



## **SECTION 42A REPORT**

### **Rural Wide Issues and the Rural Production Zone**

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## List of Abbreviations

**Table 1: List of Submitters and Abbreviations of Submitters' Names**

Submitter Number	Abbreviation	Full Name of Submitter
S55	NZ Pork	New Zealand Pork Industry Board
S77	Strand Homes	Strand Homes Ltd/Okahu Developments Ltd
S148	Summit Forests	Summit Forests New Zealand Limited
S159	Horticulture NZ	Horticulture New Zealand
S160	Manulife Forest	Manulife Forest Management (NZ) Ltd
S331	MOE	Ministry of Education Te Tāhuhu o Te Mātauranga
S338	Our Kerikeri	Our Kerikeri Community Charitable Trust
S359	NRC	Northland Regional Council
S368	FNDC	Far North District Council
S421	Federated Farmers	Northland Federated Farmers of New Zealand
S425	Twin Coast Cycle Trail	Pou Herenga Tai Twin Coast Cycle Trail Charitable Trust
S438	NZMCA	New Zealand Motor Caravan Association
S482	Heavy Haulage Assoc Inc	House Movers Section of New Zealand Heavy Haulage Association Inc
S489	RNZ	Radio New Zealand
S511	Forest and Bird	Royal Forest and Bird Protection Society of New Zealand
S512	FENZ	Fire and Emergency New Zealand
S518	NZ Kiwifruit Growers Inc	New Zealand Kiwifruit Growers Incorporated
S521	Vision Kerikeri	Vision Kerikeri (Vision for Kerikeri and Environs, VKK)
S516	Ngai Tai Ora	Ngai Tai Ora – Public Health Northland

**Note:** This table contains a list of submitters relevant to this topic which are abbreviated, and does not include all submitters relevant to this topic. For a summary of all submitters please refer to Section 5.1 of this report (overview of submitters). Appendix 2 to this Report also contains a table with all submission points relevant to this topic.



**Table 2: Other abbreviations**

<b>Abbreviation</b>	<b>Full Term</b>
FNDC	Far North District Council
PDP	Proposed District Plan
RMA	Resource Management Act
RPS	Regional Policy Statement
NPS-HPL	National Policy Statement for Highly Productive Land
NPS-IB	National Policy Statement for Indigenous Biodiversity
NES-CF	Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017
HPL	Highly Productive Land
RPROZ	Rural Production Zone
RLZ	Rural Lifestyle Zone
RRZ	Rural Residential Zone
RSZ	Settlement Zone
HZ	Horticulture Zone
HPFZ	Horticulture Processing Facilities Zone



## 1 Executive summary

1. The Far North Proposed District Plan (PDP) was publicly notified in July 2022. The PDP contains six rural zones covering different parts of the rural environment – the Rural Production Zone (RPROZ), Horticulture Zone (HZ), Horticulture Processing Facilities Zone (HPFZ), Rural Lifestyle Zone (RLZ), Rural Residential Zone (RRZ) and Settlement Zone (RSZ). This section 42A report addresses submissions on the rural environment generally, including submissions that apply to two or more rural zone chapters, but is also responds to submissions on the RPROZ chapter specifically. The RPROZ chapter is located under Rural Zones, in Part 3 – Area-Specific Matters of the PDP.
2. There are 508 original submission points on the RPROZ chapter, including 148 submissions in support, 110 supporting in part, none with a neutral position and 218 in opposition<sup>1</sup>.
3. There are also 825 further submission points on those original submissions. The submissions cover a wide range of issues and viewpoints, with the majority of submissions requesting a range of amendments to specific RPROZ provisions. While there appears to be a general level of support for managing rural areas and productive land across the Far North District, submitters often differ in their views on how this should best be achieved.
4. The submissions can largely be categorised into several key themes:
  - a. Submissions on the selection of rural zones used to manage the rural environment.
  - b. Amendments necessary to give effect to national direction, particularly the National Policy Statement on Highly Productive Land 2022 (NPS-HPL) but also the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (NES-CF).
  - c. Submissions on a range of rural related definitions.
  - d. Plan wide submissions that impact provisions in multiple rural zones.
  - e. Requests to amend RPROZ objectives and policies to reflect various outcomes sought by submitters.
  - f. Requests to amend RPROZ rules and standards to reflect various outcomes sought by submitters.
  - g. Amendments to SUB-S1 as it applies to the RPROZ.

<sup>1</sup> 32 submissions were recorded as not stating a position.



5. This report has been prepared in accordance with section 42A of the Resource Management Act 1991 (RMA) and outlines recommendations in response to the issues raised in submissions. This report is intended to both assist the Hearings Panel to make decisions on the submissions and further submissions on the PDP and also provide submitters with an opportunity to see how their submissions have been evaluated, and to see the recommendations made by officers prior to the hearing.
6. The key changes recommended in this report relate to:
  - a. Amendments to objectives, policies and rules of the rural zone chapters (particularly the RPROZ) and several definitions to give effect to the National Policy Statement on Highly Productive Land (NPS-HPL).
  - b. Amendments to objectives, policies and rules of the rural zone chapters (particularly RPROZ and RLZ) and several definitions to align with the NES-CF.
  - c. Inclusion of a new definition and associated rule to manage 'waste management facilities' as a discretionary activity in the RPROZ.
  - d. Inclusion of a new definition and associated rule to manage 'seasonal worker accommodation' as a permitted activity in the RPROZ.
  - e. Insertion of new definitions and amendments to RPROZ-R1 and associated standards to consolidate the provisions relevant to artificial crop protection structures, crop support structures and greenhouses.
  - f. Amendments to educational facility rules across rural zone chapters to change the activity status from discretionary to restricted discretionary when permitted conditions are not complied with.
  - g. Amendments to RPROZ-R11 to increase the permitted GFA for rural produce manufacturing and make infringements of the GFA permitted condition a restricted discretionary activity.
  - h. Amendments to RPROZ-R19 to make the activity status of minor residential units permitted in the RPROZ.
  - i. Amendments to setback standards across rural zone chapters to better manage rail corridor safety.
  - j. Inclusion of new standards in the RPROZ chapter to better manage reverse sensitivity effects on existing intensive indoor and outdoor primary production activities and forestry activities.



## **2 Introduction**

### **2.1 Author and qualifications**

7. My full name is Melissa Leanne Pearson, and I am a Principal Planning and Policy Consultant at SLR Consulting New Zealand Limited, based in Auckland.
8. I hold a Bachelor of Planning (Hons) at the University of Auckland and am a Full Member of the New Zealand Planning Institute.
9. I have 16 years' experience as a resource management practitioner in New Zealand, which has included working for both the private sector and for central and local government on a range of resource consent and policy projects. My private sector planning experience ranges from obtaining resource consents for small and large scale residential and subdivision developments in the Auckland Region, development of private plan changes in both Auckland and Waikato for residential and commercial developments and consenting and policy development experience for clients in the telecommunication, intensive primary production, and community facility sectors.
10. My public sector planning experience involves a significant amount of central government policy research and development relating to telecommunications, forestry, climate change, highly productive land, and infrastructure. My local government policy experience involves drafting of district plan provisions in the Far North, Kaipara, Waikato, Hamilton, and Queenstown Lakes districts for local authorities.
11. These projects have given me significant experience with all parts of the Schedule 1 process from both the public and private sector perspectives, including provision research and development, provision drafting, the preparation of section 32 and 42A reports, preparation of submissions and further submissions, presentation of evidence at council hearings, preparation and resolution of appeals and Environment Court mediation.
12. I have been closely involved in the development and implementation of numerous national direction instruments under the RMA (national policy statements and national environmental standards), from the policy scoping stage through to policy decisions and drafting, the preparation of section 32 evaluation reports and implementation guidance. This includes close involvement in national direction instruments relating to highly productive land.
13. I have been working with the Far North District Council (FNDC) on the PDP since 2021. My involvement in the PDP initially involved refining certain chapters in response to submissions on the draft district plan and preparing the associated section 32 evaluation reports, specifically on rural topics. Since mid-2023, I have been working with the FNDC PDP team analysing submissions.



14. I was involved in the development of the RPROZ chapter prior to notification, including peer reviewing the chapter and inputting into the section 32 report. I was engaged by FNDC to be the reporting officer for this topic in early 2024.

## **2.2 Code of Conduct**

15. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
16. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners ("Hearings Panel").

## **3 Scope/Purpose of Report**

17. This report has been prepared in accordance with Section 42A of the Resource Management Act to:
  - a. assist the Hearings Panel in making their decisions on the submissions and further submissions on the Proposed District Plan; and
  - b. provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
18. This report responds to submissions on general rural issues, definitions and provisions of the RPROZ. The suite of rural zones shall be addressed under Key Issue 1 of this report.
19. I am aware that there are numerous requests for either the application of a new zone, or the rezoning of land to an alternative zone, which apply to land that is currently zoned RPROZ in the PDP. These rezoning requests will not be addressed in this report. Rather, each is to be considered via Hearing Streams 15A to 15D to enable a full consideration of the zone change requests and relevant submitter evidence, against an agreed set of criteria, alongside other zone request changes and taking into consideration the recommended provisions for the zone chapters.
20. Wherever possible, I have provided a recommendation to assist the Hearings Panel.
21. Separate to the Section 42A report recommendations in response to submissions, Council has made a number of Clause 16(2) amendments to the PDP to achieve consistent formatting of rules and standards, including inserting semi colons between each standard, followed by "and" after the second to last standard (where all of the standards must be met to comply) or "or" after the second to last standard (when only one of the standards





must be met to comply). These changes are neutral and do not alter the effect of the rules or standards, they simply clarify the intent. The Clause 16 corrections are reflected in **Appendix 1.1** to this Report (Officer's Recommended Provisions for the RPROZ in response to Submissions).

## **4 Statutory Requirements**

### **4.1 Statutory documents**

22. I note that the Rural Section 32 evaluation report provides detail of the relevant statutory considerations applicable to the rural zone chapters.
23. It is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here. Consequently, no further assessment of these documents has been undertaken for the purposes of this report.
24. However, it is important to highlight the higher order documents which have been subject to change or introduced since notification of the PDP which must be given effect to. Those that are relevant to the RPROZ chapter and the rural environment in general are discussed in section 4.1.2 below.

#### **4.1.1 Resource Management Act**

25. The Government elected in October 2023, repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 on 22 December 2023 and reinstated the RMA as New Zealand's primary resource management policy and plan making legislation. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation to begin in 2024. The Government has indicated that this replacement legislation will be introduced to parliament this term of government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until when and if this new replacement legislation is passed.

#### **4.1.2 National Policy Statements**

##### **4.1.2.1 National Policy Statements Gazetted since Notification of the PDP**

26. The PDP was prepared to give effect to the National Policy Statements that were in effect at the time of notification (27 July 2022). This section provides a summary of the National Policy Statements, relevant to Strategic Direction that have been gazetted since notification of the PDP. As District Plans must be "prepared in accordance with" and "give effect to" a National Policy Statement, the implications of the relevant National Policy Statements on the PDP must be considered.
27. The National Policy Statement for Indigenous Biodiversity (NPS-IB) took effect on 4 August 2023. This was after the PDP was notified (27 July 2022), but while it was open for submissions. The objective of the NPS-IB is to maintain indigenous biodiversity so there is at least no overall loss in



indigenous biodiversity. The objective is supported by 17 policies. These include Policy 1 and Policy 2 relating to the principles of the Treaty of Waitangi and the exercise of kaitiakitanga by tangata whenua in their rohe. The approach to give effect to the NPS-IB was considered in detail through the Ecosystem and Indigenous Biodiversity in Hearing 4.

28. The NPS-HPL took effect on 17 October 2022. The NPS-HPL has a single objective: “*Highly productive land is protected for use in land-based primary production, both now and for future generations*”. The objective is supported by nine policies and a set of implementation requirements setting out what local authorities must do to give effect to the objective and policies of the NPS-HPL, including restrictions on the urban rezoning, rural lifestyle rezoning, subdivision of highly productive land and requirements to protect highly productive land from inappropriate use and development.
29. The NPS-HPL has recently been amended, with changes gazetted on 16 August 2024, resulting in the removal of consenting barriers for new infrastructure, including renewable energy projects, indoor primary production and greenhouses. Driving amendments, was the agriculture, horticulture and renewable energy sectors’ concerns surrounding the NPS restricting activities needing to be located on highly productive land. These amendments came into effect on 14 September 2024. The extent to which the rural zones require amendment to give effect to the NPS-HPL is considered in Key Issue 2 below.

#### **4.1.2.2 National Policy Statements – Announced Future Changes**

30. In October 2023 there was a change in government and several announcements have been made regarding work being done to amend various national direction instruments.
31. Of relevance to the rural chapters of the PDP, further amendments to the NPS-HPL have been signalled for 2025 but have not yet been actioned, including the need to enable housing growth and remove associated consenting barriers. The Government has signalled these amendments will be consulted on in early 2025 as part of a wider national direction programme. This work may include changes to the definition of ‘Highly Productive Land’ to enable more flexibility for urban development.

#### **4.1.3 National Environmental Standards**

32. The National Environment Standards for Commercial Forestry 2017 (NES-CF), which amend the NES-PF, came into effect on 3 November 2023. In addition to regulating the effects of plantation forestry, the NES-CF now regulates “exotic continuous-cover forestry”, which is commercial forestry not intended to be harvested (i.e. carbon forestry). As such, the NES-CF now applies to all types of forestry deliberately established for commercial purposes (permanent indigenous forestry is not regulated under the NES-



CF). In addition to bringing exotic continuous-cover forestry within scope, the changes in the NES-CF:

- a. Allow plan rules to be more stringent or lenient to manage afforestation relating to both types of forestry.<sup>2</sup>
- b. Introduce a range of operational changes, including a new permitted activity standard for managing forestry slash at harvest and new requirements around management of wilding trees.

#### 4.1.4 National Planning Standards

- 33. The National Planning Standards determine the sections that should be included in a District Plan, including the Strategic Direction chapters, and how the District Plan should be ordered. The RPROZ provisions proposed and recommended in this report follow this guidance. Specifically:
  - a. Assessment of the selection of zones and the need for the Horticulture special purpose zone is discussed in Key Issue 1; and
  - b. Definitions as each relates to the RPROZ in Key Issue 5.
- 34. Of relevance are the National Planning Standard descriptions of rural zones as follows:

<b>Rural Production</b>	Areas used predominantly for primary production activities that rely on the productive nature of the land and intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.
<b>General Rural</b>	Areas used predominantly for primary production activities, including intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.
<b>Rural Lifestyle</b>	Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur.
<b>Settlement</b>	Areas used predominantly for a cluster of residential, commercial, light industrial and/or community activities that are located in rural areas or coastal environments.

<sup>2</sup> Regulation 6(4A) of the NES-CF.



35. The following National Planning Standard rural definitions are also relevant:

<b>Intensive indoor primary production</b>	means primary production activities that principally occur within buildings and involve growing fungi, or keeping or rearing livestock (excluding calf-rearing for a specified time period) or poultry.
<b>Primary production</b>	means: (a) any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and (b) includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a); (c) includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but (d) excludes further processing of those commodities into a different product.
<b>Rural industry</b>	means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production.

#### 4.1.5 Treaty Settlements

36. There have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown in the Far North District since the notification of the PDP.

#### 4.1.6 Iwi Management Plans

37. Section 74 of the RMA requires that a local authority must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority.
38. When the PDP was notified in July 2022, Council had 14 hapū/iwi management planning documents which had been formally lodged with Council, as listed in the PDP section 32 overview report. Council took these management plans, including the broader outcomes sought, into account in developing the PDP. Of the 14 hapū/iwi management planning documents, only two have been revised since notification of the PDP –
- a. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan



b. Ahipara Takiwā Environmental Management Plan

Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine

39. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with the Council in 2022, after notification of the PDP in July 2022. In respect of the rural zones, particularly the RPROZ chapter, the Ngāti Hine Environmental Management Plan provides the following direction:

2.2 Water and Land – Wai Me Te Whenua

*Issue: Land uses can and have impacted negatively on water bodies within our rohe.*

- a. *Objective 2.2(3): The protection and enhancement of water, soil and air, on an integrated catchment basis that considers all flow-on effects.*
- b. *Objective 2.2(4): All mātaihai sites and reserves in our rohe are managed, monitored and enhanced by Ngāti Hine.*
- c. *Policy 2.2(4): All activities concerning or potentially affecting water bodies within a catchment will be managed on an integrated catchment basis.*
- d. *Objective 2.2(10): The implementation of robust systems within Council and other external stakeholders, groups and entities to ensure ongoing protection is paramount.*

2.3 Soils and Minerals – Nga Oneone Me Nga Kohuke

*Issue: the loss of productive soil use through the re-zoning of land without consultation with tangata whenua.*

- a. *Objective 2.3(1) The mauri of mineral and geothermal resources is protected and enhanced in ways that enable Ngāti Hine to provide for their social, economic and cultural wellbeing; and that of generations as yet unborn, ngā uri whakaheke.*
- b. *Objective 2.3(3) To protect sites of significance from any threats of damage.*
- c. *Policy 2.3(3) External stakeholders, external entities and groups shall ensure that earthworks provided for as a permitted activity in council plans must meet stringent environmental performance standards.*
- d. *Policy 2.3(4) Ngāti Hine requires integrated earthworks management plans detailing how erosion, sediment control, possible archaeological or cultural and historical sites and revegetation are to be managed,*



*and how risks will be identified and minimised are mandatory for any earthworks consent application.*

#### 2.4 Indigenous Biodiversity – Koiora Taketake

*Issue: Within the rohe of Ngāti Hine the life-supporting capacity of indigenous flora and fauna is being negatively impacted by farming, subdivision, forestry practices, development and introduced pest species, leading to biodiversity loss.*

- a. *Policy 2.4(2) All proposed land-based activities which result in the modification of existing indigenous flora, including permitted activities for which certificates of compliance have been applied for will be preceded by a comprehensive biological audit to identify indigenous species in that area.*

#### Ahipara Takiwā

40. The Ahipara Takiwā Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with Council in 2023, after notification of the PDP in July 2022. In respect of the rural zones, particularly the RPROZ chapter, the Environmental Management Plan identifies issues and provides direction in relation to the following:

#### 3 Wai Māori - Water

- a. *Policy 10 To encourage sustainable land uses which are appropriate to the particular site and any constraints it may have.*
- b. *Policy 16 To require land disposal for human and animal effluent and contaminants.*
- c. *Policy 23 To encourage the exclusion of livestock from waterways.*

#### 3.9 Papatūānuku / Land and Landscapes

- a. *Issue 17 Loss of productive land to residential developments.*
- b. *Objective 8 Farms within the Ahipara takiwā have nutrient management plans and riparian planting along streams and watercourses is widespread.*
- c. *Objective 12 Sustainable land uses are implemented to reduce erosion and loss of soils.*

#### 3.10 Mana Kai / Food Sovereignty

- a. *Issue 17 Local food production is decreasing.*



- b. *Issue 18 The best soils for growing are threatened by development or forestry.*
  - c. *Objective 2 Traditional methods of resource management are practised and enforced to promote sustainable use of resources. These are supported by local government and communities.*
  - d. *Policy 4 To promote training in traditional food production, harvest and preparation when opportunities arise.*
  - e. *Policy 6 Both current and future generations must be able to access, use and protect mahinga kai resources, as guaranteed by Te Tiriti o Waitangi.*
41. These updated iwi management plans are considered through this report, to the extent relevant and within the scope of submissions on relevant provisions (which can vary depending on the provision).

#### **4.2 Section 32AA evaluation**

42. This report uses 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where changes to the provisions of the PDP are recommended, these have been evaluated in accordance with Section 32AA of the RMA.
43. The s32AA further evaluation for each key issue considers:
- a. Whether the amended objectives are the best way to achieve the purpose of the RMA.
  - b. The reasonably practicable options for achieving those objectives.
  - c. The environmental, social, economic and cultural benefits and costs of the amended provisions.
  - d. The efficiency and effectiveness of the provisions for achieving the objectives.
  - e. The risk of acting or not acting where there is uncertain or insufficient information about the provisions.
44. The section 32AA further evaluation for recommended amendments to the PDP also contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor and consequential changes that do not change the policy intent are not evaluated under section 32AA of the RMA in this report.





### **4.3 Procedural matters**

#### **4.3.1 Pre-hearing meetings**

45. Due to the clarity of submissions, no correspondence or meetings with the majority of submitters needed to be undertaken. The exception was Northland Regional Council (NRC), who was contacted on 25 September 2024 and an informal pre-hearing meeting held on 7 October 2024. The purpose of this meeting was to understand how NRC is progressing alignment of the RPS with the NPS-HPL to help inform recommendations relating to the NPS-HPL in this report. NRC confirmed at this meeting that the regional council passed a resolution in February 2024 that work relating to the identification of HPL and the inclusion of HPL maps in the RPS was to be put on hold for 12 months due to the uncertainty about future changes to the NPS-HPL. The position of the NRC with respect to the NPS-HPL implementation has been reflected in the analysis below.
46. I also contacted Radio New Zealand (RNZ) on 30 September 2024 to determine more precise locations of their two facilities in the Far North District. Further information about the locations of the facilities was provided on 1 October 2024 and this information has been factored into my recommendations below.

#### **4.3.2 Proposed Plan Variation 1**

47. FNDC notified Proposed Plan Variation 1 (Minor Corrections and Other Matters) for public submissions on 14 October 2024. The submission period closes on 14 November 2023. Proposed Plan Variation 1 makes minor amendments to correct minor errors, amend provisions that are having unintended consequences, remove ambiguity and improve clarity and workability of provisions. This includes amendments to the zoning of some properties, and the Coastal flood hazard areas.
48. Plan Variation 1 proposes an amendment to RPROZ-R1 to require buildings and structures to comply with the airport protection surface area in APP4 Airport protection surfaces. There are no other amendments to the RPROZ chapter resulting from Variation 1. However, as the submission period has not yet closed at the time of writing this report, any submissions received on Plan Variation 1 in relation to RPROZ-R1 will be evaluated as part of Hearing 17 - General / Miscellaneous / Sweep Up.

## **5 Consideration of submissions received**

### **5.1 Overview of submissions received.**

49. There are 572 original submission points on the RPROZ chapter and associated subdivision minimum lot sizes, including 148 submission points in support, 110 supporting in part, none with a neutral position and 218 in





opposition<sup>3</sup>. There were 825 further submission points received on the RPROZ chapter and associated subdivision minimum lot sizes. There were also 44 original submission points relating to rural issues generally that are addressed in this report.

50. The main submissions on the RPROZ chapter are from:
  - a. Central and local government, namely FNDC (S359), NRC (S359) and MOE (S331).
  - b. Non-governmental organisations, such as Forest and Bird (S511), Kapiro Conservation Trust (S442) and Carbon Neutral NZ Trust (S529).
  - c. Iwi groups, such as Wai 2003 and Wai 250 Claimant Groups Te Wahapu and Hokianga (S60) and Te Waka Pupuri Putea Trust (S477).
  - d. Infrastructure providers such as Transpower (S454), Twin Coast Cycle Trail (S425) and RNZ (S489).
  - e. The primary production sector, such as Federated Farmers (S421), Horticulture NZ (S159) and Summit Forests (S148).
  - f. A group of large landowners in the RPROZ with some common interests, being Bentzen Farm Limited (S167) P S Yates Family Trust (S333), Setar Thirty Six Ltd (S168), The Shooting Box Ltd (S187), Wendover Two Limited (S222) and Mautauri Trustee Limited (S243).
  - g. Other individual submitters, such as Trent Simpkin (S24), John Andrew Riddell (S431) and Sarah Ballantyne and Dean Agnew (S386).
  
51. The key issues identified in this report are set out below:
  - a. Key Issue 1: Selection of Rural Zones in the PDP
  - b. Key Issue 2: Giving effect to the NPS-HPL
  - c. Key Issue 3: General Submissions
  - d. Key Issue 4: Plan wide or rural wide submissions
  - e. Key Issue 5: Definitions
  - f. Key Issue 6: RPROZ Overview
  - g. Key Issue 7: RPROZ Objectives and Policies – General Comments
  - h. Key Issue 8: Objectives RPROZ-O1 and O3

<sup>3</sup> 32 submissions were recorded as not stating a position.



- i. Key Issue 9: Objectives RPROZ-O2 and O4
  - j. Key Issue 10: Policies RPROZ P1, P4 and P7
  - k. Key Issue 11: Policy RPROZ-P2
  - l. Key Issue 12: Policies RPROZ-P3 and P5
  - m. Key Issue 13: Policy RPROZ-P6
  - n. Key Issue 14: Rules – General Comments
  - o. Key Issue 15: Rule RPROZ-R1
  - p. Key Issue 16: Rule RPROZ-R2
  - q. Key Issue 17: Rule RPROZ-R3
  - r. Key Issue 18: Rule RPROZ-R4
  - s. Key Issue 19: Rule RPROZ-R5
  - t. Key Issue 20: Rule RPROZ-R6
  - u. Key Issue 21: Rule RPROZ-R7
  - v. Key Issue 22: Rules RPROZ-R8, R9, R10, R11 and R12
  - w. Key Issue 23: Rule RPROZ-R15, R16 and R18
  - x. Key Issue 24: Rule RPROZ-R19
  - y. Key Issue 25: Rules RPROZ-R20, R21, R22, R23, R24 and R25
  - z. Key Issue 26: Standards – General Comments
  - aa. Key Issue 27: Standard RPROZ-S1, S2 and S7
  - bb. Key Issue 28: Standard RPROZ-S3
  - cc. Key Issue 29: Standard RPROZ-S5
  - dd. Key Issue 30: Subdivision SUB-S1 as it applies to the Rural Production Zone
52. Section 5.2 constitutes the main body of the report and considers and provides recommendations on the decisions requested in submissions. Due to the large number of submissions received and the repetition of issues, as noted above, it is not efficient to respond to each individual submission point raised in the submissions. Instead, this part of the report groups similar submission points together under key issues. This thematic response assists



in providing a concise response to, and recommended decision on, submission points.

53. Note that Key Issues 1-5 of this report respond to submissions that have implications for all six rural zones e.g. deciding on the suite of rural zones for the Far North District, giving effect to the NPS-HPL, general submissions and definitions. The analysis in these sections will be referred to in the section 42A reports for the Horticulture, Horticulture Processing, Rural Lifestyle, Rural Residential and Settlement Zones where relevant for efficiency and to reduce replication across these reports.

## 5.2 Officer Recommendations

54. A copy of the recommended plan provisions for the RPROZ Chapter is provided in **Appendix 1.1 – Recommended amendments to Rural Production chapter**. Recommend amendments to definitions are provided in **Appendix 1.2 – Recommended amendments to PDP definitions**.
55. A full list of submissions and further submissions on the RPROZ Chapter is contained in **Appendix 2 – Recommended Decisions on Submissions** to this report. Recommendations for other rural zone chapters that result from the recommendations in Key Issues 1-5 can be found in the section 42A reports for those zones.

### 5.2.1 Key Issue 1: Selection of Rural Zones in the PDP

#### Overview

Provision(s)	Officer Recommendation(s)
Selection of rural zones	Retain as notified

#### Analysis of Submissions on Key Issue 1: Selection of Rural Zones

##### Matters raised in submissions

##### General comments

56. Federated Farmers supports the suite of rural zones used in the Far North District in part and requests that:
  - a. The zone framework enables existing primary production activities in rural areas to occur, with as few barriers as possible to establishing new primary production activities (S421.001).
  - b. The Rural Lifestyle chapter (S421.225), the Rural Residential chapter (S421.226) and the Settlement chapter (S421.227) are retained as notified.



### Name of the Rural Production Zone

57. A group of submitters, including Bentzen Farm Limited (S167.089), Setar Thirty Six Limited (S168.087) and others consider the RPROZ is inappropriately named as much of the Far North District is not actually productive land or used for primary production and the purpose of the zone is more general in nature. These submitters request the zone is renamed to 'General Rural' to accurately reflect the range of activities that occur in the rural environment.

### Use of the Horticulture Zone

58. There are a mix of views on whether the Horticulture Zone is beneficial for the Far North District or whether the land in the Horticulture Zone as notified is better managed through a combination of other rural zones.
59. Submitters in support of the Horticulture Zone include Kapiro Residents Association (S427.025), Vision Kerikeri (S522.024), Our Kerikeri (S338.035), Carbon Neutral NZ Trust (S529.037), Kapiro Conservation Trust (S449.038) Te Rūnanga o Ngāti Rēhia (S559.033), Antony Egerton and Stefanie Egerton (S506.001) and Horticulture NZ (S159.134). Reasons given for the support include:
- a. A specific Horticulture Zone helps the Council meet their responsibilities under the RMA and RPS to protect highly versatile soils and prevent land fragmentation and sterilisation, including from reverse sensitivity.
  - b. The zone helps prevent further residential development on highly productive land (HPL).
  - c. The zone recognises the existing horticulture use and processing activities and will help protect the productive capacity of areas around Kerikeri and Waipapa, especially given soil quality and water supply available to support such use.
60. Submitters that oppose the Horticulture Zone include (but are not limited to) Roger Atkinson (S534.007), John and Rose Whitehead (S535.007), Adrian and Sue Knight (S325.001), Karen and Graeme Laurie (S471.001), Robert Keith Beale (S475.001), Audrey Campbell-Frear (S209.001), Anton Kusanic (S260.001), C Otway Ltd (S393.001) Hall Nominees Ltd (S252.002), Levin Stones Holding Ltd (S549.001) Kerikeri Park Lodge Ltd (S549.001) and Rosemorn Industries Ltd (S340.001). Reasons given for the opposition include:
- a. The Horticulture Zone does not achieve the purpose and principles of the RMA and does not give effect to the NPS-HPL, particularly as limiting the zone to the Kerikeri-Waipapa area is contrary to the NPS-HPL direction to map HPL across the Northland region.



- b. The section 32 analysis for the Horticulture Zone is incomplete and flawed, including an insufficient level of detail, failure to consider a full range of zoning options and identify practical alternatives.
  - c. There is no strategic direction or sufficient policy support for the Horticulture Zone (or any of the suite of rural zones).
  - d. The Horticulture Zone has only been proposed in the Kerikeri-Waipapa area, despite there being other areas of current or future intensive horticulture in the district.
  - e. The Horticulture Zone fails to give effect to the National Planning Standards and does not comply with the zone framework standard 8, mandatory direction 3 (the criteria for special purpose zones). In particular, submitters consider that horticultural land can be managed well under both the RPROZ or a general rural zone and does not need a special purpose zone. As a result, these submitters consider that the Horticulture Zone provisions are not sufficiently different from the RPROZ (and in some instances are more permissive) to justify a separate zone.
  - f. Parts of the Horticulture Zone are already highly fragmented and contain existing residential and commercial activities, as well as land not viable for horticultural use due to factors such as lot size, soil type and proximity of neighbours.
61. As part of deleting the Horticulture Zone, some submitters suggest that all or part of the Horticulture Zone could be replaced with RRZ, for example Kathleen Jones (S417.002), Tristan Simpkin (S288.001) and Trent Simpkin (S284.00). These submitters generally consider that the extent of the Horticulture Zone is too large, captures too much land that is not suitable for horticulture and captures too many existing rural residential sized properties. Other submitters, such as Elaine Collinson (S35.001) suggest that sites less than 5ha in area should not be zoned Horticulture Zone.

## **Analysis**

### Introduction

62. Section 5.2 of the Rural Zone section 32 report sets out the proposed management approach for the rural environment, including a breakdown of the suite of rural zones proposed. This section sets out why the notified combination of six rural zones is considered to be the most appropriate for the Far North District. Some key principles from that section that I think are important to frame this analysis are as follows:
- a. The intent was to have five rural zones, plus the Settlement Zone, to provide clear direction as to where it is appropriate for different types



of rural activities to occur<sup>4</sup>. Rather than have fewer rural zones attempting to manage a wide range of different rural environments, it was considered more efficient to zone each part of the rural environment a different zone according to its function e.g. rural lifestyle or settlement. The identified benefits of this approach include:

- i. more targeted and less complex provisions;
  - ii. the ability to give clear policy direction for each zone; and
  - iii. creating a single location for landowners to find the majority of rules pertinent to their property without sorting through a larger number of irrelevant rules pertaining to other parts of the rural environment.
- b. The core functions of the RPROZ are to *'protect the zone for use by primary production activities'*, to prevent *'inappropriate land fragmentation'* and ensure *'more effective management of reverse sensitivity effects'*<sup>5</sup>. My reading of the management approach for this zone is that it was never drafted to be a 'catch-all' general rural zone and it has a clear function to prioritise primary production activities, particularly on HPL.
- c. The Horticulture Zone has been introduced, in part, to protect a location specific industry (horticulture) that is unique in the Far North District context due to its development around regionally significant irrigation infrastructure and the agglomeration of other types of horticultural support infrastructure e.g. processing facilities and packhouses. This differentiates the zone from other parts of the district that may also be highly productive and may also be used for horticultural activities.
- d. The Rural Lifestyle and Rural Residential zones have been used to provide opportunities for residential living in the rural environment at different densities (2-4ha lots in Rural Lifestyle, 2,000m<sup>2</sup> – 4,000m<sup>2</sup> in Rural Residential) and to direct demand for these types of lots away from the Rural Production and Horticulture Zones.

#### Federated Farmers

63. I consider that retaining the notified selection of rural zones, as well as the associated rules that both enable and protect primary production activities (both existing and proposed), addresses the relief sought by Federated Farmers. Further comments and recommendations on the provisions that enable and protect primary production activities in productive rural zones

<sup>4</sup> Section 5.2 of Rural Zone s32 report, page 25.

<sup>5</sup> Section 5.2.1 of Rural Zone s32 report, page 26.



are provided in the key issues covering objectives, policies and rules of the RPROZ below, as well as the recommendations in the Horticulture Zone section 42A report.

#### Name of the Rural Production Zone

64. With respect to the naming of the main rural zone in the PDP 'Rural Production', as opposed to General Rural, I acknowledge that the National Planning Standards zone descriptions of these two zones are very similar<sup>6</sup> (my emphasis added in **bold** highlighting the key difference):
- a. Rural Production - *Areas used predominantly for primary production activities **that rely on the productive nature of the land** and intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.*
  - b. General Rural - *Areas used predominantly for primary production activities, including intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.*
65. As such, the zone descriptions are almost identical, except for the focus on '*relying on the productive nature of the land*' in the Rural Production description. I accept the point made by Bentzen Farm Limited and others that much of the RPROZ in the Far North District is not as productive in nature as land defined as 'highly productive land' under the NPS-HPL or is not currently used for primary production activities. I agree that a range of other activities need a rural location (which is reflected in both the RPROZ and General Rural Zone descriptions above) and either currently exist, or may establish in the future, in the RPROZ. However, I still consider that naming the zone 'Rural Production' is appropriate for the following reasons:
- a. The Rural Production Zone description in the National Planning Standards refers to '*areas used predominantly*' for primary production – it does not require that all land in the zone be used for primary production.
  - b. The term '*relying on the productive nature of the land*' does not equate to the definition of 'highly productive land' in the NPS-HPL, so there is no requirement that all land in the RPROZ be HPL to be included in the zone and HPL can be located in either Rural Production or General Rural zones.

<sup>6</sup> National Planning Standards, Section 8: Zone Framework Standard, Table 13.





- c. Both the Rural Production and General Rural zone descriptions provide for a range of other activities that either support primary production or require a rural location – the wording is identical in this respect. Changing the zone name from one to the other will not, in my opinion, better reflect the range of activities that occur in the rural environment, as argued by the submitters.
  - d. The key changes to the RPROZ between the ODP and PDP<sup>7</sup> were aimed at providing stronger protection for primary production activities compared to the ODP, which aligns well with the Rural Production Zone description that focuses more on the productive aspect of the zone.
  - e. The ODP name of the zone (that pre-dates the introduction of the National Planning Standards) is the Rural Production Zone. The benefits of retaining the same name for the largest zone in the Far North District were discussed internally with Council staff prior to notification of the PDP, including that the zone name will be familiar to landowners and the general public.
  - f. There were multiple other changes made to zone names in the rural environment (e.g. inclusion of General Coastal and Waimate North into the RPROZ; Coastal Living, Point Veronica and South Kerikeri Inlet into Rural Lifestyle etc). Having one constant zone name for the majority of the rural environment provides continuity and better understanding for landowners, compared to being allocated a 'new zoning' under the PDP.
66. For these reasons, I consider that retention of the name 'Rural Production Zone' for the majority of the rural environment in the Far North District is appropriate and preferable over a change to 'General Rural' at this stage of the PDP process.

#### Use of the Horticulture Zone

67. The inclusion of the Horticulture Zone as a 'special purpose zone' received mixed submissions of support and opposition. There was a clear split between submitters from the horticultural sector, iwi and general interest groups that supported the zone vs landowners that disagreed with the use of the zone.
68. For context, the Horticulture Zone is designed to protect land that contains a significant horticultural industry that plays an important role in supporting the vibrancy and viability of adjacent Kerikeri but is equally under pressure from Kerikeri and Waipapa as growth areas. The significant investment in horticultural infrastructure, combined with the increasing risk of reverse sensitivity effects due to residential growth and land fragmentation were key

<sup>7</sup> As set out in Section 5.2.1 of Rural Zone s32 report, page 26





drivers for creating a special purpose Horticulture Zone in the Kerikeri/Waipapa area.

69. The starting point for defining the boundaries of the Horticulture Zone was identifying land that could potentially be serviced by the Kerikeri Irrigation North and South Regions, as shown in **Appendix 3**. The Kerikeri Irrigation North Region is estimated to span a land area of 3,854ha and the Kerikeri Irrigation South Region is estimated to span a land area of 1,947ha, with a combined approximate total of 5,801ha. The justification for the Horticulture Zone largely came from the preparation of the FNDC Rural Environmental Economic Analysis – Update report, dated August 2020 (Appendix 1 of the Rural section 32 evaluation report<sup>8</sup>). This report is the foundation piece of research that has guided development of the suite of rural zones included in the PDP, including the Horticulture Zone. The final boundaries of the Horticulture Zone were also largely based on these two irrigation regions.
70. This report made the following findings with respect to the Kerikeri Irrigation North and South Regions<sup>9</sup>:
- a. The irrigation of productive land, particularly around Kerikeri, constitutes an **infrastructural element of significant value that would be virtually irreplaceable in today's market** and has been identified as a finite resource (my emphasis added).
  - b. In terms of the land area of parcels located wholly or partly in the Kerikeri Irrigation North and South Regions combined (10,522ha), parcels linked to primary production activities account for 67% of the total (6,997ha of parcel area). Horticulture and fruit growing properties make up 12% of the total area of properties, with sheep and beef farms making up 23% and dairy making up 25%.
  - c. The gross output of primary production sectors in the combined Irrigation Regions in the Far North is estimated at \$46.2m per annum.
  - d. Non-primary productive land uses make up 33% of the property area covered by the combined Irrigation Regions. This means that 3,524ha of property is occupying the Irrigation Regions that may not be utilising its productive capacity for wider economic gain.
  - e. Further, **rural residential and lifestyle intensification of this area will further erode the opportunities for the productive potential of this area to be realised** (my emphasis).

8 Report prepared jointly by Market Economics and 4Sight Consulting.

9 Pages xii and xiii of the FNDC Rural Environmental Economic Analysis – Update report, dated August 2020 (Appendix 1 of the Rural section 32 evaluation report).



71. Taking the above context into account, Table 1 below responds to the key opposition points to the Horticulture Zone raised in submissions:

**Table 1: Key arguments in opposition to the Horticulture Zone**

Issue <sup>10</sup>	Officer response
<p><i>The Horticulture Zone does not achieve the purpose and principles of the RMA insofar as it does not promote the sustainable management of natural and physical resources.</i></p>	<p>The submitters do not clearly set out why they consider that the Horticulture Zone does not achieve the purpose and principles of the RMA or why it does not promote the sustainable management of natural and physical resources. In my opinion, a specific zone that that enables a significant natural (soils) and physical (supporting infrastructure) resource to be used to provide for the economic, social and cultural wellbeing is directly relevant to achieving the purpose of the RMA and promotes the sustainable use of both the land and infrastructure resources invested in the horticultural industry.</p>
<p><i>The Horticulture Zone does not give effect to the NPS-HPL, particularly as limiting the zone to the Kerikeri-Waipapa area is contrary to the NPS-HPL direction to map highly productive land across the Northland region.</i></p>	<p>The Horticulture Zone was notified prior to the NPS-HPL coming into force and is not a zone that is designed to identify all the HPL in the Far North district. The mapping of HPL is a regional council function (working collaboratively with territorial authorities) and will be undertaken across the entire Far North district by the Northland Regional Council – it is not appropriate for FNDC to pre-empt this mapping process. The land, and the land uses and infrastructure included in the Horticulture Zone are considered to be a valuable productive asset that merits specific protection irrespective of the NPS-HPL direction. However, in my view it could also be argued that protecting the Horticulture Zone land (which includes LUC 4 land) aligns with the direction in Clause 3.4(3) of the NPS-HPL that provides the option for regional councils to map other classes of land that are highly productive. Whether all land in the Horticulture Zone is identified as HPL will be determined through a future NRC led process. This approach is also supported by other statutory considerations which stand independently of the NPS-HPL, in particular Part 2 of the RMA, the functions of district councils under s 31(1)(a) and section 32 of the RMA. I address the overall approach to giving effect to the NPS-HPL across all six rural zones in Key Issue 2 below, including how</p>

<sup>10</sup> These issues are the same as those set out in paragraph 60 above summarising the opposition to the Horticulture Zone.



Issue <sup>10</sup>	Officer response
	this approach will impact the provisions of the Horticulture Zone.
<i>The section 32 analysis for the Horticulture Zone is incomplete and flawed, including an insufficient level of detail, failure to consider a full range of zoning options and identify practical alternatives.</i>	My review of the section 32 analysis for the Horticulture Zone is that it is largely fit for purpose (particularly given the level of detail and analysis in the supporting Appendix 1 report) but I have included a more detailed analysis with respect to other options in paragraph 75 below.
<i>There is no strategic direction or sufficient policy support for the Horticulture Zone (or any of the suite of rural zones).</i>	It is unclear what additional strategic direction the submitters are seeking as no wording has been provided for new strategic direction objectives. I consider that SD-RE-O1 and SD-RE-O2 provide sufficient strategic direction for the rural environment as a whole and the objectives and policies for the Horticulture Zone itself provide strong direction as to the anticipated outcomes for the zone. In principle I do not consider it the role of the strategic direction objectives to provide direction on specific zones.
<i>The Horticulture Zone has only been proposed in the Kerikeri-Waipapa area, despite there being other areas of current or future intensive horticulture in the district.</i>	I agree that there are other parts of the Far North district that are either currently being used for horticultural activities or have the potential to be used effectively for horticulture in the future. However, the horticultural industry around Kerikeri-Waipapa is considered to be unique to the district at this point of time with respect to the location of the regionally significant irrigation infrastructure and wider processing, packaging and storing infrastructure, which is not currently present in other parts of the district. The presence of this infrastructure, combined with the additional pressure on the horticultural industry being located adjacent to the high growth area around Kerikeri-Waipapa necessitated a bespoke approach through the Horticulture Zone to protect that investment. I consider that the RPROZ, combined with the recommended changes in this report to give effect to the NPS-HPL, are sufficient to protect current and future areas of horticulture elsewhere in the district.
<i>The Horticulture Zone fails to give effect to the National Planning Standards and does not</i>	I have undertaken a more detailed analysis of the special purpose zone criteria and consideration of other zones/plan layers to manage the Kerikeri-



Issue <sup>10</sup>	Officer response
<p><i>comply with the zone framework standard 8, mandatory direction 3 (the criteria for special purpose zones).</i></p>	<p>Waipapa horticultural industry in paragraph 75 below.</p>
<p><i>Parts of the Horticulture Zone are already highly fragmented and contain existing residential and commercial activities, as well as land not viable for horticultural use due to factors such as lot size, soil type and proximity of neighbours.</i></p>	<p>I agree that the extent of the Horticulture Zone has picked up areas of land that are not used for horticulture related activities and/or contain rural lifestyle development (approximately 33% of the zone). This was deliberate as the alternative (being to only include land parcels with a current horticultural related use) would not address the issue of reverse sensitivity<sup>11</sup> (as it would allow the same permissive land use rules for sensitive activities as per the RLZ and RRZ zones), would not identify land with the potential to utilise the horticultural infrastructure in the area in the future and would create a very fragmented, piecemeal zone, which is not good planning practice in my opinion. Identifying a Horticulture Zone that includes land that has the highest potential for increasing reverse sensitivity effects were it to be developed further for non-primary productive uses is intentional. A key driver for the introduction of the Horticulture Zone is to prevent the increase of reverse sensitivity effects on the horticultural industry and future proof the high levels of investment in horticulture related infrastructure. The Horticulture Zone still allows existing residential and commercial activities to continue where these are lawfully established but aims to 'hold the line' at current levels of non-rural development. The rationale for the exact zone boundary and the land that is included/excluded from the Horticulture Zone will be addressed in Hearing Stream 15B in September/October 2025.</p>

72. The Horticulture Zone intends to protect the Kerikeri-Waipapa horticulture industry from reverse sensitivity effects by having more stringent rules for sensitive activities and ensuring the horticulture infrastructure is protected and can be used efficiently and effectively. A key criticism of the Horticulture Zone is that these intended outcomes could be achieved by other means e.g. one of the standard rural zones in the National Planning Standards or

<sup>11</sup> A critical issue for the productive rural zones in the PDP to address given the direction on avoiding reverse sensitivity effects in Policy 9 and clause 3.13 of the NPS-HPL, as well as in Objective 3.6 and Policies 5.5.1(e) and 5.1.3 of the Northland RPS.



another type of spatial layer. More specifically, that the Horticulture Zone fails the tests to be a 'special purpose zone' under zone framework standard 8, mandatory direction 3 (the criteria for special purpose zones).

73. Mandatory direction 3 in the National Planning Standards is as follows:

*"An additional special purpose zone must only be created when the proposed land use activities or anticipated outcomes of the additional zone meet all of the following criteria:*

*a. are significant to the district, region or country*

*b. are impractical to be managed through another zone*

*c. are impractical to be managed through a combination of spatial layers."*

74. The Rural section 32 evaluation report addresses the Horticulture Zone with respect to these tests in Section 3.2.1. It states:

*"It is considered that both the Rural Residential and Horticulture zones meet the above criteria. The anticipated outcomes are a significant issue for the district, and in the case of the Horticulture zone also the region. It would be impractical to impose the level of control on various non-productive land uses in the Rural Production zone that is being proposed for the Horticulture zone. The Horticulture zone is trying to manage a specific issue in the Kerikeri / Waipapa area, with its increasing pressure for urban growth and lifestyle development on some of the most productive land in the district where a significant amount of investment has been put into infrastructure to support horticultural activities.<sup>12</sup>"*

75. I acknowledge that the section 32 report could have provided more analysis around these criteria and/or specifically tested other options for managing the Kerikeri-Waipapa horticultural area. As such, I make the following additional comments in relation to these criteria:

- a. I consider that the Rural section 32 evaluation report makes a clear case for the significance of the land use activities and outcomes from Kerikeri-Waipapa horticultural area to both the Far North District and the Northland region (see Section 1.2 and Section 2.4 (specifically the bullet on the introduction of the Horticulture Zone)). There is also clear analysis in Appendix 1 of the Rural section 32 evaluation report of the value that the Kerikeri Irrigation North and South regions bring to both the region and the district (being the core infrastructure areas

<sup>12</sup> Section 3.2.1 of Rural Zone s32 report, page 11.



that the Horticulture Zone is based on)<sup>13</sup>. This, in my opinion, clearly satisfies the first criterion for a special purpose zone.

- b. I acknowledge the arguments of submitters that consider that the RPROZ could adequately manage the land proposed to be zoned as Horticulture Zone and that there is no need for a special purpose zone. I agree that there are limited differences between the two zones in a numerical sense, a number of provisions are identical in both zones and, in some cases such as the minimum lot size in SUB-S1, the Horticulture Zone provisions are more permissive. However, where there are differences between provisions, I consider those differences to be important and essential to driving different outcomes for the Horticulture Zone compared to the RPROZ.
- c. For example, a desired outcome of the Horticulture Zone is prioritising primary production activities that can make use of the irrigation infrastructure over other activities that might need a rural location but don't need access to water. A second desired outcome is to limit the potential for increased reverse sensitivity effects on the Kerikeri-Waipapa horticulture industry. Seeking to achieve these outcomes has resulted in stricter controls on non-productive activities in the Horticulture Zone, such as visitor accommodation, educational facilities and minor residential units, as well as stricter controls on other generic rural activities that are appropriate in RPROZ generally but not on irrigation connected land e.g. farm quarries, catteries and kennels and emergency service facilities.
- d. To achieve the same outcomes for RPROZ and Horticulture Zone land without using two separate zones would necessitate much more complex rules and a lengthy list of objectives and policies. While this is a technically achievable option, I consider that it is not the most efficient or effective way to direct land use or subdivision outcomes for the Kerikeri-Waipapa horticulture area, ensure that maximum productive use is gained from the Kerikeri Irrigation North and South infrastructure and protect this regionally significant industry from increasing reverse sensitivity effects.
- e. I note that the National Planning Standards special purpose zone criteria require that it is '*impractical*' to manage proposed land use activities or anticipated outcomes of the additional zone through either another zone or spatial layer(s). There is no further direction in the National Planning Standards as to what '*impractical*' means in this context, however I note the dictionary definition of '*impractical*' means "*not effective or reasonable, or (of people) not able to provide effective or simple solutions*"<sup>14</sup>. In this context I consider that

13 Pages xii, xiii and 181 of the FNDC Rural Environmental Economic Analysis – Update report, dated August 2020 (Appendix 1 of the Rural section 32 evaluation report).

14 <https://dictionary.cambridge.org/dictionary/english/impractical>





providing clear, effective and simple direction to achieve outcomes sought for the Horticulture Zone would not be achievable if it was absorbed into the RPROZ – it would result in separate carve outs from the majority of RPROZ provisions linked to a spatial layer to achieve the same outcome (either to make the activity status more stringent or to introduce different standards e.g. subdivision minimum lot sizes).

- f. Simply absorbing the Horticulture Zone land into the RPROZ without amending any provisions would also not achieve the outcomes sought for the Horticulture Zone set out in paragraph 68 above, particularly with respect to managing reverse sensitivity effects and prioritising rural activities that can make use of the irrigation infrastructure over general rural activities. As such, I consider that using the RPROZ, either separately or in combination with a spatial layer, is impractical and would not achieve the land use and subdivision outcomes sought for the Horticulture Zone.

