



SECTION 42A REPORT

Officer's written right of reply 3 March 2025

Hearing 9 – Rural, Horticulture and Horticulture Processing

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1 Introduction

1. This right of reply addresses the Rural, Horticulture and Horticulture Processing Zone topics that were considered in Hearing 9 on the Proposed Far North District Plan (**PDP**) held on 2-5 December 2024. It has been prepared by myself (Melissa Pearson), as the author of the section 42A reports for the six rural zones.
2. In the interests of succinctness, I do not repeat the information contained in Section 2.1 of the section 42A reports and request that the Hearings Panel (**the Panel**) take this as read.

2 Purpose of Report

3. The purpose of this report is primarily to respond to the evidence of submitters that was pre-circulated and presented at Hearing 9 on the PDP in relation to the Rural, Horticulture and Horticulture Processing topics and to reply to questions raised by the Panel during the hearing. I have generally followed the format of the section 42A reports in my reply, beginning with issues that apply across multiple zones, followed by zone specific provisions and finishing with comments on SUB-S1.

3 Consideration of evidence recieved

4. The following submitters provided evidence, hearing statements and/or attended Hearing 9, raising issues relevant to the Rural, Horticulture and Horticulture Processing topics:
 - a. Audrey Campbell-Frear (S209).
 - b. Bentzen Farm Limited (S167), Setar Thirty Six Limited (S069), The Shooting Box Limited (S187), Matauri Trustee Limited (S243), P S Yates Family Trust (S333), and Mataka Station Residents Association Incorporated (S230), collectively referred to as "**Bentzen Farm Limited and others**".
 - c. Braedon & Cook Ltd (S401).
 - d. Foodstuffs North Island Limited (S363).
 - e. Federated Farmers (S421).
 - f. Fiona King (on behalf of LJ King Limited (S543 and S547)).
 - g. Fire and Emergency NZ (FENZ) (S512).
 - h. Frederick Laurence and Ellen June Voigt (FS99).
 - i. Gray Phillips (FS141).
 - j. Haigh Workman Ltd (S215).



- k. Heavy Haulage Association Inc (S482).
 - l. Horticulture New Zealand (S159).
 - m. KiwiRail Holdings Limited (KiwiRail) (S416).
 - n. Lynley Newport (S192).
 - o. Meridian Farms Ltd (S403).
 - p. Michael John Winch (S67).
 - q. Neil Construction Ltd (S349).
 - r. Northland Regional Council (S359).
 - s. NZ Eco Farms Ltd (S456).
 - t. NZ Pork (S55).
 - u. Peter Malcom (S414).
 - v. Denis Thomson (on behalf of Thomson Survey (S190)).
 - w. Two M Investments Ltd (S317).
 - x. Ventia Ltd (S424).
 - y. Vision Kerikeri (S521), Carbon Neutral Trust (S529), and Kapiro Conservation Trust (S442), collectively referred to as "**Vision Kerikeri and others**".
 - z. Waiaua Bay Farm Ltd (S463).
 - aa. Waipapa Pine Ltd (FS374).
 - bb. Waitangi Limited (S503).
 - cc. Willowridge Developments Ltd (S250).
5. A late statement, including supporting information, was also received from Mr Glen Nathan (S36) after the hearing had concluded. Mr Nathan's statement is now available online under the information on Hearing 9 and I have responded to his statement in Issue 4 – Rural Production Rules below.
6. Several submitters generally support the recommendations in the section 42A reports for the six rural zones, and many submitters raise common issues. As such, I have only addressed evidence where I consider additional comment is required and have grouped the issues raised in submitter



evidence where appropriate. I have grouped these matters into the following headings:

- a. Issue 1 – Selection of Rural Zones in the PDP
 - b. Issue 2 – Other rural wide matters
 - c. Issue 3 – Rural Production Objectives and Policies
 - d. Issue 4 – Rural Production Rules and Standards
 - e. Issue 5 – Horticulture Zone
 - f. Issue 6 – Rural Lifestyle Zone
 - g. Issue 7 – Settlement Zone
 - h. Issue 8 – SUB-S1 as it applies to the RPROZ, HZ, RLZ and RRZ zones
7. No evidence was provided on the provisions of the Rural Residential Zone or the Horticulture Processing Facilities Zone chapters. As such, I have not commented on the provisions of either of those zones in this right of reply. However, there are consequential changes to the wording of some provisions in these zones to align with recommendations I have made to the RPROZ and HZ chapters. These wording changes are included in Appendices 3 and 5 of this report.
8. I also note the hearing statement prepared on behalf of Neil Construction Ltd by Mr Philip Brown confirms that Neil Construction Ltd will pursue all outstanding matters through the rezoning hearings as opposed to requesting relief in relation to the rural chapters of the PDP. As such, I have no further comments to make in relation to the statement from Neil Construction Ltd.
9. I have addressed various questions raised by the Hearing Panel at the end of this reply – refer to the section “Additional Questions from the Hearing Panel”.
10. I have used the following mark-ups in the provisions to distinguish between the recommendations made in the section 42A report and my revised recommendations in this reply evidence:
- a. Section 42A Report recommendations are shown in black text (with underline for new text and ~~strikethrough~~ for deleted text); and
 - b. Revised recommendations from this Report are shown in red text (with red underline for new text and ~~strikethrough~~ for deleted text)
11. For all other submissions not addressed in this report, I maintain my position as set out in my original section 42A reports.



3.1 Issue 1: Selection of Rural Zones in the PDP

Overview

Relevant Document	Relevant Section
Section 42A Report	Rural Wide Issues and Rural Production Zone section 42A report – Key Issue 1
Evidence and hearing statements provided by submitters	Audrey Campbell-Frear, Horticulture NZ, Northland Regional Council, Bentzen Farm Ltd (and others), Federated Farmers, Vision Kerikeri and others

Matters raised in evidence

12. There are two key issues raised in evidence with respect to the selection of rural zones in the PDP, namely:
 - a. The name of the Rural Production Zone and whether it should be more accurately referred to as General Rural Zone – both options under the National Planning Standards; and
 - b. Whether the Horticulture Zone (HZ) should be retained as a special purpose zone to manage the long-term future of the horticultural industry around Kerikeri and Waipapa.

Name of the Rural Production Zone

13. Mr Peter Hall on behalf of Bentzen Farm Limited (and others) acknowledges in his evidence that the National Planning Standards descriptions of the 'Rural Production Zone' and 'General Rural Zone' are not sufficiently different to provide definitive guidance on the best choice of name for the largest rural zone in the Far North District. Mr Hall disagrees that the name Rural Production should be retained because it is a legacy name from the ODP – in his view that is the purpose of a district plan review, to change elements of the plan if desirable.
14. However, he also acknowledges that, while he views it as 'helpful' if zone names reflect the types of land uses that might be anticipated in certain zones, the actual name chosen does not necessarily matter, provided that the objectives, policies and other provisions of the Rural Production Zone are, in his words, 'correct'. In this context, Mr Hall's focus in evidence is less on the zone names and more on whether the RPROZ provisions recognise that:
 - a. A range of other activities need and derive particular benefit from a rural location.
 - b. While not being rural productive land uses, these other uses are not necessarily incompatible with primary production activities.



- c. Non-productive land uses can give rise to environmental benefits and also maintain rural character and amenity.
15. Mr Hall's subsequent comments on RPROZ provisions are responded to in Key Issues 3 and 4 of this right of reply.

Selection of rural zones and the use of the Horticulture Zone

16. There are a number of submitters that support my recommended suite of rural zones, including using the HZ as a tool to manage and protect the horticultural industry around Kerikeri and Waipapa, including:
- a. Ms Ingrid Kuindersma on behalf of the Northland Regional Council (NRC);
 - b. Ms Jo-Anne Cook-Munro on behalf of Federated Farmers;
 - c. Ms Sarah Cameron on behalf of Horticulture NZ;
 - d. The evidence provided by Vision Kerikeri and others.
17. There was no evidence submitted that challenged the selection and use of any of the rural zones, aside from the HZ.
18. With respect to supporting the use of the HZ specifically, there were some common themes put forward in evidence, including:
- a. The HZ provides additional protection for the horticultural industry beyond the protection afforded by the NPS-HPL and will ensure that the productive land in this location is used appropriately (NRC and Horticulture NZ).
 - b. The horticulture industry around Kerikeri and Waipapa is nationally significant and growing (Horticulture NZ).
 - c. The boundaries of the HZ appear to be logically related to areas of land that are able to benefit from the Kerikeri Irrigation Scheme (NRC).
 - d. It is appropriate to include land in the HZ that does not currently contain primary production or horticultural activities as maintaining a cohesive boundary for the zone based on access to water and land capability is more appropriate than allowing specific carve outs for sites not currently utilised for primary production (NRC).
 - e. Including already fragmented, unproductive land parcels in the HZ will better manage reverse sensitivity effects as it will require applications for non-productive activities to justify why their application is appropriate on a case-by-case basis, which aligns with the RPS direction on reverse sensitivity (NRC).



- f. The Kerikeri Irrigation Scheme is a major infrastructure asset and the cost to build a similar scale irrigation scheme today would be prohibitive – as such it needs protecting from further land fragmentation and encroaching urban/residential development (Vision Kerikeri and others).
 - g. The HZ protects some areas of LUC 4 (which are not protected by the NPS-HPL), which is still considered to be productive for crops such as kiwifruit, especially where there is access to the irrigation scheme (NRC and Vision Kerikeri and others).
 - h. The Kerikeri-Waipapa horticultural industry (and associated horticultural support services) is important to maintaining the area's prosperity and protecting the existing irrigation infrastructure (Vision Kerikeri and others).
 - i. The horticulture industry is particularly vulnerable to reverse sensitivity effects and the Kerikeri-Waipapa area is under pressure from urban/residential development (Vision Kerikeri and others).
 - j. Applying the HZ to areas of high-quality soils supported by good access to water in locations that are under significant development pressure is the most appropriate means to reflect the direction in sections 7(b) and 7(g) RMA. This is particularly the case given highly productive soils are a finite resource, and residential / lifestyle development is effectively irreversible (NRC and Vision Kerikeri and others).
19. While there are many submitters that oppose the application of the HZ to their specific land parcel, or to a group of land parcels or a wider area of land, the majority of submitters do not oppose the use of the HZ in principle and are only challenging the spatial extent of the zone. This includes Mr Frederick Laurence (Laurie) Voigt, who provided expert soil science evidence that his property at 59F Riddell Road in Kerikeri should not be included in the HZ on the basis that it does not contain HPL and that the RPROZ is a more appropriate zone. Mr Voigt confirmed at the hearing that he did not oppose the HZ in principle, only the application of the HZ to his land. In response to questions from the Hearings Panel as to whether she supported the HZ in principle, Ms Newport confirmed that she saw merit in using a specific zone to better protect the horticultural industry of Kerikeri-Waipapa but considered that the zone boundaries needed reviewing as the HZ had picked up too much unproductive land.
20. One submitter provided evidence in opposition to the HZ in principle, being Ms Melissa McGrath on behalf of Audrey Campbell-Frear. Ms McGrath's conclusions were informed by expert information in soils (presented by Mr Ian Hanmore) and economics (presented by Mr Derek Foy). Ms McGrath's evidence covers numerous reasons why she does not consider that the HZ is the correct tool to manage the horticultural industry around Kerikeri and



Waipapa, which are summarised as follows (taken from the conclusion of Ms McGrath's evidence):

- a. The RPROZ objectives already adequately address the need to protect highly productive land and provide for primary production activities, including horticulture.
 - b. The HZ introduces unnecessary duplication, imposes restrictive and inefficient rules, and fails to provide the flexibility required to allow landowners to fully utilise their land for a range of productive uses.
 - c. The HZ criteria, which limit the zone to the Kerikeri/Waipapa area, are overly narrow and fail to capture other areas of the district where horticultural activities could thrive, especially in relation to existing and proposed irrigation infrastructure.
 - d. The concern about reverse sensitivity within the Kerikeri/Waipapa horticulture area does not warrant the establishment of a separate zone, the RPROZ already manages reverse sensitivity through its provisions, and the proposed HZ does not provide any additional protection in this respect.
 - e. Much of the land in the proposed HZ is already fragmented, making it unsuitable for large-scale horticultural operations.
 - f. While the Kerikeri/Waipapa area has a certain level of investment and infrastructure in place, there is no evidence to suggest that this area is more economically valuable or productive for horticulture than other parts of the district.
 - g. LUC 4 soils are not defined as highly productive under the NPS-HPL and should not be afforded additional protection.
21. The legal submissions provided by Ms Sarah Shaw on behalf of Audrey Campbell-Frear (and supported by Ms McGrath from a planning perspective, Mr Foy from an economic perspective and Mr Hanmore from a productive soil perspective) advanced the position that the HZ fails all three of the tests for a special purpose zone under Section 8.3 of the Zone Framework Standard in the National Planning Standards. On this basis Ms Shaw argues that the Council is unable to use a special purpose zone to manage horticultural activities around Kerikeri and Waipapa and must instead use one of the listed National Planning Standard zones to manage this land.
22. Ms Shaw also made the point that, as the transitional definition of HPL in the NPS-HPL (clause 3.5(7)) specifies that it only applies to land zoned general rural or rural production, zoning land as HZ perversely means that the NPS-HPL does not apply and that all LUC 1-3 land within the HZ is not protected by the NPS-HPL.



23. Ms McGrath provided a markup of the RPROZ chapter provisions as part of her evidence to demonstrate how the RPROZ provisions could be amended to achieve a similar outcome to the HZ by strengthening the provisions relating to activities on HPL, which resolves (in her view) both the issue with the HZ failing the special purpose zone tests and the need to give effect to the NPS-HPL and protect all LUC 1-3 land within the spatial extent of the HZ.

Analysis

24. As discussed at Hearing 9, the spatial extent of the HZ is a matter that will be discussed as part of the rezoning Hearing 15C, which I am also the reporting planner for. As part of that hearing, I will address the submission of Mr Voigt in terms of his site-specific request to remove his property from the HZ, as well as all other site-specific requests to change the zone from HZ to another type of zone. As such, the analysis in this section focuses only on whether the HZ is the most appropriate tool to manage the horticultural area around Kerikeri and Waipapa and give effect to the NPS-HPL with respect to protecting LUC 1-3 land in this area.

Retain, redraft or delete the HZ

25. In my view, there are three options available:
- a. **Option 1:** Retain the HZ with some amendments to provisions to address specific issues with provisions that were raised in evidence;
 - b. **Option 2:** Redraft the HZ provisions so that, instead of this area being protected by a special purpose zone, it is managed by another type of overlay. In Hearing 9, Panel Chair Scott indicated that he was interested in the possibility of a precinct (or some other type of spatial layer) being investigated as an alternative to a special purpose zone; and
 - c. **Option 3:** Delete the HZ and instead rezone the land RPROZ, with some amendments to provisions to strengthen the protection for land defined as HPL under clause 3.5(7) of the NPS-HPL. This is the option supported by the experts representing Audrey Campbell-Frear.
26. In considering these options, I sought legal advice to better understand the legal submission provided by Ms Shaw and other legal questions that arose at the hearing, in particular:
- a. The implications of using the word 'impractical' as part of the tests in the National Planning Standards for a special purpose zone (namely in clauses 3(b) and 3(c) of Section 8 – Zone standard) and how high a bar this test is.



- b. Whether using a special purpose HZ means that the NPS-HPL does not apply to LUC 1-3 land within that zone and whether replacing the HZ with a precinct or (similar spatial layer) would resolve this issue.
- c. Whether there was scope within submissions to redraft the HZ as a Horticulture precinct (or similar spatial layer) with the RPROZ as the underlying zone.

27. The legal advice in response to these three questions commented that:

- a. There is no case law specifically on the term 'impractical' with respect to how it is used in the special purpose zone tests in the National Planning Standards. The advice also confirmed that the terms 'impracticable' and 'impractical' are not interchangeable so the case law on the term 'impracticable' is not relevant. However the legal advice indicated that, as another type of spatial layer is achievable to draft, the HZ would likely not meet the SPZ tests.
- b. That a special purpose zone (such as the HZ) is excluded from the transitional definition of HPL under clause 3.5(7) of the NPS-HPL and that, as the HZ was notified prior to the NPS-HPL being gazetted, the NPS-HPL does not apply to the HZ. However, the advice was less clear as to whether amending the zone to RPROZ or using a precinct or similar spatial layer actually resolves the issue as the transitional definition of HPL is essentially fixed in time at the date of the NPS-HPL gazettal.
- c. There is scope within the submission of Audrey Campbell-Frear to redraft the HZ as a precinct or similar spatial layer, with the RPROZ as the underlying zone.

