provisions** to this report.
61. A full list of submissions and further submissions on the chapter is contained in **Appendix 2 – Recommended Decisions on Submissions** to this report.
62. A series of maps are also contained in **Appendix 3** to illustrate the requests to amend the spatial extent of the Mineral Extraction Overlay (discussed in Key Issue 2 below). A summary of available information on the existing resource consents held for the quarry sites in the Far North District is provided in **Appendix 4.424.008**
63. Additional information can also be obtained from the Summary of Submissions (by Chapter or by Submitter) Submissions database Far North District Council ([fndc.govt.nz](http://fndc.govt.nz)) the associated Section 32 report, ([fndc.govt.nz](http://fndc.govt.nz)) the overlays and maps on the ePlan Map - Far North Proposed District Plan.



## 5.2.1 Key Issue 1: Mineral Extraction Framework and Relationship with Other Chapters

### Overview

Provision(s)	Officer Recommendation(s)
Chapter Structure	Amend from a Mineral Extraction Overlay framework to: <ul style="list-style-type: none"> <li>• District-Wide Chapter to include Objectives and Policies for Mineral Extraction Activities on a District Wide basis</li> <li>• A Mineral Extraction Zone (to replace the Mineral Extraction Overlay) containing rules and standards.</li> <li>• Consequential amendments to several policies and rules to clarify intent and replace reference from 'Mineral Extraction Overlay' to 'Mineral Extraction Zone'.</li> </ul>
Objective ME-O3 and Policy ME-P4 for farm quarries	Retain as notified (including objective and policies for farm quarries in the Mineral Extraction chapter).
Policy ME-P5	Retain as notified with exception of amendment from 'Significant Natural Areas' to ' <u>areas of significant indigenous vegetation and significant habitats of indigenous fauna</u> '

### Analysis of Submissions on Key Issue 1

64. A number of submissions were received highlighting challenges associated with the proposed Mineral Extraction Overlay approach and sought clarification of its relationship with other PDP chapters. The submissions are generally summarised as follows:

- a) Imery's (S65.007, S65.003, S65.012, S65.013a) and Ventia (AS424.009, S424.002, S424.003) submit that linking an overlay to an underlying zone causes unnecessary confusion and frustration. They contend that the rationale for this is not clear, particularly for existing and consented activities. For example, they have highlighted certain rules (e.g. ME-R5) that would create unintended consequences, including any activity associated with rehabilitation of the site (e.g. passive / active recreation) which would be a non-complying activity. Both submitters have sought clarity on which overlays and provisions take precedence over another, particularly when multiple apply. They seek that the overlay is replaced with a Mineral Extraction Zone.
- b) Top Energy (s483.193), Paihia Properties Ltd (S344.042), Nga Tai Ora (S516.082) and Foodstuffs (S363.034) have identified that there is a lack of clarity throughout the PDP



in terms of how the Chapters interact with each other, and some inconsistency. Foodstuffs has identified that the overlay chapters are inconsistent with respect to referencing rules for “activities not otherwise listed”. The submitters consider that this lack of consistency (coupled with inconsistent terminology) will cause confusion for Plan users and ultimately, impact the integrity of the plan.

- c) F&B–KCT (S511.108 S511.116, S442.127, S442.135) submitted there is no explanation to how the Mineral Extraction Overlay interacts with the IB chapter and is lacking in protecting significant indigenous biodiversity and maintenance of other indigenous biodiversity. They request the chapter be amended to ensure compliance with the IB chapter.
- d) F&B–KCT (S511.112) and (S442.131) oppose ME-P4 In respect to farm quarries in the Rural Production zone and are unclear why farm quarries are addressed in the Mineral Extraction chapter.

### **Analysis – Most Appropriate Framework for Mineral Extraction**

- 65. At notification, the Mineral Extraction Overlay was applied to 11 existing quarries in the Far North District, which were zoned Mineral Extraction Zone in the Operative District Plan. Two were and are operating by way of existing use rights (Whatuwhiwhi and Paranui). The extent of the Mineral Extraction Overlay (as notified) applied to each of the 11 quarries varies in size from 9.73ha (smallest) to 196.1 (largest). The total area is 778.8a. The mean is 70.8ha and the median is 22.2ha. The underlying zone of quarries who had Mineral Extraction Overlay applied at notification is predominantly the Rural Production Zone.
- 66. The area, number of land parcels, and underlying zone of each individual quarry is shown in Appendix 5 to this report.
- 67. The current PDP framework (as notified) includes a Mineral Extraction Overlay which applies over the underlying zone and is intended to be enabling for those existing mineral extraction activities. It also includes a specific discretionary rule for subdivision of land containing a Mineral Extraction overlay (Rule SUB-R16) and rules in the zone chapters for mineral extraction activities, and for sensitive activities within 100m of a Mineral Extraction Overlay (e.g. Standard RPROZ-S7)
- 68. I have read both the relevant PDP chapters and the Minerals Zone chapter of the Operative District Plan (ODP). On balance, I agree that the ‘overlay’ approach in the PDP is confusing and that replacing the ‘overlay’ with a Mineral Extraction Zone is more appropriate.





69. A cursory look by a plan user would suggest that the chapter would only apply provisions relating to spatially defined mineral extraction activities within the 'overlay'. However, as proposed the 'overlay' chapter contains a number of objectives and policies that are intended to give 'district wide', in addition to rules that only apply to the area under the overlay.
70. In addition to the above, the ODP Section 8.8 currently contains a standalone 'Minerals Zone' which the mineral extraction activity operators appear to be familiar with. By using an overlay, the underlying zone provisions (Rural Production Zone) would also need to be taken into account adding significant complexity to the framework.
71. Having considered the submissions, I consider that a Mineral Extraction Zone is a more simple and effective method to achieve the objectives of the plan. In addition, As currently drafted the PDP has the unintended consequence of resulting in some situations of a change in the status of the activity in that activity becoming a permitted activity while still requiring the applicant to apply for a resource consent, this causing anomaly.
72. In terms of clarity many of the land holdings being used for Mineral Extraction activities are in more than one Zone for example Rural production and a special purpose zone, for example Māori purpose. The result is a plan user has to consider multiple provisions which adds layers of complexity and does not necessarily provide the outcome sought. A Mineral Extraction Zone allows neighbours and other users to know the land has been Zoned for this use and Mineral Extraction can be reasonably anticipated now and into the future.
73. The Northland Regional Council Regional Policy Statement (RPS) at Part 5.1.4 provides a policy framework for when considering significant mineral resources. The Policy sets out the factors to be considered when determining whether a mineral resource is significant. This is then implemented through method 5.1.5(2)(a) (see below in paragraph 73) requiring district plan maps to show regionally significant mineral resources where the existing extraction rates are known or where the mineral resources have been identified and mapped by the regional council.
74. Mineral resources will be considered regionally significant, based on one or more of the following:
  - a) relative scarcity;
  - b) current or potential contribution to the regional economy from the extraction;
  - c) current and potential demand, and location with respect to demand;





