

# Planning Report 1

## Variation 2/Plan Change 46 - Matakana Island

### Purpose of the Plan Change/Variation and Section 18 Rural

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#### 1.0 Introduction

1.1 This report focuses on:

- the need for Proposed Plan Change 46/Variation 2
- the proposed changes to Section 18 – Rural that are specific to Matakana Island.

1.2 Research undertaken over the past five years has pointed out that:

- because Matakana Island is a barrier island of very high significance, more Matakana Island specific provisions have to be included in the District Plan.
- Matakana Island comprises two distinct areas connected by a narrow isthmus, and these differences have to be acknowledged by the provisions of District Plan.

1.3 Planning Report 1 focuses on six topics. These topics are:

- Topic 1 – The need for Proposed Plan Change 46/Variation 2 and general submission points.
- Topic 2 – The content of the Section 32 Report.
- Topic 3 – Proposed changes to the Explanatory Statement and 18.1 Significant Issues.
- Topic 4 – Proposed changes to 18.2.1 Objectives and 18.2.2 Policies.
- Topic 5 – The provisions for dwellings (and the scale thereof)
- Topic 6 – Other land use activities.

1.4 For a full background to this issue and the proposed provisions please refer to the Section 32 Report, especially Paragraph 11 – “Proposed changes to the District Plan”.

1.5 Any recommended amendments to rules in this report will be shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations as a result of this Planning Report in blue.

## **2.0 Topic 1: The need for Proposed Plan Change 46/Variation 2 and general submission points**

### **2.1 Background**

**2.1.1** Matakana Island is an elongated barrier island between Tauranga Harbour and the Pacific Ocean that lies in a northwest to southeast direction between Mount Maunganui in the southeast and Bowentown Heads in the northwest. The Island has an area of approximately 5,800 hectares and has a population of 244 of whom more than 90% are Māori.

**2.1.2** The Island comprises two distinct areas connected by a narrow isthmus.

- The forested sand barrier, which is predominantly used for production forestry, separates Tauranga Harbour from the Pacific Ocean. The forested sand barrier is 24 kilometres long, between 0.9 and 3 kilometres wide, and has an area of approximately 4,300 hectares.
- The western peninsula or farmland (approximately 1,500 hectares) extending into Tauranga Harbour. The farmland mainly comprises multiple owned Māori land and is utilised for agricultural and horticultural purposes. Most residents live on the farmland.

**2.1.3** Over the past few years, the companies that own most of the land holdings on the forested sand barrier have either applied for a subdivision consent or publicly expressed their interest to undertake more intensive subdivision and residential development on their land. This development pressure is one of the main drivers for this Plan Change.

**2.1.4** During the first review of the District Plan in 2009, the unique characteristics of Matakana Island and its people were acknowledged and given greater consideration than in previous plans. The Explanatory Statement for the Rural Zone within the 2010 Decisions version of the District Plan - First Review required a comprehensive 'Whole of Island Plan' to be prepared before consideration could be given to any intensive or large-scale development noting the Island's rich cultural history, and the sensitivity of its landscape and natural environment. As the three landowners with the largest landholdings intend to develop a significant number of dwellings on the forested sand barrier, most of the Matakana Island specific provisions were appealed by Blakely Pacific Limited, Carrus Corporation and TKC Holdings. However, the appellants agreed that the development approach of a 'Whole of Island Plan' was warranted. The Bay of Plenty Regional Council also appealed provisions applying to Matakana Island, seeking greater landscape protection and earthworks restrictions. They also joined the forestry appellants' appeals in opposition to the less restrictive development relief that was sought, along with various Trustees of the Tauwhao Te Ngare Trust representing hapu of the Island.

**2.1.5** The District Plan - First Review became operative on 16 June 2012 ("Operative Plan"), except for provisions of that Plan that related specifically to Matakana Island and are still under appeal to the Environment Court by the above appellants. Until those appeals are resolved, some of the provisions of the 2002 District Plan apply to Matakana, and the 30 January 2010 Decisions Version of the Proposed District Plan forms the "proposed

plan” for Matakana Island, although only in respect of the appealed provisions. For this reason, Council has undertaken both a Plan Change to the Operative Plan and a Variation to those parts of the 30 January 2010 Decisions Version of the Proposed Plan that remain under “proposed” provisions for Matakana Island due to the above appeals.

**2.1.6** The purpose of the District Plan is to assist Council to carry out their functions to achieve the purpose of the Resource Management Act (“Act”) (Section 72). The purpose of the Act is

*“to promote the sustainable management of natural and physical resources”.* Sustainable management is defined in Section 5(2) as *“managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*

- a. sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b. safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- c. avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

**2.1.7** Under section 74 of the Act, Council is required to prepare and change the district plan in accordance with its functions under Section 31, the provisions of Part 2, ..., its duty under section 32 and any regulations.

**2.1.8** With Plan Change 46/Variation 2, Council seeks to ensure that the natural and physical resources of Matakana Island are managed in a sustainable manner, and ultimately, that the new provisions are the most appropriate under Section 32 of the Act.

## **2.2 Submission Points**

**2.2.1** Five submissions and five further submissions were received on Topic 1.

**2.2.2.** Submitter 9 supports Plan Change 46/Variation 2 and advocate that it be retained as notified. This is opposed by Further Submission 27.

**2.2.3.** Submitters 7 and 8 oppose Plan Change 46/Variation 2. These submitters are of the opinion that the Plan Change/Variation:

- is not consistent with the purpose of the RMA and the strategic planning policy of the New Zealand Coastal Policy Statement (2010).
- can be withdrawn and dealt with under the current appeals.

**2.2.4.** Submitter 8 is also of the opinion that the notified version of Proposed Plan Change 46/Variation 2 is different in a number of areas to that approved by

Council for notification. Submitter 7 seeks that the notified version be approved by Council and re-notified.

**2.2.5** The Regional Council supports Plan Change 46/Variation 2 with some amendments as per their submission. This is opposed by three Further Submissions and supported by two Further Submissions.

**2.2.6** Submitter 1 requests that his contact details be included on the Planning Maps and Council records.

## **2.3 Option 1 – Withdraw Proposed Plan Change 46/Variation 2**

<b>Advantages</b>	<ul style="list-style-type: none"><li>▪ No advantages</li></ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"><li>▪ Valuable knowledge obtained during the Plan Change development process will not be integrated into the Plan, and a Matakana Island specific planning response will be lost.</li><li>▪ Council will not be able to:<ul style="list-style-type: none"><li>– follow the guidance from the Environment Court.</li><li>– make appropriate decisions regarding future development and the sustainable management of the natural and physical resources of Matakana Island (the outcome of this Plan Change/Variation).</li><li>– meet Part 2 – Purpose and principles of the RMA.</li><li>– take the Hapu Management Plan into account.</li><li>– give effect to the RPS and New Zealand Coastal Policy Statement; or have regard to the proposed RPS and proposed Variation 1 to the PRPS</li></ul></li></ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"><li>▪ The District Plan will not be effective in:<ul style="list-style-type: none"><li>– avoiding inappropriate subdivision and development, and the effects thereof on the natural environment, and social and cultural values of the Island community,</li><li>– protecting primary production.</li></ul></li><li>▪ The Plan will be less effective as it will not align with the Proposed RPS, or recognise that the Island’s planning requirements are different to those of general rural land.</li></ul>

## **2.4 Option 2 – Proceed with Proposed Plan Change 46/Variation 2**

<b>Advantages</b>	<ul style="list-style-type: none"><li>▪ Council will be able to make appropriate decisions regarding future development and the sustainable management of the natural and physical resources of Matakana Island (the outcome of this Plan Change/Variation).</li><li>▪ Council will be able to:<ul style="list-style-type: none"><li>– follow the guidance from the Environment Court.</li><li>– meet Part 2 – Purpose and principles of the RMA.</li></ul></li></ul>
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	<ul style="list-style-type: none"> <li>– take the Hapu Management Plan into account.</li> <li>– give effect to the RPS and New Zealand Coastal Policy Statement and have regard to the proposed RPS and Variation 1 to the PRPS.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ None</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be effective in: <ul style="list-style-type: none"> <li>– protecting primary production,</li> <li>– avoiding inappropriate subdivision and development, and the effects thereof on the natural environment, and social and cultural values of the Island community</li> </ul> </li> <li>▪ The Plan will be more effective as it will align with the Proposed RPS, and be able to recognise that the Island’s planning requirements are different to those of general rural land, and respond to these in line with the detailed information now available about the Island’s planning needs.</li> </ul>

## 2.5 Discussion

**2.5.1** Proposed Plan Change 46/Variation 2 is the result of a long and complex process that started more than five years ago due to pressure from developers to develop a significant number of dwellings on the forested sand barrier. To date, this process has been closely guided and monitored by the Environment Court. The issue regarding the need for Plan Change 46/Variation 2, and Submitter 7’s proposal to withdraw it, was discussed during the Prehearing Conference of ENV – 2010-AKL-000072, ENV – 2010-AKL-000076 and ENV – 2010-AKL-000090, on 3 December 2013. This is Topic ENV-2010-339-000018, WBOPDC Proposed Plan \_Matakana Island. The Minute of the Court dated 6 December 2013 issued following that Pre Hearing Conference acknowledged the Council’s submissions that the Plan Change provided a “fuller more complete and comprehensive approach to Matakana Island than contained in the first review”, and noted that since the first review there has been a constraints analysis, a Hapu/Iwi Management Plan and the development of objectives, policies and rules, maps, identification of particular issues for the island and the like. A process akin to a referral or call in was adopted by the Court to streamline consideration of any current (1st review) and new (PC46/V2) appeals with a view to a hearing around August/September 2014. Continuing to progress the Plan Change in the manner agreed (including timeframes for Council hearings and decisions) reflects that case management process. This will also ensure that any Court hearing required (of current and new appeals) is able to have all of the evidence and proposed provisions soundly before it, refined through this current Council hearing and decision process.

**2.5.2** In seeking to achieve the sustainable management of natural and physical resources (as per the purpose of the RMA), Council has considered the outcomes of the detailed research undertaken over the past 5 years in a prudent and integrated manner. This is confirmed by the submissions from

the Regional Council, New Zealand Historic Places Trust, Donna Poka and Nessie Te Kuka.

**2.5.3** In the preamble of the New Zealand Coastal Policy Statement (2010), it is stated that the New Zealand coastal environment is constantly under development pressure and as a result, the natural character and quality of the environment is lost. The Policy statement lists ten key issues and the following three issues in particular relate to subdivision and residential development:

- the loss of natural character, landscape values and wild or scenic areas along extensive areas of coast, particularly in areas closer to population centres or accessible for rural residential development (Issue 2);
- continuing decline in species, habitats and ecosystems in coastal environment under pressure from subdivision and use ... (Issue 3);
- the loss of natural, built and cultural heritage from subdivision, use and development (Issue 7).

**2.5.4** It is therefore important that Policy 7 – Strategic Planning of the New Zealand Coastal Policy Statement (2010) be read in context and intent of the Policy Statement. Policy 7 advocates that, in preparing a Plan, Council should consider in the wider context which areas are suitable for subdivision and development, and which are not suitable. Council's considerations should be guided by the Regional Policy Statement and the sub-regional growth strategy (SmartGrowth). It is not about where development can be accommodated on a title by title basis. The issues listed in the New Zealand Coastal Policy Statement (2010), and the Regional Coastal Environment Plan (which has to give effect the Coastal Policy Statement) have been taken into consideration throughout the planning process, including the development of the Matakana Island Plan, which fed into the Section 32 analysis. This is confirmed in the submission from the Regional Council. The statement from Submitter 7 that Plan Change 46/Variation 2 is not consistent with New Zealand Coastal Policy Statement is incorrect.

**2.5.5** With regard to the submission point from Submitter 8 that the notified Plan Change/Variation is not as per the version adopted by Council for notification, the following are noted:

- Included in the version adopted by Council were the complete sections of the Plan to enable elected members to consider the proposed changes within the context of the complete section of the District Plan (not only the proposed changes as within the notified Plan Change/Variation).
- The resolution of Council to adopt the notification of Plan Change 46/Variation 2 enabled staff to make editorial changes, where required.

**2.5.6** The request from Submitter 1 has been noted. However, as a matter of practice, contact details are not included in the District Plan.

## 2.6 Recommendation

THAT:

### 2.6.1 Council proceeds with hearings and decisions for Plan Change 46/Variation 2.

The following submissions are therefore:

#### Accepted

Submission	Point Number	Name
9	1	New Zealand Historic Places Trust
FS31	6	Poka, Donna
FS30	1	Blakely Pacific Limited
FS 27	1	Carrus Corporation Ltd
FS29	1	TKC Holdings Ltd
FS32	6	Te Kuka, Nessie Hinetai

#### Accepted in Part

Submission	Point Number	Name
11	1, 4	Bay of Plenty Regional Council

#### Rejected

Submission	Point Number	Name
1	1	Duval, Bill
7, FS29	26, FS55, FS58,	TKC Holdings Ltd
8, FS 27	19, FS61,	Carrus Corporation Ltd
FS30	FS9,	Blakely Pacific Limited

## 2.7 Reason

**2.7.1** Plan Change 46/Variation 2 gives effect to the Regional Policy Statement and has had regard to the Proposed Regional Policy Statement and Variation 1. Where matters have been settled by way of decision or consent order (although not yet made operative) these provisions have also been given effect to, as they are beyond change. One of the objectives of these documents is to give effect to the New Zealand Coastal Policy Statement (2010). Council has considered the development of the draft Regional Coastal Environment Plan, but recognises that this document is currently only a resource, as it has not yet been notified.