28. Based on this advice, I have come to the following conclusions regarding Options 1-3:

- a. **Option 1:** Given the legal issues raised with meeting the tests for a SPZ and the potential for a spatial layer to achieve a similar outcome, I no longer support Option 1.
- b. **Option 2:** I agree with the option identified by Panel Chair Scott that one of the spatial layers in Table 18 of the National Planning Standards is a possible alternative to the HZ.
- c. **Option 3:** I remain of the opinion that, rezoning the HZ to RPROZ and strengthening the RPROZ provisions relating to HPL will not achieve the same level of protection for the horticultural industry as a specific spatial layer with bespoke provisions for managing land use and subdivision in that location as:



- i. Zoning the HZ land to RPROZ does not resolve the timing issue of the land being zoned a special purpose zone at the time the NPS-HPL was gazetted. As such, simply relying on HPL provisions in the RPROZ to protect land in the HZ is not sufficient, particularly if the HPL status of land in the HZ is being continually challenged through the resource consent process.
 - ii. The spatial extent of the HZ is not entirely LUC 1-3 land (refer to Figure 1 of the Rural Wide Issues and RPROZ section 42A report that confirms around 35% of the HZ is either LUC 4 land or above). As such, relying on provisions in the RPROZ that protect HPL do not achieve the same spatial protection of land as the HZ.
 - iii. The intention behind introducing the HZ was not just to protect soils, it was also to protect the significant investment in horticultural infrastructure in the Kerikeri/Waipapa area. The NPS-HPL provisions in the RPROZ do not recognise or protect this infrastructure investment.
29. As I am now recommending Option 2 (that a spatial layer be used to manage land notified as HZ), the next question is which spatial layer in Table 18 of the National Planning Standards is the most appropriate to use. The legal advice confirmed that planners have relatively broad scope to consider which spatial layer is the most appropriate to use, depending on the outcomes sought. I have considered the potential options in the table below and included commentary as to whether I consider them suitable to manage land notified as HZ:

Table 1: Consideration of spatial layer options under the National Planning Standards¹

Layer	National Planning Standard description	Commentary
Overlays	An overlay spatially identifies distinctive values, risks or other factors which require management in a different manner from underlying zone provisions.	The legal advice (combined with this description) confirms my opinion that an overlay is generally used when there is a need to be <u>more restrictive</u> with activities compared to underlying zone provisions e.g. overlays to manage the coastal environment or natural hazards. Although many of the HZ provisions are more restrictive,

¹ I have not analysed the option of 'zones' as the analysis above makes it clear that I consider that neither a standard National Planning Standards zone or a SPZ are viable options. I have not analysed 'designations' or 'heritage orders' as these are not spatial tools that can address the issues facing the HZ.



		some are more enabling e.g. those relating to garden centres and plant/food research compared to the RPROZ. As such, I do not consider that an overlay is the correct spatial tool to use in place of the HZ.
Precincts	A precinct spatially identifies and manages an area where additional place-based provisions apply to modify or refine aspects of the policy approach or outcomes anticipated in the underlying zone(s).	This description indicates to me that a precinct should be used when there is a specific spatial area to be managed and <u>where a different outcome is anticipated from an underlying zone</u> , which could be either more permissive or restrictive. It is specifically applied when a plan is seeking a different outcome compared to zone provisions (as opposed to district wide provisions). As such, a precinct appears to be the most appropriate spatial layer to replace the HZ.
Specific controls	A specific control spatially identifies where a site or area has provisions that are different from other spatial layers or district-wide provisions that apply to that site or area (for example where verandah requirements apply, or where a different maximum height on a particular site applies).	This description indicates that you would apply a specific control layer when there was a need to deviate from other spatial layers, district wide controls or zone provisions <u>on a specific, narrow issue</u> , resulting in potentially one or two different provisions. Given the large number of provisions in the HZ that are different to the RPROZ, I do not consider a specific control layer to be the most appropriate tool to replace the HZ.
Development areas	A development area spatially identifies and manages areas where plans such as concept plans, structure plans, outline development plans, master plans or growth area plans apply to determine future land use or development. When the associated development is complete, the development areas spatial layer is generally removed from the plan either through a trigger in the	A development area should be used where there is an associated spatial plan directing specific growth or development outcomes for an area. As there is no such plan associated with the HZ, a development area would not be a suitable layer to manage the HZ land.



	development area provisions or at a later plan change.	
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30. Based on the above, I consider that a precinct is the most appropriate spatial layer to replace the HZ. A precinct will allow for some of the underlying RPROZ provisions to apply but will contain more restrictive or permissive provisions as needed to achieve the outcome of prioritising the needs of the horticultural industry over sensitive activities and development/subdivision aspirations in the areas around Kerikeri/Waipapa. I do not agree that this is a more efficient outcome compared to a separate, all in one, Horticulture Zone chapter, however I accept the limitations of the special purpose zone tests set out in the National Planning Standards and acknowledge that there is a way to effectively use a precinct to achieve the same outcome as the HZ.
31. The redrafting of the HZ provisions to be precinct provisions is not as straightforward as simply amending the title from 'zone' to 'precinct'. As the underlying zone will be RPROZ with a Horticulture Precinct on top, the redrafting of the Horticulture Precinct will have to explicitly explain the relationship between the RPROZ provisions and the precinct provisions that apply. There will be some efficiencies where there were already duplications of RPROZ and HZ rules (as identified by Ms McGrath), as the matching HZ can be removed. However, when there is a difference in the effect or intent of a provision, the HZ provision will be retained as a precinct provision, with explanatory text to explain which RPROZ provision the precinct provision overrides. My intent when drafting the Horticulture Precinct provisions will be to achieve the following:
- a. Apply the provisions of the Horticulture Precinct to all land within the precinct, regardless of LUC status. This is to move the debate about the extent of the precinct away from the NPS-HPL and protection of LUC 1-3 (as it is uncertain whether the provisions of the NPS-HPL can be relied upon to protect land in the Horticulture Precinct, for the reasons outlined above) or whether LUC 4 land should be included. The spatial extent of the Horticulture Precinct will be a matter that I will address as part of Hearing 15C in September 2025.
 - b. Clarify the criteria for land being included in the Horticulture Precinct to include the management of reverse sensitivity effects. In my view, the section 32 report justifying the HZ was clear that one of the purposes of the HZ was to manage the pressure on the horticultural industry from rural residential and rural lifestyle development and manage conflicts between horticulture and sensitive activities².

² Refer to Section 5.2.2 of the Rural section 32 report, particularly the description of the proposed management approach for the HZ, and the summary of objectives and provisions in Sections 5.3.1 and 5.3.2 for the Horticulture Zone with respect to managing reverse sensitivity.



However, this aspiration did not clearly translate into HZ-P1, being the criteria for applying the HZ. There is also scope within the NRC submission (S359.019) to strengthen provisions aimed at managing reverse sensitivity effects, which in my view would extend to redrafting HZ-P1 into a precinct policy that also covered the management of reverse sensitivity effects as a reason for including land in the Horticulture Precinct. The impact of this revised policy in terms of the spatial extent of the Horticulture Precinct will be a matter that I address as part of Hearing 15C in September 2025.

32. This Right of Reply does not include recommendations for the Horticulture Precinct provisions, however these will be provided to the Hearing Panel and submitters within the next few weeks. However, the content and intent of the precinct provisions will be largely unchanged from the HZ provisions in the Horticulture section 42A report, except where I have recommended specific changes in Key Issue 5 below or where amended wording is required for consistency with other rural chapters. The main changes will be to the structure of the precinct provisions and clarifying how they relate to the underlying RPROZ provisions.

Approach to managing LUC 4

33. As discussed above, my intention for the HZ is to redraft the zone into a precinct that focuses on provisions to be applied precinct wide, as opposed to being applied based on the LUC status of land within the precinct. The degree to which any LUC 4 land is included in the Horticulture Precinct is a matter to be determined through Hearing 15C, however the Horticulture Precinct provisions that I will recommend will not make specific mention of LUC 4 land.
34. With respect to the RPROZ, I accept the arguments put forward by submitters and associated planning and soil experts that there is no clear rationale for all LUC 4 land to be protected in the same way as the RPROZ protects LUC 1-3 land. Although I maintain that some LUC 4 land has the potential to be highly productive, I appreciate that the sub-classification of LUC 4 land heavily influences whether there are options for improving its productive potential. As the current central government signals are that the NPS-HPL is likely to become more permissive in the future as opposed to more restrictive (plus no certainty as to whether regional councils will retain their discretion to map LUC 4 land as HPL), I consider that the argument for specifically referring to LUC 4 land in the RPROZ provisions has weakened since I prepared my section 42A report. As such, I recommend that all references in the RPROZ chapter to LUC 4 are deleted.

Recommendation

35. I recommend the following amendments:
 - a. That the HZ chapter is redrafted as a precinct chapter but with few significant departures from the content recommended in the



Horticulture section 42A report (exact wording of provisions to be confirmed in a supplementary Right of Reply before the end of March 2025)

- b. That all references to LUC 4 land in the RPROZ chapter and the redrafted Horticulture Precinct chapter are deleted.

Section 32AA Evaluation

- 36. I consider that my consideration of the different options in the analysis section above is sufficient to meet the requirements of a section 32AA evaluation. I have noted my reservations above about a precinct being a more efficient or effective option when compared to a stand-alone special purpose zone, however I consider that a precinct is the most efficient and effective option of those options available to me under the National Planning Standards and also more effective at protecting the horticultural industry and associated infrastructure around Kerikeri/Waipapa when compared to relying on the RPROZ provisions alone. I consider that the costs and benefits associated with a zone vs a precinct will be similar as those covered in my section 42A reports as the content of the precinct chapter will be largely the same, with the main change being the structure of the chapter and how it relates to the RPROZ provisions.
- 37. The removal of references to LUC 4 in the RPROZ chapter (and redrafted Horticulture precinct chapter) will be less effective at protecting the potential of this land for being included as HPL in a future NRC mapping process, but more efficient in terms of aligning with where the future content of the NPS-HPL might land. It will also ensure that the RPROZ provisions do not leave a 'gap' between HPL and LUC 4 if LUC 3 is ultimately removed from the HPL, which would be a perverse and inefficient outcome. Overall, the removal of LUC 4 land from the RPROZ and Horticulture precinct provisions is an appropriate, effective and efficient way to achieve the relevant objectives in accordance with section 32AA of the RMA.

3.2 Issue 2: Other rural wide matters

Overview

Relevant Document	Relevant Section
Section 42A Report	Rural Wide Issues and Rural Production Zone section 42A report – Key Issues 2, 3, 4 and 5. Sections of the other rural s42A reports as they relate to impermeable surface R2 provisions and new setbacks relating to the boundaries of a Mineral Extraction Zone



Relevant Document	Relevant Section
Evidence and hearing statements provided by submitters	KiwiRail, Heavy Haulage Association Inc, FENZ, Waitangi Limited, Haigh Workman Ltd, Michael John Winch, Ventia Ltd

Matters raised in evidence

38. Several submitters support the recommendations made in Key Issues 2, 3, 4 and 5 of the Rural Wide Issues and RPROZ section 42A report, including:
- a. Ms Cath Heppelthwaite on behalf of KiwiRail supports my recommendation for two new matters of discretion relating to rail corridor safety matters in Standards RPROZ-S3, RLZ-S3, RRZ-S3 and RSZ-S3.
 - b. Ms Rochelle Jacobs on behalf of Waitangi Limited supports my recommended wording for the definition of 'rural tourism activity'.
 - c. Ms Kuindersma on behalf of NRC supports all my recommended amendments in the RPROZ and HZ chapters to give effect to the NPS-HPL.
39. Ventia Ltd (via tabling of a hearing statement) supports the range of recommendations made to retain the 100m setback from the boundary of a Mineral Extraction Zone in the RPROZ and include equivalent standards in the RLZ, RRZ and HZ zones. Ventia Ltd also accepts the recommendation to reject requests for equivalent standards in the RSZ and HPFZ on the basis that these zones do not, and are unlikely to, abut the Mineral Extraction Zone in the future.
40. The remaining issues in contention relating to other rural wide matters are as follows:

KiwiRail

41. Ms Heppelthwaite maintains that a 3m setback from the rail corridor boundary is insufficient to manage the safety risks associated with dropped objects from the scaffolding of a building. Her recommended solution is a tiered setback approach, with at least a 3m setback for buildings and structures up to 4m high and at least a 4m setback for buildings and structures 4m high and over, as measured from the KiwiRail designation boundary.
42. To support this tiered setback, Ms Heppelthwaite recommends additions to Policies RSZ-P5, RPROZ-P7, RRZ-P5 and RLZ-P4 to reflect rail boundary setbacks by inserting a reference to the rail designation boundary alongside parts of these policies that apply at the zone interface. Ms Heppelthwaite also recommends an additional matter of discretion that refers to the



outcome of consultation with KiwiRail, although she acknowledges that this request was not included in KiwiRail's original submission.

Heavy Haulage Association Inc

43. Mr Bhana-Thompson on behalf of Heavy Haulage Association Inc considers that a separate permitted activity rule for relocated buildings is a more appropriate way to manage this activity than simply referring to relocated buildings in the R1 rules of the rural zones (i.e. the rules that manage buildings and structures) as I have recommended in my section 42A report. His reasons are that:
- a. A specific relocated building rule is necessary so that specific performance standards can apply to relocated buildings, including the use of a pre-inspection report.
 - b. The current definitions of 'building' and 'relocated building' leave doubt as to whether relocated buildings that are not 'new' constructions but are also less than two years old would be covered by the R1 rules.
44. Mr Bhana-Thompson also notes that, if a separate rule is not supported, he agrees with my recommendation that the existing R1 rules in each of the rural zones should be amended to include reference to relocated buildings.

FENZ

45. Ms Nola Smart provided a hearing statement on behalf of FENZ that outlined the FENZ response to my recommendations. Ms Smart confirms that FENZ agrees with some of my recommendations as follows:
- a. A permitted activity status for emergency service facilities is not appropriate in the HZ and HPFZ;
 - b. Including a specific permitted activity condition into the R1 rules of the rural zones referring to emergency access and firefighting water supply is not necessary as the proposed district wide provisions achieve the intended purpose; and
 - c. Council has full discretion to consider water supply for firefighting for all discretionary activities in rural zones.
46. However, Ms Smart confirms that FENZ continue to request amendments to rural zone provisions as follows:
- a. A permitted activity status for emergency service facilities in the RLZ, RRZ and RSZ, noting that FENZ cannot designate land for fire stations, that fire stations need to be close to the communities that they serve, the effects of a fire station can be largely anticipated and that there are already existing fire stations in the RLZ and RRZ;



- b. An advice note that advises that granting of resource consent does not imply waivers of Building Code requirements is still considered to be an important lever to ensure coordination of agencies across project processes; and
- c. A matter of discretion relating to fire fighting water supply for all restricted discretionary activities across rural zones.

Giving effect to the NPS-HPL

- 47. Mr Joe Henehan on behalf of Meridian Farm Ltd and Braedon & Cook Ltd confirmed in a hearing statement that his clients support amending the definition of HPL to align with the NPS-HPL.
- 48. Ms McGrath on behalf of Audrey Campbell-Frear recommends a number of further changes to the objectives, policies and rules of the RPROZ to better align with the NPS-HPL in her view. Although she supports the majority of my recommendations to give effect to the NPS-HPL in the RPROZ, Ms McGrath considers that there are opportunities to build on my recommendations and improve alignment. Her suggested amendments are set out in a marked-up version of the RPROZ chapter, which was submitted as supplementary planning evidence. Some of her suggested amendments include:
 - a. Replacing references to 'farming and forestry' with 'land-based primary production';
 - b. Amending RPROZ-O3 to refer to the prioritisation of land-based primary production on HPL to give effect to Policy 4 of the NPS-HPL;
 - c. Deletion of the reference to reverse sensitivity effects resulting from rural lifestyle development on HPL from RPROZ-P3 on the basis that the NPS-HPL does not specifically mention this effect;
 - d. Splitting RPROZ-P5 and RPROZ-P6 into separate policies applying to HPL and non-HPL land; and
 - e. Delete all references to LUC 4.
- 49. The key difference with respect to giving effect to the NPS-HPL is that Ms McGrath does not support any reference in the HZ objectives and policies (and assumed from her chapter mark up, the RPROZ) to protecting LUC 4. In her opinion, any reference to LUC 4 in advance of the regional mapping of HPL by the NRC is not giving effect to the NPS-HPL, which only directs specific protection of LUC 1-3 land.

Definitions

- 50. Ms Sarah Cameron on behalf of Horticulture NZ requests that the National Planning Standards definition of 'primary production' be used in place of the



term 'farming' in the PDP (as farming is not defined in the National Planning Standards). Ms Cameron considers this amendment to be necessary as the primary production definition includes processing as an ancillary activity and the farming definition does not.

51. Ms Ritchie on behalf of NZ Pork requests further amendment to the definition of 'intensive outdoor primary production' to remove the reference to 'permanent vegetation' cover, replace that reference with '*ground*' cover and insert a reference to that ground cover being maintained '*in accordance with any relevant industry code of practice*'.
52. Ms Cook-Munro on behalf of Federated Farmers supports the recommended amendments to (or the retention of) the definitions of 'highly productive land', 'farm quarry', 'farming' and the use of the combined terms 'farming and forestry' in lieu of the NPS-HPL definition of 'land-based primary production'.
53. Mr Joe Henehan on behalf of NZ ECO Farms Ltd supports the recommended amendment of the definition of 'highly productive land' as it reflects the definition in the NPS-HPL.
54. Waiaua Bay Farm Ltd accepts the recommendation to amend the definition of 'highly productive land', as set out in the section 42A report, and to reject the request for a separate definition of farm workers accommodation.