- d) constraints on extraction including existing or planned settlement and access to the site;
  - e) constraints on other development and land use as a result of extraction; and
  - f) quality and size of deposit;
  - g) Average annual extraction rate of minerals (more than 50,000 tonnes per annum for aggregates); and
  - h) Importance to infrastructure development.
75. Part 5.1.5 of the RPS sets out the method for district councils in relation to statutory plans and strategies it states:
- i. the regional and district councils shall:
    - a) give effect to Policy 5.1.1 (a) and (c)-(g) when developing objectives, policies, and methods / rules for plans and when assessing resource consent applications and plan changes;
    - b) give effect to Policy 5.1.1(b) when considering notices of requirement and resource consent applications in the following centres: (i) Mangawhai, Dargaville, Waipū, Whāngārei city, Ruakākā / Marsden Point, Pārua Bay, Paihia, Kerikeri / Waipapa, Kaikohe, and Kaitiāia;
    - c) give effect to Policy 5.1.1(b) when changing, varying, or replacing regional or district plans;
    - d) give effect to Policies 5.1.2 and 5.1.3 through objectives, policies, and methods / rules in regional and district plans and when assessing resource consent applications; and
    - e) give effect to Policy 5.1.3 by requiring consultation with relevant infrastructure providers and owners of regionally significant mineral resources when propose d subdivision, land use or development may have an adverse effect on ... regionally significant mineral resources.
76. Method 5.1.5, Clause (2) of the RPS requires that the district councils shall:
- a) Show regionally significant mineral resources in accordance with Policy 5.1.4, in district plan maps, where the existing extraction rates are known, or once the mineral resources are identified by the regional council.



77. In terms of the NRC Regional Policy Statement, I consider that the key criteria to determine if a quarry should be zoned Mineral Extraction is:
- a) does it meet the definition of 'regionally significant mineral resources' under Policy 5.1.4 the RPS (Policy ME-P1)' (as reflected in Policy ME-P1 of the PDP); and
  - b) is mineral extraction authorised in the areas proposed to be included in the MEZ?
78. This will be discussed in more detail when analysing the submissions in Key issue 2.
79. For the above reasons I agree with the submitters the Mineral Extraction overlay is confusing and not the most appropriate, effective or efficient option to meet the framework for significant mineral resources in the NRC Regional policy statement. As discussed above I consider the best way to provide clarity for plan users is by way of a Mineral Extraction Zone.

#### **Analysis – Relationship with other Overlays (including Ecosystems and Indigenous Biodiversity Chapter)**

80. F&B–KCT consider that there is a lack of explanation of how the Mineral Extraction overlay chapter interacts with the IB chapter and as a result is lacking in protecting significant indigenous biodiversity and maintenance of other indigenous biodiversity.
81. As set out in the General approach in the District Plan Framework it states:<sup>3</sup>
- “The district plan is an integrated planning document and should be read in full. The plan is structured to contain parts that are interrelated”.
82. The plan user is directed at the start to read the plan as a whole.
83. The intention of the plan is that the Ecosystems and Indigenous Biodiversity chapter applies on a District-Wide basis, including for mineral extraction activities. Any new mineral extraction activity proposed that affects indigenous biodiversity would likely require resource consent under the Ecosystems and Indigenous Biodiversity chapter and would be assessed against both sets of objectives and policies (Mineral Extraction and Ecosystems and Indigenous biodiversity chapters).
84. To further assist, as advised in the S42A report of Mr Jerome Wyatt, Policy IB-P5 of the PDP<sup>4</sup> also addresses issues of indigenous biodiversity when he stated his understanding is that clause a) in IB-P5 is intended to implement the direction in Method 4.4.3(3)(d) in the RPS. This states that, in implementing Policy 4.4.1 in the RPS, district plans shall “Not unreasonably

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<sup>3</sup> Page 57 of 771 of the PDP

<sup>4</sup> S42A report paragraph 179



restrict the existing use of production land, including forestry". On this basis, I consider that the direction is appropriate to give effect to the RPS taking into account that the zone in particular reflects existing mineral extraction activities. The approach to ecosystems and indigenous biodiversity in the PDP (as recommended at Hearing 4) is also broadly aligned with the NPS-IB, which provides specific direction relating to primary production activities (including mineral extraction, plantation forestry and maintenance of improved pastures).

85. Plan users and quarry operators undertaking activities within a Mineral Extraction Zone are required to comply with both the Mineral Extraction Zone rules and standards, and the provisions in the Ecosystems and Indigenous Biodiversity chapter. Any proposal involving clearance of indigenous vegetation would need to comply with the permitted thresholds in the Ecosystems and Indigenous Biodiversity chapter or would require a resource consent.
86. I consider that the revised framework (District-Wide objectives and policies for Mineral Extraction), and shift to a Mineral Extraction Zone will simplify the framework and assist with clarifying the relationship with the other District-Wide chapters (including Ecosystems and Indigenous Biodiversity), which goes some way to alleviating the submitters concerns. I also recommend reference to "areas of significant indigenous vegetation and significant habitat of indigenous fauna" as opposed to "Significant Natural Areas" in Policy ME-P5 for consistency in approach with the recommendations of Hearing 4.

### **Analysis - Farm quarries**

87. I agree, to some extent, with the submitters F&B-KCT (511.112 and 442.131), Imery's (S65.001- 65.002) Carrington Estate (S351.005)) that farm quarries need not be addressed in the rule framework of the Mineral Extraction Zone. As explained above the Mineral Extraction overlay (now Zone) is applied to larger scale commercial quarries that meet the criteria for regional significance. Farm quarry rules are located in the Rural Production zone framework. However, the recommended District-Wide objective and policy framework does provide some policy direction for farm quarries at a district-wide level (Objective ME-O3 and Policy ME-P4) as this approach is more efficient than including policies for farm quarries across the rural zones (which would create unnecessary duplication). Potential for confusion or conflict is reduced by the shift away from a "Mineral Extraction Overlay" to a District Wide Mineral Extraction Chapter.

### **Recommendation**

88. I recommend acceptance and rejection of the submissions relating to the Mineral Extraction Overlay and replacement of a Mineral Extraction Zone as set out in **Appendix 2**, and recommend the provisions are amended as follows:



- a) Amend Mineral Extraction Overlay to a District-Wide Chapter to include Objectives and Policies for Mineral Extraction Activities on a District Wide basis.
  - b) Insertion of a Mineral Extraction Zone (to replace the Mineral Extraction Overlay) containing rules and standards.
  - c) Consequential amendments to provisions to replace references from overlay to zone (including Policy ME-P9).
89. Retain ME-P5 (with reference to "areas of significant indigenous vegetation and significant habitat of indigenous fauna" as opposed to "Significant Natural Areas").

### **Section 32AA evaluation**

90. My analysis sets out why I consider a Mineral Extraction Zone is the most simple and effective way to provide a policy framework when considering significant mineral resources as required by the NRC RPS. In summary the change from a Mineral Extraction Overlay to a Mineral Extraction Zone will enable and allow the following:
- a) provide for a clear, simple and effective framework which current users are familiar with;
  - b) reduced complexity and ambiguity associated with an "enabling overlay" and two sets of rules to consider, resulting in more efficient and consistent plan interpretation and implementation, improved usability and reduced compliance risks/costs.
  - c) removes the unintended consequence that arose from the PDP approach, which resulted in some situations of a change in the status of the activity becoming a permitted activity while still requiring the applicant to apply for a resource consent; and
  - d) provides clarity for what the plan is seeking to achieve in relation to Mineral Extraction i.e ensure plan users understand Mineral Extraction is a "district wide" chapter that provides objective and policy direction on a district-wide basis.
91. Though there is some risk involved with the shift in framework in response to submissions, I consider that the risk is low because the framework is similar to the ODP and achieves the same outcome, in a more simplistic and efficient manner. For example, the relevant standards from the Rural Production Zone are recommended to be inserted in the Mineral Extraction Zone chapter which achieves the same outcome, without needing to review two separate District Plan chapters to determine which rule or standard



applies. I have discussed the approach with the reporting officer for Rural Zones, Ms Melissa Pearson and we agree this is the most efficient manner to achieve the objectives of the ODP for farm quarries, provided that there are cross-references in the notes above the rules to help plan users understand the relationship between the objectives, policies and rules in the zones.

