

IN THE MATTER of the Local Government (Auckland Transitional Provisions) Act 2010 (**LGATPA**) and the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER of an appeal under section 156(1) of the LGATPA against a decision of the Auckland Council on a recommendation of the Auckland Unitary Plan Independent Hearings Panel (**Hearings Panel**) on the proposed Auckland Unitary Plan (**Proposed Plan**)

AND

IN THE MATTER of Proposed Plan Hearing Topic(s) 056 & 57

BETWEEN **Terra Nova Planning Ltd**

Appellant

AND **AUCKLAND COUNCIL**

Respondent

NOTICE OF APPEAL

Dated 16th September 2016

To: The Registrar
Environment Court
Auckland

1. I, Shane Hartley, sole director of Terra Nova Planning Ltd, appeal against part of a decision of the Auckland Council (the **Council**) on the proposed Auckland Unitary Plan (**Proposed Plan**).
2. I have the right to appeal the Council's decision –
 - (a) under section 156(1) of the LGATPA because the Council rejected a recommendation of the Hearings Panel in relation to a provision or matter I addressed in my submission on the proposed plan (submission number 6620 and further submission number 689). The Council decided on an alternative solution, which resulted in a provision being included in the proposed plan or a matter being excluded from the Proposed Plan:
3. I provide further details of the reasons for my appeal below.
4. I am not a trade competitor for the purposes of section 308D of the RMA.

5. I received notice of the decision on 19 August 2016.

6. **PARTS OF THE COUNCIL'S DECISION APPEALED, REASONS AND RELIEF SOUGHT:**

a. Council decision 42.2 (a, b)

"Panel recommendations rejected:

42.2 The Council has rejected the Panel recommendations in relation to Hearing Topic 064 (Subdivision – rural) as listed below, with accompanying reasons, alternative solutions and section 32AA evaluation (where necessary):

(a) **The inclusion of objectives, policies and rules that enable sporadic and scattered rural subdivision**

Reasons	
(i) The Panel's recommended provisions will enable inappropriate subdivision of the rural area through a proliferation of rural-residential lots across the production focussed rural zones (resulting in loss of rural production, reverse sensitivity, rural character and amenity and potential additional demands on infrastructure in remote locations).	
(ii) The provisions undermine the Auckland Plan's strategic direction for the rural areas.	
(iii) The provisions do not support the concept of the compact city that inherently has as a benefit the retention and protection of rural areas (rather than their subdivision for rural-residential uses).	
(iv) The provisions do not make it clear that the focus of rural lifestyle living is the Countryside Living zone.	
Alternative solution	See Attachment A

(b) The inclusion of provisions that allow for minimal environmental benefits to be accepted in exchange for rural-residential subdivision

Reasons
(i) The provisions would enable potentially inappropriate subdivision of the rural area with the minimal environmental gains.
(ii) The provisions enable subdivision of sites with Significant Ecological Area (SEA) factors as opposed to identified SEAs. The SEA factors are not suitable to be used for rural subdivision assessment as they: <ul style="list-style-type: none"> • Were made for a different purpose (assessing significance for vegetation protection – not for assessing whether the ecological value of an area would mitigate rural subdivision). • Were designed to be applied in a single, comprehensive manner across the region, not in isolation on a case by case basis. Site by site assessment in isolation will result in over-estimation of the significance of sites.

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(iii) The provisions will enable a potentially significant increase in the number of rural-residential lots that can be generated (particularly in relation to wetland and revegetation planting subdivision).	
Alternative solution	See Attachment A

