

Response to Submitter Evidence/Statements where there is Disagreement

Key Issue 1 – Rural Definitions

Issue/Plan Provision	Submitter Evidence	Response
1. 'Highly Productive Land'	<p>Hort NZ (S81.033) [Evidence of Lynette Wharfe, paras 6.11-6.15, p11]</p> <p>Hort NZ original submission sought inclusion of a definition for 'highly productive land'.</p> <p>Section 42A Report recommendation was to reject the submission.</p> <p>Ms Wharfe considers a definition be included 'given the extent to which the term is used in the Plan' (para 6.11)</p> <p>'It is likely that the Plan will need to include a definition of highly productive land once the NPS for Highly Productive Land (NPSHPL) is gazetted. Inclusion of a definition at this stage would anticipate such a change, albeit that it may need to be amended when implementing the NPSHPL.</p> <p>The components of highly productive land are clear, as described in the Introduction of the RPROZ chapter and I would support a definition based on these criteria:</p> <p><i>Highly productive land includes Land Use Capability Class 1-3 soils and Class 7 soils that have a high value for viticultural production'</i></p> <p>(paras 6.14 & 6.15)</p>	<p>I have not changed my position, as set out in paras 4.3.22 & 4.3.23 Vol 1 of Section 42A Report:</p> <p><i>'For the PDP, the decision was made to remove the definition, on the basis that the land deemed 'versatile' (now referred to as 'highly productive land') has been effectively contained within its own purpose-built spatial layer (being the RPROZ – Rural Production Zone). The essence of the definition from the Draft Plan now forms part of the description for that zone in the PDP. The Introduction to the RPROZ – Rural Production Zone chapter in the PDP includes the following text:</i></p> <p>RPROZ – Rural Production Zone</p> <p>Introduction</p> <p>The Rural Production Zone represents the identified concentration of highly productive land centred in and around the Ruataniwha and <u>Takapau</u> Plains and surrounding Waipukurau, <u>Waipawa</u> and <u>Ōtane</u>.</p> <p>The Zone encompasses the contiguous, flat to undulating terrain within the District that collectively supports regionally (and nationally) significant primary production and associated secondary services, based on:</p> <ul style="list-style-type: none"> – an exceptionally high proportion of Class 1-3 soils (comprising almost 25% of the District), – Class 7 soils that are recognised as having very high value for viticultural production (which comprise almost 2% of the District), – its proximity to a cluster of national and international processing industries and associated qualified labour force within the Hawke Bay Region, and – its proximity to the Port of Napier and other regionally strategic transport networks providing efficient transport of produce. <p><i>I consider the above text provides sufficient clarity around what is deemed 'highly productive land' in respect of the PDP, and I do not consider there is any benefit in also inserting a definition for 'Highly Productive Land'. Having a specific definition suggests that the provisions of the Rural Production Zone are only intended to apply to pieces of land which individually meet the definition, which is not the case. The protections applied by the Rural Production Zone apply to the resource as a whole, including pieces within it that may not, of themselves, meet that definition.'</i></p> <p>From my reading of the Discussion Document on the proposed NPS-HPL, the only expectation I can infer from it (as outlined in Policy 1 of the Discussion Document), is that the proposed NPS-HPL will require HPL to be identified/mapped. The responsibility for this is proposed to lie with Regional Councils through the RPS, but Policy 1 also indicates that the proposed NPS-HPL could also allow district plans to identify HPL before it is identified in the RPS.</p>

		<p>Even the 'Interpretation' (section 5.5 of the Discussion Document) outlining what HPL means, focuses on identification and mapping of HPL, as opposed to 'defining' it... however it does also propose an interim definition that would apply until such time as HPL has been identified/mapped in a specific region/district.</p> <p>CHBDC has mapped the HPL for the District and incorporated that into the PDP (RPROZ). I do not concur with Ms Wharfe that the Discussion Document for the proposed NPS-HPL signals that the PDP will also need to include a 'definition' for it.</p>
--	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Key Issue 2 – Strategic Direction – RLR chapter

Issue/Plan Provision	Submitter Evidence	Response
2. RLR-I1 Explanation	<p>Hort NZ (S81.034) [Evidence of Lynette Wharfe, paras 6.20-6.23, p12/13] Hort NZ submission originally sought adding to the list of effects of land fragmentation in the explanation, as follows: <u>'5. Reverse sensitivity can lead to constraints on established rural production operations'</u></p> <p>Section 42A Report (para 5.3.4 Vol 1) recommendation was: <u>'5. New sensitive activities establishing on rural land, with the potential to compromise or constrain the operation of existing lawfully established primary production activities in the vicinity'</u></p> <p>Ms Wharfe considers that 'While reverse sensitivity generally arises from 'sensitive activities' it can also arise from activities that may be incompatible within the rural location – such as a quarry establishing next to an orchard with dust constraining the orchard operation' (para 6.22), and offers the following alternative wording: <u>'5. New sensitive activities establishing on rural land, with the potential to compromise or constrain the operation of existing lawfully established primary production activities in the vicinity'</u> (para 6.23)</p>	<p>In my view, the example given by Ms Wharfe of a new quarry establishing next to an existing orchard operation which creates a dust nuisance for the orchard, is not a reverse sensitivity situation – as it would be the orchard complaining, not the new quarry. A new quarry (other than a farm quarry) would require a consent to establish in any case under the provisions of the PDP as notified.</p> <p>I have not changed my position regarding the recommended additional wording for the explanation supporting Issue RLR-I1, as set out in paras 5.3.3 & 5.3.4 Vol 1 of Section 42A Report:</p> <p><i>'I concur with the submitter that land fragmentation can contribute to increasing reverse sensitivity issues, whereby existing primary production activities can become more and more compromised or constrained by new activities which may be sensitive to the environmental effects generated by those existing primary production activities. The reverse sensitivity implications of land fragmentation is already acknowledged in the Introduction to the RLR – Rural Land Resource chapter.</i></p> <p><i>Therefore, the amendment to the explanation for Issue RLR-I1, sought by Hort NZ, is appropriate in my view, and would further acknowledge this relationship. I recommend the explanation be amended accordingly, but worded slightly differently to the wording proposed by Hort NZ...'</i></p> <p>(subject to the further minor amendment recommended in response to Ms Price evidence for Hatuma Lime & Te Mata Mushrooms, set out below)</p>
3. RLR-I1	<p>Hatuma Lime (S98.006) [Evidence of Claire Price, Section 6.0, p8] Hatuma Lime submission originally submitted in support of retention of Issue RLR-I1 as notified.</p> <p>Section 42A Report recommendation was to add a further item to the explanation in response to Hort NZ submission (refer above).</p> <p>Ms Price considers the intent of s42A recommended amendment to Issue RLR-I1 is appropriate, but requests further amendment to clarify both primary</p>	<p>I am comfortable with the minor amendment sought, as it is more reflective of the types of existing activities in the rural environment that could generate issues of reverse sensitivity.</p> <p>I therefore revise my recommendation and recommend the additional wording for the Explanation of Issue RLR-I1, as suggested by Ms Price, as follows (highlighted grey): <u>5. New sensitive activities establishing on rural land, with the potential to compromise or constrain the operation of existing lawfully established</u></p>