76. Based on the above, I consider that the Horticulture Zone has met the three criteria for a special purpose zone set out in the National Planning Standards. More importantly, I consider that the Horticulture Zone is a more effective and efficient way to achieve the desired outcomes for the zone and therefore the most appropriate option to achieve the objectives under section 32. As such, I consider it appropriate to include it in the suite of rural zones that manage the Far North rural environment.

### **Recommendation**

77. I consider that the selection of six rural zones in the PDP (Rural Production, Horticulture, Horticulture Processing, Rural Lifestyle, Rural Residential and Settlement) is appropriate to manage the wide variety of rural environments across the Far North District. With the exception of the Horticulture Zone, the combination of rural zones was largely supported by submitters and the analysis above has justified the continued use of the Horticulture Zone in the PDP.
78. For these reasons, I recommend that submissions supporting the retention of the six rural zones are accepted and submissions seeking the deletion of the Horticulture Zone are rejected, as set out in **Appendix 2**.

### **Section 32AA evaluation**

79. As there are no proposed changes to the suite of rural zones recommended for inclusion in the PDP, no further section 32AA analysis is required. However, I consider that my analysis of options in paragraph 75 with respect to the Horticulture Zone further demonstrates that retaining the zone is the most effective and efficient option in accordance with section 32AA of the RMA, building on the earlier assessments in the Rural section 32 evaluation report.



## 5.2.2 Key Issue 2: Giving effect to the NPS-HPL

### Overview

Provision(s)	Officer Recommendation(s)
Definition of 'highly productive land'	Delete and replace with definition that aligns with the NPS-HPL
'Versatile soils'	Delete definition
Other provisions	Numerous amendments recommended with respect to objectives, polices and rules in other key issues to give effect to the NPS-HPL

80. Numerous submissions on the PDP relate to the extent to which the PDP does, or should, give effect to the NPS-HPL. The NPS-HPL was not in force at the time the PDP was notified and it was only gazetted partway through the PDP submission period on 19 September 2022. The NPS-HPL came into force on 17 October 2022 and submissions on the PDP closed on 21 October 2022. The provisions of the six rural zones as notified were intended to align with what was known about the anticipated NPS-HPL at the time, while also giving effect to the relevant provisions relating to protection of versatile soils in the RPS.
81. As discussed in Section 4.1.2 of this report, further amendments to the NPS-HPL have been signalled by the Government and consultation on these amendments as part of a package of new and amended national direction is expected in early 2025. However, at the time of drafting this section 42A report no further detail on these future changes is available. As such, the version of the NPS-HPL that has been considered in this section is the most recent version that was gazetted on 16 August 2024 and took effect on 14 September 2024. This version includes the recent amendments with respect to specified infrastructure, intensive indoor primary production and greenhouses on HPL, as discussed in Section 4.1.2 of this report.
82. This Key Issue section responds to the submissions seeking further alignment between the NPS-HPL and the rural chapters of the PDP at a strategic level, including submissions on NPS-HPL related definitions. Specific amendments to provisions to give effect to the NPS-HPL will take their direction from the analysis in this section of the report but the only recommendations in this section relate to NPS-HPL definitions. Changes to other provisions to give effect to the NPS-HPL will be addressed under provision specific key issues, both in this report with respect to RPROZ provisions and in the other five rural zone section 42A reports. This ensures that amendments to provisions to give effect to the NPS-HPL are considered comprehensively alongside requests in other submissions to amend provisions that are not NPS-HPL related.





## **Analysis of Submissions on Key Issue 2: NPS-HPL**

### **Matters raised in submissions**

#### General comments

83. There are a range of views in submissions on how the PDP should give effect to the NPS-HPL. Northland Regional Council (S359.004, S359.027) requests that the PDP is amended to have regard to the NPS-HPL, including consideration of mechanisms to protect LUC 1, 2 and 3 (and possibly some LUC 4) soils as a valuable natural resource. As part of this approach, Northland Regional Council requests amending the zoning of HPL (where it is not already in the Horticulture Zone) by applying a minimum of Rural Production or General Rural zoning and encouraging lifestyle/rural residential development on poorer soils where there is supporting infrastructure (S359.028).
84. On a related issue (given that the NPS-HPL has a strong focus on managing reverse sensitivity issues), NRC (S359.019) is also concerned about reverse sensitivity effects in rural production areas, specifically, adverse effects from agrichemical use, burning and smoke odour. NRC request that the PDP is amended to include stronger provisions to manage reverse sensitivity, including consideration of increased habitable building setbacks of up to 100m within production zones, appropriate visual and physical screening, and limitations on the intensity of noise sensitive activities within RPROZ.
85. Kapiro Conservation Trust (S449.006), Vision Kerikeri (S527.030) and others consider that the PDP should have 'firm' policies to protect productive land indefinitely. The submitters request that relevant PDP policies and rules are amended to prevent fragmentation and loss of productive land, especially LUC Class 1-3 land and productive soils suitable for horticulture. Carbon Neutral NZ Trust does not consider it necessary to wait for the Northland Regional Council to implement the NPS-HPL before amending the PDP to give effect to this higher order direction.
86. In line with the submissions summarised above, Kapiro Residents Association (S427.012, S427.032-035), Vision Kerikeri (S522.012, S522.047-050, S522.048) and Kapiro Conservation Trust (S449.021, S449.065, S449.066) all support PDP rules and policies in part and seek that policies and/or rules are inserted to prevent land fragmentation and/or further loss of highly productive land. The submitters are seeking greater protection of LUC Class 1-3 as finite resources essential for future production, employment, economic development, and supporting population growth. The submitters reference the NPS-HPL, and its requirement for councils to protect LUC Class 1-3 land from fragmentation and loss outside of identified urban zones.
87. Federated Farmers (S421.215) oppose policies RPROZ-P2, RPROZ-P3, RPROZ-P4, RPROZ-P5 and RPROZ-P6 on the basis that none of these policies have regard for the private property rights of landowners and all promote



the absolute protection of the RPROZ and highly productive land. The submitter references Policy 8 of the NPS-HPL and, specifically, Clause 3.8 which provides for the subdivision of highly productive land provided certain measures are met. Clause 3.11 is also drawn upon by Federated Farmers, which mandates that territorial authorities must include objectives, policies and rules within district plans to enable the maintenance, operation, or upgrade of any existing activities on highly productive land; and ensure that any loss of highly productive land from those activities is minimised. Federated Farmers requests policies RPROZ-P2 through to RPROZ-P5 are amended to achieve consistency with the NPS-HPL and protect private property rights.

88. I also note that there is an overlap between submissions on the role of the NPS-HPL in the PDP and some of the submissions in opposition to the Horticulture Zone (discussed in Key Issue 1). I acknowledge that the group of submissions described in paragraph 60 above also consider that, because the NPS-HPL requires the Council to protect highly productive land, the Horticulture Zone is 'defunct' and is not required as a special purpose zone because the wider PDP response to protect HPL on a district wide basis will address many of the matters that the Horticulture Zone was introduced to address e.g. reverse sensitivity.

#### Definitions of 'highly productive land', 'versatile soils' and 'land-based primary production'

##### General comments

89. Kiwi Fresh Orange Company (S554.005) note that terms 'Highly Productive Land', 'Productive Land' (undefined) and 'Versatile Land' are used interchangeably and inconsistently throughout the PDP. The submitter requests that the PDP is amended to refer consistently to 'Highly Productive Land'.

##### Highly productive land

90. Some submitters have requested retention of the definition of 'highly productive land' as notified, e.g. Federated Farmers (S421.006). Kapiro Residents Association (S427.011), Carbon Neutral NZ Trust (S529.019, S529.151), Vision Kerikeri (S522.011) and Kapiro Conservation Trust (S449.020) also request retention of the definition as notified as it provides protection for a wide range of productive land, including consideration of water availability and other factors.
91. Horticulture NZ (S159.012) supports the definition of 'highly productive land' in part, but requests that reference to 'farming activities' is amended to 'farming rural production activities'. The submitter considers that this amendment is consistent with their requested amendments to the definition of 'farming' and aligns better with the NPS-HPL. Horticulture NZ has also made further submissions in opposition to submissions seeking the deletion



of LUC 4 soils from the definition, e.g. FS354.025 in opposition to Bentzen Farm Limited and others.

92. Wendover Two Limited (S222.080) supports in part the definition as notified and request amendments to the definition to support requested changes in the Rural Production zone.
93. Some submitters have requested amendments to the name of 'highly productive land' to distinguish it from the NPS-HPL definition and to remove errors. For example, Carbon Neutral NZ Trust (S529.152) and Vision Kerikeri (S527.027) submit that the use of the term 'highly productive land' in the PDP could be confusing as it doesn't align with the NPS-HPL definition and requests that it be deleted and replaced with an alternative phrase, such as 'priority productive land' or 'significant productive capacity'.
94. Braedon & Cook Limited (S401.002), New Zealand Eco Farms Ltd (S456.002) and Meridian Farm Ltd (S403.002) support the definition as notified in part but request an amendment to delete the reference to "Land Use Capability Class 4 land". The submitters state that Section 3.4 of the NPS-HPL directs regional councils to, as soon as practicably possible, map (HPL) within their region. The submitters also note that, until a regional policy statement with this mapping is made operative, Section 3.5(7) of the NPS HPL directs territorial authorities to apply the NPS as if references to HPL were references to land that is both zoned general rural or rural production **and** is LUC 1, 2 or 3 land. As such, the submitters consider that the definition of 'Highly Productive Land' should be amended to align with the NPS HPL and exclude the specific reference to LUC 4 soils. Horticulture NZ (FS354.027) opposes the decision requested as it supports the inclusion of LUC 4 in the definition.
95. Numerous submitters provided alternative wording for the 'highly productive land' definition. For example, Bentzen Farm Limited (S167.003), P S Yates Family Trust (S333.003), Matauri Trustee Limited (S243.004) and The Shooting Box Limited (S187.003) request that the 'highly productive land' definition as notified should be revised to refer only to LUC 1, 2 and 3 in order to most effectively achieve related objectives. In addition, these submitters consider the definition is confusing with an erroneous second reference to 'Land Use Capability' and request that this extra wording is deleted. The submitters also request that the reference to "farming activities" is replaced with "land-based primary production" to better give effect to the NPS-HPL. Their suggested amendments to the definition of 'highly productive land' are as follows:

*"means land that is, or has the potential to be, highly productive for ~~farming activities~~ land-based primary production. It includes versatile soils and Land Use Capability Class 4 1, 2 and 3 land ~~and other Land Use Capability classes~~ Land Use Capability, or has the potential to be, highly productive having regard to:*



- a. *Soil type;*
  - b. *Physical characteristics;*
  - c. *Climate conditions; and*
  - d. *Water availability”*
96. Other similar relief was requested by Northland Planning and Development 2020 Limited (S502.002), PF Olsen Limited (S91.003), Summit Forests New Zealand Limited (S148.004), Waiaua Bay Farm Limited (S463.001) and Kiwi Fresh Orange Company Limited (S554.004).
97. Manulife Forest (S160.005) supports the definition in part but requests amendments as follows “*to include versatile soils and Land Use Capability Class 1 to 4 land and other Land Use Capability classes Land Use Capability; or has the potential to be, highly productive having where that land shows regard to ....*”. Manulife Forest is concerned that the definition as notified does not provide certainty as to the land it applies to and is open to interpretation, but they do support the inclusion of LUC 4 soils, unlike the majority of submitters described above.
98. Finally, Far North District Council (S368.029) supports the definition of ‘highly productive land’ in part but requests amendments to fix errors (e.g. delete the second reference to Land Use Capability) and align the wording with what was originally intended. Far North District Council (S368.116) also requests subsequent amendments to update provisions where the terms ‘Highly Productive Land’ and ‘Versatile Soils’ are used in the PDP and make any other amendments necessary to give effect to the NPS-HPL.

#### *Versatile soils*

99. Horticulture New Zealand (S159.024) requests amendments to the ‘versatile soils’ definition to reflect the ‘highly productive land’ definition in NPS-HPL.
100. Kiwi Fresh Orange Company Limited (S554.006) opposes the definition of versatile soils and requests this is deleted as ‘versatile land’ is not defined within the NPS-HPL and it raises confusion in the application of the NPS-HPL in the Far North.

#### *Land-based primary production*

101. Federated Farmers (S421.007) request a definition for ‘land-based primary production’ as defined in the NPS-HPL. The submitter notes that the PDP contains a definition for ‘primary production’, which includes non-land-based activities as well as the initial processing of goods and considers that this definition is not easy to understand or to work out what is covered and what is not. Given there is now national direction on how to address highly productive land, Federated Farmers considers it would be appropriate to use the definitions in the NPS-HPL to achieve consistency in the PDP, including



the 'land-based primary production' definition. Northland Regional Council (FS349.004) made a further submission in support of the relief sought.

102. I note that a related definition in the PDP that attracted a range of submissions is the definition of 'farming'. The submissions on the 'farming' definition are addressed in Key Issue 5 below.

## **Analysis**

### General submissions on the NPS-HPL

103. The need to align with the NPS-HPL was one of the stronger themes received in submissions on the rural zone chapters, particularly from the primary sector and the Northland Regional Council. Submissions covered all aspects of NPS-HPL implementation, from alignment of definitions, insertion of new or amended objectives and policies through to land use and subdivision rules and standards. This is a key issue for the rural zone chapters in my view given that the PDP must give effect to the NPS-HPL "*on and from the commencement date*"<sup>15</sup> and territorial authorities must notify changes to objectives, policies, and rules in their district plans to give effect to the NPS-HPL "*as soon as practicable, but no later than 2 years after maps of highly productive land in the relevant regional policy statement become operative*"<sup>16</sup>. Importantly, the NPS-HPL contains much stronger direction to both identify and protect highly productive land (HPL) for use in land-based primary production, both now and for future generations<sup>17</sup>, than was applicable when the PDP was notified.
104. I have prepared an NPS-HPL analysis table that identifies the potential amendments that can be made to the rural chapters of the PDP to give effect to the NPS-HPL, as not all clauses can be actioned through the PDP – some relate to regional mapping while others are designed to be used when making decisions on rezoning proposals or resource consent applications. This table is attached as **Appendix 4** and has informed many of my recommendations below.
105. After reviewing the high-level submissions on giving effect to the NPS-HPL, I consider that the submissions are broadly seeking several key outcomes:
  - a. Ensure that the PDP protects LUC 1, 2 and 3 soils indefinitely (with NRC also seeking protection of some LUC 4 soils) and targets the key issues of fragmentation and loss of productive land by introducing 'firm' policies;

<sup>15</sup> Clause 4.1(21) of the NPS-HPL.

<sup>16</sup> Clause 4.1(2) of the NPS-HPL.

<sup>17</sup> This is the sole objective of the NPS-HPL, see Objective 2.1.



- b. Ensure that the PDP includes all LUC 1, 2 and 3 soils in the Far North District within a productive rural zone (e.g. RPROZ or Horticulture Zone);
  - c. Encourage rural lifestyle/rural residential development on poorer soils where there is supporting infrastructure;
  - d. Make all necessary changes to implement the NPS-HPL now as part of this PDP process without waiting for NRC to go through their equivalent process and map HPL in the Northland region; and
  - e. Remove the Horticulture Zone and replace with provisions designed to protect HPL (inferred from the submissions covered in paragraph 60).
106. With respect to the policy direction, I have recommended several amendments to objectives and policies in the RPROZ and Horticulture Zones to better align with the NPS-HPL direction and make these provisions more directive. These are addressed below in Key Issues 7-13 with respect to the RPROZ and in the Horticulture Zone s42A report. They have also been addressed through the subdivision minimum lot sizes under SUB-S1, which is addressed in Key Issue 30 below with respect to the RPROZ and in the Horticulture Zone s42A report.
107. In terms of the request from the Northland Regional Council that all LUC 1, 2 and 3 soils in the Far North district be contained within a productive rural zone and that rural lifestyle/rural residential development be directed to poorer soils, there are some practical limitations on the ability to respond to this submission point. Firstly, there are already existing urban areas and other non-productive zones (e.g. open space) that cover LUC 1-3 land. For example, approximately 14.17 % of LUC 1-3 land (9217.11 ha) are located outside of a rural zone and have already been used or set aside for urban development or open space/conservation purposes<sup>18</sup>, which makes it impractical to ensure *a//*LUC 1-3 soils are located in a productive rural zone. The fact that the NPS-HPL focuses on protecting LUC 1-3<sup>19</sup> land only in Rural Production and General Rural zones (or nearest equivalent zones) as HPL aligns with this approach. LUC 1-3 land that is located in existing urban zones (or areas already identified as suitable for future urban development or proposed for rezoning) is not required to be mapped or treated as HPL under the NPS-HPL.
108. There are also areas of existing rural lifestyle/rural residential development on LUC 1, 2 and 3 land, as shown in Figure 1 below. For example, just under

<sup>18</sup> As calculated based on notified PDP zones by the Far North District Council GIS team.

<sup>19</sup> Under clause 3.4(3) of the NPS-HPL, regional councils may also map land that is in a general rural zone or a rural production zone, but is not LUC 1, 2, or 3 land, as highly productive land if the land is, or has the potential to be (based on current uses of similar land in the region), highly productive for land-based primary production in that region, having regard to the soil type, physical characteristics of the land and soil, and climate of the area.





33% of all land notified as Rural Residential zone is LUC 2 or 3 land, most of which has already been subdivided into rural residential scale lot sizes. However, the Rural Lifestyle zone has largely been directed away from LUC 1-3 land, as only 9% of the zone consists of land classified as LUC 2 or 3 (and no LUC-1 land), which is largely consistent with the relief sought by Northland Regional Council. Across the district, only 2.11% of LUC 1-3 land is located in either Rural Lifestyle, Rural Residential or Settlement Zones.

109. The highest portion of productive LUC 2 and 3 land in the Far North district is in the Horticulture Zone, as 65% of the zone is LUC 2 or 3 land (just under 95% if you add in LUC 4 land, which also has productive potential given the presence of the irrigation infrastructure<sup>20</sup>). This is consistent with the relief sought from Northland Regional Council to ensure LUC 1-3 land is located in productive rural zones. The RPROZ has a low percentage of LUC 1-3 land (just over 11%), but this is reflective of the wide variety of environments covered by the RPROZ and also that the majority of LUC 2 and 3 land is located in the Horticulture Zone. This figure increases to 34% for the RPROZ when LUC 4 land is added in, as this land can also be productive in the context of the Far North climate<sup>21</sup>. Across the entire Far North District, 77.48% of all LUC 1-3 land (50,413.98 ha) is located in either the Rural Production, Horticulture or Horticulture Processing Zone. As such, this demonstrates that the majority of LUC 1-3 land that is available for productive use and has not already been developed for an urban or rural lifestyle/rural residential purpose is located in either the RPROZ, Horticulture Zone or Horticulture Processing Zone.

**Figure 1: Proportion of LUC 1-4 land across the six rural zones<sup>22</sup>**

Proposed District Plan Zones	Hectares (Ha)					Share of entirety of Zone by LUC (%)					% of Zone that is not LUC 1-4 (Balance)
	1	2	3	4	Total	1	2	3	4	Total	
Horticulture	0.00	701.37	3,582.95	1,961.81	6,246.13	0.00	10.62	54.27	29.71	94.60	5.40
Horticulture Processing Facilities	0.00	0.56	5.38	1.14	7.08	0.00	7.85	76.05	16.10	100.00	0.00
Rural Lifestyle	0.00	85.60	193.83	1,181.03	1,460.46	0.00	2.73	6.19	37.69	46.61	53.39
Rural Production	90.58	11,906.81	34,090.22	90,474.74	136,562.35	0.02	2.94	8.41	22.33	33.70	66.30
Rural Residential	0.00	660.98	303.19	1,357.89	2,322.05	0.00	22.61	10.37	46.45	79.43	20.57
Settlement	0.00	34.22	92.86	210.20	337.28	0.00	5.74	15.57	35.24	56.55	43.45
<b>Grand Total</b>	<b>90.58</b>	<b>13,389.54</b>	<b>38,268.42</b>	<b>95,186.80</b>	<b>146,935.34</b>	<b>0.02</b>	<b>3.20</b>	<b>9.15</b>	<b>22.75</b>	<b>35.11</b>	<b>64.89</b>

20 Page x of the FNDC Rural Environmental Economic Analysis – Update report, dated August 2020 (Appendix 1 of the Rural section 32 evaluation report) states “*alternative soil types [to LUC 1-3] are less suitable for horticultural production (although plentiful water supply can help counter that).*”

21 Page xi, Ibid, states “*Land Use Capability (LUC) Classes 1 to 4 [in the Far North district] are suitable for arable and vegetable cropping, horticulture (including vineyards and berry fields), pastoral grazing, tree crop or production forestry use.*”

22 As calculated by the FNDC GIS team.





110. Carbon Neutral NZ Trust submits that the Council should make all necessary changes to implement the NPS-HPL now as part of this PDP process without waiting for NRC to go through their equivalent process. I agree that this outcome would be desirable given the requirement to give effect to the NPS-HPL “as soon as practicable”. However, I also note that there are some provisions in the NPS-HPL that are unable to be given effect to in full until the region wide mapping of HPL has been completed in accordance with clause 3.5(1) of the NPS-HPL, in particular the insertion of HPL maps into the PDP as required under Clause 3.5(3) of the NPS-HPL.
111. There is a timing issue with respect to the PDP and the preparation of this section 42A report and the development of HPL maps by the Northland Regional Council. Regional councils are required to notify a change to the RPS to introduce maps of HPL as soon as practicable but no later than 3 years after the NPS-HPL commencement date (being 17 October 2022). This means that notification of HPL maps by the Northland Regional Council might not occur until October 2025.
112. However, I do not consider the lack of regional HPL maps to be a reason to delay giving effect to the NPS-HPL as far as practicable through the PDP process. The direction to territorial authorities in Part 4 – Timing is that they must notify changes to objectives, policies, and rules in their district plans to give effect to the NPS-HPL using a process in Schedule 1 of the Act as soon as practicable or within two years of the RPS HPL maps becoming operative. The NPS-HPL also states that until an operative regional policy statement contains the maps of HPL required by clause 3.5(1), each territorial authority and consent authority should apply the NPS-HPL using the transitional definition of HPL in clause 3.5(7).
113. On this basis, I consider that there are amendments that can be made to the rural provisions of the PDP to give effect to the NPS-HPL that are not dependent on the regional mapping process, including:
  - a. Aligning definitions (covered below in paragraphs 117-137)
  - b. Strengthening policy direction (see Key Issues 7-13 in this report and the Horticulture Zone s42A report)
  - c. Manage subdivision of HPL in accordance with clause 3.8 (see Key Issues 13 and 30 in this report and the Horticulture Zone s42A report)
  - d. Managing activities on HPL in accordance with clause 3.9 (see Key Issues 14-25 relating to rules in this report and the Horticulture Zone s42A report)
  - e. Ensuring reverse sensitivity provisions are strong enough to give effect to clause 3.13 (covered throughout this report and the Horticulture Zone s42A report through changes to policies, rules and standards)



114. For a comprehensive overview of the opportunities that I have identified to give effect to the NPS-HPL through the PDP, please refer to the table in **Appendix 4**. The actual amendments to provisions to action these opportunities are addressed under provision specific issues below.
115. Finally, I considered carefully whether giving full effect to the NPS-HPL (through subsequent amendments to the PDP) could effectively replace the need for a separate Horticulture Zone, as per the requests of the group of submitters in paragraph 60 (e.g. Roger Atkinson and John and Rose Whitehead). It was a suggestion that I considered in some detail as I agree in principle with the submitters that amending the PDP to provide stronger protection for HPL has the potential to achieve a similar outcome to the notified Horticulture Zone provisions. However, I have concluded that retention of the Horticulture Zone is a more appropriate approach for the following reasons:
- a. The signalled future amendments to the NPS-HPL (discussed in Section 4.1.2.2 above) create uncertainty as to the future effectiveness of the NPS-HPL to protect land with productive potential against growth pressures in the future. If amendments are made that make it easier to develop housing on land with productive potential, either through changes to the clauses that manage expansion of urban zones, subdivision and land use activities on HPL, or by amending the definition of HPL to remove LUC 3 soils, then that undermines the strength and effectiveness of the NPS-HPL as national direction. However, concerns about retaining the productive potential of the Horticulture Zone would remain as legitimate concerns under the other statutory considerations applicable to development of a district plan, independent of the NPS-HPL e.g. Part 2 of the RMA, the functions of district councils under section 31(1)(a) and section 32 of the RMA. Reliance on more general provisions in the PDP that relate to HPL could leave the Kerikeri-Waipapa horticultural industry exposed to further losses of productive land and/or increasing reverse sensitivity effects if, for example, the provisions no longer apply to LUC 3 land in the future. This would not be in accordance with the wider statutory considerations above.
  - b. The NPS-HPL does not protect LUC 4 land as HPL (unless mapped by the regional council). As shown in Figure 1 above, almost 30% of land in the Horticulture Zone is LUC 4 and it has been included in the Horticulture Zone because of its productive potential due to the presence of irrigation infrastructure. Provisions inserted into the PDP to protect HPL would not protect the LUC 4 land in the Horticulture Zone.
  - c. As noted above, LUC 4 land in the Horticulture Zone may be identified by the Northland Regional Council as HPL when it undertakes its region wide mapping exercise, as additional productive land that is not LUC 1-3 can also be mapped as HPL if it meets the criteria in



clause 3.4(3), which provides the opportunity for a regional council to map *"land that is in a general rural zone or a rural production zone, but is not LUC 1, 2, or 3 land, as highly productive land if the land is, or has the potential to be (based on current uses of similar land in the region), highly productive for land-based primary production in that region, having regard to the soil type, physical characteristics of the land and soil, and climate of the area"*. This may mean that LUC 4 land in the Horticulture Zone will be protected by the NPS-HPL in the future. However, this mapping exercise has not been completed by the Northland Regional Council and there is no certainty at this point of time as to when that mapping will be either initiated or finished<sup>23</sup>. As such, there is no certainty around the ability of the NPS-HPL to protect LUC 4 land in the future when it is given effect to through the RPS (then PDP), which necessitates it staying in a separate Horticulture Zone as per the notified PDP.

- d. The need to place specific protection around the horticultural industry in Kerikeri-Waipapa was signalled well before the NPS-HPL came into effect. The RMA justifications for the Horticulture Zone are not dependent on the NPS-HPL. The uniqueness of the horticultural industry in that location (due to the presence of irrigation infrastructure and agglomeration of other supporting industries) plus the intense pressure the industry faces from urban and rural lifestyle growth was clearly signalled in the FNDC Rural Environmental Economic Analysis report, which was prepared between 2018-2020. The introduction of the NPS-HPL has not changed the need to recognise and protect the regionally significant importance of the Kerikeri-Waipapa horticultural industry and, in my opinion, provisions to protect HPL on their own will not provide strong enough policy direction to sufficiently protect the Horticulture Zone over the life of the PDP.
- e. The benefits to Kerikeri and Waipapa from the adjacent horticultural industry remaining viable and vibrant, i.e. a strong employment base contributing to the use of businesses and services in the town centres, in my opinion justify a specific zone to provide the horticultural industry from residential growth pressures.

116. As such, I recommend that the Horticulture Zone be retained, for the reasons above and for the reasons set out under Key Issue 1 above.

#### NPS-HPL related definitions

117. I agree with the range of submitters concerned about the range of definitions used to describe land in rural areas that has value from a production perspective. Not only are there a range of terms used that are

<sup>23</sup> It is understood from discussions with NRC in October 2024 that the process of mapping HPL and introducing those maps into the RPS is currently on hold, pending further updates from the government about NPS-HPL amendments.



sometimes inconsistent, there is now inconsistency between the PDP and terms used in the NPS-HPL, which has arisen due to the NPS-HPL being gazetted after the PDP was notified.

118. As set out in the table in **Appendix 4**, I consider that there are opportunities to align the definitions used in the PDP with equivalent terms in the NPS-HPL, it is practicable to make these changes through the PDP process, and that there is scope within the submissions to do so.

*Highly productive land*

119. From my reading of the submissions and further submissions on the definition of 'highly productive land', the key issues to address are as follows:
- a. The extent to which the definition aligns with the NPS-HPL definition
  - b. Whether the definition refers to 'farming' or 'land-based primary production', or either of these activities
  - c. The reference to LUC 4 land
  - d. The degree of subjectivity in the definition due to the use of the phrase 'or has the potential to be' and the use of subjective criteria.
120. As a starting point, I agree with submitters seeking alignment between the definition of 'highly productive land' in the PDP and the equivalent definition in the NPS-HPL. I agree with submitters such as Carbon Neutral NZ Trust that it is confusing to use a term such as 'highly productive land' in the PDP that has a different definition to the same term used in the NPS-HPL, noting that the PDP must give effect to (i.e. implement) the NPS-HPL. In my view, aligning these definitions is the most effective solution, as opposed to changing the PDP terms to alternatives such as 'priority productive land'. Using different terms entirely will not eliminate the confusion as there will still be questions raised as to the status of 'priority productive land' compared to 'highly productive land' as defined in the NPS-HPL.
121. Aligning the definition of 'highly productive land' with the NPS-HPL definition is not as straightforward as using the same words as in the NPS-HPL, or simply referencing the NPS-HPL, as suggested by Waiaua Bay Farm Limited. The definition of highly productive land in the NPS-HPL is not singular – it contains a transitional definition in clause 3.5(7) that is intended to be used in the interim period before the relevant regional council undertakes HPL mapping. Once the HPL maps have been included in an operative regional policy statement, highly productive land is defined under the NPS-HPL as land identified by those HPL maps (section 1.3, Interpretation, NPS-HPL).
122. As the Northland Regional Council has not undertaken HPL mapping (and has no immediate plans to start the process as discussed above), it is my opinion that the PDP definition of highly productive land needs to reflect the transitional definition of HPL, as this is the definition that is to be applied



until regional mapping of HPL has been undertaken. I also consider that there is an opportunity to future proof the definition to refer to land that has been mapped in accordance with clause 3.4 of the NPS-HPL to allow for alignment with the regional HPL mapping process once that occurs.

123. One of the key issues to address is the reference to LUC 4 soils in the notified definition of highly productive land. As discussed in paragraph 109 above, there is limited LUC 1-3 land in the Far North District and LUC 4 land in the Far North District is, and has the potential to be, highly productive, particularly when there is access to a water source. It is anticipated that the regional HPL mapping process (when it occurs) could identify some areas of LUC 4 land in addition to the mandatory identification of LUC 1-3 land.
124. While I agree with the intent of referring to LUC 4 soils in the definition of highly productive land (as they can be highly productive), the transitional definition of highly productive land in clause 3.5(7) of the NPS-HPL does not include LUC 4 soils. The two criteria for land being considered highly productive are that, at the NPS-HPL commencement date, the land is zoned general rural or rural production<sup>24</sup> and it is LUC 1, 2 or 3 land (and the exemptions in clause (b) do not apply). While there is a pathway for LUC 4 land to also be mapped as highly productive land through the RPS mapping process, the transitional definition of highly productive land does not provide this scope.
125. I acknowledge that amending the PDP definition of highly productive land to exclude LUC 4 land (as is required to align the definition with the NPS-HPL) increases the risk that genuinely productive land in the Far North District will be lost to further fragmentation and non-productive development in the interim before the regional HPL identification and mapping process has been completed. Including LUC 4 in the definition of highly productive land now pre-empts the regional mapping process and could result in a future misalignment between the PDP and RPS if the mapping process shows that not all LUC 4 land meets the criteria to be highly productive. A small proportion of LUC 4 land will continue to be protected via the Horticulture Zone (1,972ha ha) but the majority of LUC 4 land is located in the RPROZ zone (90,475 ha) and will only be protected by the standard provisions in the RPROZ if the definition of highly productive land does not reference LUC 4 land.
126. In my opinion, the biggest risk to LUC 4 land remaining in productive use is land fragmentation. To address this risk and provide a compromise solution that better gives effect to the NPS-HPL, I recommend aligning the definition of highly productive land with the NPS-HPL (which will exclude LUC 4 land) but use the subdivision policies, namely RPROZ-P6 and RPROZ-P7, to provide additional protection for LUC 4 land and reduce the potential for

<sup>24</sup> Can also include other zones that are equivalent to the National Planning Standards zones but named something else, as per clause 1.3(4) of the NPS-HPL.



additional fragmentation in advance of the regional mapping process. I discuss this approach in more detail in Key Issues 13 and 30 below, but I consider that it strikes an acceptable balance between achieving NPS-HPL alignment, not pre-empting the regional HPL mapping process but also deterring further fragmentation of LUC 4 land so that it is more likely to be identified and mapped as a geographically cohesive area of highly productive land in the future.

127. I share the same concerns as submitters such as Manulife Forest that the subjectivity of the highly productive land definition as notified is problematic. Any definition included in the PDP needs to be easy to interpret and clear as to when and where it applies. The criteria for when land has the potential to be highly productive in the notified PDP definition e.g. soil type, physical characteristics, climate, are very similar to the criteria under clause 3.4(3) of the NPS-HPL for identifying non-LUC 1-3 land that is also highly productive. However, the key difference is that the criteria in clause 3.4(3) are intended to guide a land identification and mapping process, the validity of which will be tested through a full Schedule 1 process to determine if the land does in fact meet the tests to be mapped as highly productive land. Using similar criteria in a definition to be applied on a case-by-case basis does not provide the level of certainty necessary for a definition in my opinion, particularly if the term is being used in PDP policy direction, rules and standards.
128. If the PDP definition of highly productive land is amended to align with the NPS-HPL definition, this will address some of the other issues raised in submissions, e.g. the reference to 'farming activities' (as this is not a term used in the NPS-HPL definition) and the erroneous reference to 'Land Use Capability' twice in the PDP definition.
129. Taking all of the above analysis into account, I recommend amending the PDP definition of 'highly productive land' to align with the NPS-HPL. My suggested wording for the highly productive land definition is contained in the recommendations section below.

#### *Versatile soils*

130. Submissions on the term 'versatile soils' are somewhat interlinked with submissions on 'highly productive land' discussed above as the notified version of the 'highly productive land' definition includes a reference to versatile soils. The term versatile soils is also used in parts of the PDP chapters, e.g. the overview of the RPROZ.
131. The PDP definition of versatile soils is:  
  

*"means soils that are Land Use Capability Classes 1c1, 2e1, 2w1, 2w2, 2s1, 3e1, 3e5, 3s1, 3s2, 3s4"*
132. This definition aligns with the Northland Regional Policy Statement (RPS) definition of versatile soils and my understanding is that it was included in





the PDP as part of giving effect to the RPS direction, noting that the RPS pre-dates the gazettal of the NPS-HPL. It was also included to make a distinction between the narrower classes of soil protected under the RPS, compared to the broader highly productive land definition that also included LUC 4 land.

133. Given that I am recommending amending the highly productive land definition to exclude LUC 4 land, I consider that there is no longer a need for a separate definition of versatile soils. All of the land classes referred to in the versatile soils definition are either LUC 1, 2 or 3 sub-classes, so they will all be included in the highly productive land definition.

*Land-based primary production*

134. Federated Farmers (supported by Northland Regional Council) have submitted to include the NPS-HPL definition of land-based primary production in the PDP, arguing that its inclusion would assist with interpreting the definition of 'primary production' and understanding when it does and does not apply. The NPS-HPL definition of 'land-based primary production' is as follows:

*"Land-based primary production means production, from agricultural, pastoral, horticultural, or forestry activities, that is reliant on the soil resource of the land"*

135. The 'land-based primary production' definition in the NPS-HPL is narrower than the National Planning Standards definition of 'primary production' as it excludes activities such as mining/quarrying, aquaculture and all processing activities and also introduces the test that the activity must be 'reliant on the soil resource of the land', which does not feature in the primary production definition.
136. The rural chapters use a series of cascading definitions to determine the activity status of various primary production related activities within each zone. The Definitions chapter of the PDP does not include nesting tables, but my interpretation of how the definitions and associated land-use activity descriptions work together is as follows<sup>25</sup> (defined terms in the PDP are in **bold**):

<sup>25</sup> This nesting table is based on notified PDP definitions and terms only, further amendments to some of these definitions are recommended in Key Issue 5 below.





**Table 2: Nesting table for primary production related definitions**

<b>Primary production</b>	<b>Farming</b>	Includes agricultural, pastoral, horticultural or apiculture activities, including accessory buildings
	Aquaculture	
	<b>Mining</b>	Mineral <b>prospecting</b> and exploration  <b>Mineral extraction activity</b>
	Quarrying	<b>Farm quarry</b>  <b>Quarry</b>  <b>Quarrying activities</b>
	Forestry activities	<b>Plantation forestry</b> and <b>Plantation forestry activities</b>
	<b>Intensive indoor primary production</b>	
	Processing activities	<b>Rural Produce Retail</b>
		<b>Rural Produce Manufacturing</b>
<b>Rural industry</b> (only in the case of processing industries)		

137. Based on these definitions, all activities covered by the NPS-HPL definition of 'land-based primary production' are covered by either the definition of farming, or the definitions of plantation forestry and plantation forestry activities<sup>26</sup>. The only additional qualifier from the NPS-HPL definition is that the land-based primary production activities must 'be reliant on the soil resource of the land'. I consider that, rather than add an additional definition into the PDP, the activity rules in the rural chapters of the PDP can align with the NPS-HPL direction for where land-based primary production activities should be enabled within the district by using existing definitions in the table above. The land use rules can also ensure that other rural

26 Noting that amendments to forestry related provisions are addressed in Key Issue 3 of this report.



activities that fall outside this definition are directed away from highly productive land. I consider this to be a more efficient way to align with the NPS-HPL rather than introducing a new definition and associated land use rules that largely duplicate existing definitions. Specific amendments to align land-use activities in rural zones with the NPS-HPL direction in clause 3.9 are discussed in both this report below and the Horticulture Zone section 42A report. As such, I do not recommend including a definition of 'land-based primary production' in the PDP.

### **Recommendation**

138. I recommend that the definition of 'highly productive land' in the notified PDP is deleted and replaced with the following wording:

*"Highly productive land – means:*

- a. *If there are no highly productive land maps included in the operative Northland Regional Policy Statement, land that is treated as highly productive land under clause 3.5(7) of the National Policy Statement for Highly Productive Land; or*
- b. *If highly productive land maps have been included in the operative Northland Regional Policy Statement, land shown as highly productive land on those maps, or any consistent maps in this plan, excluding land that has ceased to be highly productive land under clause 3.5(6) of the National Policy Statement for Highly Productive Land."*

139. I recommend deletion of the 'versatile soils' definition and its replacement with the term 'highly productive land' where it is used across the rural chapters in the PDP.

140. Other recommendations to give effect to the NPS-HPL are set out in the provision-specific key issues below with respect to the RPROZ, and in the section 42A report for the Horticulture Zone.

### **Section 32AA evaluation**

141. The section 32AA evaluation for amendments to specific provisions to give effect to the NPS-HPL will be discussed in relation to those provisions in the key issues sections below. This evaluation only pertains to the amendments to definitions to align with the NPS-HPL.

142. I consider that deleting the term 'versatile soils' and replacing it with the term 'highly productive land' (and updating the highly productive land definition to align with the NPS-HPL) is more effective at giving effect to this higher order national direction than the notified terms and definitions in the PDP. It is also more efficient as it removes potential confusion between the PDP and the NPS-HPL definitions of 'highly productive land'. While I acknowledge that the wording suggested for the PDP highly productive land definition is not exactly the same as the NPS-HPL, I consider that my recommended drafting reflects the intent of the NPS-HPL, brings together



the relevant NPS-HPL clauses relating to defining and identifying HPL, future proofs the definition for both the transitional phase of the NPS-HPL implementation and when the RPS maps are operative and improves clarity and understanding of the various NPS-HPL clauses for plan users.

143. As such I consider that the recommended amendments to the definitions of 'versatile soils' and 'highly productive land' are an appropriate, effective and efficient way to achieve the relevant objectives in terms of section 32AA of the RMA

### 5.2.3 Key Issue 3: General Submissions

#### Overview

Provision(s)	Officer Recommendation(s)
New definition	'Waste Management Facility'
RPROZ-RZ	New rule for waste management facilities as a discretionary activity in RPROZ
New definition	'Forestry activities'

#### Analysis of Submissions on Key Issue 3: General Submissions

##### Matters raised in submissions

##### Location specific submissions

144. Numerous submitters are seeking amendments to rural PDP provisions (particularly RPROZ provisions) as alternative relief if they are not granted their primary request for rezoning relief – either the development of a special purpose zone or precinct or being rezoned from RPROZ to an alternative zone.
145. For example, Mataka Station and The Landing are two consented private developments that enable land ownership and access to conservation land and native reserves, wetlands and beaches within respective site boundaries. Each site encompasses low-density residential development, roading infrastructure, paths and communal recreational facilities. Mataka Station remains a working farm and provides for a maximum of 30 residential lots within its bounds. The Landing is a private accommodation and lifestyle development that also encompasses a vineyard.
146. There are 22 submitters concerned about the RPROZ provisions and how they impact future development at Mataka Station, including the Mataka Residents' Association Inc (S230), Whale Bay Limited (S233), Tryphena Trustees Limited and David Haythornwaite (S226). These submitters are referred to collectively in this report as "the Mataka Station submitters". MLP LLC (S183) is similarly concerned about how the RPROZ provisions impact future development at The Landing.



147. The Mataka Station submitters oppose RPROZ overview, objectives, policies and rules as they fail to provide for residential development on currently vacant sites in accordance with the consented Mataka Station scheme (for example, Mataka Residents' Association (S230.010, S230.011, S230.112)). These submitters request that amendments are made to the RPROZ provisions to recognise the existing resource consents for Mataka Station, which provide for dwellings and building/structures on the lots as well as the continuation of farming activities. Similarly, MLP LLC (S183.010, S183.011, S183.012, S183.012, S183,013) request amendments to RPROZ provisions so existing resource consents enabling further development at The Landing are provided for.
148. The Ipipiri Nature Conservancy Trust (S11.001) owns Elliot Bay Farm, which has a RPROZ zoning and is located at 1077A and 1076 Rawhiti Road, Russell. The submitter is seeking clarification or amendment to provisions so it can undertake a range of activities without the need for a resource consent, such as upgrade, construct and restore public camping areas, walking tracks and stock exclusion fencing etc. While the submitter is primarily concerned with the impact of the Coastal Environment and Outstanding Natural Landscape overlays, they also wish for these types of activities to be enabled in the RPROZ.
149. Paradise Found Developments Ltd (S346.002) oppose the parts of the PDP that do not provide for the development and subdivision enabled by existing resource consents at Wiroa Station, which have been partially given effect to. The submitter requests either;
  - a. Amendments to relevant PDP provisions (implied both relevant overlay and RPROZ provisions) to expressly provide for consented land uses at Wiroa Station; or
  - b. The insertion of a new SPZ and/or structure plan with provisions enabling consented development regardless of Coastal Environment and flooding provisions; or
  - c. Amend PDP provisions to provide for activities and buildings authorised by consents.
150. Meridian Farm Ltd (S403.004) owns a farm at 119 Redcliffs Road, Kerikeri, zoned RPROZ in the PDP. This is a general submission point seeking amendments to any provisions of the PDP that is inconsistent with the outcomes sought in its submission, namely the rezoning of the farm from RPROZ to RLZ, amendments to the definition of 'Highly Productive Land' and a reduction in the minimum lot size provided for in the RLZ.
151. Submitters from Henderson Bay<sup>27</sup>, Mark Spaans (S402.002) and Dr Lynn Kincla (S505.003) share concerns regarding the Henderson Bay area being

27 Similar further submissions regarding Henderson Bay include Warren McKay (FS311.3) and Antoinette Pot (FS276.6).



within RPROZ. These submitters consider the permitted activity status of certain farming activities will adversely affect the natural character and coastal environment of Henderson Bay. Mark Spaans requests that tighter restrictions are imposed on primary production in the RPROZ at Henderson Bay where it might adversely affect a coastline or its residents. Dr Lynn Kincla (S505.001, S505.002) requests rules, objectives and policies are amended to exclude certain intensive farming activities from the RPROZ at Henderson Bay. The submitter considers such activities are likely to adversely impact neighbours, roading infrastructure and the coastal environment at Henderson Bay.

152. Kiwi Fresh Orange Company Ltd are seeking a rezoning of the 'Brownlie land' (197ha between Kerikeri and Waipapa). While the substantive part of their submission will be heard as part of the rezoning topic (Hearing 15D – Kerikeri-Waipapa, currently scheduled for October 2025), their submission points (S554.046, S554.047) supports Parts 2 and 3 of the PDP applying to the site and also requests any other amendments to the PDP necessary to give effect to the relief sought in their submission (S554.051).
153. Wai 2003 and Wai 250 Claimant Groups Te Wahapu and Hokianga (The Wai Claimant Group) (S60.002) have made a submission seeking that the rules for the Hokianga area are amended so that landowners can make best use of their land, particularly for rural residential activities but also seeking more support for a return to a viable dairying industry and associated milk collection and processing industries.

#### Federated Farmers

154. Federated Farmers (S421.204 – S421.208) support the RPROZ provisions in part, specifically the provisions that differentiate the RPROZ and its focus on rural production from other zones that enable rural lifestyle and residential development. However, Federated Farmers does not support the extent to which the PDP seeks to dictate what can and cannot be done on rural production land. Federated Farmers request that the RPROZ provisions are amended to recognise and provide for private property rights and allow landowners to subdivide land in the RPROZ for specific purposes.
155. Federated Farmers has also submitted on specific RPROZ provisions, and I have assessed these submissions under the Key Issue to which each relates below.

#### Waste Management

156. Waste Management NZ (S360.004, S360.007, S360.010) opposes the RPROZ objectives, policies and rules as they do not make provision for waste management facilities at the 'strategic direction level'. The submitter considers that waste management facilities should be provided for in a broader range of zones (including RPROZ) in order to reflect the functional and operational requirements of these facilities and provide a framework for appropriately managing effects.



### Permanent exotic forestry/carbon farming

157. PF Olsen (S91.001, S91.002) states there is no definition for 'forestry activities' that are not plantation forestry activities. The submitter considers plantation forestry and plantation forestry activities are well defined in the PDP (in accordance with the NES-PF), however other forestry activities are not (i.e. permanent or carbon forestry). PF Olsen requests:
  - a. A new definition for "permanent exotic forestry/carbon farming".
  - b. That objectives, policies and rules in the PDP are amended to provide appropriate controls for permanent exotic and carbon forestry, as has been provided for plantation forestry.
158. Summit Forests (S148.005, S148.006) requests a new definition for 'permanent exotic forestry / carbon farming' as they consider that the NES-PF does not apply to permanent exotic forestry/carbon farming, as recognised in the Section 32 analysis for the Rural Environment.
159. NRC (S359.042) express concern over the lack of controls surrounding exotic carbon forestry within the coastal environment, natural character areas, ONFL and areas of elite soils. NRC note some of the potential effects associated with carbon farming, including lack of fire breaks, close plantings resulting in difficulty managing pests, wilding pines, and more general amenity and character effects. NRC request the PDP inserts controls on exotic carbon forestry within the areas listed at the top of this paragraph (with elite soils being relevant to this section 42A report and the other areas considered in Hearing 4). However, NRC do acknowledge permanent forest cover may be appropriate in erosion-prone areas and does not wish for the PDP to unduly restrict this.
160. Tane's Tree Trust – Northland Totara Working Group (S157.004) request harvests under Ministry of Primary Industries (MPI) approved Sustainable Forest Management Plans (SFMPs) are provided permitted activity status in all rural zones, SNAs and ONLs. The submitter considers that it is critical that sustainable indigenous forestry activities are not subject to unnecessary, costly or uncertain consenting processes. Tane's Tree Trust request that activities under MPI approved SFMPs are encouraged, supported and expressly provided for by the PDP. Moreover, Tane's Tree Trust consider sustainable indigenous forestry should be encouraged as it exemplifies a nature-based land use activity as a form of protection for areas of native forest, both within and outside of SNAs.
161. Summit Forests (S148.007) and Manulife Forest (S160.006) support the broad definition of 'primary production'. However, the submitters consider that the use of the term 'forestry activities' in the definition is inconsistent with other references to forestry definitions in the PDP. The submitters request that the reference in clause (a) to 'forestry activities' be amended to 'plantation forestry activities'.



### Miscellaneous

162. Three submission points from Elbury Holdings, (S541.031, S485.034 and S519.034) and three submission points from LJ King Limited (S543.032, S547.032 and S464.034) request the removal of urban areas from RPROZ if they are serviced with infrastructure (e.g. Awanui/Wireless Road). The alternative relief sought by these submitters to removing serviced land from the RPROZ is to amend the RPROZ provisions so that it is recognised that productive land in the RPROZ can accommodate activities other than rural production.
163. Vision Kerikeri (S522.014, S522.015), Our Kerikeri Community Charitable Trust (S338.039), Carbon Neutral NZ Trust (S529.022, S529.023) and Kapiro Conservation Trust (S449.023, S449.024) request that policies and rules in the rural zone chapters are amended to avoid urban/residential sprawl and ribbon development in rural areas. These submitters consider that sprawl outside of urban areas has negative effects, including increased driving distances to access services and associated emissions, and fragmentation of rural land. Moreover, the submitters consider rural amenity and character is undermined by urban sprawl. For example, Vision Kerikeri (S522.014) support Coastal Environment policy CE-P4 "*avoiding sprawl or sporadic patterns of development*" and request that a similar strong provision is inserted into the rural chapters. The submitters are also concerned that ribbon development can produce sprawling areas of development off main roads and highways, which blocks traffic as vehicles wait to turn into various accessways.
164. John Andrew Riddell (S431.168) is seeking that, in all objectives and policies in the PDP where there is reference to protection for current and future generations, that the words "*and intrinsic and natural values*" should also be added. In the case of the RPROZ, this is only applicable to RPROZ-O1 as the only provision that contains the words 'current and future generations'.
165. Ngai Tai Ora (S516.003) notes the PDP is silent on the issue of health impacts stemming from the effects of dust-generation on sensitive activities adjacent to unsealed roads. Ngai Tai Ora express concerns over inappropriate setbacks from roads in rural zones and the potential adverse effects of dust-generation on water supplies, leading to respiratory health issues. Amendments to Transport provisions are sought via this submission, as well as the addition of a permitted condition to all sensitive activity rules in rural zones requiring discretionary consent where not complied with as follows:

PER-X

*The sensitive activity is setback at least 20m from any unsealed road.*





## **Analysis**

### Mataka Station, The Landing and Wiroa Station

166. All three of these locations have submissions seeking recognition of previously granted subdivision and development resource consents, either through amendments to PDP provisions or the development of a specific zone or precinct to enable the consent development to occur. The merits of including special purpose zones or precincts for these areas will be considered by the reporting officer in the rezoning topic (Hearing 15B) currently scheduled for September 2025. However, regardless of whether the requests for a Mataka Station, The Landing or Wiroa Station precinct or SPZ are accepted or rejected, in my opinion it is not necessary or appropriate for the RPROZ chapter to specifically recognise any of these areas through specific RPROZ provisions.
167. The reporting officer for the Coastal Environment topic has recommended a new controlled activity rule as part of CE-R1 that provides for a residential unit on a defined building platform, where the defined building platform has been identified through an expert landscape assessment and approved as part of an existing subdivision consent<sup>28</sup>. As Mataka Station, The Landing and Wiroa Station all have existing subdivision consents and are located in the coastal environment, I consider that this amendment to CE-R1 means that additional amendments to the RPROZ provisions are not required.
168. Further, I note that RPROZ provisions will not affect existing resource consents for dwellings at Mataka Station, The Landing or Wiroa Station. The RPROZ provisions will also have no effect on the ability of existing activities to continue as they will have existing use rights (subject to meeting the tests under section 10 of the RMA). Accordingly, I recommend that all submissions from the Mataka Station, The Landing and Wiroa Station submitters seeking amendments to the RPROZ chapter are rejected.