92. On balance I consider that the recommended framework is more appropriate in achieving the purpose of the RMA, and giving effect to the higher order direction (including the RPS) compared to the notified framework of the PDP. The recommended approach does not change the overall intent and purpose of the provisions, it clarifies the original intent and ensures that the intended outcome is achieved in a more efficient and effective manner.

## 5.2.2 Key Issue 2: Spatial Extent of Mineral Extraction Overlay

### Overview

Map Layer	Officer Recommendation(s)
Mineral Extraction Zone	<ul style="list-style-type: none"> <li>Amend all land within Mineral Extraction Overlay of the notified PDP so it is now Mineral Extraction Zone, without the Mineral Extraction Overlay (except removal of Sec 3 SO 449324, Lot 1 DP 62723, and Pt OLC 59 Blk VI Kawakawa SD, State Highway 11, Puketona, from the MEZ associated with Puketona Quarry)</li> <li>Apply the Mineral Extraction Zone to the Bellingham's Hollands Quarry</li> <li>Delete the Mineral Extraction Overlay from the parcel of land situated at 4873B State Highway 10, Kaingaroa</li> </ul>

### 5.2.2.1 Insertion of the Mineral Extraction Overlay

#### Matters raised in Submissions

93. A number of submissions were received seeking that the Mineral Extraction Overlay is applied to existing quarry sites (that did not have the Mineral Extraction Overlay applied at the time of PDP notification) as follows:
- Bellingham's (S7.002) seek that the Mineral extraction overlay is applied over their quarry site at existing Hollands Quarry site (approx. 20 hectares) at 286 Runaruna Road, Panguru.
  - Bellinghams (S7.003) seek to insert the Mineral Extraction Overlay over the existing Paranui Limeworks quarry, 184 Taylor Road, Oruru.



- c) Carrington Estate Jade LP and Carrington Farms (S351.005) seek to insert the Mineral Extraction Overlay to land at Whatuwhiwhi, identified as Pt Lot 1 DP 82178<sup>5</sup> which contains an existing operational quarry.

### Analysis

- 94. As set out in Key Issue 1 my recommendation is for a Mineral Extraction Zone to replace the Mineral Extraction Overlay.
- 95. I refer the Hearings Panel to **Appendix 3** and **4** which provides the maps and resource consents for all quarries. The Paranui Limeworks quarry is operated by Bellingham's and the quarry situated on Carrington Estate at Whatuwhiwhi, are both operating on existing use rights to authorise their activities, and have NRC consents in place. The Hollands Quarry at 286 Runaruna Road, Panguru also operated by Bellingham's has a NRC and a land use consent, a copy of that consent for the Hearing Panel's information is in **Appendix 4**.
- 96. As set out in paragraphs 73-74, the key criteria to determine if a quarry should be zoned Mineral Extraction is:
  - a) does it meet the definition of 'regionally significant mineral resources' under Policy 5.1.4 the RPS (Policy ME-P1)'; and
  - b) is mineral extraction authorised in the areas proposed to be included in the Mineral Extraction Zone (for example, by a resource consent)?
- 97. I acknowledge the sites Bellingham and Carrington Estate are seeking to have a Mineral Extraction Overlay extension are either adjacent to existing Mineral Extraction activities or have existing mineral activities already occurring.
- 98. In terms of the submissions in respect of the Paranui Limeworks quarry and the Carrington Estate quarry at Whatuwhiwhi, neither have land use consent granted to operate a mineral extraction activity across the area they propose to be spatially identified. Based on existing information, the extent to which existing use rights can be relied upon to authorise mineral extraction activities across the area sought to be included in the Mineral Extraction Overlay / Zone is also not clear to me. Given my recommendation for a MEZ and in the absence of detailed information I recommend these submissions be rejected. I welcome the submitter to provide further information in support of their relief sought to demonstrate whether the land in question meets the above criteria.
- 99. In terms of the Bellingham's Hollands Quarry, as advised, this quarry has a resource consent. I refer to Appendix 4. The resource consent for the Hollands Quarry is AUT.016767.01.02. I refer to paragraph 71-74 which set

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<sup>5</sup> Identified in Appendix A of submission 351



out how the NRC policy statement determines if a quarry should be zoned Mineral Extraction. The Resource Consent provides for the mining of aggregate. In my opinion this quarry meets the criteria as required and set out in paragraph 74 (a) – (h) for a regional significant resource. I refer to the map of the Hollands Road quarry (**Appendix 3**). Identified on the map is the spatial extent of the recommended Mineral Extraction Zone in red, marked one. The area marked one is currently subject to quarrying activity. The notified PDP incorrectly applied the Mineral Extraction overlay for Hollands Quarry to the triangle shaped parcel of land directly east of the existing quarry site. This piece of land is not part of the quarry operation and does not have any resource consent or permit for quarrying activities to occur. I recommend that the Mineral Extraction Overlay is deleted from this 'triangle' shaped site and that this land is not zoned Mineral Extraction Zone because it does not meet the criteria. I consider that Bellingham's submission S7.002 provides sufficient scope for this change because the submission seeks to accurately map the Hollands Quarry site as part of the Mineral Extraction Overlay (now zone).

100. The resource consent for the Hobbs Quarry is AUT .006881.01.05. I refer to paragraph 73-76 which set out how the NRC RPS determines if a quarry should be zoned Mineral Extraction. The Resource Consent provides for the mining of aggregate. The consent sets out a volume per year noting the volume per year varies due to supply. In my opinion this quarry meets the criteria as required and set out in paragraph 74 (a) – (h) for a regionally significant resource. The area that I recommend included as part of the MEZ is consistent with the area where quarrying is authorised by the resource consent. I would recommend in respect of this quarry the Mineral Extraction zone applies to the area shown in the map in **Appendix 4**.

### **5.2.2.2 Expansion of the Mineral Extraction Overlay**

#### **Matters raised in Submissions**

101. Submitters sought that the Mineral Extraction Overlay is 'extended' spatially to include additional areas for expansion at existing quarry sites as follows:
  - a) Bellinghams (S7.001) seek to amend the current extent of the Mineral extraction overlay at Hobbs Road Quarry at 61 Hobbs Road, Totara North, to enable its expansion.
  - b) Colin Robert and Darryl Judith Jay (S533.001) also seek to amend the current extent of the Mineral Extraction overlay is extended at Hobbs Quarry (Hobbs Road, being Lots 1 and 2 DP 191921, Pt Lot 1 DP 208032 BLK XI Mangonui SD, BKLK IV Maunga-Taniwha SD residue), to enable further expansion.
  - c) Bellinghams (S7.004) seek to amend the current extent of the Mineral extraction overlay over the existing Tangoake





Quarry, 538 Te Ahu Road, Te Kao to enable quarry expansion.