- b. Hearings Panel topic number(s) relevant to the decision or part of the decision are **064 (previously 056 & 057)**.
- c. The specific provisions included in, or matter excluded from, the Proposed Plan by the decision, as part of the Council's alternative solution, are included in Attachment A to the Council's Decision Report dated 19 August 2016 under the heading "Topic 064 – Subdivision Rural" (at pages 294 to 316):
- B9.4.1 – Objectives.
 - B9.4.2 – Policies.
 - B9.5 – Principal reasons for adopting.
 - E15.3 – Policies.
 - E39.2 – Objectives.
 - E39.3 – Policies.
 - E39.4 – Activity Table (relating to Table E39.4.2 and E39.4.3 only).
 - E39.6.3 – Standards – controlled activities.
 - E39.6.4 4– Standards – restricted discretionary activities, except that Terra Nova supports the amendments to Table E39.6.4.4.1 to remove the 12 site maximum (or cap)
 - E39.6.4 5
 - E39.6.4 6
 - E39.8.1 – Matters of discretion (6) and (7)
 - E39.8.2 – Assessment criteria (6), (7) and (8).

H19.7.1 – Zone description.

Appendix 15 – Subdivision information and process:

15.3.1 Process.

15.3.2 Explanation of Terms.

15.5 Legal protection mechanism to protect indigenous vegetation, wetland or revegetated planting.

15.6 Restorative planting

- d. The Council's decision in relation to Hearing Topics 011 (Rural environment) and 064 (Subdivision – rural) insofar as the provisions affected by those topics do not clearly and practically implement the Panel's intention. The Panel's intention was that transferable rural site subdivision involve protection of indigenous vegetation or wetland, or revegetation planting on a donor site, to create a development right, and subdivision to occur on a receiver site (i.e. not subdivision on the donor site).
7. Terra Nova Planning's Reasons for appealing the parts of the Council decisions outlined above are that;
- a. the decisions do not accord with the relevant requirements of the RMA and are contrary to Part 2 of the RMA. In particular, the parts of the decision appealed:
 - i. Do not promote the sustainable management of natural and physical resources;
 - ii. Do not safeguard the life-supporting capacity of air, water, soil and ecosystems;
 - iii. Do not recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;
 - iv. Do not promote the ethic of stewardship;
 - v. Do not result in the most appropriate plan provisions in terms of section 32 of the RMA;
 - vi. Are contrary to the Auckland Plan;
 - vii. Do not give effect to the Regional Policy Statement in the Proposed Plan; and
 - viii. Are contrary to good resource management practice
 - b. Without limiting the generality of the above, the specific reasons for this appeal are:
 - i. The parts of the decision appealed are likely to significantly reduce the protection and restoration of indigenous biodiversity in the Auckland region.
 - ii. The Council has failed to undertake an adequate assessment of the provisions, including the benefits and costs of the environmental, economic,

social and cultural effects that are anticipated from the implementation of the provisions, as required by sections 32 and 32AA of the RMA.

- iii. The Panel recommended that the transferable rural site subdivision rules “enable one additional site for the protection of each additional 10 hectares of indigenous vegetation”.¹ The recommended version of the Proposed Plan did not implement that intention, as Table E39.6.4.4.1 created a 12 site maximum. This error was corrected through the Council’s decision.
 - iv. Transferable rural site subdivision involves protection of indigenous vegetation or wetland, or revegetation planting on a donor site, to create a development right, and subdivision on a receiver site. General subdivision standards are relevant only to the receiver site, not to the donor site.
 - v. A non-complying status for FUZ effectively prevents reasonable interim subdivision and use of the FUZ (rural zone) , subject to appropriate assessment against the Plan’s objectives and policies, and environmental effects. The Council has failed to undertake an adequate assessment of the provisions, including the benefits and costs of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, as required by sections 32 and 32AA of the RMA.
- c. The introduction of objectives at both the Regional Policy Statement and District Plan level regarding the sporadic, random and scattered subdivision of rural land for rural lifestyle living limiting the protection of indigenous biodiversity and transfer of development rights from rural land to appropriate receiver areas.
 - d. The removal of provisions for in-situ and transferable rural subdivision and limiting the protection of indigenous biodiversity based on:
 - i. The protection or enhancement of indigenous wetland.
 - ii. The protection or enhancement of indigenous vegetation, including that which is not identified in the SEA Overlay but which meets the relevant SEA factors.
 - iii. Restorative revegetation planting
 - e. The Auckland Council’s decisions are likely to result in the Auckland Regional Policy Statement chapter and other parts of the Auckland Unitary Plan being unable to be implemented in an effective and efficient manner.
 - f. There is no s.32AA evaluation for these decisions to change the Independent Hearings Panel’s recommendations, and in particular, why appropriately formulated rules (as have been in place under the operative Auckland District Plan: Rodney and Franklin sections, for example) do not provide for environmental protection based “bonus lot” subdivision in a rural zone
 - g. Council’s SEA overlay is incomplete and appears to have compiled using different criteria from that in the PAUP B.7.2.2(1) (Council’s decision version).

¹ Independent Hearings Panel, Report to Auckland Council Hearing topic 064 Subdivision – Rural (July 2016), section 4.2.5.

- h. The effects of Auckland Council's decisions to change the Independent Hearings Panel's recommendations are likely to significantly limit the protection and restoration of indigenous biodiversity in the region, including for:
 - i. Threatened ecosystems and threatened species habitats identified by Auckland Council;
 - ii. Reducing and mitigating soil erosion and the improvement of water quality;
 - i. The effects of Auckland Council's decisions to change the Independent Hearings Panel's recommendations are likely to significantly limit the restoration of indigenous forest and shrublands in the region, and the capacity to provide sufficient area so the region can mitigate the adverse effects of the production of climate-forcing gases.
 - j. Are not required in order to ensure the productive potential of elite land is not undermined.
 - i. Does not reflect the IHP's considered recommendation that provision for subdivision for rural lifestyle purposes should be enabled subject to appropriate constraints on location, scale and density.
8. I seek the following relief:
- (a) Reinstating the Panel's recommendations on Topics 011 and 064 to enable in-situ and transferable rural site subdivision for protection of indigenous vegetation and wetlands, or for indigenous revegetation planting.
 - (b) Retain the Council's decision to amend Table E39.6.4.4.1 to ensure there is no maximum number of new rural residential sites able to be created from the protection of indigenous vegetation (i.e. no cap);
 - (c) Incorporate the amendments set out in **Appendix 1** to this notice of appeal;
 - (d) Amend E39. Subdivision – Rural and Appendix 15 – Subdivision information and process to clarify that transferable rural subdivision involves protection of indigenous vegetation or wetland or revegetation planting on a donor site to create a development right, and the resultant subdivision to occur on a receiver site (i.e. not subdivision within the donor site).
 - (e) Reinstating the Panel's recommendations on Topics 064 to enable subdivision within the Future Urban zone as a discretionary activity.
 - (f) Such further or consequential relief as may be necessary to address the matters raised in Terra Nova Planning's submissions and this appeal; and
9. An electronic copy of this notice is being served today by email on the Auckland Council at unitaryplan@aucklandcouncil.govt.nz. *[A copy of the notice is also being served on the Minister of Conservation.] Waivers and directions have been made by the Environment Court in relation to the usual requirements of the RMA as to service of this notice on other persons.
10. I attach the following documents[†] to this notice:
- (g) a copy of the relevant part of the decision];

- (h) A list of names and addresses of persons served / to be served with a copy of this notice.
- (i) A copy of my submission or further submission.

A handwritten signature in blue ink, appearing to read 'Mark Bellingham', with a long horizontal stroke extending to the right.

Signature of appellant

16th September 2016

Address for service of Appellant: Terra Nova Planning Ltd
Telephone: 09 4267007
Fax/email: markbellingham@ tnp.co.nz
Contact person: Mark Bellingham

APPENDIX A
RELEVANT PARTS OF COUNCIL DECISIONS ON
THE PAUP (19 AUGUST 2016)

Council decision 42.2 (a, b)

“Panel recommendations rejected:

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(ii)	The provisions undermine the Auckland Plan’s strategic direction for the rural areas.
(iii)	The provisions do not support the concept of the compact city that inherently has as a benefit the retention and protection of rural areas (rather than their subdivision for rural-residential uses).
(iv)	The provisions do not make it clear that the focus of rural lifestyle living is the Countryside Living zone.
Alternative solution	See Attachment A