**2.7.2** The differences between Plan Change 46/Variation 2 (as notified) and Plan Change 46/Variation 2 (as adopted by Council for notification) are editorial, which were allowed for in Council Resolution STP38.6.

**2.7.3** Contact details are not included on District Plan maps.

## **3.0 Topic 2: The content of the Section 32 Report**

### **3.1 Background**

**3.1.1** The Section 32 Report is based on extensive research undertaken over the past five years which has addressed a wide spectrum of issues, opportunities and constraints related to Matakana Island. This research includes:

- (a) The following specialist reports on:
  - Cultural values assessment report by Boffa Miskell (November 2011).
  - Ecological aspects of a 'Matakana Island Plan' for Matakana Island by Wildland Consultants (August 2011).
  - The archaeology of Matakana Island by Archaeology B.O.P. (August 2011).
  - Matakana Island landscape assessment by Isthmus Group Ltd. (August 2011).
  - Matakana Island: Coastal hazards and natural coastal features – opportunities and constraints summary by Eco Nomos Ltd. (August 2011).
  - Water, transport, access & soils by Land Matters Ltd. (August 2011).
  - Matakana Island: Social and economic analysis by WBOPDC (December 2011).
  - Adopted Matakana Island Plan by WBOPDC (May 2013).
  - Significant ecological features on Matakana Island (Wildland Consultants, August 2013).
  - Matakana and Rangiwaia Islands Hapū Management Plan (February 2013).
- (b) The Matakana and Rangiwaia Islands Hapū Management Plan (received by Council in February 2013).
- (c) The Matakana Forest Park Management Plan (draft) prepared by TKC Holdings in November 2012.
- (d) Meetings with landowners and stakeholders.
- (e) Outcomes from Environment Court Decision No. [2011] NZEnvC 354: Blakely Pacific Limited vs. Western Bay of Plenty District Council.

**3.1.2** The Section 32 Report considers various options with regard to the following issues:

- Issue 1: The District Plan objectives currently under appeal and the proposed new objectives to ensure that the District Plan responds to research outcomes.
- Issue 2: Updating the Significant Ecological Features in the District Plan.
- Issue 3: Updating the Natural Features and Landscapes in the District Plan.
- Issue 4: The risk associated with natural hazards.
- Issue 5: The extent of future residential development on the Matakana Island forested sand barrier. Within this issue, consideration is given to:





**3.3.3** The Section 32 analysis acknowledges the amount of theoretical residential development that could be achieved under Rural rules, most of which requires resource consent to proceed, and considers various options to enable development that will promote the sustainable management of natural and physical resources. This is evident in the proposed provisions which enable the development of dwellings within cluster development subject to meeting criteria on the forested sand barrier. Council is therefore of the opinion that the Section 32 analysis is not biased.

**3.3.4** The suggestions that the Section 32 analysis is biased, unbalanced and not effective or efficient, are incorrect.

**3.3.5** Council would like to give Submitters 3, 4, 5 and 6 the assurance that the social, cultural, environmental and landscape values of tangata whenua have been considered extensively and in an integrated manner throughout the Section 32 analysis and proposed changes to the District Plan. Council is of the opinion that no further evaluation is required. The requests from these submitters are therefore rejected.

### **3.4 Recommendation**

THAT:

**3.4.1** The Section 32 analysis be retained as notified.

The following submissions are therefore:

#### **Accepted**

Submission	Point Number	Name
FS32	1	Te Kuka, Nessie Hinetai
FS31	1	Poka, Donna

#### **Accepted in Part**

Submission	Point Number	Name
FS32	3, 18	Te Kuka, Nessie Hinetai
FS31	3, 17	Poka, Donna

#### **Rejected**

Submission	Point Number	Name
3	1	Te Umuhapuku 3B Trust
4	1	Taingahue Family Trust
5	1	Rangiwaewa Marae Trust
6	1	Tauwhao Te Ngare Trust
7	1, 25	TKC Holdings Ltd
8	3	Carrus Corporation Ltd
FS26	2, 9, 10, 11	Faulkner, Cathryn
FS27	3, 5, 7, 9	Carrus Corporation Ltd
FS29	6, 8, 10, 12, 16	TKC Holdings Ltd

### **3.5 Reason**

- 3.5.1** The Section 32 analysis is based on the outcomes from detailed research undertaken over the past 5 years by Council, the Regional Council, landowners and tangata whenua.
- 3.5.2** The analysis has considered a range of issues and options.
- 3.5.3** Staff see no reason to produce a further evaluation under Section 32 other than what is contained in the planning reports to the Hearings Committee, as the current report meets the Act's requirements..

## **4.0 Topic 3: Proposed changes to the Explanatory Statement and 18.1 Significant Issues**

### **4.1 Background**

As a result of the research, giving effect to the Regional Policy Statement and taking the Hapu Management Plan into account, Council proposed in Plan Change 46/Variation 2 (as notified) that the following wording, specific to Matakana Island, be included in the Explanatory Statement of Section 18 – Rural:

*"Matakana Island is an elongated barrier island between Tauranga Harbour and the Pacific Ocean that lies between Mount Maunganui in the southeast and Bowentown in the northwest. Its predominant landuses are pastoral farming and horticulture, with production forestry on the sand barrier. The Island is of significant value to the Western Bay of Plenty District in a number of ways:*

- (a) Its resident population of around 250 is principally tangata whenua with a rich cultural history and strong social fabric.*
- (b) The Island community has a strong sense of connectedness and a modest way of life.*
- (c) It is one of the richest archaeological landscapes in the western Bay of Plenty sub-region.*
- (d) Matakana Island protects Tauranga Harbour, which is of national importance, from the Pacific Ocean.*
- (e) The freshwater wetlands, dune lakes and frontal dune system on the Island are significant ecological features that provide the habitat for a diverse range of threatened and at risk species.*
- (f) The pine forest landscape, as viewed from the Harbour, open coast and mainland is valued by both residents of the Island and the mainland, and visitors.*

*It is important that future development on Matakana Island complements these significant values and provides for the Island community's social, cultural and economic well-being. Council has adopted the Matakana Island Plan which addresses these significant issues in more detail to provide*

*guidance for the future development of the Island. In addition, the hapu of the Island have adopted the Hapu Management Plan which has to be taken into account by Council."*

Proposed Significant Issue 10, states that Matakana Island is a significant environment that needs to be planned for carefully and has to address:

- the potential effects from more intensive and inappropriate development,
- the need and desire of Maori to live on and develop ancestral land and
- the threat of a multiplicity of natural hazards.

*(Note: Part of Issue 10 was included in the District Plan – First Review and is currently under appeal).*

This issue is important as it relates to the matters of national importance and other matters, included in Section 6 and 7 of the RMA. There is also a close link between proposed Issue 10 and the issues highlighted in the New Zealand Coastal Policy Statement (2010).

## **4.2 Submission Points on the proposed Explanatory Statement and Significant Issues**

### Explanatory Statement

**4.2.1** Seven submissions and 11 further submissions were received on the proposed changes to the Explanatory Statement.

**4.2.2** The forestry landowners (Submitters 7, 8 and 10) opposed the proposed changes to the Explanatory Statement. They feel that the proposed changes fail to:

- acknowledge that they are part of the community.
- acknowledge that the forested sand barrier has been working forest for approximately 100 years.
- balance the various aspects of sustainable management of the land.

No details were given on how the Explanatory Statement should be changed.

**4.2.3** The proposed changes, as notified, are supported by the Department of Conservation, and Submitters 14 and 15.

**4.2.4** The Bay of Plenty Regional Council supports the proposed changes with an amendment. The Regional Council requests that:

- the term "development" in the second to last sentence (that refers to the Matakana Island Plan) be substituted with "subdivision, use and development".

- the following wording be included in (f) to read as follows:

*The pine forest landscape, as viewed from the Harbour, open coast and mainland (including Mauao and Bowentown) is valued by residents of the Island and the mainland, and visitors and it contributes to the character of Matakana Island.*

#### Significant Issues

- 4.2.5** Five submissions and 13 further submissions were received.
- 4.2.6** Submitters 14 and 15 support the significant issues as notified.
- 4.2.7** The Regional Council supports the proposed issues, but has asked for the following changes to the three bullet points under proposed Significant Issue 10:
- Amend the first bullet point to refer to “*subdivision, use and development*” and not only to “development”, as notified.
  - Amend the second bullet point to read:
 

*The need and desire of tangata whenua to exercise rangatiratanga and kaitiakitanga, to actively protect cultural values, and live on and develop their ancestral land.*
  - Include “coastal erosion” in the third bullet point.
- 4.2.8** Submitters 7, 8 and 10 oppose proposed Significant Issue 10. According to these submitters:
- a more balanced approach is required by acknowledging the value of production forestry and
  - the threats of natural hazards are not a significant issue.
- 4.2.9** Submitter 8 is also of the opinion that the second bullet point is already addressed in Issue 8 of the Operative District Plan.
- 4.3 Option 1 – Reword the Explanatory Statement and Issue 10 to present a more “balanced approach” that acknowledges the current land use and ownership.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>Might enable more development.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>The District Plan will not make a clear statement regarding the value and significance of Matakana Island.</li> <li>Might enable unsustainable development or development that is in conflict with the RPS, The New Zealand Coastal Policy, or Part 2 of the RMA.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>The District Plan will be less effective in taking the Hapu Management Plan into account, or giving effect to the RPS and the purpose of the Act</li> </ul>

#### 4.4 Option 2 – Retain the Explanatory Statement and Significant Issues as notified

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will make a clear statement regarding the value and significance of Matakana Island and why it is significant.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Will not be clear that the Explanatory Statement and Significant Issue 10 refer to subdivision, use and development, and not development only.</li> <li>▪ Some landowners might be of the opinion that the proposed changes will restrict development.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be more effective in taking the Hapu Management Plan into account, or giving effect to the RPS and the purpose of the Act.</li> <li>▪ However, the Explanatory Statement and Significant Issue 10 will be silent on the issue of subdivision and landuse.</li> </ul>

#### 4.5 Option 3 – Include the word changes proposed by the Regional Council that, for example, refer to subdivision, use and development (not only “development”)

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will make a clear statement regarding the value and significance of Matakana Island and why it is significant.</li> <li>▪ Will be clear that the Explanatory Statement and Significant Issue 10 refer to subdivision, use and development, and not development only.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Some landowners might be of the opinion that the proposed changes will restrict development.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ With regard to subdivision, use and development, the District Plan will be more effective in taking the Hapu Management Plan into account, or giving effect to the RPS and the purpose of the Act.</li> </ul>

#### 4.6 Discussion

##### Explanatory Statement

**4.6.1** The first paragraph of the proposed addition to the Explanatory Statement (see paragraph 4.1) provides background regarding the location of the Island and existing land uses, including production forestry. It continues with a statement that the Island is of significant value and lists six statements as to why it is significant. These statements result from the research outcomes and also correspond to the matters of importance listed in Sections 6 and 7 of the RMA. The Explanatory Statement concludes by pointing out that future development should take these values into consideration as it provides for the Island community’s social, cultural and economic well-being. This is in line with the definition of sustainable management included in Section 5(2) of the RMA. The purpose of an

explanatory statement is to highlight some of the important aspects of the zone and to give an understanding of why certain rules are included in the zone. It is not the purpose of the explanatory statement to balance various aspects of sustainable management on a title by title basis. The explanatory statement states that the pine forest is an important landscape feature of the island. The concerns regarding the recognition of the production forests as part of the Island is addressed in the proposed changes (as notified).

- 4.6.2** The Regional Council is correct by indicating that the Matakana Island Plan provides for future subdivision and use, and not only development. Therefore, the request from the Regional Council to amend the second to last sentence is supported.
- 4.6.3** The second amendment requested by the Regional Council, to insert additional wording the paragraph (f), will result in a long worded statement that is too detailed, although it does refer to important vantage points from which there are significant views of the Matakana Island pine forest landscape.

#### Significant Issues

- 4.6.4** There is adequate evidence that Matakana Island is a sensitive environment and of significance from:
- research undertaken over the past five years,
  - outcomes from the Hapu Management Plan,
  - the Environment Court and
  - both the Proposed and Operative Regional Policy Statement and Variation 1 (Coastal Policy).
- 4.6.5** It is therefore important that the significance of the Island be signalled in 18.1 – Significant Issues. As with the explanatory statement, it is not the purpose of 18.1 to provide a balanced approach, or to recognise that the sensitive issues of the Island can be mitigated through development.
- 4.6.6** Significant Issue 8 of the Operative District Plan refers to the potential conflict between the District Plan and the special relationship of Maori with their ancestral land. The Issue doesn't address the more specific issues that contribute to the significance of Matakana Island.
- 4.6.7** The proposal from the Regional Council to include the words "*subdivision, use and development*" and not only to "*development*", is correct.
- 4.6.8** Taking into account the Hapu Management Plan and considering the outcomes from the cultural values assessment report (one of the specialist studies), the proposed changes sought by the Regional Council to the second bullet point are more appropriate than the notified wording.
- 4.6.9** Coastal erosion is a significant issue, especially of the farmland portion of Matakana Island. It is therefore important that it be included in the third bullet point.

## 4.7 Recommendation

THAT:

- 4.7.1** The second to last sentence of the proposed addition to the Explanatory Statement (as notified) be amended to read as follow:

*Council has adopted the Matakana Island Plan which addresses these significant issues in more detail to provide guidance for the future subdivision, use and development of the Island.*

- 4.7.2** Apart from the amendment included in 4.7.1, the proposed changes to the Explanatory Statement of the Rural Zone, as notified in Plan Change 46/Variation 2, be retained.