Impermeable surface rules (R2)

55. Mr John Francis Papesch on behalf of Haigh Workman Ltd and Mr Michael John Winch provided statements relating to stormwater management in the RPROZ and HZ and, in particular, the impermeable surface R2 rules. Mr Winch agrees with the recommendation in the various section 42A reports to add a matter of discretion into RPROZ-R2 and HZ-R2 that allows consideration of the extent to which impermeable surfaces are able to be avoided, or otherwise minimised, on HPL.
56. However, Mr Papesch and Mr Winch both request more stringent impermeable surface rules in the RPROZ and HZ and amended matters of discretion to provide improved guidance on how the R2 rules should be applied. In particular:
 - a. Mr Papesch considers that the common matters in the R2 rules (b), (c), and (f) contain no guidance on what is meant to be achieved by the rules.
 - b. Both Mr Papesch and Mr Winch consider that the 15% maximum impermeable surface threshold in the RPROZ and HZ is arbitrary and may result in significant adverse cumulative effects if there is no requirement for low impact design or water sensitive design. Mr Papesch and Mr Winch maintain that the threshold should be set at a level where adverse effects are minor and tolerable and that the



threshold should be less than the RLZ as both the RPROZ and HZ should be less developed than the RLZ.

57. Mr Papesch and Mr Winch request the following amendments to RPROZ-R2 and HZ-R2:

- a. That the impermeable surface permitted threshold is reduced from 15% to 5% (Mr Winch suggests that 2% may be appropriate in the HZ and that this would be more consistent with the NPS-HPL).

58. Mr Papesch also recommends the following amendments to the matters of discretion:

- a. That matter (b) is amended to cross reference to the Regional Plan for Northland rule C.6.4.2.
- b. That matter (d) be amended to refer to water sensitive design.
- c. That matter (f) be amended to clarify that the matter relates to flood hazards, not all hazards.

Analysis

KiwiRail

59. There are three parts to the amendments recommended by Ms Heppelthwaite:

- a. Policy level amendments to more explicitly support the rail boundary setbacks;
- b. A tiered approach to the setback, with the main amendment compared to the section 42A report being the introduction of a 4m setback for buildings and structures over 4m in height; and
- c. An additional matter of discretion for all relevant rural standards referring to the outcome of consultation with KiwiRail.

60. With respect to the amendments to RSZ-P5, RPROZ-P7, RRZ-P5 and RLZ-P4, I can understand why KiwiRail are requesting that the rail designation boundary be included in the sub clause that currently refers to managing the interface between zones. I maintain that the parts of these policies that refer generically to *'the location, scale and design of buildings or structures'* do provide sufficient policy support for the rail boundary setbacks, as set out in my section 42A report. However, I also appreciate that specific reference to methods to managing potential conflicts between the rail corridor and adjacent land (i.e. setbacks, fencing, screening) and the need to mitigate adverse effects on adjoining or surrounding sites could equally apply to the rail designation boundary with adjacent land. I consider that additional references to the rail designation boundary in RSZ-P5, RPROZ-P7, RRZ-P5 and RLZ-P4 provide stronger and more specific support for the rail



boundary setbacks and I recommend that amendments to these policies are made as per Ms Heppelthwaite's evidence.

61. With respect to the introduction of a tiered setback, I disagree that this level of complexity is required in the context of the Far North District where, as it was discussed at the hearing, the existing rail lines are not currently operational and are not likely to reopen in the immediate future³. In my view, the difference between a 3m setback and a 4m setback is marginal in terms of the ability of the setback to protect the operational needs of the rail network, but it has a much bigger impact on the ability of adjacent private landowners to use their land. I consider that the joint witness statement example provided by Ms Heppelthwaite is more applicable in an urban context rather than the rural chapters being considered in Hearing 9. As such, I do not recommend any changes to the setbacks applying to the rail corridor boundary beyond those recommended in my section 42A report.
62. With respect to the insertion of an additional matter of discretion relating to the outcome of consultation with KiwiRail, I agree with Ms Heppelthwaite that this relief was not requested in KiwiRail's original submission, with relief relating to matters of discretion limited to *'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 the safe and efficient operation of the rail network'*, both of which I recommended including in my section 42A report. I do not consider that there is scope to introduce another matter of discretion relating to the outcome of consultation⁴.

Heavy Haulage Association Inc

63. I disagree with Mr Bhana-Thompson that the PDP needs to introduce additional barriers to relocating buildings through the introduction of new permitted standards e.g. the requirement for a pre-inspection report, timing of reinstatement works etc. While I appreciate that Mr Bhana-Thompson is requesting a standardised approach nationally, the application of the R1 rules across all the rural zones aim to treat relocated buildings in the same way as new or altered buildings and is less onerous to comply with than the new rule for relocated buildings proposed by Mr Bhana-Thompson. Many of the matters that the requested new rule would address are not, in my view, resource management matters that need to be managed through the PDP and are instead practical issues relating to physically completing the

³ Mr Matthew Paetz on behalf of KiwiRail indicated a potential 6-7 year timeframe for reopening the link out to Marsden Point in response to Panel questions, but this was dependent on a number of factors, including government funding and there was no definite plan for this occur.

⁴ The only reference to a matter of discretion relating to *'the outcome of any consultation with KiwiRail'* was in the submission point requesting a new TRAN rule to manage the location of new vehicle access points onto roads that cross within 30m of a railway level crossing. This submission point will be addressed as part of the Transport hearing but I do not consider that this request provides scope to insert the same matter into the standards relating to rail corridor boundary setbacks.



relocation process and can be managed through the building consent process.

64. However, I agree with Mr Bhana-Thompson that there is a potential interpretation issue with the notified definitions of 'building' and 'relocated building'. The question is whether the R1 rules apply to relocated buildings that are two years old or less as it is unclear as to whether any building less than two years old is still considered to be 'new' under the R1 rules. I can confirm that the intention is for the R1 rules to apply to all buildings, whether new or relocated, regardless of their age.
65. However, the question of whether the definition of 'relocated buildings' requires amendment has implications for all zone chapters that utilise a R1 type rule for buildings and structures. As such, I do not make a recommendation in this report as to whether the reference to buildings being less than 2 years old needs to be removed from the definition of 'relocated building'. This issue will be reviewed comprehensively with respect to its implications for the PDP as part of the Definitions topic in Hearing 17.

FENZ

66. With respect to the request for emergency service facilities to be permitted in the RLZ, RRZ and RSZ, I understand the position of FENZ that these facilities need to be close to the communities that they service. However, I maintain that a permitted activity status for these facilities in the RPROZ provides sufficient opportunities for locating close to rural settlements or communities in a zone with sufficient space to manage some of the immediate amenity issues resulting from the operation of an emergency service facility, namely noise and traffic associated with emergency vehicles being alerted to an emergency and leaving the site at high speed. I note that emergency service facilities are also a discretionary activity in the General Residential Zone, which reflects the potential conflict between the facility and amenity expectations of a residential area. A consent process allows for consideration as to whether a site is an appropriate location for such a facility, including potential impacts on neighbouring properties.
67. With respect to the request for an advice note relating to the Building Code requirements and a matter of discretion relating to firefighting water supply, my comments in paragraphs 235 to 240 of the Rural Wide Issues and RPROZ section 42A report continue to apply.

Giving effect to the NPS-HPL

68. I firstly note that in my introduction presentation to the Panel, I commented that there was no evidence specifically challenging the way I recommended giving effect to the NPS-HPL in my section 42A report. At this stage I had not read the mark up of the RPROZ chapter prepared by Ms McGrath, which was submitted later than her evidence. I note that Ms McGrath is the only planning expert that has prepared a mark-up of the RPROZ chapter recommending an alternative approach to giving effect to the NPS-HPL.



69. I have reviewed Ms McGrath's marked up chapter and have identified some areas where I agree with her suggestions to better give effect to the NPS-HPL as follows (focusing on the proposed blue highlight amendments⁵):
- a. I agree with Ms McGrath's suggested insertion of the words 'and prioritises' into RPROZ-O3 as this language does better reflect Policy 4 of the NPS-HPL.
 - b. I agree with deleting references to LUC 4 land, for the reasons set out in Key Issue 1 above.
70. I disagree with Ms McGrath's remaining suggestions to better give effect to the NPS-HPL as follows:
- a. Although I understand that land-based primary production is a NPS-HPL defined term, my reasons for using the terms 'farming and forestry activities' are outlined in paragraph 397 of the Rural Wide Issues and RPROZ section 42A report and I have not changed my position on this terminology.
 - b. I do not consider that the NPS-HPL Policy 8 or Policy 9 prevents RPROZ-P3 from specifically targeting reverse sensitivity effects associated with rural lifestyle development on highly productive land, as this is a key issue for the Far North district, irrespective of the NPS-HPL.
 - c. I do not consider it necessary to split the policy direction between HPL and non-HPL policies. I consider this adds unnecessary length and complexity to the policy direction without significantly improving understanding or clarity.

Definitions

Primary production vs farming

71. With respect to Ms Cameron's evidence on the preference for the term 'primary production' over the term 'farming', I refer to my comments in paragraphs 312 and 313 of the Rural Wide Issues and RPROZ section 42A report, which address why the PDP makes a distinction between producing a commodity from the land (the 'farming' component) and initial processing (covered by the broader term 'primary production'). The PDP rural chapters have been drafted to recognise that, while farming might be an appropriate activity in a wide range of locations across the Far North district, the initial processing of products may not be appropriate in the same locations. This is particularly important for zones such as the RLZ where farming is still

⁵ I have not commented specifically on Ms McGrath's yellow highlight amendments as these are her suggestions for incorporating the HZ into the RPROZ, which is not the option that I am recommending. I will address how I see the new Horticulture Precinct interacting with the RPROZ provisions in my supplementary Right of Reply, to be provided shortly.



anticipated but the presence of a greater number of dwellings compared to the RPROZ means that initial processing of goods is less appropriate.

72. I also note that, although 'primary production' is a National Planning Standards definition and 'farming' is not, Section 14.1 of the Definitions Standard allows for local authorities to define:
- a. *"terms that are a subcategory of, or have a narrower application than, a defined term in the Definitions List. Any such definitions must be consistent with the higher level definition in the Definitions List.*
 - b. *additional terms that do not have the same or equivalent meaning as a term defined in the Definitions List."*
73. In my view, the term 'farming' has a narrower application than 'primary production' and is intended to be used in situations where only the 'farming' components of the 'primary production' definition are enabled or controlled. As such, I do not recommend any amendments in response to Ms Cameron's evidence on these defined terms.

Intensive outdoor primary production

74. With respect to Ms Ritchie's request for amendments to the definition of 'intensive outdoor primary production', I note that my recommended definition in the Rural Wide Issues and RPROZ section 42A report was an amalgamation of wording suggested by NZ Pork in their original submission. The reference to ensuring that '*permanent vegetation cover*' is maintained was NZ Pork's own wording as part of their request for a definition of 'extensive pig farming'. Although I do not consider it necessary as a separate definition⁶, I consider it to be a useful and measurable tipping point between intensive outdoor primary production and general farming as the ability to maintain permanent vegetation cover is directly related to the stocking density of an activity.
75. Ms Ritchie states in her evidence that 'permanent vegetation cover' may be a hard test to meet, which makes it difficult to understand why it was wording originally suggested by NZ Pork. Ground cover is not a defined term in the PDP but it is, in my view, a commonly understood term used to refer to low growing plants that cover the ground, which can include grass but also other short, spreading plants. I consider that amending clause (e) of the intensive 'outdoor primary production definition' to refer to the maintenance of '~~permanent~~ vegetation cover' is less absolute but still retains the same intent as my original drafting. I prefer the term 'vegetation cover' to NZ Pork's suggested 'ground cover' as it means that larger tree species can contribute to the coverage rather than this being limited to short, spreading species.

⁶ Refer to paragraphs 319 and 320 of the Rural Wide Issues and RPROZ section 42A report.



76. I disagree with Ms Ritchie's suggestion to include a reference to 'any relevant industry code of practice' as part of determining whether ground cover is being maintained. I take the direction provided by the Hearing Panel on Day 3 of Hearing 9 (and agree with that direction) that it is not appropriate for a PDP definition to refer to either a specific industry code of practice or refer generically to any relevant industry code of practice.

Impermeable surface rules (R2)

77. There is a broad divide between Mr Papesch and Mr Winch requesting more stringent R2 rules for impermeable surfaces and the question raised by the Hearing Panel at the conclusion of Hearing 9 as to whether there is an actual need for impermeable surface coverage rules at all, particularly in the RPROZ and HZ.
78. With respect to the question of whether there is scope to delete the R2 rules across the rural chapters, I note that no submitters requested deletion any (or all) of the R2 rules relating to controlling impermeable surfaces. Although there were further submissions in opposition to submissions from Mr Papesch (Haigh Workman Limited) and Mr Winch, none of the further submissions requested complete deletion, rather they requested retention of the R2 rules as notified (e.g. in the case of Mr Winch's submission on RPROZ-R2, further submissions were received in opposition from Federated Farmers (FS548.017) and Horticulture NZ (FS354.224) requesting retention of the 15% maximum coverage requirement, but not the deletion of the rule itself). As such, I do not consider that there is scope to delete the R2 rules entirely in the RPROZ and HZ.
79. However, I agree with the Hearing Panel's comments that a 15% impermeable surface standard is almost meaningless in the RPROZ and HZ given the large size of some sites. I agree that it is unlikely that a typical farming activity (or any of the permitted activities in these zones) would ever breach the 15% threshold and if an activity was sufficiently large and intensive enough to exceed 15% then the activity itself would likely need consent (e.g. a large-scale industrial activity). In that sense, I consider that leaving the R2 rule in the RPROZ and HZ as notified will have a similar effect in practice as deleting the R2 rule as in essence it will only capture a very small percentage of large-scale activities that are likely inappropriate in the RPROZ and HZ for other reasons.
80. I also agree with the Hearing Panel (and other further submissions from the primary sector such as from Federated Farmers and Horticulture NZ discussed above) that a 5% threshold for RPROZ-R2 and HZ-R2 is unnecessary and overly restrictive given the large amounts of open, permeable land in these zones that are able to accommodate stormwater runoff from impermeable surfaces associated with permitted activities in these zones. The questions from the Hearing Panel to Mr Papesch and Mr Winch clarified, in my view, that there is no clear evidence or data to support a particular coverage percentage and that any percentage between the 5-



15% threshold would essentially be an arbitrary number and that, as acknowledged by Mr Papesch, it is not easy to come up with calculations that cover all scenarios and land parcel sizes. I am not convinced by the evidence provided that 5% is the level where adverse stormwater runoff effects will be minor and tolerable, particularly given the ability of the RPROZ and HZ to naturally absorb stormwater runoff. As such, I continue to recommend that the 15% threshold in RPROZ-R2 and HZ-R2 is retained in the absence of scope to delete it entirely.

81. With respect to Mr Winch's suggestion that the impermeable surface threshold be reduced to 2% on HPL, I discussed the approach to HPL in paragraph 517 of the Rural Wide Issues and RPROZ section 42A report. I maintain that including a matter of discretion relating to the minimisation of impermeable surface coverage on HPL is more appropriate than including a lower threshold for HPL (or applying a lower threshold to an entire zone in the case of the HZ due to the presence of HPL). Land-based primary production businesses legitimately require areas of impermeable surfaces for buildings, manoeuvring areas etc and in the case of properties that are entirely HPL, there is no opportunity to locate these impermeable surfaces on non-HPL parts of a site. On some smaller sites, particularly in the HZ, a 2% threshold would likely be too restrictive for a standard horticultural activity to operate and would therefore run counter to the purpose of the zone supporting horticultural activities. I do note the inconsistency in the wording of matter (h) in RPROZ-R2 and HZ-R2, as the HZ matter also refers to '*the potential impact on the life supporting capacity of soils*' as well as referring to HPL. This was an addition in response to the submission of Mr Winch and I consider that the same wording could also be used in matter (h) of RPROZ-R2 for consistency.
82. With respect to the requested amendments to the matters of discretion in the R2 rules across all rural chapters:
 - a. I disagree that matter (b) should be amended to cross reference to the Regional Plan for Northland rule C.6.4.2. I do not consider it appropriate for a matter of discretion to 'ensure compliance' with a regional plan rule – this is required by the Regional Plan for Northland regardless and the requirements of both plans are simultaneously applicable without the need for a direct cross reference.
 - b. I agree in principle that referring to water sensitive design as opposed to low impact design in matter (d) is a more appropriate term if it reflects the most up to date technical guidance on this matter. However, the submission point S215.056 from Haigh Workman primarily relates to whether there should be a definition for either 'low impact design' or 'water sensitive design' and the merits of using either term. As the term 'low impact design' is used across multiple PDP chapters, amending the R2 rules in the rural chapters could result in inconsistent wording with other chapters. As



such, I consider that the topic where this issue is most appropriately considered is the Definitions topic in Hearing 17. If the recommendation from this topic is to use the term 'water sensitive design' consistently throughout the PDP then I will make a further recommendation as part of Hearing 17 to amend the R2 rules accordingly.

