

2.35 - Rural subdivision - section 32 evaluation for the Proposed Auckland Unitary Plan

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1 Overview and Purpose

1.1 Subject Matter of this Section

The regulation of rural land subdivision is a district responsibility under the Resource Management Act 1991 (RMA). Legacy plans contain a variety of sometimes conflicting provisions based on different methodologies. The Proposed Auckland Unitary Plan (the Unitary Plan) provides an opportunity to develop a consistent, Auckland-wide methodology for rural land subdivision.

The closer subdivision of sites in Auckland rural areas is a significant issue. Further fragmentation of sites in areas outside identified rural lifestyle areas will result in declining rural production, an increase in adverse reverse sensitivity effects, and reduced rural productivity.

In this s.32 report, the term “site” is used in the same way as the Unitary Plan, that is:

Site

- a. *An area of land which is:*
 - i. *composed of one allotment in one certificate of title or two or more contiguous allotments held together in one certificate of title in such a way that the allotments cannot be dealt with separately without prior consent of the council; or*
 - ii. *contained in a single lot on an approved survey plan of subdivision for which a separate certificate of title could be issued without further consent of the council; being in any case the smaller area of (a) or (b); or*
- b. *An area of land which is composed of two or more contiguous lots held in two or more certificates of title where such titles are:*
 - i. *subject to a condition imposed under section 37 of the Building Act or section 643 of the Local Government Act 1974; or*
 - ii. *held together in such a way that they cannot be dealt with separately without the prior consent of the council; or*
- c. *An area of land which is:*
 - i. *partly made up of land which complies with (a), (b) or (c) above: and*
 - ii. *partly made up of interest in any airspace above or subsoil below a road; where (i) and (ii) are adjacent and are held together in such a way that they cannot be dealt with separately without the prior approval of the council;*

except that in the case of land subdivided under the Unit Titles Act 1972, the cross lease system or stratum subdivision, 'site' shall be deemed to be the whole of the land subject to the unit development, cross lease or stratum subdivision.

Current legacy plans all provide greater opportunities for creating additional sites outside identified rural lifestyle areas than the Unitary Plan provisions. The change in approach from legacy plans is widespread and significant, and represents an acknowledgement by key participants in the rural sector that legacy plan approaches are not working because they are allowing rural sites to be further fragmented, which is steadily eroding both rural production and rural productivity.

The Unitary Plan directs rural lifestyle subdivision and development into areas which have been strategically identified because the heavily fragmented pattern of existing sites, relatively lower soil productivity, and close proximity to existing urban settlements. Regulating subdivision outside these areas by capping the number of sites will provide the greatest opportunity of retaining the natural productivity of the remaining rural production land. This will enable these areas to continue to make a significant contribution to the prosperity of greater Auckland.

Pressures on rural Auckland, such as population growth, demand for rural living and rural experiences, diminishing and stressed ecology and natural systems, and changing land values, create tensions between different activities and values. Conversely, locally grown food, tourism, recreation and productive activities are made possible by proximity to urban Auckland.

The population in rural Auckland – including towns and settlements – has grown at a rate of 7,500 people per year over the last two census periods, making up 27% of Auckland's 28,000 annual population increase.

In the wider, global context, securing soil and water resources to support an ever-increasing population is a formidable challenge. Sustainable land management practices are essential to ensure rural land remains productive and is not degraded by land cultivation practices.

Twenty seven per cent (124,843ha) of the Auckland Council total land areas are classified as high-class, productive agricultural land, defined as Land Use Capability (LUC) Classes 1 to 3. Spatial analysis indicates that 10,399 Ha of this land has, in recent years (and up to 2011/12), been lost to various development types such as urban extension into operative or approved greenfields, being lost under buildings. Unitary Plan objectives in section 2.8.2 state that 'the subdivision, use and development of elite and prime land is managed to maintain its capability, flexibility and accessibility for primary production' thereby recognising the importance of Auckland's land and soil resources.

In the near future, lodged or future greenfield developments will mean an additional potential loss of 6,010 Ha of high-class land. Spatial analyses indicate that 359 Ha of LUC Class 1 has been lost to development over recent years.

Eighty-six per cent of all the Class 1 land in New Zealand that has not already been lost to development is located around Pukekohe.

It is considered this makes the Class 1 land in greater Auckland nationally significant. The area supports a significant proportion of New Zealand's outdoor vegetable production, but it is also immediately adjacent to the southern part of urban Auckland and Pukekohe. While this is a significant strategic advantage, it also makes the land vulnerable to expansion of Auckland itself, or any of the villages (such as Patumahoe or Waiuku). Further expansion of these settlements could result in the further loss of the best soils in New Zealand.

Similar issues arise in other locations around greater Auckland.

While much of the focus of the rural subdivision provisions is towards protecting the best soils in greater Auckland, the balance (and greatest proportion of the land area), that is, soils of LUC Classes 4 and above, support a wide range of rural production activities (including sheep and beef farming, equestrian, and forestry) which contribute significantly to generating wealth and providing employment in greater Auckland.

Further fragmentation of rural land can arise from "rural sprawl", which is the subdivision of land to enable its residential use. This has the same outcome as urban expansion, in that it almost always takes the land out of rural production and where the rural lifestyle site continues to be farmed, its productivity is severely reduced.

Closer subdivision, particularly if the land use also changes from farming to rural lifestyle, is also likely to result in reverse sensitivity problems making it more difficult for full-time farming to be carried out adjacent to the rural lifestyle or urban property.

This s32 report describes the advantages and disadvantages of the range of subdivision techniques commonly used in legacy plans, and the reasons for choosing the techniques adopted in the Unitary Plan. It concludes that the approach to rural subdivision taken in the Unitary Plan is appropriate and necessary to maintain sustainably the soil resources and land productivity of greater Auckland.

The suite of land use rules in the Unitary Plan is complementary to the rural subdivision strategy.

1.2 Resource Management Issue to be Addressed

The key issue addressed in this section 32 report is the adverse effect of site fragmentation unrelated to productive land use. This report documents the key resource management issue, the adverse effects of site fragmentation, and describes why it is necessary for the Unitary Plan to build on but ultimately take a different approach from the various approaches used in legacy councils' district plans.

1.3 Significance of this Subject

The productivity of rural Auckland and in particular that part of it which is comprised of elite or prime land (LUC classes 1-3) is of regional and national significance. Maintaining and improving its rural productivity in the face of pressure for urban expansion, rural lifestyle development, non-rural uses, and site subdivision, are a real challenge.

All legacy district plans regulate rural land subdivision. They all have broadly similar objectives and policies relating to maintaining rural land productivity. However, they have all struggled to address these development pressures in the face of the increasing population of greater Auckland. As a result, elite and prime land has been lost to urban or rural lifestyle development, site fragmentation has gradually but steadily increased, and rural productivity as well as coastal amenity values are more under threat now than ever from the effects of site fragmentation.

Collectively, rural Auckland makes a significant contribution to the prosperity of urban and rural Auckland and New Zealand, and makes a significant contribution to the quality of life of those who live in greater Auckland. It is therefore in the local and national interest that it is able to continue to do so.

1.4 Auckland Plan

The Auckland Plan describes the current situation in the following way:

Most of Auckland is rural. Our large rural areas host diverse economies and activities, and include stunning landscapes and coastal areas: the West Coast; Hunua and Waitākere ranges; the Kaipara, Manukau, Mahurangi and Whangateau harbours; Gulf Islands; and numerous regional parks. Terrain is varied, land uses and settlement patterns across 384,000 Ha of land, which comprise over 70% of Auckland's landmass, reflect this. Greater Auckland has about 3,700 km of coastline which attracts people with aspirations of subdividing and developing it.

These rural areas are integral to Auckland's unique character, and vital to its economy and its people.

1.5 Current Objectives, Policies, Rules and Methods

Legacy district plans all identify this issue, and have broadly similar objectives and policies relating to rural land. These objectives and policies, in summary, set out to:

- maintain the rural productivity of rural land;
- maintain and enhance rural character and amenity values;
- preserve the coast as directed by the NZ Coastal Policy Statement;

- provide for the infrastructure that's needed to support rural productivity;
- avoid 'reverse sensitivity' effects adversely affecting rural productivity;
- limit the scale of rural subdivision as part of a suite of rules designed to achieve these objectives and policies.

These objectives and policies are laudable, however the rules that are intended to give effect to them have had limited success in achieving them. A different strategy and associated rules are needed if the objectives and policies are to be achieved.

The Unitary Plan has therefore addressed this issue by adopting the following strategy:

- making minimal or no provision for additional sites in rural areas outside Countryside Living zones. It is considered there are already enough sites to meet the reasonable needs of rural and rural coastal areas in greater Auckland;
- providing for farming and forestry to be carried out in rural areas (outside Countryside Living and Rural Conservation zones) with minimum regulation. This will ensure rural land uses are subject to regulation only if it is important to address an environmental issue that cannot be regulated through numeric standards. This will provide appropriate flexibility for operating rural land uses and ensure that where a non-rural land use is proposed it is assessed through the resource consent process to ensure it complements rural land uses;
- providing for the transfer of the development rights attaching to an existing site (from a donor site) in one location to a site in another location (the receiver site). It requires that the donor site comprise two sites that are amalgamated into a new single site prior to Council approving the subdivision of the receiver site;
- providing for routine rural subdivisions such as those for utility sites, reserves (such as esplanade reserves) and road realignment, to be carried out with minimum regulation;
- providing for the subdivision of very large sites where the resulting sites are large enough to sustain broad-acre rural production activities
- providing for the location of site boundaries to be restructured through boundary relocation. This will enable them to be located where they can make the greatest contribution to rural productivity;
- subdivisions that are not otherwise provided for are Prohibited Activities. This ensures that if land is suitable for rural lifestyle subdivision, then the subdivision is undertaken using one of the boundary relocation or transferable rural site subdivision tools, or is rezoned to Countryside Living zone.

In parallel with this strategy, the rural subdivision rules provide opportunities for protecting important indigenous vegetation and wetlands, and in return being able to subdivide land in some identified Countryside Living zones to a higher density than otherwise provided for. The vegetation or wetland protected must be within a Significant Ecological Area identified in the UP.

1.6 Information and Analysis

A simple assertion of the contribution rural areas make to generating wealth in greater Auckland and New Zealand overlooks the strategic importance of retaining this productivity in its current location. This s.32 finds that a high level of intervention in the rural land subdivision process is required in order to preserve the ability of greater Auckland and New Zealand to produce its own food near the nations principal urban area, especially as the largest area (a high percentage of which is also contiguous) of highly productive or land in LUC class 1-3 (elite and prime land) in the greater Auckland area (and in New Zealand) is on Auckland's doorstep. It is therefore of enormous strategic importance to retain its productivity.

This was stated in the Auckland Plan, and has been carried through into the Unitary Plan through objectives, policies, and rules that seek to maintain and enhance the productivity of all rural areas through a strategy of:

- minimising the creation of additional sites in rural areas;
- minimising site fragmentation of LUC classes 1-3;
- minimising site fragmentation in coastal areas;
- providing flexibility for landowners to adjust property boundaries, and to transfer the rights that attach to sites from one place to another, provided this action does not increase the number of sites within areas within which the predominant soil types are LUC classes 1-3 or areas around the coast;
- identifying by zoning areas suitable for Countryside Living;
- providing limiting opportunities for new sites to be created in Countryside Living zones as a result of protecting indigenous vegetation. The vegetation being protected must be of recognised significant quality (identified in the UP as a 'significant ecological area');
- rewarding the amalgamation of rural sites by enabling additional sites to be created in identified Countryside Living zones and in rural areas where they won't compromise productivity especially of elite or prime land, and are large enough to ensure reverse sensitivity issues won't arise as a result of the subdivision;
- Enabling and supporting rural production activities through land use rules that facilitate them while discouraging activities that could hinder them.

The evidence and analysis that have led to the development of this strategy are as follows.

1.6.1. Current potential for residential use of rural land.

About 20,000 sites in rural areas do not have a house on them. There is therefore significant potential for a large number of new houses to be constructed in rural areas without any further subdivision. However, not all those sites will be in locations in rural Auckland that are attractive to buyers and sellers of rural land.

With few exceptions¹, current legacy District Plans allow (as a Permitted Activity) each and every rural site to have (at least) one house built on them. This means sites can be used for purely residential purposes without any consent from Council.

Productive farms are, almost without exception, comprised of multiple sites. The sale of these sites to separate individual owners will result in loss of rural production and lower productivity of the land involved.

Most of the most productive land (elite and prime land, LUC classes 1-3 incl.) in greater Auckland is located in one consolidated area in the south, and almost all the LUC class 1 land in greater Auckland (and most of the LUC class 1 land in New Zealand) is located there. Because of its easy contour, convenient location near to State Highway 1, access to the railway, and attractive rural amenity values, this land is also very attractive for non-rural uses and especially residential use.

Given the large number of vacant sites in the greater Auckland area, the potential exists for a significant increase in the number of houses in rural and coastal areas. If the rights (to build houses) that are currently available under legacy district plans were exercised, a significant loss of productive land to rural lifestyle use, as well as an increase in adverse reverse sensitivity effects in relation to farming, would result.

¹ Exceptions typically arise if the title is small (as defined by a minimum area), or comprises closed road, is geotechnically unstable, floods, is not capable of onsite servicing, is below mean high water springs, forms part of a streambed or riverbed, or has some other physical limitation that prevents its development.

The Unitary Plan strategy therefore attempts to prevent the creation of additional sites in rural and coastal areas, but at the same time provide flexibility so routine subdivisions for roads, reserves, utilities, and boundary adjustments are provided for, as well as providing the opportunity to transfer sites (and the rights to build that attach to them) from one place to another in rural Auckland, provided this does not compromise land productivity (especially in areas comprised of elite and prime land) or coastal character, or create adverse reverse sensitivity effects or loss of rural character.

1.6.2 Assessment of rules that enable subdivision of land to occur without requiring the subdivision to be justified by demonstrable increases in rural production or productivity.

This type of plan provision specifies a minimum site area that is available to any landowner who wishes to subdivide their land.

Plan provisions that enable subdivision of land in rural areas to occur without the subdivision being justified by increased rural production generally and increased farming production are almost certain to result in long-term reductions in rural production and productivity. The central problem with these types of provision is that for every new site created, there are a bundle of rights stated in the district plan.

These rights normally include the right to build a house, as well as the right to carry out farming activities. Typically, district plans also provide for rural activities that do not involve farming (including horticulture) or forestry.

Once a district plan attaches a bundle of rights to a rural site (especially the right to build a house on it), it gains a value independent of its rural productivity. If a site is vacant, it has latent potential for residential use.

If the site is small enough and in the right location to be attractive to a rural lifestyle dweller, then its value and use is virtually guaranteed to be based on its lifestyle use. This then determines its market value, and is significantly higher, per hectare, than the value of rural land valued according to its productive potential.

While the land owner may keep stock on the land, the land productivity (measured by the value of inputs and outputs relative to the land value) will be low, and the property can accurately be described as a “hobby farm” or “rural lifestyle”, and the owners will almost certainly rely on off-farm income to support themselves.

Individual properties or clusters of properties with these characteristics will also create problems for farmers who support themselves by farming (i.e., whose principal income is derived by farming the land). Reverse sensitivity issues are well known and well documented, and arise when the occupiers of “rural lifestyle” properties make it difficult for a farmer to carry out normal farming activities on an adjacent rural property.

This type of approach to rural land subdivision is not sustainable, and will not result in a sustainable use of land. As land is taken out of production that production must be established elsewhere on land of lower natural productivity. Doing so requires greater inputs to achieve the same levels of production or productivity. It is likely also to result in additional transport costs, as these areas will be located further from the Auckland urban population.

The only way in which such a laissez faire approach to land subdivision could work would be if the right to build a house on a site was removed from the bundle of rights that attach to ownership of a site. None of the legacy plans adopt this approach. If it were to be tried, it would be a significant departure from the conventional and accepted approach that is taken

in district plans throughout New Zealand, that is, ownership of a site normally enables the erection of a dwelling on it. While that right may be conditional upon gaining resource consent, the reason for requiring consent is usually limited to a reasonably narrow range of matters such as design (where the proposed dwelling is required to be compatible with the landscape character or amenity values of the area in which it will be located), or physical suitability of the site for building on, for example if the land floods, erodes, or is land-locked (has no practical or physical road access).

Under the Resource Management Act 1991 (RMA), any rule that prevents the ability of a landowner from building a house on their land is normally strongly opposed (provided the land is physically capable of having a house built on it). The RMA requires that under a district plan, a landowner can make reasonable use of their land. In many European countries, the “reasonable use” of rural land extends no further than to farming the land and stops short of providing a “right” to build a house. In those countries, applications to the local authority for consent to build a house on a vacant rural site are routinely refused because granting consent would (for example) result in a proliferation of dwellings in a rural area and therefore detract from rural amenity values, rural character, or rural productivity, or some other similar land use or amenity reason.

In jurisdictions where building a house on every rural site is not a “right”, subdivision does not need to be regulated by local government. Instead, control of land subdivision can be a matter between the landowner, the purchaser, their surveyors, and the equivalent of the District Land Registrar. In New Zealand, it is unlikely that a similar approach would ever succeed, because it would cut across accepted cultural norms and be deemed under the Resource Management Act 1991 to prevent the reasonable use of the land.

For these reasons, the Unitary Plan has limited the opportunities to subdivide land without reference or with limited reference to its productivity to:

- land in a Countryside Living zone, where site fragmentation and dwellings are accepted and anticipated, and rural amenity values are considered to be those of a densely settled rural area;
- land for road realignment, reserves, and some infrastructure;
- boundary adjustments and boundary relocations;
- very large sites where the resulting sites are large enough to sustain reasonable rural production activities (150 Ha as the minimum site size)
- Maori land where subdivision and development rights have been transferred as part of a Treaty of Waitangi settlement.

1.6.3 Assessment of rules that reward the re-vegetation of land or the creation of a wetland in one place, with the ability to subdivide land at the same place or elsewhere.

This type of rule has been in district plans for about 15 to 20 years, so there is now a reasonable body of monitoring information to inform a decision to include, modify, or discontinue it. Typically, the rule enables an applicant to identify an area that would benefit from re-vegetation or the creation of a wetland, specifies a minimum area and type of vegetation to be planted or wetland to be created, and provides for a new site to be created at the same location as the newly planted re-vegetation or created wetland. The rule is intended to encourage indigenous vegetation to be planted or wetlands created and rewards this with the opportunity to subdivide land mostly at the replanting or wetland location, or elsewhere.

Monitoring of this type of enhancement subdivision the greater Auckland area shows conclusively that legacy plan provisions have not succeeded. There are many reasons

current provisions that enable a new site to be created as a reward for re-vegetation or wetland creation or enhancement have failed².

In many applications, the information provided has been inadequate or incorrect. Often, assessment of the biodiversity values of the re-vegetation proposal has been provided by a person who is not suitably qualified and experienced in the subject (i.e., is not a qualified ecologist). Where council has accepted the information at face value, and has not referred it on to a suitably qualified and experienced person to be peer reviewed, the revegetation proposal is likely to have been flawed from the start. Even if completed according to the information provided, many would never have provided a worthwhile contribution to the biodiversity values in the area.

Some restoration projects have been overly ambitious or optimistic, and would in reality be unlikely ever to succeed. Applicants often significantly underestimate the cost and effort involved in successfully establishing areas of indigenous vegetation or a wetland. This resulted in fewer plants than necessary being planted, and with typical losses, planted areas have ended up being sparsely planted and will never meet the outcomes sought. Following from this, councils have not always had mechanisms to take bonds from applicants or require them to be posted in order to complete the required works.