### Ipipiri Nature Conservancy Trust

169. With respect to the submission seeking amended RPROZ provisions in relation to Elliot Bay Farm, I note that most the submitter's concerns relate to the impact of the Coastal Environment, Outstanding Natural Landscape and High Natural Character overlays. The impact of these overlays on the ability to undertake activities on Elliot Bay Farm were addressed in the section 42A reports for Hearing Stream 4. In particular, the reporting officer for the Coastal Environment topic noted that the recommended Coastal Environment controls on buildings and structures and earthworks and vegetation clearance (e.g. CE-R1 and CE-R3) are intended to allow minor



upgrades of existing buildings and structures and for earthworks and vegetation clearance maintenance of walking tracks etc<sup>29</sup>.

170. With respect to the RPROZ provisions, new buildings or structures, or extensions or alterations to existing buildings or structures are permitted activities provided relevant standards are complied with under RPROZ-R1. This means that most construction work associated with upgrading and restoring public camping areas and constructing stock exclusion areas would be permitted in RPROZ, provided standards such as maximum heights and setbacks were complied with. On this basis I do not consider that any amendments to the RPROZ provisions are required to address this submission.

#### Henderson Bay

171. I note that the primary relief requested by the Henderson Bay submitters is a separate zone for Henderson Bay to manage the unique coastal character of the area. The merits of including a separate zone for Henderson Bay will be considered by the reporting officer in the special purpose rezoning topic (Hearing 15B) currently scheduled for September 2025. However, I do not consider that specific provisions need to be included in the RPROZ chapter to manage certain types of intensive primary production activities in Henderson Bay as there are other provisions that already manage this issue. Specifically, a resource consent is required for indoor intensive primary production activities as a restricted discretionary activity under RPROZ-R23 and buildings housing animals for that activity are also required to be set back 300m from any sensitive activities on a site in different ownership. Failure to comply with this 300m setback would be a non-complying activity. In addition, RPROZ-S6 requires additional setbacks for buildings or structures used to house, milk or feed stock, which is an additional layer of protection for residents in Henderson Bay.
172. In my opinion, RPROZ-R23 and RPROZ-S6 are sufficient to ensure adequate separation between buildings housing animals and sensitive residential activities should an indoor intensive primary production activity apply for a resource consent to establish in Henderson Bay. As such, I do not recommend any amendments to the RPROZ provisions to specifically manage intensive primary production activities in Henderson Bay.

#### Other location specific submissions

173. With respect to Meridian Farm, I note that most of their primary relief is addressed in other parts of this report or in other rural section 42A reports, i.e. the HPL definition-related submission has been addressed in paragraphs 119-129 above, and requested amendments to SUB-S1 are considered in the RLZ report. I note that the merits of Meridian Farm's rezoning request

29 Paragraph 61, Ibid



will be considered by the reporting officer in the rezoning topic (Hearing 15C) currently scheduled for September/October 2025. As such, I do not consider that there are any other consequential changes to the RPROZ provisions required to address general submission point S403.004.

174. I agree with Kiwi Fresh Orange Company Ltd that, regardless of the outcome of their rezoning submission, that Parts 2 and 3 of the PDP should apply to the Brownlie land. I do not agree with making any amendments to the provisions of the PDP rural zones in advance of the rezoning hearing to accommodate the development outcomes sought by Kiwi Fresh Orange Company for the Brownlie land. As such, I do not recommend any changes to address these submission points at this point in time.
175. I acknowledge both the concerns that the Wai Claimant Group raise with the way the Hokianga area has been managed in recent years and their aspirations for the area as a vibrant, economically successful area where landowners are able to live and work on their land in accordance with the Māori world view that "The land is to live on" and "the land is to live from". However, as stated in the Part 1 section 42A report<sup>30</sup>, the proposal to create a separate planning regime for the Hokianga is not supported. The role of the PDP is to set clear direction as to the type of land uses that are potentially appropriate in specific parts of a district, but the PDP is not itself a proactive document that is capable of initiating actions such as the revitalisation of the dairy industry, coordination of government agencies and funding or providing rates relief, all options suggested in the Wai Claimant Group submission. The wider Hokianga area contains a number of different types of rural zones, some of which enable people to both live and work in a rural environment. I also note that there are a large number of Māori land blocks in the South Hokianga that have been zoned Māori Purpose Rural in the PDP. The more enabling provisions of the Māori Purpose Zone may assist landowners in this area to make best use of their land, as requested by the Wai Claimant Group. As such, I do not recommend any specific amendments as a result of this submission.

#### Federated Farmers

176. While Federated Farmers supports the RPROZ in principle, they are concerned that the RPROZ provisions are too directive with what can or cannot be done with rural production land, particularly with respect to subdivision and private property rights. I address the submission points of Federated Farmers in the provision-specific key issues below, however as a general response I consider that the version of the RPROZ provisions that I recommend (in **Appendix 1** to this report) strikes the right balance between being directive enough to protect primary production activities and allowing

30 Paragraphs 49, 51-54 of the Part 1 section 42A report prepared by Sarah Trinder and dated 29 April 2024



them to operate with minimal restrictions, but also being flexible enough to allow for a range of activities to establish in the rural environment.

177. I agree with the further submitters to Federated Farmer's original submission point that the subdivision of rural property is not a property right in the same way as you would expect there to be a 'right to farm' in a productive rural environment. There are many different motives that can drive a rural landowner to want to subdivide their property, and while some subdivision proposals may better enable the land to be used for primary production activities, not all proposals are in the best interests of maintaining the productive land resource of the Far North district as a whole and are often focused on the short-term aspirations of landowners.
178. In my view, the purpose of the subdivision provisions for the RPROZ are to provide some opportunities for landowners to subdivide and meet those short-term needs, while also putting safeguards in place to manage ongoing land fragmentation. This is, in my opinion, a responsible way to balance the immediate desires of landowners with the longer-term goal of retaining the productive land resource in land parcels large enough to support primary production in order to provide for the economic, social and cultural well-being of current and future generations. I provide more specific comments on this issue in Key Issue 30 below relating to SUB-S1 and broader issues relating to subdivision will be considered in the Subdivision section 42A report as part of Hearing Stream 16 in October 2025.

#### Waste Management NZ

179. I agree with Waste Management NZ that the provision for waste management facilities in the RPROZ (and in the Light and Heavy Industrial Zones (LIZ and HIZ)) is not sufficiently clear. This uncertainty has resulted from there being no specific definition or rules/standards for the activity. I agree with the submitter that waste management facilities could fall under the defined term 'offensive trade' and also the definition of 'industrial activity', as set out in their submission. This has resulted in waste management facilities being a non-complying activity under RPROZ-R32.
180. There are numerous factors to consider when considering appropriate locations for waste management facilities across the Far North District and there is a tension between the need for these facilities to be located close to the communities they serve, but also be sufficiently separated from potentially sensitive activities. In principle I also agree that the RPROZ can be an appropriate location for a waste management facility (as evidenced by the existing waste management facilities in the zone) given the larger lot sizes and ability to provide sufficient separation from sensitive activities. I consider that the most appropriate activity status to address the tension between the need for both close proximity to, and separation from, local communities when considering a RPROZ location for a waste management facility is discretionary. A discretionary activity status allows for all relevant factors to be considered and signals that the activity may be appropriate in



the RPROZ, but it also allows for a consent application to be declined if the proposed location has unacceptable adverse effects on adjacent properties or the wider community.

181. I have discussed this issue with the reporting officer for the LIZ and HIZ and we agree that including a new definition of 'waste management facilities' and associated rules in the RPROZ will assist plan users understand where these facilities are anticipated in the Far North District. The activity status and rules/standards associated with waste management facilities in the LIZ and HIZ will be addressed in Hearing Stream 14 in July 2025.

#### Forestry and carbon farming

182. I agree with PF Olsen that there is a need for a definition of 'forestry activities' that encompasses more than just plantation forestry. The NES-CF was gazetted after the PDP was notified with a key purpose being to capture carbon forestry in addition to plantation forestry. The NES-CF includes definitions for 'exotic continuous-cover forestry' (i.e. carbon farming) as well as indigenous forests and plantation forestry/forests. I am also aware that the reporting officer for the Coastal Environment chapter in Hearing 4 recommended new definitions of 'commercial forestry' and 'exotic continuous-cover forestry' to align with the NES-CF<sup>31</sup>.
183. I am recommending policy direction throughout the rural chapters (particularly in the RPROZ and Horticulture Zones) that relates to all types of forestry to be consistent with the NPS-HPL, not just plantation forestry or 'commercial forestry'. Therefore, I consider that a more general definition of 'forestry activities' that covers all types of forestry is appropriate. I recommend this definition could include all types of forestry, including those regulated under the NES-CF and forestry not regulated under the NES-CF being permanent indigenous forestry and harvesting of indigenous timber approved under the Forest Act 1949 (see below).
184. A separate definition of 'permanent exotic forestry / carbon farming' is not required as this is covered by the recommendation to include the NES-CF definition of 'exotic continuous-cover forestry' in the PDP as part of Hearing 4. I note that when the Summit Forests submission was made, the NES-CF was not in force and the scope of the then NES-PF was narrower, so there was a gap with respect to managing exotic continuous-cover forestry, which has now been filled by the NES-CF. I have recommended a new definition for 'forestry activities' in the recommendations section below and additional amendments to forestry related provisions throughout the RPROZ to align the chapter with the NPS-HPL, which covers all forestry activities, and the NES-CF, which regulates commercial forestry.

<sup>31</sup> Refer: [Microsoft Word - Coastal Environment S42A Appendix 1.2 \(fndc.govt.nz\)](#) Refer: [Microsoft Word - Coastal Environment S42A Appendix 1.2 \(fndc.govt.nz\)](#)



185. I consider that the new definition of 'forestry activities' will address the concerns of Summit Forests and Manulife Forest with respect to the misalignment between the definition of 'primary production' and the way forestry activities were defined in the PDP. It will now be clear that the reference to 'forestry activities' as a subset of the primary production definition encompasses more than just plantation forestry and also covers, exotic continuous-cover forestry and permanent indigenous forestry.
186. With respect to the submission from NRC concerning lack of controls for exotic continuous-cover forestry in the coastal environment, natural character areas, ONFL and areas of elite soils, I note that this issue has been addressed in Hearing 4 for all areas of concern except for elite soils. I note that elite soils is not a term used in the Northland RPS or in the PDP, but NRC may have been referring to 'versatile soils', which is a PDP definition that covers specific classes of LUC 1-3 soils. I note that, since the NRC submission, the NES-CF has come into effect, which contains specific regulations to manage the environmental effects of exotic continuous-cover forestry. I also note that the NPS-HPL is agnostic with respect to the types of land-based primary production activities that can use HPL and that forestry activities are envisaged as being appropriate on LUC 1-3 land in a productive rural environment.
187. Regulation 6 of the NES-CF allows plan rules to be more stringent to protect certain values and to manage afforestation. However, section 32(4) also requires that plan rules that are more stringent than a NES need to be justified in the context of the region or district. I consider that the controls in the NES-CF are sufficient to manage the environmental effects of exotic continuous-cover forestry in the Far North District and that there are no statutory directions or district specific factors that necessitate a more stringent approach to exotic continuous-cover forestry on elite soils.
188. In terms of the submission from Tane's Tree Trust, I understand that indigenous vegetation clearance associated with sustainable harvesting under the Forest Act 1949 was considered by the reporting officers in Hearing 4<sup>32</sup>. I understand that the reporting officers recommended that indigenous vegetation clearance associated with this harvesting is permitted as it is generally low impact and must meet specific requirements from the Ministry for Primary Industries under the Forest Act 1949. I also consider that this activity should be permitted from a land-use perspective in the RPROZ for the same reasons. I consider that the broader definition of forestry activities I am recommending will provide for this by including the harvesting of indigenous timber approved under the Forests Act 1949 within the definition.

32 In particular, paragraphs 44 to 47 in the Ecosystems and Indigenous Biodiversity right of reply: [S42A-Report-Writers-Right-of-Reply-Ecosystems-and-Indigenous-Biodiversity.pdf \(fndc.govt.nz\)](#) In particular, paragraphs 44 to 47 in the Ecosystems and Indigenous Biodiversity right of reply: [S42A-Report-Writers-Right-of-Reply-Ecosystems-and-Indigenous-Biodiversity.pdf \(fndc.govt.nz\)](#)





### Miscellaneous

189. I understand the position of Elbury Holdings and LJ King Ltd that, in principle, serviced land should not be located in the RPROZ and instead should be allocated to an urban zone. While there is some general detail provided in the submissions to describe the area of concern, the submitters have not provided specific maps of the areas that they wish to be rezoned with an urban zone, nor have they specified the urban zone that they are seeking as an alternative to the RPROZ. As such, I recommend that these submission points are rejected.
190. With respect to the alternative relief requested by Elbury Holdings and LJ King Ltd, I do not agree that the policy direction or the rules of the RPROZ should be amended to recognise that productive land in the RPROZ can accommodate activities other than rural production. I consider that the combination of policies and rules that I have recommended for the RPROZ in **Appendix 1.1** to this report provide a balance between signalling the clear intention that the RPROZ is predominantly to support primary production activities, but that other ancillary or complimentary activities should also be anticipated in the zone. Accordingly, I do not recommend any changes to the RPROZ provisions as a result of these submission points.
191. I agree with the submitters (Vision Kerikeri and others) that avoiding urban/residential sprawl and ribbon development is desirable in rural areas. However, I consider that these issues have more practically been responded to through the planning maps showing zones and overlays, which spatially direct where future development is enabled/restricted. Strong subdivision provisions, particularly the minimum lot sizes in SUB-S1 for the RPROZ, also play a part in ensuring urban or residential style development does not sprawl across the rural environment. I also note that the areas identified for new urban development and/or rural lifestyle/rural residential development have not expanded significantly compared to the ODP and not in a pattern that I consider to be sprawling or ribbon development. There is strong direction on managing sprawl and sporadic development patterns in the Coastal Environment chapter due to the clear direction in Policy 6(c) of the NZCPS, but this direction is limited to the coastal parts of the rural environment. As such, I do not consider specific policy direction on managing urban sprawl or ribbon development is necessary in the rural zone chapters.
192. With respect to John Andrew Riddell's request for the insertion of the words '*and intrinsic and natural values*' into RPROZ-O1, I consider that these words detract from the key outcome being stated in this objective, which is ensuring that the land in the RPROZ is available for primary production activities in the long-term. The purpose of the objective is not to manage intrinsic and natural values and inserting references to these would confuse the point of an otherwise clearly drafted, directive objective. I do not recommend any change to RPROZ-O1 in response to this submission.





193. Finally, Ngai Tai Ora contends that the PDP is silent on the issue of health-related impacts stemming from sensitive activities locating close to unsealed roads. I agree that there can be dust related issues from unsealed roads and that there can be both nuisance and health related impacts for adjacent activities. However, there are already specific standards across some of the rural zones that manage the location of habitable buildings in relation to unsealed roads. For example, RPROZ-S3(3)<sup>33</sup> requires that habitable buildings (including both new buildings and extensions or alterations) must be setback at least 30m from the boundary of an unsealed road, which is 10m more than requested by the submitter. The same rule is not included in the RRZ or RSZ as these zones are generally in areas with sealed roads and it is not included in HPFZ as this is not a zone where sensitive activities are encouraged. Although the setbacks relate to habitable buildings as opposed to water supplies, I consider that managing the location of the buildings will, in most cases, also manage the location of water supply infrastructure as there is a need to locate such infrastructure close to the buildings that it services. As discussed in more detail in Key Issue 28 below, I recommend amendments to RPROZ-S3 to address dust effects from unsealed roads on habitable buildings, including reducing the setback to 20m to align with the relief sought by Ngai Tai Ora.

### **Recommendation**

194. For the reasons set out above, I recommend that the general submissions on the rural zones in the PDP are accepted, accepted in part and rejected as set out in **Appendix 2**.
195. I recommend that a new definition of 'waste management facility' is inserted into the Definitions chapter as per the submission of Waste Management NZ as follows:

*"means a facility where waste and recyclable materials are temporarily stored, handled and processed, prior to being transported to another facility for disposal or an alternative use. These include, but are not limited to, refuse and recycling transfer stations, and materials recovery facilities."*

196. I recommend that a new rule is inserted into the RPROZ to provide for waste management facilities as a discretionary activity, and that a consequential amendment is made to RPROZ-R37 to clarify that waste management facilities are not considered to be an offensive trade.

197. I recommend a new definition for 'forestry activities' as follows:

*"means all types of commercial and non-commercial forestry, including:*

33 Equivalent provisions in other rural zones are RLZ-S3(3) and HZ-S3(1).



- a. Commercial forestry (as defined under the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017);
- b. Permanent indigenous forestry; and
- c. The harvesting of timber approved under the Forest Act 1949.”

**Section 32AA evaluation**

- 198. I consider that including a new definition for ‘waste management facility’ in the PDP (and associated new rule in the RPROZ) will be effective in addressing a gap in the rule framework for these types of facilities. A specific rule and definition makes it clear for plan users that these types of facilities have a pathway to establish in the RPROZ but also make it clear that they are not considered an industrial activity or an offensive trade, which improves clarity and understanding for plan users.
- 199. I consider that a new definition for ‘forestry activities’ is the most efficient and effective way to improve alignment of the PDP with the NES-CF but also ensure that references to ‘forestry’ and ‘forestry activities’ in the rural zone objectives, policies and rules have clear context as to what types of forestry activities are being referred to. A specific forestry activity definition makes it clear that the scope of forestry activities is wider than just the NES-CF, explains the relationship between the term ‘forestry activities’ when it is used in the context of the ‘primary production definition’, addresses a gap relating to indigenous vegetation clearance associated with sustainable harvesting under the Forest Act 1949 and also assists with interpretation of the rural zone rules pertaining to forestry, which I recommend amendments to in Key Issue 23 below.
- 200. As such, I consider that the new definitions for ‘waste management facility’ and ‘forestry activities’ (and associated definition for waste management facility in the RPROZ) are an appropriate, efficient and effective way to achieve the relevant objectives in terms of section 32AA of the RMA.

**5.2.4 Key Issue 4: Plan wide or rural wide submissions**

**Overview**

<b>Provision(s)</b>	<b>Officer Recommendation(s)</b>
RPROZ-P2(b)	Minor change to refer to small scale educational facilities
RPROZ-S3, HZ-S3, HPFZ-S3, RLZ-S3, RRZ-S3 and RSZ-S3	New matters of discretion relating to rail corridor safety and operational efficiency
RSZ-S3	Minor amendment to ensure a minimum setback from a rail corridor in rural zones



Provision(s)	Officer Recommendation(s)
RPROZ-P2	Amendments to reference small scale educational facilities in RPROZ-P2
RPROZ-R1, HZ-R1, HPFZ-R1, RLZ-R1, RRZ-R1 and RSZ-R1	Minor amendment to refer to relocated buildings
RPROZ-R6, RLZ-R6, RRZ-R6 and RSZ-R6	Amended activity status and matters of discretion for educational facilities in some rural zones

201. This section addresses submissions where submitters have asked for the same relief across some or all of the rural zones. In some cases, the submitters have asked for the same relief across all zones in the PDP. For efficiency and to avoid duplication, all of these submission points are addressed in this section to ensure a consistent approach is taken across all rural zones (and other PDP chapters as applicable).

#### **Analysis of Submissions on Key Issue 4: Plan wide or rural wide submissions**

##### **Matters raised in submissions**

###### KiwiRail

202. KiwiRail Holdings Limited (S416)<sup>34</sup> request the insertion of a 5m setback from the rail corridor into existing setback standards in all rural zones. KiwiRail argues that the 5m setback is required to ensure that landowners have the ability to access and maintain buildings and structures adjacent to the rail corridor at all times without requiring access to rail land. This is considered to be important from a health and safety perspective, but also to ensure that the rail corridor can operate safely and efficiently.

203. KiwiRail also request the inclusion of new matters of discretion in the rural zone setback standards to ensure plan users consider relevant health and safety matters and the efficient operation of the rail network when infringing their requested 5m rail corridor setback. For example, the matters of discretion that KiwiRail request to insert in RRZ-S3 are as follows:

- a. *The location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.*
- b. *The safe and efficient operation of the rail network.*

34 S416.058 (Rural Production Zone), S416.059 (Rural Lifestyle Zone), S416.060 (Rural Residential Zone), S416.061 (Settlement Zone).



204. To support the requested setbacks, KiwiRail (S416.047, S416.048, S416.049) requests amendments to RPROZ-P7, RRZ-P5 and RLZ-P4 to provide for the consideration of setbacks to the railway corridor. These amendments request the insertion of an additional matter into the 'consideration' policy of each zone as follows: "The location and design of buildings adjacent to the railway corridor".

#### Transpower

205. Transpower (S454) have requested a range of amendments to objectives and policies across the rural zones to ensure infrastructure such as the National Grid is explicitly enabled in those zones. Amendments include:
- a. An amendment to RPROZ-O2 as follows: "The Rural Production zone is used for primary production activities, ancillary activities that support primary production and other compatible activities and infrastructure (including the National Grid) that have a functional or operational need to be in a rural environment." (S454.108).
  - b. An amendment to RSZ-O1 as follows: "Rural and coastal settlements are used predominantly for residential activities and are sustained by a range of compatible activities, and services, and infrastructure". (S454.114).
  - c. New objectives in the RLZ and RRZ as follows: "The Rural Lifestyle [or Rural Residential] zone is used by compatible activities and infrastructure, that have a functional or operational need to locate in the zone." (S454.110, S454.112).
  - d. An amendment to RSZ-P1 as follows: "Enable residential, and complementary non-residential activities and infrastructure, that support the role and function of the Settlement zone" (S454.115).
  - e. New policies in the RPROZ and RLZ as follows: "Enable compatible activities and infrastructure, that have a functional or operational need to locate in the Rural Production zone [or Rural Lifestyle Zone or Rural Residential Zone]" (S454.109, S454.111, S454.113).
  - f. Amendments to provisions of special purpose zones, including the Horticulture and Horticultural Processing Facilities Zones (S454.132, S454.133), to ensure critical infrastructure, such as transmission facilities, is provided for to support activities. Transpower note that, as notified, no Horticulture Zone or Horticultural Processing Facilities Zone policies, objectives or rules provide for critical infrastructure.



## FENZ

206. FENZ (S512)<sup>35</sup> support the PDP listing emergency service facilities as an activity in some zones but request that emergency service facilities/activities be treated as permitted activities across all zones, with such activity also being exempt from standards relating to setback distances and vehicle crossings. FENZ note that fire stations are currently located in a range of zones in the Far North District and that the PDP only includes rules for emergency service facilities in some zones with different activity status. FENZ considers that emergency service facilities should be enabled as a permitted activity across all zones in the PDP to ensure new fire stations can be efficiently developed as appropriate. This is a plan-wide request from FENZ with multiple submission points from FENZ on the PDP zone chapters seeking the same relief.
207. FENZ (512)<sup>36</sup> also seek a new permitted activity condition and/or matter of discretion to be added to Rule R1 across all zones on infrastructure servicing, including emergency response transport/access and adequate water supply for firefighting. FENZ acknowledge that some PDP zones include provisions relating to providing appropriate infrastructure servicing and that NH-R5 in the Natural Hazard chapter requires adequate firefighting water supply for 'vulnerable activities'. However, FENZ consider that an additional standard on infrastructure servicing for emergency response/firefighting water supply within all individual zone chapters may be beneficial.
208. FENZ (S512)<sup>37</sup> have requested an advice note to the setback standard in the Rural Zones (and in the case of the RSZ, also to the outdoor living space standard in RSZ-S5 (S512.094) to recognise that there is further control of building setbacks and firefighting access through the New Zealand Building Code (NZBC). The requested advice note from the FENZ is as follows:
- "Building setback requirements [and site layout requirements in the case of RSZ] are further controlled by the Building Code. This includes the provision for firefighter access to buildings and egress from buildings. Plan users should refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. Issuance of a resource consent does not imply that waivers of Building Code requirements will be considered / granted."*
209. I note that FENZ (S512.042) have submitted that rule RSZ-R4 (visitor accommodation in the Settlement Zone) is retained as notified, with specific

35 S512.050 (Rural Production Zone), S512.051 (Rural Lifestyle Zone), S512.052 (Rural Residential Zone), S512.053 (Settlement Zone), S512.063 (Horticulture Processing Facility Zone), S512.062 (Horticulture Zone).

36 S512.097 (Rural Production Zone), S512.098 (Rural Lifestyle Zone), S512.099 (Rural Residential Zone), S512.100 (Settlement Zone), S512.112 (Horticulture Processing Facility Zone), S512.111 (Horticulture Zone).

37 S512.073 (Rural Production Zone), S512.074 (Rural Residential), S512.075 (Rural Lifestyle Zone), S512.076 (Settlement Zone), S512.086 (Horticulture Processing Facility Zone), S512.085 (Horticulture Zone).



support for the matter of restricted discretion that relates to "*water supply for drinking and firefighting*". That submission point also infers that a similar matter of discretion should be included for many of the other activities listed across the zone chapters, particularly in zones where there is no reticulated water supply, as alternative firefighting water sources are essential for more than just visitor accommodation.

#### Heavy Haulage Assoc Inc

210. Heavy Haulage Assoc Inc (S482)<sup>38</sup> requests amendments to R1 in the rural zones to provide for relocated buildings as a permitted activity subject to compliance with specific performance standards and a restricted discretionary status when these standards are not complied with. Heavy Haulage Assoc Inc consider that the definition for "building" in the PDP does not clearly include relocated buildings and that the separate definition of "relocated buildings" in the PDP appears to create a distinction between these two types of buildings. On this basis, the submitter considers that it is unclear whether the permitted activity rules in most zones for "new buildings and structures..." also apply to relocated buildings. Heavy Haulage Assoc Inc considers that district plan provisions controlling newly constructed buildings and relocated buildings should be the same as the effects are essentially the same, noting this was the conclusion of the Environment Court in *New Zealand Heavy Haulage Association Inc v The Central Otago District Council* [C45/2004].

#### Ministry of Education

211. MOE (S331) support various PDP objectives and policies across the rural zones on the basis that they provide for activities compatible with the role and function of those zones. These include support for RPROZ-P3 (S331.067), HZ-O2 (S331.099), HPFZ-O2 (S331.103), RLZ-O1 (S331.069), RSZ-O1 (S331.075), RSZ-P1 (S331.076) and RSZ-P3 (S331.077).
212. However, MOE have requested various amendments to objectives and policies across the rural zones to support educational facilities in those zones. Amendments include:
- a. An amendment to RPROZ-O2 as follows: "*The Rural Production zone is used for primary production activities, ancillary activities that support primary production and other compatible activities that have a functional or operational need to be in a rural environment.*" (S331.065)
  - b. An amendment to RPROZ-P2(b) as follows: "*Ensure the Rural Production zone provides for activities that require a rural location by:*

38 S482.002 (Rural Production Zone), S482.003 (Rural Lifestyle Zone), S482.004 (Rural Residential Zone), S482.005 (Settlement Zone) S482.013 (Horticulture Processing Facility Zone), S482.012 (Horticulture Zone).





- b. enabling a range of compatible activities that support primary production activities, including ancillary activities, rural produce manufacturing, rural produce retail, visitor accommodation, educational facilities, and home businesses.”(S331.066)*
- c. An amendment to HZ-P2(d) as follows: *“Avoid land use that: d. does not have a functional or operational need to be located in the Horticultural Zone and is more appropriately located in another zone”* (S331.100).
- d. An amendment to HZ-P3 as follows: *“Enable horticulture and associated ancillary activities that support the function and/or operation of the Horticulture zone...”*(S331.101)
- e. An amendment to RRZ-O1 as follows: *“The Rural Residential Zone is used predominately for rural residential activities, ~~and~~ small scale farming and other activities that are compatible with and support the rural character and amenity of the zone”*(S331.072).
- f. An amendment to clause (e) of Policy 1 in the RLZ and RRZ zones to refer to “small scale education facilities” as *“small-scale educational facilities”*(S331.070, S331.073).
213. MOE (S331)<sup>39</sup> requests deletion of the rule for education facilities in the rural zones, as they would prefer that educational facilities are defined as ‘infrastructure’ and made a permitted activity across the PDP by inserting provisions for educational facilities into the Infrastructure Chapter.
214. However, if this relief is not granted, MOE supports the permitted activity standards to provide for small scale educational facilities in all rural zones except for the HPFZ<sup>40</sup>. The submitter argues that as educational facilities with student attendance higher than four will likely be required to support the rural environment. MOE request that the maximum number of permitted students should be increased to 30 to align with Ministry pre-school licences and 12 in the HZ to align with economic-sized horticultural qualifications classes. MOE requests that all educational facilities are enabled in rural zones (except HPFZ) to serve the education needs of the rural community. They also suggest a restricted discretionary activity status where compliance with the permitted standards cannot be achieved, and suggest listed matters of discretion as follows:

39 S331.068 (Rural Production Zone), S331.071 (Rural Lifestyle Zone), S331.074 (Rural Residential Zone), S331.078 (Settlement Zone).

40 MOE supports educational facilities being discretionary under HPFZ-R5 to avoid reverse sensitivity effects on horticultural processing activities (S331.104). MOE (S331.102) does not support the discretionary status of education facilities under HZ-R13 and requests a permitted activity status. MOE request that PER-1 permit educational facilities undertaken “*ancillary to an established residential and/or horticultural activity*”, the number of students permitted in PER-2 is increased to 12 and discretionary activity status for where compliance cannot be achieved.





- a. Design and layout;
- b. Transport safety and efficiency;
- c. Scale of activity and hours of operation
- d. Infrastructure servicing;
- e. Potential reverse sensitivity effects on rural production operations.

215. MOE (S331.068) also requests an additional matter of discretion for educational facilities within in the RPROZ zone as follows:

- f. Contribution to community cohesiveness.

#### Airbnb

216. Airbnb (S214)<sup>41</sup> requests consistent provisions for visitor accommodation across the PDP in every zone. More specifically, Airbnb request a permitted activity threshold of ten guests per night and a restricted discretionary activity status where compliance with this standard is not achieved.

#### John Andrew Riddell

217. John Andrew Riddell (S431)<sup>42</sup> request that all MHWS setback rules in the Rural Zones should be amended so that any building or structure less than 20 metres back from the coastal marine area, or from rivers and banks, has a non-complying activity status, on the grounds the amendment is necessary to achieve the purpose of the RMA.

218. John Andrew Riddell (S431.156) also requests that further matters of discretion for all restricted discretionary activities in the RPROZ, RLZ and RRZ are included as follows:

- a. effects on natural character
- b. effects on indigenous biodiversity
- c. effects on historic heritage and cultural values
- d. effects on adaptation to and mitigation of climate change

41 S214.002 (Rural Production Zone), S214.003 (Rural Lifestyle Zone), S214.004 (Rural Residential Zone), S214.005 (Settlement Zone), S214.012 (Horticulture Zone).

42 S431.123 (Rural Production Zone), S431.124 (Rural Lifestyle Zone), S431.125 (Rural Residential Zone), S431.126 (Settlement Zone), S431.134 (Horticulture Zone), S431.135 (Horticulture Processing Facilities Zone).



### Trent Simpkin

219. Trent Simpkin (S283)<sup>43</sup> requests that rules in relation to impermeable surface coverage in rural zones are amended to increase the maximum impermeable surface coverage to be based on the size of lots. The submitter also seeks to amend these rules to add a new permitted activity condition which would state that if a TP10 report is provided by an engineer the activity is permitted. The submitter considers that the impermeable surfaces rule is frequently not complied with in home design due to low thresholds, necessitating many homes to still seek resource consent. The submitter notes that all activities breaching impermeable surface rules require a TP10/Stormwater report and therefore considers that if this is provided it should not need to go through the resource consent process.

### Twin Coast Cycle Trail

220. Twin Coast Cycle Trail (S425)<sup>44</sup> support visitor accommodation being permitted throughout in Rural Zones but requests that PER-3 in each zones' visitor accommodation rule is deleted and replaced with: *"The access to the site is set back more than 20m from any residential unit, or minor residential unit on any site that shares the access."* Twin Coast Cycle Trail considers this change necessary given the number of shared accessways in the Far North district. The suggested setback is to manage any noise or dust effects on neighbours resulting from sharing an access with a visitor accommodation activity.
221. Twin Coast Cycle Trail (S425)<sup>45</sup> supports rules for home businesses in rural zones to be retained as notified in the PDP for reasons that providing home businesses will help activate the trail and ensure that the potential in terms of social and economic impact.

### Puketotara Lodge

222. Puketotara Lodge (S481) seek to ensure the effects of stormwater discharge are adequately controlled, particularly between sites and adjacent sites. To achieve this, Puketotara Lodge requests matters of discretion point c. of Rule R2 in rural zones is amended as follows:<sup>46</sup>

43 S283.012 (Rural Residential Zone), S283.014 (Rural Production Zone), S283.015 (Rural Lifestyle Zone), S283.016 (Settlement Zone), S283.022 (Horticulture Zone), S283.023 (Horticulture Processing Facilities Zone).

44 S425.052 (Rural Production Zone), S425.053 (Rural Lifestyle Zone), S425.054 (Rural Residential Zone), S425.055 (Settlement Zone).

45 S425.057 (Rural Production Zone), S425.058 (Rural Lifestyle Zone), S425.059 (Rural Residential Zone), S425.060 (Settlement Zone), S425.061 (Horticulture Zone).

46 S481.003 (Rural Production Zone), S481.004 (Rural Lifestyle Zone), S481.004 (Rural Residential Zone), S481.006 (Settlement Zone), S481.012 (Horticulture Zone), S481.013 (Horticulture Processing Facility Zone).



c. *the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining adjacent waterbodies (including groundwater and aquifers) or on adjoining adjacent sites;*

223. To further achieve the relief sought, Puketotara Lodge request three additional matters of discretion relating to stormwater management are added to the relevant impermeable surface rule in all zones. Puketotara Lodge note the absence of a specific "stormwater management" rule in the PDP despite there being one in the Operative Plan. To address this perceived gap, the additional matters of discretion requested by Puketotara Lodge are as follows:

- a. *Avoiding nuisance or damage to adjacent or downstream properties;*
- b. *The extent to which the diversion and discharge maintains pre-development stormwater run-off flows and volumes; and*
- c. *The extent to which the diversion and discharge mimics natural run-off patterns.*

## **Analysis**

### KiwiRail

224. I understand the potential safety concerns that KiwiRail have raised with respect to the proximity of buildings and structures to the rail corridor. I agree that it is difficult to maintain buildings and structures (e.g. clean, paint, repair) without sufficient clearance between the structure and the rail corridor boundary. However, I am not convinced that a 5m setback is required to provide that clearance – from a practical perspective I consider that most maintenance tasks would be able to be completed with a smaller 2-3m space between the building/structure and the rail corridor boundary.

225. The notified setback rules in the rural zones are as follows:

- a. RPROZ-S3 and RLZ-S3: 10m from all site boundaries, reducing to 3m for non-road boundaries on sites less than 5,000m<sup>2</sup>, 3m for artificial crop protection and support structures and 30m for habitable buildings from unsealed roads.
- b. HZ-S3: 10m from all site boundaries, 3m for artificial crop protection and support structures and 30m for habitable buildings from unsealed roads.
- c. HPFZ-S3: 10m from internal boundaries and 6m from road boundaries.



- d. RRZ-S3: 3m from all site boundaries, except for a 12m setback from a specific section of Kerikeri Road, 10m setback from the RPROZ boundary and 20m setback from a mineral extraction overlay<sup>47</sup>.
  - e. RSZ-S3: 1.2m from all site boundaries, except for 3m from a road boundary.
226. Based on the above, all rural zones (aside from the Settlement Zone) already provide at least a 3m setback from site boundaries, which would include all boundaries with the rail corridor. In my opinion, 3m is sufficient to undertake all of the maintenance activities of concern to KiwiRail without necessitating landowners entering the rail corridor. As such, I do not consider that a specific 5m setback from the rail corridor is required in these zones.
227. However, I agree with KiwiRail that the matters of discretion for non-compliance with these setbacks are generic and do not address potential health and safety issues or operational issues related to the rail corridor. As such, I agree with the submitter that the inclusion of the additional matters of discretion will ensure that rail corridor safety matters can be appropriately addressed when resource consent is required due to an infringement of a site boundary setback.
228. With respect to the Settlement Zone, I consider that 1.2m may not be sufficiently wide enough to provide space for maintenance activities and that a 3m rail corridor setback (measured from the boundary of the KiwiRail designation KRH) is appropriate to match the setbacks across other rural zones. This change will have a small impact on the rural and coastal settlements adjoining or bisected by the rail corridor (mainly a small number of RSZ properties in Moerewa) and is not considered to be a significant change for those properties. As for the other rural zones, I consider that the inclusion of additional matters of discretion specifically related to rail corridor safety are appropriate.
229. I understand that KiwiRail are seeking specific policy level support in each rural zone chapter for the rail corridor setbacks. As I am only recommending this in the Settlement Zone, I do not consider the level of specific policy support requested by KiwiRail is required in RPROZ-P7, RRZ-P5 and RLZ-P4. I consider that there is enough scope in the notified policies to cover rail corridor setbacks and matters of discretion e.g. RPROZ-P7(d) already covers the '*location, scale and design of buildings or structures*', which already allows consideration of buildings and structures in relation to the rail corridor.

### Transpower

230. Since making its submission, Transpower has contacted Council to advise that it no longer intends to pursue its submission points requesting

<sup>47</sup> Refer to recommendations in the Rural Residential Zone section 42A report to amend this to 'Mineral Extraction Zone' rather than overlay.



amendments to zone chapters to recognise critical infrastructure such as transmission lines, including the submission points relating to rural zones. Transpower understands that the Infrastructure chapter in the PDP provides the provisions for infrastructure on a District-Wide basis and is therefore seeking to pursue its primary relief through specific provisions for the National Grid in the Infrastructure chapter. As such, no amendments to the rural zone provisions are necessary to provide for the original relief sought by Transpower and I recommend that these submission points are rejected.

## FENZ

231. In terms of the submission from FENZ seeking a permitted activity rule for emergency service facilities in the rural zones, I note that the PDP:
- a. Defines an emergency service facility as “means fire stations, ambulance stations, police stations and associated ancillary facilities”. The relief sought from FENZ is therefore broader than the development of fire stations and could enable police and ambulance stations to be located in a wider range of locations.
  - b. Enables emergency service facilities to be established as a permitted activity in certain zones (including the Light Industrial and Mixed-Use Zones with no conditions and in the Rural Production Zone where the GFA does not exceed 150m<sup>2</sup>) while requiring resource consent for these facilities on other zones where there is greater potential for adverse effects on traffic and the amenity of the surrounding environment (e.g. a discretionary activity in the Residential Zone).
232. Under the notified rural zone rules, an emergency service facility would be a permitted activity under RPROZ-R17, provided the GFA of all buildings on the site does not exceed 150m<sup>2</sup>. In the other rural chapters, an emergency service facility is discretionary<sup>48</sup>.
233. In my opinion, this is appropriate as the RPROZ is the most appropriate rural zone to accommodate emergency service facilities as:
- a. The RPROZ has the most land and largest lot sizes in the rural environment, making it the most likely zone to find a suitable location for an emergency service facility.
  - b. The RPROZ often surrounds other rural zones that accommodate residential activity (e.g. RLZ or RSZ), so it provides locations for emergency services in close proximity to rural or coastal settlements and areas of lifestyle development, without needing to be located immediately within those areas (which can cause adverse amenity issues for residents).

<sup>48</sup> Under HZ-R16, HPFZ-R5, RLZ-R20, RRZ-R14 and RSZ-R13 for activities not otherwise listed in the chapter.



- c. The HZ and HPFZ are intended to provide for a range of activities relating to the horticultural industry and emergency service facilities are neither anticipated in these zones or consistent with their primary purpose.
234. Accordingly, I recommend that these submission points from FENZ are rejected.
235. In terms of the submission from FENZ requesting a new standard for infrastructure servicing for emergency response transport/access and water supply for firefighting, I consider that this relief is already adequately, and most efficiently, addressed through the following districtwide provisions in the PDP:
  - a. Rules NH-R5 and NH-R6 (Wildfire) in the natural hazard chapter, which include a specific requirement for new buildings and alterations to existing buildings used for a 'vulnerable activity'<sup>49</sup> to have water supply for firefighting purposes that complies with SNZ PAS 4509:2008 New Zealand Fire Fighting Water Supplies Code of Practice.
  - b. Rule TRAN-R2 (vehicle crossing and access, including private accessways) in the Transport chapter, which includes a permitted activity standard that requires vehicle crossings and access for fire appliances to comply with SNZ PAS 4509:2008 New Zealand Fire Fighting Water Supplies Code of Practice.
236. Accordingly, I recommend no amendments to the rural zone chapters in response to this submission point from FENZ as I consider the relief sought is adequately addressed by these district-wide provisions.
237. With respect to the FENZ request for an advice note relating to the Building Code, I acknowledge that it is important for plan users to be aware of and refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. However, I am not aware of any specific examples of resource consents that have been issued for building setback infringements, that lead to non-compliance with building code requirements for firefighter access to buildings and egress from buildings.
238. I do not support the requested use of advice notes unless absolutely necessary as:
  - a. There are a number of different pieces of legislation and standards outside of the PDP that apply to a range of activities and the PDP

<sup>49</sup> Defined in the PDP as “means residential activities, care facilities (including day care centres), retirement villages, visitor accommodation, marae and medical facilities with overnight stay facilities.”



does not include advice notes for all of these different pieces of legislation. To do so would be inefficient and cumbersome.

- b. The plan format, which complies with the National Planning Standards, seeks to avoid the use of advice notes within rules or standards wherever possible.
  - c. There are other, more efficient methods to advise applicants of the Building Code requirements during resource consent preparation (for example, pre-application advice).
239. As such, I do not recommend the insertion of any advice notes relating to the Building Code requirements for firefighter access to buildings and egress from buildings into any of the rural zones.
240. I disagree with the request from FENZ to insert matters of discretion relating to water supply for 'firefighting' for visitor accommodation, and other activities, across all the rural zones. After a review of the relevant activity statuses for activities involving habitable buildings across the rural zones, I note that the majority of activities are either already fully discretionary or non-complying, or they are permitted at a small scale but default to discretionary or non-complying when permitted conditions are infringed. For example, although visitor accommodation activities that infringe permitted conditions are restricted discretionary in the RSZ, they are full discretionary in the RPROZ, RLZ and RRZ (and discretionary at all scales in the Horticulture and HPFZ). In this scenario, Council has full discretion to consider the need for sufficient water supply for firefighting and a specific matter of discretion is not required. For those activities that default to restricted discretionary or are already restricted discretionary, I consider that most are not activities that need a specific focus on firefighting water supply e.g. infringing impermeable surface coverage controls, emergency service facilities and intensive indoor primary production in the RPROZ. As such, I do not recommend any amendments to rules to include firefighting water supply as a matter of discretion for any other activities in the rural zones.

#### Heavy Haulage Assoc Inc

241. As has been discussed in other zone topic section 42A reports<sup>50</sup>, I consider that the definition of 'building' in the PDP already covers relocated buildings, even if the words 'relocated buildings' are not used in the definition. As such, I do not recommend the insertion of a specific rule for relocated buildings. However, I also agree with the other reporting officers that existing R1 rules in each of the rural zones can provide additional clarity by amending the description to include specific reference to relocated buildings.

<sup>50</sup> For example, in paragraphs 62-68 of section 42A report for Motuaroa Island, prepared by Kenton Baxter, dated 20 May 2024. These paragraphs provide a more detailed explanation for this position.





### Ministry of Education

242. While I appreciate the desire from MOE (and often other social infrastructure providers) to be 'infrastructure' under RMA, I do not consider that this is appropriate as the RMA has a well-established definition of infrastructure which the PDP was drafted to align with. In particular, the focus on the Infrastructure Chapter in the PDP is on infrastructure as defined in the RMA and in particular network utilities which generally have quite different technical requirements and effects compared to education facilities. I also note that education facilities can also be sensitive/incompatible with certain types of infrastructure. Further, MOE is a requiring authority and also has the option of using a designation to facilitate new educational facilities, so is less reliant on the PDP provisions to facilitate this. On this basis, I consider that it is more appropriate to manage education facilities as a land-use activity through the zone chapters of the PDP rather than Infrastructure Chapter. My response and recommendation on this submission have been discussed and agreed with the reporting officer for the Infrastructure Chapter.
243. I acknowledge the support from MOE for the various objectives and policies that they support across a range of rural zones and note the desire for clearer policy level direction to support educational facilities in all rural zones at a much larger scale than currently provided for. While I understand the rationale for this request, in my opinion it needs to be balanced against the purpose of each rural zone and what outcomes each zone is trying to achieve. Although I agree with MOE that Council has an obligation under the NPS-UD<sup>51</sup> to ensure sufficient additional infrastructure (which includes social infrastructure like schools) is provided in the Far North district to service development capacity, this obligation only applies to the urban environment. I do not agree that this means that all educational facilities of all scales are appropriate in all rural zones.
244. The PDP attempts to direct larger-scale educational facilities away from the most productive parts of the rural environment (e.g. RPROZ and HZ) to reduce the potential for reverse sensitivity effects on primary production activities and to ensure the land in the zone is primarily used by primary production and supporting rural activities. The exception to this is small-scale educational facilities of up to 4 students (permitted under RPROZ-R6), which allows for small group lessons, group home schooling activities or in-home childcare, all of which need to be inside residential units, minor units or accessory buildings. I consider that this is appropriate in the RPROZ as the small-scale nature of the activities, combined with them taking place inside structures that are already permitted, means that the risk of reverse sensitivity effects is low very similar to if the site was just being used for residential activity. I consider that this risk does increase significantly

51 Specifically, Policy 10 and 3.5 of Subpart 1 of Part 3: Implementation of the NPS-UD are relevant and the latter clause requires "Local authorities must be satisfied that the additional infrastructure to service the development capacity is likely to be available".



compared to a standard residential activity if the number of permitted students increased to 30, as requested in the MOE submission.

245. However, I agree with MOE that the potential adverse effects of larger educational facilities are well known and that a restricted discretionary activity with appropriately targeted matters may assist with better decision making than a full discretionary activity. A restricted discretionary activity acknowledges that rural communities do require educational facilities in close proximity to where people live, which may be in the RPROZ, but that the location and scale of the facility needs to be managed through the resource consent process<sup>52</sup>. I largely agree with the suggested list of matters put forward in the MOE submission, but also consider that a matter relating to loss of highly productive land would be appropriate in RPROZ. I have recommended amendments to RPROZ-R6 to this effect below.
246. In the HZ, small-scale educational facilities of up to four students are a discretionary activity (HZ-R13) and anything larger is non-complying. For the reasons set out in Key Issue 1 above, the HZ contains a regionally significant horticultural area around Kerikeri-Waipapa and it is important that the rules and standards in the HZ protect that industry from increasing reverse sensitivity effects. In my opinion this justifies taking a more stringent approach to educational facilities in the HZ, particularly as it is located very close to the urban areas of Kerikeri-Waipapa where there are more appropriate options to locate educational facilities. Although I understand MOE's position that a four-student limit is potentially restrictive for horticultural related education, increasing the limit to 12 students as requested would also allow other types of educational facilities to have a higher number of permitted students. As such, I do not recommend making HZ-R13 more permissive.
247. With respect to RLZ, RRZ and RSZ, I consider that the purpose of these zones is to provide residential living opportunities in rural and coastal areas at a range of densities. While people living in these zones are likely to need access to educational facilities, I do not consider that the amenity expectations of residents in these zones would include having educational facilities containing up to 30 students establishing without the need for a resource consent. However, as per my comments above on the RPROZ, I consider that a restricted discretionary activity status is more appropriate for larger scale educational facilities in RLZ, RRZ and RSZ (compared to full discretionary) and recommend changes to RLZ-R6, RRZ-R6 and RSZ-R6 accordingly.
248. In terms of corresponding objective and policy support for the changes recommended above, I agree with one of the amendments suggested by

<sup>52</sup> Or alternatively through the designation process, which is the other avenue to establish educational facilities open to MOE as a requiring authority.



MOE as it aligns with my recommendations but disagree with the other points as follows:

- a. I agree with amending RPROZ-P2(b) to refer to educational facilities, as it is one of the potentially compatible activities listed as permitted in the RPROZ. However, I recommend that the term be '*small scale educational facilities*' to reflect the fact that I support retaining the permitted number of students at four under RPROZ-R6.
- b. I disagree with amending RRZ-O1 to refer to other activities that are compatible with and support the rural character and amenity of the zone. The core purpose of the objective is to signal the 'predominant' activities in the RRZ, which are rural residential activities and small-scale farming. This doesn't mean that other types of compatible activities are not appropriate within the zone, just that they are not the predominant activities envisaged for the RRZ. I consider the more explicit direction about small-scale educational facilities in RRZ-P1(e) is sufficient.
- c. I disagree with the insertion of the words 'operational' into various RPROZ and Horticulture Zone objectives and policies as an alternative test to the 'functional' needs test. I note that the National Planning Standards define both 'functional need' and 'operational need' and the terms are used together extensively in national direction instruments (e.g. the NPS-IB and the NPS-HPL) to determine when certain activities such as infrastructure need to be located in, or traverse, particular environments. However, while using both of these tests is important in an infrastructure context, I consider that the operational test is too permissive to be used broadly in the RPROZ or Horticulture Zone. Policy I-P3 in the Infrastructure chapter already contains both an operational and functional needs test for infrastructure outside of the coastal environment, which is the appropriate place to locate such a test, in my opinion. I consider that a school in a rural context would have no problem meeting the functional needs test to locate in the RPROZ as there is a functional need to locate a school in the catchment it is designed to service. As such, I do not recommend amending any RPROZ or Horticulture Zone objectives or policies to include an 'operational' needs test.
- d. I disagree with removing the words 'small scale' from RLZ-P1(e) and RRZ-P1(e) as I do not recommend increasing the permitted number of students in these zones from four to 30, as requested by MOE.