- c. I do not consider that a clear case was made for narrowing the scope of matter (f) from 'natural hazards' to simply 'flood hazards', as requested by Mr Papesch. Although Mr Papesch clarified at the hearing that he thought the reference to 'flood hazards' was more specific, he did not provide any further reasoning for the change other than to comment that the term 'natural hazards' is used differently in both the RMA and the Building Act. In my view, 'natural hazards' is the term used consistently throughout the PDP and the RMA definition of natural hazards⁷ is the term that I consider most appropriate in this instance, noting that the definition refers to flooding but also other hazards that can occur due to stormwater runoff, e.g. erosion, subsidence, landslips and sedimentation.

Recommendation

83. I recommend the following amendments:
 - a. The insertion of the words '*and prioritises*' into RPROZ-O3(a) after the word 'enables'.
 - b. The insertion of the words '*and the rail designation boundary*' into RSZ-P5, RPROZ-P7, RRZ-P5 and RLZ-P4.
 - c. The deletion of the word 'permanent' from clause (e) of the definition of 'intensive outdoor primary production'.
 - d. Amend the wording of matter (h) in RPROZ-R2 to match the wording of matter (h) in HZ-R2 for consistency.

Section 32AA evaluation

84. The amendments I am recommending to the provisions above are minor amendments to either clarify policy intent, improve the accuracy of definitions, better reflect the direction in the NPS-HPL or achieve consistent wording between rural chapters. I therefore consider that my recommended amendments to these policies are an appropriate, effective and efficient way to achieve the relevant objectives in accordance with section 32AA of the RMA.

⁷ RMA definition of 'natural hazard' – "*means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment*"



3.3 Issue 3: Rural Production Zone Objectives and Policies

Overview

Relevant Document	Relevant Section
Section 42A Report	Rural Wide Issues and Rural Production Zone section 42A report – Key Issues 6-13
Evidence and hearing statements provided by submitters	Bentzen Farm Limited and others, Federated Farmers, Lynley Newport, Waitangi Ltd

Matters raised in evidence

85. Several submitters support the section 42A report recommended amendments to the RPROZ objectives and policies, including:

- a. Ms Rochelle Jacobs on behalf of Waitangi Limited supports the proposed change to RPROZ-P2(c)⁸ as it relates to providing for existing activities;
- b. Ms Cook-Munro on behalf of Federated Farmers supports the recommended amendments (or retained notified wording) of all RPROZ objectives and policies, except that she confirms that Federated Farmers wishes to reserve the right to object further the RPROZ objectives and policies on the grounds of protecting private property rights;
- c. Waiaua Bay Farm Ltd confirmed in their tabled hearing statement that they agree with the recommendations in the section 42A report with respect to the RPROZ objectives O1, O2 and O4, as well as RPROZ policies P1, P2 and P7.

86. However, there remain issues in contention with respect to the RPROZ objectives and policies as follows:

RPROZ-O2 and RPROZ-P5 – Functional need and avoiding certain land uses

87. Mr Hall contends that RPROZ-O2 and RPROZ-P5 should not impose a 'functional need' test on non-productive activities seeking to locate in the RPROZ for the following reasons:

- a. 'Functional need' is the wrong test for activities that either support productive activities or are at least compatible with them and that a 'compatibility test' is more appropriate.
- b. A number of activities provided for in the RPROZ rules would arguably not meet the functional need test and are therefore out of

⁸ Stated in evidence as supporting RPROZ-P1(c), however the comment clearly relates to RPROZ-P2(c).



step with the objective and policy direction, e.g. Residential Activity, Visitor Accommodation, Home Business, Educational facility, Recreational activity, Catteries and dog boarding kennels, Cemeteries / Urupā (all permitted), Papakāinga Housing (restricted discretionary), and Community facilities (discretionary).

- c. The planning concept of 'functional need' comes from infrastructure and coastal planning and should not be applied to a rural setting.
 - d. Not providing for activities that are compatible (but fail the functional needs test) would cost communities in terms of a lack of local social infrastructure and income opportunities.
 - e. If there are no pathways for rural lifestyle subdivision with environmental benefits on the basis that there is no functional need for that subdivision in the RPROZ, the rural environment will forego the environmental benefits of these types of developments.
88. Mr Hall's suggested amendments to address this issue are to delete references to the functional need test from both RPROZ-O2 and RPROZ-P5.
89. Ms Lynley Newport considers that the addition of the word 'primarily' into RPROZ-O2 (as per her original submission) remains appropriate and an important change to ensure that the objective is not drafted as an absolute statement that excludes any other activity other than those listed from being acceptable in the RPROZ, which does not align with the list of permitted activities.
90. Ms Newport also maintains that the use of the word 'avoid' in any objective or policy is inappropriate unless it relates to a prohibited activity. Ms Newport considers that RPROZ-P5 should be reframed so that it uses more positive and flexible language e.g. take the 'allow if' approach as opposed to the 'avoid unless' approach.

RPROZ-O4 and RPROZ-P4 – Rural character and amenity

91. Mr Hall supports the wording of RPROZ-P4 but considers that amendments are required to the higher order objective RPROZ-O4 to clarify intent and align with RPROZ-P4. More specifically he considers that RPROZ-P4(d) recognises that the rural character and amenity of the RPROZ includes "*a diverse range of rural environments, rural character and amenity values throughout the district*" and it is this widening of the concept of rural character that he considers is missing from RPROZ-O4.
92. Mr Hall's interpretation of RPROZ-O4 is that it intended that the *amenity* associated with rural working environment is maintained (i.e. there cannot be a higher expectation of amenity), with rural character in general otherwise maintained, and not being limited to a rural working environment.



93. Mr Hall's drafting solution to resolve this issue is an amendment to RPROZ-O4 as follows:

"RPROZ-O4 ~~The~~ Rural character and the amenity associated with a rural working environment is maintained."

94. He argues that this amendment appropriately broadens the concept of what makes up rural character, more in line with the diversity recognised in RPROZ-P4 and links the reference to a working rural environment to amenity expectations only, rather than a working rural environment being the only defining element of rural character.

RPROZ-P2 – Compatible activities that support primary production

95. Mr Vance Hodgson on behalf of both Horticulture NZ and NZ Pork does not agree that referring to visitor accommodation and small-scale educational facilities in a list of '*compatible activities that support primary production activities*' is appropriate in RPROZ-P2(b). He does not consider that these activities support primary production activities, rather they are activities that gather people in the rural environment that are potentially sensitive to effects produced by productive activities.
96. Ms Newport requests that a 'consideration' clause be added to RPROZ-P2 (as opposed to her original suggestion to reframe RPROZ-P2 as an 'enable' policy) to cover activities other than primary production or that support primary production but only where they do not adversely affect the ability to continue utilising the land for primary production. Her reasons for requesting this change are the same as set out in relation to RPROZ-O2 above.

RPROZ-P6 and RPROZ-P7 – LUC 4 land and rural lifestyle subdivision

97. Mr Hall is concerned with the RPROZ policies that provide direction on subdivision in the RPROZ for the following reasons:
- a. The references to protecting LUC 4 land in the avoidance policy (RPROZ-P6) and the consideration policy (RPROZ-P7) for subdivision and whether that is either necessary or suitable in advance of the NRPS mapping of HPL; and
 - b. The application of the avoidance policy (RPROZ-P6) to rural lifestyle lots resulting from environmental benefit subdivision, as the structure of the policy, in his view, sets up an impossible test for any rural lifestyle subdivision to meet.
98. With respect to the references to LUC 4 land in RPROZ-P6 and RPROZ-P7, Mr Hall relies on the expert evidence of Mr Bob Cathcart that no LUC 4 land is likely to be 'upgraded' to LUC 3 or better status as part of any regional mapping process. On this basis, Mr Hall sees no reason for any references to LUC 4 land to be included in the RPROZ policy direction they will never



be considered highly productive and worthy of specific protection. He also notes that if the intention to refer to LUC 4 land is an 'interim measure' to prevent future fragmentation in advance of regional mapping of HPL, the wording of policy RPROZ-P6 is such that the avoidance test would continue to apply to LUC 4 land, even if the regional mapping excludes such land as being highly productive.

99. With respect to the drafting issues with RPROZ-P6, Mr Hall suggests that it be split into two policies, one focused on directing subdivision involving HPL, and the other to direct subdivision of all other land that is not HPL. He suggests that this approach will achieve the following:
 - a. Will ensure that there is clear direction on both HPL and non-HPL subdivision scenarios, particularly that the NPS-HPL tests for subdivision are not applied to non-HPL land; and
 - b. That rural lifestyle subdivision is provided for where there is an environmental benefit (to secure the positive outcomes envisaged by the Environmental Benefit Subdivision rule (SUB-R6) or Management Plan Subdivision rule (SUB-R7)).
100. Mr Hall notes that consequential drafting amendments would be required to RPROZ-P7 to remove references to LUC 4 land for consistency.
101. Ms Newport considers that the RPROZ chapter should not contain any policies relating to subdivision and that the appropriate location for subdivision policies is the subdivision chapter to avoid unnecessary duplication and repetition. As an alternative to complete deletion of RPROZ-P6, Ms Newport suggests a similar reframing of the policy to what she suggested for RPROZ-P5, i.e. redrafting into an 'allow if' rather than an 'avoid unless' subdivision policy. Ms Newport also requests the removal of any reference to protection of LUC 4 land on the basis that there is no mandate to require this and it pre-empts the mapping of HPL that will be undertaken by NRC.

Analysis

RPROZ-O2 and RPROZ-P5 – Functional need and avoiding certain land uses

102. I disagree with Mr Hall that the reference to a 'functional need' test for non-productive activities in RPROZ-O2 and RPROZ-P5 is inappropriate. I set out my main arguments for retention of the term 'functional need' in paragraphs 405 and 451 of the Rural Wide Issues and RPROZ section 42A report in relation to RPROZ-O2 and RPROZ-P5 respectively and my position as set out in these paragraphs remains unchanged. However, I make the following additional comments with respect to Mr Hall's evidence on this issue:
 - a. A compatibility test, in my view, is a far weaker test than whether an activity has a functional need and would be relatively easy for almost any activity to meet. Removing the functional need test and



only retaining the reference to an activity being 'compatible' undermines the purpose of having a rural zone where primary production activities are the focus and encourages a proliferation of urban activities outside of urban zones.

- b. I disagree that the examples given by Mr Hall would fail to meet the functional need test and are therefore out of step with the policy direction as follows:
- i. Residential activities (provided they are within density limits) are ancillary activities that support primary production activities.
 - ii. Visitor accommodation (at the scale permitted in the RPROZ) serves the needs of visitors seeking a rural farm stay experience (and are not in my view interchangeable with other accommodation options in urban areas).
 - iii. Educational facilities (at the scale permitted in the RPROZ) support rural based families with childcare so they can work.
 - iv. Home businesses (at the scale permitted in the RPROZ) can be either ancillary to supporting a primary production activity or can be a supplementary source of income to offset the often variable income derived from farming.
 - v. Recreational activities not being operated as commercial activities (as specified in RPROZ-R9) provide for local sports clubs, playing fields and associated facilities which are often essential parts of the social fabric of rural communities and are not able to be replaced with equivalent facilities in urban zones.
 - vi. Catteries and dog boarding kennels can be commercial or industrial zones but they are best located (in my view) in the RPROZ given the low density of potential sensitive neighbours and the general acceptance of animal noises and smells as part of a working rural environment.
 - vii. Cemeteries and urupā have a functional need to be located near the communities that need them – it is not appropriate to require rural people to travel to urban areas to access these services.
 - viii. Papakāinga housing has a functional need to locate on the land owned communally by tangata whenua, if this land is located in the RPROZ. There is no ability to relocate this land elsewhere.



- ix. Community facilities are generally not envisaged as appropriate in the RPROZ (hence the discretionary activity status and ability for Council to decline applications), however there is a pathway for these facilities to be established via resource consent if their functional need can be proven, i.e. that the facility is necessary to support a rural community.
 - c. I disagree with Mr Hall's position that the planning concept of 'functional need' is exclusively reserved for infrastructure and coastal planning provisions. I agree that it is a commonly used term in these circumstances but this does not prevent its application in a rural context.
 - d. I argue that a wide range of activities that support the social infrastructure and income opportunities of rural communities are provided for through the RPROZ rules (as discussed in (b) above) and that the wording of RPROZ-O2 and RPROZ-P5 will not result in costs to communities.
 - e. My comments on providing pathways for rural lifestyle subdivision are covered in Issue 8 below, but my position remains unchanged from the section 42A report that generally there is no functional need for additional rural lifestyle subdivisions in the RPROZ, unless there is an environmental benefit to justify the further fragmentation of the rural land resource.
103. With respect to Ms Newport's request for the insertion of the word 'primarily' into RPROZ-O2, my response to this request is covered in paragraph 406 of the section 42A report and I have no further comments in response to Ms Newport's evidence on this matter.
104. With respect to Ms Newport's evidence on the use of the word 'avoid' in RPROZ-P5, I disagree that the word 'avoid' should be reserved for providing direction on prohibited activities only. I have set out my reasoning for why I consider it important to use the word 'avoid' in the context of RPROZ-P5 in paragraphs 449 to 451 of the Rural Wide Issues and RPROZ section 42A report and I have no further comments in response to Ms Newport's evidence.

RPROZ-O4 – Rural character and amenity

105. Mr Hall's arguments for separating the concepts of 'rural character' and 'the amenity associated with a rural working environment' in RPROZ-O4 were debated in Hearing 9. While Mr Hall's position was that the reference to amenity values being linked to a working rural environment was setting a particular expectation of amenity, Panel Chair Mr Robert Scott posed an alternative interpretation, being that amenity values (as defined in the



RMA⁹) focus on the good things and it is in fact the concept of rural character that can embrace all of the elements that make up a rural environment, good and bad. It was Panel Chair Scott's position (as I understand it) that, without the reference to rural character being linked to a working rural environment, the objective will not consider both the positive and negative aspects, i.e. it will focus on the positive amenity values (open spaces, absence of buildings etc) associated with a working rural environment but not negative elements such as machinery and animal noise, odours, dust, the visual appearance of crop protection structures, disturbance from early and late night work etc.

106. After considering the positions put forward by Mr Hall and Panel Chair Scott, I consider that the concepts of '*rural character*' and '*amenity associated with a rural working environment*' need to be considered and managed together in RPROZ-O4, rather than a working rural environment only being considered with respect to amenity values but not rural character. In my view the working rural environment should inform considerations of both rural character and amenity values and it would be artificial to consider that the working rural environment did not contribute to rural character. I accept Mr Hall's point that not all parts of the RPROZ will have a rural character that is defined by a working rural environment, the example given at the hearing being the eastern Bay of Islands. However, RPROZ-O4 doesn't require that a rural character defined by a working rural environment be achieved homogenously across the RPROZ, only that where the rural character *does* reflect a working rural environment, that this character is maintained. It does not require the creation of a working rural environment where one does not currently exist. As such, I do not recommend any further changes to RPROZ-O4.
107. It was also noted in the hearing by the Panel that 'amenity values' is the term defined in the RMA and that 'amenity' on its own was not. The suggestion made by the Panel that consistent references to 'amenity values' throughout the rural chapters may be appropriate. I agree with consistently referring to amenity values in RPROZ-O4, but also throughout the rural chapters where the term 'amenity' is used to ensure better alignment with the RMA definitions.

RPROZ-P2 – Compatible activities that support primary production

108. I disagree with Mr Hodgson that visitor accommodation and educational facilities are not compatible with, and do not support, primary production activities. The RPROZ permitted activity rules that provide for these activities set scale limits (10 guests per visitor accommodation activity and 4 students per educational facility) and require that they be accommodated within a residential unit, accessory building or minor residential unit. These limits on

⁹ In the RMA, 'amenity values' is defined as '*means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes*'.



scale and the types of buildings they can occur in ensure that these activities will likely be small scale, supplementary sources of income as opposed to larger scale commercial enterprises, which, in my view, makes them both compatible with primary production activities and also a potential supporting activity. As such, I support retention of the reference to visitor accommodation and small-scale educational facilities in RPROZ-P2(b).

109. As per my comments on Ms Newport’s suggestion to weaken the wording of RPROZ-O2 by adding in the word ‘primarily’, I also disagree with her suggestion to add in further exemptions to RPROZ-P2 to allow for consideration of non-productive activities. A pathway for non-productive activities is already provided in RPROZ-P3, where the focus is on avoiding where possible, or otherwise mitigating, reverse sensitivity effects on primary production activities, and in RPROZ-P5 where there are clear tests to be met before a non-productive activity can be considered appropriate in the RPROZ.