- 4.7.3** Amend 18.1 Significant Issues to read as follows:

10. Matakana Island is a sensitive environment that needs to be planned for carefully. While the resource management issues relevant to Matakana Island also apply to other rural land, those of particular importance in the Matakana context include:

- The potential for more intensive or large scale subdivision, use and development to adversely impact on archaeological, cultural, spiritual, ecological and landscape values, and
- The need and desire of tangata whenua Maori to exercise rangatiratanga and kaitiakitanga, to actively protect cultural values, and live on and develop their ancestral land.
- The threat of a multiplicity of natural hazards including coastal erosion, tsunami, liquefaction, inundation, and fire.

The following submissions are therefore:

### Accepted

Submission	Point Number	Name
11, FS28	18, FS20	Bay of Plenty Regional Council
FS31	FS9, 11	Te Runanga O Ngai Te Rangī Iwi Trust
FS32	FS11	Nessie Hinetai Te Kuka
FS33	FS11, FS12	New Zealand Historic Places Trust

### Accepted in Part

Submission	Point Number	Name
11	17	Bay of Plenty Regional Council
14	12, 13	Nessie Hinetai Te Kuka
15	12, 13	Dona Poka
16	13	Department of Conservation



## Rejected

Submission	Point Number	Name
7, FS29	17, FS23, FS25, FS31, FS32, FS36, FS71, FS72, FS97, FS98, FS126, FS127, FS156	TKC Holdings Ltd
8, FS27	10, 12, FS25, FS34, FS35, FS39, FS74, FS75	Carrus Corporation Ltd
10, FS30	1, 2, 6, FS11	Blakely Pacific Ltd
FS26	FS14	Cathryn Faulkner

### 4.8 Reason

- 4.8.1** The Explanatory Statement refers to the existing production forest and its value to the Island.
- 4.8.2** It is not the purpose of the Explanatory Statement or Significant Issues to balance various aspects of sustainable management on a title by title basis.
- 4.8.3** The additional wording to the second to last sentence of the Explanatory Statement is correct and comprehensive.
- 4.8.4** The additional wording sought for paragraph (f) of the Explanatory Statement is too specific and will result in a very long sentence.
- 4.8.5** Significant Issue 10 and the proposed changes to it are supported by the preceding research.

## 5.0 Topic 4: Proposed changes to the Objectives and Policies of Section 18 – Rural

### 5.1 Background

- 5.1.1** In order to promote the sustainable management of natural and physical resources, the objectives and policies of the Rural Zone have to respond to Part 2 of the RMA, especially if the issues identified in the Section 32 analysis respond closely with the matters identified in Sections 6 and 7 of the RMA.
- 5.1.2** As a result, Plan Change 46/Variation 2 proposed the following Matakana Island specific objective and policy:

*Objective 10 The following attributes which contribute to the social and cultural well-being of the Matakana Island community are maintained and supported:*

- *unique way of life,*
- *rich cultural values,*
- *sensitive natural environment, and*
- *a significant landscape.*

*Policy 16. In addition to policies relating to the rural land resource, development of land on Matakana Island shall recognise and provide for the following matters:*

- (a) Cultural, spiritual and archaeological values, including the need and desire of Maori to live on, and develop and otherwise maintain a strong relationship with their ancestral land.*
- (b) Maintenance and enhancement of natural coastal character, natural features, ecology and landscapes, indigenous vegetation and habitats of indigenous fauna, and historic heritage.*
- (c) The need to ensure that large-scale or more intensive development proposals do not compromise future options for the comprehensive planning and development of the Island.*
- (d) Legal access to the ocean beach, Panepane and sites of cultural significance for at least the local community and landowners.*
- (e) Sustainability of existing social infrastructure and the cultural and social well-being of the Matakana Island community.*
- (f) Sustainable economic development that contributes to the economic well-being of the Matakana Island community.*
- (g) Development that is of a scale and nature that will complement the lifestyle (including self-sufficiency) of the Matakana Island community.*

Note: Parts of Policy 16 were included in the District Plan - First Review and this Policy is currently under appeal.

## **5.2 Submission Points on the proposed Objectives and Policies**

### Objectives

- 5.2.1** Seven submissions and 14 further submissions were received.
- 5.2.2** Proposed Objective 10 was supported by Submitters 14, 15 and 16.
- 5.2.3** Submitters 7, 8 and 10 oppose the proposed objective. Submitter 7 advocates that an additional bullet point should be included which supports subdivision, use and development that promotes economic well-being and which can be integrated within the existing Island environment. Submitter 10 is of the opinion that the proposed objective does not recognise the economic well being of the current landowners.

**5.2.4** The proposed objective is supported by the Bay of Plenty Regional Council, but requested that Objective 10 be amended to read as follows:

*10. The following attributes which contribute to the social and cultural well-being of the Matakana Island community are maintained and supported:*

- *unique way of life,*
- *rich cultural values,*
- *sensitive natural environment, and*
- *significant ecological features and outstanding landscape features.*

#### Policies

**5.2.5** Five submissions and 14 further submissions were received.

**5.2.6** The Regional Council and Department of Conservation support the proposed policy with amendments.

**5.2.7** The Regional Council requests the following wording be inserted (shown as underlined):

*In addition to policies relating to the rural land resource, subdivision, use and development of land on Matakana Island .....*

*c) The need to ensure that large-scale or more intensive subdivision, use and development proposals do not .....*

*(h) Maintenance and enhancement of the existing transportation link(s) between Matakana Island and the mainland at Opureora Bay, and associated infrastructure and activities*

**5.2.8** Department of Conservation requests that proposed Policy 16(d) be amended to require reference to the investigation and, if appropriate, implementation of public access to and along the coastline.

**5.2.9** Submitters 7, 8 and 10 oppose the proposed policy. Submitter 7 has asked for additional wording that supports subdivision and development that complements the character of the Island. Submitters 8 and 10 believes that too much emphasis is placed on the social, cultural and spiritual values of tangata whenua and that the economic aspirations of the landowners are ignored.

**5.2.10** Submitter 8 advocates that the word "spiritual" be deleted from the Policy.

**5.2.11** Submitter 7 seeks that the wording of proposed Policy 16(a), (b), (d) and (g) be amended to read (or other with similar effect):

*16. In addition to policies relating to the rural land resource, development of land on Matakana Island shall recognise and provide for the following matters:*

- (a) *Cultural ~~spiritual and archaeological~~ values (including archaeology), including the need and desire of Maori to live on, develop and otherwise maintain a strong relationship with their ancestral land (on the Core area of the Island)*
- (b) *Maintenance and enhancement of ~~natural~~ coastal character, ~~natural features~~, ecological and landscapes, ~~indigenous~~ vegetation and habitats of indigenous fauna, and historic heritage values.*
- (d) *Legal access to the ocean beach, Panepane and sites of cultural significance for at least the local community and land owners as a result of subdivision, use and development on the Forested Sand Barrier.*
- (g) *Development that is of a scale and nature that will complement ~~the lifestyle (including self-sufficiency) of the Matakana Island~~ community character areas.*

These changes are supported by Further Submission 26, but some amendments to the wording were suggested.

**5.3 Option 1 – Amend the Objectives and Policies to include subdivision that promotes economic well-being and the protection of the environment.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ District Plan will be more flexible with regard to subdivision, use and development.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ The objectives and policies will not support Council’s vision for Matakana Island.</li> <li>▪ Objectives and policies will fail in discouraging unsustainable subdivision, use and development.</li> <li>▪ The District Plan will encourage subdivision within a fragile and significant rural coastal area.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will not take the Hapu Management Plan into account.</li> <li>▪ Will not be effective in giving effect to the RPS, the New Zealand Coastal Policy and the purpose of the RMA (especially Section 6(f)).</li> <li>▪ The objectives and policies will not support the proposed provisions of this Plan Change/Variation.</li> </ul>

**5.4 Option 2 – Reduce the emphasis on tangata whenua and the natural environment by, for example, deleting the wording that refers to the spiritual values on the Island**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ District Plan will be more flexible with regard to subdivision, use and development.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ The objectives and policies will not support the cultural and archaeological values of tangata whenua.</li> <li>▪ Objectives and policies will not be able to discourage</li> </ul>

	development that might impact on the cultural and archaeological values of tangata whenua.
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will not take the Hapu Management Plan into account.</li> <li>▪ Will not give effect to parts of Sections 6 and 7 of the RMA.</li> <li>▪ The objectives and policies will not support the proposed provisions of this Plan Change/Variation.</li> </ul>

### 5.5 Option 3 – Retain the Objectives and Policies as notified

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be clear on the attributes that contribute to the social and cultural well-being of the Matakana community.</li> <li>▪ The objectives and policies will guide development that sustain the social and cultural well-being of the Island community</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Proposed Policy 16 will be unclear regarding subdivision and landuse as it only refers to development.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will take the Hapu Management Plan into account.</li> <li>▪ Will give effect to Sections 6 and 7 of the RMA and the RPS.</li> <li>▪ The objectives and policies will support the proposed provisions of this Plan Change/Variation.</li> <li>▪ As the proposed Policy only refers to development, it will be less efficient on subdivision and landuse.</li> </ul>

### 5.6 Option 4 – Include the word changes proposed by the Regional Council which refer to subdivision, use and development (not only “development”)

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be clear on the attributes that contribute to the social and cultural well-being of the Matakana community.</li> <li>▪ The objectives and policies will guide development that sustain the social and cultural well-being of the Island community</li> <li>▪ Proposed Policy 16 will be clear regarding subdivision and landuse, and not only development.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Will reduce the flexibility and provide more certainty through the District Plan.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will take the Hapu Management Plan into account.</li> <li>▪ Will give effect to Sections 6 and 7 of the RMA and the RPS.</li> <li>▪ The objectives and policies will support the proposed provisions of this Plan Change/Variation.</li> <li>▪ Will be subdivision, use and development.</li> </ul>

## **5.7 Discussion**

**5.7.1** Section 6(b) of the RMA and the New Zealand Coastal Policy Statement (2010) both make it clear that inappropriate subdivision, use and development are a significant issue in New Zealand. It is therefore not appropriate that the objectives and policies of the Rural Zone “encourage” subdivision in the coastal area. The District Plan has to promote sustainable management of natural and physical resources, including recognising that in some areas there are various forms of subdivision, use and development that may be inappropriate. To encourage subdivision would not meet the section 32 tests. The wording proposed by Submitter 7 is therefore not supported.

**5.7.2** The cultural values assessment report (specialist study undertaken in 2011) and the Hapu Management Plan explain the cultural and spiritual significance of Matakana Island, and so sets out that the nature of the relationship valued with the Island is a cultural and spiritual one. This significance is also acknowledged by the Environment Court. It is therefore important that the objectives and policies of District Plan signal the cultural and spiritual significance of the Island. It is important to note that this significance applies to the entire Island and not just a part of the Island. The retention of the reference to the cultural and spiritual relationship is a way of meeting Objective 2 of the NZCPS 2010, including recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources.

**5.7.3** The proposed changes by the Regional Council to Objective 10 may be confused with ecological and landscape features addressed in Sections 5 and 6 of the District Plan, and are therefore not supported. The proposed changes to Policy 16 are similar to the terminology used in the RMA, and are therefore supported.

**5.7.4** The Regional Council proposed an additional policy to encourage the maintenance and enhancement of the existing transportation links between the mainland and the Island. Although the transportation links to the mainland are important, it will be more appropriate to ensure that the issue is addressed in 18.5 Matter of Discretion.

## **5.8 Recommendation**

THAT:

**5.8.1** Objective 10 be retained as notified.

**5.8.2** Policy 16 be amended to read as follow:

16. In addition to policies relating to the rural land resource, subdivision, use and *development* of land on Matakana Island shall recognise and provide for the following matters:

(a) Cultural, spiritual and archaeological values, including the need and desire of Maori to live on, and develop and

- otherwise maintain a strong relationship with their ancestral land.
- (b) Maintenance and enhancement of natural coastal character, natural features, ecology and landscapes, indigenous vegetation and habitats of indigenous fauna, and historic heritage.
- (c) The need to ensure that large-scale or more intensive subdivision, land use and *development* proposals do not compromise future options for the comprehensive planning and *development* of the Island.
- (d) Legal access to the ocean beach, Panepane and sites of cultural significance for at least the local community and landowners.
- (e) Sustainability of existing social infrastructure and the cultural and social well-being of the Matakana Island community.
- (f) Sustainable economic development that contributes to the economic well-being of the Matakana Island community.
- (g) Development that is of a scale and nature that will complement the lifestyle (including self-sufficiency) of the Matakana Island community.

The following submissions are therefore:

#### **Accepted**

Submission	Point Number	Name
14, FS32	14, FS9	Nessie Hinetai Te Kuka
15	14	Donna Poka
16	14	Department of Conservation
FS31	FS10	Te Runanga O Ngai Te Rangī Iwi Trust
11	20	Bay of Plenty Regional Council
FS33	FS3	New Zealand Historic Places Trust

#### **Accepted in Part**

Submission	Point Number	Name
FS27	FS76	Carrus Corporation Ltd
FS29	FS73	TKC Holdings Ltd
FS31	FS14	Te Runanga O Ngai Te Rangī Iwi Trust

## Rejected

Submission	Point Number	Name
11	19	Bay of Plenty Regional Council
7, FS29	18, 19, FS26, FS27, FS34, FS35, FS73, FS74, FS128, FS157, FS158	TKC Holdings Ltd
8, FS27	14, 19, FS37, FS26, FS27, FS38, FS77	Carrus Corporation Ltd
10, FS30	4, 5, FS18	Blakely Pacific Ltd
16	15	Department of Conservation
FS26	FS6, FS12, FS15	Faulkner, Cathryn

### 5.9 Reasons

- 5.9.1** The objectives and policies of the District Plan should not promote subdivision, land use and development on land that has a significant natural, cultural, or social environment, or which is exposed to natural hazards.
- 5.9.2** It is more appropriate to ensure that the existing transportation links between the mainland and the Island are maintained and enhanced by including provisions in 18.5 Matters of Discretion.
- 5.9.3** The cultural and spiritual significance of Matakana Island is highlighted in specialist studies, the Hapu Management Plan, and acknowledged by the Environment Court. It is therefore important that the objectives and policies of District Plan signal this significance.