#### Airbnb

249. I do not consider it appropriate to have a blanket consistent rule across all zones for visitor accommodation, considering the different context, and different outcomes anticipated for each zone, and compatibility between visitor accommodation and other activities anticipated within each zone.



Specifically in relation to the rural zones, I consider that the visitor accommodation rules are appropriate for the outcomes sought in each of the zones – visitor accommodation rules in RPROZ and RLZ allow for a permitted activity threshold of 10 visitors per night, as per the Airbnb submission, but the activity status for larger operations is discretionary. I support a discretionary activity status in both these zones as the potential adverse effects of larger visitor accommodation activities can vary significantly depending on the type and scale of accommodation proposed and the range of facilities associated with that accommodation.

250. I consider that a lower number of permitted guests (6 vs the 10 requested by Airbnb) is appropriate in the RRZ and RSZ given the higher residential density anticipated in these zones and the therefore the increased potential for adverse effects on neighbours from larger visitor accommodation activities.
251. Finally, visitor accommodation activities of any scale are a discretionary activity in the HZ and HPFZ, which is appropriate in my opinion for zones that are focused on protecting and enabling the horticultural industry and avoiding potential reverse sensitivity effects. I do not recommend any changes to either of these zones to make the PDP more permissive for visitor accommodation activities.

John Andrew Riddell

252. The submissions on RPROZ-S4 Setback from MHWS were considered in Key Issue 20 of the Coastal Environment section 42A report<sup>53</sup>. The reporting officer for that topic did not recommend any amendments as a result of this submission but did recommend deleting all Standard 4 Setback from MHWS standards across all zone chapters, on the basis that the issue was best addressed in the Coastal Environment chapter. As such, I recommend deletion of RPROZ-S4.
253. I disagree that additional matters of discretion for all restricted discretionary activities in the RPROZ, RLZ and RRZ should be included, as requested by John Andrew Riddell. I note that the first three matters relate to issues dealt with in other overlays and/or chapters of the PDP, e.g. indigenous biodiversity, natural character, historic heritage and cultural values. I do not agree that consideration of these matters should be duplicated again in the rural zone chapters. With respect to climate change, not all restricted discretionary activities will require consideration of climate change adaptation or mitigation. Restricted discretionary activities by their nature have been allocated that activity status because the matters that Council should consider are narrow and targeted to the management of specific adverse effects likely to be generated by that activity. I do not consider it appropriate to broaden the scope of Council's discretion in a blanket manner, as

53 Paragraph 494 for specific analysis of John Andrew Riddell's submission points.



requested by John Andrew Riddell. There are already restricted discretionary matters in the RPROZ, RLZ and RRZ chapters associated with infringements of the R2 rules for impermeable surfaces that allow consideration of matters linked to climate change e.g. natural hazard mitigation, stormwater runoff, catchment impermeability and options for low impact design methods. As such, I do not recommend any amendments in response to this submission.

#### Trent Simpkin

254. In terms of the submission from Trent Simpkin raising general concerns with the PDP rules relating to impermeable surface coverage, this submission provides no indication on what a "realistic" or appropriate threshold is for the rural zones based on lot sizes. The impermeable surface coverage standards for the rural environment have been largely rolled over from the ODP<sup>54</sup>, with some minor amendments to account for consolidation of rural zones and creation of new special purpose zones like the HZ and HPFZ.
255. I also do not support the relief requested by Trent Simpkin to provide an exemption to the impermeable surface coverage standards where an engineering report is provided confirming compliance with TP10. This would give considerable discretion to engineers, enabling them to effectively approve stormwater management design and devices without any Council oversight. It would also remove Council's ability to consider alternatives to stormwater management mitigation and/or consider impacts on downstream properties, noting that managing off-site effects resulting from infringements of the standard is an important function of Council. I also note that TP10 has been superseded by Auckland Council's 'Stormwater Management Devices in the Auckland Region (GD01)' which I understand is referenced in the Earthworks Chapter. Accordingly, I recommend that this submission point from Trent Simpkin is rejected.

#### Twin Coast Cycle Trail

256. I agree with Twin Coast Cycle Trail that the home business rules are appropriate in the rural zones that enable them as a permitted activity (RPROZ, RLZ, RRZ and RSZ) and I recommend that these are retained, noting I address other submissions on these rules in Key Issue 19 of this report for RPROZ, and in each of the other section 42A reports for RLZ, RRZ and RSZ.
257. I disagree with the submitter's request to delete and replace PER-3 from the visitor accommodation rules in the RPROZ, RLZ, RRZ and RSZ with a setback of shared accessways from other residential units or minor residential units that use the access. The purpose of PER-3 in each of these zones is to ensure that proposals for visitor accommodation activities relying on an accessway that is shared with one or more neighbouring properties are assessed



through a resource consent process. I consider that the potential adverse noise, dust and traffic effects of 6-10 visitors per night using a shared access may not always be able to be managed via a setback. In my view, there is not enough certainty that the setback will avoid these adverse effects to a point that it could be a permitted activity condition. As such, I recommend that these submission points from Twin Coast Cycle Trail are rejected.

Puketotara Lodge

258. There are impermeable coverage rules in all six rural zones as follows:

<b>Rule</b>	<b>Max %</b>	<b>Matters of discretion</b>
RPROZ-R2	15%	<ul style="list-style-type: none"> <li>a. the extent to which landscaping or vegetation may reduce adverse effects of run-off;</li> <li>b. the effectiveness of the proposed method for controlling stormwater on site;</li> <li>c. the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites;</li> <li>d. whether low impact design methods and use of green spaces can be used;</li> <li>e. any cumulative effects on total catchment impermeability; and</li> <li>f. natural hazard mitigation and site constraints.</li> </ul>
HZ-R2	15%	<p>Same as for RPROZ, except for additional matter g.:</p> <ul style="list-style-type: none"> <li>g. extent of potential adverse effects on cultural, spiritual, heritage and/or amenity values of any affected waterbodies.</li> </ul>
HPFZ-R2	30%	Same as for HZ-R2
RLZ-R2	12.5% or 2,500m <sup>2</sup> , whichever is lesser	Same as for RPROZ-R2
RRZ-R2	12.5% or 2,500m <sup>2</sup> ,	Same as for HZ-R2



	whichever is lesser	
RSZ-R2	35% or 600m <sup>2</sup> , whichever is lesser	Same as for RPROZ-R2

259. The first six matters of discretion for each of the impermeable coverage rules are identical, but HZ-R2, HPFZ-R2 and RRZ-R2 all include an additional matter relating to the extent of potential adverse effects on cultural, spiritual, heritage and/or amenity values of any affected waterbodies. It is unclear as to why only three of the zones contain this additional matter of discretion, so for consistency (using clause 10(2)(b) of Schedule 1) I recommend that RPROZ-R2, RLZ-R2 and RSZ-R2 are amended to also include additional matter g) so that the matters are consistent across all zones.
260. I agree with the point raised by Puketotara Lodge that adverse stormwater effects can occur further downstream than the immediately adjoining properties. I understand that authors of other zone chapter section 42A reports<sup>55</sup> have made minor amendments to the wording of matter c) to reflect this. As such, I recommend accepting in part the submissions of Puketotara Lodge with respect to the impermeable surface coverage rules in all rural zones and recommend that the following changes are made to matter c) in each coverage rule:
- "c. the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites or downstream sites"*
261. I do not agree with the other additional matters sought by Puketotara Lodge as I consider that these are adequately addressed by the above matters, particularly suggested matter c), which is now amended to refer to broader downstream effects. I also consider that the last two matters of discretion sought by Puketotara Lodge are potentially problematic to assess (e.g. maintaining pre-development stormwater flows, mimicking natural run-off patterns) and likely unachievable in the context of the rural zones (particularly more intensively developed zones like RRZ and RSZ) where new buildings and developments anticipated in the zone will inevitably increase stormwater runoff flows and volumes.
262. In my view, it is more important to focus on matters such as those covered in d) and e) to ensure all low impact design options are explored and that

<sup>55</sup> For example, the author of the Ngawha Innovation and Enterprise Park Special Purpose Zone section 42A report makes this recommendation in paragraph 102, page 24 of that report.





the overall catchment can accommodate the additional stormwater. This also ensures some consistency in wording across the relevant zone rules and standards relating to impermeable surface coverage. I therefore recommend this submission point is accepted in part. In making this recommendation, I note that impermeable surface rules and stormwater management will be considered across multiple PDP topics during the course of the hearings. I anticipate that other reporting officers for the zone topics may recommend slightly different responses that that are tailored to the specific stormwater issues facing each zone.

### **Recommendation**

263. For the reasons set out above, I recommend that the plan wide and/or rural wide submissions on the rural zones in the PDP are accepted, accepted in part and rejected as set out in **Appendix 2**.
264. I recommend that RSZ-S3 (setbacks) is amended to include a 3m setback from the KiwiRail designation as follows:
- "The building or structure, or extension or alteration to an existing building or structure must be set back at least 1.2m from all site boundaries, except that:*
- 1. the setback must be at least 3m measured from a road boundary;*  
*and*
- 2. for a boundary adjoining a rail corridor, the setback must be at least 3m from the KHR designation boundary."*
265. I recommend that the following matters of discretion are inserted into the following setback standards RPROZ-S3, HZ-S3, HPFZ-S3, RLZ-S3, RRZ-S3 and RSZ-S3:
- a. The location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.
- b. The safe and efficient operation of the rail network.
266. I recommend that the rule descriptions for building and structures in RPROZ-R1, HZ-R1, HPFZ-R1, RLZ-R1, RRZ-R1 and RSZ-R1 are amended to specifically refer to relocated buildings as follows: '*New buildings or structures, relocated buildings, or extensions or alterations to existing buildings or structures.*'
267. I recommend that the activity status of RPROZ-R6, RLZ-R6, RRZ-R6 and RSZ-R6 for educational facilities is amended to restricted discretionary (when permitted conditions are not complied with) and that new matters of discretion are inserted as follows:



- a. Design and layout.
  - b. Transport safety and efficiency.
  - c. Scale of activity and hours of operation.
  - d. Infrastructure servicing.
  - e. Potential reverse sensitivity effects on primary production activities.
  - f. The loss of highly productive land. [only for RPROZ]
268. I recommend inserting the words 'small scale educational facilities' into RPROZ-P2(b).
269. I recommend that RPROZ-R2, RLZ-R2 and RSZ-R2 relating to impermeable site coverage also include additional matter g) as follows:
- "g. extent of potential adverse effects on cultural, spiritual, heritage and/or amenity values of any affected waterbodies."
270. I recommend that matter of discretion c) in RPROZ-R2, HZ-R2, HPFZ-R2, RLZ-R2, RRZ-R2 and RSZ-R2 relating to impermeable site coverage is amended as follows:
- "c. the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites or downstream sites"

### **Section 32AA evaluation**

271. I consider that my recommended amendments in response to a number of plan wide submissions are the most effective and efficient drafting to achieve the relevant objectives when compared to the notified version of the PDP. I also note that these amendments achieve consistency with the wider PDP drafting of similar clauses and clarify the intent of how these provisions should be interpreted across the plan as a whole. In particular:
- a. The amendments to the RSZ setback rule, combined with the new matters of discretion relating to rail corridor safety concerns is an efficient and effective way to address concerns raised by KiwiRail by using the existing standards framework to ensure the necessary setbacks are achieved and relevant matters are able to be considered where there is an infringement of a setback adjacent to a rail corridor.
  - b. The amendments to the R1 standards are an efficient way to clarify that relocated buildings are managed by R1 in each rural zone without the need for a new rule.
  - c. The recommendation to amend the rules for educational facilities to restricted discretionary (when permitted conditions are not complied



with) applies a more appropriate activity status for educational facilities given their importance for rural communities and the fact that the adverse effects associated with schools are well understood.

- d. The amendments to the R2 rules for impermeable surfaces across the rural zones ensures drafting consistency between rules managing the same adverse effects (both between the rural zone chapters and other zone chapters across the PDP) and improved clarity about the potential for adverse effects associated with stormwater runoff on downstream sites.

272. As such, I consider that the recommended amendments to the provisions outlined above are an appropriate, effective and efficient way to achieve the relevant objectives in terms of section 32AA of the RMA.

### 5.2.5 Key Issue 5: Definitions

#### Overview

Provision(s)	Officer Recommendation(s)
Artificial crop protection	Amended definition
Crop support structure	New definition
Greenhouses	New definition
Farm quarry	Amended definition
Farming	Amended definition
Intensive outdoor primary production	New definition
Rural produce retail	Amended definition
Rural tourism activity	Amended definition
Rural airstrip	New definition
Seasonal worker accommodation	New definition

273. There are 62 original submissions and 176 further submissions on definitions that have been allocated to the rural zones.

274. Note that submissions on the definitions of 'highly productive land', 'versatile soils' and 'land-based primary production' have been discussed under Key Issue 2: NPS-HLP above.



275. The definitions relating to forestry, including permanent exotic forestry/carbon farming have also been discussed under Key Issue 3: General submissions above.

## **Analysis of Submissions on Key Issue 5: Definitions**

### **Matters raised in submissions**

#### Agricultural aviation movements

276. Horticulture NZ (S159.003) request a new definition for 'agricultural aviation movements' to ensure that this activity is permitted in rural zones. The requested definition is as follows:

*"Agricultural aviation movements mean intermittent aircraft and helicopter movements for purposes ancillary to primary production activities, including topdressing, spraying, stock management, fertiliser application, and frost mitigation, and associated refuelling."*

#### Artificial crop protection structures, crop support structures and greenhouses

277. Horticulture NZ (S159.008) supports in part the definition for 'artificial crop protection' as notified in the PDP but requests amendments to ensure that artificial crop protection structures are not inadvertently considered 'buildings' due to inconsistencies in interpretation. The requested amendments from Horticulture NZ are as follows:

*"Artificial crop protection structure means structures with ~~eloth~~ material used to protect crops ~~and plants~~ and/or enhance growth (excluding greenhouses).*

*Note: For the avoidance of doubt artificial crop protection structures are not a building."*

278. Horticulture NZ (S159.004) also requests a new definition for 'crop support structures' to ensure that crop support structures are not inadvertently considered buildings. This new definition requested is as follows:

*"Crop support structure means an open structure on which plants are grown"*

279. Horticulture NZ (S159.005) also requests a new definition for "greenhouses" to be used in the definition of artificial crop protection structures. This new definition requested is as follows:

*"Greenhouses means a structure enclosed by glass or other transparent material and used for the cultivation or protection of plants in a controlled environment but excludes artificial crop protection structures"*



### Farm Quarry

280. Federated Farmers (S421.004) supports the definition of 'farm quarry' and requests that it be retained as notified in the PDP.
281. Manulife Forest (S160.003) supports in part the definition for 'farm quarry' as notified in the PDP but considers amendments would provide certainty to what activities are covered by this definition. The requested amendments by the submitter are as follows:

*"Means the extraction of aggregates which are:*

- a. *taken for use ancillary to farming and horticulture, including for farm and plantation forestry tracks, access ways and hardstand areas; and*
  - b. *only used on the same property or on the same property ownership within the same production unit, where the extraction was undertaken; and*
  - c. *not sold, or exported or removed from the production unit of origin."*
282. Summit Forests (S148.002) supports in part the definition of 'farm quarry' as notified in the PDP and considers there needs to be clarity that the definition allows for extraction of aggregate for use on forestry tracks, which appropriately implies that such quarries can be established as part of production forestry activities. The submitter requests the definition is amended to "Farm / Forestry Quarry", or words to the like effect, and clause a) is amended as follows:

*"taken for use ancillary to farming, production forestry, and horticulture, including for farm and forestry tracks, accessways and hardstand areas;*

### Farming

283. Federated Farmers (S421.005) support the definition of 'farming' in the PDP and requests that it be retained as notified. Federated Farmers (S421.199) also requested that the definition of 'farming' is amended to include aircraft and helicopter movements where these are being used for operations as a part of farming on rural airstrips and landing areas.
284. Summit Forests (S148.003) requests amendments to the definition of 'farming' as notified in the PDP to allow for plantation forestry activities that are ancillary to the primary purpose of agriculture, pastoral, horticulture, or apiculture activities. Manulife Forest (S160.004) supports in part retaining the definition of 'farming' as notified in the PDP however they seek throughout the plan, where there is reference to farming in the objectives, policies or rules, replace 'farming' with 'primary production' or add "plantation forestry" into the 'farming' definition.



285. NZ Pork (S55.003) opposes the definition of 'farming' as notified in the PDP and requests the exclusion of 'intensive indoor primary production' is deleted. The submitter considers indoor pig farming is a farming activity that uses land and buildings for the purpose of agricultural food production.
286. NZ Agricultural Aviation Association (S182.004) support in part the definition of 'farming' as notified in the PDP but requests amendments to include 'agricultural aviation' in the definition of farming so it is clear that it is part of the farming activity.
287. Horticulture NZ (S159.010) opposes the definition of 'farming' as notified in the PDP on the basis that the definition suggests pastoral land use and does not encompass the range of activities included in the definition. Horticulture NZ requests the 'farming' definition is replaced with 'rural production activities' as follows:

"means the use of land for

- a) Agricultural, pastoral, horticultural or apiculture activities including accessory buildings
- b) Includes initial processing, as an ancillary activity, of commodities that result from the activities in a)
- c) Includes any land and buildings used for the production of commodities from a) and used for the initial processing of the commodities in b).
- d) Excludes mining, quarrying, plantation forestry activities, and intensive primary production and further processing of commodities into a different product."

288. NZ Kiwifruit Growers Inc (S518.004) considers it would assist District Plan users if the definition of 'farming activities' clearly included orchard toilets, water well drilling and pump testing. The submitter considers there may be confusion that these activities could be considered temporary activities. The submitter requests a note is added to the definition as follows:

"For the avoidance of doubt, the definition of farming includes orchard toilets, the drilling of water wells and pump tests."

Intensive indoor primary production, intensive outdoor primary production, intensive primary production and extensive pig farming

289. NZ Pork (S55.005, S55.007, S55.014) supports the definition of 'intensive indoor primary production', however they also request the addition of numerous other definitions to cover a range of different types of intensive or extensive primary production and pig farming as follows:



- a. NZ Pork (S55.006) requests a new definition for 'intensive primary production' as follows:

*"means any activity defined as intensive indoor primary production or intensive outdoor production".*

- b. NZ Pork (S55.008) requests a new definition for 'intensive outdoor primary production' as considers that pig farming which occurs outdoors may produce effects consistent with indoor intensive primary production in certain situations or circumstances (such as high stocking rates). This new definition is as follows:

*"means primary production activities involving the keeping or rearing of livestock, or commercial aquaculture, where the regular feed source for the production of goods is substantially provided other than from the site concerned. The activity may be undertaken entirely outdoors or in a combination of indoors and outdoors, including within an outdoor enclosure. It includes: free-range poultry or game bird farming; and aquaculture. It excludes the following: woolsheds; dairy sheds; calf pens or wintering accommodation for stock; pig production for domestic use which involves no more than 25 weaned pigs or six sows; extensive pig farming."*

- c. NZ Pork (S55.009) also requests a new definition for "extensive pig production" as follows:

*"Extensive pig farming means the keeping of pigs outdoors on land at a stock density which ensures permanent vegetation cover is maintained and in accordance with any relevant industry codes of practice, and where no fixed buildings are used for the continuous housing of animals."*

#### Primary production

290. NZ Agricultural Aviation Association (S182.008) and Horticulture NZ (S159.018) support the definition of "primary production" as notified in the PDP on request that it retained as it is consistent with the National Planning Standards.

#### Rural produce retail

291. Horticulture NZ (S159.019) considers the definition of "produce retail" as notified in the PDP seeks to limit rural produce retail to the produce grown or produced on-site. Their submission outlines growers may have several 'sites' as defined in the PDP, on which they grow produce. As such, Horticulture NZ consider the definition should be linked to the growing operation, not the site, and request amendments to the definition as follows:





*"means the sale of rural produce grown or produced on-site by the rural production operation, including products manufactured from that produce".*

#### Rural tourism activity

292. Lynley Newport (S121.004) supports in part the definition of 'rural tourism activity' as notified in the PDP but is concerned that 'visitor accommodation' is not included in this definition. The submitter requests the exclusion of 'visitor accommodation' is deleted.
293. Horticulture NZ (S159.020) requests for consistency the references to 'rural production retail' and 'rural production manufacturing' are amended to 'rural produce retail' and 'rural produce manufacturing' in the definition of 'rural tourism activity'.
294. Northland Planning and Development 2020 Limited (S502.010) and Waitangi Limited (S503.004) request the insertion of the words '*tourism activities within the rural environment*' into the definition of 'rural tourism activity'. These submissions consider that this amendment would make it clear that the use of buildings or land is covered specifically for tourism related activities located within the rural environment.

#### Farm workers accommodation and seasonal worker accommodation

295. NZ Pork (S55.004) considers the requirements of farm worker accommodation can differ from those provided for as a minor residential unit. The submission requests a new definition for 'farm worker accommodation' as follows:

*"Means a minor residential unit for people whose duties require them to live on-site, and in the rural zones for people who work on the site or in the surrounding rural area. Includes farm managers, workers and staff."*

296. Horticulture New Zealand (S159.002) requests a new definition for 'seasonal worker accommodation', distinct from visitor accommodation, which means as follows:

*"means the use of land and buildings for the sole purpose of accommodating the short-term labour requirement of a farming activity, rural industry or post-harvest facility."*

#### Improved pasture

297. NZ Agricultural Aviation Association (S182.007) seek a new definition for "improved pasture" as defined in the NPS-FM in order to clarify rules which relate to the clearance of native vegetation. The requested definition means as follows:



"means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing".

#### Rural airstrip

298. NZ Agricultural Aviation Association (S182.010) requests new definition for 'rural airstrip', which means as follows:

"means any defined area of land intended or designed to be used, whether wholly or partly, for the landing, departure, movement, or servicing of aircraft in the rural area."

#### Horticulture Zone

299. Horticulture NZ (S159.006) requests a new definition of 'Horticulture Zone' on the basis that it is a new special purpose zone and therefore does not have a definition.

### **Analysis**

#### Agricultural aviation movements

300. I understand that a new definition of 'agricultural aviation activities' is being recommended as part of the Noise section 42A report<sup>56</sup>, and an associated rule that permits agricultural aviation activities in all zones is being recommended in the Temporary Activities section 42A report<sup>57</sup>. As this activity is now adequately provided for in the PDP, I do not consider that any further definitions or associated rule relating to agricultural aviation movements are required.

#### Artificial crop protection structures, crop support structures and greenhouses

301. Horticulture NZ has requested a series of definitions relating to artificial crop protection structures, crop support structures and greenhouses to clarify which of these are considered to be 'buildings' and which are considered to be 'structures' when applying both rules and standards in the rural zones. I agree with Horticulture NZ that the National Planning Standards definition of 'structure' is very broad and appears to also capture buildings, but note that, as all of the relevant RPROZ standards (S1 to S5) apply to both buildings and structures, they will all apply to artificial crop protection structures, crop support structures and greenhouses regardless of whether these are defined as buildings or structures.

<sup>56</sup> Report prepared by Mr Kenton Baxter, dated 20 September 2024, refer to Key Issue 11.

<sup>57</sup> Report prepared by Ms Lynette Morgan, dated 20 September 2024, refer to Key Issue 4.



302. I do agree that greenhouses are different to artificial crop protection structures, both in terms of their potential scale and the materials that they are constructed from, so I can understand the desire to distinguish them from being considered artificial crop protection structures.
303. The degree to which separate definitions are required for these buildings/structures depends, in my opinion, on how the relevant rules/standards for each of the rural zones are drafted (particularly RPROZ and HZ). The PDP as notified uses Rule R1 as the primary rule to manage all buildings and structures and then uses different standards for maximum height and setbacks that apply only to artificial crop protection. I note that Horticulture NZ has asked for artificial crop protection structures and crop support structures to have their own separate rule and associated standards, which I address in more detail in Key Issue 14 below. However, in principle I consider that a separate rule for these activities is not required and distinctions can be made as to which standards apply to which activity by amending existing rules and standards.
304. I agree in part with Horticulture NZ's suggested amendments to the definition of 'artificial crop protection'. I agree with adding the word 'structure' into the definition title and the inclusion of the reference to enhancing growth, noting that 'protection' of crops may not be the only motivator for erecting artificial crop protection structures. I also agree with excluding greenhouses as, in my opinion, greenhouses should be treated as buildings and subject to all the relevant standards set out in Rule R1 of each rural zone. However, I disagree with adding in a disclaimer note into the definition. In my opinion this can be dealt with through the wording of the rules and standards and does not need to form part of the definition itself.
305. I also agree with including a definition of 'crop support structure' to help make it clear that it is not a building and not subject to the full range of standards applicable to buildings. Finally, I also agree that a new definition of greenhouses is useful to ensure there is no confusion as to whether a greenhouse is another form of artificial crop protection structures. Refer to my recommendations below for specific wording for these definitions.

#### Farm quarry

306. I agree that the definition of 'farm quarry' as notified is not clear as to whether forestry quarries are included in the definition or whether the aggregate from farm quarries can be used for forestry tracks. As discussed in Key Issue 3 above, I am recommending amendments to make it clearer where the NES-CF applies and where PDP provisions apply so that there is no confusion or duplication. As forestry quarries are already regulated under Subpart 5 of the NES-CF, I consider that the definition of 'farm quarry' should be amended to remove all references to forestry. I am also recommending the insertion of a note above the Rules table (refer to Key Issue 23 below) to make it clear that the PDP does not control activities that are regulated under the NES-CF, which should clarify the relationship between the RPROZ



rules and the NES-CF regulations in relation to forestry quarrying (and other commercial forestry activities).

### Farming

307. There are numerous submissions seeking amendments to the definition of farming. The starting point for my analysis of submissions on the 'farming' definition is that farming is a permitted activity in most rural zones<sup>58</sup> e.g. permitted under RPROZ-R7, HZ-R5, RLZ-R7 and RRZ-R7 without any permitted activity conditions to meet. As such, the definition of 'farming' in the PDP is critical as all activities that the definition covers will be permitted across the majority of the Far North rural environment. I also understand that the definition and rules for 'farming' were considered through Hearing 4 where the Coastal Environment chapter includes rules for farming for the purposes of managing effects on the natural character of the coastal environment.
308. Federated Farmers request that the definition of farming is amended to include aircraft and helicopter movements. I understand that issues around helicopter and aircraft movements and their associated noise effects have been addressed in both the Temporary Activities and Noise topics<sup>59</sup>. As such I do not consider that any amendments to the definition of farming are required to respond to the requested relief.
309. I do not agree that the definition of farming requires alteration to allow for plantation forestry activities that are ancillary to the primary purpose of agriculture, pastoral, horticulture, or apiculture activities, as requested by Summit Forests, or that the definition of farming should include all scales of plantation forestry, as requested by Manulife Forest. Plantation forestry is managed by the NES-CF, regardless of whether it is ancillary to another farming activity or not. The NES-CF generally enables smaller ancillary plantation forestry to be undertaken as a permitted activity except where the PDP rules are more stringent (e.g. it is located in the Coastal Environment overlay to manage effects on natural character) or it does not comply with the permitted activity conditions in the NES-CF. Submissions relating to how the NES-CF is given effect to in the rural environment are addressed in Key Issue 3 above. Consideration of where the terms 'farming' and 'primary production' are used in the PDP are addressed for the RPROZ in the remainder of this report, and in the section 42A reports for the other five rural zones.
310. NZ Pork is seeking that the exclusion of 'intensive indoor primary production' is deleted from the definition of 'farming', which would infer that intensive indoor primary production was a sub-set of farming. As I noted above,

<sup>58</sup> Farming is discretionary in the HPFZ and RSZ on the basis that these zones are either specifically for a different purpose, e.g. horticultural processing or the level of residential activity enabled by the zone makes farming activities as a permitted activity inappropriate.

<sup>59</sup> Refer to Key Issue 4 in the Temporary Activities section 42A report and Key Issues 11 and 12 in the Noise s42A report.



farming is a permitted activity in four out of six rural zones, so including intensive indoor primary production as part of the farming definition would result in it being a permitted activity in those zones, which is not an appropriate outcome from an adverse effects management perspective in my opinion. As such, I recommend rejecting NZ Pork's requested relief. However, I am recommending a consequential amendment to the 'farming' definition to also exclude 'intensive outdoor primary production' in response to NZ Pork's other submissions on pig farming related definitions, discussed in paragraphs 315-320 below.

311. NZ Agricultural Aviation is seeking a separate definition of 'agricultural aviation' and is also seeking that this definition is included in the definition of farming. I understand that the Temporary Activities section 42A report recommends including a definition of 'agricultural aviation activities' and that the land use rules for this activity are contained in the Temporary Activities and Noise chapters<sup>60</sup>. As such, in my view, there is no need for the definition of farming to include 'agricultural aviation activities' as these are already enabled in other parts of the PDP (as recommended by the relevant reporting officers).
312. I understand that Horticulture NZ is concerned that the definition of 'farming' does not encompass the initial processing of commodities from agricultural, pastoral, horticultural or apiculture activities. My understanding of why the definitions have been separated under the PDP (rather than use the broader term 'primary production', which would include initial processing) is that 'farming' is the definition that covers the physical act of producing a commodity from the land, and that the definitions of 'rural produce manufacturing' and 'rural industry' cover the balance of initial and secondary processing activities.
313. The intention of this split is to allow the 'farming' activities to occur in four of the six rural zones without any restrictions, other than the need to comply with standards. Separating out 'rural produce manufacturing' and 'rural industry' from 'farming' allows for additional controls to be placed on both the location and scale of these activities, which I consider is an appropriate response given the higher potential for adverse effects from these activities and the need for different rules to manage them depending on each rural zone. As such, I do not agree that the definition of farming needs to be amended further to include initial processing or to confirm that the definition also includes land and buildings used for agricultural, pastoral, horticultural or apiculture activities as, in my opinion, the notified PDP definition already does this.
314. I do not agree with NZ Kiwifruit Growers Inc that additional specificity relating to orchard toilets, drilling of water wells and pump tests is required in the definition of 'farming'. There are a large number of ancillary

<sup>60</sup> Refer to Key Issue 4 in the Temporary Activities section 42A report and Key Issues 11 and 12 in the Noise s42A report.



supporting activities that are associated with farming activities and to list them all for the 'avoidance of doubt' would result in an overly detailed and complex definition in my view. The farming definition already includes accessory buildings, which I consider clearly covers buildings for orchard toilets. The drilling of water wells and pump tests I also consider to be ancillary activities to farming from a land-use perspective. Accordingly, I do not recommend any amendments to respond to this submission.

Intensive indoor primary production, intensive outdoor primary production, intensive primary production and extensive pig farming

315. While NZ Pork support the use of the National Planning Standards definition of 'intensive indoor primary production', they are seeking additional definitions for various types of other intensive primary production operations. The range of definitions being sought can be summarised as follows<sup>61</sup>:

<b>Primary Production</b>	<b>Intensive Primary Production</b>	<b>Intensive Indoor Primary Production</b>
		<b>Intensive Outdoor Primary Production (Pig Farming)</b>
	<b>Extensive Pig Farming</b>	

316. From my reading of the NZ Pork submission in full, it appears that the driver for requesting three additional definitions for pig farming operations relates to subsequent setback rules being sought for these activities. As the PDP is currently drafted, all pig farming operations that are not caught by the National Planning Standards definition of 'intensive indoor primary production' fall into the broader definition of 'farming', which is a permitted activity in both the RPROZ and HZ.

317. My interpretation of the NZ Pork submission is that there are potential adverse effects from intensive outdoor primary production (pig farming) that are above and beyond what would be acceptable as a more generic pastoral activity (e.g. sheep, beef, lamb, dairy, deer) because of the intensiveness of the activity and the inability to maintain pasture or ground cover<sup>62</sup>. NZ Pork notes that the loss of pasture and/or ground cover can result in both dust and odour effects, which would not be appropriate as a permitted activity under the generic 'farming' rules.

318. Following this argument, it appears that NZ Pork are seeking that intensive outdoor primary production (pig farming) be treated in the same manner as intensive indoor primary production in terms of rules and standards and that the separate definition is only being suggested because intensive outdoor primary production operations cannot meet the requirement for animals being housed predominantly in buildings.

61 Table from page 5 of the NZ Pork submission (S55)

62 Page 6 of the NZ Pork submission (S55)





319. While I understand the rationale behind the relief being sought with respect to definitions, I am reluctant to add in three separate definitions to resolve the issues raised by NZ Pork. I consider that there is a more efficient drafting solution that achieves the same outcome, which is to treat intensive outdoor primary production activities in the same matter as the equivalent indoor activities. For this to occur I do not consider that a separate definition of 'intensive primary production' is required, as the only purpose of this definition is to group intensive indoor and outdoor primary production together. This can be achieved through land use rules that treat both intensive indoor and outdoor activities the same, which I will discuss further below in Key Issue 25.
320. I accept the definition wording for 'intensive outdoor primary production' suggested by NZ Pork, with some minor amendments to clarify that extensive pig farming that maintains ground cover is excluded from the definition and therefore falls under the definition of 'farming'. This also negates the need for a separate definition of 'extensive pig farming'. Refer to my recommendations below for the specific wording I recommend for this definition.

#### Rural produce retail

321. I understand the concern of Horticulture NZ with respect to the rural produce retail definition only referring to produce grown on-site. I am aware that often horticultural operations span multiple 'sites' and operate across a number of land parcels, often not adjoining each other. The intent of the definition is to link to a permitted activity rule that, in the RPROZ and HZ<sup>63</sup>, permits rural produce retail activities, provided they comply with limits on GFA and number of activities per site. I agree that the intent of the definition and activity rules combined is to ensure that there is only one, relatively small-scale rural produce retail activity per operation, rather than per site.
322. In my opinion there are amendments that should be made to both the definition of 'rural produce retail' and the associated activity rules to make this clear. I address Horticulture NZ's submissions on the activity rules in Key Issue 22 below and in the Horticulture Zone section 42A report and I recommend that the definition of 'rural produce retail' is amended to delete the words 'on-site' as requested by Horticulture NZ.

#### Rural tourism activity

323. The notified definition of rural tourism activity is as follows:

*"means the use of land or buildings for people to visit and experience the rural environment. It does not include:*





- a. *Rural production retail*
- b. *Rural production manufacturing*
- c. *Visitor accommodation*
- d. *Home business*

324. I agree with Horticulture NZ that the use of the words 'production' instead of 'produce' in clauses a) and b) of the rural tourism activity definition is an error and is inconsistent with the defined terms in the Interpretation chapter. I recommend amending the list of exclusions to replace both uses of the word 'production' with 'produce'.
325. With respect to Lynley Newport's submission, the exclusion of 'visitor accommodation' from this definition was deliberate to provide a more permissive pathway for visitor accommodation activities and the other three excluded activities. For example, rural produce retail, rural produce manufacturing, visitor accommodation and home business activities are all permitted in the RPROZ but 'rural tourism activities' are a restricted discretionary activity. While all four excluded activities have the potential to be permitted activities (provided they comply with the permitted activity conditions), I consider it appropriate for rural tourism activities to be assessed via a resource consent process due to the higher likelihood of potential adverse effects such as traffic, noise, reverse sensitivity and built dominance. Deleting the reference to visitor accommodation from the definition, as requested by Lynley Newport, would create confusion as to whether a visitor accommodation activity was a rural tourism activity or a visitor accommodation activity when assessing if resource consent is required. As such I recommend that the relief requested by Lynley Newport is rejected.
326. However, I agree with the insertion of the words '*tourism activities within the rural environment*' into the definition of 'rural tourism activity', as suggested by Northland Planning and Development 2020 limited and others. I agree that the requested words add clarity and link back to there being an actual tourism activity occurring, not just people passively visiting a rural area. I recommend accepting this relief.

#### Farm workers accommodation and seasonal worker accommodation

327. With respect to the NZ Pork submission seeking a specific definition for farm worker accommodation, I do not consider the submitter has made a sufficient argument for why the minor residential unit rules, combined with the residential activity rules for multiple dwellings on a site are insufficient for farm workers accommodation. I address the residential activity and minor residential unit rules in Key Issues 17 and 24 below, but regardless of my recommendations for those rules, I do not think an additional definition of farm workers accommodation is required.



328. However, I do agree with Horticulture NZ that seasonal worker accommodation has not been clearly provided for in the PDP definitions. It would not be covered by the definition of residential unit under the rule for residential activity as it accommodates a range of workers, rather than a single household. I also consider that it would not be covered by the definition of visitor accommodation as it is unlikely that a tariff would be paid to stay there, rather my understanding is that the accommodation costs would generally be covered by the horticultural operation that employs the workers. I consider that the definition wording proposed by Horticulture NZ is fit for purpose and I have recommended its inclusion in the PDP accordingly.

#### Improved pasture

329. I do not consider that a definition for improved pasture is required as requested by NZ Agricultural Aviation Association. While I am aware that improved pasture is defined in the NPS-FM (and NPS-IB), the submitter is requesting that this definition is added to the PDP to clarify rules which relate to the clearance of native vegetation. This is not necessary in my view as:
- a. Indigenous vegetation clearance is primarily managed through the Ecosystems and Indigenous Biodiversity chapter (and some overlay chapters) not the RPROZ (or other zone chapters). This includes a permitted activity condition for clearance of regenerating indigenous vegetation less than 10 years old (which would cover regenerating scrub on areas of improved pasture).
  - b. I am recommending a definition of forestry activity to clarify when this would apply to harvesting of indigenous timber.
330. Accordingly, I do not recommend any new definition in response to this request from NZ Agricultural Aviation Association.

#### Rural airstrip

331. The NZ Agricultural Aviation Association has requested a new definition for rural airstrip but has not provided any supporting information in their submission as to why this is necessary, aside from a general comment that this definition could be included in the PDP 'for clarity'. I agree that it is not immediately clear whether rural airstrips would be considered part of general 'farming' activities or whether they would be considered a 'rural industry' due to the servicing of aircraft component of the proposed definition.
332. In my opinion, a rural airstrip itself could be considered part of an agricultural, pastoral, horticultural activity and therefore falls under the wider definition of 'farming'. However, buildings used to service aircraft would be considered 'rural industry' as it is '*an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production*'. This could mean that the aircraft



servicing component of an airstrip would require resource consent for a restricted discretionary activity under RPROZ-R24.

333. To address this ambiguity, I recommend a separate definition of rural airstrip (as requested by NZ Agricultural Aviation Association) and associated rules in each rural zone to make it clear where this activity is and is not appropriate. I do not consider it appropriate to make rural airstrips a subset of 'farming' as that would mean they were permitted in all six rural zones. In my opinion, the only zone where a rural airstrip is appropriate as a permitted activity is in the RPROZ, so a separate definition to 'farming' is needed to make that distinction between zones.

#### Horticulture Zone

334. I disagree with Horticulture NZ that the Horticulture Zone needs a separate definition. None of the zones in the PDP have definitions – some zones rely on zone descriptions set out in the Zone Framework Standard for in the National Planning Standards for defining their general purpose, but these are not definitions, they are descriptions of the types of situations where each type of zone might be applied. In the PDP the overview section of each zone sets the tone for the purpose of each zone and the intended outcomes for the zone as do the zone objectives. I consider that the overview section of the Horticulture Zone, combined with the statutory weight of the Horticulture Zone objectives and policies is sufficient to describe the outcomes sought in the Horticulture Zone. As such, no further zone 'definition' is required in my opinion.

#### **Recommendation**

335. For the reasons set out above, I recommend that the submissions on rural definitions in the PDP are accepted, accepted in part and rejected as set out in **Appendix 2**.

336. I recommend that the definition of 'artificial crop protection' is amended as follows:

*"Artificial crop protection structures – means structures with ~~eloth~~ material used to protect crops and plants and/or enhance growth (excluding greenhouses)"*

337. I recommend that a new definition for 'crop support structure' is included in the PDP as follows:

*"crop support structure means an open structure on which plants are grown"*.

338. I recommend that a new definition of 'greenhouses' is included in the PDP as follows:



"Greenhouses means a structure enclosed by glass or other transparent material and used for the cultivation or protection of plants in a controlled environment but excludes artificial crop protection structures".

339. I recommend that the definition of 'farm quarry' is amended as follows:

*"means the extraction of aggregates which are:*

- a. taken for use ancillary to farming and horticulture, including for farm and forestry tracks, access ways and hardstand areas; and*
- b. only used within the same production unit, where the extraction was undertaken; and*
- c. not sold, exported or removed from the production unit of origin."*

340. I recommend that the definition of 'farming' is amended as follows:

*"means the use of land for the purpose of agricultural, pastoral, horticultural or apiculture activities, including accessory buildings, but excludes mining, quarrying, plantation forestry activities, intensive indoor primary production, intensive outdoor primary production and processing activities.*

*Note: this definition is a subset of primary production."*

341. I recommend that a new definition of 'intensive outdoor primary production' is included in the PDP as follows:

*"means primary production activities involving the keeping or rearing of livestock, or commercial aquaculture, where the regular feed source for the production of goods is substantially provided other than from the site concerned. The activity may be undertaken entirely outdoors or in a combination of indoors and outdoors, including within an outdoor enclosure. It includes free-range poultry or game bird farming and aquaculture. It excludes the following:*

- a. woolsheds;*
- b. dairy sheds;*
- c. calf pens or wintering accommodation for stock;*
- d. pig production for domestic use which involves no more than 25 weaned pigs or six sows; and*
- e. extensive pig farming where permanent vegetation cover is maintained."*



342. I recommend that the definition of 'rural produce retail' is amended as follows:

*"means the sale of rural produce grown or produced on-site by the rural production operation, including products manufactured from that produce".*

343. I recommend that the definition of 'rural tourism activity' is amended as follows:

*"means the use of land or buildings for people to visit and experience tourism activities within the rural environment. It does not include:*

- a. Rural production retail*
- b. Rural production manufacturing*
- c. Visitor accommodation*
- d. Home business"*

344. I recommend that a new definition for a 'rural airstrip' is included in the PDP as follows (and an associated new permitted activity rule RPROZ-RW):

*"means any defined area of land intended or designed to be used, whether wholly or partly, for the landing, departure, movement, or servicing of aircraft in the rural area."*

345. I recommend that a new definition for 'seasonal worker accommodation' is included in the PDP as follows:

*"means the use of land and buildings for the sole purpose of accommodating the short-term labour requirement of a farming activity, rural industry or post-harvest facility."*

### **Section 32AA evaluation**

346. I consider that the amendments to the definitions of 'artificial crop protection structures', 'farm quarry', 'rural produce retail' and 'rural tourism activities' are minor amendments to clarify intent or remove errors and do not require further assessment under section 32AA of the RMA.

347. I consider that the new recommended definitions for 'crop support structure' and 'greenhouses' address gaps in the new rule framework for these activities (discussed further in Key Issue 14 below) and make it clear how each type of activity is managed under the rural zone rules and standards. This improves the effectiveness of the associated rule framework and certainty for plan users as to how the rules should be applied.

348. I consider that the new definition of 'intensive indoor primary production' (and a subsequent amendment to the definition of 'farming') are more



effective than the notified definitions of 'farming' and 'primary production' at providing for outdoor pig farming that cannot retain ground cover. The recommended amendments are also more efficient, in my opinion, than the suite of new definitions from NZ Pork, as they target the key areas where activities were not already provided for through existing PDP definitions and allow intensive outdoor primary production activities to be both managed and protected in the same way as equivalent intensive indoor primary production activities.

349. Finally I consider that the new definitions for 'rural airstrip' and 'seasonal worker accommodation' are necessary additions in order to support the new rules that I recommend to be inserted to provide for these activities in the RPROZ. It is appropriate to insert new definitions to make it clear that these activities do not fall under other definitions (and associated rules) and to give certainty to the industries that use these types of activities as to the PDP rules that apply to them.
350. Overall, I consider that my recommended amendments to definitions outlined above are an appropriate, effective and efficient way to achieve the relevant objectives in terms of section 32AA of the RMA.

## 5.2.6 Key Issue 6: RPROZ Overview

### Overview

Provision(s)	Officer Recommendation(s)
Overview	Minor changes to wording

### Analysis of Submissions on Key Issue 6: RPROZ Overview

#### Matters raised in submissions

351. Horticulture New Zealand (S159.095) supports the intended outcomes for the RPROZ and requests that the Overview is retained as notified.
352. NZ Pork (S55.024) supports the RPROZ Overview in part and requests that it is amended to include a description of the character and amenity of the RPROZ, thus linking the Overview to RPROZ-O4.
353. Federated Farmers (S421.204) seeks amendments to the RPROZ Overview to recognise and provide for private property rights and allow landowners to subdivide land in the RPROZ for specific purposes such as creating lifestyle lots and lots for family members (amongst other matters).
354. A group of submitters, including Bentzen Farm Limited (S167.090), Setar Thirty Six Limited (S168.088), Matauri Trustee Limited (S243.108), The Shooting Box Limited (S187.079), Wendover Two Limited (S222.083) and P S Yates Family Trust (S333.080) oppose the RPROZ Overview on the basis that the RPROZ should be renamed 'General Rural', as discussed in Key Issue



1 above. These submitters request that the following sentence is inserted into the Overview "The purpose of the zone is also to contribute to the social, economic and cultural well-being of the district by providing for a range of other land use activities".

355. I note that other submissions on the RPROZ Overview relate to location specific requests to amend a range of RPROZ provisions to provide for consented development e.g. in relation to Mataka Station and The Landing. These submissions have been addressed in Key Issue 3 above.

### **Analysis**

356. The general direction of the RPROZ Overview appears to be supported by the majority of submitters, either in full or in part. Submissions relating to the name of the RPROZ, the need to provide further for private property rights and subdivision opportunities and location specific submissions have been addressed in Key Issues 1 and 3 above and I do not repeat that analysis here. Accordingly, I do not recommend any changes to the RPROZ Overview wording to respond to these submissions.
357. With respect to NZ Pork's submission, I note that the overview part of a zone chapter is non-statutory and there is no requirement for the wording to link directly to the zone objectives and policies. I consider that the RPROZ Overview wording as notified provides a general outline of the anticipated character and amenity of the RPROZ, i.e. that it is influenced by a wide range of productive activities, is centred around primary production activities and supporting activities, it anticipates a range of noise, dust, heavy traffic and light spill effects (which are normal and should be expected in a rural environment) and that commercial and industrial activities are not anticipated. I do not consider that any additional wording is required to link the RPROZ Overview wording to RPROZ-O4.
358. A group of submitters (Bentzen Farm Limited and others) are requesting recognition in the Overview of the contribution that other land-use activities (I am assuming the submitters mean non-primary production related activities) to the social, economic and cultural well-being of the district. While I acknowledge that the RPROZ does provide for a limited range of non-productive activities, typically through a resource consent pathway, I do not think this needs to be explicitly mentioned in the RPROZ Overview. The inclusion of an overview statement in a district plan chapter is not a statutory requirement, however in my opinion overview statements can be useful to provide some context for the chapter direction set out in the objectives and policies and to set the zone for what the chapter is trying to achieve. I note that these submitters requested similar relief with respect to recognising the importance of non-primary production activities in the rural





environment through the Strategic Direction chapter in Hearing 1 and the reporting officer for that topic recommended rejecting this relief<sup>64</sup>.

359. In the case of the RPROZ, I consider that the Overview should be sending a clear message that the RPROZ is predominantly to provide for primary production activities and to give them a place to establish, operate and expand without being overly constrained by non-productive and/or more sensitive activities. In my view, the notified drafting of the RPROZ Overview achieves this and does not need additional statements relating to other types of land uses when providing for non-productive activities is not the core purpose of the RPROZ.
360. However, as a result of submissions relating to giving effect to the NPS-HPL (discussed in Key Issue 2 above), and some of my recommendations on definitions (discussed in Key Issue 5), I do recommend some consequential changes to the RPROZ Overview. The reasons for these changes are set out in Key Issues 2, 3 and 5 above and are not repeated here.

### **Recommendation**

361. For the reasons set out above, I recommend that the submissions on the RPROZ Overview are accepted, accepted in part and rejected as set out in **Appendix 2**.
362. I recommend that the following changes are made to the RPROZ Overview to give effect to the NPS-HPL, and align with recommendations made to rural definitions as follows:
- a. The words 'and outdoor' are inserted after the words 'intensive indoor' in the first paragraph;
  - b. 'Plantation' forestry activities is replaced with 'commercial' forestry activities in the first paragraph;
  - c. The phrase 'especially on land identified as highly productive land under the National Policy Statement for Highly Productive Land (NPS-HPL)' is inserted after the words 'used for it's primary purpose' in the second paragraph;
  - d. The words 'the NPS-HPL' are inserted after the word 'RMA' in the fourth paragraph; and
  - e. The words 'versatile soils' are replaced with 'productive land' in the fourth paragraph.

64 Refer to Section 3.3 of the Officer's Written Right of Reply on Hearing 1 – Strategic direction, dated 3 July 2024.



**Section 32AA evaluation**

363. My recommended amendments to the RPROZ overview are consequential, resulting from other recommended amendments to definitions or new/amended national direction instruments. Further, an evaluation under section 32AA of the RMA is not required for an overview statement.

**5.2.7 Key Issue 7: RPROZ Objectives and Policies – General Comments**

**Overview**

Provision(s)	Officer Recommendation(s)
No changes – refer to Key Issues 8 and 13 for amendments to objectives and policies	

**Analysis of Submissions on Key Issue 7: Objectives and Policies – General Comments**

**Matters raised in submissions**

- 364. Nicole Wooster (S259.001<sup>65</sup>) supports the objectives of the RPROZ as they make provision for farming and horticulture activities and ensure the RPROZ is protected from inappropriate lifestyle, residential, commercial and industrial activities.
- 365. Forest and Bird (S511.118, S511.119) and Kapiro Conservation Trust (S442.137, S442.138) support RPROZ objectives in part but are concerned about the policy direction for mineral extraction activities. These submitters have made separate submissions on the activity status of rules to manage mineral extraction activities and are requesting a more stringent activity status. As a consequence, the submitters request that objectives and policies be inserted to reflect a more stringent activity status, in accordance with their other relief.
- 366. Rosemorn Industries Limited (S340.002, S340.003) supports the RPROZ objectives and policies in part but considers that they provide insufficient support for rules that enable the extension of existing commercial and industrial activities. This submitter requests that, given the level of investment associated with establishing such activities, objectives are amended to provide clear direction on the extension of existing commercial and/or industrial activities.
- 367. Summit Forests New Zealand Limited (S148.045, S148.046) generally supports the objectives and policies of the RPROZ, except where they seek to favour particular forms of primary production and support the status quo of existing land uses. The submitter is concerned with the ability of the

<sup>65</sup> Note that this submission point was incorrectly allocated to the Quail Ridge hearing topic in the Summary of Submissions. It has been assessed in relation to the RPROZ objectives as that is clearly the subject of the submission.