Where subsequent landowners have not maintained the enhancement planting, and it has died or otherwise failed to meet the outcomes sought. In some cases, the landowner (usually after the property has been sold) has applied to Council to have the covenant removed.

Annual monitoring of the progress of the re-vegetation has been very patchy or non-existent, and many councils have not required the consent holder to send annual reports (at their expense) on the progress of the enhancement or wetland to the council. Legacy councils have typically assumed it is their responsibility to monitor the progress of re-vegetation or wetland. While this may be correct in law, Council does not need to do the monitoring itself. The task of monitoring can and should be transferred to the consent holder as an ongoing condition of consent (given effect to through a consent notice imposed with the subdivision consent) together with a central register of consents. The consent holder should be required to provide Council with an annual monitoring report at least for several years, the assessment to be carried out by a suitably qualified and experienced person. Council itself does not need to carry out this work, and the annual cost of the exercise can be required to be borne by the consent holder.

Where this arrangement has been entered into, it is essential that Council has confidence in the independence of the suitably qualified and experienced person, and can require that the choice of this person be agreed between the parties prior to the monitoring work being carried out (so avoiding the need for a peer review). However, most legacy councils have taken on the responsibility for carrying out the monitoring themselves, they don't have confidence in the independence of contractors hired by the consent holder.

Expecting Council to carry out annual monitoring requires Council to provide adequate annual funding for monitoring and enforcement of an ever increasing number of covenanted properties and an ever increasing area of covenanted vegetation and wetlands. Recovering the cost of monitoring from consent holders is likely to be a challenging. Lastly, these mechanisms require a records keeping system that monitors the due date for annual inspection, whether or not a monitoring report has been carried out, and initiate enforcement action if required.

² In the monitoring exercise carried out as background to the UP.

Experience has shown that councils have not successfully set up monitoring systems Auckland-wide or budgeted adequate funds to carry out the monitoring work.

Councils have often certified subdivision consents as meeting conditions of consent, enabling new sites to issue, before the re-vegetation or wetland has become fully established and resilient. Vegetation may subsequently have died or been choked by weeds. Monitoring indicates that this is one of the most significant disadvantages of the current rules and their administration. The practice in this regard has been very uneven across greater Auckland. A better system with greater consistency is required if this type of subdivision is to have any chance of success.

However, the cost of setting up and maintaining such a system will be substantial. Given the observed failure rates for re-vegetation, and the practical difficulties that have been evident in making the re-vegetation rules work, it has been decided that the UP will not include such rules for subdivision. Opportunities for subdivision as a result of covenanting indigenous vegetation or wetlands are therefore limited to vegetation or wetlands that have already been identified in the UP as an SEA. Where a landowner seeks to gain a reward from re-vegetating land or constructing a wetland, then there is always the opportunity to apply to include the re-vegetated or wetland area in the SEA maps, which would give automatic rights to apply for a transferable rural site subdivision based on protection of SEA quality vegetation or wetland.

The location of re-vegetated areas has been random and isolated, and has not lead to the consolidation of areas of significant indigenous vegetation or identified SEA's. Where the subdivision has occurred at the same location as the re-vegetation, the existence of the new dwelling has in itself put the indigenous vegetation under threat as because of. Monitoring of consents has shown that there has in many cases been little if any biodiversity gains through revegetation.

Otherwise, continuation of current district plan rules and practice will achieve no more than a minimal increase in biodiversity values in greater Auckland.

1.6.4 Assessment of rules that enable subdivision of land as a reward for the protection of existing indigenous vegetation or wetlands that the applicant has identified as having appropriately high ecological values.

There are several reasons for this type of rule failing to meet its intended purpose.

The vegetation identified has often not been significant. Monitoring has found that in many instances the vegetation is of low quality and protecting it offers little if any biodiversity gains.

The person carrying out the identification has not always been suitably qualified and experienced to assess the vegetation quality, or certify that it meets the district plan standards (if there are any).

District plans have not always contained adequate criteria for evaluating the quality of indigenous vegetation proposed to covenant.

Legacy Councils have found their objectives, policies, or rules inadequate to support rejection of applications that include areas that make little if any contribution to biodiversity, or applications where the assessment has not been carried out by a suitably qualified and experienced person.

Even where the indigenous vegetation proposed to be covenanted has been assessed by a suitably qualified and experienced person, district plan objectives, policies, or rules

(including assessment criteria) have been inadequate to enable rejection of areas that will make little if any contribution to biodiversity.

The areas that have been covenanted have been isolated, randomly located, and not contiguous with other areas of indigenous vegetation such as SEA, whether covenanted or not. The areas proposed to be covenanted have therefore contributed little to improving the biodiversity value of rural areas.

The net result is that in much of Greater Auckland, numerous, disconnected, small areas of low value indigenous vegetation have been covenanted. Their contribution to biodiversity has been marginal. However, their long-term legacy is additional sites and houses in rural areas. In some instances, the subdivision that the district plan rules have enabled has taken place at the site of the indigenous vegetation being covenanted. The influence of the dwelling (through cutting access to building sites, clearing vegetation around the dwelling, and bringing cats and dogs into close proximity to the indigenous vegetation) has in many instances resulted in the biodiversity values of the vegetation being more threatened after covenanting and subdivision than before it. This fact was highlighted in consultation undertaken as part of the release of the draft Unitary Plan.

In theory, rules enabling subdivision of land as a reward for covenanting existing indigenous vegetation should result in enhanced biodiversity, but in practice their success has been very uneven. It is therefore difficult to conclude that biodiversity values in rural areas have been significantly enhanced as a result of protecting existing indigenous vegetation.

Having found that, there have been some very successful examples where large areas have been legally protected and are well maintained. The reasons for these successes are mainly from the dedication and enthusiasm of the owners responsible for the vegetation. This can of course change with changing land ownership.

The main issue with this type of rule is the uneven success rate, and the random location of the indigenous vegetation that has been covenanted. This is particularly the case where, prior to subdivision, there are large contiguous areas of indigenous vegetation, and after subdivision these areas have been broken up by rural lifestyle subdivision with its associated dwellings, driveways, fences and other vegetation clearance.

Applications to clear or modify the covenanted areas are sometimes made several years after the original subdivision, and by a subsequent owner. By this stage, it is likely to be difficult to refuse consent to the request, because:

- the vegetation may not comprise or even resemble high quality indigenous vegetation, and the opportunity to require remedial action to meet the original conditions of consent is, realistically, non-existent;
- the passage of time, particularly if annual monitoring (and enforcement) has not been carried out, implies that Council has no problem with the declining quality of the vegetation, even if it is not indigenous vegetation;
- where the council certification and issuing of titles has been carried out some years earlier, subsequent landowners are entitled to assume that all conditions of subdivision consent have been met, although in subdivisions undertaken under the RMA there are likely to be consent notices (not possible under previous legislation) attaching to the title containing the covenanted vegetation. This makes it difficult for Council to revisit the quality of the vegetation at the time the application to modify it is made;
- some covenants have not been backed up by consent notices attaching to land titles (although these tend to be older consents). Unless a covenant is referred to in a consent notice, requests for modification or revocation could have been carried out under the Local Government Act, not the RMA, and may have been dealt with by a different

- allowing this type of subdivision in random rural locations rather than in areas identified in the plan for countryside living, is likely to result in adverse reverse sensitivity effects, and unplanned demands for services such as road upgrading.

1.6.5 Assessment of rules that enable amalgamation of sites in one place to create a right to subdivide land in another place.

This type of subdivision can give rise to several adverse effects, including:

- limited gains where the sites being amalgamated are small or are in a location of very low demand for rural lifestyle occupation;
- adverse environmental effects where the new sites are created in an area of high demand but where further subdivision would be inappropriate and would be contrary to other objectives and policies, such as further subdivision along the coast.

Even though there is some benefit from amalgamation of sites, it is relatively small, and if the new sites are created in an inappropriate location, such as along the coast, then there are likely to be significant adverse effects from the subdivision.

Where the district plan rules do not set minimum standards for the sites being amalgamated, they may in reality have limited or no development potential. This would mean any “right” being transferred is theoretical. Examples of sites that have limited or nil development potential are landlocked sites (which have no legal access), sites that flood or are partly below mean high water springs, sites that are too small for onsite wastewater, sites that were formerly closed road, sites that form part of a “soldier settlement town”, sites created under the Mining Tenures Registration Act, and sites created under the Maori Land Act.

1.6.6 Assessment of rules that enable the subdivision of land to provide a house site for a retiring farmer.

Most plans from the 1970’s and 80’s contained this type of provision. This type of provision was intended to allow retiring farmers to subdivide the land around the farmhouse or create a new house site, and sell the farm, thereby remaining in their local community. Normally, plans have specified a minimum qualifying period for the retiring farmer to have farmed the land. While the provision was intended to enable farmers to stay in their local area, and thus to meet the social needs of the rural community, in the longer term it has resulted in several adverse effects:

- farmers have carried out this type of subdivision, then sold off the house site. In this context, this type of subdivision has come to be seen as part of their pension fund;
- farmers have owned the land through various types of land ownerships that have effectively prevented them from using the rule to their advantage. For example, if the farm is owned by a company and the farmer is a director of the company, or owned by a trust where the farmer is a trustee, or leasehold occupation, may all be interpreted to exclude the retiring farmer from taking advantage of the rule;
- because there are other members of the rural community who have made long-term contributions to it and supported its infrastructure, it seems inequitable that they should not also be able to take advantage of the “retiring farmer” rule. For example, agricultural contractors and owners of rural industries are all necessary parts of the rural infrastructure that supports farming (and the retiring farmer);
- subdivision under the rule has no relation to improving land productivity. Rules for subdivision of rural land should, and usually do, attempt to ensure that they operate to

- with the passage of time (often in as little as 10 years), the retiring farmer's circumstances can change, and they move away, often into town. This leaves a rural lifestyle site for sale to the highest bidder. Because of the small area of the site, the new owner will rely on off-farm income to support themselves, and may have little or no connection to the local rural, or farming community. The potential for adverse reverse sensitivity effects to arise is therefore reasonably high.

Like all standards, those that a farmer needs to meet to qualify as a 'retiring farmer' are arbitrary. District plan standards normally include a minimum age (e.g. 60 years) and minimum length of time they have farmed the land (e.g. 15 years). These can be seen as either overly generous or overly restrictive, but either way, the outcome can be that described above where the 'right' to subdivide and sell the site created becomes part of a retiring farmer's expectations, whether the farmer subdivides around the existing farmhouse or creates a new vacant site (whether or not they build a house on it).

The location of the retiring farmer site may well be adverse to objectives and policies that seek to prevent new small sites being created on arterial roads (ribbon development), or preventing additional sites in rural areas, especially if they are unrelated to improving rural productivity.

One of the few redeeming features of this type of rule is that the age and time restrictions in the rule enable only a relatively few farmers to take advantage of it. Over time, however, there is a cumulative adverse effect of randomly located rural lifestyle sites, in addition to those that already existed.

1.6.7 Assessment of rules that enable subdivision around existing rural industries or intensive farming.

It is an inherent characteristic of rural industries and intensive farming that highly productive land is not a pre-requisite for them to operate successfully. Therefore, they can be established on a wide range of soil types. Legacy plans normally discourage their establishment on high quality land especially LUC classes 1-3, and this is normally assessed at the time a land use application is made. Application for consent to subdivide the part of the site on which the rural industry or intensive farm is located is often made at the same time as the application for land use consent is made, or shortly thereafter. This approach presupposes that the rural industry or intensive farming business will proceed, and if it does, that it will be successful in the long term. Neither of these things can be guaranteed, particularly if financing the rural industry or intensive farm depends on funds released from the sale of the residual land or a loan secured over the site of the rural industry or intensive farm.

It is not appropriate under the RMA to grant or refuse consent to an application for land use consent on the basis that the applicant lacks the funds needed to carry out the proposal being applied for. Because the consent runs with the land, if applicants don't have the funds to establish the use, or don't intend to establish it themselves, they are entitled to sell the consent with the property. If establishment of the activity depends on money from the sale of the balance area or a loan secured against application site, then the subdivision needs to be completed prior to establishment of the use. It is not appropriate to grant consent to land subdivision subject to a condition that requires the new sites to be amalgamated if the business isn't established or subsequently fails. This type of condition places Council in an impossible position if enforcement is required, because Council cannot require the new site to be amalgamated back to the parent site. To avoid this, district plans that include this type of provision normally limit the scope of the rules to subdividing around an existing rural industry or existing intensive farm.

Problems with this type of rule emerged (especially during the 1980's kiwifruit boom) when many plans allowed subdivision of land for horticulture. Even if the applicant was required to construct a glasshouse or plant kiwifruit or grape vines (for example) prior to Council finally signing off the subdivision, many landowners found it was cost-effective to do so solely for the purpose of gaining consent to their application. The glasshouse or kiwifruit or grape vines were seen as a tax on the subdivision. After consent had been granted, the glasshouse would either sit idle, or be removed and reused on another site sometimes for the same purpose. Similarly, kiwifruit vines were removed or simply became a hobby as the new site was used principally for rural lifestyle purposes.

Councils cannot attach conditions of subdivision or land use consent that require a proposed rural industry or intensive farm to be established, or when established, operate successfully forever. Councils cannot take bonds or require them to be posted to ensure compliance with such a condition. The purpose of such a condition or bond would be to ensure that if the rural industry or intensive farm did not proceed, then the subdivision could be reversed by amalgamating the new sites. This is not realistic, particularly if one or both have been sold.

Legacy councils have therefore found it difficult to deal successfully with applications that purport to be necessary for the establishment of a rural industry or intensive farm, but are in reality simply vehicles to enable the subdivision of land for another purpose, such as creating saleable rural lifestyle site. They have usually tried to prevent this with plan rules that require any subdivision to go ahead only around already established uses.

This, however, does not entirely solve the problem. Legacy councils have found that allowing land subdivision around an established rural industry or glasshouse can lead to the value of the site on which the business is established is worth more as a rural lifestyle site than a site with a business on it, so by closing the business the property reverts to rural lifestyle use.

Allowing land subdivision around an established rural industry or glasshouse runs the risk that both the new vacant site and the rural industry site become rural lifestyle sites.

Creating a situation where there is a rural industry close to a rural lifestyle site is an undesirable course of action, because of the reverse sensitivity effects that can arise once the new rural lifestyle site has a house on it. Reverse sensitivity effects can result in curtailing the normal operation of the rural industry or glasshouse, and can result in the business closing because of the difficulty of operating normally when located so close to a dwelling. Typically, intensive farming activities like mushroom growing or poultry hatcheries or rural industries like truck depots have difficulty co-existing with the occupants of rural lifestyle dwellings.

While this type of rule has been drafted with the best intentions to meet the needs of activities that support rural production activities such as farming, or to promote intensive farming activities rural areas, in practice it has proved problematic because it can so easily simply result in additional rural sites with no increase in rural productivity.

1.6.8 Assessment of rules that enable the transfer of a development right from a site being amalgamated, or from the permanent protection of indigenous vegetation, into areas along the coast, into areas of class 1-3 soils, or from one part of greater Auckland to another completely different part.

Some legacy councils' plans include rules that prevent the transfer of development rights from sites being amalgamated or as a reward for covenanting indigenous vegetation or wetlands, into sensitive locations such as coastal areas, or onto areas of class 1-3 soils. Franklin District introduced 'Management Areas' partly to prevent transfers into coastal areas, or areas of highly productive land, and to prevent transfers from remote areas of the

district where there is little demand for rural lifestyle dwellings into areas where there is high demand (such as along the coast). These rules are designed to prevent the proliferation of dwellings along the coast, and the fragmentation of highly productive land. These rules form an integral part of the transferable development rights regime of these councils.

These rules were opposed (including at the Environment Court) by various appellants who considered that there should be more freedom to transfer development rights around the district. The proposed UP has not included all the provisions that form part of the settlement of these appeals because it is considered they will not in the long term promote sustainable benefits to biodiversity as well as limiting fragmentation of rural land.

1.6.9 Assessment of rules that require the LUC classification of the donor site being amalgamated to be “better” than the LUC classification of the receiver site being subdivided.

The intention of this rule is to prevent the fragmentation of highly productive land. However, the rule has not been completely successful because its intention can be undermined by the use of boundary adjustment or boundary relocation rules.

This undermining occurs when, prior to an application for the transfer of a development right, the boundaries of the donor site are adjusted or relocated solely in order to ensure the donor sites are comprised of a “better” LUC class than the receiver site. Once this has been done, it is a relatively simple matter to demonstrate compliance with a rule that requires the donor site to be comprised of more highly productive soils than the receiver site being subdivided.

Because the rule compares only the LUC classification of the donor and receiver sites, it does not ensure that the receiver site itself is not highly productive land. Highly productive land occurs in many locations where it is attractive for rural lifestyle occupation, so all the subdivision achieves is an increase in the number of rural lifestyle sites with all the consequent problems they bring, and permanent loss of highly productive land.

1.6.10 Assessment of rules that make subdivision of land within LUC classes 1, 2, or 3 a Prohibited Activity in order to prevent its subdivision.

This type of rule is intended to prevent subdivision generally (and site fragmentation in particular) of highly productive soils. It does not map these soils, but relies on a site by site assessment to determine whether the Prohibited Activity status applies.

The main problem with this type of rule (and the reason it has not been used in the UP) is that determining whether land is LUC class 1, 2, 3, or another LUC class, is a matter of expert opinion, frequently debated and subject to litigation. It does not provide the certainty required to enable a landowner to know whether they will be able to apply to Council for consent to subdivide their land.

Where district plans use this type of rule, applicants who consider their land is not caught by the Prohibited Activity status have no straightforward way to resolve the impasse with the Council or Council planning officer who disagrees with the applicant. Often, applicants and the Council have taken advice from experts who come to different conclusions. Being a Prohibited Activity, the applicant cannot apply for consent if the Council says the land is LUC class 1, 2, or 3. Differences between experts cannot be resolved in any straightforward way.

The only way this type of rule can work is if Council maps the areas where the LUC classes it seeks to protect exist in sufficient scale to justify prohibiting further land fragmentation. The UP adopts this approach through the identification of (currently) one “Receiver Site Exclusion Area” that incorporates the bulk of the classes 1-3 land between Pukekohe and the Manukau Harbour, Waiuku and Bombay. This area was identified in the course of Franklin Rural Plan Change 14, and a similar area has been carried forward into the UP.

It is possible that in future, with detailed mapping, other similar areas may be identified, and the opportunity to transfer a development right into this area through the “transferable rural site subdivision” rule, would not be available.

1.6.11 Assessment of rules that allow transferable rural sites to be generated by vesting reserves in Council.

Some legacy plans provide for a transferable rural site to be created following the vesting (in Council) of land as reserve.

The reason some plans include this type of provision is to add reserve land without having to purchase it. This rule can benefit the amenity values of rural areas, reduce sediment draining into streams (where the reserve is an esplanade), provide new or larger recreation areas, or provide public access to and along the coast. It is attractive to Councils that these can be partly or wholly provided without public funding.

Unless the plan specifies what land Council seeks to obtain, applications granted consent under these rules can lead to public ownership of land that:

- is remote or inaccessible, and therefore unlikely to be of any value as a recreation or scenic reserve;
- has little biodiversity value;
- makes little contribution to rural amenity values;
- is vested as esplanade reserve, but is unconnected to other esplanade reserves and therefore makes little or no contribution to public access to streams rivers or the coast, or makes little or no difference to filtering runoff;
- results in unbudgeted-for public cost through fencing, maintenance, or pest and weed control.

For this provision to work, it is therefore necessary for the land to be identified in the plan, and to have been selected through a public process according to a set of publicly-available criteria that will maximise public benefit and minimise public cost.

1.6.12 Rules that provide for subdivisions not anticipated by the plan to be a Non-Complying Activity.

In many legacy plans, subdivisions that are not provided for become Non-Complying Activities automatically (by listing or by default). It means they are assessed under the objectives and policies of the plan.

The benefits of using this approach for land subdivision are:

- having subdivisions not provided for assessed as Non-Complying Activities provides a high level of flexibility for landowners. It enables applications for any type of subdivision to be assessed against the objectives and policies, and this is highly attractive to landowners who wish to subdivide to create a rural lifestyle site. This situation arises particularly when there are two dwellings on one site, as a case is often made that subdividing the land around them to create one house per site will result in no change to the effects as the dwellings already exist (i.e., the argument that “subdivision is just lines on paper”);
- the process of making a resource consent application is, from the applicant’s point of view, a simpler and less expensive process than applying for a plan change. Where a plan lists subdivisions not provided for as a Prohibited Activity, then only plan changes can provide for those types of subdivision. The process for applying for and assessing a Non-Complying Activity is much less rigorous than that for applying for and assessing a plan change application, and not holistic as a plan change must be;

- making subdivisions not provided for a Non-Complying Activity means the Council is indicating that subdivision for any purpose are able to be assessed under the objectives and policies of the plan. This approach allows complete flexibility for Councils to approve subdivisions based on interpretations of the objectives and policies that suit the political dynamics of the time, allowing applications to be assessed with little thought to the cumulative effects of a series of one-off applications.

The disadvantages of this type of approach are:

- the Unitary Plan would provide little certainty about which types of subdivision that will not be allowed in rural areas. Because Non-Complying Activity applications are a type of application that is assessed under the objectives and policies, this approach opens up all rural areas to applications to subdivide land;
- the host community is likely to face the financial and social costs of submitting against such applications, drawing both applicants and submitters into litigation about the merits of a particular subdivision, including those that are contrary to the objectives and policies of the plan. This is particularly draining when repeated applications are made;
- subdivision proposals which may have little merit have been approved because they are assessed against objectives and policies, and determining whether a particular proposal is in accordance with or contrary to the objectives and policies is a matter of opinion and debate which is often not helped if objectives and policies are vague or ambiguous;
- the inherent limitations of the scope of the resource consent assessment process means applications are not subject to the same holistic assessment that plan changes require. Because similar applications should be treated in a similar way, there will be widespread implications if applications to subdivide for rural lifestyle use are approved;
- the cumulative effects of approving multiple applications can result in areas becoming de facto Countryside Living zones, without a plan change to determine whether the location is, strategically, the most appropriate for a countryside living use.

It is considered that the disadvantages of this approach greatly outweigh the advantages, so the UP makes the subdivision of land around an existing house in a way that effectively creates an additional rural lifestyle site a Prohibited Activity.

1.7 Consultation Undertaken

See 5.1 of this s.32 report for a full statement of the consultation undertaken during the development of the rural subdivision strategy.

The rural subdivision strategy was developed over about two years. It follows the directions stated in the Auckland Plan. At every stage in its development it has been tested with the council's Rural Advisory Panel (RAP), an advisory body of rural industry and farming representatives convened to advise council on rural matters. Its chair is a councillor on Auckland Council. A second body, the Rural Industry Group, was also convened to provide a forum for discussion and debate on rural matters. This group is made up of industry representatives. Periodically, the RAP held workshops with other rural related organisations (including conservation organisations) to discuss issues of importance to the rural sector, including rural subdivision.

As the subdivision and land use strategies were developed, the RAP provided an independent, peer reviewing and auditing function.

Lastly, consultation with the general public through the release of the whole UP has provided valuable feedback on the rural land use and subdivision provisions.

1.8 Decision-Making

A full record of the meetings and workshops that have been held to discuss this subject is set out in 5.3 of this s.32 report.

The provisions have been examined in detail by the staff oversight group and were also debated at the Auckland Plan Committee (APC) of Council following development of the subdivision provisions.

1.9 Proposed Provisions

The subdivision strategy includes rules that:

- enable the development potential of rural sites to be moved from one part of rural Auckland to another, in order to cap the total number of rural sites and prevent further fragmentation of sites (transferable rural site subdivision);
- enable site boundaries to be restructured in a way that improves rural productivity (boundary adjustment, boundary relocation);
- enable the development potential of rural sites to be transferred into particular countryside living zones to allow closer subdivision for rural lifestyle use (transferable rural site subdivision);
- enable the subdivision of very large sites
- reward the permanent protection of high quality indigenous vegetation and wetlands (transferable rural site subdivision);
- prevent subdivision around an existing dwelling unless that subdivision is achieved by transferring that development potential from elsewhere (prohibited activity status, transferable rural site subdivision);
- prevents elite or prime land being subdivided further, even where it is possible to transfer the development potential of one site (transferable rural site subdivision; receiver site exclusion area);
- allow further land subdivision for rural lifestyle development, but only in countryside living zones, some of which can be more closely subdivided if development potential is transferred from elsewhere (countryside living zone subdivision rules, transferable rural site subdivision).

Therefore, there need to be some exceptions to general subdivision rules that provide for the transfer of development potential from one part of rural Auckland to another.

Receiver site exclusion area

In the Proposed Auckland Unitary Plan, there is only one area identified as a 'receiver site exclusion area'. Its boundaries include a consolidated area of highly productive land more or less between Pukekohe in the south, the Manukau Harbour in the north, Waiuku in the West, and Bombay hills in the east. This area was identified through recent Environment Court litigation. It is considered the one consolidated area within Franklin District that is comprised almost entirely of LUC classes 1-3. It is useful therefore to identify it in advance, and avoid the need to assess each and every application to subdivide land within it. This method (used to avoid transferring sites into it) supports the long established network of rural industries, labour, and expertise, that makes it one of the most intensively cultivated and productive areas in New Zealand. Its continuing productivity is of regional and national importance.

The transferable rural site subdivision rules have therefore been designed to prevent sites within this area from being subdivided as a result of the transfer of sites from elsewhere.

Future iterations of the Unitary Plan may include other areas where it is desirable to prevent further site fragmentation.

Rural Coastal zone

The National Coastal Policy Statement provides direction to councils about the importance of resisting development pressure in coastal areas. The transferable rural site subdivision rules have therefore been designed to enable the transfer of rural sites out of the Rural Coastal zone, but not into it.

Elite and prime land (LUC classes 1-3)

Given the strategic regional and national importance of maintaining the productive ability of the best soils, the transferable rural site subdivision rules ensure that receiver sites being subdivided do not contain LUC classes 1-3 soils.

Role of Countryside Living zones

Countryside Living zones define areas where further subdivision of rural areas is appropriate, and where an incentive can usefully be provided to encourage the amalgamation of sites in rural areas, and legal protection of recognised high quality indigenous vegetation.

The approach of the UP is that if an area is suitable for further site fragmentation and rural lifestyle use is appropriate, then it should be included in the Countryside Living zone. Outside this zone, there is a presumption that the creation of additional rural lifestyle sites is inappropriate.

1.10 References to other evaluations

Refer to the Section 32 Topic Matrix for reference to related section 32 evaluations. These include:

- 2.10 Electricity Transmission Corridors
- 2.11 Biodiversity
- 2.14 Treaty settlements
- 2.15 Mana whenua cultural heritage
- 2.16 Maori development
- 2.17 Maori land
- 2.18 Maori & natural resources
- 2.19 Landscapes
- 2.22 Future Urban zone
- 2.25 Freshwater
- 2.26 Flooding
- 2.27 Intermittent Streams & riparian margins
- 2.28 Natural hazards
- 2.31 Earthworks
- 2.43 Land Transport Noise
- 2.44 Air quality buffers – major roads
- 2.45 Air quality buffers – heavy industry

2 Objectives, Policies and Rules

2.1 Regional Policy Statement Objectives

The following is an evaluation of the appropriateness of the Objectives in achieving the purpose of the RMA and the Bill and is made in the context of the identified issue discussed above. Chapter B Regional Policy Statement, topic 8 of the Unitary Plan: “Sustainably managing our rural environment”, states:

Rural subdivision

These policies recognise that a rural lifestyle is attractive to many Aucklanders and enable countryside living in identified areas while balancing this against the imperative to protect the productive potential of rural land as well as its rural amenity values.

Appropriateness of the Objective(s)

Part 2 of the RMA includes the following:

Section 5(1) sets out the purpose of the RMA, promoting the ‘sustainable management of natural and physical resources’. Rural land is one of the largest and most significant natural and physical resources within greater Auckland. There can be no doubt that objective 1 relates directly to a Part 2 matter.

The gradual reduction of rural production and productivity that results from sporadic and scattered subdivision for urban and rural lifestyle purposes is an unsustainable way of managing rural land resources. It pushes rural production further from urban areas, and into areas of lower productivity that require greater inputs to produce the same rural production. This process does not promote the sustainable management of resources – it does the opposite.

Actively managing the subdivision process to use existing sites rather than create new ones, and to re-use them by allowing their transfer to other location, is an attempt to prevent further fragmentation and therefore maintain the sustainability of rural production. RPS objectives 3 and 4 set out this approach and place it at the highest Unitary Plan level to recognise the importance of the role that managing the density of sites has in maintaining and enhancing the sustainable management of rural land. An inappropriate site density will not promote the sustainable management of rural land.

Section 5(2) goes on to describe what is intended by the term ‘sustainable management’, and this includes ensuring that the natural and physical resources (other than minerals) are managed in a sustainable way so that they can meet the reasonably foreseeable needs of future generations. Again, there can be no doubt that if rural land is not sustainably managed, then it will not be able to provide for the needs of future generations for agricultural and horticultural produce. If soils degrade or are lost to non-productive land uses, or if changes to the density of sites results in more and more land being taken out of production or productive use, then maintaining a similar level of production (or an increased level to meet the needs of a larger Auckland population) will require either:

- increasing inputs to the same or a smaller area of productive land to maintain or increase production, and/or
- applying greater inputs into other land within or outside greater Auckland that is less naturally productive, and/or
- importing more food into the greater Auckland area.

There are no other alternatives, and none of the above promote the sustainable management of the natural and physical resources of the greater Auckland area.

Section 5(2)(b) refers to the need to safeguard the life-supporting capacity of air, water, soil, and ecosystems, in order to maintain the sustainability of the natural and physical resources of rural areas. All of these must be maintained in a naturally healthy condition if production is to continue to be sustainably maintained. The objective is therefore directly related to S.5 and Part 2 of the RMA.

The matters listed in section 6 do not directly refer to the productive potential of rural land. There is an indirect but nonetheless relevant and important connection between the matters set out in s.6 (especially section 6(c)) and the ability to maintain sustainably the productive potential of land. For example, the connection with section 6(c) is that if “areas of significant

indigenous vegetation and significant habitats of indigenous fauna” are protected, then it follows that biodiversity will be enhanced and water quality will be improved.

Greater biodiversity and better water quality in streams and rivers will contribute to the overall resilience of an area and hence its ability to continue to produce sustainably agricultural and horticultural produce.

Section 7 contains several matters that are relevant to the objectives, including s.7(aa) stewardship, (b) the efficient use and development of natural and physical resources, (f) maintenance and enhancement of the quality of the environment, (g) any finite characteristics of natural and physical resources, (i) the effects of climate change.

The density of sites and further land subdivision in the rural parts of greater Auckland directly affects its productive potential. Concepts of stewardship, efficient use and development, maintenance of the quality of the environment, and (especially in the main Franklin market gardening area) the finite characteristics of the class 1-3 soils typical of the area, are all s.7 matters. As climate change alters the rainfall pattern (by producing more high intensity storms and warmer temperatures than currently), the productive potential can only be maintained if these areas are robust and resilient, and the way land is subdivided particularly if there is increased fragmentation of sites, can either maintain or reduce its productivity, depending how it is carried out.

Council is empowered under s.31(2) of the RMA to use land subdivision as one of the methods to enable it to carry out its functions under s.32(1), which include *protection of land and associated natural and physical resources of the district*.

s.31 states:

(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:

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

(2) The methods used to carry out any functions under subsection (1) may include the control of subdivision.

Council has the power to achieve the objective of protecting those things essential to maintaining or increasing the productivity of rural production activities³.

Therefore, the Regional Policy Statement objectives at Chapter B part 8 address the matters contained in Part 2 of the RMA, and are as follows:

8.3.1 - Land subdivision does not undermine the productive potential of rural land.

8.3.2 - Further fragmentation of rural land by sporadic and scattered subdivision for urban and rural lifestyle purposes is prevented.

8.3.3 - The use and development of existing titles rather than subdivision of land for new sites is encouraged.

8.3.4 - The amalgamation and transfer of rural sites to areas that can best support them is encouraged.

Relevance

The issue, 'sustainably managing our rural environment' requires that at the highest (RPS) level of the Unitary Plan, there is an objective that addresses the productive potential of rural land.

Maintaining the productive potential of rural land requires that farming is carried out sustainably, and that the density of sites and the land uses established enable productivity at least to be maintained if not improved.

Usefulness

The objectives are useful in several ways: they provide an appropriate linkage with district level objectives and policies that use direct intervention in the subdivision process in order to manage the number and arrangement of sites; they state at the highest level in the Unitary Plan that the productive potential of rural land is of regional significance, and that the key to maintaining and improving its productivity is to manage the subdivision process to produce a more appropriate pattern and size of rural sites.

Plan changes and resource consent applications can be measured against the objective to decide whether they will enhance, maintain, or reduce the productive potential of rural land, and are in accordance with the high level objectives of preventing fragmentation of sites while allowing flexibility so sites can be appropriately moved from place to place.

The demands of Auckland's growing population for ever increasing areas of land for business and industry, leisure, and housing, needs to be balanced with the need to feed the urban population, and the desirability of not wasting or losing to urban uses land that is naturally highly productive for food production. There is, inevitably, a tension between the objective of maintaining the productive potential of rural land, and housing the growing population. Unless these objectives are retained at the highest (RPS) level in the Unitary Plan, there is a significant risk that rural land will be needlessly lost to urban expansion, industry, or through fragmentation to rural lifestyle occupation.

³ Rural production activities in this context means the same as in the UP (September 2013 version), that is:

Rural production activities: Activities that involve the production of primary products such as those from farming, poultry farming, horticultural, or forestry activities, and which have a functional need for a rural location.

Reasonableness

There are two types of costs potentially associated with land subdivision: the costs of lost production, and the strategic costs (both monetary and non-monetary) of actual or potential losses of food production.

While the strategy of limiting the creation of additional rural sites may (and probably will) be considered unreasonable by those sectors that have a direct interest in the revenue that can be generated by the subdivision process, the issue (sustainably managing our rural environment) depends on maintaining its ability to produce food using the smallest inputs possible, and losing as little as possible to rural lifestyle occupation and other non-rural land uses. As discussed above, this is a higher order matter of inter-generational sustainability, and this is considered to be more important than the shorter term, one-off, monetary gains that can be made from subdividing land.

Legacy Issues

Problems with current plan rules are set out above. However, these rules derive from high level regional policy statement objectives similar to the ones stated above, and no significant change in the direction of the objectives is proposed. Monitoring the efficiency and effectiveness of the rules has led to changing their direction, rather than any fundamental change in the objectives from which they are derived.

2.1.1 Policies

Policies that support RPS objectives relating to rural subdivision are set out in Chapter B section 8.3.

The policies are discussed in the following sections.

Policy 1

Use existing rural sites rather than create new rural sites;
recognises the importance of limiting further fragmentation of rural land.

Policy 2

Enable the permanent protection of substantial areas of high quality indigenous vegetation or wetlands to generate the ability to subdivide land in:

- a. appropriate, identified Countryside Living zones
- b. other receiver areas identified in the Unitary Plan
- c. rural or coastal towns or villages identified as receiver areas.

Policy 3

Provide new subdivision for purposes other than rural lifestyle living where it is for:

- a. the creation of parks and reserves, including esplanade reserves
- b. the establishment and operation of infrastructure
- c. rural production purposes
- d. marae, papakāinga, urupā and other activities that support Māori relationships with their land where this land is managed by the Te Ture Whenua Māori Land Act 1993
- e. special circumstances that provide for economic, social or cultural needs of the local rural community, and that cannot be met through the use of existing sites.

Policy 4

Through subdivision, enable the transfer of the residential development potential of rural sites from one place to another and the rearrangement of site boundaries, to promote the productivity of land in existing rural titles and to:

- a. manage population growth across all rural zones

- b. improve environmental outcomes associated with the protection of identified areas of high natural values
- c. improve the management of reverse sensitivity conflicts
- d. avoid increasing the demand for infrastructure in remote areas, or across areas of scattered development.

Policy 5

Provide new rural lifestyle subdivision in Countryside Living zones.

Policy 6

Manage the location, scale, density and extent of countryside living zones to:

- a. avoid areas that would undermine the integrity of the RUB or compromise the expansion of the satellite towns of Warkworth and Pukekohe, and rural and coastal towns and villages
- b. avoid areas of identified high natural values and elite and prime land
- c. avoid areas that would constrain the operation of existing mineral extraction activities or access to known and accessible future resources
- d. maintain and enhance landscape and amenity values within the zone
- e. consider opportunities for future intensification and retrofitting within the zone, including opportunities to be receiver areas for transferable rural site subdivision
- f. avoid reverse sensitivity effects that hinder the continued operation or growth of existing rural activities, or the establishment of new rural activities.

This provides that if land is suitable for rural lifestyle subdivision, then it should first be rezoned to Countryside Living zone. The plan change process requires an holistic and strategic assessment of the implications of rural lifestyle subdivision in the area where it is proposed. This could not be required if subdivision for countryside living purposes (outside Countryside Living zones) were provided for by a resource consent such as a Non-Complying Activity, or Discretionary Activity⁴. This helps explain why subdivisions that are not provided for in the plan are a Prohibited Activity.

2.1.2 Rules

The proposed rules are summarised in 1.9 above.

Achievability

Regulating land subdivision is a (district level) council function. Council is required under statute to approve the creation or modification of by far the majority of sites prior to their certification by the District Land Registrar. No other agency has this function. Council is in the unique position of being able to influence directly whether the productive potential of rural land and therefore the sustainability of its production, is adversely affected by changes in the pattern, size, and number of rural sites.

The approach taken in the Unitary Plan is to intervene directly and positively to minimise the creation of additional sites in rural areas (other than in Countryside Living zone areas), and to provide mechanisms that enable sites to be moved from one place to another, and their boundaries to be restructured. The change in approach to rules has come about particularly as a result of reflecting on the performance of legacy plan subdivision rules, as set out earlier in this document.

The Unitary Plan subdivision rules stem directly from the RPS objectives and will succeed only if a consistent approach is taken over a reasonably long period of time. The success or

⁴ See *Coromandel Watchdog of Hauraki Inc., v Chief Executive of the Ministry of Economic Development*. Court of Appeal 285/05 (2007), NZCA 473; 13 ELRNZ 279, at paragraphs 19-24, and 34.

failure of the strategy will not be known for many years because subdivisions are subject to private sector initiative, they are approved incrementally application by application, and while their individual effect may be small and localised, collectively over many years they will have a significant cumulative effect on the productive potential and sustainable management of rural land and whether this is maintained or undermined by the cumulative effect of subdivision decisions.