RPROZ-P6 and RPROZ-P7 – LUC 4 land and rural lifestyle subdivision

110. As discussed in Key Issue 1 above, I have recommended that the references to LUC 4 land in RPROZ-P6 and RPROZ-P7 are deleted.

Recommendation

111. I recommend that:
- a. All references to ‘amenity’ in the objectives and policies of the rural chapters be amended to refer to ‘amenity values’.
 - b. References to LUC 4 land in RPROZ-P6 and RPROZ-P7 are deleted.

Section 32AA Evaluation

112. The addition of the word ‘values’ after ‘amenity’ throughout the rural chapters is a minor amendment to better align with the terminology used in the RMA. In my view this change does not alter the intent of any of the objectives or policies and therefore does not require additional assessment under section 32AA of the RMA. The removal of references to LUC 4 has been assessed in Key Issue 1 above with respect to section 32AA.

3.4 Issue 4: Rural Production Zone Rules and Standards

Overview

Relevant Document	Relevant Section
Section 42A Report	Rural Wide Issues and Rural Production Zone section 42A report – Key Issues 14-26
Evidence and hearing statements by submitters	Bentzen Farms and others, Fiona King and others, Federated Farmers, Horticulture NZ, NZ Pork, Waitangi



Relevant Document	Relevant Section
	Limited, Haigh Workman Limited, Michael Winch, Lynley Newport, Vision Kerikeri and others, Glen Nathan

Matters raised in evidence

113. A number of submitters support the section 42A report recommended amendments to the RPROZ rules, including:
- a. Ms Cook-Munro on behalf of Federated Farmers supports the recommended amendments to (or retention of) RPROZ-R7, RPROZ-R10, RPROZ-R11 and RPROZ-R12;
 - b. Mr Hall on behalf of Bentzen Farm Limited (and others) supports the activity status change of minor residential units in the RPROZ from controlled to permitted under RPROZ-R19. Mr Hall also supports the retention of all permitted conditions under RPROZ-R19, with the exception of PER-4, which is discussed below;
 - c. Ms Newport supports the activity status change of minor residential units in the RPROZ from controlled to permitted under RPROZ-R19 and also supports the change of activity status for failing to comply with the separation distance being discretionary rather than non-complying;
 - d. Mr Hodgson and Ms Cameron on behalf of Horticulture NZ agree that a separate rule (RPROZ-RX) to manage artificial crop protection structures and crop support structures is an appropriate response rather than the use of carve outs from height and setback standards, albeit with alternative drafting suggestions discussed below;
 - e. Mr Hodgson and Ms Cameron also support the inclusion of RPROZ-RY for seasonal workers accommodation from the perspective of Horticulture NZ, except for the condition that prevents seasonal workers accommodation from being constructed on HPL, as discussed further below (Ms Hannah Ritchie also agrees with this position on behalf of NZ Pork);
 - f. Mr Hodgson and Ms Ritche on behalf of NZ Pork support the expansion of the scope of RPROZ-R23 to include intensive outdoor primary production as well as intensive indoor primary production activities;
 - g. Ms Jacobs on behalf of Waitangi Limited accepts the version of Residential Activity (RPROZ-R3) Visitor Accommodation (RPROZ-R4) Educational Facility (RPROZ-R6) and Rural Industry (RPROZ-R24) rules, as set out in the section 42A report;



- h. Vision Kerikeri (and others) support elements of the new rule RPROZ-RX introduced to manage artificial crop protection structures and crop support structures, including the 3m setback requirement and 6m maximum height controls;
- i. Waiaua Bay Farm Ltd confirmed in their tabled hearing statement that they agree with the recommendations in the section 42A report with respect to the RPROZ rules R1, R2 and R3; and
- j. Willowridge Developments Ltd confirmed in their tabled hearing statement that they agree with the recommendations in the section 42A report with respect to the RPROZ rules R4, R9, R15 and R19.

114. However, some submitters have outstanding concerns with the RPROZ rules as follows:

RPROZ-R3 – Residential activity

- 115. Ms King considers that it is essential for the ODP provisions allowing multiple dwellings on a title in the RPROZ be retained, i.e. providing 1 unit per 12ha as a permitted activity, 1 residential unit per 4ha as a restricted discretionary activity and 1 residential unit per 2ha as a discretionary activity. She considers that allowing multiple houses per title is a cost effective and efficient use of land to ensure rural communities thrive.
- 116. Mr Hall considers that RPROZ-R3 needs to be amended to reflect his suggested changes to SUB-S1 for the RPROZ.
- 117. Ms Newport considers that RPROZ-R3 is too restrictive and does not give people sufficient flexibility to use land for residential activity where that land is not productive. Ms Newport's primary concerns in relation to this issue are related to SUB-S1.
- 118. I have covered all three of these positions in Key Issue 8 below with respect to the relationship between RPROZ-R3 and SUB-S1.

RPROZ-R4 – Visitor accommodation

- 119. Mr Hodgson on behalf of both Horticulture NZ and NZ Pork considers that the visitor accommodation rule in the RPROZ needs to be more stringent to ensure reverse sensitivity effects are managed. His suggested tool is an additional setback embedded within the RPROZ-R4 rule (as opposed to within the RPROZ setback standard) so that any visitor accommodation activity is set back at least 20m from a site under separate ownership. This amendment is suggested on the basis that the 10m standard setback for buildings in the RPROZ under RPROZ-S3 are insufficient to manage reverse sensitivity effects and that 20m is a commonly used distance in other district plans nationally.

RPROZ-R19 – Minor residential unit



120. Although Mr Hall supports the change in activity status for minor residential units in the RPROZ, he remains concerned about the requirement for the minor and principal residential units to have a separation distance of no more than 15m (PER-4). Mr Hall maintains that this requirement is unnecessary and may run counter to the benefit created by the rule in some situations. His primary argument is that a minor residential unit may be used for a variety of purposes and a 15m separation may not be desirable for privacy reasons or for practical reasons in each circumstance e.g. some occupants may wish privacy from the principal unit if they are not family, or minor residential units may be located at the entrance to a property for security or near sheds/equipment for practical access and this may not be in the same location as the principal unit.
121. Ms Newport is also concerned about the 15m separation requirement for minor residential units and principal units. Unlike Mr Hall, Ms Newport considers that a separation distance is useful condition (as discussed at the hearing) as there should be some physical connection between the minor and the principal residential units. However, she considers that a 30m separation distance (as per the ODP) is a more appropriate requirement as it balances the need for shared access and services with the need for privacy.
122. Ms Newport also considers that the restriction in PER-2 requiring the site area per minor residential unit to be at least 1ha is too restrictive and that a minimum site area of 5,000m² is more reasonable. Her reasons are that:
- a. Any existing 5,000m² lots are already retired from production so there will be no further loss of production (particularly when compared to a 1ha lot);
 - b. Intensification of smaller lots is preferred as it better accommodates the minor residential unit in a smaller area; and
 - c. Managing amenity in terms of privacy can be accommodated on a 5,000m² lot as well (e.g. through design and landscaping) and does not require a larger lot to achieve this.
123. Mr Glen Nathan submitted a late statement for consideration by the Hearing Panel, which was received after the conclusion of the hearing. Mr Nathan's statement and supporting information has been uploaded to the Hearing 9 page of the FNDC hearings website. Mr Nathan contends that, while the 65m² footprint will provide a small dwelling that is comfortable for most people, it will not be able to accommodate people in wheelchairs, who typically require larger bathrooms, larger kitchens, wider doorways, covered ramps, more room to get out of their cars and more room to store equipment. Mr Nathan clarifies that he is not requesting a blanket increase to the 65m² footprint for all minor residential units, rather he is requesting an increase of 10m² to 75m² only for minor residential units specifically



designed to be accessible, as well as an increase in the size of a garage from 18m² to 24m².

RPROZ-R22 – Rural tourism

124. Ms Jacobs contends that the scope of what constitutes a 'rural tourism activity' as described in RPROZ-R22 is too narrow and excludes activities that may not relate to the rural setting of a site but are required to locate on a site in the rural environment because of some other feature e.g. around natural or historic site features. In the Waitangi Estate context, Ms Jacobs is concerned that activities related to the historic features of the site or eco-tourism type activities would not be included as they do not have a focus on, or a link to, the rural environment. The consenting implication of not being captured by RPROZ-R22 is that the activity status would change from being a restricted discretionary activity to a discretionary activity.
125. Ms Jacob's solution to this issue is two amendments to the matters of discretion for RPROZ-R22:
- a. An amendment to matter (b) to refer to '*the link between the tourism activity and the rural environment and / or site*'
 - b. A new matter (m) stating '*Whether the tourism activity could be operated on another site*'

RPROZ-R23 and RPROZ-SX – Intensive indoor and outdoor primary production

126. Mr Hodgson notes that there is a disconnect in activity status for infringing setbacks designed to manage reverse sensitivity effects under RPROZ-R23 (intensive indoor and outdoor primary production) and the reciprocal standard recommended in the section 42A report for sensitive activities (RPROZ-SX). It is a non-complying activity under RPROZ-R23 for an intensive indoor and outdoor primary production to be located within 300m of a sensitive activity, however a sensitive activity failing to comply with the same 300m setback under RPROZ-SX is a restricted discretionary activity. Mr Hodgson contends that, as these are reciprocal standards to manage both reverse sensitivity and the location of incompatible land uses, the activity status of both types of infringements should align.
127. Mr Hodgson suggests that a discretionary activity status for both types of setback infringements is an appropriate response that aligns with best practice in provision drafting for intensive indoor and outdoor primary production activities nationally and better aligns with the objectives and policies of the RPROZ.

RPROZ-RX – Artificial crop protection structures and crop support structures

128. Mr Hodgson on behalf of Horticulture NZ considers that further amendments can be made to RPROX-RX to be more enabling of artificial crop protection structures and crop support structures, particularly in terms of being exempt



from any height in relation to boundary (HIRB) standards and creating a more targeted approach to managing potential conflicts with adjacent residential dwellings on properties in a different ownership. Mr Hodgson suggests that, while RPROZ-RX is a drafting improvement on the PDP, it will still result in unnecessary and inefficient sterilisation of productive rural land in favour of the amenity expectations of residential activities, which is not appropriate in a productive rural environment, nor in the context of protecting HPL.

129. Mr Hodgson suggests that the recently agreed Waikato District Council PDP model is a good starting point for an amended RPROZ-RX, which includes an increased setback where there is an existing residential unit within 12m of an internal boundary. Mr Hodgson's position is also supported by the statement of Ms Cameron, also representing Horticulture NZ.
130. Conversely Vision Kerikeri and others seek to make RPROZ-RX more restrictive, with the following amendments made to the rule as a whole:
 - a. Cloth colour must be black or a very dark colour (not green or white);
 - b. The exemption for alternative colours of cloth if agreed with either a neighbour or the road controlling authority (depending on the boundary) should be deleted; and
 - c. Infringements of RPROZ-RX should be non-complying, not restricted discretionary.
131. Vision Kerikeri and others also suggest additional amendments for structures erected 30m from the boundary of a road, other public land or residential property, including:
 - a. A reduction in the maximum height from 6m to 5m; and
 - b. A requirement for suitable trees or tall hedging/vegetation to be planted between the structures and the road boundary.
132. The primary reasons given by Vision Kerikeri and others for the requested changes are to better manage adverse visual amenity and rural character effects associated with the structures, properly manage visual dominance effects, better manage spray drift (through the landscaping) and allow for all potentially impacted parties to have a say (in the case of a non-complying activity).

RPROZ-RY – Seasonal worker accommodation

133. Although Mr Hodgson supports the seasonal worker accommodation rule in principle, he is concerned about it being prevented from being established on HPL under PER-1(4). In his view, seasonal workers accommodation is a supporting activity in terms of clause 3.9(a) of the NPS-HPL when it is related



to the same landholding (not just land or land parcel) as the land-based primary production activity and should not be prevented from being on HPL.

134. Mr Hodgson considers that the restriction on seasonal worker accommodation needing to support a particular landholding, combined with a 10-person occupancy limit, imposes the necessary restrictions on scale to ensure that the accommodation fits in the rural environment, does not result in reverse sensitivity effects, minimises loss of HPL and is not of a scale better suited to being located in a more urban zone.
135. This position is also supported by Ms Cameron on behalf of Horticulture NZ and Ms Ritchie on behalf of NZ Pork.

Request for new setback standard – Waipapa Pine Ltd

136. Mr Andrew McPhee on behalf of Waipapa Pine Ltd tabled evidence relating to a request for a new 100m setback for sensitive activities from the boundary of a Heavy Industrial Zone. Mr McPhee confirmed that Waipapa Pine Ltd only seeks this relief in relation to the RPROZ (as opposed to the full suite of rural zones). His rationale for the new rule is that:
- a. The purpose of the Heavy Industrial Zone is to manage and protect industrial activities, in particular from land sterilisation and reverse sensitivity effects.
 - b. Similarly to the Mineral Extraction Zone, reverse sensitivity issues can negatively impact on the ability of activities in the Heavy Industrial Zone to undertake activities anticipated in that zone.
 - c. There is a limited amount of land zoned Heavy Industrial and the predominant abutting zone is the RPROZ.
 - d. While the section 42A report recommends numerous amendments to manage reverse sensitivity effects at the zone boundary between different rural zones and also between rural zones and the Mineral Extraction Zone, no such provision has been made for the Heavy Industrial Zone, despite similarly being at risk from reverse sensitivity effects.
137. Mr McPhee's suggested relief is the insertion of a new standard into the RPROZ chapter, drafted in a similar manner to RPROZ-S7, and that the new standard be referenced in RPROZ-R1 in the same way as other equivalent setback standards.

Analysis

RPROZ-R4 – Visitor accommodation

138. I understand the concerns raised by Mr Hodgson with respect to visitor accommodation in the RPROZ. I note that the original submissions by both



Horticulture NZ and NZ Pork raised concerns with RPROZ-R4 and the potential for reverse sensitivity effects and increasing the setback in RPROZ-S3 from 10m to 20m was the original request. My response is set out in paragraph 555 of the Rural Wide Issues and RPROZ section 42A report where I noted that the new reciprocal setback standards RPROZ-SX and RPROZ-SY will address potential reverse sensitivity effects resulting from new sensitive activities locating near intensive indoor and outdoor primary production activities and buildings or structures used to house, milk or feed stock.

139. However, I acknowledge that the new reciprocal setback standards that I have recommended only protect primary production activities involving animals and do not protect the horticultural industry. As such, I agree that there is a gap and requiring a visitor accommodation activity to be setback 20m from a site under separate ownership will provide additional protection for all types of primary production, not just those involving animals. I consider this to be a more targeted approach that focuses on the activity of concern (visitor accommodation) and is more appropriate than the original relief requesting an increase in all boundary setbacks from 10m to 20m.

RPROZ-R19 – Minor residential unit

140. After hearing the evidence of both Mr Hall and Ms Newport on the issue of minimum separation distance in PER-4 of RPROZ-R19, I agree with Ms Newport that it is a useful requirement to ensure that there is a physical connection between the minor and principal residential units, for the reasons that I set out in paragraph 641 of the Rural Wide Issues and RPROZ section 42A report. As such, the only outstanding question is whether 15m is too stringent a requirement or whether 30m is more appropriate, as suggested by Ms Newport.
141. I understand from discussing the drafting of PER-4 with the wider Council policy team that one of the drivers for choosing a 15m separation distance was to ensure that the minor residential unit could not be subdivided off from the principal unit without infringing the boundary setback requirements (i.e. a 10m setback required between buildings either side of a shared boundary, necessitating a separation distance of at least 20m). This was seen as necessary to prevent the legal separation of the minor residential unit from the principal residential unit as there is no specific subdivision rule preventing the subdivision of a minor residential unit onto a separate title. There is an 'avoid' subdivision policy in SUB-P10 but this policy only applies where the resulting lots do not comply with minimum allotment size and residential density.
142. If the provisions in the Subdivision chapter were stronger with respect to preventing the subdivision of minor residential units from principal units, I would be inclined to agree with Ms Newport that 30m strikes a balance between flexibility in siting the minor residential unit while also maintain the connection between the two units. However, I consider that it is important



to retain the 15m separation distance given the lack of other provisions in the Subdivision chapter to allow for consideration of whether it is appropriate to separate a minor residential unit from a principal unit. The Hearing Panel may wish to revisit this recommendation if there is scope through the Subdivision topic to reconsider the way subdivision around minor residential units is managed. My preference (scope permitting) would be for the provisions of the Subdivision chapter to be strengthened rather than this issue being managed through the minor residential unit land use provisions.