RPROZ objectives and policies to adapt to the changing economy and climate and seeks that the provisions ensure long-term sustainability. To aid in this, Summit Forests request that any references to 'farming activities' in the RPROZ objectives and policies are changed to 'primary production activities' and references to 'farming' be changed to 'primary production'.

368. Te Hiku Community Board (S257.025, S257.026) opposes the Rural Production Zone objectives and policies. This submitter has concerns regarding the extent of RPROZ zoning and its potential to constrain future urban development. The submitter requests that RPROZ objectives are amended to define productive land based on its ability to produce food and enable activities other than rural production to occur. If this relief sought is not adopted, Te Hiku Community Board have made a separate submission to remove RPROZ from urban areas on the planning maps (S257.027). Michael Foy (S472.030, S472.031), though supporting RPROZ objectives and policies in part, seeks the same relief as Te Hiku Community Board.
369. Leah Frieling (S358.029, S358.029) opposes RPROZ objectives and policies, and requests RPROZ is redefined based on ability to produce food, thus accommodating other activities where soils are not productive such as housing on smaller lots of 2,000m<sup>2</sup> for example.<sup>66</sup> In lieu of this relief being granted, Leah Frieling has also made a separate submission requesting RPROZ be removed from urban areas on the planning maps.

## Analysis

370. With respect to the policy direction for mineral extraction activities, I understand that the reporting officer for the Mineral Extraction topic has recommended that all objectives and policies relating to mineral extraction are consolidated into a single Mineral Extraction district wide chapter, and that the Mineral Extraction overlay is replaced with a Mineral Extraction Special Purpose Zone. As such, all policy direction specifically relating to mineral extraction across the district will be contained in the Mineral Extraction chapter, covered in Hearing 8 in November 2024. This policy direction will need to be read in addition to the RPROZ objectives and policies as 'mining' is also included as part of the broader definition of 'primary production'. As such, I do not recommend any amendments to the objectives or policies of the RPROZ with respect to mineral extraction activities.
371. While I understand that Rosemorn Industries are seeking explicit policy direction to support extensions of existing commercial and industrial activities, I consider that the direction in RPROZ-O2 and RPROZ-O3 is sufficient. Both these objectives indicate that other non-productive activities are anticipated in the RPROZ, provided they are:

<sup>66</sup> Leah Frieling (S358.031) and Michael Foy (S472.032) oppose RPROZ rules as well, on the basis activities other than 'production' are not accommodated. Sean Frieling (S357.026) mirrors this opposition and additionally requests smaller lots of land are provided for.



- a. Compatible with primary production activities;
  - b. Have a functional need to be in a rural environment; and
  - c. Can meet the criteria set out in RPROZ-O3, e.g. is not located on highly productive land, does not cause reverse sensitivity effects, can be serviced etc.
372. Similarly, the RPROZ policies require that non-productive activities avoid or mitigate reverse sensitivity effects (RPROZ-P3), are compatible with the primary production activities in the RPROZ (RPROZ-P5), avoid highly productive land (RPROZ-P5) etc. While extensions to existing activities may not be 'enabled' in the RPROZ, there is still a pathway for them to extend via a resource consent process in appropriate circumstances.
373. In my view, the objectives and policies are appropriate for assessing whether to approve extensions to existing commercial and industrial activities in the RPROZ. As such, I do not recommend any changes in response to the Rosemorn Industries submission.
374. In response to the submission from Summit Forests NZ regarding the use of the broader term 'primary production' vs the narrower definition 'farming' in the RPROZ objectives and policies, firstly I note that primary production is the term predominantly used throughout the objectives and policies of the RPROZ. The only instances where the term 'farming' is used instead are in RPROZ-O3(c) relating to not compromising the use of land for farming activities, particularly on highly productive land, and in RPROZ-P6 relating to subdivision. From the background context in their submission, I have assumed that Summit Forests NZ's primary concern with the definition of 'farming' is that it excludes plantation forestry activities.
375. I agree that the focus on 'farming' in the context of RPROZ-O3(c) is too narrow given it is an objective that is providing direction for land use and subdivision activities across the entire zone. As the key purpose of the RPROZ is to manage land so that it is available for primary production activities, the direction about not compromising the use of land should equally apply to primary production activities. However, the additional direction relating to land use and subdivision on highly productive land should, in my opinion, be narrower to align with the NPS-HPL. The sole objective of the NPS-HPL is to protect highly productive land for use in land-based primary production. I have not recommended including the NPS-HPL definition in the PDP for the reasons outlined in Key Issue 2 above, however I note that the definition of land-based primary production is narrower than primary production (as it excludes processing activities, mineral extraction etc) but broader than farming (as it includes forestry activities). As forestry is the key activity-based difference between 'farming' and 'land-based primary production', I consider that an additional reference to forestry in RPROZ-O3(c) would better align with the NPS-HPL.



376. I consider that RPROZ-P6 requires more extensive changes to align with the subdivision direction in the NPS-HPL, which is likely to address the concerns raised by Summit Forests NZ. I comment on this further in Key Issue 13 below.
377. Finally, I do not recommend any changes in response to the submissions of Te Hiku Community Board, Michael Foy or Leah Frieling, who are requesting amendments to the objectives and policies so that productive land (and by association the spatial extent of the RPROZ) is redefined based on the ability of land to produce food. I do not agree that land that is less productive in the RPROZ should be either excluded from the RPROZ or allowed to be significantly fragmented, i.e. supporting housing on 2,000m<sup>2</sup> lots. It is important to protect the RPROZ as a whole and to manage the range of activities that can establish to protect its viability for supporting primary production activities in the long term. The spatial extent of the RPROZ will be addressed as part of Hearing 15C Rezoning General, set down for September/October 2025 and any specific requests to remove 'urban land' that has been zoned RPROZ will be addressed at that hearing.

### Recommendation

378. For the reasons set out above, I recommend that the general submissions on the RPROZ objectives and policies are accepted, accepted in part and rejected as set out in **Appendix 2**.
379. My recommended amendments to RPROZ-O3(c) and RPROZ-P6 are set out in Key Issues 8 and 13 respectively below and in **Appendix 1.1** in full.

### Section 32AA evaluation

380. Refer to the section 32AA evaluation for Key Issues 8 and 13 below.

## 5.2.8 Key Issue 8: Objectives RPROZ-O1 and O3

### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-O1	Retain
RPROZ-O3	Minor amendments to give effect to the NPS-HPL

### Analysis of Submissions on Key Issue 8: Objectives RPROZ-O1 and O3

#### Matters raised in submissions

#### Objective RPROZ-O1

381. Ballance Agri-Nutrients Limited (S143.011), NZ Agricultural Aviation Association (S182.025), Timothy and Dion Spicer (S213.002), Horticulture New Zealand (S159.096) and Manulife Forest (S160.032) all support RPROZ-



O1 and its recognition of the importance of primary production and its long term protection. These submitters request the objective is retained as notified.

382. Waiaua Bay Farm (S463.089) opposes RPROZ-O1 on the basis of the drafting being vague. This submitter presumes the objective seeks to ensure the ongoing availability of RPROZ land for primary production but considers it unclear from the wording notified. As such, Waiaua Bay Farm requests RPROZ-O1 is amended so the outcome sought is clear.
383. Federated Farmers (S421.209) oppose RPROZ-O1 and O3 as these objectives promote the absolute protection of the Rural Production Zone and highly productive land. Reference is made to Policy 8 of the NPS-HPL and, specifically, Clause 3.8 which provides for the subdivision of highly productive land provided certain measures are met. The submitter also draws upon Clause 3.11 which mandates territorial authorities must include objectives, policies and rules within district plans to enable the maintenance, operation, or upgrade of any existing activities on highly productive land; and ensure that any loss of highly productive land from those activities is minimised. Federated Farmers do not consider RPROZ-O1 or O3 meet the requirements of the NPS-HPL as neither provides for the ongoing operation of existing activities. The submitter requests RPROZ-O1 and O3 are amended to achieve consistency with the NPS-HPL.

#### Objective RPROZ-O3

384. Ballance Agri-Nutrients Limited (S143.013), NZ Agricultural Aviation Association (S182.027), Horticulture New Zealand (S159.098) support the protection of primary production activities from reverse sensitivity effects and request the objective is retained as notified.
385. Bentzen Farm Limited (S167.092), Wendover Two Limited (S222.085) and Matauri Trustee Limited (S243.110) conditionally support RPROZ-O3 provided amendments are made to the definition of 'highly productive land' in alignment with each's respective submissions (S167.003, S222.080, S243.004).
386. PF Olsen Limited (S91.020) supports RPROZ-O3(a) and (b) but notes that clause (c) can be interpreted as favouring one form of primary production over others. As such, PF Olsen Limited supports RPROZ-O3 in part and requests Clauses a) and b) are retained, and clause c) is amended to apply to all primary production activities.
387. NZ Pork (S55.025) seeks clarification on RPROZ-O3(a). Specifically, the submitter requests a definition or explanation of "*more productive forms of primary production*" and clarity on how this might be measured and assessed.





## Analysis

### Objective RPROZ-O1

388. I agree with the majority of submitters that RPROZ-O1 is fit for purpose and sends a clear message that the core purpose of the RPROZ is to ensure land remains available for primary production activities over the long-term. I disagree with Waiaua Bay Farm that the drafting is vague – objectives by their nature are high level and express the outcomes anticipated within the zone. It is the role of the policies, rules and standards to provide the specificity as to how the objectives will be achieved. I note that Waiaua Bay Farm has not provided any alternative wording to better clarify the outcome that RPROZ-O1 is seeking.
389. The only submission in opposition to RPROZ-O1 is from Federated Farmers on the basis that it promotes the absolute protection of land in the RPROZ and does not align with the NPS-HPL. I disagree that RPROZ-O1 is drafted in a manner that promotes the absolute protection of land in the RPROZ. Firstly, the direction in RPROZ-O1 is to 'manage' the RPROZ, not to sterilise it. Secondly, the definition of 'primary production' is very broad and encompasses the majority of activities that, in my opinion, should be enabled in the RPROZ. RPROZ-O1 works in tandem with RPROZ-O2, which sets out the expectation that part of managing the RPROZ environment to ensure its protection also involves enabling ancillary activities that support primary production and other compatible activities.
390. I do agree with Federated Farmers that there is a gap in the RPROZ provisions in terms of giving effect to Clause 3.11 of the NPS-HPL, as identified in the NPS-HPL alignment analysis in **Appendix 4**. However, from an objective drafting perspective I consider that RPROZ-O2 is the most appropriate objective to amend to give effect to Clause 3.11. I discuss this further in Key Issue 9 below.

### Objective RPROZ-O3

391. I agree with the majority of submitters that support RPROZ-O3 as notified. I consider that the amendments that I recommended in Key Issue 2 to align the PDP definition of highly productive land with the NPS-HPL definition have addressed the concerns raised by Bentzen Farm and others, meaning that this group of submitters may be satisfied with my recommended wording for RPROZ-O3.
392. PF Olsen Limited raised similar concerns to Summit Forests NZ in Key Issue 7 above, particularly with respect to clause c) being expanded to include all primary production activities. I consider that the amendments that I have recommended to clause c) below to address the submission of Summit Forests NZ will also address the submission of PF Olsen.
393. I agree with NZ Pork that there are issues with the use of the phrase '*more productive forms of primary production*' in RPROZ-O3(a) with respect to the





use of highly productive land. The PDP does not include a hierarchy of primary production activities in terms of which are more or less productive than others. There is also no hierarchy of productive activities in the NPS-HPL – the definition of land-based primary production is agnostic with respect to the types of productive activities to be enabled on HPL. As such, I recommended deleting this phrase from RPROZ-O3(a).

394. However, to better align RPROZ-O3(a) with the NPS-HPL, the direction as to what activities should be 'enabled' on highly productive land should align with the objective of the NPS-HPL. As discussed above with respect to RPROZ-O3(c), I consider replacing 'primary production' with both 'farming' and 'forestry' would better align with the NPS-HPL definition of land-based primary production.

### **Recommendation**

395. For the reasons set out above, I recommend that the submissions on RPROZ-O1 and RPROZ-O3 are accepted, accepted in part and rejected as set out in **Appendix 2**.
396. I recommend that the wording of RPROZ-O3 is amended as follows:

*"Land use and subdivision in the Rural Production zone:*

- a. protects highly productive land from sterilisation and enables it to be used for farming and forestry activities ~~more productive forms of primary production~~;*
- b. protects primary production activities from reverse sensitivity effects that may constrain their effective and efficient operation;*
- c. does not compromise the use of land for farming primary production activities, particularly farming and forestry activities on highly productive land;*
- d. does not exacerbate any natural hazards; and*
- e. is able to be serviced by on-site infrastructure."*

### **Section 32AA evaluation**

397. I consider that my recommended amendments to RPROZ-O3 are broadly consistent with the notified intent of the objective, as assessed in the original section 32 evaluation report. The amendments to replace add the words 'and forestry' to references to farming are an efficient way to reflect the position of the NPS-HPL with respect to 'land-based primary production activities' on HPL, without the need to introduce a new definition. I consider that using the phrase 'farming and forestry' is preferable to 'land-based primary production' at this stage of the PDP Schedule 1 process given the heavy reliance on the definition of 'farming' in other PDP chapters – farming



and forestry when used together have the same meaning (in my view) as the NPS-HPL definition of 'land-based primary production'<sup>67</sup>. I consider that deleting the phrase '*more productive forms of primary production*' is an appropriate response under section 32AA given the lack of a hierarchy of primary production activities within the PDP (or the NPS-HPL) and my view that there is no sound resource management reason to introduce such a hierarchy. Overall, I consider that the recommended amendments to RPROZ-O3 are more appropriate, effective and efficient to achieve the purpose of the RPROZ zone compared to the notified version of the objective in accordance with section 32AA of the RMA.

### 5.2.9 Key Issue 9: Objectives RPROZ-O2 and O4

#### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-O2	Minor change to give effect to the NPS-HPL
RPROZ-O4	Retain

#### Analysis of Submissions on Key Issue 9: Objectives RPROZ-O2 and O4

##### Matters raised in submissions

##### Objective RPROZ-O2

398. RNZ (S489.025), Ballance Agri-Nutrients Limited (S143.012), NZ Agricultural Aviation Association (S182.026), Horticulture New Zealand (S159.097), Manulife Forest (S160.033) and Waiaua Bay Farm Limited (S463.090) support RPROZ-O2 and request it is retained as notified.
399. Federated Farmers (S421.211) support RPROZ-O2 and seek to ensure it is retained as notified or that any amendments involve similar wording and achieves the same intent.
400. Lynley Newport (S102.001) and Thomson Survey Ltd (S197.001) both request that the wording of RPROZ-O2 is broadened or softened so that it does not read as though there are no other land uses other than those listed in the objective that are considered appropriate in the RPROZ. Both submitters request that RPROZ-O2 is amended to state "*The Rural Production Zone is primarily used for...*".
401. Bentzen Farm Limited (S167.091), Wendover Two Limited (S222.084), The Shooting Box Limited (S187.080), Matauri Trustee Limited (S243.109), Setar Thirty Six Limited (S168.089) and P S Yates Family Trust (S333.081) oppose RPROZ-O2's reference to 'functional need'. These submitters consider the

<sup>67</sup> The NPS-HPL definition of 'land-based primary production' is '*means production, from agricultural, pastoral, horticultural, or forestry activities, that is reliant on the soil resource of the land*'.



objective, as drafted, has potential to restrict other activities from establishing what might be a sustainable use of land resulting in economic and social development of the District. These submitters request that RPROZ-O2 be amended to delete the words "*that have a functional need to be in a rural environment*".

#### Objective RPROZ-O4

402. RNZ (S489.026) and Manulife Forest (S160.034) support the maintenance of rural character and amenity and request RPROZ-O4 be retained as notified.
403. Federated Farmers (S421.212) support RPROZ-O4 and seek to ensure it is retained as notified or that any amendments involve similar wording and achieves the same intent.
404. Bentzen Farm Limited (S167.093), P S Yates Family Trust (S333.082), Setar Thirty Six Limited (S168.090), Matauri Trustee Limited (S243.111), The Shooting Box Limited (S187.081) and Wendover Two Limited (S222.086) oppose RPROZ-O4 as the submitters consider that it fails to recognise character and amenity of the Zone beyond that of a rural environment. The submitters request the objective is deleted and replaced with "*Subdivision, use and development in the Rural Area maintain the rural character and amenity of the zone.*" This proposed alternate wording seeks to provide for a more nuanced assessment of character and amenity.

### **Analysis**

#### Objective RPROZ-O2

405. I note that the majority of submitters support RPROZ-O2 as notified. I disagree with the group of submissions from Bentzen Farm Limited and others that the words '*that have a functional need to be in a rural environment*' need to be deleted from the objective. The purpose of RPROZ-O2 is to identify the core activities that the RPROZ will enable and provide for. As per the National Planning Standards, the purpose of a Rural Production zone is for primary production activities and related supporting activities but also '*other activities that **require a rural location***<sup>68</sup>' (my emphasis). If there is no functional need test for non-productive activities (just a 'compatibility' test), then conceivably any non-productive rural activity could set up in the RPROZ, provided it could internalise effects, be serviced and meet relevant standards. While this is probably the outcome sought by the submitters, in my opinion it is important that activities that are better suited to urban zones are directed away from the RPROZ. In my view this is essential for the future viability of the RPROZ as a suitable

68 Section 8 – Zone Framework Standard of the National Planning Standards.



location for primary production activities and a core strategy for achieving RPROZ-O1, i.e. the long-term protection of the productive land resource.

406. With respect to the submissions of Lynley Newport and Thomson Survey Ltd, I consider that the intent of RPROZ-O2 is clearer without the addition of the word 'primarily'. RPROZ-O2 is establishing an intended outcome for the zone going forward and I consider it appropriate to only reference the activities that are enabled in the RPROZ in this objective. New activities seeking to establish in the RPROZ that are not listed in this objective will likely have a more stringent activity status and RPROZ-O2 sets the expectation that non-productive activities that do not have a functional need to be in the rural environment are not anticipated in the RPROZ. As such I do not recommend any changes to RPROZ-O2 as a result of these submissions.
407. As noted in Key Issue 8 above, there is a need to align the RPROZ provisions with Clause 3.11 of the NPS-HPL with respect to enabling the maintenance, operation, or upgrade of any existing activities on highly productive land. Rather than create a separate objective, I consider that a minor wording amendment to RPROZ-O2 could achieve alignment with Clause 3.11. I agree that existing activities in the RPROZ should be able to continue to operate, undertake maintenance and upgrade (with some limitations on the scale and extent of upgrades) on both highly productive land and the balance of the RPROZ in recognition of the investment of existing businesses into developing their sites. My suggested wording to achieve this is set out in the recommendation section below.

#### RPROZ-O4

408. As with RPROZ-O2, I note that the majority of submitters support RPROZ-O4 as notified. The only opposition to the wording of RPROZ-O4 is from the group of submissions from Bentzen Farm Limited and others, who are seeking a move away from using a rural working environment as the benchmark for rural character and amenity and replacing the wording with a more generic reference to the 'rural area'.
409. I do not agree with the wording suggested by Bentzen Farm Limited and others. The vaguer wording simply says that subdivision, use and development in the RPROZ should maintain the rural character and amenity of the zone, without providing any context as to what defines that character and amenity. In my opinion, the rural working environment is an appropriate starting point for defining rural character and amenity. It signals that particular effects generated by primary production activities, such as noise, odour, traffic, dust etc, are a normal part of a rural working environment and should be anticipated in the zone. Activities that do not align with that type of character and amenity, for example, activities that are too sensitive to be compatible with a rural working environment or are too intensively developed to align with the level of built development associated with primary production activities would not be maintaining the character and



amenity of the RPROZ. The focus on a rural working character also provides objective level support for RPROZ-P4, which provides more specificity on what defines the rural character and amenity in the RPROZ. On that basis I do not recommend any amendments to the wording of RPROZ-O4.

### Recommendation

410. For the reasons set out above, I recommend that the submissions on RPROZ-O2 and RPROZ-O4 are accepted, accepted in part and rejected as set out in **Appendix 2**.

411. I recommend that the wording of RPROZ-O2 is amended as follows:

*"The Rural Production zone is used for primary production activities, ancillary activities that support primary production, lawfully established existing activities and other compatible activities that have a functional need to be in a rural environment."*

### Section 32AA evaluation

412. I consider that the addition of the words '*lawfully established existing activities*' is a minor change to RPROZ-O2 that does not materially change the direction of the objective but does confirm that the RPROZ chapter is aligned with the NPS-HPL. In my view, the wording change reflects the intent of the notified RPROZ chapter that existing lawfully established activities are able to continue to operate, undertake maintenance and upgrade in the RPROZ even if they are not associated with primary production. On this basis, in my view, no evaluation for this recommended amendment to RPROZ-O2 is required under section 32AA of the RMA.

## 5.2.10 Key Issue 10: Policies RPROZ-P1, P4 and P7

### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-P1	Retain as notified
RPROZ-P4	Retain as notified
RPROZ-P7	Amend chapeau to clarify intent of wording and minor amendments to align with the NPS-HPL

### Analysis of Submissions on Key Issue 10: Policies RPROZ-P1, P4 and P7

#### Matters raised in submissions

413. These policies have been assessed as a group as they attracted few submissions relative to other policies in the RPROZ.

414. The only submissions on RPROZ-P1 are in support of the policy and request that it is retained as notified.



415. All submissions on RPROZ-P4 are in support and request the policy is retained as notified, except for a submission from Federated Farmers (S421.215) requesting closer alignment of the policy with the NPS-HPL and stronger recognition and protection of private property rights.
416. RPROZ-P7 has numerous submitters in support and opposition. Submitters in support request the policy is retained, or amended with wording that achieves the same intent, including RNZ (S489.030), Federated Farmers (S222.090) and Horticulture NZ (S159.105). Those submitters in opposition, including Bentzen Farm Limited (S167.097) and others, request the policy's deletion in its entirety as it is not a policy but a method of assessment, and therefore more appropriately included as an assessment criterion.

### **Analysis**

417. As there is no opposition to RPROZ-P1, I do not make any recommended changes to this policy.
418. I agree with Federated Farmers that some RPROZ policies require amendments to give effect to the NSP-HPL, but in my opinion RPROZ-P4 is not one of them. The purpose of RPROZ-P4 is to provide more context as to what constitutes 'rural character and amenity' in the context of the RPROZ, building on RPROZ-O4 that tied rural character and amenity to a 'rural working environment'. As such, this is a policy that applies to the RPROZ as a whole, not just HPL, and I do not consider that any specific amendments are necessary to align with the NPS-HPL.
419. In terms of RPROZ-P7, I note that this policy functions as a 'consideration' policy, which is an approach that has been adopted consistently at the end of the policies across the PDP chapters to provide a consistent way of ensuring all relevant matters can be assessed when resource consent is required under the relevant chapter. I consider that this is an appropriate drafting approach to achieve consistency across the PDP and that other section 42A reports to date have also recommended retention of 'consideration' policies e.g. in the Coastal Environment, Ecosystems and Indigenous Biodiversity and Natural Character reports.
420. However, I have identified two drafting issues with the chapeau of RPROZ-P7, which are similar to the issues identified with respect to the other chapters listed above:
  - a. It includes a statement of the outcome sought (i.e. "...Manage land use and subdivision to address the effects of the activity requiring resource consent...") which both duplicates and slightly conflicts with earlier policies.
  - b. It is unnecessarily lengthy (i.e. "manage land use and subdivision...to address the effects of the activity...including consideration of...") which makes the intended application of the policy somewhat



confusing in my opinion. This is a common issue across other 'consideration' policies in the PDP.

421. In my opinion, these issues can be easily addressed by simplifying the chapeau of RPROZ-P7 to be much clearer on its purpose as follows:

Consider the following matters where relevant when assessing and managing the effects of land use and subdivision in the Rural Production Zone:

~~Manage land use and subdivision to address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application:~~

422. I have also identified some consequential wording amendments for RPROZ-P7 that are necessary to give effect to the NPS-HPL and align terminology with other objectives and policies in the RPROZ. I have recommended amendments to this effect in the recommendation section below.

### **Recommendation**

423. For the reasons set out above, I recommend that the submissions on RPROZ-P1, RPROZ-P4 and RPROZ-P7 are accepted, accepted in part and rejected as set out in **Appendix 2**. I do not recommend any amendments to RPROZ-P1 or RPROZ-P4 in response to submissions.

424. I recommend that RPROZ-P7 is amended as follows:

~~Manage land use and subdivision to address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application~~ Consider the following matters where relevant when assessing and managing the effects of land use and subdivision in the Rural Production Zone:

- a. *whether the proposal will increase production potential in the zone;*
- b. *whether the activity relies on the productive nature of the land soil;*
- c. *consistency with the scale and character of the rural environment;*
- d. *location, scale and design of buildings or structures;*
- e. *for subdivision or non-primary production activities:*
  - i. *scale and compatibility with rural activities;*





- ii. *potential reverse sensitivity effects on primary production activities and existing infrastructure;*
- iii. *the potential for loss of highly productive land or LUC 4 land that is, or has the potential to be productive, land sterilisation or fragmentation'*

[...]

### **Section 32AA evaluation**

425. The rationale for the amended chapeau wording of RPROZ-P7 has been assessed under section 32AA in other PDP reports with similar 'consideration policies' (e.g. CE-P10 in Hearing Stream 4), where it was concluded that the amendments will achieve a more efficiently drafted chapeau that more effectively explains the intended purpose of the policy. The amendment to clause b) in RPROZ-P7 is necessary in my view to align with the NPS-HPL focus on land rather than soil.
426. With respect to the amendment to clause e)iii), I note that LUC 4 land is no longer protected by the definition of 'highly productive land' as I am recommending that this definition be aligned with the NPS-HPL. As such, I consider that the additional wording in clause e)iii) is necessary to recognise that LUC 4 land does have productive potential in the context of the Far North district and to direct decision makers to consider the impact of losing LUC 4 land in advance of NRC undertaking regional HPL mapping (where some productive LUC 4 land may be included). Including this wording in a 'consideration' policy is an appropriate response in my view to ensure that some consideration can be given to the impact of losing LUC 4 land to non-productive uses but does not go as far as to specifically restrict non-primary production activities on, or subdivision of, LUC 4 land through rules and standards, which would not align with the transitional definition of HPL. I consider this amendment to be an effective balance between the need to protect LUC 4 land as a potentially valuable part of the Far North district's land resource but also the need to align with the NPS-HPL. Overall, I consider that the recommended amendments to RPROZ-R7 are more appropriate, effective and efficient to achieve the relevant objectives compared to the notified policy in accordance with section 32AA of the RMA.

#### **5.2.11 Key Issue 11: Policy RPROZ-P2**

##### **Overview**

<b>Provision(s)</b>	<b>Officer Recommendation(s)</b>
RPROZ-P2	Minor amendment to align with the NPS-HPL



## Analysis of Submissions on Key Issue 11: Policy RPROZ-P2

### Matters raised in submissions

427. NZ Pork (S55.027), Horticulture NZ (S159.099), Manulife Forest (S160.036), RNZ (S489.027) and Ballance Agri-Nutrients Limited (S143.015) support the recognition of primary production as the appropriate predominant land use in the RPROZ and the provision made for ancillary activities. These submitters request RPROZ-P2 is retained as notified.
428. NZ Agricultural Aviation Association (S182.029) supports RPROZ-P2 in part but requests that 'agricultural aviation' is explicitly listed in the policy.
429. Waiaua Bay Farm (S463.092) opposes RPROZ-P2's lack of reference to 'staff accommodation' and seeks clarification of the activity being ancillary to farming. Waiaua Bay Farm requests point b. of RPROZ-P2 is amended to expressly include staff accommodation in brackets after 'ancillary activities.'
430. Lynley Newport (S103.001) and Thomson Survey Ltd (S199.001) oppose the 'punitive and restrictive' wording of RPROZ-P2 and note there are existing land uses and proposed permitted activities within the RPROZ which are contrary to the proposed policies. The two submitters consider this illogical, inconsistent with the RMA and argue that restricting all activities except for farming in the RPROZ is not an effects-based approach and is inconsistent with other zones. The two submitters request that RPROZ-P2 provides for a range of compatible activities that may not directly support primary production but are able to establish without adversely affecting production. To achieve this, the two submitters request that a new sub-clause is inserted into RPROZ-P2 as follows:

*"enabling activities that do not support primary production activities but where they do not adversely affect the ability of the site to continue with primary production use."*

### Analysis

431. I generally agree with the submitters that support RPROZ-P2 being retained as notified as I consider that it is largely fit for purpose. The intent of RPROZ-P2, in my opinion, is to provide policy direction that supports activities that should be permitted in the RPROZ, which is why the policy lists activities that have associated permitted rules. It is not a policy that lists all potential activities that are enabled in the RPROZ through a resource consent process. In my view, that is the role of RPROZ-P5, which I discuss further in Key Issue 12 below. As such, I disagree that RPROZ-P2 requires an additional clause as suggested by Lynley Newport and Thomson Survey Ltd. If a non-production related activity is able to meet the tests set out in RPROZ-P5 then that is the most appropriate policy pathway for those activities, as opposed to explicitly enabling them through RPROZ-P2.



432. As discussed above in Key Issue 5, agricultural aviation activities are now defined in the PDP and are provided for as a permitted activity in the Temporary Activities chapter. As such, I do not recommend any amendments to explicitly refer to agricultural aviation in this policy.
433. As discussed in Key Issue 14 below with respect to rules, I do not recommend any new rules to enable 'staff accommodation' or 'farm workers' accommodation as I consider that the residential activity rules combined with the minor residential unit rules will generally provide enough opportunities for staff and farm workers to also live on farms. I consider that providing additional permitted pathways for residential activities in the RPROZ, such as staff accommodation, risks undermining the residential activity and minor residential unit rules, increases the risk of reverse sensitivity effects, and increases the pressure for future fragmentation of land around residential units. As such, I do not support any amendments to RPROZ-P2 to specifically mention 'staff accommodation'.
434. As discussed in Key Issue 9 above, there is a need to align the RPROZ provisions with Clause 3.11 of the NPS-HPL with respect to enabling the maintenance, operation, or upgrade of any existing activities on highly productive land. As I have recommended a change to RPROZ-O2 to this effect, a subsequent amendment to the RPROZ policies is required to carry this direction through. I consider that RPROZ-P2 is the most appropriate policy to make this change as it is the policy that covers activities that should be enabled in the RPROZ, which includes existing activities on highly productive land.

### **Recommendation**

435. For the reasons set out above, I recommend that the submissions on RPROZ-P2 are accepted, accepted in part and rejected as set out in **Appendix 2**.
436. I recommend that RPROZ-P2 is amended as follows:
- "Ensure the Rural Production zone provides for activities that require a rural location by:*
- a. enabling primary production activities as the predominant land use;*
  - b. enabling a range of compatible activities that support primary production activities, including ancillary activities, rural produce manufacturing, rural produce retail, visitor accommodation and home businesses; and*
  - c. enabling the maintenance, operation or upgrade of any lawfully established existing activities, provided any loss of highly productive land from those activities is minimised.*



## Section 32AA evaluation

437. As discussed in relation to the section 32AA evaluation for RPROZ-O2 above, the reference to enabling the maintenance, operation or upgrade of any lawfully established existing activities in RPROZ-P2 is necessary and appropriate to align with the higher order policy direction in the NPS-HPL (clause 3.11). I do not consider that any further evaluation under section 32AA is required.

### 5.2.12 Key Issue 12: Policies RPROZ-P3 and P5

#### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-P3	Minor change to give effect to the NPS-HPL
RPROZ-P5	Minor change to give effect to the NPS-HPL

#### Analysis of Submissions on Key Issue 12: Policies RPROZ-P3 and P5

##### Matters raised in submissions

##### Policy RPROZ-P3

438. NZ Pork (S55.028), Manulife Forest (S160.037), RNZ (S489.028), NZ Agricultural Aviation Association (S182.030), and Ballance Agri-Nutrients Limited (S143.016) all support the intention of the policy to avoid or otherwise mitigate reverse sensitivity effects and ensure that non-productive activities do not negatively impact upon primary production. These submitters request that RPROZ-P3 is retained as notified.
439. Horticulture NZ (S159.100) considers that RPROZ-P3 can be deleted and a clause added to RPROZ-P5 that seeks to avoid land uses for a number of reasons. The submitter's additional clause to be inserted into RPROZ-P5 is "could result in reverse sensitivity effects."

##### Policy RPROZ-P5

440. NZ Pork (S55.030) and Manulife Forest (S160.039) support RPROZ-P5 and the intention of the policy to avoid land uses that are incompatible with the purpose, character and amenity of the RPROZ. Both submitters request that the policy is retained as notified.
441. Horticulture NZ (S159.103) support RPROZ-P5 in part but request an additional clause is inserted to address reverse sensitivity effects in line with submission point S159.101.
442. Errol McIntyre (S216.001) opposes RPROZ-P5 and any regulation which infringes on property owners' rights. This submitter requests that RPROZ-P5 is amended to consider existing land uses and property owner use rights.



443. A group of submitters including Bentzen Farm Limited (S167.095) and others oppose RPROZ-P5 and the reference to 'functional need'. These submitters consider that RPROZ-P5 has the potential to prevent other non-productive activities establishing in the RPROZ. The relief sought is for RPROZ-P5 to be deleted in its entirety, or for clause b) to be deleted.
444. Consistent with their submissions on RPROZ-P2, Lynley Newport (S103.002) and Thomson Survey Ltd (S199.002) oppose the 'punitive and restrictive' wording of RPROZ-P5. The submitters request that the wording of RPROZ-P5 be amended to 'manage' land use rather than 'avoid'. The proposed wording is as follows:

*Avoid Manage land use so that:*

- a. It is incompatible with the purpose, character and amenity of the Rural Production Zone;*
- b. It enables activities with ~~does not have a functional need to locate in the Rural Production Zone and is more appropriately located in another zone;~~*
- c. Does not result in a more than minor ~~would result in the loss of productive capacity of highly productive land;~~*
- d. Does not ~~would~~ exacerbate natural hazards; and*
- e. Cannot provide appropriate on-site infrastructure.*

## **Analysis**

### **RPROZ-P3**

445. I agree with the submitters that support retention of RPROZ-P3. Given the significance impact reverse sensitivity effects can have on primary production activities I consider a specific policy focused on reverse sensitivity is appropriate. Consequentially I do not agree that RPROZ-P3 should be combined with RPROZ-P5, as suggested by Horticulture NZ, as that would undermine its importance as an issue to be avoided or otherwise mitigated.
446. The wording used in RPROZ-P3, i.e. '*to avoid where possible, or otherwise mitigate, reverse sensitivity effects*' is very similar in intent to the wording used in Clause 3.13(b) of the NPS-HPL, which requires territorial authorities to include objectives, policies and rules in their district plans that:
- "require the avoidance if possible, or otherwise the mitigation, of any potential reverse sensitivity effects from urban rezoning or rural lifestyle development that could affect land-based primary production on highly productive land (where mitigation might involve, for instance, the use of setbacks and buffers)"*
447. While I consider that RPROZ-P3 largely gives effect to Clause 3.13(b) of the NPS-HPL, there is an opportunity to strengthen this policy to make specific



reference to reverse sensitivity effects on highly productive land and the impact that rural lifestyle development can have on land-based primary production activities (i.e. farming and forestry to use the equivalent PDP definitions). I consider that there is scope to achieve alignment of policy direction with the NPS-HPL, as outlined in Key Issue 2 of this report.

448. As such, I recommend additional wording is inserted into RPROZ-P3 to better align with the NPS-HPL. The potential use of setbacks and buffers is a matter for the standards, which I discuss further in Key Issue 26 below, and the potential reverse sensitivity effects associated with urban rezoning is a matter to be considered as part of the rezoning hearing streams.

#### RPROZ-P5

449. As a starting point for analysis, I consider that RPROZ-P5 is an important part of the RPROZ policy framework. It works in conjunction with several other policies to set out the activities that are enabled in the RPROZ (Policy 2) but also the land use and subdivision activities that are to be avoided (Policies 5 and 6). I understand that some submitters are concerned with the 'avoid' language used in RPROZ-P5 and would prefer the policies to be framed in a more positive way, i.e. what land use activities should be occurring in the RPROZ rather than focusing on what activities should be avoided.
450. Although some submitters describe the wording of RPROZ-P5 as 'punitive and restrictive', in my view it is an important policy to enable Council to protect the RPROZ for use primarily by primary production activities. An 'avoid' policy such as RPROZ-P5 sends a strong signal as to the outcomes to be avoided in the zone and allows the Council to decline consent applications for inappropriate development that cannot meet the tests set out in the policy e.g. a proposal that couldn't be serviced or resulted in the loss of productive capacity of highly productive land. A policy framed in the way suggested by submitters such as Lynley Newport is significantly weaker from that perspective and introduces more subjective elements that make decision making more difficult e.g. trying to decide what a 'no more than minor' loss of productive capacity is.
451. I also do not view RPROZ-P5 as a restrictive barrier to all activities that are not enabled under RPROZ-P2; it is only a barrier to non-productive activities that cannot meet the RPROZ-P5 tests. I consider that there are numerous non-productive activities that will be able to meet these tests e.g. an activity that can demonstrate a functional need to be in a rural environment in a location that avoids highly productive land and natural hazards and can be serviced on-site. In my opinion, an activity that is unable to meet these tests should be looking for an alternative location outside of the RPROZ. As such, I do not recommend any changes to reframe RPROZ-P5 from an 'avoid' policy to a 'manage' policy.





452. As discussed with respect to RPROZ-P3 above, I do not agree that RPROZ-P3 and RPROZ-P5 should be merged, so I do not recommend the addition of a new reverse sensitivity clause as requested by Horticulture NZ.
453. With respect to Errol McIntyre's submission that RPROZ-P5 should consider existing land uses and private property rights, I note that this is a similar request to Federated Farmer's general submissions on RPROZ policy direction, discussed in Key Issue 7 above and with respect to RPROZ-O2 in Key Issue 9 above. I consider that my recommended amendments to RPROZ-P2 address the submission of Mr McIntyre in part.
454. Finally, I have identified an opportunity to better align RPROZ-P5 with Clause 3.13(c) of the NPS-HPL regarding cumulative effects. Clause 3.13(c) of the NPS-HPL directs that objectives, policies and rules must:

*"require consideration of the cumulative effects of any subdivision, use, or development on the availability and productive capacity of highly productive land in their district."*

455. As RPROZ-P5 is the policy that covers non-productive land uses in the RPROZ, I consider it to be the most appropriate policy to give effect to Clause 3.13(c). I have recommended an amendment to RPROZ-P5(c) below to address cumulative effects.

### **Recommendation**

456. For the reasons set out above, I recommend that the submissions on RPROZ-P3 and RPROZ-P5 are accepted, accepted in part and rejected as set out in **Appendix 2**.
457. I recommend that the wording of RPROZ-P3 is amended as follows:

*"Manage the establishment, design and location of new sensitive activities and other non-productive activities in the Rural Production zone to avoid where possible, or otherwise mitigate, reverse sensitivity effects on primary production activities, particularly the reverse sensitivity effects of rural lifestyle development on highly productive land."*

458. I recommend that the wording of RPROZ-P5 is amended as follows:

*"Avoid land use that:*

- a. is incompatible with the purpose, character and amenity of the Rural Production zone;*
- b. does not have a functional need to locate in the Rural Production zone and is more appropriately located in another zone;*





- c. *would result in the loss of availability and productive capacity of highly productive land, including consideration of the cumulative effects of such losses;*
- d. *would exacerbate natural hazards; and*
- e. *cannot provide appropriate on-site infrastructure.”*

**Section 32AA evaluation**

459. I consider that the amendments to RPROZ-P3 and RPROZ-P5 are both necessary and appropriate to give effect to the higher order policy direction in the NPS-HPL and efficiently reflect the direction in clause 3.13 with respect to reverse sensitivity effects and cumulative effects that can impact HPL. As such, I consider that the recommended amendments to RPROZ-P3 and RPROZ-P5 are more appropriate, effective and efficient to achieve the relevant objectives compared to the notified provisions in accordance with section 32AA of the RMA.

**5.2.13 Key Issue 13: Policy RPROZ-P6**

**Overview**

Provision(s)	Officer Recommendation(s)
RPROZ-P6	Minor amendments to give effect to the NPS-HPL

**Analysis of Submissions on Key Issue 13: Policy RPROZ-P6**

**Matters raised in submissions**

- 460. Horticulture NZ (S159.104) support RPROZ-P6 and request it is retained as notified.
- 461. Sarah Ballantyne and Dean Agnew (S386.019) and Willowridge Developments Limited (S250.019) support RPROZ-P6 in part but consider the policy is too narrow and heavily focused on farming activities rather than productive capacity. The submitters request that the policy is broadened to encompass all primary production activities by removing reference to ‘farming’ throughout as follows:

*Avoid subdivision that:*

- a. *results in the loss of highly productive land for primary production ~~by farming activities~~*
- b. *fragments land into parcel sizes that are no longer able to support productive capacity of the rural environment, taking into account:*



- i. the productive capability of soils ~~type of farming proposed~~; and*
  - ii. whether smaller land parcels can support ~~more productive activities forms of farming~~ due to the presence of highly productive land.*
- c. provides for rural lifestyle living unless there is an environmental benefit.*

462. In line with their other submissions on RPROZ policies, Lynley Newport (S103.003) and Thomson Survey Ltd (S199.003) oppose the 'punitive and restrictive' wording of RPROZ-P6. These submitters request RPROZ-P6 is amended as follows:

*Avoid Manage subdivision so that:*

- a. ~~results in the loss of highly productive land for use by farming activities is avoided, where possible, and where avoidance is not possible, the loss has only minor impact on the availability of highly productive land for productive purposes.~~*
- b. the land is not fragmented ~~fragments land into parcel sizes that are no longer able to support farming activities, taking into account:~~*
  - i. the type of farming proposed; and*
  - ii. whether smaller land parcels can support more productive forms of farming due to the presence of highly productive land.*
- c. ~~provides for rural lifestyle living unless smaller lot sizes and rural lifestyle living is encouraged where there is an environmental benefit.~~*

463. The group of submitters, including Bentzen Farm Limited (S167.096) and others, oppose RPROZ-P6 as they consider that the RPROZ should recognise and provide for subdivision opportunities where there is a viable pathway to achieve sustainable land use. These submitters request RPROZ-P6 is deleted and replaced with the following:

*"Provide limited opportunities for subdivision in the general rural zone while ensuring that:*

- a. there will be significant environmental protection of indigenous vegetation including restoration, or wetlands;*
- b. subdivision avoids the inappropriate proliferation and dispersal of development by limiting the number of sites created;*
- c. subdivision avoids inappropriate development within areas of the Outstanding Natural Landscape Overlay, Outstanding Natural*



Character Overlay, High Natural Character Overlay and the coastal environment;

- d. adverse effects on rural and coastal character are avoided, remedied or mitigated;
- e. sites are of sufficient size to absorb and manage adverse effects within the site; and
- f. reverse sensitivity effects are managed in a way that does not compromise the viability of rural sites for continued production.
- g. The fragmentation of highly productive land is avoided.

**Analysis**

- 464. There are similar issues raised by submitters with respect to RPROZ-P6 as with RPROZ-P5, i.e. the wording is too 'punitive and restrictive' and it should be framed in a more enabling way rather than being an 'avoid' policy. For the same reasons as I outlined in Key Issue 12 above, I support keeping RPROZ-P6 as an 'avoid' policy and do not recommend any reframing to an 'enabling' policy.
- 465. I disagree with Bentzen Farm Limited and others that RPROZ-P6 should reference any plan-wide overlays to manage environmental matters, e.g. Outstanding Natural Landscape Overlay, Outstanding Natural Character Overlay, High Natural Character Overlay and the coastal environment. SUB-O2 in the subdivision chapter provides specific direction around protecting, restoring and enhancing these features/areas when subdividing land and it is not appropriate to address these layers in the RPROZ policies. These overlays also have specific rules with respect to subdivision so additional direction in the RPROZ is not required.
- 466. However, there are parts of RPROZ-P6 where I can support amendments. I have recommended amendments to RPROZ-O3(c) with respect to the use of the term 'farming' as opposed to the broader 'primary production' when the direction is focused on highly productive land. Being consistent with my recommendations for the objectives, I consider that the term 'farming' in RPROZ-P6 also needs to be expanded out to include forestry, as the two terms used together are equivalent to the NPS-HPL definition of land based primary production. I consider that these amendments will address the concerns of Sarah Ballentyne and others in part as the wording of RPROZ-P6 will better align with Clause 3.8 of the NPS-HPL. Other changes that are necessary to align with Clause 3.8 include focusing on avoiding any potential cumulative loss of the availability or productive capacity of highly productive land.
- 467. As I have recommended that the definition of HPL in the notified PDP be amended to align with the NPS-HPL definition of HPL, this means that LUC 4 land is not protected by provisions specific to HPL. For the reasons set out



in Key Issue 2 above, I consider it appropriate to amend RPROZ-P6 to provide additional protection for LUC 4 land from fragmentation as it is likely that some LUC 4 land is, or has the potential to be, highly productive in the context of the Far North District and additional subdivision policy protection will assist with preventing further fragmentation of this land.

468. As per my comments on RPROZ-O3 in Key Issue 8 and the issues with the phrase '*more productive forms of primary production*', I recommend amending RPROZ-P6(b)(ii) to remove all references to different types of farming and forestry being more productive than others, and instead reframe the clause so it focuses on whether the size of the land parcel can support the anticipated farming or forestry use because of the availability of HPL.

### **Recommendation**

469. For the reasons set out above, I recommend that the submissions on RPROZ-P6 are accepted, accepted in part and rejected as set out in **Appendix 2**.
470. I recommend that the wording of RPROZ-P6 is amended as follows:

*Avoid subdivision that:*

- a. *results in the any potential cumulative loss of the availability or productive capacity of highly productive land for use by farming or forestry activities;*
- b. *cannot demonstrate that the proposed lots will retain the overall productive capacity of highly productive land over the long term;*
- c. *fragments land into parcel sizes that are no longer able to support farming and forestry activities, taking into account:*
  - i. *the type of farming or forestry proposed;*
  - ii. *the potential loss of LUC 4 land that is, or has the potential to be, highly productive; and*
  - iii. *whether smaller land parcels can support ~~more~~ productive forms of the proposed farming or forestry activity due to the presence of highly productive land.*
- d. *provides for rural lifestyle living unless there is an environmental benefit.*

### **Section 32AA evaluation**

471. I consider that the rationale for the recommended amendments to RPROZ-P6 to align with the NPS-HPL have been sufficiently addressed in response



to other RPROZ objectives and policies above, e.g. RPROZ-O2, RPROZ-P3 and RPROZ-P5. As such, I do not repeat the section 32AA evaluation here.

### 5.2.14 Key Issue 14: Rules – General Comments

#### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-R13, RPROZ-R14, RPROZ-R17	Minor amendments to some of these rules to give effect to the NPS-HPL
RPROZ-R26 to RPROZ-R37 inclusive	Retain as notified
RPROZ-RX	Artificial crop protection structures and crop support structures
RPROZ-RY	Seasonal worker accommodation
New note	Cross reference to farm quarry objectives and policies located in the Mineral Extraction chapter

#### Analysis of Submissions on Key Issue 14: Rules General Comments

##### Matters raised in submissions

472. Timothy and Dion Spicer (S213.003, S213.004) support the RPROZ rules and request that they be retained as notified.
473. Te Waka Pupuri Putea Trust (S477.015) also supports retaining the RPROZ rules relating to intensification and development, reverse sensitivity and worker accommodation.
474. Horticulture NZ (S159.117 – 128) supports rules RPROZ-R25 – R37 inclusive and requests that they are retained as notified. Horticulture NZ is the only submitter on these rules, except for RPROZ-R32 – Industrial activity, which has also been submitted on by Puketona Business Park Limited (S45.005). While Puketona Business Park does not explicitly mention RPROZ-R32, this is implied as they are concerned with the non-complying status of industrial activities within the RPROZ, noting that the ODP allowed for such activities as a permitted activity where relevant bulk and location standards were complied with. Puketona Business Park requests that industrial activities are reclassified as restricted discretionary activities within the RPROZ where certain criteria are met. This relief is sought as an alternative to their primary relief, which is rezoning of their site at 759 State Highway 10, Oromahoe from RPROZ to Light Industrial.
475. Horticulture NZ (S159.108, S159.129) also requests the insertion of two new rules to provide permitted activity pathways for Artificial Crop Protection Structures and Crop Protection Structures, and Seasonal Worker Accommodation. Horticulture NZ has provided wording for these two proposed rules in their submission, however, if a separate rule for these



activities is not provided, Horticulture NZ (S159.132) request a reduction in the boundary setback for artificial crop protection in RPROZ-S3 from 3m to 1m. NZ Kiwifruit Growers (S518.005) also support the RPROZ rules in part and request the insertion of a rule providing for Seasonal Worker Accommodation.

476. Kapiro Residents Association (S427.041, S427.060, S427.063, S427.066), Our Kerikeri (S338.051, S338.052, S338.056, S338.065), Kapiro Conservation Trust (S449.035, S449.052, S449.060, S449.061), Vision Kerikeri (S522.022) and Carbon Neutral NZ Trust (S529.200, S529.208, S529.211, S529.214) support the RPROZ rules in part and request retention of rules and standards for crop protection and support structures setbacks. However, these submitters consider that additional rules and standards for such structures are required to prevent further adverse effects on visual amenity and rural character. These submitters have included suggested wording for amended provisions in their submissions.
477. NZMCA (S438.009) support RPROZ rules in part but request a new rule to allow campsites of up to 20 vehicles as a permitted activity, with resource consent required for larger sites. This submitter considers enabling these campsites will create positive social and economic benefits for communities in the Far North and considers that the scale of such activities would be unlikely to compromise rural production activities.
478. Fish and Game (S436.027) note that recreational game and bird hunting is a popular activity in the rural environment but its viability is threatened by encroaching urban and rural lifestyle development. The relief sought by Fish and Game with respect to the RPROZ rules is that provisions should constrain housing and industrial developments near areas with recreational hunting values; recreational hunting should be a permitted activity in the RPROZ; and where reverse sensitivity is discussed, specific mention of recreational hunting should be included.
479. Two submitters, Sean Jozef Vercammen (S395.012) and John Joseph and Jacqueline Elizabeth Matthews (S439.015), identified the final sentence of Rules: Note 2 was not complete as it read "*The Natural Character chapter should...*". This has since been amended by Council via a clause 16 amendment to read "*The Natural Character chapter should be referred to in addition to this zone chapter.*"
480. I note that there were no submissions received on RPROZ Rules R13, R14 or R17.

