

# Summary of the Whangarei District Plan

As at January 2021



This summary covers off:

- A brief introduction to the District Plan
- Current or recent plan changes:
  - Proposed Urban and Services Plan Change Package
  - Rural Environment Plan Changes – fully operative
- Overview of the key rules to be aware of in the District Plan

## What is the Whangarei District Plan?

- The Whangarei District Plan sets out policy and rules that manage land use and subdivision in the district and is administered by Whangarei District Council.
- The Whangarei District Plan is subject to a rolling review. This means chapters of the Plan are progressively reviewed on a 10-year cycle (to meet the requirements of the RMA).

## Current or recent plan changes

### **Proposed Urban and Services Plan Change Package (82A & B, 88 A-J, 109, 115, 136, 143, 14, 145, 147 & 148)**

This plan change package reviewed and amended large sections of the Operative plan, including all urban areas (e.g. Living and Business Environments), all Open Space Environments and provisions relating to a number of different topics.

**The decision was notified on 3 June 2020 - these provisions now apply.** There are a number of appeals on the plan change decision. HortNZ is not an appellant and is not a party to any appeals.

#### ***Summary of the changes to the Plan resulting from this plan change***

- The plan change reviewed the **urban zoning and provisions** (including introducing some new zones).
- To be consistent with the National Planning Standards, **'Environments' are now called 'Zones'** (e.g. Rural Production Environment is now called the Rural Production Zone)
- The following two chapters were introduced – **District Growth and Development Chapter** and **Urban Form and Development Chapter** - to outline strategic direction and significant resource management issues for Whangarei District.
  - The District Growth and Development Chapter is a high level, overarching chapter (there are also zone-specific objectives and policies).

- This chapter carries over a number of rural area objectives and policies (which HortNZ had involvement with in a previous plan change; it recognises the need to protect highly versatile soils, rural character, reverse sensitivity and the need to avoid new incompatible development, and the need to managed growth which avoids sprawl into rural production areas.
- **Consolidates provisions relating to subdivision** so that all objectives, policies and rules relating to subdivision in a single chapter (and includes new provisions for the urban zones included within the plan change).
- Introduces a **Transport chapter**; this primarily covers road design, off-street parking standards, landscaping within parking areas and vehicle crossing and access standards.
- Includes a **Three Waters Management chapter**; this covers requirements to connect to public three waters systems (where available), minimum on-site private standards and requirements for large scale developments.
- Consolidates or introduces objectives, policies and rules relating to the following topics – **Earthworks, Signs, Lighting**.
  - The earthworks provisions in this plan change relate to earthworks associated with subdivision.

*Note: In the Decision Version documents, there are some tracked changes shown within the rural zone chapters, however the rules of these chapters have not changed as a result of this plan change, these tracked changes largely reflect where definitions (or associated definitions) or terminology has been amended.*

### **Rural Environment Plan Changes – became fully operative (March 2019)**

- The rural zones and provisions were reviewed in 2016. This plan change is fully operative and incorporated as part of the operative district plan.
- HortNZ was involved throughout this process; submission (October 2016), presenting hearing evidence (including experts in planning, soil, landscape and grower case studies), and an appeal to the Environment Court, resulting in a number of wins that recognised the nature of rural areas (to provide for rural production activities and the need to protect highly versatile soils).

## Overview of the key rules for horticulture in the Whangarei District Plan

*This is a summary and provided for general information purposes only– you should always check the District Plan and seek your own advice as to how the rules apply in specific situations. The best place to start if you have questions about the rules is to contact the Council.*

### To determine which rules apply:

1. Check the [planning maps](#) to determine which 'Environment' (or 'Zone') the land you are growing on is in and if there are any applicable Resource Areas (e.g. Outstanding Natural Landscapes/Features, Coastal Area) or other special features.
  - Check the Area Specific Matters Chapters for rules applicable to your Zone.
  - If your property has an additional overlay or feature - the rules in both the relevant Environment Chapter and the Research Area Chapter will apply.
    - E.g. Coastal Hazard Areas, heritage features, notable trees, Sites of Significance to Maori
  - The Plan also has District Wide Chapters which may be relevant.