143. With respect to Ms Newport's second point that requiring a 1ha minimum site size for a minor residential unit is too restrictive, I maintain my position (as set out in paragraph 643 of the Rural Wide Issues and RPROZ section 42A report) that two residential units on a 5,000m² lot is moving too far away from the rural character anticipated in the RPROZ. This is particularly true when viewed in light of the minimum lot sizes for the RPROZ under SUB-S1 and the residential density limits in RPROZ-R3, both of which anticipate one residential unit per 40ha. As such, I do not recommend any changes to PER-2 of RPROZ-R19.
144. With respect to Mr Nathan's statement, I acknowledge that he is requesting a specific footprint increase exemption for minor residential units specifically designed to be accessible, rather than a blanket increase in the maximum permitted floor area and that my section 42A report did not make this distinction clear. However, I can see practical implementation issues with the exemption Mr Nathan is proposing. I consider that there is a risk that any person proposing a minor residential unit could design a slightly larger unit and claim that it is needed for accessible purposes, which will result in 75m² becoming almost the default permitted footprint, plus the increased garage size. I consider it would be difficult for a resource consent officer to distinguish between a genuinely designed accessible unit vs one with slightly larger hallways, bedrooms, bathrooms and garages.
145. I have researched whether this type of exemption had been included in other district plans and found one example from Thames Coromandel District Council (TCDC). The Thames Coromandel District Plan (Operative in Part 2024) defines a minor unit as follows:

"means a separate building or part of a building that:

...

has a gross floor area (excluding a garage) no greater than 60m² if it is LifemarkTM Design certified or has another certification that it is functional for elderly and disabled residents; otherwise its gross floor area (excluding a garage) is no greater than 50m²;"

146. It appears that this definition of minor unit has attempted to address my concerns about how to prove that a unit has genuinely been designed to be accessible by requiring some form of certification at building consent stage.



However, I do not consider it to be appropriate to rely on a third-party certification to determine whether a minor residential unit complies with RPROZ-R19, particularly as this certification is determining whether the activity is permitted or not. Further, I note that the larger footprint provided for in the TDCD example is 60m², even when the design has been certified, which is smaller than the permitted footprint of 65m² in RPROZ-R19 for all minor residential units.

147. Although not a permitted pathway, an applicant can still apply for a resource consent for a minor residential unit with a larger GFA on the basis that additional space is required to make the unit accessible. Council can then assess the individual circumstances of that application and confirm that the additional area is to accommodate genuine design adaptations. As such, I do not recommend any changes to RPROZ-R19 in response to Mr Nathan's hearing statement.

RPROZ-R22 – Rural tourism

148. I agree with Ms Jacobs' assertion that we have differing interpretations of the scope of the definition of 'rural tourism activity', being the definition that RPROZ-R22 relies upon. My recommendation to include a specific reference to tourism activities within the rural environment was intended to ensure that the definition applied to a specific tourism activity that allowed people to visit and experience the rural environment, as opposed to inadvertently capturing passive visitors walking a trail or cycling independently through the rural environment for example. I did not intend my amendment to expand out the scope of the definition so that it encompassed all tourism activities located in the rural environment, regardless of whether they had a link to that environment. The core of the definition needs to target tourism activities that enable people to visit and experience the rural environment, as per the original drafting. To address these differences in interpretation, I recommend a minor reordering of the definition chapeau as follows (section 42A recommendation in red strikethrough, new recommendation in red underline):

"Rural tourism activity means the use of land or buildings for tourism activities that enable ~~for~~ people to visit and experience tourism activities within the rural environment".

149. With this amended definition in mind, I maintain my position that amendments to matters (b) and (m) are not required as the intention was not to broaden the scope of a rural tourism activity to capture any type of tourism activity. While I appreciate that this may be problematic in the case of a site like Waitangi Estate, RPROZ-R22 applies across the entire zone and needs to reflect the rural nature of the environment that it was drafted for. I consider that the most appropriate place to address issues around tourism activities on Waitangi Estate specifically is through Hearing 15B, where the request for a special purpose zone will be heard.



RPROZ-R23 and RPROZ-SX – Intensive indoor and outdoor primary production

150. I agree with Mr Hodgson that there is a disconnect in activity status for infringing setbacks designed to manage reverse sensitivity effects under RPROZ-R23 (intensive indoor and outdoor primary production) and the reciprocal standard recommended in the section 42A report for sensitive activities (RPROZ-SX). I had not intentionally recommended differing activity statuses for infringements of this rule and standard, rather the difference has occurred due to an infringement of RPROZ-R23 being non-complying as notified and RPROZ-SX being drafted to align with the activity status of other setback standards e.g. RPROZ-S3, S6 and S7, all of which are a restricted discretionary activity if infringed.
151. I accept that, as the setbacks in RPROZ-R23 and RPROZ-SX were intended to be reciprocal, the activity status of infringing these provisions should be the same, otherwise the current drafting favours sensitive activities over intensive indoor and outdoor primary production activities, which is not appropriate in a rural environment. I agree with Mr Hodgson that a discretionary activity status for both types of setback infringements is appropriate for the reasons set out in his evidence, particularly as the RPROZ is the only zone where intensive indoor and outdoor primary production activities can realistically locate.

RPROZ-RX– Artificial crop protection structures and crop support structures

152. Evidence from two opposing viewpoints was presented at Hearing 9 with respect to artificial crop protection structures and crop support structures. The key question, in my opinion, is whether making the most efficient use of productive rural land and being enabling and supportive of primary production activities should outweigh the adverse visual amenity and shading effects resulting from the erection of these types of structures, particularly where they adjoin boundaries where they can be viewed by the public or from residential properties.
153. My recommendation for RPROZ-RX attempted to find a middle ground between these two competing viewpoints, as set out in paragraph 485 of the Rural Wide Issues and RPROZ section 42A report. However, having now heard evidence from Mr Hodgson, Ms Cameron and the representatives from Vision Kerikeri and others, it has become apparent that the operational needs of the horticultural industry need to prevail with respect to artificial crop protection structures and crop support structures. In fact, the objection to the visual amenity and shading impacts of these structures is an excellent demonstration of how reverse sensitivity effects can have a clear and significant impact on the way a horticultural activity is able to conduct its operations. I appreciate that artificial crop protection structures may not align with traditional assumptions about what a rural area should look like, however a working rural environment needs to adapt over time to accommodate farming best practices as they are developed and artificial crop protection structures and support structures now form part of the



anticipated rural character associated with a rural working environment (as per RPROZ-O4). Prioritising the operational requirements of land based primary production activities (such as horticulture) is also aligned with the direction in Policy 4 of the NPS-HPL to prioritise and support the use of highly productive land for land-based primary production.

154. It also became clear through the hearing that some of the suggested amendments from Vision Kerikeri and others (some of which I had accepted, others I had rejected) are either not operationally achievable for the horticultural industry or create other problems, for example:
- a. A reduction in height of structures from 6m to 5m would not provide sufficient clearance for the crop canopy and farm machinery (as explained in the evidence of Ms Cameron).
 - b. A requirement for black or very dark coloured cloth for all parts of the crop protection structures may have an adverse impact on the ability of the crop to access sunlight, particularly the cloth on the top of the structure, although the horticulture industry has responded to concerns about visual impacts by using dark cloth on more sensitive boundaries, noting that black or dark green cloth actually creates more shading issues for neighbouring sites than white cloth (as explained by Ms Cameron in response to Panel questions).
 - c. Shelterbelts created from living trees are not a like for like alternative to artificial crop protection structures as they take up more space (typically 5m along boundaries), often require more ongoing maintenance and do not protect crops from weather (particularly hail) or pests from above (as explained by Ms Cameron in response to Panel questions about the potential for shelterbelts to sterilise highly productive land).
155. In redrafting RPROZ-RX to respond to the evidence received, there are several key principles that I have incorporated:
- a. The rule must prioritise the operational needs of horticultural activities over perceived adverse effects on visual amenity or rural character;
 - b. Any restrictions on cloth colour should apply within 30m of road boundaries and side boundaries but should not apply to the cloth used to protect over the top of crops or along internal boundaries between parcels under the same ownership (as per the examples provided in paragraph 54 of Mr Hodgson's evidence);
 - c. The rule must be simple to understand and administer, without resulting in unnecessarily complex design outcomes – while I understand what the Waikato example put forward by Mr Hodgson is attempting to achieve, this is an untested approach on the ground and may lead to unusual design outcomes and increased



construction costs for horticultural activities. In my view, the issue is better managed through a combination of setbacks consistently applied to the entire length of the boundary and restrictions on cloth colour along specified boundaries; and

- d. Infringements of the rule must not result in overly onerous consent requirements for the horticultural industry i.e. I do not agree with Vision Kerikeri and others that a non-complying activity status for infringing RPROZ-RX is appropriate.

156. I accept the position of Mr Hodgson that imposing a height in relation to boundary (HIRB) control in addition to maximum height and setback controls is overly onerous and is likely to result in the sterilisation of land along boundaries that could otherwise be used productively, for the reasons set out in his evidence. My amended drafting of RPROZ-RX is show in Appendix 1 of this report.

RPROZ-RY – Seasonal worker accommodation

157. I agree with Mr Hodgson that seasonal worker accommodation can be considered a supporting activity in terms of clause 3.9(a) of the NPS-HPL and therefore should be allowed to establish on HPL. I also understand Mr Hodgson's preference for referring to 'landholding' as opposed to 'land' or 'land parcel' as 'landholding' reflects that a farming operation may be undertaken across multiple land parcels but still operate as a single landholding for the purposes of the activity. I consider that this link between the seasonal worker accommodation and the landholding used by the land-based primary production activity it supports justifies the activity being allowed as a supporting activity on HPL. I have recommended changes to RPROZ-RY to address these issues.

Request for a new setback standard – Waipapa Pine

158. In response to the evidence tabled by Mr McPhee, I asked the FNDC GIS team to clarify the extent of the interface between the Heavy Industrial Zone (HIZ) and the RPROZ as notified in terms of both the number of properties affected and the spatial extent of the interface. The FNDC GIS team have prepared maps of the parts of the Far North district where the RPROZ and HIZ interface, which are attached as Appendix 7. These maps show that approximately 14 properties will be affected by the new setback, involving a land area of approximately 28ha. Of these properties, most have sufficient land area outside of the setback to establish any new sensitive activities (if desired).
159. I agree with Mr McPhee that the potential for reverse sensitivity effects resulting from activities establishing in the RPROZ to impact existing activities in the HIZ is similar to the potential for issues at the interface between the RPROZ and the Mineral Extraction Zone. I also agree that the scale of this interface (and therefore the number of impacted properties) is relatively limited when considered in the context of the amount of land



zoned RPROZ across the Far North district. As such, I consider that the benefits to protecting the HIZ from being sterilised or otherwise impacted by reverse sensitivity effects outweigh the potential restrictions on the ability of landowners in the RPROZ to construct or establish sensitive activities. My recommended drafting of a HIZ setback is included in Appendix 1 of this report.

Recommendation

160. I recommend that:

- a. RPROZ-R4 is amended to include a new requirement that any building containing a visitor accommodation activity is setback 20m from the boundary of a site under different ownership.
- b. Amend the definition of 'rural tourism activity' as set out in paragraph 148 of this report.
- c. Amend the activity status for infringing the setback in RPROZ-R23 from non-complying to discretionary.
- d. Amend the activity status for infringing the setback in RPROZ-SX from restricted discretionary to discretionary.
- e. Amend RPROZ-RX relating to artificial crop protection structures and crop support structures as explained in paragraph 155 of this report.
- f. Amend RPROZ-RY to remove the restriction preventing seasonal workers accommodation from being constructed on HPL and replace all references to 'land' with 'landholding'.
- g. Insert a new setback standard into the RPROZ chapter to restrict the location of new sensitive activities within 100m of the Heavy Industrial Zone.

Section 32AA Evaluation

161. The amendments I am recommending to the definition of rural tourism activity and RPROZ-RY are to assist with the clear and accurate interpretation of provisions and, in my view, do not alter the intent of the provisions as per my section 42A report. As such, no additional evaluation under section 32AA of the RMA is required.
162. The recommended amendments to RPROZ-R4, RPROZ-R3 and RPROZ-SX are all intended to improve the avoidance and/or mitigation of reverse sensitivity effects while ensuring that both primary production activities and sensitive activities are treated fairly with respect to activity status for equivalent infringements. On this basis, I consider that the recommended amendments are an appropriate, effective and efficient way to achieve the



relevant PDP objectives and policies relating to the management of reverse sensitivity effects in accordance with section 32AA of the RMA.

163. The recommended amendments to RPROZ-RX relating to artificial crop protection structures and crop support structures are to better give effect to policy direction under the NPS-HPL and RPROZ-O4. The amendments will ensure that the operational needs of land-based primary production activities are prioritised and reflect that these types of structures form part of the rural character and amenity values associated with a working rural environment. As such, I consider that these amendments are an appropriate, effective and efficient way to achieve the relevant PDP objectives and policies and NPS-HPL direction relating to prioritising the needs of primary production activities in accordance with section 32AA of the RMA.
164. The potential benefits and costs of a new setback standard to protect the HIZ from reverse sensitivity effects are discussed in paragraph 159 of this report. I consider that the benefits associated with protecting the limited supply of HIZ land outweigh the restrictions on establishing sensitive activities in the RPROZ and give effect to policy direction in the HIZ, e.g. HIZ-O1 and HIZ-P1. As such, I consider that these amendments are an appropriate, effective and efficient way to achieve the relevant PDP objectives and policies in accordance with section 32AA of the RMA.

3.5 Issue 5: Horticulture Zone

Overview

Relevant Document	Relevant Section
Section 42A Report	Horticulture Zone section 42A report (Key Issue 2)
Evidence and hearing statements provided by submitters	Audrey Campbell-Frear, Horticulture NZ, Vision Kerikeri and others

Matters raised in evidence

165. I have addressed the overall recommended approach to the HZ and how it should be amended to address concerns about its purpose, its status as a special purpose zone and its intention to protect land that includes LUC 4 soils in Key Issue 1 above. The evidence responded to in this section relates to provisions in the HZ that are standalone issues not tied to retention of the HZ in principle or the protection of LUC 4. The recommendations that I make in this section will be translated over into precinct provisions (once drafted).
166. Some submitters supported the suggested amendments to the HZ provisions, including:



- a. A hearing statement from Two M Investments confirms that they support the amendments to the HZ rules and standards as recommended in the HZ section 42A report as they focus on the long-term protection of the area for horticultural use.
- b. Mr Hodgson on behalf of Horticulture NZ agrees that a separate rule (HZ-RX) to manage artificial crop protection structures and crop support structures is an appropriate response rather than the use of carve outs from height and setback standards, albeit with alternative drafting suggestions discussed below.

167. However, the following submitters have outstanding concerns with the HZ provisions as follows:

HZ-RX – Artificial crop protection structures and crop support structures

168. Mr Hodgson on behalf of Horticulture NZ recommends the same amendments to HZ-RX as for RPROZ-RX discussed in Key Issue 4 above. The only difference in the HZ is that Mr Hodgson also recommends that the setback from all site boundaries in PER-1(2) is reduced from 3m to 1m to reflect the primacy that should be given to horticultural activities over amenity expectations of residents in the HZ.

HZ-RY and HZ-RZ – Extension of existing commercial and industrial activities

169. Ms McGrath on behalf of Audrey Campbell-Frear disagrees with the recommended introduction of HZ-RY and HZ-RZ, which would provide a discretionary pathway for extensions of existing commercial and industrial activities (as opposed to the non-complying status as notified). Ms McGrath considers that the HZ is comprised of a range of existing land uses that are not primary production or horticultural activities and that these proposed rules further restrict future development, increasing consenting and development costs.

Analysis

HZ-RX – Artificial crop protection structures and crop support structures

170. The comments that I made with respect to RPROZ-RX are equally applicable to the equivalent HZ-RX rule, however I also agree that in the HZ it is even more important to maximise the productive potential of the land given that the land is more fragmented. I agree with Mr Hodgson that a 1m site boundary setback better reflects the primary purpose of the HZ as being available to be used productively by the horticultural industry.

HZ-RY and HZ-RZ – Extension of existing commercial and industrial activities

171. I agree with Ms McGrath that these proposed rules will restrict future extensions of existing non-productive activities within the HZ, but that is their intended purpose. The discretionary activity status signals that



activities that will use the land resource productively are to be prioritised over further development of land for non-productive uses. I note that the introduction of HZ-RY and HZ-RZ provide a more permissive pathway for extensions of existing commercial and industrial activities than was originally notified, for the reasons that I set out in paragraphs 106 and 107 of the Horticulture Zone section 42A report. I do not recommend any changes to these rules resulting from Ms McGrath’s evidence.

Recommendation

172. I recommend that:

- a. Amendments are made to HZ-RX to align with my recommended amendments to RPROZ-RX, except that the site boundary setback should be reduced from 3m to 1m.

Section 32AA Evaluation

173. The section 32AA evaluation undertaken for RPROZ-RX in Key Issue 4 above is equally applicable to my recommended amendments to HZ-RX, so I do not repeat that evaluation here.