## 6.0 Topic 5: The provision for dwellings (and the scale thereof).

### 6.1 Background

This topic deals with the provision for dwellings and associated subdivision on Matakana Island, and specifically the forested sand barrier. Included in this topic are the proposed:

- 18.3 Activity lists
- 18.4 Activity performance standards
- 18.5 Matters of discretion



## Sub-Topic 5.1

### **6.2 Submission points that relate to the development of dwellings in the Activity Lists, excluding proposed 18.6 Prohibited Activities (therefore 18.3.1 Permitted Activities, 18.3.2 Controlled Activities, 18.3.3 Restricted Discretionary Activities, 18.3.4 Discretionary Activities and 18.3.5 Non-Complying Activities).**

- 6.2.1** Eight submissions and seven further submissions were received.
- 6.2.2** Submitters 14, 15 and 16 support the proposed activity list. These submission points are opposed by FS29
- 6.2.3** The Regional Council is of the opinion that the word "*subdivision*" (to read Development and subdivision ...) should be included in 18.3.4(s). This submission point is opposed by FS27 and FS29.
- 6.2.4** According to Submitter 7, the proposed provisions to enable a dwelling on the forested sand barrier are too restrictive and will not enable developers to work with the constraints of the Island. Submitter 7 is also of the opinion that the operative provisions for dwellings on multiple owned Maori land enable the development of a significant number of dwellings on the farmland portion. They feel that the District Plan should not encourage the development of dwellings on multiple owned Maori land but restrict it on the forested sand barrier. Hence they request that the provision of dwellings be permitted on the forested sand barrier.
- 6.2.5** Submitter 8 is of the opinion that:
- Dwellings should be a Permitted Activity on the forested sand barrier. This was opposed by FS28 and FS33, and supported by FS29
  - Subdivision and development and the development of minor dwellings should be a Controlled Activity on the forested sand barrier. This submission point is opposed by FS28 and FS33, and supported by FS26 and FS29.
- 6.2.6** Submitter 10 indicates that subdivision and dwellings should be a Controlled Activity and not a Restricted Discretionary Activity. This is supported by FS27 and FS29, and opposed by FS28.
- 6.2.7** Submitter 25 advocates for rules that will enable subdivision of existing lots smaller than 40ha to create no more than one additional lot.
- 6.3 Option 1 – Make the provision of dwellings and associated subdivision less restrictive on the forested sand barrier.**

<b>Advantages</b>	<ul style="list-style-type: none"><li>▪ A significant increase in dwellings may reduce commuting the costs between the Island and the main land.</li><li>▪ Increased employment opportunities.</li><li>▪ Will provide economic benefits to the forestry landowners through subdivision over and above what the Plan allows for.</li></ul>
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<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Will impact on the matters included in Section 6 and 7 of the RMA, and the New Zealand Coastal Policy Statement.</li> <li>▪ A significant number of people and property will be exposed to natural hazards.</li> <li>▪ Human activity will affect the unique natural environment and landscape.</li> <li>▪ Will result in reverse sensitivity issues and conflict with existing forestry operations.</li> <li>▪ Will significantly impact on the Island way of life and the social well-being of the Island community.</li> <li>▪ Less restrictive provisions for dwellings may create a precedent for more intensive development in other rural areas in the District, and pressure from landowners in other rural areas in relation to perceived inequities given that the Operative Plan has recently tightened controls on rural subdivision.</li> <li>▪ A relaxation on subdivision and development provisions will be in conflict with the RPS, SmartGrowth, Matakana Island Plan, Hapu Management Plan and all specialist studies.</li> <li>▪ May increase pressure on Council to provide infrastructure.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ Due to the scale of the development, the District Plan will fail to meet the purpose of the RMA and the New Zealand Coastal Policy Statement.</li> <li>▪ It will be difficult to provide for the matters of national importance and have particular regard to other matters (Sections 6 and 7 of the RMA).</li> <li>▪ Will not be able to take the Hapu Management Plan into account and give effect to the RPS.</li> <li>▪ Will undermine the effectiveness of the District Plan's approach to rural subdivision and the protection of the rural productive land resource.</li> </ul>

**6.4 Option 2 – Replace the word “development” in 18.3.4(s) and 18.3.6(a) with “subdivision and development”.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will provide more certainty regarding subdivision.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Will impact on the subdivision aspirations of some of the landowners.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be more effective in managing inappropriate and unsustainable subdivision.</li> </ul>

**6.5 Option 3 – Retain the 18.3 Activity Lists as notified.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ If well managed, the Island way of life will not be significantly affected.</li> <li>▪ It will promote sustainable economic development and employment opportunities.</li> </ul>
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	<ul style="list-style-type: none"> <li>▪ The activity list takes the specialist studies and Hapu Management Plan into account.</li> <li>▪ Will be able to manage the potential impact on the production forestry.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Will restrict the development aspirations of the forestry landowners.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ Will be able to manage the provision of dwellings.</li> <li>▪ Will be able to give effect to the RPS and the New Zealand Coastal Policy Statement.</li> <li>▪ The District Plan will be more efficient in the protection of rural productivity and limiting reverse sensitivity to defined discrete areas</li> </ul>

## **6.6 Discussion regarding the provision of dwellings.**

### The Farmland

- 6.6.1** There is a significant difference between the look, feel, land use and ownership between the forested sand barrier and the farmland portion of the Island. Most of the land on the farmland portion is multiple owned Māori land and as a result, subdivision and the construction of dwellings are more complex on the farmland.
- 6.6.2** Due to the aging population and the desire from the community to continue living on the Island, the development of papakainga housing is important (see Hapu Management Plan).
- 6.6.3** Changes to the way dwellings are provided for on multiple owned Maori land have been reviewed with the District Plan – First Review and these provisions are now operative. These provisions are supported by the Hapu Management Plan and, as a result, no changes were proposed through Plan Change 46/Variation 2.
- 6.6.4** The submission point from Submitter 7 seeking that the same activity status for dwellings should apply to both the farmland and the forested sand barrier, is rejected.

### Forested sand barrier - Activity status for the clustering of dwellings

- 6.6.5** The following paragraphs mainly deal with the activity status of dwellings on the forested sand barrier. However, there is a direct link between the activity status for the clustering of dwellings and the activity performance standards and assessment criteria (which are addressed in paragraphs 6.22 and 6.28) and should be not considered independently.
- 6.6.6** There has been significant pressure from the three large landowners to construct dwellings on the forested sand barrier in excess of that provided for in the District Plan. As a result, extensive meetings and Environment Court workshops have been undertaken to enable the development in a way that is supported by the RMA, the New Zealand Coastal Policy Statement (2010) and the Regional Policy Statement (Operative and Proposed). TKC

Holdings has also developed The Matakana Forest Park Management Plan (draft November 2012).

**6.6.7** All parties involved in these discussions and Environment Court workshops agreed that the potential consequence of subdivision under the general farming lot rule is a "scattered" built form throughout the Island without consideration for the specific impact on landscape and rural amenity. It was also agreed that the general farming lot subdivision provisions and "scattered" built form will impact on the productivity of the forestry operations. This view is also supported by the Environment Court (*Blakely Pacific Limited v Western Bay of Plenty District Council*) and the Matakana Forest Park Management Plan (draft), compiled by TKC Holdings Limited.

**6.6.8** Currently TKC Holdings has 16 titles, Blakely Pacific has four titles, and Aroth Family Trust has two titles.

**6.6.9** To enable the clustering of dwellings, this Plan Change advocates for:

- the management of subdivision by reference to a maximum density rather than a minimum lot size and
- the transfer of dwelling entitlements (against assumed potential subdivision based on hectarage) to clusters located on different land titles. It is noted that there is no "entitlement" as such to either dwellings or subdivision, as 1:40 subdivision is not permitted as of right, and the number of dwellings follows the number of lots.

**6.6.10** It is also important to note that, if the objective is to avoid the scattering of dwellings across the Island, the permitted right to develop one dwelling per title has to be amended to enable the clustering of this "permitted" right. It is not possible to allow one dwelling per lot in conjunction with the clustering of dwellings.

**6.6.11** However, the clustering is more complex as it involves, for example, the:

- transfer of development rights,
- achieving a certain look and feel (activity performance standards),
- development of a management plan,
- mitigation of potential effects on the existing forestry operations, and the natural, landscape, social and cultural environments
- identification of a suitable location for the cluster,
- provision of access and other essential services.

These challenges are discussed in more detail in paragraph 6.22.

**6.6.12** Taking the above into consideration, the Plan Change/Variation proposed that the status of clustering of dwellings and associated subdivision should be no more permissive than Restricted Discretionary.

**6.6.13** It is important to note that with the proposed activity status Council would like to encourage innovative development best practice, and not to "restrict" existing permitted entitlements. Some of the complex issues have already

been addressed in an innovative manner in the Matakana Forest Park Management Plan (draft).

**6.6.14** The requests from:

- Submitters 7, 8 and 10 to enable dwellings as a Permitted or Controlled Activity are therefore not supported.
- Submitter 7 to align the extent of dwellings permitted on the farmland and the forested sand barrier is not supported.

**6.6.15** Promoting the subdivision of existing small landholdings on the forested sand barrier or the development of a second dwelling on these landholdings would not meet the purpose of the RMA, or give effect to the New Zealand Coastal Policy Statement and the Regional Policy Statement. The submission from Submitter 25 is therefore not supported.

**6.6.16** As discussed in the previous topics, the request from the Regional Council to refer to subdivision and development, and not only development (as notified) is supported.

**6.7 Recommendation**

THAT:

**6.7.1** The wording in 18.3.4(s) be amended to read as follows:

(s) Subdivision and ~~d~~Development on the Matakana Island forested sand barrier that fails to comply with the activity performance standards listed in 18.4, provided that in respect of rule 18.3.6 an overall density of one dwelling per 40ha is not exceeded.

**6.7.2** Apart from the amendment in 6.7.1, the proposed Activity Lists included in 18.3 be retained as notified.

The following submissions are therefore:

**Accepted**

Submission	Point Number	Name
11, FS28	22, FS22, FS48, FS12,	Bay of Plenty Regional Council
14, FS32	15, 16, 17, 18, FS12	Nessie Hinetai Te Kuka
15, FS31	15, 16, 17, 18, FS12	Donna Poka
16	16, 17, 18	Department of Conservation
FS33	FS5, FS8	New Zealand Historic Places Trust

**Rejected**

Submission	Point Number	Name
7, FS29	2, 22, FS53, FS75, FS75, FS100, FS129, FS131, FS159, FS164	TKC Holdings Ltd
8, FS27	16, FS30, FS54, FS78	Carrus Corporation Ltd
10	21	Blakely Pacific Ltd
25	1	Peter Axelrad

## **6.8 Reasons**

- 6.8.1** Changes to enable dwellings on multiple owned Maori land have been reviewed with the District Plan – First Review and are supported by the Hapu Management Plan. As a result, no changes were proposed through Plan Change 46/Variation 2.
- 6.8.2** There is a significant difference between the look, feel, land use and ownership between the forested sand barrier and the farmland portion of the Island. To promote the sustainable management of the natural and physical resources of the forested sand barrier, dwellings and associated subdivision should be clustered in appropriate areas and should not be scattered throughout the forested sand barrier.
- 6.8.3** The clustering of dwellings is more complicated than the construction of one dwelling per lot. It is also not possible to allow one dwelling per lot in conjunction with the clustering of dwellings.
- 6.8.5** Complex cultural and social issues are mainly intangible and therefore best practice development and associated subdivision outcomes cannot be promoted through specific activity performance standards. These issues have to be addressed through innovative solutions that address the matters listed in Sections 6 and 7 of the RMA. With Proposed Plan Change 46/Variation 2, Council would like to encourage innovative development best practice. If the clustering of dwellings was to be a Permitted or Controlled Activity, Council would not be able to encourage the developer to work with the development constraints of the Island, such as the location of the cluster.
- 6.8.6** Considering the purpose of the RMA, the New Zealand Coastal Policy Statement and the Regional Policy Statement, the District Plan must not promote the subdivision of existing small landholdings on the forested sand barrier, or the development of a second dwelling on these landholdings.

## **Sub-Topic 5.2**

### **6.9 Submission points that relate to 18.6 Prohibited Activities**

- 6.9.1** Ten submissions and 19 further submission points (from 5 further submitters) were received.
- 6.9.2** Submitters 14 and 15 support the provisions as notified.
- 6.9.3** Submitters 3, 4, 5, 6 and 11 support 18.6 with an amendment. Submitters 3 to 6 advocate that no additional dwellings should be developed on the forested sand barrier. Submitter 11 is of the opinion that the words "*or subdivision*" should be included in 18.3.6(a).

**6.9.4** Submitters 7, 8 and 10 opposed the proposed Prohibited Activity status. According to them, it is too restrictive and does not meet the RMA requirements.