## **Analysis**

481. A number of RPROZ rules did not attract any submissions, or all submissions supported their retention. However, as per my discussion in Key Issue 2 (and my analysis in **Appendix 4**), I consider that amendments are required to RPROZ-R13, RPROZ-R14 and RPROZ-R17 to give effect to the NPS-HPL, as set out in the recommendations section below. This is because these





activities are currently permitted in the RPROZ, but I do not consider that these activities are provided for on highly productive land under Clause 3.9 of the NPS-HPL, which means that they are considered to be inappropriate on HPL and must be avoided. As such, the activity status for putting these activities on HPL should be at least discretionary due to the NPS-HPL 'avoid' direction. I do not recommend any amendments to RPROZ-R21, RPROZ-R26, RPROZ-R27, RPROZ-R28, RPROZ-R29, RPROZ-R31 to RPROZ-R37 to add a condition relating to HPL as these rules are either extension to existing activity rules (which are provided for under Clause 3.11 of the NPS-HPL) or are already discretionary or non-complying activities.

482. With respect to RPROZ-R32 and the submission from Puketona Business Park, I do not agree that industrial activities that are not rural industries should be enabled in the RPROZ. The intention of the non-complying activity status is to direct industrial activities to an appropriate urban zone such as Light or Heavy Industrial. I also do not agree that introducing site specific, bespoke rules into the RPROZ to provide for industrial activities at 759 State Highway 10, Oromahoe is appropriate. I note that Puketona Business Park are requesting that this site is rezoned from Rural Production Zone to Light Industrial Zone (S45.001) but this relief will be assessed on its merits as part of Hearing Stream 15C, currently scheduled for September/October 2025. As such, I do not recommend any amendments to the activity status of industrial activities in the RPROZ.
483. As discussed in Key Issue 5 above, I have recommended new definitions for artificial crop protection structures and crop support structures as I agree that these are not 'buildings' and that specific controls are required with respect to their design and location that are different from other generic structures in the RPROZ. There are two drafting options, in my opinion, to provide associated rules and standards for these activities – either a separate rule that contains permitted activity conditions relating to height, cloth colour and only applies other standards as applicable, or amendments to RPROZ-R1 to be clearer about the status of artificial crop protection structures and crop support structures and the range of standards that are applicable.
484. I consider that a separate rule is a clearer way to ringfence the rules and standards that apply to artificial crop protection structures and crop support structures and ensure they are not confused with other parts of RPROZ-R1. In my view, RPROZ-R1 is the core rule that manages buildings and structures in the RPROZ and will be used extensively by most plan users seeking to construct something on their properties. It is in the best interests of all plan users that RPROZ-R1 remains clear and simple to read and understand, without exceptions for various activities.
485. There are two clear views on how permissive or restrictive the rules for artificial crop protection structures and crop support structures should be – the view of Horticulture NZ who are requesting more permissive provisions that benefit the horticultural industry, and the view of Kapiro Residents





Association and others who are requesting more stringent provisions to protect adjacent landowners and manage the visual effects of these structures. After considering the position of both submitters, I am recommending a middle ground option that I consider to be fair to both horticultural operators and adjacent landowners, but also the wider public that enjoy the visual amenity of the rural environment. It is important that the horticultural industry is able to operate in the RPROZ with as few restrictions as appropriate, however artificial crop protection structures in particular do have the potential to create off site visual amenity, glare and built dominance effects and the rules need to recognise this. My recommended new rule for artificial crop protection structures and crop support structures to achieve this right balance is included in the recommendations section below, as well as consequential amendments to RPROZ-R1, RPROZ-S1 and RPROZ-S3.

486. I also agree with Horticulture NZ and NZ Kiwifruit Growers that seasonal worker accommodation has not been explicitly provided for in the RPROZ. I have recommended a definition for 'seasonal worker accommodation' in Key Issue 5 of this report and consider that a new rule is required to set out the limits on the scale of the activity and ensure that there are clear links between the accommodation and the primary production activity to which it relates. I do not consider that this rule should be limited to horticultural activities only, although I acknowledge that this is the industry that is most likely to need seasonal worker accommodation. Agricultural and viticultural activities may also require seasonal workers, as may post-harvest processing facilities.
487. I recommend setting a permitted limit of 10 workers (as opposed to the 12 requested by the submitters) as this is the same number permitted for visitor accommodation activities. In terms of potential effects, I consider that visitor accommodation and seasonal workers accommodation are similar (mix of short and medium term stays, higher traffic movements than a residential activity, often shared facilities) so it makes sense in my view to achieve consistency in the permitted intensity of these two activities in the RPROZ. For the same reason, I consider that failing to comply with the permitted conditions for seasonal worker accommodation should require consent for a discretionary activity, which is the same as for visitor accommodation.
488. I disagree with the suggested references from Horticulture NZ to Code of Practice for Able Bodied Seasonal Workers, published by Dept of Building and Housing 2008 in both the permitted activity conditions and the assessment criteria of the seasonal worker accommodation rule. My reading of this Code of Practice is that it primarily deals with relevant clauses in the New Zealand Building Code relating to building construction, accessibility and facilities, or it references compliance with conditions in a RSE Scheme agreed with the Department of Labour. In my view these are not matters to be managed by a district plan and will primarily be managed through the building consent process. Finally, I disagree with the need for a PER-2 clause to limit the number of standards that apply to seasonal worker



accommodation. In my view, RPROZ-R1 should apply in full to buildings and structures associated with the seasonal worker accommodation and the full range of associated standards set out under PER-2 of RPROZ-R1 should apply. My suggested wording for a new seasonal worker accommodation rule (adapted from the wording supplied by the submitters) is set out in the recommendations section below.

489. With respect to the NZMCA request for new permitted rules to provide for self-contained vehicle-based campsites, I do not agree that this is a type or scale of activity that should be enabled in the RPROZ. Under RPROZ-R25 as notified, camping grounds of any scale or type are a discretionary activity due to the potential for reverse sensitivity effects on surrounding primary production activities and other issues relating to traffic, noise and impacts on rural character and amenity. The submitter has not suggested any particular measures to manage these potential effects other than asserting that the scale of camping sites proposed is unlikely to compromise rural production activities and limiting the number of permitted vehicles to 20. I also consider that a 20-vehicle camping ground being established as a permitted activity is likely to be concerning from an effects perspective for people already living in the RPROZ, as well as rural industries that need to be able to continue operating without complaints from neighbouring properties. As such, I do not recommend any amendments to the rules for camping grounds or the insertion of new rules for self-contained vehicle-based campsites.
490. With respect to the submission from Fish and Game I consider that recreational hunting is already provided for as a permitted activity under RPROZ-R9 – Recreational activity. The wider issue of constraining urban growth and lifestyle development near areas with recreational hunting values has been addressed in the Part 1 hearing<sup>69</sup>, where the reporting officer recommended rejecting the relief sought by Fish and Game.
491. Finally, a consequential amendment is required to clarify for plan users that the objective and policy framework for mineral extraction activities in the Mineral Extraction chapter applies to farm quarries, mineral prospecting and exploration, expansion of a mineral extraction activity and a new mineral extraction activity (in addition to the other objectives and policies of the RPROZ). I have discussed this with Ms Lynette Morgan, the reporting officer for the Mineral Extraction topic and have agreed that a new note at the beginning of the rules table is the most appropriate location for this cross reference.

69 Paragraphs 152-156 of the Part 1 Section 42A report, prepared by Sarah Trinder and dated 29 April 2024.



**Recommendation**

492. For the reasons set out above, I recommend that the general submissions on the RPROZ rules are accepted, accepted in part and rejected as set out in **Appendix 2**.

493. I recommend that a new note is inserted above the rules table as follows:

*'The objectives and policies of the Mineral Extraction Zone should be considered in addition to the objectives and policies of the Rural Production Zone for any consent application for a farm quarry, a mineral prospecting and exploration activity, expansion of a mineral extraction activity or a new mineral extraction activity.'*

494. I recommend that RPROZ-R13, RPROZ-R14 and RPROZ-R17 are amended to include a new condition that requires these activities to not be located on HPL, otherwise resource consent will be required for a discretionary activity.

495. I recommend the insertion of a new rule to manage artificial crop protection structures and crop support structures in the RPROZ as follows:

<b><u>RPROZ-X</u></b>	<b><u>Artificial crop protection structures and crop support structures</u></b>	
<b><u>Rural production zone</u></b>	<p><b><u>Activity Status: Permitted</u></b></p> <p><b><u>Where:</u></b></p> <p><b><u>PER-1</u></b></p> <p><u>The establishment of a new, or expansion of an existing, artificial crop protection structure or crop support structure, where:</u></p> <ol style="list-style-type: none"> <li>1. <u>The height of the structure does not exceed 6m above ground level;</u></li> <li>2. <u>The structure is set back at least 3m from all site boundaries;</u></li> <li>3. <u>Dark green or black material is used on any vertical faces within 30m of a site boundary except that a different colour may be used if written approval of the</u></li> </ol>	<p><b><u>Activity status where compliance with PER-1 not achieved: Restricted Discretionary</u></b></p> <p><b><u>Matters of discretion are restricted to:</u></b></p> <ol style="list-style-type: none"> <li>a. <u>The potential adverse visual effects (including glare) on neighbouring properties or road users;</u></li> <li>b. <u>Visual mitigation measures such as landscaping or other screening;</u></li> <li>c. <u>Effects on the rural character and amenity of the surrounding area</u></li> </ol> <p><b><u>Activity status where compliance with PER-2 not achieved: Restricted Discretionary</u></b></p>



	<p>owner(s) of the immediately adjoining property or the road controlling authority (in the case of a road) is obtained and provided to the Council.</p> <p><b>PER-2</b></p> <p><u>The new, or expansion of an existing, artificial crop protection structure or crop support structure complies with standards:</u></p> <p><u>RPROZ-S2 Height in relation to boundary</u></p>	<p><b>Matters of discretion are restricted to:</b></p> <p>a. <u>the matters of discretion of any infringed standard.</u></p>
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496. I recommend consequential amendments to RPROZ-R1 to clarify that the rule does not apply to artificial crop protection structures and crop support structures. Consequential amendments are also required to RPROZ-S1 and RPROZ-S3 to remove standards relating to artificial crop protection structures and crop support structures as these will now be managed within the new rule set out above (these consequential amendments are covered in Key Issues 27 and 28).
497. I recommend the insertion of a new rule to manage seasonal worker accommodation in the RPROZ as follows:

<b><u>RPROZ-RY</u></b>	<b><u>Seasonal worker accommodation</u></b>	
<p><b><u>Rural production zone</u></b></p>	<p><b><u>Activity Status: Permitted</u></b></p> <p><b><u>Where:</u></b></p> <p><b><u>PER-1</u></b></p> <p><u>The establishment of a new, or expansion of existing seasonal worker accommodation where:</u></p> <ol style="list-style-type: none"> <li>1. <u>The accommodation is associated with a farming or forestry activity and is located the same land used for that operation;</u></li> <li>2. <u>The accommodation comprises of a</u></li> </ol>	<p><b><u>Activity status where compliance with PER-1 not achieved: Discretionary</u></b></p>



	<p><u>combination of communal kitchen and eating areas and sleeping and ablution facilities;</u></p> <p>3. <u>The accommodation provides for no more than 10 workers; and</u></p> <p>4. <u>The accommodation is not located on highly productive land</u></p>	
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### Section 32AA evaluation

498. I consider that the rationale for mineral extraction activities in the RPROZ to be managed through RPROZ rules but the associated specific objectives and policies being located in the Mineral Extraction chapter has been clearly set out in the section 32AA evaluation sections of the Mineral Extraction section 42A report. As such I do not repeat that analysis here.
499. I consider that the rationale for the recommended amendments to RPROZ-R13, RPROZ-R14 and RPROZ-R17 to align with the NPS-HPL have been sufficiently addressed in response to the RPROZ objectives and policies above. As such, I do not repeat the section 32AA evaluation here.
500. I consider that the new rule for artificial crop protection structures and crop support structures (and consequential amendments to RPROZ-R1, RPROZ-S1 and RPROZ-S3) is an effective way to clarify and consolidate the rules and standards that apply to these activities without further complicating the drafting of RPROZ-R1. I consider that the refined drafting has not changed the intent of the notified provisions with respect to artificial crop protection structures and crop support structures, rather it is a structural change to assist with interpretation. On this basis, in my view, no evaluation for this recommended new rule is required under section 32AA of the RMA.
501. I consider that the new rule for seasonal workers accommodation is an appropriate response to a gap in the rule framework of the RPROZ for this activity, and to align with the new definition that I have recommended in Key Issue 5 above. I consider that the new rule is effectively drafted to align with the same level of intensity and effects associated with visitor accommodation to ensure that both activities are treated consistently in the RPROZ. Overall I consider that the new seasonal worker rule will be more effective and efficient in achieving the relevant objectives in the PDP compared to the ambiguity around the activity in the notified RPROZ provisions and is therefore appropriate in terms of section 32AA of the RMA.



## 5.2.15 Key Issue 15: Rule RPROZ-R1

### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-R1	Minor amendments to clarify intent
RPROZ-S1	Consequential addition of a note to address RNZ concerns

### Analysis of Submissions on Key Issue 15: RPROZ-R1

#### Matters raised in submissions

502. Puketona Business Park Limited (S45.006) and Waiaua Bay Farm (S463.094) support RPROZ-R1 as it enables buildings typically found in a rural environment to be constructed as a permitted activity. The submitters also support a restricted discretionary activity status where standards are not complied with. These submitters request the rule be retained as notified.
503. RNZ (S489.031) supports RPROZ-R1 and requests the following note is inserted *"If a resource consent application is made under this rule on land that is within 1,000m of Radio New Zealand's Facilities at Waipapakauri or Ōhaeawai, and the proposed building does not comply with RPROZ-S1, Radio New Zealand will be considered an affected person for the activity."* RNZ are requesting the insertion of this note so they can assist applicants with their technical expertise and operational understanding to ensure the risk of electromagnetic radiation (EMR) coupling is addressed<sup>70</sup>. RNZ has calculated the height and distance at which tall structures adjacent to RNZ facilities could result in EMR levels that exceed safe levels for the public in the RPROZ as follows:
- a. Structures greater than 21 metres in height within 1,000 metres of the Waipapakauri transmitter.
  - b. Structures greater than 16 metres in height within 1,000 metres of the Ōhaeawai transmitter.
504. RNZ submit that notification of applications for tall structures within 1,000m of the RNZ facilities will mitigate both the EMR risk to the applicant and manage reverse sensitivity effects on the facilities. RNZ also request that an equivalent matter of discretion is inserted into RPROZ-S1 for over height buildings or structures (S489.032).
505. FNDC (S368.067) supports RPROZ-R1 in part but raises concerns with the rule as currently drafted. FNDC considers that, to not comply with this rule as notified, the activity would become discretionary which was not the intent if the activity itself is permitted, controlled or restricted discretionary. FNDC request that PER-1 of RPROZ-R1 is amended to also include buildings or

<sup>70</sup> According to the submission from RNZ, EMR emitted from the radio masts can induce dangerous EMR levels into nearby tall metallic objects through a process called 'EMR coupling'.



structures that will accommodate controlled and/or restricted discretionary activities in addition to permitted activities.

### Analysis

- 506. I appreciate that RNZ have raised some clear safety concerns relating to high structures being erected close to their two existing radio facilities. I agree that a note similar to that used in the subdivision chapter (for SUB-R1 and others in relation to the airport zone) could be a way to ensure landowners are alerted to the EMR risks associated with tall structures near the radio facilities.
- 507. However, given that RNZ know where their facilities are and have calculated the maximum safe heights for structures adjacent to the radio transmitter, I consider that the note could be more specific as to when EMR effects are likely to occur and when notification of RNZ is required so not all height infringements trigger the need to inform RNZ. I also consider that the note is best placed under RPROZ-S1 given that this is the standard that manages the maximum height of buildings and structures. I have recommended amendments to RPROZ-S1, as set out in the recommendations below for Key Issue 27.
- 508. I agree with FNDC that RPROZ-R1 as currently drafted does not account for buildings or structures required for controlled or restricted discretionary activities. I have recommended an amendment to RPROZ-R1 to remedy this issue, as set out in the recommendations below.

### Recommendation

- 509. For the reasons set out above, I recommend that the submissions on RPROZ-R1 are accepted, accepted in part and rejected as set out in **Appendix 2**. Note that I have also recommend consequential changes to RPROZ-R1 as a result of recommendations made under Key Issue 4 relating to relocated buildings and removal of the reference to RPROZ-S4.
- 510. I recommend that RPROZ-R1 is amended as follows<sup>71</sup>:

<b>RPROZ-R1</b>	<b>New buildings or structures, <u>relocated buildings</u> or extensions or alterations to existing buildings or structures</b>	
<b>Rural production zone</b>	<b>Activity Status: Permitted</b>  <b>Where:</b>  <b>PER-1</b>  The new building or structure, <u>relocated building</u>	<b>Activity status where compliance not achieved with PER-2: Restricted Discretionary</b>  <b>Matters of discretion are restricted to:</b>

<sup>71</sup> Note that the recommended insertion of two new standards into RPROZ-R1 is a consequential amendment resulting from the matters discussed in Key Issue 26 relating to reciprocal setback rules to manage reverse sensitivity effects. Also, the deletion of RPROZ-S4 and the renaming of RPROZ-S7 are addressed in Key Issues 26 and 27 respectively.





	<p>or extension or alteration to an existing building or structure, will accommodate a <u>permitted, controlled or restricted discretionary</u> activity.</p> <p><b>PER-2:</b></p> <p>The new building or structure, <u>relocated building</u> or extension or alteration to an existing building or structure complies with standards:</p> <p>RPROZ-S1 Maximum height;</p> <p>RPROZ-S2 Height in relation to boundary;</p> <p>RPROZ-S3 Setback (excluding from MHWS or wetland, lake and river margins);</p> <p><del>RPROZ-S4 Setback from MHWS;</del></p> <p>RPROZ-S5 Building or structure coverage;</p> <p>RPROZ-S6 Buildings or structures used to house, milk or feed stock (excluding buildings or structures used for an intensive indoor primary production activity); <del>and</del></p> <p>RPROZ-S7 Sensitive activities setback from boundaries of a <u>the Mineral Extraction Zone extraction overlay</u>;</p> <p><u>RPROZ-SX Sensitive activities setback from intensive indoor and outdoor primary production activities; and</u></p> <p><u>RPROZ-SY Sensitive activities setback from buildings or structures used to house, milk or feed stock (excluding</u></p>	<p>a. the matters of discretion of any infringed standard.</p> <p><b>Activity status where compliance not achieved with PER-1:</b></p> <p><b>Discretionary</b></p>
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	<p><u>buildings or structures used for an intensive indoor or outdoor primary production activity).</u></p> <p><b>Note:</b> <u>RPROZ-R1 does not apply to artificial crop protection structures and crop support structures.</u></p>	
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### Section 32AA evaluation

511. I consider that the recommended changes to RPROZ-R1 are either consequential as a result of the insertion or deletion of other standards, or are changes that have already been considered with respect to section 32AA in other section 42A reports e.g. the insertion of the reference to relocated buildings has been a consistent recommendation in other zone chapters such as Orongo Bay Special Purpose Zone in Hearing Stream 4. As such, I do not consider that any additional evaluation of the recommended changes to RPROZ-R1 is required under section 32AA of the RMA.

### 5.2.16 Key Issue 16: Rule RPROZ-R2

#### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-R2	Minor change to give effect to the NPS-HPL

#### Analysis of Submissions on Key Issue 16: RPROZ-R2

##### Matters raised in submissions

512. Waiaua Bay Farm (S463.095) support the maximum site coverage proposed and consider a restricted discretionary status is appropriate where the 15% coverage limit is exceeded.
513. Brad Hedger (S267.001) supports RPROZ-R2 in part but notes he is unable to determine how effects from climate change, such as rainfall, have been considered when site coverage is linked to site area. In the rural environment, Brad Hedger raises concern that this could result in large areas of impermeable surface and adverse effects downstream. Brad Hedger uses the example of a 100ha farm being able to have 15ha of site coverage without consent being triggered. Brad Hedger requests PER-1 of RPROZ-R2 is retained but that "*or 3,000m<sup>2</sup>, whichever is the lesser*" is inserted after the 15%.
514. Michael John Winch (S67.010) and Haigh Workman Limited (S215.054) oppose the 15% maximum impermeable coverage threshold in RPROZ-R2. These submitters consider that this threshold is excessive and that it will



result in significant adverse stormwater runoff effects if the entire RPROZ was developed up to 15% impermeable coverage. Both submitters request that the permitted site coverage be reduced to 5%.

515. Michael Winch (S67.011) also submitted that the RPROZ-R2 matters of discretion fail to assess the adverse effects of impermeable surface coverage on the life-supporting capacity of soils, especially of highly productive land as required by RPROZ-P5 and RPROZ-P7. To resolve this, the submitter requests that *"the adverse effects on the life supporting capacity of soil and the protection of highly productive land"* is inserted as a further matter of discretion.

### Analysis

516. I note that the 15% maximum impermeable surface coverage control has been rolled over from the ODP<sup>72</sup>. I appreciate that if every single RPROZ site was developed up to 15% there would be a significant increase in stormwater runoff, however, in my experience, rural landowners generally do not invest in the construction of impermeable surfaces unless it is necessary for their operations due to the significant cost. Most sites in RPROZ will have impermeable surface coverage well below 15% - the purpose of the threshold is simply to set the trigger for the point where the mechanism to manage stormwater runoff onsite needs to be considered through the resource consent process. I also note that there is significant variation in site sizes across the RPROZ and that a smaller threshold, i.e. 5% could be overly onerous for smaller sites. I consider that, as the 15% threshold has been working well under the Operative District Plan, there is no clear reason to change the approach in the RPROZ. No evidence has been provided by the submitters to justify why 15% is too high or why the preferred 5% threshold or 3,000m<sup>2</sup> maximum cap is preferable.
517. However, I agree with Michael Winch that there is an opportunity to consider where impermeable coverage is placed relative to the location of highly productive land. For sites that wholly consist of LUC 1-3 land, there will be no opportunity to place impermeable surfaces in locations that avoid highly productive land, so it would not be appropriate to prevent impermeable surfaces from being constructed on HPL, nor is this a requirement of the NPS-HPL. However, there may be opportunities to minimise the amount of impermeable surfaces needed and keep the maximum amount of highly productive land available for farming and forestry activities, which is a matter that could be considered as part of a resource consent application for infringing the 15% maximum threshold. For other properties there may be parts of the site that are less productive than others and opportunities for impermeable surfaces to be directed away from HPL. As such, I agree that adding a matter of discretion relating to the minimisation of

72 Rule 8.6.5.1.3 – Stormwater Management in the Rural Environment chapter.



impermeable surface coverage on HPL is appropriate and recommend this amendment below.

### Recommendation

518. For the reasons set out above, I recommend that the submissions on RPROZ-R2 are accepted, accepted in part and rejected as set out in **Appendix 2**.

519. I recommend that an additional matter of discretion is added to RPROZ-R2 as follows:

*“The extent to which impermeable surfaces are able to avoided, or otherwise minimised, on highly productive land.”*

### Section 32AA evaluation

520. I consider that the rationale for the recommended amendments to RPROZ-R2 to align with the NPS-HPL have been sufficiently addressed in response to aligning other RPROZ provisions with the NPS-HPL in the key issues above. As such, I do not repeat the section 32AA evaluation here.

## 5.2.17 Key Issue 17: Rule RPROZ-R3

### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-R3	Minor amendment to clarify intent

### Analysis of Submissions on Key Issue 17: RPROZ-R3

#### Matters raised in submissions

521. Te Waka Pupuri Putea Trust (S477.016) support RPROZ-R3 and request it be retained as notified.

522. Horticulture NZ (S159.109) supports the intent of RPROZ-R3 but notes the rule does not state which standards apply. Horticulture NZ request that a PER-3 is inserted that requires compliance with the standards relating to buildings, i.e., PER-2 of RPROZ-R1.

523. FNDC (S368.080) supports RPROZ-R3 in part and requests amendments to exclude a ‘minor residential unit’ from this rule as it is intended that RPROZ-R19 provides for a minor residential unit in addition to a principal residential unit on a site. To achieve this, FNDC request an additional exemption from PER-1 as follows:

*PER-1 does not apply to:*

*i. a single residential unit located on a site less than 40ha.*



*ii. a minor residential unit constructed in accordance with rule RPPROZ-R19.*

524. NZ Pork (S55.032) are concerned that residential dwellings are sensitive activities but are not required to be set back from any existing intensive primary production activities. As such, NZ Pork requests a standard that requires sensitive activities to be setback from an existing intensive primary production activity, similar to that in PER-2 of RPROZ-R1 relating to Mineral Extraction overlays.
525. Federated Farmers (S421.220) do not support performance standard PER-1 as they consider it inappropriate to imply that the impact of a residential activity on the environment will be greater simply because the site is less than 40 hectares in size. Federated Farmers supports the permitted activity status in RPROZ-R3 but requests removal of the site area requirements
526. Waitaki Dalton (S355.025), Tracy and Kenneth Dalton (S479.020), Sarah Ballantyne and Dean Agnew (S386.020) and Willowridge Developments Limited (S250.020) consider that RPROZ-R3 is too restrictive. These submitters consider this, and subdivision provisions, should be amended to align with adjacent districts in Northland<sup>73</sup>, i.e. that RPROZ-R3 PER-1 is amended to allow for at least one residential unit per 20ha.
527. A group of submitters, including Bentzen Farm Limited (S167.098) and others, request amendments to RPROZ-R3 to align with their submissions on SUB-S1<sup>74</sup> with consequential amendment to PER-2 to reduce the total number of residential units on a site. The following amendments to RPROZ-R3 are sought:
- PER-1*
- The site area per residential unit is at least 40ha 20ha.*
- PER-2*
- The number of residential units on a site does not exceed six three.*
- PER-1 does not apply to: a single residential unit located on a site less than 40 20ha.*
528. Leah Frieling (S358.044), Sean Frieling (S357.041), LJ King Ltd (S464.041) and Elbury Holdings (S485.041, S519.040) oppose RPROZ-R3 and request the ODP provisions for residential intensity remain in place. These submitters consider this approach achieves a low density of housing relative to land area, while still providing for housing in a rural setting. The relief sought by these submitters is for RPROZ-R3 to be amended to permit one residential

<sup>73</sup> The plans referenced are the Operative Whangarei district plan and the exposure draft of the Kaipara District Plan.

<sup>74</sup> Bentzen Farm Limited (S167.064) relating to SUB-S1.



unit per 12ha that can achieve a minimum of 3000m<sup>2</sup> exclusive use area surrounding the dwelling.

529. Thomson Survey Ltd (S200.001) oppose DIS-1 of RPROZ-R3 and request the discretionary activity minimum site area per residential unit is reduced from 8ha to 4ha.
530. LMD Planning Consultancy (S415.002) consider that RPROZ-R3 is too restrictive, particularly when applied to the Sacred Heart Catholic Church premises at 867 State Highway 10, Waitaruke. The submitter requests that PER-1 and DIS-1 of RPROZ-R3 are amended to read as follows:

*PER-1*

*The site area per residential unit is at least ~~40ha~~ 20ha.*

*PER-1 does not apply to: a single residential unit located on a site less than ~~40ha~~ 20ha.*

*DIS-1*

*The site area per residential unit is at least ~~8ha~~ 4ha.*

531. Amber Hookway (S261.002), Lianne Kennedy (S310.002) and others oppose the minimum site area per residential unit being 40ha. These submitters raise concerns regarding the housing crisis and consider the implications of RPROZ-R3 as it is currently drafted will result in unpermitted and unsafe dwellings across the RPROZ. To ensure owners of larger lots are not disadvantaged, the submitters request that RPROZ-R3 is amended to allow one residential unit per 12ha of land and with no maximum number of units per site.
532. Northland Planning and Development (S502.046) and Waitangi Limited (S503.030) support PER-1 of RPROZ-R3 restricting residential intensity to one dwelling per 40ha. However, these submitters do not support PER-2 as they consider that larger farms exceeding 40ha in size require additional housing to provide living quarters for workers. Northland Planning and Development and Waitangi Limited request that PER-2 is deleted in its entirety.
533. Waiaua Bay Farm (S463.096) consider that, given larger lot sizes within the RPROZ, farm staff accommodation should be exempt from RPROZ-R3 and request that the rule is amended to reflect this.
534. Lynley Newport (S104.001) opposes RPROZ-R3 as they consider that the discretionary activity minimum lot size for RPROZ should remain at four hectares and, as such, DIS-1 of RPROZ-R3 should reflect this.
535. FNR Properties Limited (S334.001) oppose the 'one size fits all' approach to RPROZ-R3, the lack of restricted discretionary activity status for subdivision,



and the reduction to discretionary thresholds. This submitter requests amendments to RPROZ provisions generally to enable higher residential intensities and/or insert controlled, restricted discretionary, or discretionary activity status pathways for residential activities. FNR Properties consider providing options for different levels of residential intensity will enable development to occur within the RPROZ on a case by case basis.

536. Sapphire Surveyors Limited (S348.002), Martin John Yuretich (S40.015) and Joel Vieviorka (S41.015) oppose the new subdivision rules and request RPROZ-R3 is amended to align with changes sought by their submissions on SUB-S1 as it relates to subdivision in the RPROZ.<sup>75</sup> Submissions on SUB-S1 are assessed under Key Issue 30 below.

### **Analysis**

537. I acknowledge that the residential activity provisions in the RPROZ under RPROZ-R3 are less permissive than under the ODP and that this shift is considered to be overly restrictive by some submitters. As set out in the Rural section 32 evaluation report and associated FNDC Rural Environmental Economic Analysis – Update report in Appendix 1, information about the impact that both land fragmentation and increasing residential development in the most productive rural parts of the Far North district has driven the shift away from a more permissive, effects-based regime in the Operative District Plan towards the provisions of the RPROZ in the PDP. Sections 2.2.2 and 2.2.3 of the section 32 report explain the issues associated with increasing residential activity in the ODP Rural Production zone, including:
- a. Sporadic and uncoordinated development placing pressure on Council to upgrade transport infrastructure and other infrastructure such as wastewater in areas where this has not been planned for.
  - b. Ad hoc residential development compromising future urban use of land and how efficiently that land can be developed.
  - c. Residential development affecting the ability to use land for a productive, economically viable primary production activity.
  - d. Residential development being incompatible with primary production activities due to different expectations about amenity and subsequent reverse sensitivity effects.
538. I agree with the overarching approach to managing the rural environment of the Far North District as set out in Section 2.2.4 of the Rural section 32 evaluation report, which is to *"prioritise primary production activities and other ancillary activities that directly support the primary sector. The main change is to strengthen the approach taken to the fragmentation of rural land and the management of reverse sensitivity effects on the primary*

<sup>75</sup> Sapphire Surveyors Limited (S348.001) Martin John Yuretich (S40.001) and Joel Vieviorka (S41.001).





*production sector, particularly in relation to highly productive land (which includes versatile soils)."* The key points I take away from this are that primary production is the priority in the RPROZ and the management of reverse sensitivity effects is a critical part of that approach. I also consider that prioritising these two matters aligns with the direction in the National Planning Standards as to the purpose of a Rural Production zone, and the direction in the NPS-HPL.

539. In my view, the more permissive the residential activity provisions are in a district plan in rural zones, the higher the likelihood of reverse sensitivity effects on primary production activities. The rationale for being more restrictive with residential activities in the RPROZ and setting aside specific zones where residential activity is encouraged in a rural setting (e.g. RLZ, RRZ and RSZ) is to direct demand for rural residential living opportunities into the locations best suited for that purpose. The RLZ, RRZ and RSZ (as well as the various housing typologies enabled in the General Residential Zone) are in locations where there is less friction with primary production activities, better access to urban centres, transport links and services and higher amenity expectations compared to a rural working environment. Continuing to have permissive residential activity provisions in the RPROZ runs counter to this approach and sets up the RPROZ for further ad hoc residential development and elevated risk of reverse sensitivity effects. As such, I disagree with the assertion from Federated Farmers that it is inappropriate to imply that the impact of a residential activity on the environment will be greater simply because the site is less than 40 hectares in size. I do consider that there are greater environmental effects on primary production activities in rural environments when there is a proliferation of residential units allowed to establish near existing activities and that the role of the residential activity rule is to set a clear expectation that the RPROZ is not an appropriate location for multiple pathways for residential activities.
540. I note that there is a very strong relationship between the submissions on RPROZ-R3 and SUB-S1 with respect to the RPROZ subdivision minimum lot sizes, with many submitters requesting that both provisions are made significantly more permissive. Firstly, I consider it very important that the residential intensity provisions in the RPROZ align with the minimum lot sizes for the RPROZ in SUB-S1 to ensure that the subdivision provisions are not undermined by more permissive residential activity provisions. In my experience, once a residential unit is constructed there is often increased pressure to subdivide around that residential unit on the basis that there are no tangible environmental effects from new legal boundaries being drawn and new titles issued. If residential activity provisions allow for more residential units to be constructed on a site than the number of lots provided for in the subdivision rules, it is very difficult for Council staff to reject subdivision applications and the residential activity provisions often become the accepted number of lots able to be subdivided by default.
541. As such, I do not recommend decoupling the residential activity provisions from the minimum lot sizes in SUB-S1. My recommendations on minimum



lot sizes are considered in Key Issue 30 and will address submissions on SUB-S1 but also submissions requesting alignment between more permissive minimum lot sizes and RPROZ-R3.

542. With respect to submissions on RPROZ-R3 that are not related to the number of residential units or the equivalent minimum lot sizes, firstly I understand the potential confusion from Horticulture NZ about the lack of standards associated with RPROZ-R3. However, the entire RPROZ rule framework has been developed on the premise that RPROZ-R1 manages buildings and structures associated with all activities in the RPROZ, including residential units. This approach has been applied consistently across all PDP zone chapters. When reading the RPROZ rule table as a whole, it becomes clear that the RPROZ standards are only mentioned once under RPROZ-R1. As such, the residential activity rule (and all other 'activity' rules in the RPROZ) do not require the applicable standards to be repeated for each rule, as the standards will apply to all buildings and structures under RPROZ-R1 (regardless of the purpose of the activity). This means that the RPROZ standards do not apply when there is a change from one activity to another, only when a new building/structure is being constructed, or when an existing building is being relocated, altered or extended to provide for that change in activity. I do not recommend any references to standards being inserted into RPROZ-R3. Horticulture NZ have asked for the same relief in relation to numerous rules e.g. RPROZ-R4 and RPROZ-R5 and the analysis in this paragraph equally applies to these rules.
543. I agree with the submission from FNDC that minor residential units should be excluded from RPROZ-R3 for clarity. A minor residential unit, in my view, is a different type of residential housing product to a standard dwelling as it is more constrained in terms of size and location and is required to maintain a relationship with the principal residential unit. If a site needed to be large enough to accommodate more than one residential unit under RPROZ-R3 before it was eligible for a minor residential unit, then it is unlikely that a landowner would consider designing a residential unit in accordance with RPROZ-R19 when they were entitled to a second residential unit with no such constraints. I consider that excluding minor residential units from RPROZ-R3 would have been the original intention of the rule, otherwise the minor residential unit rule (RPROZ-R19) would have no purpose and would never be utilised.
544. I also agree with NZ Pork that there is no equivalent setback included in the RPROZ to control where new residential units are constructed relative to existing indoor and outdoor intensive primary production activities. Indoor intensive primary production activities are required to ensure that buildings or structures housing animals are setback at least 300m from any sensitive activity on a site under separate ownership (RPROZ-R23), however there is no reciprocal setback required to protect existing intensive primary production activities. As this issue is broader than just residential activities (i.e. it is an issue applying to all sensitive activities), I consider it more appropriately dealt with by way of a standard applying to buildings and



structures, as opposed to an amendment to RPROZ-R3. I cover this in Key Issue 26 below.

545. With respect to provisions for farm workers accommodation, I have addressed this in Key Issue 14 above for both farm workers accommodation and seasonal workers accommodation. As such, I do not recommend any amendments to RPROZ-R3 to provide for farm workers accommodation.

**Recommendation**

546. For the reasons set out above, I recommend that the submissions on RPROZ-R3 are accepted, accepted in part and rejected as set out in **Appendix 2**.

547. I recommend that an additional exemption from PER-1 is added into RPROZ-R3 as follows:

*"PER-1 does not apply to:*

- i. a single residential unit located on a site less than 40ha.*
- ii. a minor residential unit constructed in accordance with rule RPROZ-R19.*

**Section 32AA evaluation**

548. I consider that the amendment to RPROZ-R3 is a minor amendment to clarify intent and does not change the intention of the rule from what was originally notified. On this basis, in my view, no evaluation for this recommended amendment to RPROZ-R3 is required under section 32AA of the RMA.

**5.2.18 Key Issue 18: Rule RPROZ-R4**

**Overview**

Provision(s)	Officer Recommendation(s)
RPROZ-R4	Retain as notified

**Analysis of Submissions on Key Issue 18: RPROZ-R4**

**Matters raised in submissions**

549. There are four original submissions in support of RPROZ-R4, including Tracy and Kenneth Dalton (S479.021) and Sarah Ballantyne and Dean Agnew (S386.021). These submitters request that the rule be retained as notified as they support enabling visitor accommodation in the RPROZ.
550. Waitangi Limited (S503.031) request an amendment to RPROZ-R4 to include 'marae' in the PER-1 list of the types of buildings that visitor accommodation can be located. They also request an amendment to exclude the Waitangi



Estate from PER-2 by adding the sentence "*With the exception of the Waitangi Estate*". This relief is requested so that, should visitor accommodation be offered, the Treaty grounds marae is not required to restrict visitor numbers.

551. Horticulture NZ (S159.110) opposes RPROZ-R4 and considers that it is insufficient to manage potential reverse sensitivity effects. The submitter requests that the guest limit under PER-2 is reduced to six guests per night.
552. NZ Pork (S55) have made two submission points in opposition to RPROZ-R4. The first point (S55.033) is in opposition to the proposed permitted activity status of visitor accommodation. This submitter notes that visitor accommodation is defined as a sensitive activity which can potentially cause reverse sensitivity effects on established intensive primary production activities. NZ Pork request the activity status is changed to restricted discretionary to thoroughly assess the potential impact of sensitive activities within RPROZ by way of the resource consent process. The second point from NZ Pork (S55.034) requests a sensitive activity setback from an existing intensive primary production activity like that in PER-2 of RPROZ-R1 relating to Mineral Extraction overlays.

### **Analysis**

553. With respect to the submission from Waitangi Limited, I consider that the visitor accommodation rule does not provide for people staying on the marae at Waitangi Estate. In fact, the visitor accommodation rule was never designed to manage the number of people staying on a marae. In my opinion, marae are already excluded from RPROZ-R4 as the definition of visitor accommodation is '*means land and/or buildings used for accommodating visitors, subject to a tariff being paid, and includes any ancillary activities.*' As I understand there is no tariff payable for people staying on a marae (and a koha would not be considered a tariff) therefore, by definition, marae are not captured by RPROZ-R4. In my view, marae would, intentionally or unintentionally, fall under the broader definition of 'community facility', being (my emphasis in **bold**):

*"means **land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare, or worship purposes.** It **includes provision for any ancillary activity that assists with the operation of the community facility.**"*

554. While new community facilities require discretionary activity consent under RPROZ-R26, using a community facility in the manner it has been designed for is permitted. There is nothing in the definition of community facility that, in my view, would prevent it being used to accommodate visitors overnight. In the case of an existing activity such as the marae at Waitangi Estate, there are no RPROZ provisions that, in my opinion, prevent the marae from hosting the number of people overnight that it has been designed to accommodate and RPROZ-R4 does not impose restrictions on marae visitor



numbers. As such, I recommend that the submission point from Waitangi Limited is rejected. I am aware that there have been issues raised as part of Hearing 4 with respect to the definition of marae and I understand that these will be addressed in Hearing 17 relating to definitions.

555. With respect to the Horticulture NZ and NZ Pork submissions, I consider that the 10-guest permitted activity limit in the RPROZ strikes an appropriate balance between providing rural landowners with small scale opportunities for visitor accommodation but also managing reverse sensitivity effects. The limitation on the types of buildings that can accommodate the activity, combined with the 10-guest limit ensures that visitor accommodation activities will only be relatively small as a permitted activity (i.e. this would provide for two related families for a short-term holiday). I am recommending reciprocal setbacks for sensitive activities in Key Issue 26 below, which I consider will address some of the concerns raised about new sensitive activities setting up in close proximity to buildings housing stock and intensive primary production activities.

### **Recommendation**

556. For the reasons set out above, I recommend that the submissions on RPROZ-R4 are accepted, accepted in part and rejected as set out in **Appendix 2**. I do not recommend any amendments to RPROZ-R4.

### **Section 32AA evaluation**

557. I do not recommend any amendments to RPROZ-R4 and therefore no further evaluation is required under section 32AA of the RMA. **Key Issue 19: Rule RPROZ-R5**

### **Overview**

<b>Provision(s)</b>	<b>Officer Recommendation(s)</b>
RPROZ-R5	Retain as notified

### **Analysis of Submissions on Key Issue 19: RPROZ-R5**

#### **Matters raised in submissions**

558. Northland Planning and Development 2020 Limited (S502.047) support RPROZ-R5 in part but request that PER-1 is amended to remove the maximum gross floor area restriction for accessory buildings. The submitter argues that home businesses should be able to utilise existing buildings such as farm sheds that might exceed 40m<sup>2</sup> without triggering the need for resource consent. This submitter considers that, if a business were to utilise an accessory building exceeding 40m<sup>2</sup>, PER-2 and PER-3 are sufficient to control adverse effects.



559. Horticulture NZ (S159.112) supports the intent of RPROZ-R5 but notes the rule does not state which standards apply. Horticulture NZ request that a PER-3 is inserted that requires compliance with the standards relating to buildings, i.e., PER-2 of RPROZ-R1.
560. John Andrew Riddell (S431.140) requests that PER-4 of RPROZ-R5 is amended to apply the hours of operation to when the business is open to the public.

### **Analysis**

561. I acknowledge the concerns of Northland Planning and Development 2020 Limited and that they are seeking more flexibility from RPROZ-R5, particularly when utilising existing accessory buildings. I agree that, in some cases, the controls on number of persons engaged in the home business and the requirement to undertake all activities within a building or have the activities screened will adequately manage off-site effects on neighbouring properties. However, the intent of the GFA limit on accessory buildings is to put a check point in place to check the scale and nature of the home business. There may be some commercial or industrial activities that only employ a few people but create adverse effects such as noise, dust, traffic movements etc that do not fit well in the rural environment. Having no GFA limits on accessory buildings increases the likelihood that a full scale commercial or industrial activity is able to set up in the RPROZ as a permitted when it is better located in an urban zone. As such, I do not recommend removing the GFA limit from RPROZ-R5.
562. With respect to the Horticulture NZ submission, I have already addressed this issue in Key Issue 17 above and I do not recommend adding standards to RPROZ-R5.
563. John Andrew Riddell requests amendments to PER-4 with respect to the hours of operation of home businesses. I agree that not all home businesses will be 'open to the public' and therefore limiting operation hours for small, work from home businesses with no face-to-face customers is likely to be overly restrictive. However, I have concerns with an open-ended condition, as suggested by John Andrew Riddell, that states that the hours of operation should match when the business is open to the public without any indication of suitable opening hours for a public facing business. For a permitted activity condition to be effective, it needs to be measurable against a specific limit. As such, I recommend retaining the operating hours in PER-4 of RPROZ-R5 but clarifying that these hours only restrict when a business can be open to the public, not the hours a business can operate.

### **Recommendation**

564. For the reasons set out above, I recommend that the submissions on RPROZ-R5 are accepted, accepted in part and rejected as set out in **Appendix 2**.





565. I recommend that the wording of PER-4 in RPROZ-R5 is amended to clarify that the permitted condition relating to operating hours only applies to the hours that a business is open to the public.

**Section 32AA evaluation**

566. I consider that the amendment to PER-4 in RPROZ-R5 is a minor change to clarify how the rule should be applied and that it does not change the intent of the rule. As such, no further evaluation is required under section 32AA of the RMA in my view.

**5.2.20 Key Issue 20: Rule RPROZ-R6**

**Overview**

Provision(s)	Officer Recommendation(s)
RPROZ-R6	Change to activity status and new matters of discretion

**Analysis of Submissions on Key Issue 20: RPROZ-R6**

**Matters raised in submissions**

567. MOE (S331.068) requests amendments to RPROZ-R6, as discussed in Key Issue 4 above. My recommendations to respond to this submission are included in the recommendations section below, i.e. amending the activity status of infringing RPROZ-R6 from discretionary to restricted discretionary and inserting new matters of discretion accordingly.

568. Northland Planning and Development (S502.048) and Waitangi Limited (S503.032) support RPROZ-R6 in part but express concern as it appears that museums, marae, town halls and similar community spaces do not fall under the definition of ‘accessory building’. These submitters consider buildings of this nature often host educational programmes and that this should be able to continue without triggering consent. Northland Planning and Waitangi Limited therefore request amendments are made, and additional PER-4 is inserted, to RPROZ-R6 as follows:

*PER-1*

*The educational facility is within a residential unit, accessory building or, minor residential unit, Museum, marae or other similar facility.*

*PER-2*

*Hours of operation are between;*

- 1. 7am-8pm Monday to Friday.*
- 2. 8am-8pm Weekends and public holidays.*





*PER-3*

*The number of students attending at one time does not exceed four within a residential unit, accessory building or minor residential unit, excluding those who reside onsite.*

*PER-4*

*The number of students attending at one time does not exceed the number of people for which a museum, marae or other similar facility has been designed for.*

569. NZ Pork (S55) have made two submission points in opposition to RPROZ-R6. The first point (S55.035) is in opposition to the proposed permitted activity status of educational facilities. This submitter notes that an educational facility is defined as a sensitive activity which can potentially cause reverse sensitivity effects on established intensive primary production activities. NZ Pork request the activity status is changed to restricted discretionary to thoroughly assess the potential impact of sensitive activities within RPROZ by way of the resource consent process. The second point (S55.036) requests a sensitive activity setback from an existing intensive primary production activity like that in PER-2 of RPROZ-R1 relating to Mineral Extraction overlays.
570. Horticulture NZ (S159.113) supports the intent of RPROZ-R6 but notes the rule does not state which standards apply. Horticulture NZ request that a PER-3 is inserted that requires compliance with the standards relating to buildings, i.e., PER-2 of RPROZ-R1.

**Analysis**

571. Two of these submission points have already been addressed earlier in this report – MOE in Key Issue 4 and Horticulture NZ in Key Issue 17. I do not repeat my analysis of these points here. Note that the matters of discretion that I am recommending for educational facilities that cannot meet the permitted conditions in RPROZ-R6 are based on the matters of discretion for RPROZ-R16 (additions or alterations to community facilities) for consistency and may be slightly broader than those requested by MOE.
572. I agree with Northland Planning and Development and Waitangi Limited that RPROZ-R6 does not provide for the types of educational activities that typically occur on marae, in museums and in other types of community facilities, but this is not what the rule was drafted to control. RPROZ-R6 is designed primarily to manage small-scale educational facilities in residential settings rather than in public facilities and is not intended to restrict educational activities occurring within community facilities. As discussed in Key Issue 18 above in relation to visitor accommodation and marae, I consider that marae fall within the definition of community facility, and similarly I consider that museums, town halls and other similar facilities are also community facilities. As such, I do not recommend any amendments to



RPROZ-R6 to explicitly provide for museums, marae or other similar facilities to be used as educational facilities.

573. With respect to the NZ Pork submission, I am recommending reciprocal setbacks for sensitive activities in Key Issue 26 below, which I consider will address some of the concerns raised about new sensitive activities setting up in close proximity to buildings housing stock and intensive primary production activities.

### Recommendation

574. For the reasons set out above, I recommend that the submissions on RPROZ-R6 are accepted, accepted in part and rejected as set out in **Appendix 2**. I do not recommend any amendments to RPROZ-R6.

575. I recommend that RPROZ-R6 is amended as follows:

RPROZ-R6	Educational facility	
<p><b>Rural production zone</b></p>	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b> The educational facility is within a residential unit, accessory building or minor residential unit.</p> <p><b>PER-2</b> Hours of operation are between;</p> <ol style="list-style-type: none"> <li>1. 7am-8pm Monday to Friday.</li> <li>2. 8am-8pm Weekends and public holidays.</li> </ol> <p><b>PER-3</b> The number of students attending at one time does not exceed four, excluding those who reside onsite.</p>	<p><b>Activity status where compliance not achieved with PER-1, PER-2 or PER-3: <u>Restricted Discretionary</u></b></p> <p><b>Matters of discretion are restricted to:</b></p> <ol style="list-style-type: none"> <li>a. <u>the character and appearance of the building(s)</u></li> <li>b. <u>the siting of the building(s), decks and outdoor areas including parking relative to adjoining sites;</u></li> <li>c. <u>whether the building(s) are visually dominant and create a loss of privacy for surrounding residential units and their associated outdoor areas;</u></li> <li>d. <u>ability of the supporting roading network to cater for the additional vehicular and if applicable cycling and pedestrian traffic;</u></li> <li>e. <u>servicing requirements and any constraints of the site;</u></li> <li>f. <u>whether the location of the building(s) and educational facility activity could create reverse sensitivity effects on</u></li> </ol>



		<p>adjacent and surrounding primary production activities;</p> <p>g. <u>whether the layout of the development maintains the existing rural character of the surrounding area;</u></p> <p>h. <u>any lighting or noise effects</u></p> <p>i. <u>the frequency of the use, hours and days of operation and the number of people it can cater for;</u></p> <p>j. <u>any natural hazard affecting the site or surrounding area; and</u></p> <p>k. <u>the extent to which the loss of highly productive land is minimised.</u></p>
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### Section 32AA evaluation

576. The section 32AA evaluation for amending the activity status of educational activities in the RPROZ is covered in Key Issue 4 above and is not repeated here.

### 5.2.21 Key Issue 21: Rule RPROZ-R7

#### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-R7	Retain as notified

#### Analysis of Submissions on Key Issue 21: RPROZ-R7

##### Matters raised in submissions

577. There are nine original submission points on RPROZ-R7. The majority of submissions support RPROZ-R7 and request it be retained as notified as the rule is enabling and gives effect to the RPROZ objectives. These submitters include Bentzen Farm Limited (S167.099), Matauri Trustee Limited (S243.117), Federated Farmers (S421.221) and Te Aupōuri Commercial Development Ltd (S339.051).
578. NZ Agricultural Aviation Association (S182.032) supports RPROZ-R7 in part, but request that the definition of 'Farming Activity' is amended as per its submission, which would then be used as the basis for RPROZ-R7.
579. NZ Pork (S55.038) opposes RPROZ-R7 as, while it supports extensive farming activities being permitted in the RPROZ, it is concerned that



intensive primary production activities are not sufficiently enabled. The submitter requests a restructure of RPROZ-R7 to align with its requested amendments to the definition of farming to remove the exclusion of intensive primary production (as per submission point S55.003).