3.6 Issue 6: Rural Lifestyle Zone

Overview

Relevant Document	Relevant Section
Section 42A Report	Rural Lifestyle Zone section 42A report (Key Issues 3, 5 and 7)
Evidence and hearing statements provided by submitters	Federated Farmers, Willowridge Developments Ltd

Matters raised in evidence

174. Ms Cook-Munro on behalf of Federated Farmers supports the recommended amendments to the RLZ chapter, as set out in the RLZ section 42A report.

175. Willowridge Developments Ltd confirmed in a hearing statement that they support the retention of RLZ-R4 with respect to small scale visitor accommodation. However, Willowridge consider that the following matters are still outstanding:

- a. RLZ-R3 is still too restrictive, does not reflect the range of lot sizes in the ODP Coastal Living Zone and is limiting housing capacity in existing rural and coastal settlements. Willowridge continues to request that 1 residential unit per 5,000m² be provided for as a permitted activity, although the recommended exemption for minor residential units is supported.



- b. RLZ-R11 does not sufficiently provide for minor residential units, in particular the 15m separation distance requirement should be deleted as it limits housing development and will result in unnecessary consenting costs.
- c. RLZ-S3 should not provide a side boundary setback exemption for sites less than 5,000m² as it will result in a confusing and fragmented consenting process.

Analysis

176. With respect to the Willowridge hearing statement, I make the following comments:
- a. I address the reasons for ensuring RLZ-R3 is coupled to the minimum lot size in SUB-S1 for the RLZ in Issue 8 below.
 - b. I have addressed the issue of the 15m separation distance for minor residential units in Key Issue 4 above with respect to the RPROZ and I consider that the points made about deterring subdivision are equally applicable to the RLZ. As such I do not recommend any change to the 15m separation requirement in RLZ-R11.
 - c. I disagree that a separate setback standard for sites less than 5,000m² in area will result in a confusing and fragmented consenting process. I agree that, in principle, the more simply a rule or standard can be drafted, the easier it is to interpret and implement. However, I consider the drafting of RLZ-S3 to be quite clear and in line with the structure of similar standards in other rural zones.

Recommendation

177. For the reasons above, I do not recommend any changes to the RLZ chapter provisions, other than consequential amendments to ensure consistency across chapters.

Section 32AA Evaluation

178. As no further changes are recommended, no additional evaluation under section 32AA is required.

3.7 Issue 7: Settlement Zone

Overview

Relevant Document	Relevant Section
Section 42A Report	Settlement Zone section 42A report (Key Issue 3)



Relevant Document	Relevant Section
Evidence and hearing statements provided by submitters	Foodstuffs North Limited, Federated Farmers

Matters raised in evidence

- 179. Ms Cook-Munro on behalf of Federated Farmers supports the recommended amendments to the Settlement Zone (RSZ) chapter, as set out in the RSZ section 42A report.
- 180. Mr David Badham on behalf of Foodstuffs North Limited (Foodstuffs) was the only expert to provide specific evidence on RSZ. There are two outstanding issues for Foodstuffs in relation to the provisions of the RSZ:
 - a. PER-1 of RSZ-R1; and
 - b. RSZ-R8 – Commercial activities
- 181. With respect to PER-1 of RSZ-R1, Mr Badham considers that the rule confuses effects associated with building bulk and scale with the scale and intensity of activities, being a matter that is managed (in the case of supermarkets) under RSZ-R8 – Commercial activities. Mr Badham contends that the structure of having one rule for buildings and structures linked to compliance with the standards combined with a second rule for the activity itself results in unnecessary complexity and duplication and recommends changes to this approach to improve the efficiency of the PDP. Mr Badham also acknowledges that this structure is used consistently across all zone chapters in the PDP and if a change to the chapter structure was made in the RSZ, changes to all other zone chapters would be required for consistency.
- 182. Mr Badham also considers that RSZ-R8 does not make sufficient provision for supermarkets in settlements. He makes the point that supermarkets are an important service / activity for the economic and social wellbeing of people in the rural and coastal communities that the RSZ covers. The key issues in contention relating to RSZ-R8 are that:
 - a. There are no definitions for either 'retail activity' or 'supermarket', which make the application of RSZ-R8 unclear;
 - b. Supermarkets are distinguished from other types of retail activities by the diverse range of retail offerings, which necessitate a separate rule for greater clarity and certainty to plan users;
 - c. The scale and intensity of supermarket activities, and their potential effects on rural and coastal character and amenity values, can be efficiently and effectively managed through a permitted activity rule framework;



- d. The costs and benefits of a 300m² GFA restriction on the footprint of supermarkets (outside of Moerewa) have not been comprehensively assessed in the Section 32 Report, including the impact that imposing a consenting barrier could have on deterring supermarkets from establishing in settlements.
183. Mr Badham considers that a maximum supermarket GFA of 400m² in all settlements would be more efficient in enabling "supermarkets" to establish and operate in the RSZ. His rationale is that an increased GFA allowance will provide greater flexibility to accommodate the operational and functional requirements of "supermarkets" through a permitted activity framework.
184. Since the closure of the hearing, Mr Badham has supplied the additional information requested by the Hearing Panel, which available online under the information relating to Hearing 9. The information can be summarised as follows:
- a. The size of a typical Four Square in Northland ranges from 450m² to 1, 120m² GFA.
 - b. The operational requirements for any new Four Squares going forward necessitates a minimum of 500m² GFA.
 - c. Mr Badham maintains that PER-1 of RSZ-R1 should be deleted.

Analysis

185. With respect to Mr Badham's evidence on the structure of RSZ-R1, I reiterate my position, as set out in paragraph 65 of the Settlement section 42A report, that the relationship between the RSZ-R1 building and structure rules, and the other land use rules and the standards, has been mirrored across all of the rural zones (as well as other zones across the PDP). In my view there is a distinct difference in the purpose of the R1 rules (that manage the physical effects of buildings and structures by requiring compliance with the relevant zone standards) and the balance of the RSZ activity rules (which manage effects associated with that particular activity occurring as opposed to the building or structure it is housed in). I do not consider this to be confusing or duplicating, as suggested by Mr Badham, particularly now the Settlement section 42A report recommends that the wording of RSZ-R1 is amended to fix a drafting error identified post notification by the Council¹⁰. I also disagree that RSZ-S1 could result in an unnecessary resource consent for a discretionary activity as this would only occur if the activity status of the proposal itself was already a discretionary activity under another land use rule in the chapter.

¹⁰ The error in the notified version of all the rural R1 rules was that buildings containing controlled or restricted discretionary activities arbitrarily defaulted to a discretionary activity. The revised drafting in the rural section 42A reports ensures that all buildings containing a permitted, controlled or restricted discretionary activity are also permitted, provided that they comply with the standards.



186. With respect to RSZ-R8 not making appropriate provision for supermarkets (particularly with respect to a permitted GFA), I note that the original submission by Foodstuffs did not request a specific GFA for supermarkets, rather it requested that an 'appropriate GFA' be applied to supermarkets without specifying what 'appropriate' might be. Mr Badham's evidence presented at the hearing suggested that a GFA of 400m² may be appropriate to accommodate a small-scale supermarket, such as a Four Square, however his supplementary information provided on the 7 February 2025 indicates that a GFA of 500m² is more appropriate.
187. None of the evidence provided by Mr Badham has changed my position that a supermarket that is larger than the 300m² GFA cap as notified would likely be out of character for the majority, if not all, of the Far North settlements, as set out in paragraph 63 of the Settlement section 42A report. I maintain that a discretionary activity pathway for supermarkets (or any other retail operation) with a GFA over 300m² is wholly appropriate. In my view, Mr Badham has not sufficiently proven that supermarkets over 300m² (let alone up to 400-500m²) would be appropriate in all settlements across the Far North District in terms of the potential impact on the character and amenity values of the settlement and the impacts on neighbouring sites to the point that I could support a permitted activity framework.
188. As I do not support a separate, more permissive pathway for supermarkets to establish in a settlement that is distinct from other types of retail, I also do not support further definitions of 'retail activity' or 'supermarket' to clarify the application of RSZ-R8. I consider that retail activity as a term has a clearly understood common meaning and a supermarket would clearly fall into that category given that it sells goods to the public. As such, I do not recommend any amendments to RSZ-R8.

Recommendation

189. For the reasons above, I do not recommend any changes to the RSZ chapter provisions, other than consequential amendments to ensure consistency across chapters.

Section 32AA Evaluation

190. As no further changes are recommended, no additional evaluation under section 32AA is required.

3.8 Issue 8: SUB-S1 as it applies to the RPROZ, HZ, RLZ and RRZ zones

Overview

Relevant Document	Relevant Section
Section 42A Report	Rural Wide Issues and RPROZ section 42A report (Key Issue 30), Horticulture Zone section 42A report (Key Issue 8), Rural Lifestyle Zone section 42A report (Key Issue 8)



Relevant Document	Relevant Section
Evidence and hearing statements provided by submitters	Peter Malcolm, Fiona King, Lynley Newport, Thomson Survey, Michael John Winch, Bentzen Farm Ltd (and others), Federated Farmers, Gray Phillips, Meridian Farm Ltd, Braedon & Cook Ltd

Matters raised in evidence

RPROZ

191. Some submitters support the larger minimum lot sizes in the RPROZ under SUB-S1, including Vision Kerikeri and others, on the basis that the overly permissive ODP framework has resulted in land fragmentation, loss of productive land, reverse sensitivity issues and uncoordinated urban development.
192. Mr Peter Malcolm considers that there need to be more pathways for rural lifestyle subdivision in the RPROZ, acknowledging that the productive potential of land needs to be maintained and there need to be limits on the extent of rural lifestyle subdivision that is enabled. Mr Malcolm outlines that the benefits of additional rural lifestyle pathways in the RPROZ are:
- a. Allowing older farmers and their families, wider family working on farms and rural workers to live and work near the farms that they are involved with;
 - b. Providing people with financial security and independence (not able to be provided without subdivision, simply providing a house does not achieve this) and supporting work flexibility and connection to an area;
 - c. Helping to reverse depopulation trends in the rural environment and address rural labour shortages;
 - d. Supports greater investment in rural areas; and
 - e. Enhanced rural productivity (if lots are able to be rearranged to provide for larger balance lots).
193. Mr Malcolm suggests that appropriate rural lifestyle pathways in the RPROZ could be as follows:
- a. A provision for a 2ha lot around an existing family home; and
 - b. A cluster option of up to two 1ha lots, provided a 40ha balance lot is maintained.
194. In both cases Mr Malcolm considers that the rural lifestyle sized lots should not be located on HPL and should be clustered where possible adjacent to existing small lots. Mr Malcolm also raised matters relating to boundary



adjustments, however these comments relate to SUB-R1 which is not part of the Hearing 9 topics. Mr Malcolm's comments on boundary adjustments will be responded to as part of the Hearing 16 – Subdivision.

195. Ms Fiona King sets out a number of reasons why the PDP should still enable pathways for smaller lots in the RPROZ, including:
- a. The need to provide flexibility for rural landowners to realise capital from their landholdings to address financial needs such as rising building and compliance costs, costs of running farms (maintenance, farm plans, weed control etc);
 - b. 40ha blocks of land are not viable as a farming operation without a supplementary income stream due to the expenses and compliance costs associated with maintaining a block that size;
 - c. Any blocks of land over 20ha require farm plans, which are overly onerous for landowners and make it unattractive to live in a rural area;
 - d. Rural lifestyle blocks support rural communities and the social and cultural wellbeing of the rural people so there is a need to encourage people to come and support these communities, not scare them away with large sized lots that are difficult to maintain.
196. Ms King suggests that there should be provision for rural lifestyle sized blocks in the RPROZ between 2,000m² and 4,000m² as per the ODP framework.
197. Mr Hall on behalf of Bentzen Farm Limited (and others) supports a 20ha restricted discretionary¹¹ minimum lot size in the RPROZ and does not agree that 40ha controlled minimum lot size is the correct setting for the following reasons:
- a. He does not consider that the section 32 Economics Report¹² referred to in the section 42A report makes a sufficiently sound case for a 40ha minimum lot size compared to the 20ha set out in the ODP and questions relying on a minimum lot size derived from a theoretical economic model that does not factor in real world factors;
 - b. 20ha, in the opinion of Mr Hall, ensures lots will neither be urban or rural lifestyle scale in the same way that 40ha does;

¹¹ The original relief requested by Bentzen Farms and others was a controlled minimum lot size of 20ha. Mr Hall amended his position in evidence to 20ha as a restricted discretionary activity.

¹² Rural Environmental Economic Analysis – Update”, prepared by 4Sight Consulting in association with M.E Consulting, dated August 2020.



- c. 20ha also achieves the maintenance of rural character and amenity and protects against potential reverse sensitivity effects – 40ha is not required to achieve this;
 - d. 20ha is considered to be a 'manageable land unit'; and
 - e. A 20ha restricted discretionary pathway will allow unprofitable smaller blocks of at least 40ha to be subdivided to provide for retirement income, enable people to continue to live on the land and in doing so support populations in rural communities.
198. Mr Hall also supports using an average lot size rather than an absolute minimum lot size for the following reasons:
- a. Provides more flexibility for landowners in allowing or 'overs' and 'unders' in lot sizes;
 - b. Property boundaries can better follow natural or physical boundaries such as fence lines, ridge lines, areas of vegetation;
 - c. Smaller lots can be clustered so as to preserve larger balance lots for farming or forestry or for conservation purposes;
 - d. Costs and impacts of internal roading and access can be minimised also by clustering in this manner and services can be more efficiently shared;
 - e. Using an average lot size still maintains the same overall density, thus meeting the outcome of retaining a rural character.
199. Mr Hall suggests redrafting of SUB-S1 to reflect a 20ha average controlled lot size and consequential amendments to RPROZ-R3 so that the residential activity rules remain coupled to SUB-S1, i.e. that they would enable the same density of residential units to be constructed on a site as allowed if that same site was subdivided.
200. Ms Newport considers that a restricted discretionary activity pathway is required for subdivision in the RPROZ and that more provision for rural lifestyle lots is required. Specifically, she recommends that a 12ha minimum lot size is appropriate as a restricted discretionary activity, plus provision for limited options to subdivide off 4,000m² to 8,000m² lots, provided a 12ha balance lot is maintained and the total area of smaller lots does not exceed 2ha. Ms Newport also recommends that the discretionary minimum lot size in the RPROZ should be 4ha not 8ha on the basis that there is nothing wrong with 4ha sized lots (sometimes the smaller the better) in terms of productive use. She does not specifically oppose the 40ha controlled lot size. The broad rationale for these changes is that the notified SUB-S1 will:
- a. Prevent the ability for farmers to retire in their existing homes with a small area of land;



- b. Prevent the creation of small blocks for family members to build on and enter the property market;
- c. Reduce the ability of farmers to reduce their debt burdens; and
- d. Discourage diversification and vibrancy.

201. Mr Denis Thomson on behalf of Thomson Survey considers that provision needs to be made in the RPROZ for the separation of small rural properties as a controlled or restricted discretionary activity down to sizes between 4,000m² and 1ha. In particular, he supports retention of the ODP subdivision pathway for a 4,000m² lot to be subdivided from titles issued prior to 28 April 2000 or a return to the district plan prior to the ODP that allowed for a retirement lot to be subdivided from a title more than 5 years old. His reasoning is that people living in the rural area is great for the community, that it is uneconomic for Council to force people to reside in townships and allowing further subdivision will not have an adverse effect on the production potential of rural Northland. Mr Thomson also considers that a minimum lot size of 12ha is generally fit for purpose for people wishing to keep a small number of animals.
202. Ms Cook-Munro on behalf of Federated Farmers did not provide any specific evidence on the RPROZ minimum lot size under SUB-S1, although the original submission requested a reduction from 40ha to 20ha as a controlled activity. Ms Cook-Munro confirmed that Federated Farmers reserves the right to address this matter at a later stage in the PDP process.
203. Mr Gray Phillips provided a written statement confirming that he still requests amendments to SUB-S1 with respect to providing more pathways for rural lifestyle sized lots in the RPROZ to provide relief for retiring farmers and those who own marginalised land where rural production is not economically viable.

HZ

204. Ms Kuindersma on behalf of NRC considers that an 8ha minimum discretionary activity lot size for the HZ in SUB-S1 is appropriate as it will ensure that any subdivision below 8ha is non-complying. Ms Kuindersma supports this approach as land fragmentation is typically irreversible and she considers it appropriate that the 'gateway' section 104D tests are applied to proposed lots less than 8ha in the HZ.
205. Vision Kerikeri and others also support the recommended increase in the discretionary minimum lot size from 4ha to 8ha on the basis that it will better protect against further land fragmentation and loss of productive land that needs to be retained for future generations.
206. Two M Investments supports the removal of the controlled activity 10ha pathway and agrees with the discretionary activity minimum lot size increasing to 8ha. The rationale for support included in the hearing



statement was that this approach ensures that larger landholdings are likely to prevail when married up with the requirement to 'avoid' subdivision under the NPS-HPL.