- d) Bellinghams (S7.005) seek to amend current extent of the Mineral extraction overlay over the existing Te Hapua Quarry, 5km up Te Hapua Road from Waitiki landing to enable quarry expansion.
- e) Bellinghams (S7.006) seek to amend current extent of the Mineral extraction overlay over the existing Larmer Road quarry, 377 Larmer Road, Kaitaia to cover the whole property, and to enable quarry expansion
- f) Ventia (S424.001) seek to amend the current extent of the Mineral Extraction Overlay at Puketona Quarry to include the entire area of NA97B/387.

102. Ventia's submission S424.001 seeking an increase in the extent of the Mineral Extraction overlay received a large number of the further submissions on a variety of issues including, the setback distance, impact on Indigenous Biodiversity, impact on other environmental factors such as water, and possible archaeological sites.

### **Analysis**

103. I refer to paragraph 95 in relation to the Bellingham submissions as advised in paragraph 47 at the prehearing submission meeting, Bellingham's now support a Mineral Extraction Zone. Accordingly, the extensions sought will be addressed on the assumption that the relief sought is extension of the Mineral Extraction Zone. The quarries Bellingham are seeking to extend are:
- a) Hobbs Road Quarry, supported by Colin Robert and Darryl Judith Jay;
  - b) Tangoake Quarry;
  - c) Te Hapua Quarry; and
  - d) Larmer Road Quarry
104. As set out in Key Issue 1 paragraphs 73-74 the key criteria to determine if a quarry should be zoned Mineral Extraction is:
- a) does it meet the definition of 'regionally significant mineral resources' under Policy 5.1.4 the RPS (Policy ME-P1)'; and
  - b) is mineral extraction authorised in the areas proposed to be included in the Mineral Extraction Zone (for example, by a resource consent)?





105. I acknowledge the sites Bellingham are seeking an extension to namely, Hobbs Road Quarry, Tangoake Quarry, Te Hapua Quarry and Larmer Quarry are adjacent to existing Mineral Extraction activities. However, the submissions do not provide sufficient information to confirm the requested extensions are subject to a permit or resource consent granted to operate a mineral extraction activity within the land to which the extension is being sought. Therefore, in the absence of detailed information I recommend these submissions be rejected. I welcome the submitter to provide further information in support of their relief sought to demonstrate whether the land in question meets the above criteria.
106. Regarding Ventia's submission on Puketona Quarry, while analysing and evaluating the submissions, the issue of a Mineral Extraction Zone versus a Mineral Extraction Overlay together with the mapping requirements of the Puketona quarry, a comparison of the PDP and ODP identified that there had been a mapping error. The mapping in question is illustrated in **Appendix 4**. To assist, there are two maps for the Puketona quarry. One has blue line marking where the submitter seeks the Mineral Extraction Zone would apply. The other is the recommended Mineral Extraction Zone in this report in a bold red line. For the sake of ease, I refer the Hearings Panel to the area marked 5 which, is the area included in the Mineral Extraction Overlay when the PDP was notified (but not included in the MEZ of the ODP).
107. One determination to be made is, *should the Puketona mapping error be rectified or should area 5 be included in the recommended Mineral Extraction Zone?* Area 5 is next to current quarrying activities, and is owned by the submitter. Though there is no confirmation in the submissions area 5 has a permit or resource consent granted to operate a mineral extraction activity within area 5. However, this must be considered on the basis that the submissions do not provide scope to remove the Mineral Extraction overlay (zone) from area 5 on the planning maps. The only original submission relating to this land is Bellingham submission seeking to further expand the Mineral Extraction overlay to include the whole site.
108. It is acknowledged a number of further submissions opposing S424.001 were received. The further submissions raised matters such as setback distance, impact on indigenous biodiversity, impact on other environmental factors such as water, and possible archaeological sites. While these concerns are valid any clearance of vegetation in area 5 would likely require resource consent, and use of area 5 for quarrying would be subject to a resource consent process (by both NRC and district council) where environmental effects will be considered and addressed. My recommendation is while area 5 does not meet the criteria to qualify for Mineral Extraction Zone per se, there is no scope to reduce the size of the Mineral Extraction Zone at the Puketona Quarry, therefore the extent of the Mineral Extraction Zone would remain the same as the recommended



Mineral Extraction Overlay as notified (i.e. is not extended to cover the entire site at NA97B/387).

109. The submitter has also requested extension to the Puketona Quarry in respect of a parcel of land to the North marked as area 6 on the map in **Appendix 4**. This area is also adjacent to an existing quarry operation. Again, the submissions do not provide sufficient information to confirm the requested extension has a permit or resource consent granted to operate a mineral extraction activity within the extension being sought. Given the close proximity of area 6 to a Māori Purpose Zone, the issues raised by the further submitters as set out in paragraph 108 and that this area is not currently used for quarrying activity, I recommend this area does not form part of the Mineral Extraction zone. In the absence of detailed information I recommend the submission be rejected. I welcome the submitter to provide further information in support of their relief sought to demonstrate whether the land in question meets the above criteria.

### 5.2.2.3 Deletion of the Mineral Extraction Overlay

#### Matters raised in Submissions

110. Submissions seeking deletion of the 'Mineral Extraction Overlay' are summarised below:
- a) Michael Jurlina (S365.001) seeks the deletion of the Mineral Extraction Overlay from the small section of land at 4873B State Highway 10, Kaingaroa which no longer operates as a quarry.
  - b) Imery's (S65.001-004) sought deletion of the Mineral Extraction Overlay from their landholdings at Mangakaretu Road and Maturi Bay Road, in favour of the retention of the existing Mineral Extraction Zone approach. The key reasons (expressed in Key Issue 1 above) are primarily because the overlay approach requires compliance with multiple sets of provisions which has unintended consequences and is not efficient or effective.

#### Analysis

Michael Jurlina (S365.001)

111. The deletion of the Mineral Extraction Overlay will result in the submission by Michael Jurlina (S365.001) being accepted, namely the removal of the Mineral Extraction Overlay from a small section of land at 4873B State Highway 10, Kaingaroa. This is largely due to the quarry longer being active. I recommend that the land in question is retained as Rural Production Zone and that the Mineral Extraction overlay (now recommended to be a Zone) is removed.



Imery's (S65.001-004)

112. As discussed in Key Issue 1 of this report, I recommend that the quarries included within the Mineral Extraction overlay are rezoned to Mineral Extraction Zone and the Mineral Extraction Overlay is deleted. I recommend that Imery's submissions (S65.001-004) are accepted for the key reasons already stated in Key Issue 1 of this report.

### **Recommendation**

113. For the reasons stated above, I recommend:

#### Insertion

- i. Rejection of the submission to insert a Mineral Extraction Overlay (zone) in relation to the Paranui Limeworks quarry and the Carrington Estate quarry at Whatuwhiwhi.
- ii. Accept in part the submission to expand the Mineral Extraction Zone in relation to Bellingham's Hollands Quarry.

#### Expansion

- iii. Rejection of the submissions to expand the in respect of:
  - a) Hobbs Road Quarry, supported by Colin Robert and Darryl Judith Jay;
  - b) Tangoake Quarry;
  - c) Te Hapua Quarry;
  - d) Larmer Road quarry; and
  - e) Puketona Quarry.