For more information, refer to the "[How the Plan works](#)" chapter in the District Plan .

2. Check the [zone and any applicable overlay rules](#) within the Chapters of the Plan.

### How the rules apply to existing and new activities:

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#### Existing uses

For District Plan rules, you may continue to use land in a way that contravenes a rule in a district plan or proposed district plan, if:

- the activity was lawfully established before the rule became operative or the proposed plan was notified and
- the effects of the activity are the '*same or similar in character, intensity, and scale*'. This no longer applies if the activity has been discontinued for a period of more than 12 months.

*Note: What is an 'existing use' will depend on when the rule/chapter became operative – this can be confirmed by checking with Council.*

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#### New activities

For new activities, you will need to determine if your activity meets the permitted activity standards for the activity in the Plan. If not, it may require resource consent.

#### **A resource consent is required if:**

- If your activity does not meet the permitted activity standards
  - If your activity is listed as a Controlled, Restricted Discretionary, or Discretionary Activity.
  - If you need to apply for a resource consent. The Council will consider the objectives and policies of the Plan and how adverse effects of the activity can be managed or mitigated.
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## Summary of the key rules to be aware of for horticultural activities

Activity	Summary of RURAL PRODUCTION ZONE rules	Notes on other zones/features/overlays
<p><b>Frost protection fans</b></p>	<p><b>Rural Production Zone Chapter</b> (<i>i.e. the structure itself</i>)</p> <p>Refer to <b>RPZ.2.3 (9)</b>, to be a permitted activity:</p> <ul style="list-style-type: none"> <li>• Frost fans that <u>do not exceed a height of 20m</u>, and that are <u>not within 8m of a site boundary</u>, are permitted.</li> <li>• Otherwise, frost fans are a Discretionary Activity (=a resource consent is required).</li> </ul> <hr/> <p>Also relevant, the <b>Noise and Vibration chapter</b> (a District Wide chapter) for associated noise</p> <p>Refer to <b>NAV.6.13 Frost Fans</b>, to be a permitted activity:</p> <ol style="list-style-type: none"> <li>a. <u>Noise generated by single or multiple frost fans on a site does not exceed 55 dB LAeq (10 minute) at any time when assessed at the notional boundary of any noise sensitive activity on a separate site under different ownership.</u></li> <li>b. <u>Operation of frost fans during the night period shall be for protection of crops from frost only.</u> Any other operation, such as for the purposes of maintenance, shall be undertaken during the day period.</li> <li>c. <u>A legible notice shall be fixed to the road frontage of the property on which the frost fan is being used giving the name, address and telephone number of the person responsible for its operation.</u></li> </ol>	<p>The use of frost fans in any other Zone requires resource consent.</p> <p><i>Note: Existing use rights may apply where a frost fan has been lawfully established prior to the operative date of the relevant rules.</i></p>
<p><b>Crop support structure or artificial crop protection structure</b></p>	<p><b>Rural Production Zone Chapter</b></p> <p>Refer to <b>RPZ.2.3(10)</b>, to be a permitted activity:</p> <ul style="list-style-type: none"> <li>• Do not exceed a height of more than <u>10m</u> above ground level</li> <li>• And are <u>not located within</u>: <ul style="list-style-type: none"> <li>○ 1m of a site boundary</li> <li>○ 27m of mean high water springs (excluding bridges, culverts and fences)</li> <li>○ 27m of the top of the bank of any river that has a width exceeding 3m (excluding bridges, culverts and fences).</li> </ul> </li> </ul>	<p>These terms are defined in the Plan to mean:</p> <p><b>Crop Support Structure</b> means open pervious, structures with the primary purpose to provide support for horticultural crops. Crop support structures are stand-alone unattached to any building or major structure.</p> <p><b>Artificial Crop Protection Structures</b> means open structures that are used to protect crops from damage:</p> <ol style="list-style-type: none"> <li>a. including: <ol style="list-style-type: none"> <li>i. bird netting;</li> <li>ii. wind-break netting.</li> </ol> </li> <li>b. excluding: <ol style="list-style-type: none"> <li>i. greenhouses</li> </ol> </li> </ol>