207. The only submitter opposing the increase of the discretionary minimum lot size in the HZ is Audrey Campbell-Frear. Ms McGrath considers that the HZ is already severely fragmented and utilised for a range of land uses that are not land-based primary production, so the productive potential of the HZ is already compromised. In her opinion, Ms McGrath considers that further restriction of subdivision in the HZ will not avoid fragmentation or afford protection from reverse sensitivity effects, both of which are already present in the proposed zone.

RLZ

208. Mr Henahan on behalf of Meridian Farm Ltd and Braedon & Cook Ltd confirmed in a hearing statement that his clients support the recommended amendments to SUB-S1 with respect to the RLZ, i.e. reducing the minimum lot size to 2ha (controlled activity) and 1ha (discretionary activity). This change was also supported in the presentation from Michael John Winch at the hearing.
209. Vision Kerikeri and others support lots in the RLZ being between 1-2ha on the basis that smaller lots than this would cease to meet the rural lifestyle function of the zone and would instead lead to more urban style residential sprawl.
210. In a tabled hearing statement, Willowridge Developments Ltd support the proposed reduction of the minimum lot sizes in the RLZ in part, however they consider that 2ha controlled and 1ha discretionary is still overly restrictive. They suggest that minimum lot sizes of 1ha controlled and 5,000m² discretionary would be more appropriate as they better reflect the subdivision pattern allowed under the ODP Coastal Living Zone and would result in a more efficient use of land for residential development.

RSZ

211. In a tabled hearing statement, Willowridge Developments Ltd supported the retention of the minimum lot size for the RSZ in SUB-S1.

Analysis

General comments on requests for more permissive residential density rules compared to the minimum lot sizes in SUB-S1

212. Paragraphs 540 and 541 of the Rural Wide Issues and RPROZ section 42A report explain why I consider it important that residential density rules across the rural chapters are aligned with (or 'coupled to') the minimum lot sizes in SUB-S1. None of the arguments put forward in evidence or hearing statements regarding the relationship between the R3 rules and SUB-S1



have changed my position that the residential density permitted by the R3 rules in each zone needs to correspond to the minimum lot sizes for that zone. The alternative is a scenario where the more permissive R3 provision essentially becomes the minimum lot size by default as it is difficult for a local authority to reject an application for subdivision around existing dwellings, even if the lots are undersized. I do not recommend any changes to either the R3 rules in any of the rural zones to be more permissive than SUB-S1.

More pathways for rural lifestyle lots in the RPROZ

213. I understand the arguments put forward by experts such as Mr Malcolm, Mr Hall and Ms Newport, and submitters such as Ms King, Mr Thomson and Mr Phillips regarding the desire and/or need for additional pathways to allow rural lifestyle sized lots (suggestions ranged from 2,000-4,000m² lots to 1-2ha lots) in the RPROZ. The ODP entitled landowners to a variety of different subdivision options and it is understandable why they would wish for the status quo to continue in some form. I agree with these experts that there are short-term benefits to individual landowners from being able to subdivide off rural lifestyle sized lots and that for farmers that are struggling financially it is comforting to know that there is an ability to subdivide and sell a small lot to assist with rising costs.
214. I also agree that encouraging more people into the rural environment can have benefits in terms of supporting rural communities, reversing depopulation trends, introducing a broader labour pool and supporting investment in rural areas. Rural areas do need a stable population to thrive and these issues cannot be addressed via people commuting from urban areas to work on rural properties.
215. However, where I differ from the position of experts such as Mr Malcolm, Mr Hall and Ms Newport is the mechanism by which people are encouraged to live and work in a rural environment. As set out in paragraph 754 of the Rural Wide Issues and RPROZ section 42A report, I remain of the view that rural lifestyle opportunities in the rural environment should predominantly be provided via zones set aside for that purpose, i.e. RLZ, RRZ and SETZ, as opposed to enabling the continued fragmentation of the rural land resource over time. I reiterate that it is the role of a district plan to take a long-term view of how to manage resources, rather than prioritising the shorter-term aspirations of landowners, which, over time, will result in a cumulative increase in sensitive activities in the rural environment. The Environmental Benefit subdivision and Management Plan subdivision pathways that provide for the creation of rural lifestyle sized lots are still available for land that fits the relevant criteria for each pathway.
216. I consider that it is difficult to find a solution for retiring farmers seeking to stay on their land – this is not an issue that can be fully resolved through additional RLZ, RRZ or SETZ zoned land as it relates to particular land parcels. In my experience (and confirmed via conversations with the Far



North planning team), while an additional small lot for a retiring farmer may be initially used for that purpose, it is difficult to ensure that (a) the residential unit constructed on that small lot remains occupied by that farmer or other family members and (b) that the small lot remains owned by that farmer or other family members. There is inevitable pressure over time for that lot to change ownership and no longer remain linked to the main farm when the farmer passes away or there is a need to raise capital.

217. In the majority of cases, the small lot for a retired farmer becomes the same as any other rural lifestyle sized lot as there is no mechanism (that I am aware of or suggested in evidence by submitters) to ensure the small lot remains occupied by family and/or that the small lot parcel is legally held together with the main farming lot. A consent notice or condition of subdivision consent is not effective in preventing these small lots being on-sold to other landowners who have no connection to the farm. Holding the parcels together with an amalgamation condition or similar might ensure that the parcel stays connected to the farm in a legal sense but it does not achieve the financial independence aspect of what submitters are seeking from this pathway. Mr Hall (in his responses to questions from the Panel) confirmed that it is difficult to prevent the small lot being sold separately from the family farm and that some people will likely take advantage of the pathway and not use it as intended. Mr Hall did not offer up any examples of mechanisms to prevent this outcome. Ms King suggested at the hearing that a timing condition could be imposed to ensure people live in the property for a particular period of time before on-selling. Although that might provide a solution in the short term, it is not a solution in perpetuity, as it still results in land fragmentation and eventual separation of ownership of a farm.
218. As such, I do not agree with providing a separate pathway to allow for subdivision of a small lot to allow for retiring farmers to remain connected to, but financially and legally independent from the main farm. I am unable to determine how this situation could be effectively monitored and maintained in perpetuity without simply being another pathway that adds to the increasing number of rural lifestyle lots spread across the RPROZ that have no connection to a primary production activity.

Minimum lot size in the RPROZ

219. The various requests for amendments to the minimum lot sizes for the RPROZ (aside from requests for rural lifestyle sized lots as discussed above) can be summarised as follows:
- a. Reduce the controlled minimum lot size from 40ha to 20ha and make it an average lot size rather than a minimum lot size (Mr Hall)¹³;

¹³ Ms Cook-Munro may also be requesting a 20ha minimum lot size at a later stage in the PDP process, as per the Federated Farmers original submission.



- b. Reduce the controlled minimum lot size from 40ha to 12ha (Mr Thomson);
 - c. Introduce an additional 12ha minimum lot size pathway as a restricted discretionary activity (Ms Newport);
 - d. Reduce the discretionary minimum lot size from 8ha to 4ha (Ms Newport)
220. Although all these suggestions differ slightly, the general trend is requesting smaller lot sizes across the RPROZ on the basis that smaller lot sizes can still manage effects such as reverse sensitivity appropriately, can maintain rural character, can still provide for productive activities, will give farmers options to reduce debt burdens and overall provide more flexibility and more options to extract capital from rural land. My original analysis of these types of requests is set out in paragraph 762 of the Rural Wide Issues and RPROZ report. My recommendations on minimum lot size in the RPROZ remain unchanged from this report, except for the following additional comments:
- a. The Economics report in the section 32 evaluation was the starting point for considering minimum lot sizes, but I also considered minimum lot size trends around New Zealand and how other local authorities were addressing issues such as ongoing land fragmentation and reverse sensitivity effects. As observed by Panel Chair Scott at the hearing, the trend is generally for minimum lot sizes in rural zones to increase rather than decrease i.e. 40-80ha in Auckland¹⁴, 40ha in Western Bay of Plenty¹⁵, 40ha in Timaru¹⁶ and 40ha in Waipa¹⁷, with the majority of these provisions providing a restricted discretionary pathway but no controlled pathway. Other councils are going a step further and making all subdivision in General Rural or Rural Production zones non-complying e.g. New Plymouth¹⁸ or Waikato¹⁹, unless there is a specific pathway for small lot subdivision like an environmental benefit lot. As such, a 40ha minimum lot size as a controlled activity is, in fact, a more permissive approach than other comparable plans developed recently.
 - b. A number of presenters at the hearing acknowledged that 40ha was a marginal productive unit in some parts of the Far North district, let alone 20ha. Ms King suggested that 40ha blocks of land were not large enough to be viable farms and that a dairy farm would need to be over 100ha. Ms Cook-Munro also confirmed that 20ha was also

¹⁴ Table E39.6.5.1.1 – minimum site size is 40ha in the Mixed Rural Zone and 80ha in the Rural Production Zone, Auckland Unitary Plan Operative in part (as at January 2025)

¹⁵ Rule 18.4.2(b)(i) in the Rural Zone, Operative Western Bay of Plenty District Plan (as at 18 June 2024)

¹⁶ SUB-S1(3) in the General Rural Zone, Proposed Timaru District Plan (as at 22 September 2022)

¹⁷ Rule 15.4.2.1(o) in the Rural Zone, Operative Waipa District Plan (as at 23 December 2024)

¹⁸ Non-complying part of SUB-R4 in the Rural Production Zone, New Plymouth Proposed District Plan – Appeals version (as at 23 December 2024)

¹⁹ SUB-R43(2) in the General Rural Zone, Waikato District Plan – Operative in Part (as at 18 December 2024)



not large enough for a viable farm in her response to questions from the Panel. Mr Cathcart confirmed in response to questions that, in his experience, you need around 80ha of contiguous land to be economically viable and arguing that smaller lots than this can also be productive for some crops is generally just a ploy to get small lots. Mr Cathcart also discussed the concept of 'minimum useable area' rather than just minimum lot size, noting that once you remove land for a house, associated farm buildings, fenced off bush and stream etc, there is much less land available on a lot for the actual production activity. This indicates to me that, if you need a minimum useable area to be productive, then the minimum lot size needs to be set at a level higher than that to account for the unusable parts of the site. The evidence provided by these experts and submitters confirms my position that 40ha is the absolute minimum lot size that could be supportable as a controlled activity (or even a restricted discretionary activity) as anything less is unlikely to be being subdivided to create a lot for genuine farming purposes.

- c. Mr Hall has argued for using an 'average' lot size as opposed to a minimum lot size as a means of introducing more flexibility into SUB-S1. In my experience, district plans often include an average lot size rule or standard, but critically it is accompanied by a minimum lot size as well. The two rules/standards work together to provide flexibility but the minimum lot size safeguards against the creation of a very large and a very small lot that still manage to meet the 'average' lot size. For example, the Auckland Unitary Plan requires an average lot size of 100ha, but also a minimum lot size of 80ha in the Rural Production Zone²⁰, which ensures that lots smaller than 80ha are not created but allows for some flexibility provided the 100ha average is achieved. As such I do not agree with Mr Hall's suggestion to simply swap out the 20ha from a minimum lot size to an average lot size as that could create very small lots and essentially enable another pathway to create rural lifestyle lots. If an average lot size standard was introduced, it would need to be set at a level higher than the minimum lot size i.e. a 60ha average for a 40ha minimum lot size. However, I do not consider that there is scope in submissions to take this approach.

221. As such, I do not recommend reducing the minimum lot sizes in the RPROZ, introducing an average lot size or introducing an additional restricted discretionary pathway.

Minimum lot size in the HZ

222. The only submitter that provided evidence at the hearing in relation to SUB-S1 and the HZ was Audrey Campbell-Frear. All evidence provided at the Hearing supported my recommended amendments to the HZ minimum lot

²⁰ Table E39.6.5.1.1 – Auckland Unitary Plan Operative in part (as at January 2025)



size. Ms McGrath and I differ in our starting point for addressing the fragmentation of land within the HZ – her position is that because fragmentation is so extensive around Kerikeri and Waipapa, there is no benefit to trying to prevent further fragmentation. My position remains unchanged that the presence of ongoing and sustained pressure to subdivide the HZ further is more of a reason to hold the line with a 8ha minimum lot size, as opposed to justification to allow the area to be fragmented down to the level of the RLZ or RRZ. As such, my recommendation on SUB-S1 with respect to the HZ remains unchanged from the Horticulture Zone section 42A report, except that a consequential amendment will need to be made to SUB-S1 to refer to a Horticulture Precinct rather than the HZ.

Minimum lot size in the RLZ

223. Willowridge Developments Ltd are requesting minimum lot sizes of 1ha controlled and 5,000m² discretionary in the RLZ on the basis that this better reflects the ODP minimum lot sizes for the Coastal Living Zone, which is the ODP zone that makes up the majority of the RLZ²¹. Under Rule 13.7.2.1(ix) of the ODP, the minimum lot sizes for the Coastal Living Zone are as follows:
- a. 4ha controlled
 - b. 8,000m² restricted discretionary
 - c. 5,000m² discretionary
224. Although the discretionary minimum lot size has increased from 5,000m² to 1ha, the controlled minimum lot size has decreased from 4ha to 2ha. In my view, this narrowing of the anticipated range of lots sends a strong signal that lots between 1-2ha are the most appropriate size for the RLZ for the following reasons:
- a. The majority of RLZ land is located in the coastal environment. In this context I consider that 1ha discretionary lots strike a good balance between using land efficiently but not creating visually dense rural development;
 - b. The RLZ also incorporates ODP areas such as Point Veronica and South Kerikeri Inlet Zones, which were much less permissive than the Coastal Living Zone in the ODP with respect to subdivision²². The RLZ minimum lot sizes in SUB-S1 reflect the range of areas that were incorporated into the RLZ – it was not a straight rollover of the Coastal Living subdivision provisions; and

²¹ The other two areas in the ODP that were zoned RLZ were the special areas of Point Veronica and South Kerikeri Inlet, both of which took a more conservative approach to subdivision than the Coastal Living Zone.

²² There is no controlled subdivision pathway under the ODP for the South Kerikeri Inlet Zone and the minimum restricted discretionary lot size is 4ha. Subdivision in the Point Veronica Zone can only be undertaken in accordance with an approved development plan (controlled activity), otherwise the subdivision is non-complying (Rule 13.7.2.1(xii) and (xiv)).



- c. The majority of submissions, presentations at the hearing and hearing statements supported my recommendation of a 2ha controlled, 1ha discretionary minimum lot size.

225. As such, I do not recommend reducing the minimum controlled or discretionary lot sizes in the RLZ any further than the reduction I have already recommended in the RLZ section 42A report.

Recommendation

226. I recommend a consequential amendment to SUB-S1 to replace the reference to the Horticulture Zone with a reference to the Horticulture Precinct.

Section 32AA Evaluation

227. As changing the reference from a Horticulture Zone to a Horticulture Precinct is a consequential amendment resulting from my recommendations in Key Issue 1, it does not require any additional assessment under section 32AA of the RMA.

3.9 Questions from the Hearing Panel

228. This section responds to questions raised by the Hearing Panel at the end of Hearing 9.

Need for impermeable surface controls and HIRB controls in the RPROZ and HZ

229. At the closure of Hearing 9, the Hearing Panel questioned the need for certain standards in the RPROZ and HZ, specifically whether the following types of standards were required:

- a. Impermeable surface controls (the R2 rules in the RPROZ and HZ)
- b. HIRB controls (the S2 standards in the RPROZ and HZ)

230. I have addressed the impermeable surface controls in paragraphs 77-82 of this report where I concluded that there was no scope to delete the R2 rules entirely. However, as noted in paragraph 79, I consider that the retention of the 15% threshold is likely to have a similar effect in practice to having no rule at all, except in situations where there is a particularly small lot already existing in the RPROZ or HZ.

231. With respect to the HIRB controls as they apply to artificial crop protection structures and crop support structures (which I believe to be the key focus of the Panel's question), I found that there was scope to remove the HIRB component of the RPROZ-RX and HZ-RX rules and have recommended this in my mark up of those chapters, for the reasons set out in paragraph 156 of this report.



232. In terms of whether the HIRB standard is necessary in the RPROZ and HZ more generally, I do not consider that there is scope to delete the standard entirely, if that was the Panel's preference. None of the submissions on either RPROZ-S2 or HZ-S2 were to delete the HIRB control, rather there were submissions to either retain it or amend it to exempt artificial crop protection structures and crop support structures. In fact, there seems to be general acceptance from submitters that the HIRB standard serves a clear purpose with respect to managing the location and height of rural buildings and structures relative to boundaries. As such, I do not support the complete removal of the S2 HIRB standard from either the RPROZ or HZ chapters.



Appendices

Appendix 1 – Officers recommended amendments to the RPROZ chapter

Appendix 2 – Officers recommended amendments to the RLZ chapter

Appendix 3 – Officers recommended amendments to the RRZ chapter

Appendix 4 – Officers recommended amendments to the RSZ chapter

Appendix 5 – Officers recommended amendments to the HPFZ chapter

Appendix 6 – Officers recommended amendments to the Definitions chapter and SUB-S1

Appendix 7 – Maps showing the proposed extent of the 100m setback from the HIZ