#### Deletion

- iv. Acceptance of the submission seeking deletion of the Mineral Extraction Overlay in respect of:
  - a) parcel of land situated at 4873B State Highway 10, Kaingaroa (which will become Rural Production Zone); and
  - b) Quarries situated at Mangakaretu Road and Maturi Bay Road operated by Imery's (which will become Mineral Extraction Zone)



### Section 32AA Evaluation

114. The section 32AA evaluation under Key Issue 1 evaluates the appropriateness, efficiency and effectiveness of my recommendation to remove the Mineral Extraction Overlay and replace with a Mineral Extraction zone in respect of the Mineral Extraction Zone and the relationship with the NRC RPS, so is not repeated here.
115. The application of the Mineral Extraction Zone to the Bellingham’s Hollands Quarry is appropriate because the quarry meets the criteria for the MEZ as stated in ME-P1 and as explained in paragraph 99 above.
116. Deletion of the Mineral Extraction Overlay from the parcel of land situated at 4873B State Highway 10, Kaingaroa are appropriate because the site no longer operates as a quarry, does not meet the criteria set out in ME-P1, and Rural Production Zone is consistent with the nature of activities on the site.

### 5.2.3 Key Issue 3: Policies

Provision(s)	Officer Recommendation(s)
Policies ME-P2, ME-P3 and ME-P9	Retain as notified, except with amendment to ME-P3 and ME-P5 to delete 'overlay' replace with 'zone'.
Policy ME-P5	<ul style="list-style-type: none"> <li>Amend to insert the word "significant"</li> <li>Delete the words "outstanding natural character"</li> </ul>
Policy ME-P6	Retain
Policy ME-P7	Retain

#### 5.2.3.1 Enabling / Providing for Mineral Extraction Activities

##### Matters raised in Submissions

###### *Policy ME-P2*

117. Waiaua Bay Farm Limited (S463.087) support Policy ME-P2 and seek it is retained as notified. Forest and Bird (S511.110) and KCT (S442.129) both support Policy ME- P2 in part, and request that it only applies to the Mineral Extraction Overlay.

###### *Policy ME-P3*

118. F&B (S511.111) and KCT (S442.130) both opposed Policy ME-P3, although Forrest and Bird suggest ME-P3 because they consider that:
- a) Mineral extraction activities should not be provided for outside of the Mineral Extraction overlay they seek either its deletion or amendment, so the policy is not "provide for" as this is viewed as too enabling.



- b) The conditions are entirely loose to serve as any sort of restraint (e.g. “any level of public benefit seems too loose”).
- c) Clause (c) is far too ambiguous to serve useful purpose.
- d) Clause (d) is already provided for in ME-P2.
- e) Extent of “Natural Environment Overlays” referred to in clause (b) and is ambiguous.

### **Analysis**

- 119. The purpose of ME-P2 is to enable new mineral extraction activity to occur while ensuring significant adverse effects of the activity are appropriately managed. I acknowledge the submissions in support of this policy.
- 120. ME-P3 is necessary because the Mineral Extraction chapter is providing the District Wide objectives and policies for mineral extraction activities.
- 121. F&B-KCT submission seeks that mineral activities should not occur outside of the mineral extraction overlay/ zone. This does not take into account the objectives, polices and rules the other locations and zones may have in place to mitigate any adverse effects. As such a restriction such as that proposed is not necessary. In addition, the mineral extraction overlay/ zone reflects only known current and legally established extraction activity. Resources like aggregate occur ‘in place’ (where the resource is located) and play a fundamental role in maintenance and development of infrastructure and buildings. Precluding district wide policy guidance for the extraction of these resources is inappropriate in my opinion. On that basis it is my opinion the deletion of ME-P3 is not necessary. I also considered F&B-KCT alternative submission but also recommend that this alternative relief is rejected for the same reasons as stated above.

### **Recommendations**

- 122. For the reasons above I recommend F&B-KCT submissions are rejected and no amendment to ME-P3 occurs as suggested by F&B-KCT.

### **Section 32AA Evaluation**

- 123. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

## **5.2.3.2 Avoiding Adverse Effects from Mineral Extraction Activities**

### **Matters raised in Submissions**

#### *Policy ME-P5*

- 124. Submitters sought amendments to Policy ME-P5 as follows:



- c) Te Hiku Iwi Development Trust (S399.075) request the word significant be inserted to read as follows "avoid significant adverse effects."
- d) Far North District Council (S368.040) sought removal of reference to 'outstanding natural character' because this only occurs in the coastal environment so is redundant in the policy.

#### *Policy ME-P6*

125. Submitters sought amendments to Policy ME-P6 as follows:

- a) F&B-KCT (S511.113) and (S442.132) seek that this policy only applies to the Mineral Extraction Overlay, and has concerns that the policy does not go far enough in terms of protecting indigenous biodiversity in accordance with NRC RPS specifically policy 4.4.1(3).
- b) Te Hiku Development Trust (S399.076) submit ME-P6 does not take account of threatened and at-risk species of biodiversity as required by Policy 11 of the NZCPS and seek c be amended to include the words "... threatened and at-risk indigenous species" at the end.

#### *Policy ME-P7*

126. Submitters sought amendments to Policy ME-P7 as follows:

- a) Hiku Development Trust (S399.077) seeks an amendment to ME-P7 by adding the words "and indigenous biodiversity" after natural landscapes. They are of the view the policy does not take account of threatened and at-risk species of biodiversity as required by Policy 11 of the NZCPS.
- b) F&B-KCT (S511.114) and (S442.133) support in part ME-P7 but are of the view it only works if their recommendations for ME-P6 have been accepted i.e MP-P6 has been amended to provide for SNAs therefore complying with NZCPS, policy 11, the NRC RPS 4.4.1 and s6(c) of the RMA.

#### **Analysis**

- 127. In my opinion, amending Policy ME-P5 as suggested by Te Hiku Iwi Development Trust adds readability and makes clear the intent and direction of the policy. Avoiding all adverse effects is a high bar and does not reflect the direction provided in the relevant chapters managing the matters in a-f.
- 128. The deletion of the reference to 'outstanding natural character' in Policy ME-P5 as sought by Far North District Council makes clear the intent of the Policy and provides clarity to the plan user.



129. In respect of F&B–KCT and Te Hiku Development Trust submissions on ME-P6, the Mineral Extraction Chapter is part of district wide plan and must be read in conjunction with the other plan chapters including Ecosystems and Indigenous Biodiversity, Natural Features and Landscapes, and Heritage Areas. As stated above I recommend that the term ‘Significant Natural Areas’ is replaced with ‘areas of significant indigenous vegetation and significant habitat of indigenous fauna’ for consistency in terminology used throughout the PDP.
130. My opinion as indicated previously in this report is the PDP is an integrated planning document and should be read in full. The plan is structured to contain parts that are interrelated. The plan user is directed at the start to read the plan as a whole. Mr Wyeth addresses these matters at length in his s42A report on the Indigenous Biodiversity chapter how the plan complies with the NZCPS, policy 11, the NRC RPS and the RMA. As an integrated plan it is not necessary for each chapter to be stand alone. The approach requested by submitters would create unnecessary duplication which is not efficient or effective.

### Recommendations

131. For the reasons above I recommend the following:
- a) Accept the submission from by Te Hiku Iwi Development Trust requesting amendment to Policy ME-P5 as suggested by adding the word “significant” as follows “avoid significant adverse effects.”
  - b) Accept the Far North District Council’s submission seeking deletion of Policy ME-P5 clause (c) outstanding natural character
  - c) Retain Policy ME-P6 as notified
  - d) Retain Policy ME-P7 as notified.

### Section 32AA Evaluation

132. The recommended amendments are primarily to clarify the wording and intent of the policies and do not materially change the policy and assists with consistent implementation of the plan. On this basis, no evaluation for these recommended amendments under Section 32AA is required.