	Note: In an Outstanding Natural Feature (outside of a Coastal Area) - large landforms (A1) - green or black cloth must be used on external vertical faces.	An equivalent rule applies in the Rural Living Zone (RLZ.2.3 (11)).  <i>Note: Existing use rights may apply where a structure has been lawfully established prior to the operative date of the relevant rules.</i>
<b>Bird Scaring devices</b>	<p><b><u>Noise and Vibration chapter</u></b></p> <p>Refer to <b>NAV.6.11</b>, permitted if:</p> <ul style="list-style-type: none"> <li>• Devices <u>do not operate between half an hour after sunset and half an hour before sunrise</u></li> <li>• Each device operates <u>at not more than six “events” per hour</u> where an “event” includes clusters of up to three shots from gas operated devices or three individual shots from a firearm in quick succession. (This rule does not apply to bird scaring devices that generate a noise level of less than 55 dB LAE within the notional boundary of any noise sensitive activity not owned by the operator of the device); and</li> <li>• The sound level from any event <u>does not exceed 65 dB LAE within the notional boundary of any noise sensitive activity</u> not owned by the operator of the device; and</li> <li>• The bird scaring device is <u>only operated when a crop is at risk</u> from bird damage</li> </ul>	<p>This term is defined in the Plan to mean:</p> <p><b><i>Bird Scaring Device</i></b> means a gas gun, avian distress alarm, firearm or other such device used primarily for the purposes of bird scaring.</p> <p>The use of bird scaring devices in other Zones requires resource consent.</p> <p><i>Note: Existing use rights may apply where a bird scaring device has been lawfully established prior to 24 May 2016 (the operative date of the Noise and Vibration chapter).</i></p>
<b>Buildings or major structures</b>	<p>In the Rural zones there is a limit on the number of residential units allowed.</p> <p>In the Rural Production Zone, buildings and major structures are subject to maximum height (10m), setback from site boundary (8m) and waterbodies/mean high water springs (27m) and site coverage (20%) controls – refer to <b>RPZ.2.3 (4)</b>.</p>	Note: The construction of buildings is also subject to additional requirements if located within Coastal Hazard areas, Flood Susceptible areas, Mining Hazard areas (in the Natural Hazards Chapter) or Outstanding Natural Features or areas.
<b>Clearance of indigenous vegetation</b>	<p>The Plan controls the clearance of indigenous vegetation.</p> <p>In the Rural Production Zone, area thresholds and setbacks from waterbodies apply. This activity is permitted if:</p> <ul style="list-style-type: none"> <li>• Within the maximum areas of clearance within a 10-year period stated in RPE.2.3 (5)(a)</li> <li>• Not within 20m of a waterbody</li> </ul>	<p>This term is defined in the Plan to mean:</p> <p><b><i>Indigenous Vegetation</i></b> means plants which belong naturally in the ecological locality and includes Manuka and Kanuka.</p> <p>Similar provisions apply in the Rural Living and Rural (Urban Expansion) Zones.</p>