**6.10 Option 1 – Relax the activity status for residential development that exceeds the density of 1 dwelling per 40ha for the development of minor dwellings.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Might have a positive impact on transportation costs between the Island and the mainland due to the increase in people.</li> <li>▪ Provide more development flexibility to developers.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Will promote unsustainable residential development.</li> <li>▪ Will not provide certainty to the local community, developers and Council.</li> <li>▪ Will be challenging to protect the existing forestry production, natural environment, landscape, social and cultural values of the Island.</li> <li>▪ Will not give effect to the RMA, New Zealand Coastal Policy Statement, RPS and SmartGrowth.</li> <li>▪ Will not take the Hapu Management Plan into account.</li> <li>▪ Will not incorporate the outcomes from specialist studies into the District Plan.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be ineffective in the protection of rural productivity and reverse sensitivity.</li> <li>▪ The District Plan will fail to give effect to the RMA, New Zealand Coastal Policy Statement, RPS and SmartGrowth.</li> <li>▪ Will be less effective in taking the Hapu Management Plan into account.</li> </ul>

**6.11 Option 2 – Amend the Activity List to prohibit the development of dwellings on the forested sand barrier.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Will be easier to protect the existing forestry production, natural environment, landscape, social and cultural values of the Island.</li> <li>▪ Limited risk from natural hazards.</li> <li>▪ Will not impact on the Island way of life.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Will have a significant impact on existing entitlements.</li> <li>▪ Will ignore the existing development potential.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ Highly unlikely that it will be supported by the Environment Court.</li> </ul>

**6.12 Option 3 – Retain 18.3.6 Prohibited Activities as notified.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Will promote sustainable residential development.</li> <li>▪ Will provide certainty to the local community, developers and Council with regard to development.</li> <li>▪ Will be easier to protect the existing forestry</li> </ul>
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	<p>production, natural environment, landscape, social and cultural values of the Island.</p> <ul style="list-style-type: none"> <li>▪ Will give effect to the RMA, New Zealand Coastal Policy Statement, RPS and SmartGrowth.</li> <li>▪ Will take the Hapu Management Plan into account.</li> <li>▪ Will incorporate the outcomes from specialist studies</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Will limit the residential development aspirations of the forestry landowners.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be effective in the protection of rural productivity and prevention of reverse sensitivity.</li> <li>▪ The District Plan will give effect to the RMA, New Zealand Coastal Policy Statement, RPS and SmartGrowth.</li> <li>▪ Will be effective in taking the Hapu Management Plan into account.</li> </ul>

**6.13 Option 4 – Amend the wording to refer to “development or subdivision” and not just “development”.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Provide certainty to the local community, developers and Council with regard to subdivision, use and development.</li> <li>▪ Will be easier to protect the existing forestry production, natural environment, landscape, social and cultural values of the Island.</li> <li>▪ Will give effect to the RMA, New Zealand Coastal Policy Statement, RPS and SmartGrowth.</li> <li>▪ Take the Hapu Management Plan into account.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Will limit the residential development aspirations of the forestry landowners.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be effective in the protection of rural productivity and prevention of reverse sensitivity.</li> <li>▪ The District Plan will give effect to the RMA, New Zealand Coastal Policy Statement, RPS and SmartGrowth.</li> <li>▪ Will be effective in taking the Hapu Management Plan into account.</li> </ul>

**6.14 Discussion regarding 18.3.6 Prohibited Activities**

**6.14.1** The existing 14 dwellings on the forested sand barrier are clustered close to the old mill site.

**6.14.2** Under the current District Plan rules, the three landowners that own most of the forested sand barrier have the potential to seek resource consent to create a total of 102 lots (1 lot per 40ha), each of which would be entitled to one dwelling as a permitted activity under the District plan.

**6.14.3** One of the main drivers for this Plan Change is the pressure from forested sand barrier landowners with large landholdings that would like to develop



more dwellings than provided for under the Rural zone provisions, namely 102 potential lots (1 dwelling per 40ha).

**6.14.4** It is proposed in Plan Change 46/Variation 2 that any residential development that exceeds the density of 1 dwelling per 40ha, be a Prohibited Activity. The reasons for this provision are discussed as follows.

**6.14.5** While considering the extent of residential development on the forested sand barrier, it is important to ensure that the Plan:

- Achieves the purpose of the RMA.
- Gives effect to the New Zealand Coastal Policy Statement
- Gives effect to the Proposed and Operative Regional Policy Statement (having regard to those parts of the PRPS/Variation 1 against which appeals are not yet resolved).
- Takes the Hapu Management Plan into account.
- Considers the sub-regional growth strategy.
- Reflects the outcomes from various specialist studies and research.

**6.14.6** The Western Bay of Plenty District Council is of the opinion that the District Plan should provide certainty for all parties regarding the extent of future residential development on the forested sand barrier. This is due to the significant differences between the development expectations of the landowners with large land holdings and, the development expectations from the Regional Council, tangata whenua, Department of Conservation and Historic Places Trust.

**6.14.7** With respect to the rural land resource, the existing planning regime (including the Operative District Plan - First Review) recognises that rural production remains of primary importance to the sub-region's economy and that balancing the need to protect productive land against the push to convert it to residential use is a key issue for the District. Research has confirmed that a significant amount of productive land has been lost due to rural subdivision for lifestyle living. The now Operative Plan signalled a change in the way that rural subdivision was to be managed, directing new rural lifestyle subdivision into specific zones rather than allowing for further fragmentation of the rural productive land resource. Although soils on the forested sand barrier are of low quality, it is still productive land (as stressed in the submissions seeking greater recognition of the production forestry resource) and therefore the intention of the existing planning regime to protect productive rural land applies to the Matakana Island forested sand barrier.

**6.14.8** Although the sand barrier is in private ownership, a sense of duty and obligation for tangata whenua to exercise rangatiratanga and kaitiakitanga remains. Objective 3 of the NZCPS 2010 requires Council to recognise the role of tangata whenua as kaitiaki. However, it is important to also acknowledge that non-Māori landowners may have different values that also warrant consideration. The challenge for the Island (in a planning context) is to recognise both the proprietary and legal rights of private landowners and the cultural values of tangata whenua, while achieving the purpose of the Act overall.

**6.14.9** The Matakana Island way of life is reflected in its isolation, rural character and absence of large residential, commercial or tourist developments, the nature of which gives rise to the relaxed and highly self sufficient lifestyles of the Island population. Infrastructure is provided on the Island in terms of the privately owned unsealed forestry access road. Council infrastructure is, and will remain, minimal. Any development will need to provide its own services and meet Regional and District Plan requirements.

**6.14.10** Although both the current Island community and the landowners of the forested sand barrier would like to see sustainable economic development on the Island, there is a significant difference between their philosophy and expectations regarding the scale and nature of such development. This is because, as set out in the Hapu Management Plan, Maori believe that "people belong to the land and not the land to the people".

**6.14.11** For the Island community, of whom more than 90% are Maori, the scale and nature of development on the Island has the potential to significantly impact on their social and cultural well-being.

**6.14.12** In its reasons for the decision in the *Blakely Pacific Limited v Western Bay of Plenty District Council* appeal, the Environment Court made it clear that maintaining the social and cultural wellbeing of the Matakana Community is important. In paragraph 113 the Court stated that:

*"... the difficulty is in how the relationship of Maori to this land, and particularly the hapu on the island, is recognised and provided for. In our view, the recognition and provision must be real."*

**6.14.13** The research undertaken as part of the District Plan–First Review pointed out that there were approximately 4,000 existing vacant rural lots in the Western Bay of Plenty District Council. This figure excludes the large influx of subdivision consents submitted to Council just before the notification of the District Plan – First Review. The pressure for development of dwellings on the forested sand barrier is therefore not about relieving stress on the local housing market, and is unlikely to impact on the existing house prices. At the same time it is realistic to recognise that there are pressures for development that stem from proximity to not just the rest of the Western Bay of Plenty District, but to Tauranga City too. There is a perceived cachet of desirability of an Island/coastal lifestyle that too may contribute to these pressures. It is also likely that the proposed dwellings will not be occupied by or owned by the local community and as a result might impact on the social and cultural well-being of the local community. This potential impact was acknowledged in Environment Court Decision No. [2011] NZEnvC354 and listed as a significant constraint in the Hapu Management Plan.

**6.14.14** It is also important to note that there are a number of large production forests in the Western Bay of Plenty District. It is therefore important to consider how more intensive development, especially dwellings, might create a precedent for more intensive development within other production forests on rural land.

- 6.14.15**The farmland area contains one of the highest concentrations of historic pā in the Bay of Plenty. To date, 37 pā have been recorded and are mainly located on the escarpments along the Harbour. Seven terraces and 12 rua are also recorded on the farmland. More than 300 midden sites are recorded on the forested sand barrier and 11 have been recorded on the farmland. It is also important to note that very few surveys have been done on the southern half of the forested sand barrier, which is currently under pressure for the development of more than 100 dwellings.
- 6.14.16**Going beyond the proposed provisions will change the social and cultural balance on the Island whereby the forested sand barrier will contain more development than the farmland. According to the Hapu Management Plan, this will have a significant impact on the social and cultural wellbeing of the current Island community.
- 6.14.17**The natural environment and landscape value of the forested sand barrier is of high significance (see Planning Reports 2 and 3 for more information). It is therefore important that any residential development has to be planned and managed in a way that will not impact on these values. It is also considered that there will be a direct correlation between the size of the residential development and the impact it will have on the natural environment and landscape.
- 6.14.17**From the above it is clear that there is a significant difference between the complexities of the forested sand barrier and rural land on the main land or even the farmland portion of Matakana Island.
- 6.14.18**As mentioned, it is important that the proposed provisions are a combination of (a) clear rules that provide certainty and (b) assessment criteria that allow for innovative solutions. Capping the number of dwellings on the forested sand barrier is important as it provides certainty to both the existing and future landowners of the Island. It is also transparent from the Council's perspective in that it states the Council's view as to what it sees as appropriate on the forested sand barrier.
- 6.14.19**The RMA provides for prohibited status as one of the tools in the local authority toolbox<sup>1</sup>. By utilising this tool, the District Plan provides certainty regarding future residential development on the forested sand barrier for the life of the District Plan (or until there is a plan change)<sup>2</sup>. Environment Court Decision No. A3/2009 also pointed out in paragraph 1125/1126 that this certainty has economic benefits, including lessening transaction costs and other externalities involved with subdivision and development. It is pointed out in paragraph 1131 (c) that it is appropriate to apply a prohibited activity status:

*"Where the council is ensuring comprehensive development. If a local authority wishes to ensure that new development should occur in a coordinated and interdependent manner, it may be appropriate to provide that any development which is premature or incompatible*

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<sup>1</sup> Paragraph 1118; Environment Court Decision No. A3/2009

<sup>2</sup> Paragraph 1123; Environment Court Decision No. A3/2009

*with the comprehensive development is a prohibited activity. In such a case, the particular type of development may become appropriate during the term of the plan, depending on the level and type of development in other areas;"*

**6.14.20**The Environment Court decision pointed out in paragraph 1132 (c) that:

*"the Waitakere City Council does wish to ensure comprehensive development. The pressure of New Zealand's largest city on one side and the Waitakere Ranges on the other results in very strong pressures to build more houses in the SSP area. We hold that the wish to establish thresholds to meet the objectives and policies of the City Plan is a cogent reason for contemplating prohibited activity status."*

**6.14.21**Similarly, there is significant pressure to develop more dwellings on the forested sand barrier due to the proximity to Tauranga and the perceived desirability coast and "Island" lifestyle. It is clear that there is a need to establish clear thresholds to meet the objectives and policies of the District Plan, Regional Policy Statement and sub-regional growth strategy. The community on the Island (as evidenced by the new Hapu Management Plan) are in favour of limiting development. Providing for development above the threshold on a case by case basis as a Non-Complying or Discretionary Activity will place further pressures and costs on the Islanders in responding to such applications (as they had to (successfully) in the Blakely Pacific case). All of the reasons included in paragraph 1134 of Environment Court Decision No. A3/2009 for considering the appropriateness of prohibited activity status can also apply in some way to Matakana Island.

**6.14.22**It is therefore appropriate that in order to promote the sustainable management of natural and physical resources in an effective and efficient manner, the development of dwellings that exceeds a density of 1 dwelling per 40ha be a Prohibited Activity, as proposed by Plan Change 46/Variation2.

**6.14.23**Council believes that proposed Rule 18.3.6 Prohibited Activities:

- (a) Provides certainty. As a result, significant time, resources and money will now not be spent on resource consents, appeals and in the Environment Court by affected parties.
- (b) Gives effect to Part 2 of the RMA, the Regional Policy Statement and the New Zealand Coastal Policy Statement.
- (c) Takes the Hapu Management Plan into account.
- (d) Incorporates the outcomes from various specialist studies undertaken over the past 5 years.
- (e) Does not affect existing "entitlements"/aspirations.

**6.14.24**Deleting the Prohibited Activities will adversely impact on:

- (a) the development of affordable housing, or
- (b) the housing demand and supply within the sub-region, or
- (c) the relatively high house prices within the sub-region.

**6.14.25** The submission points from Submitters 7, 8 and 10, opposing the proposed Prohibited Activity status, are therefore not supported.

**6.14.26** Submitters 3, 4, 5 and 6 advocate that no additional dwellings should be developed on the forested sand barrier. This will impact significantly on the existing position of those landowners of those lots and cannot be supported.

**6.14.27** The request from the Regional Council to refer to subdivision and development, and not only development (as notified) will provide more clarity and is supported.