#### 5.2.4 Key Issue 4: Rules Overview

Provision(s)	Officer Recommendation(s)
Rules	Amend rule framework to a ‘Mineral Extraction Zone’, retaining the rules with and associated consequential amendments for consistency with a zone framework





Rule ME-R3 (mineral exploration and prospecting)	Delete standard PER-1 that requires exploration and prospecting to be undertaken using hand tools.
Rule ME-R4 (expansion of an existing mineral extraction activity)	Retain with amendment to the setback standards (for quarry expansion) to 10M
Rule ME-R5 (new Noise sensitivity activity)	Retain as notified
Rule SUB-R16	Amend SUB R16 to clarify intent and introduce a new rule for subdivision of land within 100m of a Mineral Extraction Zone

### Matters raised in Submissions

133. In this section of the report, for ease of reference, I have referred to the rules as they are referenced in Appendix 1C – the recommended rule framework. **For ease of reference at the hearing, I encourage the panel and submitters to refer to the rule references in Appendix 1C as opposed to the notified version of provisions (Appendix 1A).**

#### *Rule ME-R3 – Exploration and prospecting*

134. Imery's (SS65.008) and Ventia Ltd (S424.005) oppose PER-1 standard within Rule ME-R3 which requires that prospecting and exploration is undertaken using hand tools only, and seeks that this standard is deleted. The submitters consider that limiting exploration and prospecting to hand tools only promotes unnecessary limitations to mining operations, noting that it is unclear what the standard is trying to achieve, especially for existing quarry or mining sites.

#### *Analysis*

135. I have examined other district plans including the Whangarei District Plan and I have not found a planning provision which has a performance standard limiting exploration and prospecting to hand tools in a dedicated mineral extraction zone. Most commonly exploration is to determine the depth and extent of resource and needs to be undertaken with a drilling rig or a digger to excavate. Limiting this activity to hand tools is not in line with industry standards and may not achieve the objectives of the PDP. I agree with the submission of I & V and recommend this PER-1 be deleted.

#### *Rule ME-R4 – Expansion of existing mineral extraction activity*

136. F&B-KCT (S511.117 and S442.136) oppose ME-R4 (expansion of existing mineral extraction activity) and seek that the activity status for expansion of existing mineral extraction activity is amended from controlled to restricted discretionary. They submit the Council should retain an ability to refuse consent for the expansion of mineral extraction activities saying as at the time of assessment of an overlay the knowledge of the site may not have been comprehensive enough to identify all important values.





137. Ventia (424.006) and Imery's (S65.009) oppose Rule ME-R4 as it contains arbitrary numbers, for example:
- a) Standard CON-3 requires not more than a 10% increase in volumes to retain controlled activity status. The submitters highlight that business varies according to market demand with annual production sales varying year to year. The 10% figure is considered arbitrary with no defined rationale.
  - b) Standard CON-4 requires a 30m setback from the existing MEO boundary which the submitters consider "makes the entire zoning exercise redundant". They consider that if the landholding has been appropriately zoned for mining, the full extent should be able to be quarried / mined; and
  - c) In many instances, the matters which Council seeks to control are appropriately managed by the Northland Regional Council through their consenting regime, particularly with respect to existing quarrying arrangements. The submitters consider that the PDP in this respect seeks to duplicate regional council requirements.

#### *Analysis*

138. F&B-KCT and V&I are opposed to Rule ME-R4 but for different reasons. The environmental groups are concerned the standard does not allow FNDC to refuse consent for the expansion of mineral extraction activities and identify all important environment values. The Mineral group of I & V submit the standard results in arbitrary measures which have no evidential basis and do not allow them to meet supply and demand. For mineral extraction activities with existing resource consents, Section 128 of the RMA allows the Council to review the consent conditions to deal with any adverse effects that may arise from the exercise of the consent.
139. I have considered the submission in respect of Standard CON-3 and also considered a possible addition to ME-R4 CON-3 which could include the words "the extraction volumes do not increase by more than 10% to the authorised annual extraction volume" at the end of the sentence.
140. I refer to Appendix 4. The consents via the Management Plan provide for a maximum annual volume to recognise the variability of the extraction rates.
141. Northland has several quarries that are operating under "existing use rights". A possible consequence of recommending this change is that the authorized annual extraction volumes are not necessarily obvious, and this standard may be difficult to enforce for these quarries, limiting its effectiveness.



142. Accordingly, I invite submitters to provide further evidence on changes requested to resolve their concerns. In the absence of this information my current recommendation is to retain ME-R4 (CON-3) and as notified.
143. I have considered the submission in relation to Standard CON-4. I have referred back to the ODP Chapter 8 Rural Environment section 8 Mineral Zones. Standard CON 4 refers to expansion of a Mineral Expansion Overlay and was introduced with the PDP. My recommendation is a Mineral Extraction Zone. If this Standard was deleted it would allow Mineral Extraction up to the boundary which could generate adverse effects including effects of land instability and on amenity values for neighboring properties. I note that many resource consents for quarrying activities require a 10m setback from site boundaries. For the sake of consistency and to avoid unnecessary complication or confusion for plan users who are used to operating with a Mineral Extraction Zone I recommend Standard CON-4 (setback from boundaries) is retained but the distance be amendment to 10m. I recommend the standard is applied only to site boundaries where the boundary adjoins land that is not zoned Mineral Extraction, to void sterilization of land zoned Mineral Extraction.
144. V&I submitted in many instances, the matters which Council seeks to control are appropriately managed by the Northland Regional Council through their consenting regime. While I accept, I & V holds this view, it is not accepted. I consider that all of the matters in rule ME-R4 are within District Councils functions and responsibilities under Section 31 of the Resource Management Act. The PDP complies with those obligations including the directions of the RPS.

*Rule ME-R5 – New mineral extraction activity*

145. Ventia (S424.007) and Imery's (S65.010) seek that rule ME-R5 (which applies discretionary activity status to a new mineral extraction activity) is deleted or amended to a controlled activity status. The submitters highlight that the Mineral Extraction Overlay applies to existing mineral extraction activities, and that controlled activity status can achieve the matters to which Council typically have concerns with for existing operations.

*Analysis*

146. I have reservations that deleting ME R5 (for new noise sensitive activities) as sought by submitters, could result in unintended consequences. There is still a need to control the effects of quarrying activities. Although the rule is unlikely to be applied to existing quarrying activities, for the sake of future scenarios, I recommend that Rule ME-R5 (new mineral extraction activity) is retained.

*Rule ME-R6 – New noise sensitive activities*

147. Imery's (S65.011) and Ventia (S424.008) oppose Rule ME-R4 which applies discretionary activity status to new noise sensitive activities (or alterations or additions to a building or structure containing a lawfully



established sensitive activity). These submitters consider that should a quarrying activity wish to include a noise sensitive activity on their site i.e workers accommodations then this should be provided for.

### *Analysis*

148. The submitter's request to delete ME-R4 and permit noise sensitive activities on sites has no detail as to why this is necessary. Amending the rule to provide for certain types of accommodation on quarry sites would be difficult and create inconsistency with the approach (e.g. Standard RPROZ-S7) to protect quarries from noise sensitive activities on other sites (potentially creating a "permitted baseline" argument that would be contradictory). In light of this initial evaluation, I invite I&V to provide more evidence as to why amendment or deletion of this Rule is necessary.

### *Rule SUB-R16 – Subdivision*

149. Imery's (S65.016, 017) and Ventia (S424.012, 013) oppose Rule SUB-R16 which applies Discretionary activity status to subdivision of a site containing a mineral extraction overlay. The submitters consider that this rule:
- a) does not appropriately provide for subdivision which can impact its existing or future operations. A new rule is required to protect mining activities from potential sterilisation, noting that Note 5.1.5(e) of the RPS requires consultation with owners of regionally significant mineral resources when proposed subdivision, land use or development may have an adverse effect.
  - b) only considers subdivision that will result in dwellings being built. However, boundary adjustments may occur as a result of areas being rehabilitated following exhaustion of the minerals deposit and the potential passive / active recreational activities that may occur.
150. Northland Regional Council (S359.021) have sought that the reverse sensitivity provisions are strengthened especially where lifestyle/rural residential development occurs within or adjoins mineral extraction activities.



*Analysis*

151. Rule SUB-R16 (as notified) reads as follows:

SUB-R16	Subdivision of a site containing a mineral extraction overlay	
All zones	<p><b>Activity status: Discretionary</b></p> <p><b>Where:</b></p> <p><b>DIS-1</b>            A <a href="#">building</a> platform for each <a href="#">allotment</a> can be <a href="#">setback</a> 100m or more from the Mineral extraction overlay.</p>	<p><b>Activity status where compliance not achieved with DIS-1: Non-complying</b></p>

152. The intention of the provision was to achieve two things, avoid sterilization of resource in the zone and also ensure that subdivision on adjacent land does not compromise quarrying activities (reverse sensitivity effects). The rule, as notified, does not work as intended because it only applies to sites containing the mineral extraction overlay rather than the adjacent land where sensitive activities could be developed resulting in reverse sensitivity and sterilisation effects from resulting from subdivision, land use and development. I recommend that the rule is simplified to apply to "Subdivision of a land within the mineral extraction-zone" as shown in **Appendix 1C** and that the setback in SUB-16 is deleted.
153. Northland Regional Council (S329.021), WBFL (463.0088) I & V (S65.016-017 and S424.012-013) and FS Bellingham's (FS94.9) were concerned about quarry buffer areas and the sensitive activity set back from the Mineral Extraction (not being large enough). I refer to paragraph 49 of this report. The setback distance was discussed at the prehearing meeting with the mineral extraction group.
154. To gain a better understanding of how other districts manage the issue, I looked at the setback provisions of the following plans: Auckland Unitary Plan, Waipa District plan, Selwyn District Plan and Whangarei District Plan. While each plan provided different setback requirements for different activities, for example, Selwyn's District plan provide 200m for extraction and 500m when the quarry involved blasting or processing of aggregate, I could not find a plan that had only a 100m setback.
155. On each of the maps in **Appendix 4** is a solid red 500m set back circle and a dotted red 100m set back circle. Also marked on the maps are houses within the two set back distances. The purpose of this is to give the Panel and submitters an illustration of what the two distance look like on the map. Having reviewed other District Plans, I am concerned that the size



of the setback is less than others which could generate reverse sensitivity and conflict between activities effects, but acknowledge the 100m is consistent with the intent of the rule as notified and consistent with the zone setback standards for sensitive activities from boundaries of a Mineral Extraction overlay (e.g. RPROZ-S7). In my view, a larger setback could ensure the conflicting land use is managed more appropriately. I have addressed this issue further in paragraph 157.

156. Based on existing information, I recommend a new rule to for Discretionary activity status for Subdivision of land within 100m Mineral Extraction Zone (as shown in **Appendix 1C**). This amendment would achieve consistency with the 100m setback for sensitive activities provided in the zone chapters and the ODP approach. However, I note that this change could raise possible issues of fairness because Rule SUB-R16 as notified applied to "Subdivision of a site containing a Mineral Extraction Overlay" (and not adjacent sites) and the submissions who have raised concerns (NRC and Mineral Extraction Group) seeking greater setback distances have not specifically sought a prescribed setback distance in their submission. However, I am of the view that the intention of the rule was also to apply a setback to sites outside of the Mineral Extraction Zone.
157. The Panel may make the requested changes to apply a larger setback if it finds that the relief "does not go beyond what was reasonably and fairly raised in submissions" (for example, if the Panel found that NRC and the Mineral extraction group submissions, read together, fairly sought that Rule SUB-R16 be amended to apply a setback to subdivision of land surrounding the mapped Mineral Extraction Overlay (zone)). The Hearing Panel are advised that any recommendation to accept the suggested amendment to SUB-R16 would not be free from risk or challenge because it could be argued that NRC and the Mineral extraction group's relief was not "reasonably and fairly raised in submissions", which could result in new restrictions on landowners' ability to use their land, and it could be said that affected landowners have not had reasonable opportunity to comment on these restrictions. However, this risk is considered low because the zone rules already have a 100m setback for sensitive activities within 100m of a Mineral Extraction Overlay and the change affects a small number of rural properties.
158. In saying the above, I do not recommend a larger setback (such as 500M) at this time because:
  - a) the majority of quarries are located in remote rural areas, surrounded by large land parcels, where there is limited development pressure (and limited ability to develop new dwellings as a permitted activity under the PDP rural zones framework); and



- b) the operators have not provided sufficient justification at this time to demonstrate that there have been reverse sensitivity issues arising with the current 100m setback, nor have they provided any detailed evidence to demonstrate that a larger setback is necessary.
  - c) However, if any submitter would like to provide further evidence for and justification for the Panel to demonstrate that a larger setback does not go beyond what was reasonably and fairly raised in submissions and demonstrate a larger setback is necessary I am happy to reconsider the setback distance.
159. In relation to boundary adjustment, I do not consider **I & V** submission point seeking amendment to SUB-R16 to provide for boundary adjustments is accurate or necessary. Boundary adjustments are provided in Rule SUB-R1.

### **Recommendations**

- 160. For the reasons above I recommend the following:
- 161. Accept the submission of V&I and recommend PER-1 standard within Rule ME-R3 undertaken by using handtools be deleted
- 162. Reject the submission by V&I and Retain ME-R4 CON 3 that requires not more than a 10% increase in volumes to retain controlled activity status.
- 163. Accept in part the submissions F&B–KCT and V&I in respect of Rule ME-R4 and amend the rule to apply a boundary setback of 10m for expansion activities.
- 164. Reject the submission of V&I in respect of ME-R5 which applies to discretionary activity status to a new mineral extraction activity.
- 165. Reject the submission by V& I to amend Rule ME-R6 for noise sensitive activities.
- 166. Accept in part NRC, V&I and FS Bellingham’s submissions and amend SUB-R16 the title of the rule, to clarify intent and insert a new rule for Subdivision of land within 100m Mineral Extraction Zone. The activity status for both rules to be discretionary.

### **Section 32AA Evaluation**

#### *Effectiveness and efficiency*

- a) The amendments clarify the plan intent, reduce ambiguity and are consistent with the approach to the National Grid corridors.



- b) The approach strikes an appropriate balance between the protection of mineral extraction from incompatible activities through the District Plan, reliance on industry standards and regulations and other processes outside the District Plan, and enabling the efficient use of land.