(b) The inclusion of provisions that allow for minimal environmental benefits to be accepted in exchange for rural-residential subdivision

Reasons
(i) The provisions would enable potentially inappropriate subdivision of the rural area with the minimal environmental gains.
(ii) The provisions enable subdivision of sites with Significant Ecological Area (SEA) factors as opposed to identified SEAs. The SEA factors are not suitable to be used for rural subdivision assessment as they: <ul style="list-style-type: none"> • Were made for a different purpose (assessing significance for vegetation protection – not for assessing whether the ecological value of an area would mitigate rural subdivision). • Were designed to be applied in a single, comprehensive manner across the region, not in isolation on a case by case basis. Site by site assessment in isolation will result in over-estimation of the significance of sites.

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Decisions of Auckland Council – 19 August 2016

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Alternative solution	See Attachment A

APPENDIX B
NAMES AND ADDRESSES OF PERSONS TO BE SERVED WITH A COPY OF THIS
NOTICE

<i>Name</i>	<i>Address</i>
Auckland Council	Private Bag 92300 Victoria Street West Auckland 1142 Attn: Unitary Plan Appeals Team
Minister of Conservation	Department of Conservation Private Bag 3072 Hamilton 3240

APPENDIX C
SUBMISSION BY TERRA NOVA PLANNING LTD ON THE PAUP

Submission to Proposed Auckland Unitary Plan:

Terra Nova Planning Ltd, Orewa

Scope of the Submission

This submission is on behalf of Terra Nova Planning Ltd.

The Submission primarily seeks

1. Wider provisions for Hamlets in rural zones
2. Clearer rules for Minor Household Units
3. Provision for subdivision to a minimum of 4 ha per site in the Future Urban Zone.
4. Reinstatement of the Transferable Rural Subdivision provisions of the Operative District Plan: Rodney Section, subject to the amendments proposed below.
5. Reinstatement of the Subdivision for Significant Enhancement Planting provisions of the Operative District Plan: Rodney Section

Hamlets

Hamlet subdivision provides an alternative and sustainable countryside living option with far lesser built environment effects and significant potential for positive environmental and social outcomes.

Relief Sought

TNP submits that the provision of a hamlet subdivision and development rules of the kind currently in the ADP: Rodney Section to apply to the same or equivalent rural zones; provided that such rules should be generically applicable to qualifying sites and not dependant on prior identification by the council.

Subdivision in the Future Urban Zone

The Future Urban Zone provisions of the PAUP will essentially 'lock' landowners into a zone with Rural Production activity rules. Many of the FUZ area have been countryside living-type zones under the legacy council plans with a rather liberal array of permitted, controlled and restricted discretionary activities. In more than half of the region these zones provided for subdivision to a minimum of 4 ha.

Our discussions with Council officers and infrastructure providers indicate that many of the FUZ areas will remain that way throughout most of the life of this plan. Those landowners that cannot fund their own structure planning will be severely disadvantaged. The amendment of the Future Urban Zone rules to allow subdivision to a minimum site size of 4 ha enables rationalisation of larger

landholdings with such zoning, whilst ensuring that sites remain of sufficient size to avoid compromising future structure planning and urban intensification.

Relief Sought

TNP submits that Activity Table 3 – Part 3:H:5.1 be changed:

Activity table 3 - Future Urban zone	
Activity	Activity Status
Amendments to a cross-lease, including additions and alterations to buildings, accessory buildings and areas for exclusive use by an owner or owners	C
Boundary adjustments which do not exceed 10 per cent of the net site area of each site	RD
Subdivision for a network utility	RD
Any subdivision not listed in table 3 <u>be a minimum site area of 4 ha</u>	<u>RD</u>

Part 3:H:5.2.3.3 Table 7 Delete the amalgamation of sites provisions in Table 7, Auckland-wide subdivision rules.

Boundary adjustments and boundary relocation

Relief Sought

TNP submits that the Rodney Plan provisions work well and should be retained.

Part 3:H:5.2.3.3 Table 9 Reinstate the provisions of the Operative Auckland District Plan: Rodney Section

Transferable Rural Site Subdivision

The Proposed Auckland Unitary Plan

The Auckland Plan objectives led to the selection of five rural zones in the PAUP, with their rationale outlined in the PAUP¹ and emphasising the goal of preserving rural areas for primary production and minimising further subdivision for residential uses. This is managed through the policies and rules for the five rural zones. Closer examination of the areal coverage of the PAUP rural zones shows that;

¹ Part 2:C:6:Background

- The Rural Production Zone is a mix of a relatively small area of higher productivity Class 1-4 land that is confined to small areas across the region, and a large area of Class 6-8 land with moderate to low productivity over much of Rodney, Hunua and the Clevedon-Kawakawa coast.
- The Mixed Rural Zone is mainly higher productivity Class 1-4 land and some Class 6-8 land with moderate to low productivity at Alfriston-Maraetai and Awhitu.
- The Rural Coastal Zone is the current coastal landscape protection zones in Rodney, Manukau and Franklin.
- The Rural Conservation Zone is a few small predominantly conservation and landscape areas with minor rural production and includes some areas in the Waitakere Ranges, Weiti and Kawau Island, which is the largest area in this zone.
- The Countryside Living Zone is very small in area and is mainly located around the fringes of rural towns. It generally has lower production values, and is mainly historical rural residential areas with small farms and lifestyle blocks.

Subdivision opportunities in the rural areas are highly constrained; with the primary methodology being that of transferable rural site subdivision. This is a relatively complex system and the key aspects of subdivision in the rural zones are;

- Subdivision in the rural zones is a discretionary activity for transferable rural site subdivision, boundary adjustments and relocations, and subdivision in the Countryside Living zone.
- Transferable rural site subdivision allows sites to be transferred between rural zones, although most transfers are to donor sites in the Countryside Living zone
- Any other subdivision is prohibited in the rural zones.

The extremely limited spatial extent of the Countryside Living Zone, along with the maximum of only two sites able to be generated from donor sites, will militate against transfer of sites from SEAs to Countryside Living.

As The Council's own research clearly shows that urban expansion, rather than countryside living, poses by far the greatest threat to rural productivity in Auckland; Dr Fiona Curran-Cournane et al. (2013)² from Auckland Council concluded in a recent report:

However, hundreds of hectares of elite land have been lost to various development types throughout the Auckland region in recent years and future growth pressures indicate that this trend will continue. If stricter controls on the development of elite and prime land are not set, the future of Auckland's most elite and prime land is at risk of continually being the trade-off for future urban growth reducing options for crop growth and other primary production.

Those authors' identified that the primary threat to rural productivity and rural production continues to come from expanding urbanisation, particularly on the fringes of urban Auckland. This would point towards a more protective policy framework for Class 1-3 (and possibly 4) lands, but not the

² Curran-Cournane, F Vaughan, M Memon A and Fredrickson C (2013). Auckland's elite and prime land: similar messages and continued trade-offs 54 years later. Auckland Council technical report, TR2013/050

low production Class 6-8 lands³, where much of the lifestyle subdivision in the legacy plans is actually located. This is signalled in the RPS policies, but surprisingly there is no apparent mechanism for this in the PAUP rules.

The PAUP identifies Future Urban Zones across the region, yet the location of most of this land continues the trend of targeting Elite and Prime land for urbanisation and this is clearly the main threat to rural production and productivity, rather than rural subdivision. The Special Housing Areas under the PAUP are also mainly on Prime Land (Class 2 & 3):

1. Warkworth FUZ is mainly Class 2 & 3 Prime land
2. Silverdale (North & South) FUZ is Class 6 & 7 land
3. Huapai-Kumeu FUZ is all Prime land (Class 2)
4. Riverhead FUZ is all Prime land (Class 2)
5. Massey-Whenuapai-Hobsonville FUZ is all Prime land (Class 2), apart from the Whenuapai RNZAF Base. Whenuapai is regionally significant for horticultural production.
6. Birdwood FUZ is Class 6 land
7. Ihumatao FUZ is mainly Elite and Prime land (Classes 1 + 2)
8. Murphy's Bush FUZ is mainly Class 3 Prime land
9. Hingaia-Drury-Karaka FUZ is mainly Class 2 (prime) land
10. Pukekohe FUZ includes Elite and Prime land rather than the Class 4+ land to the east

If the elite and prime land in the region is to be lost in the planning balance, then it would appear that the PAUP policies should give preference to these FUZ areas being recipient areas for transferrable sites with a minimum site size of 4ha (as in the Operative Plan: Rodney Section).

The overall impression is that the main policy driver for significantly tightening up on lifestyle subdivision is to retain rural areas as a 'green backdrop' to urban Auckland, rather than any serious attempt to protect rural productivity on the most productive sites – land with Elite and Prime soils in the region. Also, if rural productivity on sites with lower productivity is proposed to be achieved by way of maintaining or enhancing large property size, then the PAUP needs to incentivise the transfer of sites from those rural properties also.

TNP submits that Transferable Rural Site subdivision needs to incentivise transfer of titles out of Rural Conservation Zone sites, Significant Ecological Areas (and potential SEAs), Outstanding Natural Landscapes and Outstanding Natural Features into a wider range of recipient zones, including Rural Production, Mixed Rural, Countryside Living, Rural Conservation, and Rural and Coastal Settlements (but excluding areas with Elite and Prime land – Class 1-3, SEAs, ONLs and ONFs in these zones).

Auckland-wide District Plan objectives and policies

³ Most of the Rural Production Zone

The Auckland-wide District Plan objectives and policies in the PAUP set the framework for rural subdivision activities in the Rural zones. These objectives and policies outline some of the rationale for limiting rural development and severely constraining subdivision of rural land.

The rationale for this is based on preserving rural productivity, rural character and minimising the adverse effects of development. The PAUP claims that the large number of sites is a significant threat to long-term, sustainable production, as the sites could be used for countryside living. Also the PAUP claims that increasing the number of vacant rural sites will hinder rural productivity. There is no specific evidence in the Section 32 Report and appendices for these claims, and the Council's soil scientists' report argues the contrary.

To address this perceived loss of rural production ability, rural landowners with significant ecological areas are given additional opportunities for subdivision through transferable rights. This enables subdivision rights to be moved to a receiver area, in return for legally protected areas of high-quality indigenous vegetation. Covenanted an appropriately large area of indigenous vegetation in this way retains areas with recognised high biodiversity values. The RPS proposes similar mechanisms for transferring sites off elite and prime soils and land affected by reverse sensitivity issues (Auckland-wide Subdivision policy Pt2(C)6.29), but there are no specific mechanisms in the PAUP rules to actually achieve these.

Additionally, the Auckland-wide rural subdivision policies propose transfer of sites into serviced rural or coastal towns or villages (Pt2(C)6.29), but no serviced settlements are identified in the PAUP.

Carry-over of Rodney Transferable Rural Site Subdivision Provisions

In the Te Arai North and South, Kawau Island and Riverhead Precincts additional subdivision provisions were added to the PAUP to address Treaty of Waitangi Settlement agreements with Ngati Manuhiri, by carrying over these provisions from the Operative Rodney District Plan. These provisions appear to have been carried over in the original form, but do not address deficiencies in these provisions (drafted in the mid 1990s), the accumulated knowledge of their effectiveness as planning instruments, and the advance of the ecological science behind them.

For instance, that the original concept of the Subdivision for Significant Land Rehabilitation process has some merit for Kawau Island, but not where land rehabilitation (as defined in the Operative Plan) is directed solely towards planting erodible land. In the last 20 years there have been significant advances in pest control, and sustainable land management is now being achieved mainly through the control of browsing animals rather than planting. In the Kawau Island situation, this should be applied to the eradication of possums and wallabies on Kawau, and as a better method to achieve Objective 3 of the precinct objectives and policies.

On Kawau Island transfer sites off the island is now one of the few mechanisms available to landowners for protecting the landscape and natural heritage as the most viable economic activities are severely constrained by the urban-type PAUP rules. In addition there are a limited number of possible countryside living recipient sites.

The section 32 report for Rural Subdivision has (properly) identified that insufficient rewards or insufficient areas into which the sites can be transferred, will lessen the likelihood of transferable rural site subdivision occurring for large landholdings. Overall the impact of the change in the TRSS rules is significant, where large landowners can be losing over 85% of their potential transferable sites with the new provisions in the PAUP.

The maximum limit of 8ha for indigenous forest and 2 sites provides a significant disincentive for large landowners a few have large regionally and nationally significant indigenous forest and habitats of threatened species. The PAUP instead incentivises protection of small SEAs that often are not sustainable and contribute little to the depleted ecosystems of the region. The highest benefit (to the region) would actually come from protecting large areas, as they support a greater biodiversity, and greater numbers of threatened indigenous species habitats and threatened ecosystems. In Auckland (and across New Zealand)) the highest biodiversity is in the largest areas of natural habitat and this is supported by international scientific literature and experience. In Auckland’s fragmented natural ecosystems, significant benefits to biodiversity over the life of the plan can also accrue through restoration of natural areas (edges, linkages and gap-filling) particularly where this adds to or joins larger natural areas.

Edge effects maintain permanent modification of natural ecosystems in fragmented landscapes, and in Auckland the edge effect on indigenous flora and fauna is generally 50m⁴ around the edge of a native forest patch. A spherical 5ha site will have no unmodified interior forest and generally low biodiversity. Minimum sites therefore need to be at least 10ha and with no limit on the maximum area, so as to encourage the last few unprotected large natural areas to be better managed for the biodiversity benefit of the region (and New Zealand).

Relief Sought

TNP submits that, the PAUP rural subdivision provisions for transferable rural site subdivision, boundary adjustments and boundary relocations need to address the issues outlined above with the application of rules of the kind set out in the following table (replacing the Subdivision table in the Auckland-wide subdivision rules (PAUP Part3:H:5.2.3.3) Table 8: Maximum number of new sites for transfer):

Figure 2: Proposed Maximum number of new sites for transfer

A (in ha)	B (in ha)	C
Total minimum area of SEA indigenous vegetation required to be legally protected to produce the number of new sites in column C	Total minimum area of SEA wetland required to be legally protected to produce the number of new sites in column C	Number of new sites for transfer that can be created in accordance with columns A and B*

⁴ Bellingham 2009 Does RMA planning protect biodiversity? PhD thesis, Planning Dept., University of Auckland.

10.0ha	0.5ha plus a 20m buffer	1
10ha additional area with no maximum limit in area (i.e. 10ha – 1 site, 20ha – 2 sites, 30 ha 3 sites)	1.0ha plus a 20m buffer additional area with no maximum limit in area (i.e. 0.5ha – 1 site, 1.5ha – 2 sites, 2.5 ha 3 sites)	1 site for each additional area
* Transitional provision: The maximum number of new sites that can be created where previous consents granted under a former legacy council District Plan have not fully realised the allowable maximum new site yield in accordance with this table.		

Subdivision for Significant Land Rehabilitation

Significant land rehabilitation was developed in the Rodney District Plan in the 1990s, where revegetation was seen as the only practical method for controlling soil erosion. Yet in a number of sites in Rodney the concept was too narrow to be of benefit to the on-going improvement of soil values or biodiversity, and as time has moved on it is now more practical, effective and economic to achieve significant land rehabilitation through animal pest control.

Natural regeneration of indigenous ecosystems on steep erosion-prone land through control of browsing animals may be more appropriate (and economically feasible) than large-scale replanting on difficult terrain. If replanting of native vegetation is to be contemplated, it has the potential to enhance species diversity, provide habitat for native flora and fauna, reduce soil erosion, and enhance water quality. However, it needs to be done in a manner which firstly ensures the survival of the plants, and creation of a natural ecosystem, especially in harsh coastal conditions.

This can be supplemented in specific sites with replanting of key elements of the indigenous vegetation communities with locally extinct or seriously depleted species. In many sites a large number of plant species have been eliminated or are now locally threatened by stock and possum browsing, and replanting of some species is the only practical method of getting them back into the local coastal forest ecosystems.

TNP submits that the original concept of Subdivision for Significant Land Rehabilitation as provided for by rules in the Operative District Plan: Rodney Section has some merit, but not where land rehabilitation is directed solely towards planting erodible land. In the last 20 years there have been significant advances in pest control, and sustainable land management is now being achieved through significant advances in the control of browsing animals. In the Kawau Island situation, this should be applied to the eradication of possums and wallabies on Kawau, and as a method to achieve Kawau Island Precinct Objective 3.

TNP submits that a new provision for enhancement of potential SEAs, recognise that Auckland's biodiversity will only be protected and recovered from the current low point of less than 10% remaining in the region through offering incentives to landowners to protect and expand SEAs.

Relief Sought

TNP considers that a new Transferable Rural Subdivision category that would provide for additional sites for every 30ha of land, where a 35 year programme of significant ecological enhancement will occur. We propose the following addition to the plan:

Part 3:K:5.20.4.2 4.1.5 Subdivision for significant enhancement of potential SEAs

1. Number of sites

- a. One rural residential site may be created for every 30ha of land where a 35 year programme of significant ecological enhancement will occur.
- b. The enhancement may be through habitat enhancement (planting of indigenous species) or control or eradication of pest species threatening indigenous plant or animal species, their habitat, or indigenous ecosystems.
- c. The application must comply with all the requirements of clauses 2-7 below.

2. Area to be protected

- a. All native bush and SEA on the parent site within the enhancement programme must be protected.

2. Minimum site size

- a. The minimum rural residential site size is 1ha where the protected native bush or SEA sits within the balance site.
- b. The minimum rural residential site size is 2.15 ha (comprised of 2ha protected area and 1500m² specified building area and access way) where the protected native bush or SEA is to be contained within the new rural residential site.
- c. The minimum balance site size is 1ha.

4. Maximum site size

- a. The maximum rural residential site size is 2ha where the protected indigenous habitat or vegetation, or SEA remains on the balance site.
- b. If the protected native bush or SEA does not remain on the parent site, the maximum rural residential site size is the protected area plus the specified building area.

5. Access and frontage

- a. Each site must have a coastal access. Up to five sites may gain frontage over a jointly owned access site, or right of way at least 6m wide.

6. Design

- a. If more than 5 rural residential sites are created, they must be clustered in one or more groups.
- b. Each group must share an access to a road or wharf.

c. Specified building areas and access ways must not be located within a SEA, native bush or wetland.

d. Each rural residential site must comply with the riparian margin protection standards in Appendix 11.5.9.3.

7. The area for subdivision must be located within a SEA or meet the SEA criteria in Appendix 11.5.9.1.

Native Revegetation Planting

The enhancement planting provisions of the ADP: Rodney Section have played a significant part in reversing the loss of indigenous ecosystems and habitats in the north of Auckland.

Relief Sought

TNP seeks the reinstatement of the Native Revegetation Planting standards in the Rodney Section's General Development Controls for Subdivision (Rules 7.14.2 – 3), the Riparian Margin Planting Protection Standards (Rules 7.14.2.5.1 – 2), Rule 7.14.3.2.4 - 9 Protection of Native Bush and Significant Natural Areas, Subdivision for Significant Enhancement Planting Rule 7.14.4 and other related rules as appropriate.