## 6.15 Recommendation

THAT:

**6.15.1** The wording in 18.3.6(a) be amended to read as follows:

(a) Residential development and subdivision that exceeds a density of one dwelling per 40ha on the Matakana Island forested sand barrier, other than on Lot 1 DPS 76181, Lot 2 DPS 76181, Allot 12B Katikati PSH and Allot 12A Katikati PSH

**6.15.2** Apart from the amendment in 6.15.1, the proposed 18.3.6 Prohibited Activities be retained as notified.

The following submissions are therefore:

### Accepted

Submission	Point Number	Name
11, FS28	23, FS36	Bay Of Plenty Regional Council
FS33	FS7, FS10	New Zealand Historic Places Trust

### Accepted in Part

Submission	Point Number	Name
14	20	Nessie Hinetai Te Kuka
15	20	Donna Poka

### Rejected

Submission	Point Number	Name
3	2	Te Umuhapuku 3B Trust
4	2	Taingahue Family Trust
5	2	Rangiwaewa Marae Trust
6	2	Tauwhao Te Ngare Trust
7, FS29	24, FS7, FS9, FS11, FS13, FS49, FS77, FS105, FS134	TKC Holdings Ltd
8, FS27	18, FS4, FS6, FS8, FS10, FS49, FS77, FS105, FS134	Carrus Corporation Ltd
10	23	Blakely Pacific Limited
FS26	13	Cathryn Faulkner

## **6.16 Reason**

**6.16.1** The need for this Plan Change/Variation is driven by pressure from developers that would like to undertake residential development of a scale and nature that is outside the provisions of the Operative District Plan, Regional Policy Statement and the sub-regional growth strategy (SmartGrowth).

**6.16.2** Prohibited Activities are a “tool” included in the RMA “toolbox” to ensure comprehensive development. Council believes that proposed Rule 18.3.6 Prohibited Activities:

- (a) Provides certainty. As a result, significant time, resources and money will now not be spent on resource consents, appeals and in the Environment Court by affected parties.
- (b) Gives effect to Part 2 of the RMA, the Regional Policy Statement and the New Zealand Coastal Policy Statement.
- (c) Takes the Hapu Management Plan into account.
- (d) Incorporates the outcomes from various specialist studies undertaken over the past 5 years.
- (e) Does not effect existing entitlements.

**6.16.3** Deleting the Prohibited Activities will adversely impact on:

- (a) the development of affordably housing, or
- (b) the housing demand and supply within the sub-region, or
- (c) the relative high house prices within the sub-region.

**6.16.4** Not allowing any new dwellings on the forested sand barrier will impact on the existing planning entitlements of those lots and cannot be supported because through the provision of appropriate rules the “status quo” can be given effect to.

**6.16.5** The request from the Regional Council to refer to subdivision and development, and not only development (as notified) will provide more clarity.

## **Sub-Topic 5.3**

**6.17 Submission points that relate to the Activity Performance Standards for the clustering of dwellings and subdivision.**

**6.17.1** Eight submissions and 33 further submission points (from seven submitters) were received.

#### 18.4.1(d) Standards for the clustering of dwellings

**6.17.2** Submitters 14 and 15 supports 18.4.1(d), but request that 18.4.1(d)(ii) be amended to a maximum density of one dwelling per 100ha (not one dwelling per 40ha as notified)

**6.17.3** The Regional Council supports the proposed provisions, but seeks that:

- the minimum number of dwellings per cluster be amended to 10 and
- Council includes a standard for the maximum number of dwellings per cluster.

**6.17.4** Although the principle of clustering dwellings on the forested sand barrier is supported by Submitters 7 and 10, they are of the opinion that significant changes to these standards are required to ensure that:

- the proposed provisions create a robust and comprehensive framework for transferable development rights to ensure that the provisions provide certainty.
- the provisions will not lead to adverse effects on the environment.

**6.17.5** Submitter 7 proposes that all other standards, except for the density of 1 dwelling /40ha, be deleted and replaced with the following matters to be considered:

- The appropriate location for the clusters of development having regard to the scale of areas included in the application. A balance title/lot shall be shown on the plan of subdivision including the location of the dwelling and accessory building areas within the balance lot;
- The location of proposed dwelling sites in the subdivision and the success of the design of the subdivision to integrate the dwelling sites with the forested areas. The location of dwelling sites shall also include curtilage management and controls/methods that integrate with coastal character considerations;
- The methods included in a management plan for the subdivision to maintain and enhance ecological, landscape, archaeological and cultural values. The management plan shall detail forestry management and tenure for all lots. The management plan shall detail appropriate tenure controls and education methods to be conveyed to new lot owners to recognise and provide for these matters. The management plan shall also identify the location, provision and appropriateness of any other built form for ancillary land use within the subdivision (such as proposed accommodation facilities, commercial facilities; education facilities).
- Appropriate ranges of allotment sizes to integrate the dwelling locations with the forested areas. The minimum lot size shall be 1ha;
- Minimisation of the risk to life and damage of property from natural hazards, including appropriate setbacks from the coast taking into

account predicted climate change and potential earthworks requirements for minimum habitable building heights;

- The sustainability of water, wastewater, electricity, telecommunication provisions
- The provision of safe and efficient legal access for the subdivision.
- How the introduction of pest plants and animals will be minimised and managed.
- Methods for preventing further subdivision.

#### 18.4.2(b) Subdivision activity Performance Standards: General farming lots

**6.17.6** The proposed provision to exclude the Matakana Island forested sand barrier from 18.4.2(b) is supported by Submitters 14 and 15 and opposed by Further Submitter 29.

#### 18.4.2(i) Activity Performance Standards for subdivision relating to clustered residential development on the Matakana Island forested sand barrier

**6.17.7** Sub-section 18.4.2(i) is supported by the Regional Council.

**6.17.8** The proposed standards for subdivision on the forested sand barrier are opposed by Submitters 7, 10, 14 and 15. According to Submitters 7 and 10, the proposed provisions:

- should not require a memorandum of encumbrance to prevent future subdivision.
- should not require that a subdivision be in accordance with a related land use consent.
- are not practical and will not achieve the proposed objectives and policies.

**6.17.9** Submitters 14 and 15 opposed 18.4.2(i) as they are not in support of residential development and subdivision on the forested sand barrier.

**6.18 Option 1 – Relax the Activity Performance Standards by deleting most of the standards or replacing them by matters to be considered.**

<b>Advantages</b>	<ul style="list-style-type: none"><li>▪ Limited control and provide more flexibility for developers.</li></ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"><li>▪ Lack of certainty for existing and future landowners.</li><li>▪ Complicates sustainable management of natural and physical resources.</li><li>▪ Will complicate the resource consent process.</li><li>▪ Limited control to manage impact on forestry operations.</li></ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"><li>▪ The District Plan may not meet the purpose of the RMA.</li><li>▪ The District Plan may not give effect to the RMA, New Zealand Coastal Policy Statement and RPS.</li></ul>



	<ul style="list-style-type: none"> <li>▪ Will be less effective in taking the Hapu Management Plan into account.</li> <li>▪ The District Plan will lack tools to encourage sustainable development outcomes.</li> <li>▪ The District Plan will lack tools to protect the Island way of life.</li> </ul>
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**6.19 Option 2 – Amend the maximum density to one dwelling per 100ha.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Might be easier to protect the existing forestry production, natural environment, landscape, social and cultural values of the Island.</li> <li>▪ Reduce risks from natural hazards.</li> <li>▪ Might not impact on the Island way of life.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Will impact on perceived entitlements.</li> <li>▪ Will limit the existing development potential.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be effective in the protection of rural productivity and prevention of reverse sensitivity.</li> <li>▪ The District Plan will meet the purpose of the RMA.</li> <li>▪ The District Plan will give effect to the New Zealand Coastal Policy Statement, RPS and SmartGrowth.</li> </ul>

**6.20 Option 3 – Amend the minimum cluster size to 10 dwellings and set a maximum number of dwellings per cluster.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ A smaller cluster will reduce the impact on the environment and landscape.</li> <li>▪ Provide certainty to existing and future residents and developers.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ More clusters will be developed.</li> <li>▪ The clusters will be “scattered” over a larger portion of the forested sand barrier.</li> <li>▪ As a result this will spread the impact on the existing forestry operations and natural, landscape, social and cultural values over a larger portion of the forested sand barrier.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ Complicate the sustainable management of the natural and physical resources.</li> </ul>

**6.21 Option 4 – Retain 18.4 Activity Performance Standards as notified.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Limits the impact on the existing forestry operations and natural, landscape, social and cultural values to a relatively small portion of the forested sand barrier.</li> <li>▪ Is a good balance between firm standards to promote certainty and offering flexibility for innovation.</li> <li>▪ More certainty for existing and future community.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Might be challenging to mitigate the effects from the cluster.</li> </ul>

<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be effective in the protection of rural productivity and prevention of reverse sensitivity.</li> <li>▪ The District Plan will meet the purpose of the RMA.</li> <li>▪ The District Plan will give effect to the New Zealand Coastal Policy Statement, RPS and SmartGrowth.</li> <li>▪ The District Plan will have tools to encourage sustainable development outcomes and to protect the Island way of life.</li> </ul>
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## **6.22 Discussion regarding 18.4 Activity Performance Standards**

**6.22.1** This discussion should be read together with paragraph 6.6.

**6.22.2** One of the objectives of this Plan Change/Variation is to provide more certainty regarding the construction of dwellings on the forested sand barrier. On numerous occasions Council attempted to obtain feedback from the forestry landowners on suitable activity performance standards, but as reflected in the Matakana Forest Park Management Plan (draft) and the submission of Submitter 7, their preferred option is to only include matters of consideration and no standards. This will result in uncertainty, as the following questions will remain unresolved:

- What is the definition of a cluster of dwellings?
- How big is a cluster (number of dwellings)?
- What is the average density within a cluster?
- How will the transferring of development rights be administered?

**6.22.3** To promote the sustainable management of natural and physical resources, a balance between firm standards (to provide certainty) and matters of discretion (to enable best practice solutions to unique challenges) is required.

**6.22.4** The proposal from Submitter 7 and 10 to enable the development of residential clusters as a Controlled Activity with a list of matters of control or discretion will provide certainty regarding the development of dwellings, but no certainty that the concerns and challenges raised by the Environment Court, specialist studies, Hapu Management Plan, Regional Policy Statement RMA and New Zealand Coastal Policy Statement will be given effect to or taken into account. The submission points of Submitter 7 and 10 and FS 27 and FS29 is therefore rejected.

**6.22.5** The clustering of dwellings can only be achieved successfully if the District Plan enables the transferring of development rights between the lots on the forested sand barrier that are subject to the clustering of dwellings. Where development rights are transferred to enable the development of a cluster, a memorandum of encumbrance will have to be registered against the donor lot to ensure that future land owners are aware that the development rights of the lot were already transferred. Submitter 10 opposed this provision, but does not provide an alternative solution. To ensure that the potential development rights are transparent to future land owners, the request from Submitter 10 is therefore rejected.

- 6.22.6** Throughout the development of Plan Change 46/Variation 2, the hapu representatives pointed out that the principle of subdivision and the construction of dwellings on the forested sand barrier is not supported by the Hapu Management Plan. This will impact on the existing entitlements and cannot be supported. Although a density of 1 dwelling / 100ha will have less effects on the natural, social, cultural and landscape values of the forested sand barrier, it is believed that with an innovative and integrated design, development and management approach, a density of no more than 1 dwelling / 40 ha is a well balanced outcome. This enables the protection of the significant values and the forested sand barrier and the development desires from the landowners, provided that this is a clear and finite upper limit (i.e. remains linked to prohibited status for any further subdivision/development). The requests from Submitters 14 and 15 are therefore rejected.
- 6.22.7** The Regional Council requests that the minimum dwellings per cluster be reduced from 20 to 10 to reduce the impact on indigenous biodiversity, and because the larger cluster may result in a suburban look and feel. The challenge is to balance the number of clusters with the size of the cluster. At a density of 1 dwelling / 40ha, a total of 102 additional dwellings can be developed on the forested sand barrier. By reducing the cluster size to 10 dwellings, the number of clusters will be doubled and as a result it will be scattered over a larger portion of the forested sand barrier. This may also impact on the biodiversity and look and feel of the Island. The proposed rules allow for a reduction in the number of dwellings per cluster as a Discretionary Activity (Rule 18.3.4(s)) and therefore the minimum number of dwellings per cluster should be retained at 20.
- 6.22.8** Council is of the opinion that having a small number of clusters will enable the protection of the social, cultural, natural and landscape values of the remaining portion of the forested sand barrier more successfully. No cap is therefore placed on the maximum size of a cluster. The submission point from the Regional Council is therefore rejected.
- 6.22.9** It is the land use activities that result from a subdivision, not necessarily the subdivision itself that will impact on the existing forestry operations and the significant values of the forested sand barrier. That is why subdivision on the forested sand barrier has to be in accordance with the related land use consent (proposed Rule 18.4.2(i)). Any land use consent will include a management plan that spells out how the effects of the proposed development will be minimised. Submitter 10 opposes proposed Rule 18.4.2(i) and pointed out that subdivision should be allowed without a land use consent. The submitter provides no details on how the effects that may result from the subdivision can be mitigated. The submission point is therefore rejected.

## **6.23 Recommendation**

THAT:

- 6.23.1** The Activity Performance Standards that relate to the clustering of dwellings and subdivision in 18.4 be retained as notified.