### Analysis

580. I agree with the submitters that support retention of RPROZ-R7 as notified. I have responded to the concerns of NZ Agricultural Aviation Association in Key Issue 5 of this report, noting that their submission points are largely addressed through the Temporary Activities and Noise section 42A reports. I do not recommend any changes to RPROZ-R7 as a result of this submission.
581. Similarly, I have responded to NZ Pork in Key Issue 5 above with respect to the exclusion of intensive primary production activities from the definition of farming. I still consider it appropriate for both indoor and outdoor intensive primary production to be managed through a resource consent process and for both these activities to be excluded from the permitted scope of RPROZ-R7.

### Recommendation

582. For the reasons set out above, I recommend that the submissions on RPROZ-R7 are accepted, accepted in part and rejected as set out in **Appendix 2**. I do not recommend any amendments to RPROZ-R7.

### Section 32AA evaluation

583. I do not recommend any amendments to RPROZ-R7 and therefore no further evaluation is required under section 32AA of the RMA.

## 5.2.22 Key Issue 22: Rules RPROZ-R8 – R12

### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-R8, RPROZ-R12	Retain as notified
RPROZ-R9	Minor amendment to rule name to align with definition of 'recreation activity' and align with the NPS-HPL
RPROZ-R10	Minor amendment to clarify setback from road boundary
RPROZ-R11	Amendment to increase GFA permitted threshold and add in new restricted discretionary pathway



## **Analysis of Submissions on Key Issue 22: Rules RPROZ-R8 – R12**

### **Matters raised in submissions**

#### Rule RPROZ-R8

584. A group of submitters, including Bentzen Farm Limited (S167.100) and P S Yates Family Trust (S333.088), as well as Wakaiti Dalton (S355.028), Tracy and Kenneth Dalton (S355.028) and Te Aupōuri Commercial Development (S339.052) all support RPROZ-R8 and request it be retained as notified.
585. NZ Agricultural Aviation Association (S182.033) support conservation activities as a permitted activity but note this support is conditional on the inclusion of "*the use of agricultural aviation*" and "*biosecurity*" to the definition of 'Conservation Activity' (S182.003).

#### Rule RPROZ-R9

586. Sarah Ballantyne and Dean Agnew (S386.022) and Willowridge Developments Limited (S250.022) consider RPROZ-R9 – Recreational activity is inconsistent with the definition of 'Recreation Activity'. These submitters request the rule be amended so it is consistent with the definition of 'Recreation Activity' to improve consistency and legibility.

#### Rule RPROZ-R10

587. Te Waka Pupuri Putea Trust (S477.017) supports RPROZ-R10 as it provides for rural produce retail opportunities for their whanau and hapu.
588. Federated Farmers (S421.222) supports rural produce retail being classified as a permitted activity but questions the 30m internal boundary setback requirement in PER-1. This submitter notes that stands and/or stalls selling produce should be located to be visible from the road and, therefore, a 30m setback is too onerous. Federated Farmers request the setback requirement is deleted from PER-1 of RPROZ-R10 or it is reduced to 5m.
589. Wakaiti Dalton (S355.029) and Tracy and Kenneth Dalton (S355.024) also question the setback imposed and request its deletion from RPROZ-R10. Moreover, these submitters note there are already appropriate setbacks proposed in RPROZ-S3.

#### Rule RPROZ-R11

590. Wakaiti Dalton (S355.030) and Tracy and Kenneth Dalton (S355.025) support RPROZ-R11 and request it is retained as notified.
591. Federated Farmers (S421.223) does not support the maximum GFA threshold being 100m<sup>2</sup> as this size is considered to be unrealistic for rural produce manufacturing that supports production activities. Federated farmers request RPROZ-R11 is amended to increase the permitted GFA to a



minimum of 250m<sup>2</sup>. Te Aupōuri Commercial Development Ltd (S339.053) also requests that GFA thresholds are increased to enable greater flexibility.

592. Horticulture NZ (S159.114) request that RPROZ-R11 should be amended so that it enables small-scale rural industry as a permitted activity. The requested amendments from Horticulture NZ would involve amending the title of RPROZ-R11 to 'Rural Industry' and all subsequent references to 'Rural Produce Manufacturing' in the RPROZ chapter being changed to 'Rural Industry'. Horticulture NZ also requests that the activity status for failing to comply with the permitted activity conditions is changed from discretionary to restricted discretionary

#### Rule RPROZ-R12

593. Federated Farmers (S421.224) supports farm quarries being classified as a permitted activity and requests RPROZ-R12 is retained.
594. Summit Forests (S148.047) requests RPROZ-R12 is amended to 'Farm/Forestry Quarry' and include a clause 3. under PER-1 to read "*is subject to the provisions of the NES-PF*".

### **Analysis**

#### RPROZ-R8

595. With respect to the NZ Agricultural Aviation Association, I note that the definition of 'conservation activity' will be considered in Hearing 17, currently scheduled for November 2025. However, I consider that the relief recommended as part of the Temporary Activities topic with respect to agricultural aviation activities confirms that these are a permitted activity and, as such, clarification that they are covered by the definition of 'conservation activity' may no longer be necessary. As such, I do not recommend any amendments to RPROZ-R8.

#### RPROZ-R9

596. I agree with submitters that there is an inconsistency between the title of RPROZ-R9 (being for recreational activity) and the definition of 'recreation activity'. I recommend a minor amendment to the name of RPROZ-R9 to correct this issue.
597. I also consider that minor amendments are required to RPROZ-R9 to align with Clause 3.9 of the NPS-HPL. While some recreation activities are likely to be temporary in nature (and therefore not inappropriate on HPL), others may involve permanent buildings or sports fields, which are not provided for on HPL under Clause 3.9 of the NPS-HPL (i.e. they are deemed to be inappropriate use and development on HPL). As such, I recommend an amendment to RPROZ-R9 to ensure that buildings associated with recreation activities do not occur on HPL as a permitted activity.



#### RPROZ-R10

598. I agree with Federated Farmers and others that the 30m setback from a road boundary is overly onerous given the need for stands/stalls to be visible from a road, however I consider that the use of the words 'internal boundary' setback was intended to exclude road boundaries. I agree that the wording of this rule could be clearer in this respect, and I recommend wording changes below to address this. The result would be that buildings/structures associated with rural produce retail activities would need to be set back 10m from road boundaries as per RPROZ-R3. I still consider that a 30m setback from boundaries with other neighbouring properties is appropriate given the potential additional noise and traffic movements associated with customers visiting a rural produce retail activity.

#### RPROZ-R11

599. I accept the point made by Federated Farmers that many rural produce manufacturing activities that are essential support activities and need to locate in the RPROZ will not be able to fit into a 100m<sup>2</sup> building. However, the need to have fit for purpose buildings also needs to be balanced with managing what scale of buildings can be established in the RPROZ without going through the consent process to manage issues like screening, visual impacts, built dominance, privacy, associated traffic movements etc. I support a small increase in the permitted GFA to 150m<sup>2</sup> to accommodate a wider range of rural produce manufacturing activities, but do not agree that 250m<sup>2</sup> is the correct permitted threshold as sought by Federated Farmers. In my opinion, a 150m<sup>2</sup> building is similar in scale to an average sized residential unit or farm shed/barn (noting that these can vary significantly), so is an appropriate scale to be managed as a permitted activity.
600. I do not agree with Horticulture NZ that the scope of RPROZ-R11 should be expanded from rural produce manufacturing to rural industry, as there is already a separate rule for rural industry with a more stringent activity status. The National Planning Standards definition of 'Rural Industry' is very broad as follows:
- "means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production"*
601. This is in contrast to the definition of 'Rural Produce Manufacturing' in the PDP as follows:
- "means the use of land and/or buildings for the manufacturing of products from rural produce grown on the same site"*
602. The intent of these definitions and associated different rules, in my opinion, is to make a distinction between the types of rural industry that should be enabled as a permitted activity because of the clear links to processing rural produce, and those that need to go through the resource consent process due to potential off-site effects associated with the scale of buildings and/or





the nature of the operation. The section 32 report for the Rural Zones<sup>76</sup> outlines that it was a conscious decision to remove permitted pathways for non-primary production activities that might have a need for a rural location but are not the core primary production and related/ancillary activities that the RPROZ provides for.

- 603. I also note that, although the Rural Production zone description in the National Planning Standards states that the zone may also be used for a range of activities that support primary production activities (including associated rural industry), this does not mean that these activities must be given a permitted activity pathway. I consider that a restricted discretionary activity pathway under RPROZ-R24 for rural industry is appropriate.
- 604. However, I do agree that the activity status for rural produce manufacturing activities that cannot meet PER-1 should be amended to restricted discretionary to broadly reflect that rural industry activities up to 500m<sup>2</sup> can establish as a restricted discretionary activity under RPROZ-R24. I consider that discretionary is an appropriate activity status for more than one rural produce manufacturing activities per site or when operations are not within a building or screened. I propose that the matters of discretion match those for rural industry under RPROZ-R24, with an additional matter relating to the loss of HPL included.

RPROZ-R12

- 605. I disagree with Summit Forests that amendments are required to RPROZ-R12 to cover forestry quarries. Forestry quarrying is managed under Subpart 5 of the NES-CF and there is no need to reference or replicate these regulations in RPROZ-R12. However, I am recommending the addition of a note at the beginning of the rules table referring to the NES-CF, which I consider will clarify the relationship between the RPROZ provisions and the NES-CF, including forestry quarrying.

**Recommendation**

- 606. For the reasons set out above, I recommend that the submissions on RPROZ-R8, RPROZ-R9, RPROZ-R10, RPROZ-R11 and RPROZ-R12 are accepted, accepted in part and rejected as set out in **Appendix 2**. I do not recommend any amendments to RPROZ-R8.
- 607. I recommend that RPROZ-P9 is amended as follows:

<b>RPROZ-R9</b>	<b>Recreational activity</b>
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<p><b>Rural production zone</b></p>	<p><b>Activity Status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b></p> <p>The recreational activity is not being operated as a commercial activity.</p> <p><b>PER-2</b></p> <p>There is no motorsport activity.</p> <p><b>PER-3</b></p> <p><u>Any buildings or structures associated with a recreation activity are not located on highly productive land.</u></p>	<p><b>Activity status where compliance not achieved with PER-1, or PER-2 or PER-3: Discretionary</b></p>
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608. I recommend that PER-1 of RPROZ-R10 is amended to state *"The activity does not exceed GBA of 100m<sup>2</sup> and is set back a minimum of 30m from any internal site boundary other than a road boundary"*.
609. I recommend amending RPROZ-R11 as follows:

<p><b>RPROZ-R11</b></p>	<p><b>Rural produce manufacturing</b></p>	
<p><b>Rural production zone</b></p>	<p><b>Activity Status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b></p> <p>The building undertaking rural produce manufacturing does not exceed GFA of 1500m<sup>2</sup>.</p> <p><b>PER-2:</b></p> <p>The number of rural produce manufacturing operations does not exceed one per site.</p> <p><b>PER-3:</b></p>	<p><b>Activity status where compliance not achieved with PER-1: Restricted Discretionary</b></p> <p><b><u>Matters of discretion are restricted to:</u></b></p> <p>a. <u>the character and appearance of the building(s)</u></p> <p>b. <u>the siting of the building(s) and outdoor areas including parking relative to adjoining sites;</u></p> <p>c. <u>whether the building(s) are visually dominant and create a loss of privacy for surrounding residential</u></p>



	<p>All manufacturing, altering, repairing, dismantling or processing of any materials or articles is carried out within a building or screened from residential units on adjoining properties.</p>	<p>units and their associated outdoor areas;</p> <p>d. <u>ability of the supporting roading network to cater for the additional traffic;</u></p> <p>e. <u>servicing requirements and any constraints of the site;</u></p> <p>f. <u>whether the location of the building(s) and the rural industry is compatible with adjacent and surrounding primary production activities;</u></p> <p>g. <u>whether the layout of the development maintains the existing rural character of the surrounding area;</u></p> <p>h. <u>any lighting or noise effects;</u></p> <p>i. <u>the frequency of the use, hours and days of operation and the number of people employed;</u></p> <p>j. <u>any natural hazard affecting the site or surrounding area.</u></p> <p>k. <u>the extent to which the loss of highly productive land is minimised.</u></p> <p><b>Activity status where compliance not achieved with PER-1, PER-2 or PER-3:</b></p> <p><b>Discretionary</b></p>
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### Section 32AA evaluation

610. With respect to RPROZ-R9, I consider that the recommended amendment to align the title of the rule with the associated definition is a minor change to fix a drafting error and does not require further evaluation under section 32AA. I consider that the rationale for the other amendment to RPROZ-R9 to align with the NPS-HPL has been sufficiently addressed in response to



aligning other RPROZ provisions with the NPS-HPL in the key issues above. As such, I do not repeat the section 32AA evaluation here.

611. I consider that the recommended amendment to RPROZ-R10 is also a minor change to clarify the notified intent of the rule and does not require further evaluation under section 32AA.
612. With respect to the recommended amendments to RPROZ-R11, I consider that a modest increase to the permitted GFA of buildings used for rural produce manufacturing will be an effective way to enable a larger number of these activities as a permitted activity (a more efficient outcome) while also balancing the rural and visual amenity effects of large buildings on the RPROZ. Making an infringement of the GFA standard a restricted discretionary activity will also be more effective than the notified version of the rule as it will give plan users more direction as to the types of matters to be considered when applying for consent for a larger building. As such, I consider that my recommended amendments to RPROZ-R11 will be more effective and efficient in achieving the relevant objectives in the PDP than the notified standard and are therefore appropriate in terms of section 32AA of the RMA.

### 5.2.23 Key Issue 23: Rules RPROZ-R15, R16 and R18

#### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-R15	Amendments to align with both the NPS-HPL and NES-CF
RPROZ-R16	Minor amendment to give effect to the NPS-HPL
RPROZ-R18	Retain as notified

#### Analysis of Submissions on Key Issue 23: Rules RPROZ-R15, R16 and R18

##### Matters raised in submissions

##### Rule RPROZ-15

613. A number of submitters, including Te Aupōuri Commercial Development Ltd (S339.054), have pointed out an error in the title of RPROZ-R15 as it reads "*Plantation forestry and and plantation forestry activity*". Submitters request the title is amended by deleting the additional 'and'.
614. Manulife Forest (S160.040), PF Olsen Limited (S91.021) and Summit Forests (S148.048) request the deletion of PER-1 from RPROZ-R15.



615. Manulife Forest supports the intent of the rule permitting plantation forestry but considers versatile soils should be available for use by all primary production activities. In support of this position, the submitter notes that plantation forestry can be planted, harvested, and converted back to horticultural or farmed land at the end of the forestry cycle.
616. PF Olsen Limited and Summit Forests note there are no provisions within the NES-PF that allow councils to be more stringent in relation to versatile soils as proposed in RPROZ-R15 PER-1. These submitters draw particular attention to Regulation 6 of the NES-PF, which establishes where councils may have more stringent rules than the NES-PF regulations and note that protection of HPL is not listed in Regulation 6. PF Olsen Limited are particularly concerned regarding perverse outcomes stemming from primary production activities being segmented by LUC classes. The submitters request that all primary production activities within the RPROZ are able to establish on land in the RPROZ, regardless of the LUC land class.

#### Rule RPROZ-16

617. Northland Planning and Development (S502.049) support RPROZ-R16 in part as it enables existing smaller scale marae outside of the Māori Purpose Zone to undertake minor alterations to buildings without resource consent requirements being triggered. To expel any ambiguity, this submitter is requesting the title be amended to *'Additions or alterations to an existing Community Facility or Marae.'*

#### Rule RPROZ-18

618. FNR Properties (S316.001) supports RPROZ-R18 as it specifically provides for mining prospecting and exploration to occur within the RPROZ and considers this represents a positive change for existing activities.
619. Forest and Bird (S511.120) and Kapiro Conservation Trust (S442.139) oppose the activity being permitted across RPROZ and consider it should only be enabled in the Mineral Extraction overlay and they request that the activity status outside of the overlay in RPROZ should be changed to controlled.

### **Analysis**

#### RPROZ-R15

620. I agree with submitters that the additional 'and' in the title of RPROZ-R15 is an error and should be deleted.
621. As outlined under Key Issue 4, I am recommending amendments to RPROZ provisions to refer to 'forestry activities' to align with the NPS-HPL and also a new definition of 'forestry activity' that aligns with both the NES-CF and NPS-HPL. I also conclude in Key Issue 4 that there is no clear statutory directives or locally specific factors that justify a more stringent approach for



forestry activities on versatile soils (or HPL) and therefore PER-1 in of RPROZ-R15 can be deleted. The question then becomes whether to retain or amend RPROZ-R15 given it serves limited purpose other than to clarify that forestry is permitted and it is my recommendation that all commercial forestry is regulated under the NES-CF. To address the above issues and provide clarity to plan users, I recommend a combination of:

- i. A new advice note inserted above the rule table that clarifies that commercial forestry is regulated under the NES-CF and none of the RPROZ rules apply (although there are more stringent rules for commercial forestry in Part 2 of the PDP).
- ii. Amendments to RPROZ-R15 so that it applies to forestry activities not regulated under the NES-CF. This ensures that permanent indigenous forestry and sustainable indigenous tree harvesting under the Forestry Act 1949 are permitted in the RPROZ as a land-use activity and do not face unnecessary consent requirements.

#### RPROZ-R16

622. The definition of 'community facility' in the PDP is a National Planning Standards definition as follows:

*"means land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare, or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility."*

623. My reading of this definition is that it very clearly provides for buildings used by members of the community for cultural purposes, including ancillary activities. I consider that this definition already covers marae (which is currently defined in the glossary section of the PDP and, as such, I do not consider that the additional reference to marae requested by Northland Planning and Development is required for clarity.
624. However, I note that RPROZ-R16 provides for additions or alterations to an existing Community Facility, which is appropriate in the RPROZ generally. The expansion of existing community facilities is also anticipated as an activity that can occur on HPL in accordance with Clause 3.11 of the NPS-HPL. However, Clause 3.11(1)(b) requires that district plan provisions ensure that any loss of HPL from those activities is minimised. As there is no matter of discretion relating to minimising loss of HPL when the PER-1 thresholds are exceeded, I recommend the insertion of an additional matter of discretion to this effect in order to give effect to the NPS-HPL.

#### RPROZ-R18

625. I disagree with Forest and Bird and Kapiro Conservation Trust that mineral prospecting and exploration should only occur within the Mineral Extraction



overlay (I understand the reporting officer is recommending this be change to the Mineral Extraction zone). This zone only applies to areas used by existing mineral extraction activities, which means it is not a location where prospecting or exploration would be required. The limitation to only prospect or explore with hand tools limits the scale and associated environmental impacts of the activity and, in my view, means that permitted activity status is appropriate. If the prospecting or exploration identifies a mineral resource, consent for the extraction of that resource would be required under RPROZ-R30 as a discretionary activity. As such, I recommend that the relief sought by these submitters is rejected.

### Recommendation

- 626. For the reasons set out above, I recommend that the submissions on RPROZ-R15, RPROZ-R16, and RPROZ-R18 are accepted, accepted in part and rejected as set out in **Appendix 2**. I do not recommend any changes to RPROZ-R18.
- 627. I recommend RPROZ-R15 is amended to only apply to forestry activities not regulated under the NES-CF and that an advice note is added above the Rule table to clarify that commercial forestry is regulated under the NES-CF and none of the RPROZ rules apply.
- 628. I recommend that an additional matter of discretion is added into RPROZ-R16 stating "the extent to which the loss of highly productive land is minimised".

### Section 32AA evaluation

- 629. I consider that the rationale for amending RPROZ-R15 and RPROZ-R16 to align with the NPS-HPL and NES-CF has been sufficiently addressed in response to aligning other RPROZ provisions with the NPS-HPL and the NES-CF in the key issues above. As such, I do not repeat the section 32AA evaluation here.

## 5.2.24 Key Issue 24: Rule RPROZ-R19

### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-R19	Amend the activity status from controlled to permitted

### Analysis of Submissions on Key Issue 24: RPROZ-R19

#### Matters raised in submissions

- 630. The group of submitters, including Bentzen Farm Limited (S167.101), P S Yates Family Trust (S333.089) and Wendover Two Limited (S222.094),





oppose RPROZ-R19 as they consider that minor residential units should be a permitted activity. These submitters consider that matters controlled by CON-1 – CON-5 could easily be permitted activity standards and compliance with the permitted activity rule could be managed through the building consent process, thus removing the need for a controlled activity status. The group of submitters request the activity status is changed to permitted where all standards are complied with.

631. This group of submitters also requests that CON-4 (the maximum 15m distance between principal residential and minor units) is deleted. The submitters consider that there are site-specific characteristics which may necessitate a greater separation distance, e.g. the availability of a suitable building platform and desirability of screening the minor unit.
632. Willowridge Developments Limited (S250.024), Sarah Ballantyne and Dean Agnew (S386.024) Wakaiti Dalton (S355.031) and other submitters support the inclusion of a minor residential unit rule in the RPROZ and also consider that it can be managed as a permitted activity. These submitters request a change in activity status from controlled to permitted.
633. Lynley Newport (S105.001, S105.002, S105.003) has made three submission points on RPROZ-R19, which support the rule in part. First, the submitter considers the 15m separation of primary dwelling and minor unit too restrictive and requests that it is increased to 30m to provide adequate space for shared gardens, landscaping and vehicle manoeuvrability. The second submission point is that the minimum 1ha site area requirement in CON-2 should be reduced to 5,000m<sup>2</sup>.
634. The third submission point from Lynley Newport is that non-compliance with CON-4 should not be a non-complying activity. In terms of effects, the submitter considers CON-4 is similar to CON-3 and should be treated as such.
635. A group of submitters, including Amber Hookway (S261.003) and Lianne Kennedy (S310.003), oppose CON-4 of RPROZ-R19, stating there needs to be a minimum distance of 30m to ensure quiet enjoyment of any minor residential unit. These submitters are particularly concerned with children's safety if there is a requirement to share a driveway and there is minimal separation distance between the principal dwelling and the minor residential unit. The submitters request that the ODP separation distance of 30m is retained and that, when considering an application under RPROZ-19, Council's exercise of control should be restricted to the following matters:
  - a. the extent of the separation between the principal dwelling and the minor residential unit;
  - b. the degree to which design is compatible with the principal dwelling;
  - c. the extent that services can be shared;



- d. the ability to mitigate any adverse effects by way of provision of landscaping and screening; and
- e. the location of the unit.

636. Glen Nathan (S36.001) opposes the proposed GFA being 65m<sup>2</sup>. This submitter requests GFA is increased to 75m<sup>2</sup> for those units which have been modified or built for wheelchair accessibility. Glen Nathan also requests that the GFA for attached garages be increased from 18m<sup>2</sup> to 24m<sup>2</sup> to allow for room to transfer from wheelchair to vehicle and vice versa.

### **Analysis**

637. I understand the general desire of submitters on RPROZ-R19 to make the minor residential unit rule more permissive and flexible in the RPROZ. I see the role of minor residential units in the RPROZ as providing an additional pathway for people to live in a rural environment and give landowners the ability to provide for their particular circumstances e.g. house elderly relatives or wider family on their property, accommodate farm workers, achieve a second income stream from renting out a small dwelling, or accommodate a small-scale visitor accommodation activity. However, this needs to be balanced against the primary purpose of the RPROZ, which is to ensure its availability for primary production activities and its long-term protection for current and future generations (RPROZ-O1).

638. The two key threats to primary production activities and the rural land resource that I consider need to be managed through RPROZ-R19 are reverse sensitivity and increased risk of land fragmentation, both of which can occur when the location and scale minor residential units are not managed effectively. The combination of conditions in RPROZ-R19 work together to ensure that the principal residential unit and minor residential unit are clustered together on a site and have a clear relationship with each other, as opposed to reading as two separate residential units. As well as minimising reverse sensitivity effects and managing rural amenity expectations of a working rural environment, I consider that the clustering of principal and minor residential units also assists with making it more difficult and less desirable to subdivide off the minor residential unit from the principal residential unit. I understand that amendments may be recommended to the Subdivision chapter in Hearing 16 in October 2025 to prevent minor residential units being subdivided around (in addition to the existing policy direction in SUB-P10), which will also assist to manage land fragmentation in the RPROZ.

639. I have considered the request from Bentzen Farm Limited and other submitters that RPROZ-R19 is redrafted to be a permitted activity. I acknowledge that there are few pathways available for residential development in the RPROZ as the residential activity rule in RPROZ-R3 is relatively restrictive and tied to the subdivision minimum lot size and the only other subdivision pathway is through environmental benefit subdivision



under SUB-R6. As I am recommending retaining RPROZ-R3 and SUB-S1 unchanged with respect to residential intensity, I support a move from controlled to permitted activity status for minor residential units to reduce barriers to landowners being able to utilise this opportunity.

640. However, as the trade off for a more permissive activity status, I consider that the location and scale of minor residential units needs to be carefully managed for the reasons set out above. This position has informed my recommendations on the various conditions of RPROZ-R19, as set out below.
641. With respect to the 15m separation distance, I consider this to be an important tool to ensure that the minor residential unit remains spatially connected to the principal residential unit. In my view, the principal and minor residential units are a package development and, if clustered together, minimise the potential reverse sensitivity effects on surrounding primary production activities. In my view, if there are site specific characteristics that necessitate a wider separation distance then those can be assessed through the resource consent process. Similarly, if the minimum site size has been complied with, i.e. 1 hectare, then I consider that there should be sufficient land to provide shared gardens, landscaping and manoeuvrability while still complying with the 15m separation distance. Shared driveways and separation distances smaller than 15m between residential units are common in other zones in the Far North and fences/gates etc can be used if needed to manage the safety of children around driveways. I do not see why those options cannot be utilised in the RPROZ if child safety is a concern and do not see it as a reason to increase the minimum separation distance from 15m to 30m, as per the submissions of Amber Hookway and others.
642. However, I do agree with submitters such as Lynley Newport that the separation distance is a similar condition to the shared accessway i.e. assessing the physical connection between principal and minor residential unit, and that an infringement of the separation distance is more appropriately assessed as a discretionary activity, rather than non-complying.
643. In terms of the 1ha minimum site size, I understand that this was chosen deliberately to exclude the smaller, legacy 5,000m<sup>2</sup> lots in the RPROZ from having the ability to add on a minor residential unit. Although I am aware that this will prevent the landowners of these smaller lots from building a minor residential unit, in my opinion a 5,000m<sup>2</sup> site with two residential units does not fit the rural character or amenity anticipated in the RPROZ and it is appropriate to limit the opportunity for a minor residential unit to lots over 1ha in size.
644. With respect to Glen Nathan's submission on the need to increase the GFA thresholds for both the minor residential unit and associated garages to accommodate wheelchairs, the submitter has not provided any evidence or examples to demonstrate that 65m<sup>2</sup> plus an 18m<sup>2</sup> garage is insufficient to provide wheelchair access. As such, I do not consider that any amendment



is needed to RPROZ-R19 to increase the permitted GFA provide for wheelchair access.

### Recommendation

645. For the reasons set out above, I recommend that the submissions on RPROZ-R19 are accepted, accepted in part and rejected as set out in **Appendix 2**.
646. I recommend amending RPROZ-R19 to change the activity status from controlled to permitted and make failing to comply with PER-4 a discretionary activity rather than non-complying.

### Section 32AA evaluation

647. I consider that a permitted activity status for RPROZ-R19 is more appropriate than the notified controlled activity status as it will effectively allow for some additional residential living opportunities in the RPROZ without significantly increasing the risk of future fragmentation of RPROZ land. It will be a more efficient way for landowners to utilise the opportunity to build a minor unit without the need for a resource consent, but the clear conditions around location and scale will minimise the potential adverse reverse sensitivity and rural amenity effects associated with additional residential units in the RPROZ. Overall, I consider that my recommended amendments to RPROZ-R19 will be more effective and efficient in achieving the relevant objectives in the PDP than the notified rule and are therefore appropriate in terms of section 32AA of the RMA.

## 5.2.25 Key Issue 25: Rules RPROZ-R20, R21, R22, R23, R24 and R25

### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-R25	Retain as notified
RPROZ-R20, RPROZ-R21 and RPROZ-R22	Minor amendment to give effect to the NPS-HPL
RPROZ-R23	Amendments to incorporate intensive outdoor primary production activities into rule and clarify where the sensitive activity setback should be measured from
RPROZ-R24	Minor amendment to clarify relationship between RPROZ-R24 and RPROZ-R10

### Analysis of Submissions on Key Issue 25: Rules RPROZ-R20, R21, R22, R23, R24 and R25

#### Matters raised in submissions



#### Rule RPROZ-R20

648. Te Aupōuri Commercial Development Ltd (S339.055) and Te Waka Pupuri Putea Trust (S477.018) support the provision for papakāinga housing in the RPROZ and request the RPROZ-R20 be retained as notified.
649. Wakaiti Dalton (S355.032) and Tracy and Kenneth Dalton (S479.027) support the intent of RPROZ-R20 but do not consider a restricted discretionary activity status is the best approach to manage papakāinga housing. The submitters request that the activity status remains a controlled activity as per the ODP<sup>77</sup>.

#### Rule RPROZ-R21

650. FNR Properties (S316.002) supports the restricted discretionary activity status for expanding an existing mineral extraction activity and considers it a positive change. This submitter notes, however, the same activity is provided for as a controlled activity under ME-R2, thus conflicting with RPROZ-R21. FNR Properties express concern over this contradiction leading to interpretation issues and request RPROZ-R21 is amended to be consistent with ME-R2.
651. Kapiro Conservation Trust (S442.140) and Forest and Bird (S511.121) oppose the proposed activity status and request the expansion of an existing mineral extraction activity becomes a discretionary activity outside of the Mineral Extraction overlay.

#### Rule RPROZ-R22

652. Willowridge Developments (S250.025), Sarah Ballantyne and Dean Agnew (S386.025) support RPROZ-R22 as it provides for tourism activities where there is a functional need and request the rule is retained as notified.
653. Northland Planning and Development (S502.050) and Waitangi Limited (S503.033) support RPROZ-R22 in part but seek additions to the matters of discretion for clarification purposes. To matter of discretion b), the submitters request the addition of the words "*and/or the site;*". The reason for the additional wording is to recognise that there may be immovable natural features, landscapes and historic spaces located on certain sites that are the foundation for the tourism activity as opposed to the rural environment setting. To further support this submission, an additional matter of discretion is requested by the submitters as follows:

*m. Whether the tourism activity could be operated on another site.*



#### Rule RPROZ-R23

654. NZ Pork (S55) have made two submission points in opposition to RPROZ-R3. The first point (S55.039) requests the rule is amended as follows:

##### *RDIS-1*

*Buildings or structures Any hardstand areas, treatment systems, buildings housing animals and any other structures associated with an intensive primary production activity are set back at least 300m from any sensitive activity on a site under separate ownership.*

655. The submitter considers that these amendments are necessary to ensure adverse effects on sensitive activities from parts of indoor intensive primary production areas other than buildings housing animals are managed appropriately – such as from effluent ponds or stock yards. NZ Pork consider that the proposed wording ensures that all potential sources of effects such as odour, noise and dust are appropriately located away from existing sensitive activities.
656. NZ Pork's second submission point on RPROZ-R23 (S55.039) opposes the non-complying status of intensive indoor primary production where compliance with RDIS-1 is not achieved. NZ Pork submits that indoor intensive primary production should not be a non-complying activity anywhere within the RPROZ. If the proposed location of a new operation is within 300m of a sensitive activity, the submitter considers that all adverse effects and associated mitigation measures can be assessed by way of discretionary consent. As such, NZ Pork requests that the activity status where compliance is not achieved with RDIS-1 is amended to be discretionary.

#### Rule RPROZ-R24

657. Northland Planning and Development (S502.051) and Waitangi Limited (S503.034) support RPROZ-24 in part but request RDIS-2 is removed from the rule. These submitters consider the definition for 'Rural Industry' captures all businesses undertaken in the rural environment dependent on primary production which could include selling honey, vegetables or flowers in roadside stalls. The relief sought is intended to remove unnecessary resource consent requirements if multiple smaller scale rural industry operations were to establish at the same site.
658. Horticulture NZ (S159.115) oppose RPROZ-R24 and request the rule is deleted. This submission is on the basis of rural industry supporting horticulture production and that activity status proposed for all rural industry may prevent activities which support horticulture.





#### Rule RPROZ-R25

659. NZMCA (S438.008) and Twin Coast Cycle Trail (S425.064) both oppose RPROZ-R25.
660. NZMCA operates numerous campgrounds in various zones and considers more permissive rules for the establishment of self-contained vehicle-based camping throughout the District will create positive social and economic benefits. NZMCA requests that the activity status of RPROZ-R25 is changed to restricted discretionary along with consent criteria relating to visual impact and protection of highly productive soils.
661. Twin Coast Cycle Trail considers that the RPROZ is the most appropriate zone for campground activities. This submitter express concerns of inequity as the zone provides for other accommodation activities but not for campgrounds. As noise and traffic will be managed through respective chapters, Twin Coast Cycle Trail request that campgrounds are provided for as a permitted activity subject to compliance with RPROZ performance standards.

#### **Analysis**

##### RPROZ-R20

662. With respect to the submissions on papakāinga housing, I understand that the reason for the shift from controlled activity status for papakāinga housing under the ODP to restricted discretionary activity status under the PDP is for two reasons. Firstly, the majority of land in the ODP Rural Production Zone that was available for papakāinga housing has now been zoned Māori Purpose Zone - Rural under the PDP and there is a permitted activity pathway for papakāinga housing under MPZ-R5. As such, it is anticipated that most papakāinga housing developments will happen in this zone. Secondly, given the intensity of development enabled by the papakāinga housing rule (10 residential units per site with no minimum site requirement) it is possible that some locations will not be appropriate for papakāinga housing due to off-site effects e.g. built dominance and privacy issues due to number and siting of buildings, traffic effects and reverse sensitivity issues. As such, a restricted discretionary activity status allows for applications to be declined if the scale or location of the development is inappropriate. For these reasons, I consider that the notified activity status is appropriate and I do not recommend any amendments to RPROZ-R20 as a result of these submissions.
663. However, I note that pāpakainga housing proposed in the RPROZ will be on general title land, rather than specified Māori land (as defined in clause 1.3 of the NPS-HPL). As such, it is not listed in clause 3.9 of the NPS-HPL as being 'not inappropriate' on HPL and should therefore be directed away from HPL. I recommend that RPROZ-R20 is amended to ensure that papakāinga housing in the RPROZ is a discretionary activity if proposed on HPL.





#### RPROZ-R21

664. With respect to the FNR Properties submission, I disagree that there is a conflict between ME-R2 and RPROZ-R21. The two rules control expansion of existing mineral extraction activities in two different locations – the former within the Mineral Extraction Zone (previously an overlay) and the latter in the RPROZ. A controlled activity status is entirely appropriate under ME-R2 given the expansion activity will be undertaken in a zone specifically for the purpose of mineral extraction. However, there are greater potential adverse effects on other activities when an existing mineral extraction activity expands in the RPROZ. In my view, expansion may not always be appropriate in the RPROZ depending on the existing activities around the mineral extraction activity, hence the need for a restricted discretionary activity status and the ability for Council to decline the application. As such, I do not recommend that RPROZ-R21 is made a controlled activity.
665. As discussed in relation to RPROZ-R18, I disagree with Kapiro Conservation Trust and Forest and Bird that the expansion of mineral extraction activities should be a discretionary activity outside of the Mineral Extraction overlay (now proposed to be called the Mineral Extraction Zone). There is significant investment in existing mineral extraction activities and their location is dependent on the presence of the mineral resource. As such, I consider that restricted discretionary is the appropriate activity status as it recognises that expansion of mineral extraction activities may be appropriate in the RPROZ but also has specific, focused matters of discretion to appropriately manage adverse effects.
666. However, as per my recommendation for RPROZ-R16 in relation to expanding existing community facilities, I consider it appropriate to add in another matter of discretion to give effect to Clause 3.11 of the NPS-HPL when existing mineral extraction activities are expanding on HPL.

#### RPROZ-R22

667. I do not consider that the requested addition of the words 'and/or the site' at the end of matter of discretion b) assist with the interpretation of this matter. The purpose of RPROZ-R22 is to provide for **rural** tourism activities (my emphasis added), so the requirement under matter b) is purposefully focused on how the tourism activity relates to its rural setting. There may be other tourism activities that do not rely on visitors visiting and experiencing the rural environment, but these types of tourism activities would not be captured by the definition of 'rural tourism activity' and instead would be considered as a discretionary activity in the RPROZ under RPROZ-R31 – Activities not otherwise listed in this chapter. For the same reasons I do not agree with the insertion of a new matter of discretion relating to whether the tourism activity could be operated on another site.
668. However, as part of giving effect to the NPS-HPL, I consider that an amendment to RPROZ-R22 should be made to direct rural tourism activities



away from highly productive land, as I do not consider that these activities are provided for under Clause 3.9 of the NPS-HPL. As such, I recommend that a new RDIS-1 clause is added to RPROZ-R22 requiring that rural tourism activities are not located on HPL and infringing that condition is a discretionary activity.

#### RPROZ-R23

669. I agree with NZ Pork that amendments can be made to the wording of RPROZ-R23 to better link the 300m setback requirement to the potential sources of adverse effects, such as odour and noise, from the operation as a whole. While buildings are the most likely source of adverse effects, I agree that other parts of the operation such as effluent ponds and stock yards can also generate adverse off-site effects for neighbouring properties. I recommend using the same equivalent wording for the new reciprocal setback standard for sensitive activities, discussed in Key Issue 26 below.
670. As discussed earlier in Key Issue 5 with respect to definitions, I consider that the scope of RPROZ-R23 can be expanded out to include 'intensive outdoor primary production' so that this activity is treated the same from a consenting perspective as intensive indoor primary production.
671. With respect to an appropriate activity status for failing to comply with the 300m setback, I disagree with NZ Pork that non-complying is an inappropriate activity status. In particular, the adverse noise and odour effects generated intensive primary production activities can be significant and are more likely to impact adjacent sensitive activities when this 300m distance is not complied with. While I agree with NZ Pork that the management of effects, imposition of mitigating consent conditions and potential decline of a consent application are all possible under a discretionary activity status, in my opinion, the non-complying activity status sends the correct message that failing to comply with the 300m setback is not an outcome that is desirable in the RPROZ. My recommended amendments to RPROZ-R23 in response to these matters are in the recommendations section below.

#### RPROZ-R24

672. I do not agree that amendments are required to RPROZ-R24 to provide for multiple businesses on the same site selling of honey, vegetables or flowers in roadside stalls. In my view, these types of activities would be managed as a permitted activity under RPROZ-R10 for rural produce retail, which also sets a limit of one operation per site as a discretionary activity, the same as under RPROZ-R24. However, I agree that this relationship could be made clearer and recommend amending the existing note in RPROZ-R24 so that it also refers to rural produce retail being managed under RPROZ-R10.
673. I consider that many rural industries that support horticulture activities are provided for under the definition of 'rural produce manufacturing' and that larger scale operations that process produce from more than one site should



be managed as a restricted discretionary activity in the RPROZ due to their potential scale. Another alternative is setting up large-scale horticulture processing and storage facilities in the Horticulture Processing Facilities Zone, which is the special purpose zone specifically designed for this purpose. As such, I do not recommend any other amendments to RPROZ-R24 in response to this submission from Horticulture NZ.

#### RPROZ-R25

674. I have addressed some of the matters raised by the NZMCA and Twin Coast Cycle Trail in Key Issue 14 above when addressing the request for a new rule permitting camping grounds of up to 20 self-contained vehicles in the RPROZ. In my opinion, camping grounds are appropriately provided for as a discretionary activity due to the potential for reverse sensitivity effects on surrounding primary production activities and other issues relating to traffic, noise and impacts on rural character and amenity. I do not see this as an equity issue between visitor accommodation rules and camping grounds as the two activities differ both in scale and likely risks of reverse sensitivity effects. RPROZ-R4 restricts visitor accommodation to being within a residential unit, accessory building or minor residential unit and limits the number of guests to 10. The requirement to be indoors helps to manage potential reverse sensitivity effects as well as keep the levels of rural character and amenity consistent with what might be expected from regular residential activities in the RPROZ.
675. In my opinion, the infrastructure that is required for most camping grounds (toilet blocks at a minimum but potentially more facilities), or the visual appearance of a cluster of self-contained vehicles does not align with what most rural residents would expect of rural character and amenity in the RPROZ. I note that if visitor accommodation activities are proposed at a larger scale than 10 guests per night or are in purpose-built buildings then consent would be required for a discretionary activity under RPROZ-R4, which is the same activity status as camping grounds.

#### **Recommendation**

676. For the reasons set out above, I recommend that the submissions on RPROZ-R20, RPROZ-R21, RPROZ-R22, RPROZ-R23, RPROZ-R24, and RPROZ-R25 are accepted, accepted in part and rejected as set out in **Appendix 2**.
677. I recommend that a new RDIS condition is inserted into RPROZ-R20 and RPROZ-R22 as follows:
- "The activity is not located on highly productive land"*
678. I also recommend that failing to comply with the new RDIS condition in RPROZ-R20 or RPROZ-R22 is a discretionary activity.



679. I recommend that an additional matter of discretion is added into RPROZ-R21 as follows:

*"the extent to which the loss of highly productive land is minimised"*

680. I recommend that RPROZ-R23 is amended as follows:

<b>RPROZ-R23</b>	<b>Intensive indoor <u>and outdoor</u> primary production</b>	
<b>Rural production zone</b>	<p><b>Activity Status:</b>  <b>Restricted discretionary</b></p> <p><b>Where:</b></p> <p><b>RDIS-1</b></p> <p><u>Buildings or structures Any hardstand areas, treatment systems, buildings housing animals and any other structures associated with an intensive indoor or outdoor primary production activity</u> are setback at least 300m from any sensitive activity on a site under separate ownership.</p> <p><b>Matters of discretion are restricted to:</b></p> <p>... [no changes]</p>	<p><b>Activity status where compliance not achieved with RDIS-1:</b></p> <p><b>Non-complying</b></p>

681. I recommend amending the note in RPROZ-R24 as follows:

**"Note:** Rural Produce Retail is controlled by RPROZ-R10 and Rural Produce Manufacturing is controlled by RPROZ-R11."

### **Section 32AA evaluation**

682. With respect to RPROZ-R21 and RPROZ-R22, I consider that the rationale for amending these rules to align with the NPS-HPL has been sufficiently addressed in response to aligning other RPROZ provisions with the NPS-HPL in the key issues above. As such, I do not repeat the section 32AA evaluation here.

683. With respect to RPROZ-R23, I consider that the amendment to clarify the point at which the 300m setback should be measured from will more effectively manage potential adverse effects such as noise and odour by



including all parts of the operation that can be the source of such effects. The reasons for expanding the scope of RPROZ-R23 to also include 'intensive outdoor primary production' have been covered in Key Issue 5 above and the associated section 32AA evaluation is not repeated here.

684. I consider that the recommended amendments to RPROZ-R24 are minor changes to clarify the relationship between RPROZ-R24 and RPROZ-R10 but do not change the intention of the rule. As such, I do not consider that further evaluation under section 32AA is required.

## 5.2.26 Key Issue 26: Standards – General Comments

### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-S1 and RPROZ-S3	Consequential amendments to remove standards applying to artificial crop protection and support structures
RPROZ-S6	Minor amendment to better address potential reverse sensitivity effects
New standard RPROZ-SX	Insert setback standard for sensitive activities from existing intensive indoor and outdoor primary production activities
New standard RPROZ-SY	Insert setback standard for sensitive activities from buildings for housing, milking or feeding stock
Advice Note 2	Consequential amendments to align with wording recommended in the Coastal Environment section 42A report

### Analysis of Submissions on Key Issue 26: Standards – General Comments

#### Matters raised in submissions

685. A group of submitters, including Bentzen Farm Limited (S333), Matauri Trustee Limited (S243), The Shooting Box Limited (S187) and others support RPROZ standards S1-S7 and request they are retained as notified. Timothy and Dion Spicer (S213.005) also support the RPROZ standards and request that they are retained as notified.
686. I note that there are no specific submissions in opposition to RPROZ-S6, however I do consider that the scope of RPROZ-S6(2) should be broadened to protect primary production activities from reverse sensitivity effects created from all sensitive activities, not just residential units, for the reasons



set out in Key Issue 14 above relating to better managing reverse sensitivity effects in the RPROZ through rules<sup>78</sup>.

687. NZ Pork (S55.031) are concerned that there are no provisions in the RPROZ chapter to address the impacts of new sensitive activities locating near existing intensive primary production activities (both indoor and outdoor). The submitter notes that RPROZ-P3 specifies a requirement to avoid or mitigate reverse sensitivity effects on primary production activities, but that there is no associated rule or standard giving effect to RPROZ-P3. NZ Pork request that a new standard is inserted as follows:

*RPROZ-S8 Sensitive activities setback from intensive primary production activities:*

*All buildings used for new sensitive activities will be setback 300m from any hardstand areas, treatment systems, buildings housing animals and any other structures associated with an intensive primary production activity located on a separate site under separate ownership.*

688. Horticulture NZ (S159.107) support the RPROZ standards in part but note that, as there is no rule for artificial crop protection structures, RPROZ-R1 applies and does not adequately provide for such structures. Horticulture NZ (S159.106) requests that amendments are made to the RPROZ standards to provide for artificial crop protection structures and crop support structures.

## **Analysis**

689. As discussed in Key Issue 17, I agree with NZ Pork that there is a gap in the provisions to manage reverse sensitivity effects on intensive indoor and outdoor primary production activities. I consider that if there are setbacks imposed on intensive indoor and outdoor primary production activities under RPROZ-R23 (and on other buildings for housing, milking or feeding stock under RPROZ-S6) to keep them away from sensitive activities then there should be reciprocal provisions to protect these primary production activities from the establishment of new sensitive activities. I note that there are no specific submissions seeking reciprocal setback rules for sensitive activities to match RPROZ-S6, however there are more general submissions seeking stronger reverse sensitivity provisions to protect primary production activities in the RPROZ which I consider provide scope to recommend a new standard. The recommended wording for the two new standards is included in the recommendations below – I also note that consequential amendments will be required to RPROZ-R1 to ensure that these new setback standards are applied to buildings/structures containing sensitive activities.
690. I agree with Horticulture NZ that artificial crop protection structures and crop support structures should not be subject to the full range of standards set out under RPROZ-R1. I have recommended the insertion of a new rule to

<sup>78</sup> Scope provided by submission from NZ Pork (S55.032)



specifically manage artificial crop protection structures and crop support structures in Key Issue 14 above, which consolidates the applicable permitted activity conditions relating to height and setbacks into a single rule. This negates the need for RPROZ-S1 and RPROZ-S3 to include standards specifically for artificial crop protection structures or crop support structures, so these references can be deleted as a consequential amendment.

- 691. Note that I consider that the term 'support structure' has been incorrectly hyperlinked in both RPROZ-S1 and RPROZ-S3 – I believe the intention was to manage **crop** support structures (my emphasis) given the 6m height limit, rather than the hyperlinked definition of 'support structure', which refers to activities such as poles supporting aerials or support structures for the transmission of electricity. As these types of structures were clearly not intended to be restricted to a 6m height limit, I recommend deletion of the hyperlinked term 'support structure' from RPROZ-S1 and RPROZ-S3 as part of the broader change to delete all parts of the standard applying to artificial crop protection structures and crop support structures.
- 692. Finally, Key Issue 20 in the Coastal Environment section 42A report has recommended the deletion of RPROZ-S4 as a consequential amendment. The PDP will provide consistent, District-Wide setbacks from MHWS in the Coastal Environment chapter, and consistent setbacks from rivers, lakes and wetlands in the Natural Character chapter, which were recommended as part of Hearing 4. All submissions relating to setbacks from MHWS were considered in the Coastal Environment topic. However, a consequential amendment is required to Advice Note 2 above the Rules table for integration and consistency under clause 10(2)(b) of Schedule 1 with recommendations in the Coastal Environment and Natural Character topics, as set out in my recommendations below.

**Recommendation**

- 693. For the reasons set out above, I recommend that the general submissions on the RPROZ standards are accepted, accepted in part and rejected as set out in **Appendix 2**.
- 694. I recommend that RPROZ-S6(2) is amended as follows:
 

*"At least 100m from sensitive activities ~~residential units~~ on an adjoining site under separate ownership."*
- 695. I recommend that a new standard is inserted for a reciprocal setback that protects existing intensive indoor and outdoor primary production activities from new sensitive activities as follows:

<b><u>RPROZ-SX</u></b>	<b><u>Sensitive activities setback from intensive indoor and outdoor primary production activities</u></b>
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<p><b><u>Rural production zone</u></b></p>	<p>All buildings and structures used for new sensitive activities will be setback 300m from any hardstand areas, treatment systems, buildings housing animals and any other structures associated with an intensive indoor or outdoor primary production activity located on an adjoining site under separate ownership.</p>	<p><b><u>Where the standard is not met, matters of discretion are restricted to:</u></b></p> <ul style="list-style-type: none"> <li>a. <u>Potential reverse sensitivity effects and measures taken to mitigate these effects, such as landscaping or screening</u></li> <li>b. <u>Whether there are alternative options for the location of the sensitive activity</u></li> </ul>
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696. I recommend that a new standard is inserted for a reciprocal setback that protects existing primary production activities involving buildings or structures that are used to house, milk or feed stock from new sensitive activities as follows:

<p><b><u>RPROZ-SY</u></b></p>	<p><b><u>Sensitive activities setback from buildings or structures used to house, milk or feed stock (excluding buildings or structures used for an intensive indoor or outdoor primary production activity)</u></b></p>	
<p><b><u>Rural production zone</u></b></p>	<p>All buildings and structures used for new sensitive activities will be setback 100m from any buildings or structures used to house, milk or feed stock (excluding buildings or structures used for an intensive indoor or outdoor primary production activity) located on an adjoining site under separate ownership.</p>	<p><b><u>Where the standard is not met, matters of discretion are restricted to:</u></b></p> <ul style="list-style-type: none"> <li>a. <u>Potential reverse sensitivity effects and measures taken to mitigate these effects, such as landscaping or screening</u></li> <li>b. <u>Whether there are alternative options for the location of the sensitive activity</u></li> </ul>

697. I recommend that RPROZ-S1 – Maximum height is amended as follows:

*"The maximum height of a building or structure, or extension or alteration to an existing building or structure is 12m above ground level, except that artificial crop protection and support structures shall not exceed a height of 6m above ground level."*



698. I recommend that RPROZ-S3(2) is deleted.
699. I recommend that Advice Note 2 above the Rules table is amended as follows:

*This zone chapter does not contain rules relating to setbacks to waterbodies and MHWS for buildings or structures or setbacks to waterbodies and MHWS for earthworks and indigenous vegetation clearance. The Natural Character chapter contains rules for activities within wetland, lake and river margins and the Coastal Environment chapter contains rules for activities within the coastal environment. The Natural Character chapter and the Coastal Environment chapter should be referred to in addition to this zone chapter.*

### Section 32AA evaluation

700. I consider that my recommended amendments to RPROZ-S1, RPROZ-S3 and Advice Note 2 are consequential resulting from recommendations on other provisions, both in this report and in the Coastal Environment section 42A report. As such, it is my view that no evaluation for these recommended amendments is required under section 32AA of the RMA.
701. The amendments to RPROZ-S6 and the two new standards RPROZ-SX and RPROX-SY are, in my opinion, an appropriate response to submissions requesting stronger reverse sensitivity provisions in the RPROZ chapter. I consider that the introduction of reciprocal setbacks for sensitive activities from specified existing primary production activities will be more effective at ensuring potentially incompatible activities are kept separated in the RPROZ. This is compared to the notified provisions that only controlled the location of buildings associated with intensive indoor primary production and buildings for housing, milking or feeding stock and did not protect these activities from new sensitive activities locating near to existing operations. I consider this approach to be fairer to primary production activities as it equally splits the burden of mitigating potential reverse sensitivity effects with new sensitive activities. Overall, I consider that my recommended amendments to RPROZ-S6 and the insertion of two new standards will be more effective and efficient in achieving the relevant objectives in the PDP than the notified standards and are therefore appropriate in terms of section 32AA of the RMA.