#### *Costs/benefits*

- c) The benefits of the amendment remove the requirement to use hand tools for prospecting and exploration s are increased certainty for operators, and reduced costs associated with plan interpretation, resource consents and enforcement.
- d) The benefits are efficient operation of mineral extraction activities, providing benefits to the community, which are not constrained or compromised by incompatible activities.
- e) The costs associated with subdivision restrictions within 100m of the mineral extraction activities (borne by landowners), although it is noted that these sites are primarily within the Rural Production Zone and mostly surrounded by large land parcels where development pressure for sensitive activities is low.

#### *Risk of acting or not acting*

- f) There is some risk in accepting the recommended amendments because Rule SUB-R16 does not include a setback as notified, and limited detail has been provided to date on the extent of the setbacks sought by NRC and the mineral extraction group. The expansion of the setback to 100m could affect landowners ability to efficiently use their land.
- g) The risks in not accepting the relief sought is that there is potential inconsistency with new activities within close proximity to the mineral extraction activities could result in sterilisation (though there are rules in the zone chapters that require resource consent for sensitive activities within 100m of a Mineral Extraction Overlay).

#### *Decision about most appropriate option*

- h) The recommended amendments are considered to be more appropriate in achieving the purpose of the RMA and the PDP objectives than the notified version of the PDP and the section 42A report recommendations.





## 5.2.5 Key Issue 5: Standards (Mineral Extraction Area Management Plan)

### Overview

Provision(s)	Officer Recommendation(s)
Standard ME-S1	Retain

### Matters raised in Submissions

167. Three submissions on were received on Standard ME-S1 (Mineral Extraction Area Management Plan).
168. Ventia Ltd (S424.010) and Imery's (S65.013b) support the standard in part and seek that it is retained as it is similar to the requirements of a Development Plan in the Operative District Plan. The Management Plan for new activities should be linked to ME-R3 as a Controlled Activity, without any further restriction from the underlying zone.
169. Te Hiku Iwi Development Trust (S399.078) submits that clause (4)<sup>67</sup> of Standard ME-S1 is insufficient. Clause 4 requires that the Management Plan addresses "Rehabilitation anticipated for the site following the completion of mineral extraction". The submitter considers this clause should be amended to ensure that the use of rehabilitation resources such as topsoil, logs, boulders, and wilding plants are maximised and rehabilitation outcomes are maximised, particularly with respect to indigenous biodiversity and the potential for prolonged adverse effects in the absence of effective rehabilitation. The submitter requests that rehabilitation plans are consistent with the Centre for Mining and Environmental Research Guidelines, specifically those available in Section 5.7 of the guidance document available<sup>8</sup>.

### Analysis

170. Standard ME -S1 is similar to what is currently in the ODP and states this plan is a minimum. A Quarry Management Plan is a typical information requirement and process associated resource consents for quarries throughout New Zealand, and is an effective way to adaptively manage environmental effects of quarries as they change over time and progress into different areas.
171. Te Hiku Iwi Development Trust are seeking the management plan be strengthened in particular around rehabilitation. The guidelines the submitter refers to and provided for reference specifically relate to 'mesothermal (orogenic) gold mines' in the South Island. In my opinion it

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<sup>7</sup> Submission refers to clause 5 however the clause they are referring to (regarding rehabilitation) is clause 4 of Standard ME-S1.

<sup>8</sup> [https://www.cmer.nz/publications/2018/MELG\\_Meso\\_Gold\\_NAFF.pdf](https://www.cmer.nz/publications/2018/MELG_Meso_Gold_NAFF.pdf)





is necessary to be consistent in terms of practise and if a Guideline was to be followed it should be specifically applicable to the context and type of extraction proposed i.e. similar quarries as those located in the Far North.

### Recommendation

172. For the reasons above, I recommend accepting the submission of V&I and rejecting the submission of Te Hiku Iwi Development Trust. I recommend ME-S1 is retained as notified.

### Section 32AA Evaluation

173. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

## 5.2.6 Key Issue 6: General Support and Other Matters (not addressed elsewhere)

### Overview

Provision(s)	Officer Recommendation(s)
Objective ME-O1	Retain as notified
Objective ME-O3	Retain as notified
Notes	Amend - National Environmental Standards for Plantation Forestry to National Environmental Standards for Commercial Forestry

### Matters raised in Submissions

174. A number of submissions were received indicating general support for certain provisions. These are summarised below:
- a) KCT (S511.109) and F&B (S511.109) support Objective ME-O1 in part, in particular the reference to meeting the District's needs rather than international / global corporate needs, and seek the objective is retained as notified.
  - b) Manulife Forest Management (S160.031) support Objective ME-O3 as there is benefit in mapping active quarries, and seek the objective is retained as notified.
175. Several submissions were also made on the 'Notes' section of the Mineral Extraction Overlay Chapter above the rules section. These include:
- a) Summit Forests New Zealand Limited (S148.043, S148.044) who seek that the Plan should provide explicit provision for quarrying within a Plantation Forest for use under the same ownership or management as set out in regulations 50 to 59 of the NES-PF. While note 2 to the rules refers to the NES-PF, it does not explicitly state that forestry quarrying in



accordance with the regulations is permitted and it incorrectly references regulations 93 and 94 of the NES-PF.

- b) Ventia Ltd (S424.004) supports the Notes section and considers that the advice notes are necessary to avoid any potential confusion, particularly when considering the definition of 'Earthworks'.

### **Analysis**

- 176. Given the support of the submitters to ME-O1 and ME-O3 I seek these objectives be retained.
- 177. As referred to in Section 4.2.1, due to a legislative amendment note 2 will need to be amended to reflect the legislative change, namely National Environmental Standard for Commercial Forestry.
- 178. Summit Forests New Zealand Limited in their submission refer to regulations 50 to 59 and regulations 93 and 94 of the then NES-PF (now NES-CF). For the assistance of the Hearings panel, there was an amendment to Regulation 59 by Regulation 31 and Regulation 93 by Regulation 47. Regulation 31 replaces schedule 4 with 5. Regulation 47 changes the definition of "plantation forestry activity" to "commercial forestry activity".
- 179. In my opinion given the legislative amendment there is no further need to amend the notes beyond replacing them with the updated references.

### **Recommendation**

- 180. For the reasons above, I recommend:
  - a) ME-O1 and ME-O3 ME -SI be retained as drafted.
  - b) Apart from the necessary legislative amendment no other change.

### **Section 32AA Evaluation**

- 181. Other than a required legislative change there is no change to the objectives and notes at this stage. On this basis, no evaluation under Section 32AA is required.

## **6 Conclusion**

- 182. This report has provided an assessment of submissions received in relation to the Mineral Extraction Overlay chapter. The primary amendments that I have recommended relate to:
  - a) District-wide Chapter to include Objectives and Policies for Mineral Extraction Activities on a District Wide basis;



- b) A Mineral Extraction Zone (to replace the Mineral Extraction Overlay) containing rules and standards; and
  - c) Consequential amendments to several policies and rules to clarify intent, reflect industry practice and standards, improve consistency with other parts the PDP, and replace reference from 'Mineral Extraction Overlay' to 'Mineral Extraction Zone'.
  - d) Amendments to Rule SUB-R16 to apply discretionary activity status to subdivision of land within 100m of a Mineral Extraction Zone.
183. Section 5.3 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the Mineral Extraction Overlay chapter should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of this report and in Appendix 2.
184. I recommend that provisions for Mineral Extraction are amended as set out in Appendix 1B for the reasons set out in this report.

**Recommended by:** Lynette Morgan- Policy Planner District Plan, Far North District Council

**Approved by:** James R Witham – Team Leader District Plan, Far North District Council.

**Date:** 18 October 2024