The following submissions are therefore:

**Accepted**

Submission	Point Number	Name
14, FS32	25, FS13	Nessie Hinetai Te Kuka
15	25	Poka, Donna
11, FS28	25, FS37, FS38	Bay Of Plenty Regional Council
FS31	FS13	Te Runanga O Ngai Te Rangī Iwi Trust
FS33	FS11, FS6	New Zealand Historic Places Trust

**Rejected**

Submission	Point Number	Name
7, FS29	21, 23, FS48, FS50, FS51, FS54, FS57, FS78, FS81, FS107, FS110, FS111, FS136, FS139, FS140	TKC Holdings Ltd
FS27	FS29, FS31, FS54, FS55, FS58, FS81, FS82, FS88, FS89, FS90, FS91,	Carrus Corporation Ltd
10, FS30	20, 22, 24, 25, FS12, FS16, FS17	Blakely Pacific Limited
14	22	Nessie Hinetai Te Kuka
15	22	Donna Poka
FS33	FS14	New Zealand Historic Places Trust

**6.24 Reason**

- 6.24.1** The proposed Activity Performance Standards are not too rigid or over-prescriptive. In conjunction with the proposed matters of discretion, a well balanced approach is proposed to provide certainty and flexibility while protecting the significant values of the Island.
- 6.24.2** It is believed that with an innovative and integrated design, development and management approach, a density of no more than 1 dwelling / 40 ha is a well balanced outcome that enables the protection of the significant values and the forested sand barrier and the fulfilment of development desires from the landowners.
- 6.24.3** The concentration of dwellings into clusters of more than 20 dwellings will enable the protection of the social, cultural, natural and landscape values of the remaining portion of the forested sand barrier more successfully.
- 6.24.4** Reducing the cluster size to 10 dwellings will double the number of clusters which will be scattered over a larger portion of the forested sand barrier.

## Sub-Topic 5.4

### 6.25 Submission points on Restricted Discretionary Assessment Criteria for the Clustering of Dwellings – 18.5.9

6.25.1 Four submissions and seven further submissions were received

6.25.2 Submitters 14 and 15 support 18.5.9. The further submission from TKC Holdings opposed them and is of the opinion that it is not consistent with their submission (Submitter 7). However, they did not submit on 18.5.9. Their submission point is therefore rejected.

6.25.3 Submitter 10 supports matter (a)(iii).

6.25.4 The Regional Council supports the matters, but would like to amend matter (a)(iv) to allow for public access and not just the existing Island community.

### 6.26 Option 1 – Amend 18.5.9(a) to allow for public access.

<b>Advantages</b>	<ul style="list-style-type: none"><li>▪ Will enable public access.</li></ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"><li>▪ May result in significant costs to manage the public access to minimise the impact on the natural environment and social and cultural values.</li><li>▪ May impact on the forestry operations.</li><li>▪ May impact on the frontal dune system, which is a proposed Significant Ecological Feature.</li></ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"><li>▪ No impact on the effectiveness/efficiency of the District Plan.</li></ul>

### 6.27 Option 2 – Retain 18.5.9 as notified.

<b>Advantages</b>	<ul style="list-style-type: none"><li>▪ Limit the impact on the forestry operations.</li><li>▪ Limit and manage the impact on the frontal dune system, which is a proposed Significant Ecological Feature.</li></ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"><li>▪ May complicate public access to the beach in the future.</li></ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"><li>▪ No impact on the effectiveness/efficiency of the District Plan.</li></ul>

### 6.28 Discussion regarding 18.5.9 Restricted Discretionary Assessment Criteria applying to the clustered residential development.

The Regional Council submits that the wording of 18.5.9(a)(iv) be amended to provide public access to the open coast, Panepane and sites of cultural significance (and not just for the existing Island community as notified). The forested sand barrier is an operational production forest and a sensitive natural, social and cultural environment. It is thus important that the provision of public access be carefully managed and maintained, and may result in significant costs for Council.

However, this does not preclude negotiations between Council and landowners to develop, for example, a walkway/cycleway over part of the forested sand barrier. The submission point from the Regional Council is therefore rejected.

## 6.29 Recommendation

THAT:

- 6.29.1** 18.5.9 Restricted Discretionary Assessment Criteria applying to the clustered residential development be retained as notified.

The following submissions are therefore:

### Accepted

Submission	Point Number	Name
10	27	Blakely Pacific Limited
14	28	Nessie Hinetai Te Kuka
15	28	Donna Poka
FS27	FS60	Carrus Corporation Ltd
FS28	FS43	Bay Of Plenty Regional Council

### Accepted in Part

Submission	Point Number	Name
11	27	Bay Of Plenty Regional Council
FS27	FS84	Carrus Corporation Ltd
FS29	FS80	TKC Holdings Ltd
FS30	FS14	Blakely Pacific Limited

### Rejected

Submission	Point Number	Name
FS29	FS113, FS142	TKC Holdings Ltd

## 6.30 Reason

- 6.30.1** Public access can have a significant effect on the existing forestry operations and the sensitive environment of the forested sand barrier.

- 6.30.2** Provision of public access should be done on a project by project basis to ensure that project related costs and effects are managed and budgeted for.

## 7.0 Topic 6: Other land use activities.

### 7.1 Background

A number of amendments were also proposed to other land use activities and their associated performance standards and assessment criteria. The purpose of this topic is to discuss the submissions received on these proposed changes.

### Exclusion of Rural Contractor Depots from the forested sand barrier

- 7.1.1** Apart from no longer allowing one dwelling per lot on the large landholdings as a Permitted Activity (which is discussed in the previous section), the only other change is to no longer permit rural contractor depots on the Matakana Island forested sand barrier.
- 7.1.2** There are currently no rural contractor depots on the forested sand barrier.
- 7.1.3** The Operative District Plan has specific activity performance standards for rural contractor depots. These provisions were drafted from the perspective that the activity will be undertaken on a rural lot that is no smaller than 6ha (the minimum size of a rural production lot). In the case of the forested sand barrier where dwellings are to be clustered on lots not exceeding 1ha, the rural contractor depot activities may impact on:
- surrounding dwellings,
  - the tranquil lifestyle,
  - the natural environment and landscape, and
  - current forestry operations.
- 7.1.4** Rural contractor depots are not provided for in the Rural Residential and Lifestyle Zones, which have approximately the same look and feel as the proposed clusters on the forested sand barrier.

### Excluding Minor dwellings from the forested sand barrier

- 7.1.5** Minor dwellings are excluded from the forested sand barrier. The issue of capping residential development on the forested sand barrier is discussed in Topic 5. By allowing minor dwellings (and as a result increasing the potential population) on the forested sand barrier, the potential impact on sensitive natural, social and cultural environments, can be increased significantly. The presence of minor dwellings will also encourage letting of dwellings and minor dwellings to tourist and holiday makers who may not be aware of the sensitivity of the natural, social and cultural environments, and the "household rules" to minimise the impact on the forestry operations.
- 7.1.6** As a result, Plan Change 46/Variation 2 proposes that the development of a minor dwelling be included as a Prohibited Activity.

### Places of assembly, accommodation facilities and education facilities

- 7.1.7** The Matakana Island Plan and Hapu Management Plan pointed out that eco-tourism can contribute to a more sustainable economy for Matakana Island. As a result, the proposed Plan Change/Variation allowed these activities as a Restricted Discretionary Activity provided that certain performance standards are met to ensure that the scale and nature of the activity complements the proposed objectives and policies.

## Aquaculture

**7.1.8** During the development of Proposed Plan Change 46/Variation 2 a number of interested parties pointed out that, if well planned and developed, aquaculture can also contribute to a more sustainable economy for Matakana Island. As with eco-tourism, aquaculture is also supported by the Hapu Management Plan.

### **7.2 Submission points on land use activities other than the clustering of dwellings**

**7.2.1** Five submissions and four further submissions (11 further submission points) were received

**7.2.2** Submitters 8 and 10 opposed the provision to exclude rural contractor depots and minor dwellings from the forested sand barrier.

**7.2.3** Western Bay of Plenty District Council submitted supporting the proposed provisions with an amendment to reference the Matakana Open Coast (S25). This submission point is addressed with the proposed changes to Section 6 (Planning Report 3) which deals with the proposed changes to S25.

**7.2.4** The Regional Council advocates that the "establishment and operation of wharves, jetties, slipways/boat ramps in an appropriate location at Opureora Point" be included as a Restricted Discretionary Activity.

**7.2.5** The Regional Council also supports 18.5.8, but request the following amendments (underlined words):

*18.5.8 (b) The sustainability of providing water, wastewater, electricity, telecommunication and solid waste removal provisions and the long term financial and environmental impact of infrastructure provision.*

*18.5.8 (d) The impact of development (including earthworks) on the natural environment character, landscape, natural features and landscapes, indigenous biological diversity, cultural and archaeological values.*

Add new clauses (j), (k) and (l) to the assessment criteria in 18.5.8 to read:

*18.5.8 (j) Potential for conflict with existing and foreseeable activities in the area. In justifying any location where potential for conflict and other adverse effects arise, consideration should be made of possible alternative locations and the need to be in the specific area chosen.*

*18.5.8 (k) Traffic Generation*

- Impact on roading including traffic safety;*
- Access;*
- Effect on amenity.*



18.5.8 (l) Scale of the activity including number of people and how this affects the existing character and amenity values.

The proposed amendments were opposed by FS27, FS29 and FS30.

**7.3 Option 1 – Allow for the development of minor dwellings and rural contractor depots on the forested sand barrier.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Increase development opportunities for landowners</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Rural contractor depots will impact on surrounding dwellings, the lifestyle, natural environment, landscape and forestry operations.</li> <li>▪ Minor dwellings will increase the potential number of people, which will impact on the “Island way of life”, the natural environment and landscape.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be less effective in mitigating the effects on the landscape and natural environment due to the increased number of buildings and subsequent increase in trees to be felled.</li> </ul>

**7.4 Option 2 – Include the wording proposed by the Regional Council in 18.5.8.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Proposed 18.5.8(j) – (l) will: <ul style="list-style-type: none"> <li>– contribute to minimising the effects on production forestry.</li> <li>– ensure that the impact from increased traffic is addressed.</li> <li>– ensure that the scale of the activity and the effects thereof are assessed.</li> </ul> </li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ It will required from developers to consider additional matters of discretion.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ The District Plan will be more effective in mitigating the: <ul style="list-style-type: none"> <li>– potential impact on the forestry operations.</li> <li>– effects from the increased traffic.</li> <li>– scale of a proposed activity, and how it will affect the existing character and amenity values of the Island.</li> </ul> </li> </ul>

**7.5 Option 3 – Retain the provisions that relate to minor dwellings, rural contractor depots and 18.5.8 as notified.**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Will avoid the potential effects from minor dwellings and rural contractor depots.</li> <li>▪ Will limit the impact on the production forest, natural environment and landscape.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Will not be able to incorporate the additional assessment criteria proposed by the Regional Council.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ Without the additional assessment criteria, the Matters</li> </ul>

<b>Efficiency</b>	of Discretion will be less affective.
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**7.6 Discussion regarding other land used activities and 18.5.8 – General Assessment Criteria.**

**7.6.1** In the case of the forested sand barrier where dwellings are to be clustered on lots not exceeding 1ha, the rural contractor depot activities will impact on:

- surrounding dwellings,
- the tranquil lifestyle,
- the natural environment and landscape, and
- current forestry operations.

**7.6.2** Rural contractor depots are also not allowed in the Rural Residential and Lifestyle Zones, which have approximately the same look and feel as the proposed clusters on the forested sand barrier would likely have. The submission points from Submitter 8 and 10 are therefore rejected.

**7.6.3** The construction of minor dwellings will increase the potential number of people on the forested sand barrier significantly. This will impact on the objective to retain the rural character and to restrict dwellings on the forested sand barrier. The potential population increase will also impact on the natural, cultural, social and landscape values of the forested sand barrier. The submission points from Submitter 8 and 10 are therefore rejected.

**7.6.4** The Regional Council advocates that “the establishment and operation of wharves, jetties, slipways/boat ramps in and appropriate location at Opureora Point” be included as a Restricted Discretionary Activity. Most of these activities are below MHWS and therefore a consent to undertake these activities has to be obtained from the Regional Council.

**7.6.5** With regard to the proposed amendments to 18.5.8 from the Regional Council, the following is noted:

18.5.8(b) The proposed wording is a duplication of the existing word “sustainability”. The proposed wording is therefore rejected.

18.5.8(d) The concerns about the impact on the natural features and significant landscape features are covered in Sections 5 and 6 of the District Plan. The proposed wording is therefore rejected.

18.5.8(j), (k) and (l) These assessment criteria will contribute to minimising the effects on the existing production forest and potential land use activities, such as a dwelling cluster. The proposed wording is therefore accepted.

## 7.7 Recommendation

THAT:

- 7.7.1** The following assessment criteria be included in Rule 18.5.8:
- 18.5.8 (j) Potential for conflict with existing and foreseeable activities in the area. In justifying any location where potential for conflict and other adverse effects arise, consideration should be made of possible alternative locations and the need to be in the specific area chosen.
  - 18.5.8 (k) Traffic Generation
    - Impact on roading including traffic safety;
    - Access;
    - Effect on amenity.
  - 18.5.8 (l) Scale of the activity including number of people and how this affects the existing character and amenity values.
- 7.7.2** Apart from the changes in paragraph 7.7.1 above, the provisions in 18.3, 18.4 and 18.5 that relate to activities other than the clustering of dwellings, be retained as notified.

The following submissions are therefore:

### Accepted

Submission	Point Number	Name
14	27	Nessie Hinetai Te Kuka
15	27	Donna Poka
16	18	Department of Conservation
FS28	FS39	Bay Of Plenty Regional Council

### Accepted in Part

Submission	Point Number	Name
11	26	Bay Of Plenty Regional Council

### Rejected

Submission	Point Number	Name
FS29	FS33, FS52, FS79, FS112, FS141, FS161	TKC Holdings Ltd
FS27	FS36, FS59, FS83,	Carrus Corporation Ltd
10, FS30	3,26, FS13	Blakely Pacific Limited

## 7.8 Reason

- 7.8.1** In the case of the forested sand barrier where dwellings are to be clustered on lots not exceeding 1ha, the rural contractor depot activities will impact on:
- surrounding dwellings,
  - the tranquil lifestyle,
  - the natural environment and landscape, and
  - current forestry operations.