2.1.3 Costs and Benefits of Proposed Policies and Rules

Summary of costs of status quo:

It is anticipated that if the status quo were retained, then:

- environmental, economic, and social costs would be incurred, as rural land is lost to non-rural uses, elite and prime land is lost forever to urban and rural lifestyle use, and the rural population and site fragmentation steadily increase;
- the purpose of the Resource Management Act 1991 would not be met, and sustainable management of the natural and physical resources of rural areas would not be possible.

It is considered that the costs of retaining the status quo outweigh the benefits of changing to the more restrictive Unitary Plan approach.

The costs anticipated to arise from retaining the status quo are set out below under the headings environmental, economic, social, and cultural costs.

2.1.4 Adequacy of Information and Risk of Not Acting

It is considered there is sufficient information on which to base the proposed policies and methods.

Information that quantifies the value of the contribution of rural Auckland, the fragmentation of rural sites, the loss of elite and prime land to development, and the outcomes of subdivisions based on conserving indigenous vegetation, was available when the rural subdivision strategy was developed. It demonstrates that a significant level of intervention in the rural land subdivision process is required to achieve the purpose of the RMA.

The risk of not acting is significant, and a suite of rural subdivision rules capable of stopping site fragmentation and linking land subdivision to land use is essential. This can only occur with a high level of intervention in the subdivision process. It is noted that feedback from the draft UP released in March was largely supportive of the subdivision strategy, with 46 percent of the responses supporting and only 37 percent opposing it.

2.2 Objective – Regional and District

The following objectives are proposed:

1. Land is subdivided efficiently to reflect the intended outcomes of the zone.

Relevance

Efficient land subdivision is essential to the sustainable management of resources. Inefficient land subdivision is wasteful of scarce natural and physical resources, such as productive rural land. Productive land can be wasted by inefficiently subdividing it into site sizes that are too small or too large for their intended purpose. This is not sustainable in the short or long term.

Usefulness

The objective will be useful when resource consent and plan change applications are being evaluated, because they will require an assessment of whether the proposed sites or

rezoning will result in the efficient use of land or an efficient site density, assessed against the intended outcomes of the zone.

Achievability

Regulating land subdivision is a (district level) council function. Council is required under statute to approve the creation or modification of by far the majority of all land sites prior to their certification by the District Land Registrar. No other agency has this function, so Council is in the unique position of being able to influence directly whether land is being subdivided efficiently, taking into account the purpose of the zone.

Reasonableness

There are two types of costs potentially associated with land subdivision: the costs of lost production, and the strategic costs (both monetary and non-monetary) of actual or potential losses of food production.

The efficiency of a subdivision is likely to vary depending on the interests of the parties to the subdivision. A proposed subdivision that may be very efficient from the point of view of the landowner may be inefficient when measured against the outcomes of the zone in which it is located, or the broader objectives and policies of the Unitary Plan. There is often a tension between the desire of a landowner to subdivide their land, and the desire of Council to safeguard future landuse options in an area and to give effect to the objectives and policies of the zone in which the land is located.

The broader picture or context is important, because Council is charged under the RMA with promoting the sustainable management of resources. This includes evaluating the efficiency of the subdivision measured against the objectives and policies of the zone, and a landowners current motivation for wanting to subdivide, for example, to maximise the return they receive on their investment, or to reduce the size of the property they maintain. Council is called upon to strike a balance between the two, and sometimes it is inevitable that the interests of the community as a whole will override the interests of the landowner.

Enforcing the subdivision rules will incur costs to the landowner, avoiding inefficient subdivision may mean refusing to grant consent to some subdivisions. This is the situation under current legacy plans, and will continue to be the situation under the UP irrespective of the rules finally decided on.

Legacy Issues

Problems with current plan rules have been set out above. However, these rules derive from regional and district level statement objectives similar to the ones stated above, and the UP does not propose any significant change in their direction. Monitoring the efficiency and effectiveness of the rules has contributed significantly to the decision to change the direction of the rules, rather than any fundamental change in the objectives and policies from which they are derived.

6. Subdivision manages adverse effects relating to landscape amenity, natural resources, natural hazards, or historic heritage.

Relevance

Efficient subdivision is essential to the sustainable management of resources. Inefficient subdivision is wasteful of scarce natural and physical resources, such as productive rural land. Productive land can be wasted by inefficiently subdividing it into site sizes that are too small or too large for their intended purpose. This is not sustainable in the short or long term.

Usefulness

The objectives will be useful when resource consent and plan change applications are being processed, because they will require an assessment of whether the proposed sites or

rezoning will result in the efficient use of land and an efficient site density, assessed against the intended outcomes of the zone.

Achievability

Regulating land subdivision is a (district level) council function. Council is required under statute to approve the creation or modification of by far the majority of all sites prior to their certification by the District Land Registrar. No other agency has this function, so Council is in the unique position of being able to influence directly whether land is being subdivided in a way and at a rate that does not create or exacerbate adverse effects that relate to landscape amenity, natural resources (including highly productive land), or natural hazards, taking into account the purpose of the zone.

Reasonableness

There are two types of costs potentially associated with land subdivision: the costs of lost production, and the strategic costs (both monetary and non-monetary) of actual or potential losses of food production.

While the strategy of limiting the creation of additional rural sites may (and probably will) be considered unreasonable by those sectors that have a direct interest in the revenue that can be generated by the subdivision process, the issue (sustainably managing our rural environment) depends on maintaining its ability to produce food using the smallest inputs possible, and losing as little as possible to rural lifestyle and other non-rural land uses. As discussed above, this is a higher order matter of inter-generational sustainability, and this is considered to be more important than the shorter term, one-off, monetary gains that can be made from subdividing land.

Legacy Issues

Legacy plan objectives are similar to the Unitary Plan objectives relating to landscape amenity, natural resources and natural hazards. Therefore, other than harmonising the wording of objectives that relate to these matters, the Unitary Plan does not depart from current objectives.

7. Undeveloped rural titles are retained and managed to provide for the needs of rural production, rural lifestyle and other rural activities.

Relevance

Efficient subdivision is essential to the sustainable management of resources. Inefficient subdivision is wasteful of scarce natural and physical resources, such as productive rural land. Productive land can be wasted by inefficiently subdividing it into site sizes that are too small or too large for their intended purpose. This is not sustainable in the short or long term. The strategy of capping the number of rural sites and thus capping the residential potential of rural areas is a useful and relevant way of addressing the issue of site fragmentation.

Usefulness

The objective will be useful when resource consent and plan change applications are being processed, because it will ensure they are assessed in terms of their effect on the site density in the area, and whether the proposed subdivision or rezoning will result in the efficient use of land or sites. The UP strategy is to use existing sites efficiently, before creating more. This objective provides a basis for the rules that give effect to this strategy, and ensure existing sites are used efficiently, in the context of the intended outcomes of the zone.

Achievability

Regulating land subdivision is a (district level) council function. Council is required under statute to approve the creation or modification of by far the majority of all sites prior to their certification by the District Land Registrar. No other agency has this function, so Council is in

the unique position of being able to influence directly whether land is being subdivided in a way and at a rate that retains and manages undeveloped rural sites in a way that adequately provides for the needs of rural production, rural lifestyle and other rural activities.

Reasonableness

There are two types of costs potentially associated with land subdivision: the costs of lost production, and the strategic costs (both monetary and non-monetary) of actual or potential losses of food production.

While the strategy of limiting the creation of additional rural sites may (and probably will) be considered unreasonable by those sectors that have a direct interest in the revenue that can be generated by the subdivision process, the issue (sustainably managing our rural environment) depends on maintaining its ability to produce food using the smallest inputs possible, and losing as little as possible to rural lifestyle and other non-rural land uses. As discussed above, this is a higher order matter of inter-generational sustainability, and this is considered to be more important than the shorter term, one-off, monetary gains that can be made from subdividing land.

It is therefore considered reasonable to look to using existing, undeveloped rural sites efficiently before approving the creation of new sites.

Legacy Issues

Legacy plan objectives are similar to the UP objectives relating to landscape amenity, natural resources and natural hazards. Therefore, other than harmonising the wording of objectives that relate to these matters, the UP does not depart from current objectives.

8. There are incentives to protect identified Significant Ecological Areas.

Relevance

Efficient subdivision is essential to the sustainable management of resources. Inefficient subdivision is wasteful of scarce natural and physical resources, such as productive rural land. Productive land can be wasted by inefficiently subdividing it into site sizes that are too small or too large for their intended purpose. This is not sustainable in the short or long term. The objective identifies that the community will reward landowners who provide a legal protection mechanism for that vegetation. The reward is that the landowner is able to sell the right to subdivide land in a Countryside Living zone. Because the right to erect a dwelling did not exist prior to the legal protection mechanism being put in place, the Unitary Plan limits the locations where the right to subdivide can be exercised. The appropriate locations are selected Countryside Living zones, where subdivision of rural land is anticipated. This differentiates it from the incentives available to landowners who amalgamate sites and transfer the development potential to another rural location. The provision is therefore very relevant to the objectives relating to protection of indigenous vegetation and wetlands, and limiting the creation of new sites in rural areas, as far as possible, to Countryside Living zones.

Usefulness

The objective is useful for providing the policy linkage with higher objectives relating to SEA management, and rules that provide a way of rewarding the covenanting of indigenous vegetation and wetlands.

Achievability

Regulating land subdivision is a (district level) council function. Council is required under statute to approve the creation or modification of by far the majority of all sites prior to their certification by the District Land Registrar. No other agency has this function, so Council is in the unique position of being able to influence directly whether the UP contains incentives to covenant indigenous vegetation or wetlands.

Under the Unitary Plan, landowners whose properties have SEA identification are provided with an incentive to covenant the SEA feature. The technique is established in the legacy Rodney and Franklin District Council district plans. The techniques (rules) used in these plans have had varying success, so the Unitary Plan changes the direction of the rules rather than the objectives, by not including enhancement as a means of gaining the right to subdivide.

Reasonableness

There are two types of costs potentially associated with subdivision that takes land out of production: the costs of lost production, and the strategic costs (both monetary and non-monetary) of actual or potential losses of food production.

While the strategy of limiting the creation of additional rural sites may (and probably will) be considered unreasonable by those sectors that have a direct interest in the revenue that can be generated by the subdivision process, the issue (sustainably managing our rural environment) depends on maintaining its ability to produce food using the smallest inputs possible, and losing as little as possible to rural lifestyle and other non-rural land uses. As discussed above, this is a higher order matter of inter-generational sustainability, and this is considered to be more important than the shorter term, one-off, monetary gains that can be made from subdividing land.

It is therefore considered reasonable to look to using existing, undeveloped rural sites efficiently before approving the creation of new sites.

Legacy Issues

Legacy plan objectives are similar to the Unitary Plan objectives relating to landscape amenity, natural resources and natural hazards. Therefore, other than harmonising the wording of objectives that relate to these matters, the Unitary Plan does not depart from current objectives.

9. The demand for rural lifestyle subdivision is directed to Countryside Living zones.

Relevance

Efficient subdivision is essential to the sustainable management of resources. Inefficient subdivision is wasteful of scarce natural and physical resources, such as productive rural land. Productive land can be wasted by inefficiently subdividing it into site sizes that are too small or too large for their intended purpose. This is not sustainable in the short or long term. It is therefore highly relevant to have a suite of objectives and policies and rules that direct Countryside Living into areas where it is appropriate.

Usefulness

The objective will be useful when resource consent and plan change applications are being processed, because it will require that promote the outcome of having rural lifestyle subdivision directed into Countryside Living zones, where it is appropriate. The scale and location of Countryside Living zones will be determined by other objectives and policies. The objective supports objectives that seek to keep rural land productive, and is one of the key pillars of the rural subdivision strategy of the Unitary Plan.

Achievability

Regulating land subdivision is a (district level) council function. Council is required under statute to approve the creation or modification of by far the majority of all sites prior to their certification by the District Land Registrar. No other agency has this function, so Council is in the unique position of being able to influence directly whether the Unitary Plan contains rules that promote the outcome of having rural lifestyle subdivision being provided for in Countryside Living zones only. Unitary Plan subdivision rules are therefore able to achieve

this outcome, so the objective is highly achievable. This is reinforced under the rules by making the subdivision of land for rural lifestyle purposes other than by the techniques of boundary relocation or transferable rural site subdivision a Prohibited Activity. This directs that if land is suitable for rural lifestyle subdivision, then rezoning the land to Countryside Living is the only way the suitability can be realised.

This is not an absolute restriction however, as the Unitary Plan also allows the restructuring of existing site boundaries through boundary relocation rules, as well as transferring the development potential of existing sites to a different location through transferable rural site subdivision rules. Some rural lifestyle subdivision will occur in rural areas, however it will be limited by the constraints of the boundary relocation and transferable rural site subdivision rules, which will ensure that no additional rural sites (and therefore new opportunities for rural countryside living) are created in the process.

Reasonableness

The costs of unplanned, sporadic rural lifestyle subdivision are well documented. The objective is therefore considered reasonable, given the many disadvantages and costs of allowing rural lifestyle subdivision to occur in sporadic or random locations.

Legacy Issues

Legacy plan objectives are similar to the Unitary Plan objectives relating to subdivision for countryside living. Therefore, other than harmonising the wording of objectives that relate to this matter, the UP does not depart from current objectives.

10. Subdivision enhances the natural features that contribute to the character and amenity values of rural areas.

Relevance

Efficient subdivision is essential to the sustainable management of resources. Inefficient subdivision is wasteful of scarce natural and physical resources, such as productive rural land. Productive land can be wasted by inefficiently subdividing it into site sizes that are too small or too large for their intended purpose. This is not sustainable in the short or long term.

Usefulness

The objective will be useful when resource consent and plan change applications are being processed, because it will require an assessment of whether the proposed titles or rezoning will enhance the character and amenity values of rural areas.

Achievability

Regulating land subdivision is a (district level) council function. Council is required under statute to approve the creation or modification of by far the majority of all sites prior to their certification by the District Land Registrar. No other agency has this function, so Council is in the unique position of being able to influence directly whether the UP contains rules that require an assessment of whether the proposed sites or rezoning will enhance the character and amenity values of rural areas.

Deciding what the character and amenity values of rural areas are always a matter of opinion, and can change over time. Because of this, it will be difficult to determine at any given time whether the objective has been achieved.

However, because rural character and amenity values are important matters (the regional community has confirmed this), the objective is necessary even if deciding whether it has been achieved it is not particularly straightforward.

Matters that influence rural character and amenity values include:

- The location and scale of the various rural zones;

- The activity status of activity and subdivision rules within those zones;
- Rules that direct rural lifestyle subdivision into Countryside Living zones;
- Rules that require resource consent for those activities that could detract from rural character and amenity values.

Through its rural subdivision objectives, policies, and rules, the Unitary Plan can contribute to protecting important features of rural character and amenity values by:

- Identifying what those features are; and
- Providing the opportunity for the effects of subdivision on those features to be evaluated; and
- Structuring the subdivision rules so they discourage subdivisions from occurring in locations or in a way that could have an adverse effect on those features.

Reasonableness

The costs of allowing subdivisions that have an adverse effect on important features of rural character and amenity values are difficult to quantify. Rural areas will change, and whether that change degrades rural character and amenity values will be a matter of opinion.

The plan preparation process enables the community to determine what features it considers important, and test the reasonableness of objectives, policies, and rules. This process will determine community priorities, and their reasonableness.

Legacy Issues

Legacy plan objectives are similar to the Unitary Plan objectives relating to maintaining or enhancing rural character and amenity values.

Therefore, other than harmonising the wording of objectives that relate to this matter, the Unitary Plan does not depart from current objectives.

2.2.1 Policies

The policies that support regional and district objectives relating to rural land subdivision set out the Unitary Plan strategy for achieving the objectives through limiting the opportunities for rural land subdivision and creating additional sites outside Countryside Living zones. They are finer grained than the RPS policies because they address the mechanisms Council proposes to use to control the further fragmentation of rural sites, and to attempt to obtain some environmental gain from the subdivision process.

Policy 1 addresses the ongoing demand for countryside living. There is a constant and unsatisfied demand for vacant sites for countryside living, particularly in areas close to the motorway and arterial roads. The objectives policies and rules attempt to channel this demand into areas where it can be satisfied without compromising rural production or contributing to loss of soils which are or have the potential to be highly productive, or compromising coastal amenity values.

This is not a new issue. Commentators and planners have for many years commented on the adverse strategic consequences of losing highly productive land to urban and rural lifestyle subdivision and development.

Legacy district and regional policy statements and plans contain objectives and policies which attempt to set a framework for rules that will effectively and efficiently contain the encroachment of urban and rural lifestyle uses onto highly productive land.

Attempts to draft rules that adequately stop the fragmentation of land, and its use for rural lifestyle subdivision, include the “economic farming unit” subdivision rules that were

reasonably prevalent from the late 1970's. Their legacy is extensive fragmentation and disused glasshouses, and plans do not now use this technique.

Some legacy plans include rules that allow subdivision around an existing intensive rural-related activity, such as a rural industry or glasshouse. This type of rule was intended in part to remedy the deficiencies of the "economic farming unit" subdivisions by providing for subdivision around existing industries or glasshouses rather than making the establishment of the industry or glasshouse a condition of subdivision consent. Because this type of subdivision also has some significant drawbacks especially in the long-term, the Unitary Plan has not included anything similar, and relies on the transfer of sites and boundary relocation to provide for subdivision around existing rural industries or glasshouses.

In spite of successive plan attempts to manage the encroachment of urban areas and rural lifestyle development onto highly productive land, the evidence is that there has been a steady loss of rural land in general, and highly productive land in particular, to urban and rural lifestyle subdivision. Two key reasons for this have been:

- the need to make compromises when drafting rules in order to finalise plans, settle appeals, and make plans operative; and
- the need to allow some expansion of urban areas in a structured way to provide adequate land for suburban housing in an area where the resident population is growing.

Provided there is an abundance of productive farmland relative to the size of the regional and national population, the consequences of losing highly productive land to urban development have not been especially severe even through reasonably large areas of such land have been lost to urban encroachment and rural lifestyle subdivision and development. However, the issue remains current and relevant under the sustainable management purpose of the RMA. The policies are intended to provide appropriate direction to the objectives, and form the basis of rules that are more restrictive than legacy plans.

Policy 2 recognises the desirability of providing for a variety of site sizes to match the different needs of rural production and other activities compatible with rural areas. Variety is provided for in the rules through the boundary adjustment, boundary relocation, and transferable rural site subdivision processes.

Policy 3 identifies those areas where it is particularly desirable to rationalise the site layout or density, and reduce the number of sites. This policy is given effect to by the transferable rural site subdivision rule, which enables site development potential to be moved out of the areas specified, but not into them (i.e. they are not receiver areas).

The policy complements policy 3 which identifies those rural areas into which it is appropriate to move residential development potential taken from elsewhere.

Policy 4 complements policy 3 by identifying those parts of rural Auckland that have the necessary characteristics to be able to absorb a greater density of sites and rural lifestyle occupation without adversely affecting rural production or other related activities.

Policy 5 identifies the desirability of making provision for flexibility in the location of site boundaries, to enable them to be relocated better to meet the needs of the land occupiers, without having to create additional sites. This type of flexibility is available under legacy plans, and has been carried forward into the Unitary Plan.

The subdivision rules limit the scale of boundary adjustments to 10% of the original site area, and require all sites to be larger than 2ha following the adjustment subdivision. Boundary relocation rules were added following feedback to allow a much larger degree of boundary movement provided the subdivision does not result in any increase in the residential

development potential of the sites, and avoids reverse sensitivity by ensuring site sizes are also larger than 2 Ha following subdivision.