### 5.2.27 Key Issue 27: Standards RPROZ-S1, S2 and S7

#### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-S1	Add note to alert applicants to the potential adverse effects of electromagnetic coupling from RNZ facilities



Provision(s)	Officer Recommendation(s)
RPROZ-S2	Retain as notified
RPROZ-S7	Minor amendment to replace reference to Mineral Extraction overlay with Mineral Extraction Zone

## **Analysis of Submissions on Key Issue 27: RPROZ-S1, S2 and S7**

### **Matters raised in submissions**

#### RPROZ-S1

702. RNZ (S489.032) is concerned about elevated structures near its facilities experiencing EMR coupling, which presents a safety risk to people on or near the structures and seeks a matter of discretion for RPROZ-S1 to specifically reference these risks. RNZ's concerns with RPROZ-S1 (and also with RPROZ-R1) are addressed in more detail in Key Issue 15 above.

#### RPROZ-S2

703. John Andrew Riddell (S431.182) supports retention of RPROZ-S2 on the basis that he agrees with varying the height in relation to boundary standard depending on the orientation of the boundary.
704. Horticulture NZ (S159.131) opposes RPROZ-S2 on the basis that it should not apply to artificial crop protection structures because they are open and let light through. As such, this submitter requests that artificial crop protection structures are exempt from the need to comply with RPROZ-S2.

#### RPROZ-S7

705. Ventia Ltd (S424.011<sup>79</sup>) supports retention of RPROZ-S7 (and other similar setback standards in other zones) from the Mineral Extraction Overlay boundary.
706. FNR Properties Limited (S316.004) support RPROZ-S7 in part and acknowledges the importance of avoiding reverse sensitivity issues, particularly where they relate to quarrying and residential activities. This submitter also acknowledges the appropriateness of restricted discretionary status where sensitive activities are established within 100m of the Mineral Extraction overlay. However, FNR Properties submits that RPROZ-S7 fails to recognise where reverse sensitivity effects have already been satisfactorily addressed, i.e., where previous technical reports having been provided and approved by Council. To reduce unnecessary costs to the applicant and/or property owner, it is requested a controlled activity status is inserted for

<sup>79</sup> Note that this submission was incorrectly allocated to the Mineral Extraction overlay topic in the Summary of Submissions. It has been assessed here as it clearly relates to RPROZ-S7.



those sites containing an 'approved building platform' and where reverse sensitivity effects have previously been addressed.

## **Analysis**

### RPROZ-S1

707. As discussed in Key Issue 15, I agree with RNZ that EMR coupling is a genuine concern for over height buildings and structures establishing close to RNZ facilities. For the reasons I set out in Key Issue 15, I recommend amendments to RPROZ-S1 to add in a note to alert potential applicants to the EMR risk associated with locating over height buildings and structures near RNZ facilities. However, I do not agree that their request for a matter of discretion is appropriate. A large number of infrastructure activities create potential public health risks when new development occurs adjacent to the infrastructure and it would be inconsistent for RPROZ-S1 to consider the EMR coupling risks but no other risks from other types of infrastructure, e.g. telecommunication facilities or electricity transmission structures. I consider the advice note sufficient to alert applicants to the potential dangers of building close to RNZ structures and the responsibility for engaging with RNZ and appropriately managing risk will be on applicants.

### RPROZ-S2

708. I disagree with Horticulture NZ that artificial crop protection structures should be exempt from height in relation to boundary (HIRB) standards. HIRB standards are not just to manage access to daylight, they are also in place to manage built dominance effects from the proximity buildings and structures to boundaries. The HIRB standard places an additional layer of protection for neighbours on eastern, western and southern site boundaries as, from my calculations<sup>80</sup>, a building or structure that complied with the 3m setback and the 6m height limit would not comply with a 2m+35° or 2m+45° HIRB standard (but it would comply with the 2m+55° standard on northern boundaries). I also consider that HIRB is a valuable tool in addition to maximum height and setback standards as it can account for changes in ground level between the point measured on the boundary and the building/structure. As such, I recommend that RPROZ-R2 continues to apply to artificial crop protection structures and crop support structures.

### RPROZ-S7

709. As discussed in relation to RPROZ-R18, R21 and R30 above, the Mineral Extraction overlay has been recommended to be replaced with a Mineral

<sup>80</sup> A building or structure could only be a maximum of 5m in height to comply with a 2m+45° HIRB standard when set back 3m from a boundary. Similarly, it could only be 4.1m in height and setback 3m to comply with a 2m+35° HIRB standard. For a building or structure to comply with the 2m+55° HIRB standard at 3m from the boundary it could be up to 6.28m, so it would be under the 6m max height limit. These calculations assume the ground level at both the boundary and the building is the same.



Extraction Zone. As such, the references in RPROZ-S7 to 'Mineral Extraction Overlay' need to be replaced with 'Mineral Extraction Zone' for consistency under clause 10(2)(b) of Schedule 1. I still consider the 100m setback from the Mineral Extraction Zone boundary to be a valid way to manage reverse sensitivity effects on existing mineral extraction activities within the zone.

710. With respect to the submission from FNC Properties Limited, I understand the concern over the requirement for two consent processes to address the same reverse sensitivity effects – one as part of the subdivision process and another when a residential unit is proposed on an approved building platform. I note that a similar issue was raised in the Coastal Environment hearing and submitters also requested a more lenient approach in situations where a new dwelling in the Coastal Environment overlay was proposed on an approved building platform and landscape matters had already been addressed at subdivision stage (refer to Key Issue 9 of the Coastal Environment s42A report). However, I consider the situation under RPROZ-S7 to be different to the coastal environment situation.
711. Mineral extraction is, by its nature, a dynamic industry and the potential for changes in operations (and associated reverse sensitivity effects) are not static. The lag time between obtaining a subdivision consent (and any associated technical reports relating to the adjacent mineral extraction activity) and actual construction of a residential unit can be a number of years and the receiving environment may also have changed significantly during that time. In my opinion, the most appropriate time to design and site a residential unit within 100m of a Mineral Extraction Zone is at the time that building is to be constructed, so that an appropriate mitigation response can be considered based on how the adjacent mineral extraction activity is operating at that time. As such I do not recommend any amendments to RPROZ-S7 in response to the FNR Properties Limited submission.

### **Recommendation**

712. For the reasons set out above, I recommend that the submissions on RPROZ-S1, RPROZ-S2 and RPROZ-S7 are accepted, accepted in part and rejected as set out in **Appendix 2**.
713. I recommend that a note is added to RPROZ-S1 as follows:

**"NOTE:**

*If a resource consent application is made for an infringement of RPROZ-S1 and the proposed building or structure is:*

- a. *greater than 21 metres in height and within 1,000 metres of the Waipapakauri transmitter at Spains Road, Awanui, Part Lot 4 DP 43276; or*
- b. *greater than 16 metres in height within 1,000 metres of the Ōhaeawai transmitter at State Highway 12, Ohaeawai Part Te Riu Block XII Omapere Survey District SO 43051*



*then consultation will be required with Radio New Zealand to manage potential adverse electromagnetic coupling effects.*

714. I recommend that RPROZ-S7 is amended to replace all references to 'overlay' with 'zone'.

### **Section 32AA evaluation**

715. I consider that the addition of an advice note to RPROZ-S1 is an efficient way of recognising the potential EMR coupling risk resulting from over height buildings and structures close to radio transmitters, without imposing an additional consenting burden on surrounding landowners. It effectively alerts landowners to the risk and facilitates communication with RNZ to mitigate any potential issues without the need to involve FNDC directly in a regulatory capacity. As such, I consider this amendment appropriate in terms of section 32AA of the RMA.
716. I consider that the amendment to replace the reference to Mineral Extraction 'Overlay' with Mineral Extraction 'Zone' is a consequential amendment resulting from recommendations made in the Mineral Extraction section 42A report and, as such, does not require further evaluation under section 32AA.

## **5.2.28 Key Issue 28: Standard RPROZ-S3**

### **Overview**

<b>Provision(s)</b>	<b>Officer Recommendation(s)</b>
RPROZ-S3	Consequential amendment to remove reference to artificial crop protection setback, insertion of a setback to manage shading from existing forestry and reduction of the setback from an unsealed road

### **Analysis of Submissions on Key Issue 28: RPROZ-S3**

#### **Matters raised in submissions**

717. Horticulture NZ (S159.111) opposes the 10m setback from site boundaries as they do not consider it sufficient to manage reverse sensitivity effects. This submitter requests that minimum setbacks in RPROZ-S3 are increased to 20m for side and rear boundaries.
718. Manulife Forest (S160.041) requests that RPROZ-S3 be amended to include a 30m setback for buildings from production forestry land. Summit Forests New Zealand Limited (S148.049) also support a 30m setback for buildings from production forestry land to account for shading and the risk of wind throw.
719. LJ King Ltd (S464.040), Elbury Holdings (S485.040, S519.041), Leah Frieling (S358.043) and Sean Frieling (S357.040) oppose the 30m road



setback and request this is reduced to 20m for a dwelling and set at 5m for a garage or non-habitable building. These submitters consider that these amended setbacks will provide for open space and rural amenity, while still enabling efficient and effective use of rural sites.

720. There are two submitters concerned about the proposed setbacks under RPROZ-S3 as they apply to sites 5,000m<sup>2</sup> or less in size where a dwelling has not yet been constructed. Jono Corskie (S37.001) notes that the ODP allowed for the creation of numerous 5,000m<sup>2</sup> lots on the assumption that only 3m setbacks would be required for buildings and structures. The submitter is concerned that the 10m setback from boundaries adjoining roads will create additional consent requirements for structures such as sheds and greenhouses and lead to under-utilisation of smaller land parcels. Paul Hayman (S210.002) opposes RPROZ-S3(1) on the basis that the proposed setback standard for sites 5,000m<sup>2</sup> or less could prevent a house being constructed on the site at 277 Wainui Road. The submitter requests that RPROZ-S3 is amended so that:
- a. Sites that are 5,000m<sup>2</sup> or less can have all buildings (not just accessory buildings) constructed 3m from all site boundaries (not just road boundaries); and
  - b. There is a requirement for 100% of the 3m setback to be landscaped and planted to a minimum height of 3m.
721. Nicole Wooster (S259.019) supports RPROZ-S3 in part but expresses concern over bee hives not being controlled by the standard. This submitter does not consider bee hives should be placed up against the boundary of adjoining sites or any road for health and safety reasons. Moreover, it is submitted that bees fly up to 5km around their hives and therefore do not need to be located against any boundary for the convenience of a beekeeper or to attempt to access adjoining site resources. For these reasons, Nicole Wooster requests RPROZ-S3 be amended to include a setback for bee hives from road or adjoining site boundaries

## **Analysis**

722. I understand that the purpose of RPROZ-S3 is to manage several types of effects – visual amenity, rural character and health effects with respect to road boundaries, and privacy and shading with respect to side and rear boundaries. Less stringent setbacks have been imposed for accessory buildings on sites that are less than 5,000m<sup>2</sup> to recognise that it is harder to meet the RPROZ wide setbacks on these small sites, which were able to be created under the ODP subdivision rules. It also recognises that accessory buildings are typically less vulnerable to the types of adverse effects listed above.
723. From my reading of the matters of discretion for infringing the RPROZ-S3 setbacks, I do not consider that these setbacks were introduced to manage reverse sensitivity effects as this is not a listed matter. As discussed in Key





Issue 26 I have recommended new setback standards to manage reverse sensitivity effects on existing intensive indoor and outdoor primary production activities and on farming activities that involve buildings for housing, milking or feeding animals. However, I recognise that these new reciprocal setback rules do not protect horticultural activities.

724. In my view, 10m is an appropriate setback between buildings and structures on sites adjacent to horticultural activities, particularly when artificial crop protection structures and crop support structures are only required to be set back 3m from site boundaries. In my view, imposing 20m setbacks from all side and rear boundaries across the RPROZ would be overly onerous for landowners, particularly as not all boundaries will be shared with a horticultural operation and there are other setbacks in place to protect primary production activities involving the keeping of animals. As such, I do not recommend an increase in setback distances as a result of the Horticulture NZ submission.
725. With respect to the Manulife Forest and Summit Forest NZ submissions, I consider that if any setback is imposed to protect new buildings from shading and wind throw from existing plantation forests, it should be reciprocal with equivalent setback requirements for afforestation in the NES-CF. Regulation 14(1) of the NES-CF states that (my emphasis in bold):

*Afforestation must not occur—*

- a) ***within 10 m of the boundary of an adjoining property that is not owned by the owner of the commercial forest or the land it is located on (unless that adjoining property is also commercial forest); or***
- b) *except in the case of a dwelling located on the same property as the proposed commercial forestry to be afforested, within the greater of—*
- i) ***40 m of a dwelling; and***
- ii) *a distance where the forest species when fully grown would shade a dwelling between 10 am and 2 pm on the shortest day of the year, except where topography already causes shading; or*
- c) *within 30 m of the boundary of land zoned in a district plan as a papakāinga or an urban area; or*
- d) *within 10 m of a significant natural area.*
726. There are multiple setbacks outlined in this regulation, but the two key relevant setbacks are that afforestation activities need to be setback at least 10m from a shared boundary and 40m from an existing dwelling on a different site. I presume that a 30m setback has been suggested by these



forestry industry submitters as an approximate equivalent to the afforestation setbacks in Regulation 14(1), i.e. out of the 40m separation requirement between the edge of a forest and a dwelling, 10m minimum would be accommodated within the forestry property (as per Regulation 14(1)(a)) and the other 30m would be accommodated on the adjoining land.

727. In my view, the 10m setback from all site boundaries in RPROZ-S3 reciprocates the 10m afforestation setback from a shared boundary under Regulation 14(1)(a), so no change is required to this part of the standard. However, I can appreciate that shading of new residential units and potential wind throw effects could occur if they are constructed closer than 40m from the edge of a commercial forest and that shading and wind effects would be out of the control of the forestry operator to manage. For the same reasons as I have recommended reciprocal setbacks for sensitive activities close to intensive primary production activities, I can also support reciprocal setbacks to ensure that dwellings are not constructed in areas close to an existing commercial forest to manage both shading and wind effects as the forest grows, but also other adverse effects during other stages of a forestry life cycle such as harvesting. This will reduce the likelihood of neighbour complaints about loss of sunlight and other adverse amenity effects as forests grow to maturity and are harvested.
728. With respect to submissions requesting that the 30m setback from unsealed roads be reduced to 20m for a dwelling and 5m for a garage or non-habitable building, I consider that the 30m requirement has been imposed for public health reasons to manage the impacts of dust on residents in the RPROZ, as raised by Ngai Tai Ora in Key Issue 3 above. However, I note that Ngai Tai Ora only requested a 20m setback from unsealed roads to resolve the issue, which aligns with the relief sought by other submitters on RPROZ-S3. As such, I support a reduction in the setback of habitable buildings from an unsealed road from 30m to 20m and I also recommend the insertion of a matter of discretion relating to dust effects to fully respond to the submission of Ngai Tai Ora.
729. In response to the submissions requesting more permissive setbacks for lots less than 5,000m<sup>2</sup>, I understand that the ODP allowed 5,000m<sup>2</sup> lots to be created and that some of these lots will not yet have a house constructed on them. Although there may be some site-specific cases where the PDP setbacks are difficult to meet, particularly from a road, I consider that most 5,000m<sup>2</sup> lots are large enough to accommodate a residential unit and accessory buildings like garages while still complying with the 10m site boundary setbacks and 3m for accessory buildings on side and rear boundaries. I consider that the 10m setback from rural roads is important from a safety perspective to ensure that there is sufficient space to see in both directions as well as providing space for on-site vehicle manoeuvring. I disagree that fully landscaping the 3m road boundary setback would address the safety concerns around access to sites from rural roads, in fact it may impede sight lines and make it less safe to access properties. As such



I do not recommend any amendments to the setbacks that apply to sites 5,000m<sup>2</sup> or less.

730. In response to Nicole Wooster, I do not consider that the management of beehives and the potential interactions between bees and members of the public is a matter that the PDP should regulate. As pointed out by Nicole Wooster, the location of hives does not dictate where bees fly and swarms of bees can occur anywhere in the vicinity of the hive, including in publicly accessible areas. While this may be concerning for people with allergies or seeking to avoid stings, in my view it is not a health and safety matter that the PDP should be controlling and imposing setbacks specific to beehives would not, in my view, prevent swarms of bees in public areas. As such, I do not recommend any amendments to RPROZ-S3 to address concerns around the location of beehives.

### Recommendation

731. For the reasons set out above, I recommend that the submissions on RPROZ-S3 are accepted, accepted in part and rejected as set out in **Appendix 2**.

732. I recommend the following amendments to RPROZ-S3:

RPROZ-S3	Setback (excluding from MHWS or wetland, lake and river margins)	
<b>Rural production zone</b>	<p>The new building or structure, or extension or alteration to an existing building or structure must be setback at least 10m from all site boundaries, except:</p> <ol style="list-style-type: none"> <li>1. on sites less than 5,000m<sup>2</sup> accessory buildings can be setback to a minimum of 3m for boundaries that do not adjoin a road;</li> <li>2. artificial crop protection and support structures must be setback at least 3m from all site boundaries; or</li> <li>3. habitable buildings must be setback at least 320m from the boundary of an unsealed road.</li> </ol>	<p><b>Where the standard is not met, matters of discretion are restricted to:</b></p> <ol style="list-style-type: none"> <li>a. the character and amenity of the surrounding area;</li> <li>b. screening, planting and landscaping on the site;</li> <li>c. the design and siting of the building or structure with respect to privacy and shading;</li> <li>d. natural hazard mitigation and site constraints;</li> <li>e. the effectiveness of the proposed method for controlling stormwater;</li> <li>f. the safety and efficiency of the current or future</li> </ol>



	<p>4. <u>habitable buildings must be set back 30m from the boundary of a site containing a commercial forest.</u></p> <p><b>This standard does not apply to:</b></p> <p>a. fences or walls no more than 2m in height above ground level; or</p> <p>ii. uncovered decks less than 1m in height above ground level; or</p> <p>iii. underground wastewater infrastructure; or</p> <p>iv. water tanks less than 2.7m in height above ground level.</p>	<p>access, egress on site and the roading network; and</p> <p>g. the impacts on existing and planned public walkways, reserves and esplanades;:-</p> <p>h. <u>the health and amenity impacts of dust from unsealed roads on habitable buildings;</u></p> <p>i. <u>the location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor; and</u></p> <p>j. <u>the safe and efficient operation of the rail network<sup>81</sup>.</u></p>
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### Section 32AA evaluation

733. I consider that the amendments to RPROZ-S3 will result in better management of adverse effects from offsite activities (e.g. shading and wind effects from commercial forests and dust from unsealed roads) compared to the notified version of RPROZ-S3. The setback from a boundary with an existing commercial forest matches the equivalent setback for commercial forests from site boundaries in the NES-CF, ensuring adequate and effective separation between habitable buildings and commercial forests. The reduction in the setback from unsealed roads from 30m to 20m (plus introduction of a specific matter of discretion relating to dust from unsealed roads) is a more efficient approach to managing the issue that allows landowners more flexibility to locate habitable buildings on their site while still providing a sufficient setback from the road boundary.
734. I note that the other amendments to RPROZ-S3 (new matters of discretion relating to the rail corridor and removal of references to artificial crop protection and support structures) have been considered with respect to section 32AA in Key Issues 4 and 14 above respectively and that evaluation is not repeated here.
735. Overall, I consider that my recommended amendments to RPROZ-R3 will be more effective and efficient in achieving the relevant objectives in the PDP

<sup>81</sup> As per the relief sought by KiwiRail discussed in Key Issue 4 above.



than the notified standard and are therefore appropriate in terms of section 32AA of the RMA.

### 5.2.29 Key Issue 29: Standard RPROZ-S5

#### Overview

Provision(s)	Officer Recommendation(s)
RPROZ-S5	Amendment to increase coverage from 12.5% to 15%

#### Analysis of Submissions on Key Issue 29: RPROZ-S5

##### Matters raised in submissions

736. NZ Pork (S55.041) support RPROZ-S5 in part but request that mobile pig shelters be excluded from the standard. In its submission, NZ Pork describes how the shelters are used, and why moving them to fresh ground after each farrowing cycle is necessary for biosecurity and environmental reasons. NZ Pork also references the shelters' small nature, low amenity and environmental impact as reasons for exclusion from RPROZ-S5.
737. Horticulture NZ (S159.133) opposes RPROZ-S5 as it fails to provide greater site coverage thresholds for artificial crop protection structures. Horticulture NZ requests the standard is amended so it does not apply to artificial crop protection structures or greenhouses.
738. Trent Simpkin (S283.030) opposes all building coverage rules in all zones, including RPROZ-S5<sup>82</sup>. In the case of the RPROZ, the submitter requests that the maximum building or structure coverage allowance increases from 12.5% to 20%. As an alternative, the submitter suggests inserting a PER-2 that says if a building is above 20% site coverage or 2,500m<sup>2</sup>, it is a permitted activity if a visual assessment and landscape plan is provided as part of the building consent.
739. IDF Developments Limited (S253.003) do not consider there to be any clear rationale for lessening building and structure coverage to 12.5% from the 15% ODP standard. IDF Developments Limited requests the ODP standard of 15% should be retained and notes this approach would align with RPROZ-R2 which permits impermeable surface coverage up to 15%.

##### Analysis

740. With respect to the NZ Pork submission to exempt mobile pig shelters from the building coverage standard, I disagree that there are any grounds for

<sup>82</sup> Note that this submission point was incorrectly allocated to RPROZ-R5 in the published Summary of Submissions. As it clearly relates to RPROZ-S5 and the building coverage controls in the RPROZ, it has been assessed in this section of the section 42A report.



an exemption. In my view, the buildings being small scale with low impact on amenity and having the ability to be moved are not reasons to not consider their contribution to the total cumulative building coverage on a site. If a site already contains a large amount of buildings for other parts of a pig farming operation, or for an associated primary production activity sharing the same site, the potential built dominance effects of having mobile pig shelters should be considered as part of the overall level of built development on the site in my view. As such, I do not recommend that an exemption is added to RPROZ-S5 for mobile pig shelters.

741. With respect to the Horticulture NZ submission, I agree that the 12.5% building coverage threshold may be difficult to meet for artificial crop protection structures and may be unnecessarily restrictive on horticultural activities, particularly on smaller sites. In my view I do not consider that artificial crop protection structures should be considered 'buildings' but I also understand the potential for confusion given the PDP definition of building references a physical construction that is 'partially or fully roofed', which some could interpret to include material used for crop protection. I do not consider that, from a visual perspective, artificial crop protection structures have the same types of built dominance effects from a bulk perspective as buildings. However, in my view a greenhouse is more akin visually to any other type of primary production related building and should be accounted for when assessing building coverage. I note that there is an exemption for glass houses (requested by Horticulture NZ to be amended to 'greenhouses') in the equivalent HZ-S5, however I consider that this is appropriate in the context of the Horticulture Zone, which has been specifically created to support horticulture and where the visual impacts of horticulture buildings are anticipated as appropriate. I do not consider that the same exemption should apply in the RPROZ where a lower intensity of built form is anticipated. As such, I recommend inserting an exemption for artificial crop protection structures into RPROZ-S5 for the avoidance of doubt, but not an exemption for greenhouses.
742. I disagree with Trent Simpkin that the building coverage control should be increased from 12.5% to 20%. This is a significant increase and well in excess of the 15% impermeable coverage rule in RPROZ-R2. I also disagree that there should be an alternative permitted pathway for activities that exceed 20% coverage or 2,500m<sup>2</sup> by way of a visual assessment and landscape plan. As discussed in relation to the submitter's request for a permitted activity pathway for non-compliance with RPROZ-R2 where there is a TP10 report, this type of pathway would give considerable discretion to landscape architects, enabling them to effectively approve landscaping and planting plans to mitigate built dominance, privacy and amenity/character effects without any Council oversight. I recommend that this submission point is rejected.
743. Finally, I understand that the rationale for reducing the building coverage control to be 2.5% less than the impermeable surface coverage rule when RPROZ-S5 was notified was to recognise that most developments will have





a combination of buildings, structures and other impermeable surfaces. This difference intended to account for a scenario where the majority of coverage is associated with buildings and structures but an additional allowance is made for areas of hardstand and/or driveways that are needed on site. However, I consider that there is little difference in terms of built dominance effects and no difference in terms of stormwater effects between 15% of a site being covered in buildings vs 15% of a site being covered in impermeable surfaces. In most cases I consider that the building coverage on a site will naturally drop closer to 12.5% because of the need for driveways and other hardstand areas. In my view, amending the building coverage control to match the impermeable surface coverage control allows landowners to decide for themselves the proportion of a site that will be covered in buildings/structures vs other impermeable surfaces. This provides landowners more flexibility without a discernible increase in potential adverse effects. As such I recommend that the permitted building coverage threshold under RPROZ-S5 is increased to 15%.

### Recommendation

744. For the reasons set out above, I recommend that the submissions on RPROZ-S5 are accepted, accepted in part and rejected as set out in **Appendix 2**.
745. I recommend that the percentage of a site able to be covered by buildings or structures under RPROZ-S5 is amended from 12.5% to 15%.

### Section 32AA evaluation

746. I consider that increasing the building coverage standard from 12.5% to 15% is more efficient than the notified standard as it allows landowners to determine what proportion of the equivalent 15% impermeable surface coverage rule (RPROZ-R2) will consist of buildings vs impermeable surfaces, while still having two separate provisions to manage the different types of effects resulting from building coverage infringements compared to impermeable surface coverage infringements, as set out in my analysis above. I consider that this approach is more efficient and effective at managing the level of built development on RPROZ sites compared to the notified RPROZ-S5 and is therefore appropriate in terms of section 32AA of the RMA.

## 5.2.30 Key Issue 30: Subdivision SUB-S1 as it applies to the Rural Production Zone

### Overview

Provision(s)	Officer Recommendation(s)
SUB-S1	Retain as notified





## **Analysis of Submissions on Key Issue 30: Subdivision SUB-S1 and the Rural Production Zone**

### **Matters raised in submissions**

747. Approximately 45 submissions were received on SUB-S1 relating to minimum lot sizes in the RPROZ. These submissions have been considered as part of the RPROZ topic as opposed to the subdivision topic as they are closely linked to the level of development enabled in the RPROZ. I consider it important to frame discussions around appropriate minimum lot size standards in the context of the purpose of the RPROZ, the sorts of activities that the RPROZ is intended to protect and the extent to which non-primary production activities are enabled e.g. residential development.
748. The majority of submissions received on SUB-S1 oppose the minimum lot sizes and associated activity status of subdivision applications, either in full or in part. The general trend of submissions is to request reductions in minimum lot sizes, ranging from the lot sizes being halved, to requests for a return to the ODP subdivision minimum lot sizes, through to increased rural lifestyle opportunities throughout the RPROZ. Another clear trend is requests for a restricted discretionary subdivision pathway to provide an extra step between discretionary and controlled minimum lot sizes to provide landowners with more subdivision options.
749. There is limited support in submissions in full or in part for SUB-S1. Submissions supporting SUB-S1 as it relates to RPROZ, include:
- a. Russell Protection Society (S179.106) support SUB-S1 and requests that the minimum lot sizes for RPROZ are retained as they continue the protection previously afforded by ODP zones in the coastal environment.
  - b. Brian and Katherine Hutching (S71.001) support SUB-S1 in part to prevent subdivision of larger lots (support contingent on being able to subdivide smaller lots on already fragmented or unproductive land)
  - c. Lynley Newport (S112.001) supports retention of the controlled 40ha minimum lot size (but requests amendments to the balance of the standard)
  - d. IDF Developments Limited support (S253.013) the discretionary minimum lot size of 8ha (but requests amendments to the balance of the standard).
750. The reasons for opposing SUB-S1 include:
- a. SUB-S1 prevents rural landowners from being able to retire on smaller sized lots, being able to subdivide off a small lot for family to build on or create rural lifestyle sized lots (Danielle Hookway (S309.004),



Amber Hookway (S261.004), Lianne Kennedy (S310.004), Tristan Simpkin (S174.001))

- b. The minimum lot sizes in SUB-S1 are too large for lifestyle blocks and will involve too much time, expense and effort for most people to maintain larger land parcels (Robyn Josephine Baker (S69.002))
- c. SUB-S1 is contrary to Council meeting their goals relating to provision of affordable housing and the Council should be looking to attract more residents by offering opportunities for lifestyle properties (Leah Frieling (S358.010), Sean Frieling (S357.010), Michael Foy (S472.010), Robyn Josephine Baker (S69.002))
- d. SUB-S1 does not provide for small lot subdivision around existing housing (Te Hiku Community Board (S257.010), Elbury Holdings (S541.020, S519.022, S485.022) and LJ King Limited (S543.021, S547.021, S464.021))
- e. SUB-S1 is heavy handed, restrictive and punitive and likely to render many marginally productive lots uneconomic for primary production due to owners being unable to diversify or subdivide to reduce debt burdens (FNR Properties Limited (S319.003, S334.002), Morgan Horsford (S312.001), Thomson Survey Ltd (S190.001) and Geoffrey Raymond Lodge (S540.001))
- f. SUB-S1 is not designed to distinguish HPL from less productive land, which means that the restrictive minimum lot sizes prevent rural lifestyle subdivision (Leah Frieling (S358.010), Sean Frieling (S357.010), Michael Foy (S472.010), Trevor John Ashford (S146.001), Strand Homes (S77.001), Martin John Yuretich (S40.001) and Joel Vieviorka (S41.001))
- g. SUB-S1 does not provide a mechanism to consider the actual productive capacity of land, existing lot size or land use patterns when assessing a subdivision application (Thomson Survey Ltd (S190.001) and Geoffrey Raymond Lodge (S540.001))

751. The most commonly requested relief is:

- a. Retention of the ODP subdivision minimum lot sizes for the RPROZ (Allen Hookway (S311.004), Far North Real Estate (S53.001), Jeanette Mcglashan (S17.001), Tristan Simpkin (S174.001)), which involves:
  - i. 20ha controlled, 12ha restricted discretionary, 4ha discretionary minimum lot sizes
  - ii. Some limited opportunities for rural lifestyle sized lots, ranging from 2,000m<sup>2</sup> to 4ha



- iii. Additional subdivision opportunities for titles that existed at, or prior to, 28 April 2000.
- b. A 20ha controlled minimum lot size (LMD Planning Consultancy (S415.001), Arahia Burkhardt Macrae (S255.001), Manu Burkhardt Macrae (S279.002), Federated Farmers (S421.177), Sarah Ballantyne and Dean Agnew (S386.018), Willowridge Developments (S250.012), Northland Planning and Development (S502.082), Trent Simpkin (S28.001<sup>83</sup>))
- c. An 8ha restricted discretionary minimum lot size (Northland Planning and Development (S502.082))
- d. A 4ha discretionary minimum lot size (LMD Planning Consultancy (S415.001), Northland Planning and Development (S502.082), Trent Simpkin (S28.001))
- e. Provision for smaller lots than 4ha around existing dwellings (Leah Frieling (S358.010), Sean Frieling (S357.010) and Michael Foy (S472.010))
- f. Rural lifestyle sized lots are enabled, with a range of minimum lot sizes requested from 3,000-4,000m<sup>2</sup> lots (Brian and Katherine Hutching (S71.001), Trent Simpkin (S28.001)) to 0.5-1ha or 2ha lots (Kathleen Jones (S417.001), Morgan Horsford (S312.001)), generally as a controlled activity
- g. For land that is not highly productive, providing for a limited number of lots at 8,000m<sup>2</sup> or 1ha, and then 4ha generally after that (Trevor John Ashford (S146.001), Strand Homes (S77.001), Martin John Yuretich (S40.001), Joel Vieviorka (S41.001), Elbury Holdings (S541.001, S485.001, S519.001), Helmut Friedrich Paul Letz and Angelika Eveline Letz (S470.001), Julianne Sally Bainbridge (S163.001) and a large number of other submitters)
- h. Provision for 'average lot sizes' as opposed to 'minimum lot sizes' to reduce the risk of arbitrary design and allow landowners to take characteristics of land and resources into account when determining lot boundaries (Bentzen Farm Limited (S167.064) and Matauri Trustee (S243.082))
- i. A standard that has a restricted discretionary minimum lot size of 12ha as a starting point, but also provides for a certain number of smaller rural lifestyle sized lots over the life of the PDP, depending on the balance lot remaining over 12ha and/or limits on the total amount of land that can be subdivided off for rural lifestyle lots (Thomson

<sup>83</sup> Note that this submission was incorrectly allocated to SUB-S2 in the Summary of Submissions. It has been assessed in this report in relation to SUB-S1 as it clearly relates to minimum lot sizes in the RPROZ.



Survey Ltd (S190.001), Geoffrey Raymond Lodge (S540.001), Lynley Newport (S112.001))

## **Analysis**

### Rural living opportunities in the RPROZ

752. I acknowledge the general preference of submitters for a retention of the status quo with respect to minimum lot sizes and rural lifestyle subdivision opportunities under SUB-S1. The strong desire to be able to use less productive land for rural lifestyle subdivisions to raise capital, provide retirement opportunities or intergenerational family living is evident and understandable as submitters seek to provide for their individual circumstances.
753. I agree with submitters that providing for some rural lifestyle living in the rural environment is desirable as there is a demand for smaller sized rural lots (e.g. ranging from 2,000m<sup>2</sup> through to 4ha, depending on the needs of the landowner). The history of past subdivision consents in the rural environment (as set out in the Rural Environment Economic Analysis Report) is indicative of the strong demand for smaller rural lifestyle sized lots between 1,000m<sup>2</sup> and 4ha in size<sup>84</sup>. However, this pattern should be considered against the wider context of limited options for growth in areas connected to reticulated infrastructure, which has potentially meant that larger lot sizes were required to accommodate on-site servicing. The Council has an obligation to provide sufficient development capacity to meet demand (section 31(1)(aa) of the RMA) and this will need to include rural living opportunities in a rural environment. However, there are options as to how this development capacity is provided for across the rural environment and how this is balanced against competing demands such as the need to protect HPL and the need for efficient and effective provision of infrastructure.
754. In my view, the ODP approach to managing rural subdivision in the Rural Production Zone is fairly enabling and prioritises shorter term landowner choice over the long-term viability and protection of the productive rural environment. As set out in the Rural section 32 evaluation report, allowing ad-hoc rural lifestyle sized lots anywhere in the Rural Production Zone has resulted in pressures on transport infrastructure and, in some places, pressure for other services, increased instances of reverse sensitivity effects, sterilisation of productive land by non-productive activities and increasing fragmentation of land<sup>85</sup>. I agree with the proposed solution as notified to continue to provide for rural living opportunities in the rural environment but

84 Refer to pages x and xi of the Executive Summary of the Rural Environment Economic Analysis Report - updated August 2020, attached as Appendix 1 to the Rural section 32 evaluation report for a summary of small lot subdivision activity in the rural environment between 2000-2018.

85 Refer to Section 2.2 – Overview of topic in the Rural section 32 evaluation report for a summary of issues and challenges facing the rural environment.



focus these opportunities into specific rural zones (e.g. RLZ, RRZ and RSZ) and also the additional range of residential typologies provided for in the General Residential Zone, as opposed to enabling rural lifestyle subdivision opportunities across the RPROZ. In saying this, I recognise that there may be opportunities to add more land into the RLZ, RRZ and RSZ to better provide for housing choice and subdivision opportunities in the rural environment, however this is a matter to be addressed through the rezoning hearings, set down for September/October 2025.

755. As such, I do not agree with submitters requesting increased opportunities for rural lifestyle sized lots in the RPROZ, or a retention of the ODP enabling approach to rural lifestyle sized lots (including the grandfathering clause). In my view (and based on my discussions with Council staff), the provision for additional subdivision rights for titles older than 28 April 2000 was a provision inserted into the ODP to transition from an even more enabling subdivision regime that existed prior to the ODP. Landowners have had close to 25 years to utilise these subdivision opportunities and I do not see any justification for extending this transition time any further.
756. I also recognise that the RPROZ covers a large percentage of the Far North District and is by no means homogenous with respect to land productivity, access to water, hazard constraints, lot size or land use patterns. I can appreciate that the 'one sized fits all' minimum lot sizes set out in SUB-S1 will not necessarily be fit for purpose for all parts of the RPROZ. However, I consider that SUB-S1 is an appropriate starting point in terms of changing the overly enabling ODP approach to subdivision to a more focused and deliberate approach aimed at protection of the RPROZ for primary production activities long term and delivering housing capacity in the RRZ, RLZ and General Residential Zones. I do not have sufficient information to engage in a more fine grained analysis of the RPROZ and identify areas that may benefit from a more nuanced approach to subdivision at this point of the PDP process. I also consider that pursuing such an approach could also potentially result in unfairness to interested parties who have not had a fulsome opportunity to consider and engage with the particular issues as part of the PDP process.

#### Subdivision in the RPROZ and protection of HPL

757. I understand the rationale to be that a 40ha controlled minimum lot size would ensure that lots remain large enough to support at least one form of primary production activity. If there was a need for a smaller lot size (to accommodate a horticultural activity on a smaller piece of highly productive land for example), the ability of that lot to support that proposed land use would be assessed through a discretionary activity consent process if the lot was between 8ha and 40ha. These two thresholds were chosen as they are



considered to be the lower end of lot sizes that can support horticultural activities (8ha) and pastoral farming activities (4ha)<sup>86</sup>.

758. I note that SUB-S1 as notified does not differentiate between the subdivision of HPL and other potentially less productive parts of the RPROZ, as pointed out by numerous submitters, which relates to the NPS-HPL not being in effect when the PDP was notified. As there was no direction in the NPS-HPL to address subdivision of HPL in a different way to the balance of the rural environment, there was no need or requirement to provide a separate subdivision regime for HPL.
759. However, the NPS-HPL in my view now clearly requires a more stringent approach to subdivision of HPL, as set out in Clause 3.8. The NPS-HPL now requires that subdivision of HPL is avoided unless the applicant can demonstrate that the proposed lots containing HPL will retain the overall productive capacity of the subject land over the long-term<sup>87</sup>. The NPS-HPL also requires that territorial authorities ensure that the subdivision of HPL:
- a. *avoids if possible, or otherwise mitigates, any potential cumulative loss of the availability and productive capacity of highly productive land in their district; and*
  - b. *avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on surrounding land-based primary production activities<sup>88</sup>.*
760. In my opinion, the need to consider these tests e.g. overall productive capacity, cumulative loss of HPL and actual and potential reverse sensitivity effects necessitates a different approach to the subdivision of lots containing HPL compared to the balance of the RPROZ. The mechanism for introducing a specific HPL subdivision rule will be covered in Hearing 16 – Subdivision in October 2025, however I have discussed this issue with the section 42A officer for the subdivision chapter and understand that amendments to the subdivision chapter will be recommended to give effect to the NPS-HPL. The rule framework that I have discussed with the subdivision reporting officer is a discretionary activity rule framework for any subdivision in either the RPROZ or Horticulture Zone that creates one or more additional allotments that contain HPL (i.e. if the HPL is contained in the balance lot, the standard subdivision rules and standards apply). This approach is supported by the

86 40ha being the threshold beyond which land is no longer large enough to viably support a range of primary productive uses and 8ha being the smallest parcel of land able to support a viable horticultural activity, providing it is on good soils and has access to water – refer to the Executive Summary of the Rural Environment Economic Analysis Report - updated August 2020, attached as Appendix 1 to the Rural section 32 evaluation report.

87 Clause 3.8(1) of the NPS-HPL also provides two other pathways for subdivision – if the subdivision is on specified Māori land or if it is for specified infrastructure, or for defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990, and there is a functional or operational need for the subdivision.

88 Clause 3.8(2) of the NPS-HPL.





policy direction in the NPS-HPL with respect to subdivision that I have referenced above.

761. As such I do not consider that any amendments are required to SUB-S1 to specifically recognise HPL – the discretionary activity resource consent process set out in SUB-S1 supported by the strong policy direction from the NPS-HPL will provide the appropriate forum to demonstrate the need for subdivision in the RPROZ creating lots between 8ha and 40ha in size, including whether or not the productiveness of the land, combined with access to water and other site specific factors, justifies a smaller lot size than 40ha. Contrary to the submissions made by Thomson Survey Ltd and Geoffrey Raymond Lodge, the discretionary activity status is, in my view, the mechanism to consider actual productivity of land, existing lot sizes and land use patterns – Council having full discretion allows applicants to put forward all arguments in support of the subdivision that they consider to be relevant and consent processing staff are able to consider all the relevant provisions, information and environmental when making their decision.

#### Minimum lot sizes

762. There was strong feedback on the thresholds used to determine the activity status of subdivision applications in the RPROZ, with the majority of submitters seeking a 20ha controlled activity starting point (as per the ODP), with a cascading framework allowing subdivision down to 4ha as a discretionary activity, which potentially an 8ha or 12ha restricted discretionary pathway included as well. Firstly, I note that the decision to move away from the ODP minimum lot sizes was a conscious one, based on evidence<sup>89</sup> that the framework was not delivering desirable outcomes on the ground, i.e. a proliferation of rural lifestyle sized lots in an ad hoc pattern across the RPROZ, resulting in extensive fragmentation of the rural land resource and increasing reverse sensitivity risks for primary production activities. In particular, I disagree with shifting the minimum lot sizes specified in SUB-S1 for the following reasons:
- a. 40ha is the threshold beyond which land parcels are no longer large enough to viably support a range of primary productive uses<sup>90</sup>. This is therefore the most appropriate threshold for a controlled activity where consent **must** be granted. Council needs to retain the ability to decline subdivision applications that involve lots below 40ha in size if applicants are unable to demonstrate how the lot(s) will remain in productive use.
  - b. The Rural Environmental Economic Analysis Report found that the existing operative minimum 20ha lot size in the Rural Production Zone is not expected to sustain an economically viable farming property

89 As this was the finding of the Rural Environment Economic Analysis Report - updated August 2020, attached as Appendix 1 to the Rural section 32 evaluation report.

90 Ibid, refer to page xiv of the Executive Summary.





(unless there are other sources of income not captured) and there does not appear to be a valid resource management reason for sustaining the controlled minimum lot size at 20ha<sup>91</sup>. None of the submissions on this issue provided economic evidence that countered the findings of this report as justification for maintaining the 20ha controlled minimum lot size from the ODP.

- c. 8ha was identified as the smallest sized lot able to support a viable primary production activity, depending on a number of factors such as whether the land was highly productive, whether there was access to water and what type of primary production activity was being proposed (horticulture being the most likely to be viable on an 8ha lot)<sup>92</sup>. 8ha is also a size of lot that, in my experience, is generally less desirable for rural lifestyle purposes so it is a useful lower threshold to reinforce that rural lifestyle lots are not encouraged in the RPROZ.
- d. In terms of the need for a restricted discretionary pathway for subdivision in RPROZ, in my view, the same tests should be applied to all proposed subdivisions in the RPROZ involving lots between 8ha and 40ha in size, i.e. can all lots remain in productive use based on site specific factors. I do not consider that there is a need for an intermediate minimum lot size threshold between 8ha and 40ha as a restricted discretionary activity. There is clear direction in the RPROZ objectives and policies (particularly RPROZ-P6) to direct decision makers assessing a discretionary subdivision activity, so the addition of restricted discretionary assessment criteria is not required. I also consider that the insertion of a third minimum lot size threshold that is not based on any specific evidence could send a signal that smaller lot sizes (e.g. around 8-12ha as suggested by submitters) are always appropriate in the RPROZ, which is not likely to be the case.
- e. I also disagree with reducing the discretionary activity minimum lot size from 8ha to 4ha. A 4ha lot is too small to be viable for primary production activities (as demonstrated in the Rural Environment Economic Analysis Report) as a starting point and therefore will most likely be used for rural lifestyle purposes. As described above, the pathways for providing rural lifestyle sized lots in the RPROZ have deliberately been narrowed so that those seeking to live but not farm in a rural environment are encouraged towards the RLZ, RRZ and RSZ and consequently away from existing primary production activities in the RPROZ (the only pathways for rural lifestyle lots in RPROZ being an environmental benefit subdivision under SUB-R6 or a management plan subdivision under SUB-R7). To introduce a 4ha discretionary minimum lot size would undermine this approach and risk a

91 Ibid.

92 Refer to the table on page xv of the Executive Summary of the Rural Environment Economic Analysis Report - updated August 2020, attached as Appendix 1 to the Rural section 32 evaluation report.



continuation of the status quo, with all of the associated issues set out in paragraph 754 above.

#### Complexity of SUB-S1

763. A number of submitters suggested alternative drafting for SUB-S1, from adapting the ODP drafting through to proposed standards with multiple pathways for subdivision with a variety of lot sizes provided for. Overall, I found these alternative versions of the standard to be highly complex and largely unsupported by clear evidence as to why particular lot sizes or scenarios (e.g. number of lots over the life of the PDP, total amount of land involved, size of balance lots, averages vs minimum lot sizes, grandfathering clauses) were preferable compared to the notified version of SUB-S1, other than that they were more enabling and flexible for rural lifestyle subdivision.
764. As such, I do not support submissions to introduce additional complexity into SUB-S1.

#### Subdivision around existing dwellings

765. Several submitters (e.g. Michael Foy) have requested that subdivision of lots less than 4ha be provided for around existing dwellings. I do not support amendments to SUB-S1 to provide for this situation for the following reasons:
- a. Allowing small lot subdivision around existing dwellings will continue and reinforce the small lot subdivision pattern that has historically occurred in the RPROZ. In my experience, the more fragmented the land surrounding a proposed subdivision is, the more likely undersized lots are to be granted and it is difficult for Council to halt a trend of land fragmentation once a precedent for small lots has been set.
  - b. As discussed in Key Issue 17 above, I support RPROZ-R3 – Residential activity remaining coupled to SUB-S1, so that the same level of residential intensity in the RPROZ is enabled under both these provisions. If small lot subdivision is enabled around existing dwellings (even if the dwellings have to be existing at a certain date to qualify), it makes it difficult to reject other subdivision applications for lots around new dwellings, or subdivision around minor dwellings. In my view, the existence of a dwelling should not entitle a landowner to additional lots – if there is a genuine need for subdivision around existing dwellings then an applicant can apply for a non-complying activity subdivision and demonstrate how the proposal is in accordance with RPROZ-P6 and other relevant RPROZ and subdivision objectives and policies, including how potential reverse sensitivity effects will be avoided.



## Recommendation

766. For the reasons set out above, I recommend that the submissions on SUB-S1 are accepted, accepted in part and rejected as set out in **Appendix 2**. I do not recommend any amendments to SUB-S1 as it applies to the RPROZ.

## Section 32AA evaluation

767. I do not recommend any amendments to SUB-S1 and therefore no further evaluation is required under section 32AA of the RMA.

## 6 Conclusion

768. This report has provided an assessment of submissions received in relation to the Rural Production chapter and the way the rural environment is managed generally in the Far North district. The primary amendments that I have recommended relate to:
- a. Amendments to objectives, policies and rules of the rural zone chapters (particularly the RPROZ) and several definitions to give effect to the NPS-HPL.
  - b. Amendments to objectives, policies and rules of the rural zone chapters (particularly RPROZ and RLZ) and several definitions to align with the NES-CF.
  - c. Inclusion of a new definition and associated rule to manage 'waste management facilities' as a discretionary activity in the RPROZ.
  - d. Inclusion of a new definition and associated rule to manage 'seasonal worker accommodation' as a permitted activity in the RPROZ.
  - e. Insertion of new definitions and amendments to RPROZ-R1 and associated standards to consolidate the provisions relevant to artificial crop protection structures, crop support structures and greenhouses.
  - f. Amendments to educational facility rules across rural zone chapters to change the activity status from discretionary to restricted discretionary when permitted conditions are not complied with, except in the Horticulture Zone and Horticulture Processing Facilities Zone.
  - g. Amendments to RPROZ-R11 to increase the permitted GFA for rural produce manufacturing and make infringements of the GFA permitted condition a restricted discretionary activity.
  - h. Amendments to RPROZ-R19 to make the activity status of minor residential units permitted in the RPROZ.
  - i. Amendments to setback standards across rural zone chapters to better manage rail corridor safety.



- j. Inclusion of new standards in the RPROZ chapter to better manage reverse sensitivity effects on existing intensive indoor and outdoor primary production activities and forestry activities.
769. Section 5.2 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the Rural Production chapter and general submissions on the Rural topic should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations within the main body of this report and in **Appendix 2**.
770. I recommend that provisions for the Rural Production chapter be amended as set out in in **Appendix 1.1** for the reasons set out in this report. I also recommend that the Definitions chapter be amended as set out in **Appendix 1.2** of this report. The consequential amendments to the other zone chapters resulting from recommendations made in this report are contained in Appendix 1 of the other rural zone chapter section 42A reports.
771. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents, for the reasons set out in this report and the section 32AA evaluations undertaken.

**Recommended by:** Melissa Pearson, Principal Planning Consultant, SLR Consulting New Zealand

**Approved by:** James R Witham – Team Leader District Plan, Far North District Council.

**Date:** 4 November 2024