**7.8.2** The construction of minor dwellings will increase the potential number of people on the forested sand barrier significantly. This will impact on the objective to “balance” population numbers between the forested sand barrier and the farm lands. The potential population increase will also impact on the natural, cultural, social and landscape values of the forested sand barrier.

**7.8.3** Proposed assessment criteria 18.5.8(j), (k) and (l) will contribute to minimising the effects on the existing production forest and potential land use activities, such as a dwelling cluster.

## **8.0 Recommended Changes to Section 18 of the District Plan**

**8.1** The purpose of this part of the report is to show the Proposed Plan Change in full including any recommended changes in response to the submissions and further submissions.

**8.2** Recommended changes to the District Plan First Review are shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations as a result of this Planning Report in blue.

## **Proposed Changes to Section 18. Rural**

### **18. Rural**

#### **Explanatory Statement**

Matakana Island is an elongated barrier island between Tauranga Harbour and the Pacific Ocean that lies between Mount Maunganui in the southeast and Bowentown in the northwest. Its predominant landuses are pastoral farming and horticulture, with *production forestry* on the sand barrier. The Island is of significant value to the Western Bay of Plenty District in a number of ways:

- (a) Its resident population of around 250 is principally tangata whenua with a rich cultural history and strong social fabric.
- (b) The Island community has a strong sense of connectedness and a modest way of life.
- (c) It is one of the richest archaeological landscapes in the western Bay of Plenty sub-region.
- (d) Matakana Island protects Tauranga Harbour, which is of national importance, from the Pacific Ocean.
- (e) The freshwater wetlands, dune lakes and frontal dune system on the Island are significant ecological features that provide the habitat for a diverse range of threatened and at risk species.
- (f) The pine forest landscape, as viewed from the Harbour, open coast and mainland is valued by both residents of the Island and the mainland, and visitors.

It is important that future *development* on Matakana Island complements these significant values and provides for the Island community's social, cultural and economic well-being. Council has adopted the Matakana Island Plan which addresses these significant issues in more detail to provide guidance for the future subdivision, use and *development* of the Island. In addition, the hapu of the Island have adopted the Hapu Management Plan which has to be taken into account by Council.

~~Interest has been expressed for more intensified *development* of Matakana Island. The Island has a rich cultural history and like much of the Western Bay of Plenty, its landscape and natural environment are sensitive to misuse. For this reason, any consideration of intensive or large scale *development* must be preceded by a 'Whole of Island Plan' that deals with issues in a holistic manner. *Development* that enhances the rural community of the Island within the context of general rural planning strategies for the *District*, including appropriate provision for Papakaianga housing, may be expected to continue to provide for the Island community's social, cultural and economic well-being.~~

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4.6  
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## 18.1 Significant Issues

10. Matakana Island is a sensitive environment that needs to be planned for carefully. While the resource management issues relevant to Matakana Island also apply to other rural land, those of particular importance in the Matakana context include:

- The potential for more intensive or large scale subdivision, use and development to adversely impact on archaeological, cultural, spiritual, ecological and landscape values. and
- The need and desire of tangata whenua Maori to exercise rangatiratanga and kaitiakitanga, to actively protect cultural values, and live on and develop their ancestral land.
- The threat of a multiplicity of natural hazards including coastal erosion, tsunami, liquefaction, inundation, and fire.

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## 18.2 Objectives and Policies

### 18.2.1 Objectives

10 The following attributes which contribute to the social and cultural well-being of the Matakana Island community are maintained and supported:

- unique way of life,
- rich cultural values,
- sensitive natural environment, and
- a significant landscape.

### 18.2.2 Policies

16. In addition to policies relating to the rural land resource, subdivision, use and development of land on Matakana Island shall recognise and provide for the following matters:

- (a) Cultural, spiritual and archaeological values, including the need and desire of Maori to live on, and develop and otherwise maintain a strong relationship with their ancestral land.
- (b) Maintenance and enhancement of natural coastal character, natural features, ecology and landscapes,

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indigenous vegetation and habitats of indigenous fauna, and historic heritage.

(c) The need to ensure that large-scale or more intensive subdivision, use and development proposals do not compromise future options for the comprehensive planning and development of the Island.

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35.6

(d) Legal access to the ocean beach, Panepane and sites of cultural significance for at least the local community and landowners.

(e) Sustainability of existing social infrastructure and the cultural and social well-being of the Matakana Island community.

(f) Sustainable economic development that contributes to the economic well-being of the Matakana Island community.

(g) Development that is of a scale and nature that will complement the lifestyle (including self-sufficiency) of the Matakana Island community.

## 18.3 Activity Lists

### 18.3.1 Permitted Activities

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Appeal Note  
#2

(d) One *dwelling* per *lot*, with the exception of:

- Lots on the Matakana Island forested sand barrier other than Lot 1 DPS 76181, Lot 2 DPS 76181, Allot 12B Katikati PSH and Allot 12A Katikati PSH.

35.11  
Appeal Note  
#3

(s) Rural Contractors Depots, excluding the Matakana Island forested sand barrier.

### 18.3.2 Controlled Activities

(a) One *minor dwelling* in addition to 18.3.1(d) above subject to performance standard 18.4.1~~(f)~~(i) Standards for *minor dwellings*, excluding Matakana Island the Matakana Island forested sand barrier.

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35.12

- (b) One *dwelling* on a title where no *dwelling* currently exists and where a *minor dwelling* exists which was constructed after 9 February 2009, excluding titles on the Matakana Island forested sand barrier.
- (j) Subdivision as provided for in Rules 18.4.2(b) General Farming Lots excluding the Matakana Island forested sand barrier, (d) Transferable Rural Lots, (e) Transferable Amalgamation Lots, (f) Additional Dwelling Lots and (g) Separation Lots.
- (k) Protection Lot subdivision, excluding the Matakana Island, for up to two additional *lots* off a sealed road as specified in Rule 18.4.2(h)(ii)1.

### 18.3.3 Restricted Discretionary Activities

- (a) Any Permitted or Controlled Activity that fails to comply with the activity performance standards listed in Rule 18.4, excluding Matakana Island (see rule 18.3.4(r)).
- (d) Accommodation facilities and education facilities on Matakana Island that comply with 18.4.1(f).
- (e) Places of Assembly on Matakana Island that comply with 18.4.1(g).
- (f) Dwellings and associated subdivision on the Matakana Island forested sand barrier (other than Lot 1 DPS 76181, Lot 2 DPS 76181, Allot 12B Katikati PSH and Allot 12A Katikati PSH), subject to compliance with the activity performance standards contained in Rules 18.4.1(d) and 18.4.2(i).
- (g) Aquaculture on Matakana Island.
- (h) Works and network utilities as provided for in Section 10.

### 18.3.4 Discretionary Activities

- (c) *Accommodation facilities* not complying with 18.4.1(~~e~~) (e) excluding Matakana Island. 3.11  
4.12  
35.13
- (d) *Education facilities* for more than four persons (excluding staff), excluding Matakana Island. 3.11  
4.13  
35.13
- (e) *Places of assembly,* excluding Matakana Island. 3.11  
4.14  
35.13



- (m) Subdivision specified in Rule 18.4.2(h) Protection Lot Subdivision, excluding Matakana Island, excluding the Matakana Island forested sand barrier.
- ~~(o)~~ *Minor dwellings on Matakana Island.*
- ~~(q)~~(p) Protection Lot subdivision not complying with 18.4.2(h)(ii); excluding the Matakana Island forested sand barrier.
- (r) Any Permitted or Controlled Activity on Matakana Island that fails to comply with the activity performance standards listed in Rule 18.4.
- (s) Subdivision and Development on the Matakana Island forested sand barrier that fails to comply with the activity performance standards listed in 18.4, provided that in respect of rule 18.3.6 an overall density of one dwelling per 40ha is not exceeded.

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### **18.3.5 Non-Complying Activities**

- (f) Accommodation facilities, education facilities or Places of Assembly on Matakana Island not complying with the performance standards in 18.4.1(f) or 18.4.1(g)

### **18.3.6 Prohibited Activities**

- (a) Residential development and subdivision that exceeds a density of one dwelling per 40ha on the Matakana Island forested sand barrier, other than on Lot 1 DPS 76181, Lot 2 DPS 76181, Allot 12B Katikati PSH and Allot 12A Katikati PSH.
- (b) Minor dwellings on the Matakana Island forested sand barrier, other than on Lot 1 DPS 76181, Lot 2 DPS 76181, Allot 12B Katikati PSH and Allot 12A Katikati PSH.

## **18.4 Activity Performance Standards**

### **18.4.1 General**

The following performance standards shall be met by all Permitted and Controlled Activities and all Restricted Discretionary Activities on Matakana Island. They shall also be used as a guide for the assessment of all other activities. Any Permitted Activity that fails to comply with any of these standards will be a Restricted Discretionary Activity for the particular non-compliance.

Except where specified otherwise the following performance standards shall be met by all land use activities.

**(c) Yards**

- (vi) Tauranga Harbour (S8), Wairoa River (S7) Landscape Management Areas and Matakana Island Landscape Management Area (S9) – for controls on activities up to 300m landward of MHWS, see Section 6.4.

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35.15

**(d) Standards for clustering of dwellings on the Matakana Island forested sand barrier**

- (i) All dwellings to be constructed on lots other than Lot 1 DPS 76181, Lot 2 DPS 76181, Allot 12B Katikati PSH and Allot 12A Katikati PSH, shall be within a cluster approved pursuant to a resource consent granted under rule 18.3.3.
- (ii) Dwelling entitlements: one dwelling / 40ha of the combined total area of all existing lots on which the application is based.
- (iii) Maximum average distance between dwellings: 80m
- (iv) Minimum number of dwellings per cluster: 20
- (v) Transferring of development rights:  
To achieve the clustering of dwellings, a dwelling entitlement may be transferred from one existing title (the donor lot) to another existing title (the recipient lot) at a rate of one dwelling entitlement per 40ha of land within the "donor" lot.  
A Memorandum of Encumbrance shall be registered against the title of the donor lot to ensure that no dwelling or minor dwelling, other than within an approved cluster, shall be constructed on that lot in the future.
- (vi) Development within the cluster shall be in accordance with a Management Plan approved in conjunction with the granting of a resource consent under rule 18.3.3(f).

**(f) Restricted Discretionary standards for accommodation facilities and for education facilities on Matakana Island.**

- (i) Maximum combined total of 20 guests or students.
- (ii) No *building* shall exceed a total gross floor area of 200m<sup>2</sup>.
- (iii) The distance between any two *buildings* shall be at least 10m.
- (iv) The *buildings* shall be partially screened from each other. The screening shall be dominated by trees and vegetation above 2m in height to mitigate the cumulative scale of the *accommodation/education facilities*.
- (iv) Shall not be within a *dwelling* cluster approved in conjunction with the granting of a resource consent under rule 18.3.3(f).
- (iv) The *buildings* shall meet the reflectivity standards of rules 6.4.1.3(b)(ii) to (iv).
- (v) Information is to be provided in accordance with 4A.6.2.

**(g) Standards for Place of Assembly on Matakana Island.**

- (i) Shall be limited to facilities for recreation activities and tourist facilities.

**18.4.2 Subdivision Activity Performance Standards (see Section 12)**

**(b) General farming lots excluding the Matakana Island forested sand barrier (see 18.4.2(i))**

**(i) Subdivision relating to clustered residential development on the Matakana Island forested sand barrier,**

- (i) Subdivision shall be in accordance with the related land use consent.
- (ii) The maximum size of a *lot* accommodating a *dwelling* shall be 1ha.

- (iii) A memorandum of encumbrance shall be registered on the titles of all of the land parcels involved (including any balance area) so as to prevent any further subdivision and to ensure that no *dwelling or minor dwelling* shall be constructed, other than in accordance with the related land use consent.

## 18.5 Matters of Discretion

### 18.5.8 Restricted Discretionary Activities on Matakana Island – General Assessment Criteria

Council shall restrict its discretion to the following:

- (a) The matters referred to in Objective 10 and Policy 16.
- (b) The sustainability of water, wastewater, electricity, telecommunication and solid waste removal provisions.
- (c) The provision of safe and legal access for landowners and the effect on the existing access rights of surrounding landowners.
- (d) The impact of *development* (including *earthworks*) on the natural environment, landscape, cultural and archaeological values.
- (e) Avoidance or minimisation of the risk to life and damage to property from natural hazards.
- (f) The social and cultural impact on the existing Island community.
- (g) How existing areas of ecological value will be enhanced and maintained.
- (h) How the introduction of pest plants and animals will be minimised and managed.
- (i) The impact on the existing rural character and amenity values of Matakana Island as viewed from the Island, the mainland, open coast and the Harbour.

**18.5.9 Restricted Discretionary Assessment Criteria applying to clustered residential development on the Matakana Island forested sand barrier.**

Council restricts its discretion to the following:

**(a) General:**

- (i) The matters referred to in foregoing rule 18.5.8;
- (ii) Measures to prevent further subdivision;
- (iii) How the *development* will co-exist with the *production forestry operations*;
- (iv) The provision of convenient access for the existing Island community to the open coast, Panepane and sites of cultural significance;
- (v) Roading ownership, construction and on-going maintenance.

**(b) Clustering of dwellings**

Any *development* within a cluster shall be in accordance with a detailed Management Plan approved in conjunction with the granting of a resource consent pursuant to rule 18.3.3(f). In addition to 18.5.8 and 18.5.9(a) above, *Council's* assessment of the Management Plan shall include the following matters:

- (ii) The location of the cluster.
- (iii) The layout of the cluster, including avoidance of linear *development*.

**18.5.10 Discretionary and Non-Complying Activity Criteria – General**

The assessment and management of effects shall include the following matters in addition to relevant matters stated in ~~18.4~~ 18.5.1 – 18.5.9: