ROTORUA DISTRICT PLAN

SECTION 42A REPORT FOR PROPOSED PLAN CHANGE 10 (DEFINITIONS AND RULE REFINEMENTS)

ADDENDUM 2 – Further Refinement of Boundary Adjustment Criteria for the Rural Zone in Response to Circulated Submitter Evidence

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Boundary Adjustments – consideration of assessment criteria

1. At paragraph 18 of the "Boundary Adjustment Definition and Performance Standard SUB-S11" section of Addendum 1 I suggested that Restricted Discretionary Activity criteria could be considered further for rural boundary adjustments, where a boundary adjustment does not comply with SUB-S11 1(d).

2. While that is an option, I have considered this further and consider that there is a simpler option to ensure that the rule and standards are clear and applied consistently. This alternative option would also avoid any scope issues which may arise if a more permissive restricted discretionary activity status is applied to boundary adjustments.

3. In the Rural zone, Rule SUB-R26 provides for boundary adjustments to fall from controlled to discretionary if the performance standards are not met.

4. Rule SUB-R26 provides for the general assessment criteria (AC-1) to apply to the consideration of boundary adjustments as a discretionary activity. Having reviewed these criteria, I consider that they are intended to give effect to the objectives and policies, particularly policy SUB-P32 which relates to the fragmentation of rural land. While they do not specifically refer to the environmental compensation provisions at SUB6(5)-(7), they do include criteria for environmental enhancement / retention. This requires a site specific assessment (at time of an application for a boundary adjustment) of the scale of adverse effects and whether this requires environmental off-setting.

5. The inclusion of "The subdivision standards for the zone shall not apply to subdivision undertaken for the adjustment of boundaries …" within SUB – S11 has caused interpretation issues with R26 where subdivision standards are listed. Therefore, I recommend the following amendment:

   The subdivision standards for the zone shall not apply to subdivision, except for those listed in SUB-R26

6. In my view, the discretionary activity status for applications that do not comply with the performance standards of SUB-S11 should be retained, with applications assessed against the general assessment criteria (AC-1).

7. In addition, to provide further clarity and a change that could be made under Clause 16 of the RMA I propose a deletion of the following from AC – 1:

   ### SUB-AC1 General assessment criteria

   1. ~~Council may impose conditions in relation to:~~

8. The inclusion of "Council may impose conditions in relation to:" reads like matters of control for a controlled activity. Therefore, to align with 104B of the RMA (assessment of discretionary activities) the deletion will ensure that the discretion is not incorrectly restricted. The additional sentence of "Whilst not limiting the exercise of its discretion, Council may consider the particular matters below" will ensure consistency throughout the District Plan.

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9. I consider that the above amendments provide clarity and consistency for plan users.

10. For ease of reference SUB-R26, SUB-S11 (note updated SUB-S11 as strikethrough and underlined) and AC1 (with amendments underlined) are below:

11. The applicable rule for rural boundary adjustments is Rule SUB-R26 as below:

Specific Activities			
SUB-R26	**The subdivision of sites or buildings for the purpose of a boundary adjustment**		*[13.10(1)(6), 13.10(1)(7)]*
Applicable Spatial Layers All Rural Zones	**1. Activity Status:** Controlled **Performance Standards:** a. Site suitability SUB-S8; b. Site serviceability SUB-S9; and c. Boundary adjustments SUB-S11. **Matters of Control:** a. General SUB-MC1.	**2. Activity Status:** Discretionary **Where:** Compliance not achieved with the performance standards in SUB-R26(1). **Assessment Criteria:** a. General SUB-AC1.	

12. One of the applicable performance standards for boundary adjustments is SUB-S11 as below (underlined additional text now recommended for inclusion and strikethrough to be deleted).

SUB-S11 Boundary adjustments

1. The subdivision standards for the zone shall not apply to subdivision, undertaken for ~~the adjustment of boundaries~~ the purpose of a boundary adjustment except for those listed in SUB-R26 ~~lots except that the subdivision standards shall apply when compliance is not achieved with SUB-S11(1)(d).~~ Subdivision undertaken for the purposes of a boundary adjustment shall comply with the following:
   a. ~~No additional lots or lease areas for which a Computer Register (Certificate of Title) can be issued shall be created~~; and
   b. The adjustment ~~or relocation~~ of boundaries shall leave the resulting record of title ~~Computer Register (Certificate of Title)~~ with similar areas to that existing prior to subdivision; and
   c. The adjustment ~~or relocation~~ of boundaries shall not increase the degree of non-compliance of any existing record of title ~~Computer Register (Certificate of Title)~~ or lease area, with the site design performance standards contained in this part for the zone.
   d. In rural zones, the adjustment ~~or relocation~~ of boundaries shall not result in lifestyle-sized lots (less than 4 hectares) for which there was not an allocation.

13. The applicable assessment criteria for discretionary activity boundary adjustments are contained within SUB-AC1.

SUB-AC1 General assessment criteria

Whilst not limiting the exercise of its discretion, Council may consider the particular matters below

~~1. Council may impose conditions in relation to:~~

a. The degree of connectivity to open space, services and facilities.
b. Accessibility by all modes of transport, including for cyclists and pedestrians.
c. The degree of accordance with the principles of CPTED.
d. The design and layout of lots to enable siting of a residential unit with good solar access.
e. The retention and enhancement of existing landform and landscape features.
f. The retention and enhancement of vegetation.
g. Whether opportunities for re-vegetation have been taken.
h. Whether opportunities for retirement of pasture from grazing have been taken.
i. The extent to which provision is made for the protection and enhancement of indigenous biodiversity.
j. The extent to which the character and amenity values are consistent with the planned character of the zones.
k. The extent to which adverse reverse sensitivity effects can be avoided, remedied or mitigated.
l. Potential for the activity to adversely affect the safe and efficient operation of strategic infrastructure. Regard should be had to the outcome of any consultation with the infrastructure operator.
m. The assessment criteria for development and activities that affect a Significant Geothermal Feature, as set out in NFL - Natural Features and Landscapes.
n. The extent to which natural hazard risks are avoided or mitigated and whether the activity would worsen any natural hazard.
o. Whether a financial contributions is required under the provisions of FC- Financial Contributions.

14. The above addition and deletion provides greater clarity for plan users. In summary, a boundary adjustment, in the Rural Zone, is assessed as follows:

    - Is the activity a boundary adjustment – refer to notified definition;
    - Is this site within the Rural Zone; if yes
    - SUB-R26 applies;
    - Does the boundary adjustment comply with the listed Performance Standards? If yes, Controlled Activity and Matters of Control are SUB-MC1;
    - If no, Activity Status is a Discretionary Activity (SUB-R26.2) and If Discretionary, Assessment criteria is SUB-AC1.

15. For avoidance of doubt the recommended SUB-S11 is:

SUB-S11 Boundary adjustments

1. The subdivision standards for the zone shall not apply to subdivision, undertaken for the purpose of a boundary adjustment except for those listed in SUB-R26
   Subdivision undertaken for the purposes of a boundary adjustment shall comply with the following:
   a. The adjustment of boundaries shall leave the resulting record of title with similar areas to that existing prior to subdivision; and
   b. The adjustment of boundaries shall not increase the degree of non-compliance of any existing record of title or lease area, with the site design performance standards contained in this part for the zone.
   c. In rural zones, the adjustment of boundaries shall not result in lifestyle-sized lots (less than 4 hectares) for which there was not an allocation.

16. I consider that this option is a refinement of Option 1 in the s32AA assessment in the s42A addendum as it retains the discretionary activity status with further clarification to Rule 26 and assessment criteria of AC – 1.