	<p>Unless the clearance is for routine maintenance within 7.5m of the eaves of existing buildings, operation, maintenance and repair of lawfully established activities, pest plant removal and biosecurity works, removal for customary rights and conservation planting.</p>	<p>Rules for indigenous vegetation clearance also apply to the Coastal Area, Outstanding Natural Features and Outstanding Natural Landscapes.</p>
<p><b>Earthworks</b></p>	<p>There are no earthworks rules in the Rural Production Zone chapter.</p> <p>Earthworks are only subject to rules in the District Plan if associated with subdivision or in a specific overlay or feature (refer right).</p> <p><i>Additional Notes:</i></p> <ul style="list-style-type: none"> <li>- <i>Regional plan rules may also apply to earthworks and land preparation activities (when undertaken near water or onto land where discharges to water may result) – refer to the Northland Regional Council's <a href="#">website</a>.</i></li> <li>- <i>The National Environmental Standard for Freshwater (<a href="#">NES-FW 2020</a>) controls activities within 10m of a natural wetland (and earthworks within 100m of a natural wetland where that results or is likely to result in drainage of a natural wetland).</i></li> </ul>	<p>The definition of Earthworks in the Plan excludes '<i>gardening, cultivation, and disturbance of land for the installation of fence posts</i>'.</p> <p>There is an Earthworks chapter in the Plan (this is a District Wide matters chapter) – this chapter includes rules that apply to earthworks associated with subdivision.</p> <p>There are also earthworks rules in the following overlays or features (in the other relevant District Wide matters chapters):</p> <ul style="list-style-type: none"> <li>• Mapped hazard areas (Natural Hazards chapter) – restrictions apply to earthworks and cultivation on sites in <b>Coastal Hazard Area 1 and Coastal Hazard Area 2</b>.</li> <li>• Disturbance of a <b>Site of Significance to Maori</b> identified in planning maps is not permitted.</li> <li>• Earthworks within an <b>Outstanding Natural Landscape</b> are subject to LAN.3.1.3 of the Landscapes and Features Chapter – area and volume limits apply (unless earthworks are for the specific purposes listed in the rule)</li> <li>• Earthworks in an <b>Outstanding Natural Feature (outside of the Coastal Area)</b> are subject to Table LAN.5 Table 1 of the Landscapes and Features Chapter – area and are volume limits apply (unless earthworks are for the specific purposes listed in the rule) depending on the specific feature</li> <li>• Earthworks in an <b>Outstanding Natural Feature (within a Coastal Area)</b> generally require resource consent</li> <li>• Conditions apply to earthworks in the <b>Coastal Area</b> and <b>High Natural Character Area</b> except or some listed minor activities.</li> </ul>
<p><b>Other chapters and/or rules</b></p>	<p><b>Hazardous substances</b></p>	<p>The application of agrichemicals in a farming, forestry or horticulture situation is permitted – provided that NZS 8409:1999 Code of Practice for the Management of Agrichemicals (or a more recent edition) and any applicable regional policies and rules are adhered to.</p>

		<i>Additional Note: The Regional Plan also has rules which manage the application of agrichemicals that must be complied with.</i>
	<b>Other noise</b>	In the Noise and Vibration chapter, NAV.6.1 – sets out noise limits for the different zones, note that: <ul style="list-style-type: none"> <li>• These do not apply to mobile machinery used for a limited duration as part of agricultural or horticultural activities occurring in the Rural Production, Rural Living, Rural (Urban Expansion) or Large Lot Residential Zones</li> <li>• There are specific rules apply to bird scaring devices and frost fans (refer above)</li> <li>• These do not apply to normal residential activity noise or aircraft of helicopters in flight.</li> </ul>
	<b>Signs</b>	The District Plan includes rules about signs – in the Rural Productive Zone, refer to SIGN-R4 in the Signs (District Wide) Chapter.
	<b>New activities near sensitive activities</b>	In the Rural Production Zone, any activity ancillary to farming or forestry that operates within 250m of an existing sensitive activity on a separate site, requires a resource consent. <p><i><b>Activities Ancillary to Farming, or Forestry</b> means processing and packaging facilities for farming, and forestry that is dependent primarily on the direct handling of raw produce, or that primarily supplies services to farming, horticulture, or forestry. Includes premises used for the manufacture of dairy products, abattoirs, timber processing, stock yards and sale yards, cool stores, pack houses and rural contractor .</i></p> <p><i><b>Sensitive activities</b> means, childcare and education facilities, residential activity, and hospitals</i></p>
	<b>Resource Area's (e.g. Landscapes and Features)</b>	A reminder that if your site is within an overlay (e.g. Coastal Area Landscape Outstanding Natural Features and Outstanding Natural Landscapes, Hazard areas), the rules in these chapters also apply.