Policy 6 is similar to policies in current legacy plans, and is given effect to through identification of areas that have important landscape character, including those areas identified in the outstanding natural landscape overlay, outstanding natural character overlay, and the Rural Coastal zone.

Within these areas, closer subdivision of land is likely to degrade the landscape values for which the areas have been identified.

Policy 7 is similar to policies in current legacy plans. The adverse effects of ribbon development along public roads are well known, and should be avoided. Adverse effects on the character and amenity values of rural roads are highlighted here. Adverse effects on traffic and roading are noted elsewhere.

The amenity values of rural roads refers to the loss of rural character when rural roads are lined by houses and other buildings with individual access points, which is a distinctive characteristic of urban roads.

Policy 8 is intended to ensure rural character is not degraded by insensitive location of development, including that which follows subdivision. Thus, the rules that give effect to this policy require that in the subdivision process, consideration is given to the likely effects of buildings earthworks and activities on the sites being created or modified.

This policy applies to all subdivisions, not just those within areas identified as having significant landscape features or characteristics. It is intended to reflect the importance of rural character and amenity values.

Policy 9 complements policy 8. It specifies the more important aspects of rural character and amenity values that should be taken into account when a subdivision is being evaluated. It also highlights the importance of ensuring that all subdivisions facilitate rural production.

Policy 10 is intended to ensure that the subdivision process plays its part in contributing to enhancing the cultural and natural environments.

Unitary Plan rules give effect to this policy in a variety of ways, including the requirement to vest or provide for esplanade reserves or strips along the margins of lakes, rivers, and the sea, and using 'place based subdivision' rules to maintain existing patterns or density of sites and subdivisions that will detract from natural landscape qualities.

2.2.2 Rules

The suite of rules for regulating rural subdivision to achieve an objective of not increasing the number of rural sites occurs other than in Countryside Living zones is likely to be achieved because the rules for transferable rural site subdivision, boundary relocation, and very large minimum site area for other types of subdivision, and provision for reserves, roads and utilities will, together, mean that most new sites will be created in Countryside Living zones. This will be reinforced by the Prohibited Activity status for other types of subdivision.

The size of the minimum site able to be created is generally 2 Ha. This has been acknowledged in recent Environment Court hearings for provisions in the Rodney and Franklin Districts, as being the smallest appropriate site that doesn't compromise rural character or risk creating the potential for reverse sensitivity effects.

2.2.3 Costs and Benefits of Proposed Policies and Rules

Summary of costs and benefits of status quo:

The costs and benefits that are anticipated to arise from retaining the status quo objectives, policies, and rules outlined above are both environmental and economic.

The Unitary Plan essentially continues the status quo objectives and policies, which have had a long gestation and address all the issues relating to rural and rural coastal areas. However, the Unitary Plan charts a different direction with the rules. It provides a more structured, more restrictive, Auckland-wide approach. This places a high level of importance on capping the number of rural sites, but allowing flexibility to move the development potential attaching to them from one location to another. The restrictions ensure that other important objectives, such as maintaining rural land for rural production, and retaining the productive potential of rural land especially elite and prime land, and retaining the amenity values of the coast, are not compromised.

It is considered that this broad approach will have economic, environmental, social, and cultural costs and benefits, but that on balance, the benefits significantly outweigh the costs, by:

- enabling rural production and rural productivity to achieve its full potential. This is the most effective way of providing for rural employment and economic development, both of which would suffer (and have suffered) under a more laissez faire subdivision strategy;
- the current contribution of the rural sector of greater Auckland is now well documented, and is significant. There are opportunities for this to grow in future, particularly as the population of Auckland increases. The opportunities include both food producing activities, as well as recreation and leisure. Both of these have been appropriately provided for in the Unitary Plan, as they are in legacy plans, but underpinning both is the subdivision strategy which is different and more structured and restrictive than current legacy plans;
- retaining rural character and amenity values. Rural character is defined by the rural land use activities that take place in rural areas. The subdivision of land is an integral part of this equation, as development rights attach to sites;
- retaining and enhancing the character and amenity values of coastal areas, and their rural productivity, as directed by the NZ Coastal Policy Statement;

2.2.4 Adequacy of Information and Risk of Not Acting

It is considered that there sufficient information on which to base the proposed policies and methods. The scope of this information is included in the appendices.

The evidence available from the wide variety of sources noted in the appendices indicate that a change in direction for rural subdivision is required, and the formation of the Auckland Council and the development of the Auckland Plan and the Auckland UP provide the opportunity to bring about the required changes.

It is considered that further research is not essential to confirm the appropriateness of the rural subdivision strategy. Further research will be undertaken by Auckland Council and other agencies, and this will be able to feed into monitoring of the performance of the Unitary Plan subdivision strategy and any plan changes that may be considered desirable.

It is considered that an adequate information base exists to enable Council to make adequately informed decisions on the rural subdivision strategy.

There is a high level of risk associated with merely rolling-over the current legacy plan rural subdivision provisions, because they have been developed within a context which:

- did not include consideration of the new Auckland Plan and its directives for rural land;
- were not (and notwithstanding the involvement of the legacy Auckland Regional Council, could not have been) developed from an holistic, Auckland-wide perspective, with all the benefits of a single Auckland Plan, and single Council. They use different methodologies for land zoning and rural land subdivision, different definitions, different interpretations and different resource consent and appeal decisions, and those differences inevitably fragment the approach to rural land subdivision. These differences show in the subdivision rules, including the inability of plans to incorporate a transferable rural site subdivision regime that can operate Auckland-wide.
- incorporates different interpretations of what 'sustainable management' of Auckland's rural land resource means, and what subdivision rules are required to achieve that.

3 Alternatives

The proposed preferred alternative is discussed in 2.0 above. The status quo alternative is outlined in 1.5 above.

The principal alternative considered is a more laissez faire approach, with little or no Unitary Plan regulatory intervention, or using non-regulatory intervention such as direct investment and advocacy as the main planning tools. These three options are, in summary:

1. Preferred option, basing the subdivision strategy on the benefits of capping the total number of rural sites, but allowing their development 'rights' to be transferred around rural Auckland in a structured way that will not undermine the productivity of rural land;
2. Status quo, using a variety of approaches to rural land subdivision and not enabling the development rights of rural sites to be transferred Auckland-wide;
3. The 'do nothing' option, with minimal if any regulatory intervention in the rural land subdivision process.

The table below discusses each alternative compared to the preferred alternative, as used in the Proposed Unitary Plan.

	Status Quo Alternative	Alternative 1 - preferred	Alternative 2 – Do Nothing - little or no UP regulatory, or non-regulatory intervention
Description	<p>Summary: Retaining the status quo for rural subdivision would involve retaining two key sets of provisions:</p> <ol style="list-style-type: none"> 1. Retain a compilation of current legacy Regional and District level objectives and policies that seek to: <ul style="list-style-type: none"> • Protect the most productive land • Enable rural production activities to be carried out with minimum regulatory intervention • Avoid adverse reverse sensitivity effects • Protect the coastline from earthworks or buildings that would not give effect to the NZ Coastal Policy Statement 2. Retain a suite of rules to give effect to these objectives and policies, including some or all of the following: <ul style="list-style-type: none"> • Rules that enable subdivision of land to occur without requiring the subdivision to be justified by demonstrable increases in rural production or productivity. • Rules that reward re-vegetation of land or creation of a wetland in one place, with the ability to subdivide land at the same place or elsewhere. • Rules that enable subdivision of land as a reward for the protection of indigenous vegetation or wetlands that the applicant has identified as having appropriately high ecological values. • Rules that enable the amalgamation of sites in one place to create a right to subdivide land in another place. • Rules that enable the subdivision of land to provide a house site for a retiring farmer. • Rules that enable subdivision around existing rural industries or intensive farming. • Rules that enable the transfer of a development right from a site being amalgamated, or from the permanent protection of indigenous vegetation, into areas along the coast, into areas of class 1-3 soils, or from one part of greater Auckland to another completely different part. • Rules that require the LUC classification of the donor site being amalgamated to be “better” than the LUC classification of the receiver site being subdivided. • Rules that make subdivision of land within LUC classes 1, 2, or 3 a Prohibited Activity, in order to prevent its subdivision. • Rules that allow multiple transferable rural sites to be generated as a reward for covenanting indigenous vegetation or wetland. • Rules that allow transferable rural sites to be created by vesting reserves in Council. • Rules that allow relocation of site boundaries (i.e., moving site boundaries more than a minor amount). • Rules that provide for subdivisions not anticipated by the plan to be a Non-Complying Activity. • Rules that provide for subdivision for road severances, utilities, and creation of reserves. <p>Discussion: It is anticipated that retaining the status quo would involve rationalising legacy plan objectives, policies, and rules into one consolidated suite, rather than retaining the current differences based on the administrative boundaries of each legacy Council area.</p>	<p>Summary: The preferred option seeks to ensure the life-supporting capacity of productive soils is safeguarded in rural areas by including regulation in the UP.</p> <p>Elements of legacy plan approaches can be amended or modified to provide an appropriate balance of costs and benefits, effectiveness and efficiency, and deliver improved performance in relation to land subdivision. Some elements have been discontinued, and these are also noted below.</p> <p>Discussion: The preferred option for rural subdivision (in the proposed UP) involves retaining two key sets of provisions:</p> <ol style="list-style-type: none"> 1. Retain a compilation of current legacy Regional and District level objectives and policies that seek to: <ul style="list-style-type: none"> • Protect the most productive land • Enable rural production activities to be carried out with minimum regulatory intervention • Avoid adverse reverse sensitivity effects • Protect the coastline from earthworks or buildings that would not give effect to the NZ Coastal Policy Statement 2. Retain a suite of rules to give effect to these objectives and policies, with similar characteristics to those in legacy plans, but modified and amended to: <ul style="list-style-type: none"> • discontinue those aspects that have not been supporting the objectives and policies; and • modify or amend those that are useful but have not been delivering the benefits sought. <p>The proposed UP suite of rules includes the following:</p> <ul style="list-style-type: none"> • Rules that enable subdivision of land as a reward for the protection of indigenous vegetation or wetlands that Council has identified as a Significant Ecological Area, to ensure the quality of the vegetation or wetland being covenanted has appropriately high ecological values. • Rules that enable the amalgamation of sites in one place to create a right to subdivide land in another place, provided the land being subdivided is not within LUC classes 1-3, or within the main horticultural area of Franklin (the ‘receiver site exclusion area’), or within the Rural Coastal or Rural Conservation zones. • Rules that limit to one per site the number of transferable rural sites that can be generated as a reward for covenanting identified SEA indigenous vegetation or wetland. • Rules that provide for subdivisions not anticipated by the plan to be a Prohibited Activity to provide certainty of outcome. • Rules that provide for subdivision for road severances, utilities, and creation of reserves. • Rules that provide for the subdivision of very large sites <p>The proposed UP has rationalised legacy plan objectives and policies into one consolidated suite, rather than retaining current differences based on the administrative boundaries of each legacy Council area.</p> <p>The proposed UP steers a different regulatory course from legacy</p>	<p>Summary: The do nothing option involves having little or no UP regulatory, or non-regulatory, intervention to protect rural productivity, avoid fragmentation of land for rural lifestyle sites, or direct rural lifestyle living into Countryside Living zones. Non-regulatory mechanisms would include direct investment in rural infrastructure (such as bridges, road upgrading) and advocacy such as providing or funding the provision of expert advice to rural land owners.</p> <p>Discussion: The success of the do nothing option with its absence of regulatory intervention in the land subdivision process, depends on decoupling the link between site ownership and the right to develop each site, in particular, the right to erect a dwelling on each and every site.</p> <p>This is discussed above, and was discounted because of the enormous cultural shift that would need to occur before this strategy could be implemented.</p> <p>Therefore, a subdivision strategy based on little regulatory intervention and some advocacy, together with the right to develop each site (including the right to erect a dwelling on each) will guarantee the continuing fragmentation of rural sites as rural land is used for urban and rural lifestyle uses.</p> <p>Because of the strategic location of most of greater Auckland’s highly productive land where it is very attractive for urban development and rural lifestyle development, the best land would be lost first.</p> <p>There is little that is sustainable about this approach.</p>

	Status Quo Alternative	Alternative 1 - preferred	Alternative 2 – Do Nothing - little or no UP regulatory, or non-regulatory intervention
	<p>If legacy objectives and policies were rationalised into a standard suite that applied across greater Auckland, retaining the status quo would mean the proposed UP objectives and policies would closely resemble those in the legacy plans.</p> <p>If legacy rules were rationalised, they would be different from those in the proposed UP, as the UP steers a different regulatory course from legacy plans.</p>	<p>plans.</p> <p>Detailed description of preferred option The proposed rules at the time of completing the proposed UP for consultation are as follows:</p> <p>Rules that enable subdivision of land to occur without requiring the subdivision to be justified by demonstrable increases in rural production or productivity.</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • No rules that allow 'general subdivision' to a minimum site area. • Rules that allow subdivision for boundary adjustment, and boundary relocation, but subject to minimum site area. • Rules that allow subdivision for road severances, utilities, and creation of reserves. • Rules that allow the transfer of the residential development rights attaching to a site to be extinguished in one place and transferred to another place where it is appropriate to subdivide. <p>Rules that reward re-vegetation of land or creation of a wetland in one place, with the ability to subdivide land at the same place or elsewhere (enhancement subdivision).</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • No rules that enable enhancement subdivision. <p>Rules that enable subdivision of land as a reward for the protection of existing indigenous vegetation or wetlands that the applicant has identified as having appropriately high ecological values.</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • Ensure appropriate quality of vegetation to be covenanted by limiting the potential for covenanting to Significant Ecological Areas identified in the UP. • Rules that set a minimum qualifying area for Significant Ecological Areas to be covenanted, and distinguish between threatened ecosystems and threatened species, and other indigenous vegetation and wetlands that are not threatened and do not contain threatened species. • Restrict the potential for creating additional sites to ensure that an appropriate area of vegetation or wetland is protected for every site allowed to be transferred. This includes allowing multiple sites to be transferred to Countryside Living zones, but ensuring each site transferred is preceded by the legal protection of the minimum qualifying area of vegetation or wetland . • Require the legal protection of all SEA vegetation or all wetland within the boundaries of the site on which the vegetation or wetland is located, irrespective of whether it exceeds the minimum qualifying area. • Limit the transfer of residential development rights generated by covenanting into land within appropriate Countryside Living zones only. These are specified in the rules. • Require that a suitably qualified and experienced person carries out certification of the vegetation or wetland, and prepares a management plan for the protected area to ensure its protection 	

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	<p>in perpetuity.</p> <p>Rules that enable amalgamation of sites in one place to create a right to subdivide land in another place.</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • Require all donor sites to exceed a minimum area and be capable of having a house erected on them, to ensure the rural site being transferred is 'real'. • Limit the locations where subdivision of a receiver site can occur. Exclude land in the Rural Coastal or Rural Conservation zones, and the main area of highly productive land in Franklin, or land in LUC classes 1-3. <p>Rules that enable subdivision of land to provide a house site for a retiring farmer.</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • No specific rules that enable "retiring farmer" subdivision. • Transferable rural site subdivision and boundary relocation. These provide the opportunity for a retiring farmer to subdivide around their farmhouse or create a vacant site on which to build a retirement house, without increasing the number of sites in rural areas. <p>Rules that enable subdivision around existing rural industries or intensive farming.</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • No specific rules that enable subdivision around a rural industry or intensive farm. • Transferable rural site subdivision and boundary relocation to provide the opportunity to subdivide around a rural industry or intensive farm, without increasing the number of sites in rural areas. • Boundary adjustment and boundary relocation subdivision rules to enable site boundaries to be appropriate for the needs of the rural industry or intensive farm. <p>Rules that enable the transfer of a development right from a site being amalgamated, or from the permanent protection of indigenous vegetation, into areas along the coast, into areas of class 1-3 soils, or from one part of greater Auckland to another completely different part.</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • Rules that do not provide for transfer of rural sites from the Rural Production zone into the Rural Coastal or Rural Conservation zones. • Rules that prevent land within LUC classes 1-3 being subdivided under the transferable rural site subdivision process. • Rules that prevent the transfer of a rural site into the large horticultural land area in Franklin identified as a receiver site exclusion area. <p>Rules that require the LUC classification of the donor site being amalgamated to be "better" than the LUC classification of the</p>	

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		<p>receiver site being subdivided.</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • No rules that require assessment of the LUC class of the donor sites. No comparison is made between the LUC class of the donor and receiver sites. • Transferable rural site subdivision to provide the opportunity to buy in a transferable rural site and subdivide a qualifying receiver site, without increasing the number of rural sites. • Rules that prevent land within LUC classes 1-3 being subdivided under the transferable rural site subdivision process. • Rules that prevent the transfer of a rural site into the large horticultural land area in Franklin identified as a receiver site exclusion area. <p>Rules that make subdivision of land within LUC classes 1, 2, or 3 a Prohibited Activity, in order to prevent its subdivision.</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • No rules that provide for activity status to be determined by LUC analysis. <p>Rules that allow multiple transferable rural sites to be generated as a reward for covenanting existing indigenous vegetation or wetland.</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • Rules that limit how many transferable rural sites can be generated. The number of sites that can be transferred as a result of legally protecting indigenous vegetation or wetlands is limited by the need to meet the minimum qualifying area stated in the UP,. <p>Rules that allow transferable rural sites to be created by vesting reserves in Council.</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • No specific rules that provide for the creation of transferable rural sites as a result of vesting reserve land in Council. <p>Rules that allow relocation of site boundaries (i.e., moving site boundaries more than a minor amount).</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • Rules that provide for boundary relocation without creating the potential for any additional dwellings. <p>Rules that provide for subdivisions not anticipated by the plan to be a Non-Complying Activity.</p> <p>Provisions to manage costs and benefits:</p> <ul style="list-style-type: none"> • Prohibited Activity and Non-Complying Activity status are used to regulate the potential for resource consent applications to subdivide land being made. These are stated in the rules. • The default under the rural subdivision rules for subdivisions that are not provided for is Prohibited Activity. Where this default does not apply, the rules will provide for subdivision to be a Non- 	

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		<p>Complying Activity. Prohibited activity status requires that the subdivision is applied for only as a UP Plan change.</p> <ul style="list-style-type: none"> The plan change process enables Council to look holistically at whether an area should be rezoned. For example, if an area is suitable for rural lifestyle subdivision, then it should appropriately be zoned Countryside Living zone. Similarly, if an area contains significant indigenous vegetation then it can be included by plan change into the SEA, and automatically qualify for consideration for legal protection and transferable rural site subdivision. In particular, the Prohibited Activity default is intended to prevent applications for consent to subdivide around existing dwellings, where there is more than one dwelling on a site. It avoids the prospect of multiple, Non-Complying Activity applications being made, and so avoids the possibility of council being faced with applications for de facto rezoning through Non-Complying Activity applications. 	
Appropriateness	<p>On balance, it is considered the current suite of subdivision provisions found in legacy plans could support the objectives more than they currently do.</p> <p>The main reasons current rules haven't always adequately supported the objectives are that plan rules have allowed subdivisions that have:</p> <ul style="list-style-type: none"> Created new rural lifestyle sites in inappropriate locations, and Resulted in minimal or no environmental gain from the subdivision process. <p>It is considered that by amending and modifying the rules, the proposed UP rules will be better able to prevent rural lifestyle subdivision in inappropriate locations, and provide a more reliable and consistent environmental gain from the subdivision process.</p> <p>Monitoring subdivision consents will confirm whether the UP provisions are working as they should.</p> <p>The UP high level (RPS) objectives reflect legacy plan objectives. They are set out below, with comment on the performance of subdivision rules in supporting them.</p> <p>1. The productive potential of rural land is not undermined.</p> <p>The productive potential of rural land is being undermined by progressive fragmentation of productive land, and expansion of rural lifestyle properties. The legacy objectives, policies, and rules have allowed land to be taken out of production, or its productive potential to be reduced, by fragmentation of sites.</p> <p>2. Further fragmentation of rural land by sporadic and scattered subdivision for urban and rural lifestyle purposes is prevented.</p> <p>There is continuing fragmentation of rural sites, and this is leading to scattered subdivision and the growth in the number of rural lifestyle properties.</p> <p>3. The use and development of existing sites rather than subdivision of land for new sites is encouraged.</p> <p>Legacy plans allow land to be subdivided of around existing land</p>	<p>On balance, it is considered the current suite of subdivision provisions found in legacy plans could support the objectives more than they currently do.</p> <p>The main reasons current rules haven't always adequately supported the objectives are that plan rules have allowed subdivisions that have:</p> <ul style="list-style-type: none"> Created new rural lifestyle sites in inappropriate locations, and Resulted in minimal or no environmental gain from the subdivision process. <p>It is considered that by amending and modifying the rules, the proposed UP rules will be better able to prevent rural lifestyle subdivision in inappropriate locations, and provide a more reliable and consistent environmental gain from the subdivision process.</p> <p>Monitoring subdivision consents will confirm whether the UP provisions are working as they should.</p> <p>The UP high level (RPS) objectives reflect legacy plan objectives. They are set out below, with comment on the anticipated performance of proposed UP subdivision rules in supporting them.</p> <p>1. The productive potential of rural land is not undermined.</p> <p>The productive potential of rural land is being undermined by progressive fragmentation of productive land, and expansion of rural lifestyle properties. The legacy objectives, policies, and rules have allowed land to be taken out of production, or its productive potential to be reduced, by fragmentation of sites.</p> <p>The proposed UP rules are intended to address the weaknesses in current legacy rules by minimising opportunities for those types of subdivision that have the potential to undermine the productive potential of rural land. The ways in which the legacy rules (represented in the status quo option) have allowed fragmentation of rural land to occur have been described above. The changes made to the legacy rules are intended to safeguard the rural productive potential of rural land as one of the highest priorities (if not the highest priority) in the plan provisions for rural areas.</p> <p>2. Further fragmentation of rural land by sporadic and scattered</p>	<p>The 'do nothing' option would be an inappropriate option to select, unless the land use interventions noted above were also imposed. The 'do nothing' option would not support the objectives, and could be expected to undermine them.</p>

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	<p>uses, and this is tending to undermine the intention of making better use of existing sites before creating more.</p> <p>4. The amalgamation and transfer of rural sites to areas that can best support them is encouraged.</p> <p>Subdivision rules that allow the development potential of a site to be transferred to another location have had mixed success.</p> <p>Under legacy plans, the transfer is provided for in two ways:</p> <ul style="list-style-type: none"> • Amalgamation of sites in one location, or • Covenanted land in one location, <p>followed by subdivision of land in the same or another location.</p> <p>Subdivision rules attempt to limit the scope of both of these opportunities, to try and provide the greatest environmental gain out of the process.</p> <p>In spite of objectives seeking to increase the area of land covenanted for indigenous vegetation or wetland vegetation, covenanted areas have tended to be sporadically located, separate from other areas of indigenous vegetation, and in many instances have not met the conditions of subdivision consent. New sites created have not always been in locations that avoid the adverse effects of countryside living.</p>	<p>subdivision for urban and rural lifestyle purposes is prevented.</p> <p>There is continuing fragmentation of rural sites, and this is leading to scattered subdivision and the growth in the number of rural lifestyle properties.</p> <p>The proposed UP provisions are intended to minimise the opportunities for fragmentation of rural land by sporadic and scattered subdivision for urban and rural lifestyle purposes. They do this by discontinuing many of the legacy plan provisions that enabled applications to be made to subdivide land then use it for urban or rural lifestyle purposes.</p> <p>3. The use and development of existing sites rather than subdivision of land for new sites is encouraged.</p> <p>Legacy plans allow land to be subdivided of around existing land uses, and this is tending to undermine the intention of making better use of existing sites before creating more.</p> <p>The proposed UP rules do not make provision for this other than through the transferable rural site subdivision and boundary relocation rules. The benefit of this is that while a site may be subdivided around a rural industry or intensive farming use, to achieve this subdivision the also needs to be amalgamation of existing sites or relocation of existing boundaries, thus avoiding increasing the total number of rural sites.</p> <p>4. The amalgamation and transfer of rural sites to areas that can best support them is encouraged.</p> <p>Current subdivision rules that allow the development potential of a site to be transferred to another location have had mixed success.</p> <p>Under legacy plans, the transfer is provided for in two ways:</p> <ul style="list-style-type: none"> • Amalgamation of sites in one location and creation of a new site from the same or another site, or • Legally protecting existing or newly planted vegetation or wetland in one location, followed by subdivision of land in the same or another location. <p>The proposed UP subdivision rules attempt to limit the scope of both of these opportunities, to try and provide the greatest environmental gain out of the process.</p> <p>The proposed UP rules require that indigenous vegetation or wetland vegetation proposed to be covenanted must have first passed the test of being significant, and included in the SEA overlay. This quality control measure should eliminate the opportunity for subdivisions that are intended to enhance planting or wetland creation, or covenanted of vegetation, to fail and in doing so provide little biodiversity value plus site fragmentation.</p> <p>It is appropriate to discontinue the current subdivision opportunities for planting new vegetation and allowing subdivision of land as a result, because of their limited success.</p>	
Effectiveness	The suite of legacy rules set out above are effective in providing a	The suite of proposed UP rules set out above will provide an effective	The 'do nothing' option is very effective in enabling an individual

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	<p>regulatory framework for managing rural subdivision. The provisions are in use already, and a body of knowledge has been built up around them as they have been interpreted, and tested in the courts.</p> <p>However, it is considered they are currently not achieving the outcomes sought in the objectives, and they have been ineffective in some key areas:</p> <ul style="list-style-type: none"> • Subdivisions following covenanting of vegetation that has been planted or wetlands that have been created, have worked well in some cases, but not in others. The UP proposed has therefore discontinued this set of provisions. • Subdivision following covenanting of existing vegetation has had mixed success. Some very good areas of indigenous vegetation have been covenanted. However, other areas of little value have been covenanted and generated a transferable rural site subdivision. There are several reasons for this uneven success, the lack of success being the result of inadequate or unqualified assessment of the indigenous vegetation. • Subdivisions around existing houses, and around existing rural industries and intensive farming activities, create a set of problems. The UP proposed has therefore discontinued this set of provisions. • Subdivisions involving the amalgamation of sites has resulted in some sites becoming larger and theoretically more productive as a result. However, in situations where the pre-amalgamation sites have been small, the resulting sites have also been small and suitable only for rural lifestyle occupation. In combination with rules that allow boundary relocations, these rules have allowed sporadic countryside living areas to be created, contrary to the objectives of the plan. • Rules that allow subdivision based only on meeting a minimum area increase the risk that the sites created will be suitable only for rural lifestyle occupation. • There is a high risk that a subdivision for a retiring farmer will end up simply as a rural lifestyle property once it is created. • Rules that provide for amalgamation of sites in one location to enable a subdivision in another location, provided the donor sites are more naturally productive than the receiver sites, (i.e., have a “better” LUC classification), have been undermined when boundary adjustment or relocation rules have been used to ensure the donor site qualifies. • Where a legacy plan provides for subdivisions that are not anticipated as a Non-Complying Activity, there is a reasonably high risk that some Non-Complying Activity applications that do not support the objectives will gain consent. <p>The suite of rules in the proposed UP are intended to reduce the risks and therefore increase the achievements.</p>	<p>regulatory framework for managing rural subdivision. While not all the provisions are in use already, many of them are or are similar to those that are. The body of knowledge that has been built up around the legacy plan provisions will carry forward. New interpretations of the proposed UP provisions will quickly be established as they are used and tested in the courts.</p> <p>It is considered the proposed UP rules will be more effective in achieving the outcomes sought in the objectives than the status quo or do nothing options, and will be effective in some key areas in which the status quo (current) rules have been ineffective:</p> <ul style="list-style-type: none"> • The proposed UP does not provide for transferable rural site subdivisions to be applied for following covenanting of vegetation that has been recently planted or wetlands that have been created. However, if planted indigenous vegetation or created wetlands are of SEA quality, then the opportunity exists to have those areas included in the SEA overlay (by plan change) and to covenant them as part of a transferable rural site subdivision. This would ensure that where a landowner wishes to sell a transferable rural site, the opportunity is provided while safeguarding the public interest by ensuring the area being covenanted is of appropriate quality. • Subdivision following legal protection of existing vegetation has had mixed success. Some very good areas of indigenous vegetation have been protected. However, other areas of little value have been protected and yet have been used to create a transferable rural site subdivision. There are several reasons for this uneven success, including the inadequate or unqualified assessment of the indigenous vegetation, the lack of care of the vegetation or wetland following the subdivision, and the sporadic, unconnected location of the protected land. The proposed UP provisions require the assessment to be carried out by a suitably qualified and experienced person, and the land to form part of an identified SEA and be of minimum qualifying area. This means the proposed UP provisions will be more effective in achieving the objectives than the status quo option. • Subdivisions around existing houses, and around existing rural industries and intensive farming activities, can create a new set of problems. The proposed UP has therefore discontinued these provisions, and provided the opportunity to subdivide using the transferable rural site subdivision and boundary relocation rules. This ensures the number of sites in rural areas will not be increased by this type of subdivision, and the site boundaries can still be changed to facilitate rural productivity. • Subdivisions involving the amalgamation of sites have resulted in some sites becoming larger and theoretically more productive as a result. However, in situations where the pre-amalgamation sites have been small, the resulting sites have also been small and suitable only for rural lifestyle occupation. The proposed UP provisions ensure that the donor sites are of a specified minimum size, to ensure the potential being transferred is real and to address problems with the status quo option (which has allowed sporadic countryside living areas to be created). The proposed UP rules are expected to be more effective in achieving the objectives than the status quo option. • Rules that allow subdivision based only on meeting a minimum area increase the risk that the sites created will be suitable only for rural lifestyle occupation, so are not used. 	<p>landowner to subdivide land to meet their immediate needs.</p> <p>The ‘do nothing’ option is very ineffective in protecting or safeguarding the productive potential of rural land, and will if carried out destroy the rural productivity and result in the permanent loss of productive land in rural Auckland.</p> <p>Unless it is accepted that the use of land (and in particular the right to build one house on a site) is not a ‘right’, and is separated completely from the ownership of a site, the ‘do nothing’ option is a very high risk strategy indeed for rural Auckland.</p> <p>Separating the right to use land from its ownership would require a significant cultural shift, and in particular would require acceptance that the right to build one house on a site is not a right but an opportunity that is subject to consent to a resource consent application that would be refused if the house was not necessary to support a productive use of the site. Productive in this context would relate to agriculture or forestry only.</p> <p>However, if this cultural shift were made, subdivision could be left to individual landowners to decide with little Council intervention (the ‘do nothing option’), as the risks would be low because land uses would be subject to resource consent.</p>

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		<ul style="list-style-type: none"> The proposed UP rules ensure that if a farmer wishes to retire on a small rural site, they are able to do so by purchasing a transferable rural site, or carrying out a boundary relocation. While such subdivisions result in a site that is likely to end up as a rural lifestyle property once the retiring farmer no longer requires it, they also ensure that the subdivision has resulted from amalgamation of other sites or relocation of boundaries, and not an increase in the number of rural sites. The proposed UP rules do not require comparison between the LUC classification of the donor and receiver sites. They require assessment only of the receiver site to ensure it does not contain LUC classes 1-3 soils, and is in an appropriately zoned area. This is a more effective way of ensuring that sites in areas of LUC classes 1-3 soils are not further fragmented. This is also more effective than the status quo option of comparing the donor and receiver sites, because the LUC class of the donor site can be manipulated to qualify, by boundary relocation subdivision. By making subdivisions not anticipated under the plan rules (such as subdividing around existing houses where there are two houses on an existing site) a Prohibited Activity, the proposed UP provisions will be more effective in preventing fragmentation of rural land than the status quo option which makes this type of subdivision a Non-Complying Activity. <p>The suite of rules in the proposed UP are intended to reduce the risks and therefore increase the likelihood of the plan achieving the objectives than either of the other options.</p>	
Efficiency	<p>The legacy plans' suite of rules (set out above) are inefficient in a number of ways that increase costs without providing significant benefits:</p> <ul style="list-style-type: none"> The opportunity to apply for any type of subdivision, as a Non-Complying Activity, provides opportunities for protracted litigation. Current plans make little use of the Prohibited Activity status to increase certainty and reduce costs. Legacy rules that reward enhancement planting by providing the opportunity to subdivide land have provided variable benefits, some providing measurable biodiversity gains, while others have failed to provide much benefit. Some good examples of enhancement planting subdivision have been identified in the UP as Significant Ecological Areas. Others however have provided no environmental benefit. The UP approach is to incorporate those aspects of the rules that have worked, while attempting to exclude those aspects that have allowed subdivisions with little or no biodiversity benefit. Legacy rules that have allowed subdivision in coastal areas have created environmental costs that are considered, in the light of the directives in the NZ Coastal Policy Statement and the Auckland Plan, to outweigh the benefits of either amalgamation of sites, covenanting of indigenous vegetation, or enhancement planting. The UP rules do not provide for subdivision for additional sites in coastal areas, however those sites are generated. 	<p>The proposed UP suite of rules (set out above) will be more efficient in reducing both environmental and economic costs and relative to the benefits of intervention, and will provide more significant benefits than the status quo option because:</p> <ul style="list-style-type: none"> The opportunity to apply for any type of subdivision, as a Non-Complying Activity, is not adopted in the proposed UP option. This minimises opportunities for protracted litigation. Current plans make little use of the Prohibited Activity status to increase certainty and reduce costs. The status quo opportunity to reward enhancement planting by providing the opportunity to subdivide land have provided variable benefits, some providing measurable biodiversity gains, while others have failed to provide any biodiversity benefits. Under the proposed UP rules, this opportunity has been discontinued. However, where high quality enhancement planting or wetland rehabilitation has been carried out, there is the opportunity to have the area identified as an SEA through the plan change process, automatically qualifying it as being suitable for transferable rural site subdivision. The proposed UP rules will therefore be more efficient than the status quo option because they minimise or remove opportunities for subdivisions of little environmental benefit and little or no biodiversity gains to be approved. Legacy rules that have allowed subdivision in coastal areas have created environmental costs that are considered, in the light of the directives in the NZ Coastal Policy Statement and the Auckland Plan, to outweigh the benefits of either amalgamation of sites, covenanting of indigenous vegetation, or enhancement planting. The proposed UP rules do not provide for subdivision for additional sites in areas zoned Rural Coastal, however those sites 	<p>The 'do nothing' option would be a very inefficient option because it would result in wasting the productive potential of rural areas.</p>

	Status Quo Alternative	Alternative 1 - preferred	Alternative 2 – Do Nothing - little or no UP regulatory, or non-regulatory intervention
		are generated. The preferred option will therefore be more efficient in avoiding coastal land fragmentation and development, compared with the status quo option.	
Costs	<p>Retaining the status quo is anticipated to generate the following environmental costs:</p> <ul style="list-style-type: none"> • The loss of highly productive land that cannot ever be replaced or replicated elsewhere. • The inability to produce food at current levels with current inputs, because of the continuing reduction in the area of highly productive land available for production. • The need to apply ever increasing inputs to the soil to maintain current or increased levels of production on less productive land • Greater occurrences of adverse reverse sensitivity effects. These will, cumulatively, reduce total production from rural land by making it more difficult for growers and farmers to continue producing at current levels. <p>The environmental costs of retaining existing rules are anticipated to arise as follows:</p> <ul style="list-style-type: none"> • Increasing number of sites with no or little environmental gain. • Change in rural character from farming to countryside living. Fewer residents involved in farming. • Production displaced onto less productive or more remote land, requires greater inputs to maintain agricultural and horticultural production. • Increasing number of sites with little or no environmental gain if re-vegetation is unsuccessful. • More houses close to indigenous vegetation, so greater threat to biodiversity following subdivision than before it. • Clusters of Countryside Living sites created in random locations outside Countryside Living zones. • Vegetation or wetland being covenanted may not be significant, as the applicant may not be suitably qualified and experienced in assessing the ecological value of indigenous vegetation or wetlands. • Multiple sites created if the size of indigenous vegetation or wetland being covenanted exceeds the minimum qualifying area. • Transfer of rights within the Rural Coastal zone not provided for. May prevent worthwhile environmental gains from occurring. May disadvantage parts of Greater Auckland where there is a large, consolidated area of land zoned Rural Coastal (such as Kaipara Heads). • No net environmental gain if the development potential of the vacant donor sites being amalgamated is in reality nil or very low. This situation could arise if the donor sites are in a remote location where demand for houses is very low, or they could be part of a "Soldier settlement town" where numerous small sites exist and provide the opportunity for large numbers of transferable rural sites, but yield only small environmental gains because after amalgamation the sites created are still very small, or (for example) sites created under the Mining Tenures Registration Act 1962 or the Maori Land Act. • New sites being created in an inappropriate location, such as along the coast. • Subdivisions can occur in random locations, usually in desirable coastal locations where additional clusters of rural lifestyle 	<p>The preferred option is anticipated to generate the following environmental costs:</p> <ul style="list-style-type: none"> • Less fragmentation of rural land, so not as many rural lifestyle sites as status quo, more land retained in production, in theory more fertiliser will be applied to land, and the potential for stream or groundwater contamination will be greater than the status quo. • Fewer rural countryside living sites created than status quo, so not as many trees and other vegetation planted along streambanks for amenity reasons, so less shading of streams than status quo, and less filtering of runoff from surrounding land, than status quo. • More stock units on land than status quo, so more potential for stream contamination from runoff from surrounding land. • Because no subdivision incentive for revegetation or wetland creation, biodiversity gains are fewer (provided re-vegetation planting or creation of wetland is successful). • Less land will be retired from production and revegetated compared with status quo, so fewer benefits from this – more fertiliser and more stock units, so greater potential for stream contamination from runoff from surrounding land, may be more erosion because steep or unstable land is not being revegetated. • The inability to apply for consent to subdivide land in a way that does not comply with the Discretionary Activity rules means that some subdivision proposals that could provide some environmental, or social or cultural benefits, cannot proceed. The proposed rules therefore create an opportunity cost in these circumstances. It is considered these situations will be relatively rare. The proposed UP does identify some types of subdivision and Non-Complying Activities, however. • The UP provides for boundary adjustments to only 10% of the area of the parent site, and boundary relocations which have a greater scope, but limit both to not creating any additional development capacity, or sites, in the zone. It is therefore possible (as a Discretionary Activity) to apply for consent to a boundary relocation that involves "shrinking" a site around an existing farmhouse, and provide a rural lifestyle site for a retiring farmer. There is an economic and social benefit to this rule, as well as a cost because of the potential for the rural lifestyle site created to generate new reverse sensitivity effects. However, as there is no change to the existing residential development potential in rural areas, it is considered that the benefits outweigh the costs of processing applications for retiring farmer subdivisions. There are limits on the type of subdivision through rules that require the retiring farmer to 'buy in' a transferable rural site or relocate existing boundaries, in order to subdivide. The limits also prevent subdivision on land of LUC classes 1-3, and in the 'receiver site exclusion area', or in the Rural Coastal or Rural Conservation zones, so there will be costs associated with these exclusions. • Some revegetation subdivisions have been successful, and added to the SEA quality resource in rural areas. Some of this revegetation has now been identified in the UP as an SEA. This confirms it is possible to carry out successful revegetation, so rules that do not reward this carry with them an environmental opportunity cost. However, the rules do not prevent a landowner from revegetating appropriate areas and applying (by plan 	<p>The 'do nothing' option is anticipated to generate the following environmental costs:</p> <ul style="list-style-type: none"> • Permanent loss of productive soils. • An inability of the rural parts of Auckland to provide for the food and fibre needed to support Auckland and other areas. • Activities that are not dependent on the productive use of land being established in rural areas. These are likely to curtail or constrain existing rural activities. • Increased need to apply fertiliser and other inputs onto land to maintain production and productive uses are displaced from high quality soils where sites have been fragmented, onto less productive soils.

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	<p>subdivision are inappropriate.</p> <ul style="list-style-type: none"> • Transfer of rights within the Rural Coastal zone not provided for. May prevent worthwhile environmental gains from occurring. • Increase in the number of residential or rural lifestyle sites in rural areas. • Location of house site may contribute to ribbon development along roads. • Once the farmer leaves, the site becomes another rural lifestyle or Countryside Living site. • A probable increase in adverse reverse sensitivity effects following sale of the retiring farmer’s site for rural lifestyle occupation. Purchaser may have different aspirations and little connection with farming practices on the adjacent land. • Additional sites in rural areas created for a specific purpose but with no assurance they will continue to be used for that purpose. • Probability that in the event the rural industry or intensive farm is closed, the site is used for Countryside Living purposes only. • Rural industries and intensive farming should be located on arterial roads, so if the rural industry or intensive farm is closed down, the resulting Countryside Living site creates adverse traffic effects. • Additional houses in close proximity to a potentially noxious land use that will create adverse effects on the occupiers of the adjoining house. Being on land that has been subdivided off the parent rural industrial or intensive farming site, is likely to be closer to the rural industry or intensive farm than houses on surrounding land. • Lack of flexibility for future use of site created around rural industry or intensive farming activity. • Sporadic, unplanned development along the coast. • Permanent loss of LUC classes 1-3 soils under Countryside Living uses. • Limited environmental gain as a result of the transfer of rural sites generated by amalgamation of sites in a remote location where there is little real demand for rural lifestyle development, into attractive, coastal sites where demand is strong. • Use of the boundary adjustment or boundary relocation processes prior to amalgamation of donor sites, to ensure that donor sites being amalgamated have a higher percentage of prime or elite land (LUC classes 1-3) than the receiver site, thereby creating a transferable rural site following boundary adjustment or relocation that didn’t exist prior to it. • Where a large area of indigenous vegetation or a large wetland is being covenanted, and this area is several times the “qualifying area” under the Plan rules, a large number of transferable rural sites can be generated. These could add significantly to the stock of rural lifestyle sites. • If the vested reserve is inaccessible, it may make little if any contribution to public amenity values. • The vested reserve may contribute little to enhancing the water quality of the adjacent stream, river, or coast, especially if it is a small, disconnected strip. • Given the large number of kilometres of streams and rivers within greater Auckland, the rule has the potential to generate large numbers of transferable rural sites if esplanade reserve vesting provides a qualifying area. These may swamp the available Countryside Living zone receiver areas, and lead to pressure to 	<p>change) to have them included in the SEA area. This automatically qualifies them for transferable rural site subdivision.</p> <ul style="list-style-type: none"> • It is possible that sites being amalgamated are of a “worse” LUC class (i.e., are less naturally productive) than the land being subdivided under transferable rural site subdivision rules (which exclude elite and prime land). This could generate an environmental cost by resulting in the fragmentation of better quality, more productive land than the sites being amalgamated. • Because the plan does not make the subdivision of land within LUC classes 1-3 a Prohibited Activity, unless other subdivision rules prevent it, it is possible that this highly productive land could be further fragmented. Other safeguards exist in the rules. • Some areas of indigenous vegetation or wetland are many times larger than the minimum qualifying area for transferable rural site subdivision, and are contained within a single site. The subdivision rules enable more than one transferable rural site to be generated by covenanting vegetation or wetland. It is possible that opportunities to legally protect vegetation or wetland will not proceed solely because there are insufficient rewards or insufficient areas into which the sites can be transferred, especially if the protection mechanism requires that work (such as fencing) is carried out. • Because the proposed UP subdivision rules do not provide a specific rule that rewards vesting reserve land in Council, it is possible that opportunities to provide access to and along streams, rivers, or the coast will be lost. It is also possible that opportunities to obtain significant landscape features at little or no cost will also be lost. • Fewer useful reserve linkages vested in Council than under status quo because no incentives provided to vest reserve land, especially esplanade reserves along streams, rivers, and the coast, at no public cost. • Fewer benefits to stream and river water quality as a result of vesting esplanade reserves, because fewer incentives to vest esplanade reserves than under status quo. • Fewer improvements in public access to and along streams, rivers, and the coast because fewer incentives to vest esplanade and other reserves than under status quo. • Compared with the status quo option, there are likely to be more occasions when a subdivision that is not provided for, but could create an environmental benefit, doesn’t proceed. 	

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	<p>rezone inappropriate areas of land to Countryside Living zone.</p> <ul style="list-style-type: none"> To meet demand for receiver areas, there could be pressure to allow transfers into Rural Production or Rural Coastal zone areas. This in turn could result in large numbers of rural lifestyle sites being created in inappropriate locations. Can give some sites a development potential following boundary relocation that they did not have prior to it. Can result in more reverse sensitivity problems if it increases the number of Countryside Living sites. Lack of certainty about which types of subdivision will not be allowed in rural areas. Opens up rural areas to any type of subdivision. Subdivision proposals which may have little merit are approved because applications are assessed against the objectives and policies of the plan, and these can be subject to wide interpretation. Does not enable Council and the community to evaluate a proposed subdivision (especially one seeking multiple Countryside Living sites) in the same holistic way that a plan change application requires. Cumulative effect of approving multiple applications can result in areas becoming de facto Countryside Living zone without a plan change. Sporadic countryside living results from subdividing around existing houses, on the basis there is no change of effects. Fragments land sites, permanently taking land out of productive use, and converting it to rural lifestyle use. 		
	<p>Retaining the status quo is anticipated to generate the following economic costs:</p> <ul style="list-style-type: none"> A gradual decline in the value of rural production, particularly in the highly productive areas in the south of greater Auckland, as land uses change from farming (including horticulture) to non-rural uses, especially countryside living. A gradual increase in the costs of rural production, as greater inputs are required to maintain production on less favourable soils onto which production has been forced to move as it is displaced from LUC classes 1-3. <p>The economic costs of retaining existing rules are anticipated to arise as follows:</p> <ul style="list-style-type: none"> Increasing land values based on residential potential, displaces existing farmers, discourages purchase of land for farming. Increasing reverse sensitivity problems with greater housing density makes farming more difficult. Production displaced onto less productive or more remote land, requires greater inputs to maintain agricultural and horticultural production. Greater opportunities for non-rural uses to be established in rural areas. Public costs increasing with more intensive development in rural areas. Public cost as a result of no bonds being taken to fund remedial works arising from non-performance of consent holder. Cost arises as result of direct action to remedy, or litigation to require consent holder to remedy. Litigation over whether vegetation is significant, costs not able to 	<p>The preferred option is anticipated to generate the following economic costs:</p> <ul style="list-style-type: none"> There may be situations where an economic benefit would arise if consent were granted to subdivide land without reference to its soil type. The rules would prevent this. Therefore there would be an opportunity cost. The plan envisages either buying in a transferable rural site, carrying out a boundary adjustment or boundary relocation, or locating on an existing title of appropriate size. It may be financially unattractive to the landowner to covenant the SEA, if in doing so other costs (such as fencing) must be met. Transferable rural site subdivision rules require that the transfer is into a Countryside Living zone only. This limit on the scope of the transfer means there are fewer opportunities to sell a transfer compared with those available under amalgamation of donor sites. Excluding land in some zones significantly limits the opportunities to sell a transferable rural site. Some of the excluded areas, such as the Rural Coastal zone, are highly desirable areas for additional rural lifestyle properties, and a transfer into this zone could be expected to cost more than a transfer into a rural area (reducing the further from the coast the receiver site is located). Requiring a retiring farmer to buy in a transferable rural site is an economic cost to the farmer. It is possible that a rural industry or intensive farm may not be established because no suitable sites in an appropriate location and of an appropriate size are available, and the subdivision rules prevent one from being created. There could be an economic cost to Auckland, as the rural industry or intensive farm may simply be located elsewhere (outside greater Auckland). 	<p>The 'do nothing' option is anticipated to generate the following economic costs:</p> <ul style="list-style-type: none"> Net loss to Auckland of the value of production from rural areas. Costs to individual producers who need to relocate or close as a result of reverse sensitivity effects.

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	<p>be recovered.</p> <ul style="list-style-type: none"> • Costs and obligations in perpetuity (to owner of covenanted vegetation or wetland) of maintaining covenanted feature: e.g. pest and weed control, fencing, obligations imposed by covenant. • Cost of monitoring the ecological health of the covenanted area. • Cost of monitoring how well the conditions of consent and obligations imposed by the covenant are being complied with. • Loss of economic benefits if rural industry or intensive farm closes as a result of reverse sensitivity effects in relation to the house on the land subdivided off the parent rural industrial or intensive farming site. • Permanent loss of LUC classes 1-3 soils under Countryside Living uses. • Loss of rural productivity as result of increase in adverse reverse sensitivity effects in rural areas. • Cost to applicant of the above process to generate a transferable rural site, without any real, consequential environmental gain. • Cost to applicant of commissioning an expert to carry out a soil type assessment to justify rearranging site boundaries. • Activity status (i.e., whether a proposed subdivision is a Prohibited Activity) determined by “expert opinion”, rather than being via a mapped zone, precinct, or overlay. Process of deciding this requires the applicant to commission an expert opinion, which the Council may not agree with. In this event, the expenditure incurred will be wasted, as no application to Council can be made. • Argument and litigation over whether the land within a proposed subdivision is within LUC classes 1, 2, or 3. • Uncertainty for a landowner about the activity status of a proposed subdivision of their land. • Inability of applicant to challenge a Council or delegated officer decision to classify a particular subdivision as a Prohibited Activity. • Possible oversupply of transferable sites. This can depress their value. • Where the reserve being vested is esplanade reserve, the outcome may be Council owning a relatively small, inaccessible, disconnected length of esplanade reserve. This may incur maintenance costs which Council has not budgeted for, or require allocation of funds from other, more valuable, reserve maintenance. • Where the vested reserve is a recreation, scenic, or nature reserve, the outcome may be Council ownership of land it has no interest in maintaining, is inaccessible to the public, and is therefore of little public benefit but incurs public cost. • To meet demand for receiver areas, it may be necessary to make the purchase of a transferable rural site a pre-requisite for allowing subdivision in Countryside Living zones. This would increase the cost of subdividing land in Countryside Living zones. On the other hand, if the supply of transferable rural sites greatly exceeds the capacity of Countryside Living zones to absorb them (i.e., there are more sellers than buyers), the cost of purchasing a transferable rural site should reduce. • Council may end up owning reserves that it has no budget to maintain, or does not want, or are of little community benefit. • Over-supply of transferable rural sites should reduce their cost, to the detriment of vendors. • Financial and social costs of drawing the community into litigation about the merits of a particular subdivision, including those that 	<ul style="list-style-type: none"> • Because the proposed UP makes subdivisions that are not provided for a Prohibited Activity, there could be situations where an activity that does not depend on the inherent productive capability of the land, and would not result in an additional rural lifestyle property being created, is unable to find an appropriate site on which to be established. Similarly, it may be desirable to subdivide around an existing use that is located in an area within which the plan excludes transferable rural site subdivision. So economic opportunities could be lost as a result. • Fewer opportunities than status quo option for landowners to sell land surplus to rural industry or intensive farm. • Less financial benefit to landowner who sells transferable rural sites than status quo option, because preferred option does not provide for the sale of multiple transferable rural sites from covenanting indigenous vegetation or wetland. • Relative inflexibility of subdivision rules because of Prohibited Activity status means fewer opportunities to apply for rural lifestyle sites, reduces opportunities for sale of surplus land, or to subdivide around an existing house especially where there is more than one house on a site, although transferable rural site subdivision and boundary relocation will provide opportunities. • Prohibited activity status for subdivisions not provided for means more applications for plan changes to rezone land to Countryside Living zone. This is likely to (although not necessarily) carry with it greater cost to the applicant for preparing the application. 	

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	<p>are contrary to the objectives and policies of the plan.</p> <ul style="list-style-type: none"> • Sporadic countryside living results from subdividing around existing houses, on the basis there is no change of effects. Fragments land sites, permanently taking land out of productive use, and converting it to rural lifestyle use. 		
	<p>Retaining the status quo is anticipated to generate the following social costs:</p> <ul style="list-style-type: none"> • Further fragmentation of rural land will result in a gradual increase in the number of people who live in rural areas to enjoy a rural lifestyle, but have no particular connections with farming (including horticulture). • Some residents who live in rural areas and farm the land regard this type of social change as a cost, and see it as eroding the social networks that exist in farming areas to support farmers and their families. Retaining the status quo is anticipated to generate the social costs described below. • Change in social structure and networks as rural lifestyle occupancy increases. • Financial and social costs of drawing the community into litigation about the merits of a particular subdivision, including those that are contrary to the objectives and policies of the plan. 	<p>The preferred option is anticipated to generate the following social costs:</p> <ul style="list-style-type: none"> • Restrictions on the creation of rural lifestyle properties could create the social cost of limiting the opportunities for families to move into an area, where they could support local school and other social networks. It also limits the opportunities for those who want to live in a rural area to do so on a small rural lifestyle property. It is possible that by limiting the supply their cost will increase. Although there are many vacant sites in greater Auckland, they are not all in areas of high demand. • Excluding land in the Receiver Site Exclusion Area of central Franklin, and on LUC classes 1-3, will rule out the opportunity to buy in a transferable rural site. This restriction could have a social cost by preventing a retiring farmer living in the area from subdividing land for a retirement site. However, the boundary relocation rule will provide some opportunity. • Making no provision for subdivision for a retiring farmer could create a social cost by preventing the farmer from retiring and continuing to live in the same dwelling, subdividing it off from the parent site. There are other opportunities however (subject to restrictions noted above), through transferable rural site subdivision and boundary relocation. 	<p>The 'do nothing' option is anticipated to generate the following social costs:</p> <ul style="list-style-type: none"> • Change in social structure and networks as rural lifestyle occupancy increases.
	<p>Retaining the status quo is anticipated to generate the following cultural costs:</p> <ul style="list-style-type: none"> • Opportunity cost for iwi group unable to subdivide land. 	<p>Retaining the status quo is anticipated to generate the following cultural costs:</p> <ul style="list-style-type: none"> • Inability of some iwi groups to subdivide land, unless precinct rules allow it. 	<p>Retaining the status quo is anticipated to generate the following cultural costs:</p> <ul style="list-style-type: none"> • None identified.
Benefits	<p>Retaining the status quo is anticipated to generate the following environmental benefits:</p> <ul style="list-style-type: none"> • More fragmentation of rural land, so more rural lifestyle sites, with less emphasis on production, less fertiliser applied to land, so less potential for stream or groundwater contamination. • More trees and other vegetation planted along streambanks for amenity reasons, so more shading of streams and more filtering of runoff from surrounding land. • Fewer stock units on land, so less potential for stream contamination from runoff from surrounding land. • Biodiversity gain if re-vegetation planting or creation of wetland successful. • Benefits from retiring land from production – less fertiliser and fewer stock units, so less potential for stream contamination from runoff from surrounding land, less erosion if revegetated area is steep or unstable. • Enhanced biodiversity protected in perpetuity if vegetation or wetland being covenanted is significant. • Subdivision of rural land with no net increase in the number of sites. • Flexibility to move latent potential within rural areas to where it is needed, without the disadvantage of creating additional house sites. 	<p>The preferred option is anticipated to generate the following environmental benefits:</p> <ul style="list-style-type: none"> • Flexibility to move latent potential within rural areas to where it is needed, without the disadvantage of creating additional house sites, and avoiding coastal areas and highly productive areas. • Subdivision of rural land with no net increase in the number of titles. • Enhanced biodiversity protected in perpetuity because requiring SEA identification ensures vegetation or wetland being covenanted is significant. Status quo option has not performed well in all cases. • Can encourage the amalgamation of titles on LUC classes 1, 2, or 3 land into larger, more productive units. • Could safeguard the productivity of land within LUC classes 1, 2, and 3. • Large areas of qualifying indigenous vegetation or wetland covenanted in perpetuity. • Boundary adjustments and relocations do not increase the number of vacant sites in rural areas. • Less environmental monitoring of planted areas or wetlands, and less enforcement action arising out of non-performance of subdivision consent conditions, because areas must be of SEA quality prior to subdivision application being made. 	<p>The 'do nothing' option is anticipated to generate the following environmental benefits:</p> <ul style="list-style-type: none"> • It is possible that some subdivisions may achieve environmental gains as a result of the subdividing owner providing them.

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	<ul style="list-style-type: none"> • Can encourage the amalgamation of sites on LUC classes 1, 2, or 3 land into larger, more productive units. • Could safeguard the productivity of land within LUC classes 1, 2, and 3. • Large areas of qualifying indigenous vegetation or wetland covenanted in perpetuity. • Useful reserve linkages, especially esplanade reserves along streams, rivers, and the coast, can be gained at no public cost. • Benefits to stream and river water quality as a result of vesting esplanade reserves • Improvements in public access to and along streams, rivers, and the coast. • Boundary adjustments do not increase the number of vacant sites in rural areas. • There may be occasions when an environmental benefit is generated by a subdivision that the plan hasn't anticipated. Prohibited Activity status would prevent this. Non-Complying Activity provides the opportunity for it to be approved. 	<ul style="list-style-type: none"> • Avoiding those adverse environmental effects that have been shown to arise from some current legacy plan rules (identified earlier in this report). • Limits on the scale of boundary adjustment subdivision mean land is more likely to retain its productive potential. • Subdivision for road severances, utilities, and creation of reserves mean infrastructure is able to be provided for without significant regulatory hurdles. • Fewer rural lifestyle sites created. • Biodiversity gain if re-vegetation planting or creation of wetland successful. • Benefits from retiring land from production – less fertiliser and fewer stock units, so less potential for stream contamination from runoff from surrounding land, less erosion if revegetated area is steep or unstable. • It is considered that retaining legacy rules that require comparison between the LUC classification of donor and receiver sites is not required because limiting the LUC classification of receiver sites alone will achieve the desired outcome. The LUC classification of donor sites is of less importance because of the wider environmental benefits of site amalgamation. 	
	<p>Retaining the status quo is anticipated to generate the following economic benefits:</p> <ul style="list-style-type: none"> • Financial benefit to landowners with ability to subdivide. • Greater opportunities for non-rural uses to be established in rural areas on small sites. • Financial benefit for landowners who sell a transferable right to subdivide. • Financial benefit for landowner who subdivides after buying in a transferable right to subdivide. • Financial benefit to landowner who sells the transferable rural site. • Financial benefit to owner of land able to be subdivided following acquisition of transferable rural site (creates a new site they wouldn't otherwise have been able to create). • Opportunity for additional rural sites to be created if the vegetation being covenanted or wetland being restored is significant. • Subdivision within Countryside Living zones can be carried out more intensively if significant indigenous vegetation or significant wetlands are covenanted. • Financial benefit to landowner who sells the transferable rural site. • Financial benefit to landowner who can subdivide following acquisition of transferable rural site. • Flexibility to move latent potential within rural areas to where it is needed, without the disadvantage of creating additional house sites. • When the retiring farmer no longer requires the house, it can become a rental property for, or house for sale to, a person working in the rural area or for rural lifestyle living. • Financial benefit to retiring farmer, or their beneficiaries, when property sold. • Enables landowner to sell land surplus to rural industry or intensive farm. • Very high level of flexibility for transferable rural site subdivision process, for both vendor and purchaser, ease of matching vendor and purchaser. • Financial benefit for owners of land in remote, hilly locations where 	<p>The preferred option is anticipated to generate the following economic benefits:</p> <ul style="list-style-type: none"> • Less environmental monitoring of planted areas or wetlands, and less enforcement action arising out of non-performance of subdivision consent conditions, because areas must be of SEA quality prior to subdivision application being made. • Financial benefit to landowners with ability to subdivide. • Some opportunities for non-rural uses to be established in rural areas on small sites created as a result of transferable rural site subdivision. • Financial benefit for landowners who sell a transferable rural site subdivision right. • Financial benefit for landowner who subdivides after buying in a transferable rural site subdivision right. • Opportunity for additional rural sites to be created if the vegetation being covenanted or wetland being restored is significant. • Subdivision within Countryside Living zones can be carried out more intensively if sites elsewhere are amalgamated or significant indigenous vegetation or significant wetlands are covenanted. • Flexibility to move latent potential within rural areas to where it is needed, without the disadvantage of creating additional house sites. • When the retiring farmer no longer requires the house, it can become a rental property for, or house for sale to, a person working in the rural area or for rural lifestyle living. • Reasonable flexibility for transferable rural site subdivision process, for both vendor and purchaser. • Financial benefit for owners of land in remote, hilly locations where farming is less profitable than more naturally productive land, to sell a site through the transferable rural site subdivision process. • Financial benefit to landowners who create transferable rural site subdivisions, because opportunities are more limited than for the status quo option their value should be higher (number of buyers exceeds number of sellers). • Soil studies provided by subdividing landowners build up a 	<p>The 'do nothing' option is anticipated to generate the following economic benefits:</p> <ul style="list-style-type: none"> • Gives the private landowner the ability to use productive land in any manner. This may include uses which do not rely on the productive potential of soils.

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	<p>farming is less profitable than more naturally productive land.</p> <ul style="list-style-type: none"> • Financial benefit for owners of coastal land who have limited or no ability to subdivide but where demand for rural lifestyle or Countryside Living sites is high. • Plentiful supply of donor sites helps to minimise the cost of purchasing a transferable rural site down (number of sellers exceeds number of buyers). • Can enable a landowner to generate a donor site that wouldn't otherwise exist. • Soil studies provided by subdividing landowners build up a database of detailed information about LUC soil classification at no public cost. • Financial benefit to landowner who sells multiple transferable rural sites. • Over-supply of transferable rural sites should reduce their cost, to the benefit of purchasers. • Can provide useful flexibility for landowners to move boundaries to more appropriate locations. • Can provide a substitute opportunity for retiring farmers to generate a transferable rural site or to "shrink" a site around the farmhouse, enabling them to remain living on the site. • Provides high level of flexibility for landowners. Enables applications for any type of subdivision. Can be attractive for landowner wishing to create rural lifestyle site by subdividing around an existing house especially where there is more than one house on a site. • Less cost for applicant for preparing application for resource consent than the more rigorous assessment required for a plan change. • Does not imply that any subdivision that the plan provides for is out of the question. Does not require a holistic assessment of the proposal, only assessment against the UP objectives and policies. 	<p>database of detailed information about LUC soil classification at no public cost.</p> <ul style="list-style-type: none"> • Under-supply of transferable rural sites compared with status quo option should increase their value, to the benefit of vendors. • Boundary adjustment and boundary relocation can provide useful flexibility for landowners to move boundaries to more appropriate locations. 	
	<p>Retaining the status quo is anticipated to generate the following social benefits:</p> <ul style="list-style-type: none"> • Additional population in rural areas can support country schools and other social networks. • Enables a retiring farmer to subdivide around their farmhouse, or build a new house, so they can stay on their own property instead of having to shift away from the farm. • Helps to keep farming community and families together. • Additional reserve areas provided at no cost to Council, improved recreational resources and public access to and along the coast, streams and rivers. • Can provide a substitute opportunity for retiring farmers to "shrink" a site around the farmhouse, enabling them to remain living on the site. 	<p>The preferred option is anticipated to generate the following social benefits:</p> <ul style="list-style-type: none"> • Additional population in rural areas can support country schools and other social networks. • Enables a retiring farmer to subdivide around their farmhouse, or build a new house, so they can stay on their own property instead of having to shift away from the farm, by transferable rural site subdivision or boundary relocation. Can provide a substitute opportunity for retiring farmers to "shrink" a site around the farmhouse, enabling them to remain living on the site. • Helps to keep farming community and families together. • Additional reserve areas provided at no cost to Council, improved recreational resources and public access to and along the coast, streams and rivers. 	<p>The 'do nothing' option is anticipated to generate the following social benefits:</p> <ul style="list-style-type: none"> • Gives the private landowner the ability to subdivide to meet their own needs, irrespective of the long-term consequences or sustainability of the subdivisions that occur. This includes subdivision around a rural industry or intensive farming activity, or for a retiring farmer.
	<p>Retaining the status quo is anticipated to generate the following cultural benefits:</p> <p>Subdivision rules apply equally to land irrespective of who owns it or its legal status, so Maori land may have some subdivision potential if the land zoning provides for it.</p>	<p>The preferred option is anticipated to generate the following cultural benefits:</p> <ul style="list-style-type: none"> • Subdivision rules apply equally to land irrespective of who owns it or its legal status, so Maori land may have some subdivision potential if the land zoning or a precinct provides for it. 	<p>The 'do nothing' option is anticipated to generate the following cultural benefits:</p> <ul style="list-style-type: none"> • Enables Maori to subdivide and develop their land to suit their own needs, irrespective of the long-term consequences or sustainability of the subdivisions that occur.
Risks	<p>Monitoring the performance of the subdivision rules is the key to understanding whether they are achieving the objectives.</p>	<p>Monitoring the performance of the subdivision rules is the key to understanding whether they are achieving the objectives.</p>	<p>The 'do nothing' option is very high risk. There is adequate evidence from a variety of sources that an absence of appropriate intervention leads to fragmentation and loss of productive land from productive</p>

	Status Quo Alternative	Alternative 1 - preferred	Alternative 2 – Do Nothing - little or no UP regulatory, or non-regulatory intervention
	<p>Adequate information is needed to evaluate whether the policies and rules are delivering the public and environmental benefits sought in the objectives.</p> <p>Some of the key rural subdivision objectives seek to:</p> <ul style="list-style-type: none"> • Avoid fragmentation of sites; • Provide for rural lifestyle subdivision in appropriate locations; • Provide incentives for landowners to protect areas of indigenous vegetation and wetlands; • Protect rural land from uses and subdivisions that hinder its productive potential. <p>Unless adequate monitoring information is available, the public will have no more than anecdotal evidence about whether the policies and rules are delivering adequate or appropriate environmental gains.</p>	<p>Adequate information is needed to evaluate whether the policies and rules are delivering the public and environmental benefits sought in the objectives.</p> <p>Some of the key rural subdivision objectives seek to:</p> <ul style="list-style-type: none"> • Avoid fragmentation of rural sites, and cap their total number; • Provide for rural lifestyle subdivision in appropriate and identified locations; • Provide incentives for landowners to protect areas of indigenous vegetation and wetlands; • Protect rural land from uses and subdivisions that hinder its productive potential. <p>Unless adequate monitoring information is available, the public will have no more than anecdotal evidence about whether the policies and rules are delivering environmental gains.</p> <p>Monitoring the performance of select legacy plan rules (especially the transfer of development rights as a result of covenanting indigenous vegetation or wetlands), has indicated some weaknesses. The legacy plan rules (which form the status quo option rules), have therefore been modified as a result of monitoring their performance.</p> <p>While no survey information is perfect, there are clear indications that certain aspects of legacy plan rules have not been performing well. The proposed UP rules attempt to address those weaknesses the monitoring and background research studies have found.</p> <p>Basing the proposed UP provisions on the results of monitoring and research should minimise the risk that UP intervention will be ineffective or counterproductive in supporting the objectives.</p>	<p>use.</p> <p>The objectives in the Auckland Plan and the proposed UP would not be met if Council adopted the 'do nothing' option without also adopting a high level of intervention in relation to land use.</p> <p>The Auckland Plan and the proposed UP both seek to enable productive uses to operate with minimum intervention. The 'do nothing' option would require strong intervention in land use, particularly to prevent dwellings being constructed on every site.</p>

4 Conclusion

Based on the above discussion, the following conclusions are drawn:

The reasons for limiting the opportunities for rural subdivision are set out at the commencement of Chapter C section 4 of the Unitary Plan.

Subdivision is limited in rural zones in order to preserve the land productivity, rural character, and minimise adverse effects of development. Rural subdivision is managed differently from urban land subdivision because:

- a. rural zones already feature a large number of sites, many of which do not contain dwellings. This means there is significant potential for rural land to be used for non rural uses, particularly rural lifestyle housing. This is a significant threat to long-term, sustainable production from rural areas;
- b. where rural lifestyle living is appropriate in rural areas, it has been provided for by zoning the land Countryside Living with controls to recognise the strategic location of the zoned land, its landscape qualities, and infrastructure limitations;
- c. increasing the number of rural sites especially if the total number of vacant sites does not decrease, will create adverse effects that will hinder rural productivity;
- d. it is not possible to decouple the right to erect a dwelling from the ownership of a rural site, except in very specific, limited circumstances.

In rural zones, owners of existing significant ecological areas are given additional opportunities for subdivision through the legal protection of the vegetation or wetland creating the opportunity to subdivide land in an identified Countryside Living zone. Legally protecting an appropriately large area of indigenous vegetation in this way retains areas with recognised high biodiversity values, without adversely affecting rural productivity, rural character, or coastal amenity values.

The issue, 'sustainably managing our rural environment' requires that at the district level of the UP, there is an objective that addresses the productive potential of rural land.

Maintaining the productive potential of rural land requires that farming it is carried out sustainably, and that the pattern of sites and the land uses established on them enable and facilitate maintenance of, and improvements to, rural production.

The evidence demonstrates that as fragmentation of rural sites increases and sites become smaller, rural land increasingly becomes used for rural lifestyle or urban purposes, and its productive rural use is permanently lost.

5 Record of Development of Provisions

5.1 Information and Analysis

The information and analysis that assisted in the development of the Unitary Plan rural subdivision provisions is set out in the appendices in appendix 3.35 to this s.32 report.

Its scope covers:

- existing soil types and productive potential in rural Auckland;
- changes to land use in rural Auckland;
- an examination of the current legacy subdivision rules, and monitoring of their success or otherwise in achieving the plan objectives;
- the value of the contribution rural Auckland makes;
- identification of significant issues in rural Auckland;
- applicable Auckland plans;

- the input of the Rural Advisory Panel in particular;
 - the direction of recent Environment Court decisions relating to rural land subdivision.
- See appendices in appendix 3.35 for relevant supporting documents

5.2 Consultation Undertaken

Consultation undertaken in the course of preparing the rural subdivision objectives, policies, and rules, included:

Rural Industry Group

20 April 2012: Subdivision provisions including transferable rights.

Rural Advisory Panel

16 September 2011: Developing issues analysis into policy options.

21 October 2011: workshop on rural environment.

16 March 2012: workshop: how to support the rural sector.

17 February 2012: subdivision and transferable development rights, and memo dated 4 April 2012 confirming principles.

17 August 2012: Rural subdivision and transferable rural lot right – presentation.

21 September 2012: Rural subdivision transferable rural lot right; rural package of provisions.

15 February 2013: overview of key Unitary Plan provisions that have had RAP guidance.

Other

Environmental best practice in agricultural and associated rural aviation – workshop on 5 October 2011.

Feedback provided on the March draft of the Unitary Plan.

5.3 Decision-Making

25 August 2011: Political Working Party

Presentation on rural and coastal issues.

9 September 2011: Political Working Party

Rural and coastal issues paper.

9 May 2012: Political Working Party

Countryside Living

5 June 2012: Political Working Party

Rural Subdivision:

(excerpt from report to Auckland Plan Committee 3 July 2012):

The 5 June 2012 Political Working Party meeting also considered rural subdivision. The following approach in relation to new dwellings in rural areas was endorsed: single dwellings easy to develop on vacant lots that are without constraints. Constraints would include minimum lot sizes, elite soils, difficulties for servicing and remoteness or poor access roads. For multiple dwellings on lots, a resource consent would be needed and the same constraints considered.

For subdivision in rural and coastal areas a strongly restrictive approach was endorsed. Specifically, consideration would be given to the productive use, elite soils, servicing difficulties and access or bad roads.

Further subdivision opportunities through a reduced minimum lot size in the proposed countryside living zone was agreed, subject to roading constraints. For the extent of the countryside living zone itself, endorsement was given to the zone being extended via structure plan processes.

26 September 2012: Political Working Party

Rural package of provisions.

06 November 2012

Auckland Plan Committee

Excerpt from minutes.

19. Rural package

The contents of the rural package assembled from the August working draft version of the Auckland Unitary Plan was the subject of a presentation to the 26 September 2012 PWP meeting. Discussion occurred across a number of matters including:

- For the mixed rural zone there was an acknowledgement of the challenges and complexities associated with this zone given the dual aspirations of retaining rural purpose while being open to innovative future rural activities.
- For the proposed rural coastal zone there were questions around whether overlays could protect the natural values associated with these locations rather than a zone.
- For rural subdivision there was discussion on the visual intrusion policies and rules as well as the extent of the transferrable development rights between rural and urban areas.
- The need for a report back to look at the overlay maps relative to the rural zones to assist with a decision on whether outcomes can both be met through overlays or zone changes.
- A call for further discussion on transferrable development rights was also made.

3 December 2012: Political Working Party workshop

Rural issues:

- Concerns about landscape restriction
- Different view on rural coastal zone
- More flexibility for business to establish
- Support for TDR

12 December 2012: Political Working Party

Rural subdivision, implications for rural coastal zone.

8 February 2013: Political Working Party

Rural provisions

- Emphasis on rural working environment.
- Tightening up of TDRs on subdivision including amalgamation of lots, to ensure adequate incentive.
- Vegetation controls (SEAs, continuous indigenous cover).

15 February 2013: Political Working Party

Rural zones: names.

15 April 2013: Political Working Party

Rural issues:

Reviewing options and implications for south at the moment. Key issues from feedback considered:

- Transport congestion

- Displacing rural production/protection of high class soils
- Wastewater servicing

3 July 2013 workshop, consisting of all members of the Auckland Plan Committee, Independent Maori Statutory Board representatives and Local Board Chairs.

Subject: rural subdivision (the following is from the agenda report to Auckland Plan Committee, 25 July 2013)

1. The following issues have been identified in the feedback to date:
 - Support for retaining productive land, and elite and prime land
 - Support for retaining farms as larger blocks
 - Seek continued right to subdivide in exchange for restoring wetlands/bush
 - Opposition to and support for transferable title subdivision
 - Change activity status of rural subdivision from prohibited to non-complying or discretionary
 - Suggestions that minimum site size should be less than 150ha in the Rural Production zone
 - Seek more permissive boundary adjustment provisions
 - Economic/non-economic reasons for smaller rural site sizes.
2. The following interim directions were generally agreed:
 - Confirm strategy of no net increase in number of rural sites, to protect productive land and avoid fragmentation
 - Investigate additional flexibility for rural subdivision by:
 - Allowing some opportunities for Transferable Rural Site Subdivision to Countryside Living areas where enhancement planting takes place within defined locations
 - Allowing more than one Transferable Rural Site Subdivision opportunity where vegetation is protected
 - Adding a new boundary relocation rule to allow restructuring of site boundaries
 - Providing for farm parks.

Countryside living minimum site sizes

3. The following issues have been identified in the feedback to date:
 - Support for proposed provisions
 - Support 'mix' of Countryside Living minimum lot sizes
 - Reduce minimum lot size to:
 - 4000m²
 - 0.5ha
 - 1 ha
 - 1.8ha
 - 2ha
 - Not enough land zoned (especially as receiver areas for transfers)
 - Too much land zoned, some includes productive farmland
 - Countryside Living areas need careful delineation.
4. The following interim directions were generally agreed:
 - Consider opportunities for new Countryside Living areas at the mapping workshops
 - Consider whether there are opportunities to reduce the minimum site sizes in some parts of the Countryside Living zone at the mapping workshops
 - Investigate smaller sites around rural townships.

Mixed Rural zone

5. The following issues have been raised in the feedback to date:
 - Application of Mixed Rural zone does not align with the Auckland Plan “Mixed Rural Environment”
 - Insufficient Mixed Rural zoned areas in the draft Auckland Unitary Plan.
6. The following interim directions were generally agreed:
 - Introduce new Mixed Rural zones based on the Auckland Plan (relates to Rodney).
 - Include investigation of Mixed Rural zones in Franklin area also
 - Review in conjunction with review of activities within Rural Production zone.

Additional dwellings in rural zones

7. The following issues have been identified in the feedback to date:
 - Need to provide for more than one dwelling per site as a permitted activity (currently a discretionary activity)
 - Farming/equestrian activities often need more than one dwelling
 - Allow staff or farm-workers accommodation
 - Allow two or three dwellings on very large sites
 - Want second dwellings so can retire on the land.
8. The following interim directions were generally agreed:
 - Provide for a second dwelling on sites greater than 40Ha and a third dwelling on sites greater than 100Ha as a permitted activity
 - Provide for a second or subsequent dwelling as a restricted discretionary activity on sites smaller than 40ha
 - Do not provide for subdivision around the second or subsequent dwelling.

28 August 2013: Full Council agenda item: Rural

- jj) Endorse the interim directions in relation to rural issues outlined in attachment 1 that were given at the unitary plan workshops
- kk) Acknowledge the local board resolutions in relation to rural issues
- ll) Endorse the approach in the amended draft unitary plan of only providing for transferrable rural site subdivision where significant ecological areas are protected or sites are amalgamated
- mm) Endorse the approach of rolling over the legacy operative district plan minimum site sizes for the countryside living zone; the minimum site sizes are set out in the amended draft of the unitary plan
- nn) Endorse the approach in the draft unitary plan in relation to farm parks (ie, non-complying activity status unless provided for in the cluster housing provisions within specific countryside living precincts)
- oo) Endorse the additional land zoned mixed rural at the mapping workshops and shown in the amended draft of the unitary plan
- pp) Endorse minor amendments to the rural production zone (eg, the activity status of rural industry changing from discretionary to restricted discretionary, equestrian centres changing from discretionary to restricted discretionary, visitor accommodation changing from non-complying to discretionary); these changes are shown in the amended draft of the unitary plan.

5 September 2013: Auckland Plan Committee:

- resolved to adopt the provisions. Discontinued the minimum average site area rule in Countryside Living zones where is less or equal to the minimum site are.