	<p>production activities and existing lawfully established activities to be protected from reverse sensitivity would be more appropriate and would read as follows:</p> <p><i>'5. New sensitive activities establishing on rural land, with the potential to compromise or constrain the operation of existing lawfully established <u>activities and primary production activities in the vicinity (reverse sensitivity).</u></i></p>	<p><u>activities and primary production activities in the vicinity (reverse sensitivity).</u></p>
4. RLR-I1	<p>Te Mata Mushrooms (S102.011) [Evidence of Claire Price, Section 6.0, p8]</p> <p>Te Mata Mushrooms submission originally in support of retention of Issue RLR-I1 as notified.</p> <p>Ms Price considers the intent of s42A recommended amendment to Issue RLR-I1 is appropriate, but requests further amendment to clarify both primary production activities and existing lawfully established activities to be protected from reverse sensitivity would be more appropriate and would read as follows"</p> <p><i>"5. New sensitive activities establishing on rural land, with the potential to compromise or constrain the operation of existing lawfully established <u>activities and primary production activities in the vicinity (reverse sensitivity).</u>"</i></p>	As above.
5. RLR-P3	<p>Hort NZ (S81.041) [Evidence of Lynette Wharfe, paras 6.26-6.32, p13/14]</p> <p>Hort NZ submission originally sought amendment to Policy RLR-P3 as follows:</p> <p><i>'To limit the amount of further fragmentation of the District's rural land resource through <u>limiting-restricting</u> lifestyle subdivision, particularly in the Rural Production Zone'</i></p> <p>In response to various submissions, the Section 42A Report recommendation favoured the wording of the amendment sought by Silver Fern Farms (para 5.3.18 Vol 1), and recommended as follows:</p> <p><i>'To limit the amount of further fragmentation of the District's rural land resource through limiting restricting lifestyle subdivision <u>in the General Rural Zone, and particularly in the Rural Production Zone, and directing lifestyle site subdivision primarily to the Rural Lifestyle Zone</u></i></p> <p>Ms Wharfe considers that '...how the direction is achieved should build on the direction, rather than replicating the same word. The policy would then be:</p> <p><i>'To limit the amount of further fragmentation of the District's rural land resource through <u>limiting-restricting</u> lifestyle subdivision <u>in the General Rural Zone, and particularly in the Rural Production Zone, and directing lifestyle site subdivision primarily to the Rural Lifestyle Zone</u></i></p> <p>'Restricting' provides a clearer direction as to how the policy will be achieved and avoids duplication of the same word within the sentence, which is grammatically preferable' (paras 6.31 & 6.32)</p>	<p>This relates to use of the term 'limit' and 'limiting' in the same policy wording. In para 5.3.19 Vol 1 of Section 42A Report, I had stated:</p> <p><i>'In my view, I do not consider that there is much distinction between using the word 'limiting' or 'restricting' (as sought by Hort NZ), and I do not have a firm preference. It would be helpful if the submitter could provide further planning or legal reasons why one term should be preferred over the other. In the meantime, I recommend retaining the word 'limiting'.'</i></p> <p>I now understand this matter to be solely a grammatical issue, and therefore I revise my recommendation and am comfortable recommending the word 'limiting' be replaced with 'restricting' in the policy, as proposed by the submitter, to make the policy more grammatically correct, as follows (highlighted grey):</p> <p><i>'To limit the amount of further fragmentation of the District's rural land resource through <u>limiting-restricting</u> lifestyle subdivision <u>in the General Rural Zone, and particularly in the Rural Production Zone, and directing lifestyle site subdivision primarily to the Rural Lifestyle Zone</u></i></p>
6. RLR-P3	<p>James Bridge (S105.003) [Legal Submissions from Gascoigne Wicks Lawyers, paras 3-15]</p> <p>James Bridge submission originally sought amendment to Policy RLR-P3 as follows:</p> <p><i>'To limit the amount of further fragmentation of the District's <u>highly productive rural land resource</u> through limiting lifestyle subdivision, particularly within the Rural Production Zone</i></p>	<p>I acknowledge that 'the proposed rules in the plan are an irrelevant consideration when determining a policy since the rules need to reflect the policy, not the other way around', and therefore accept that the 'key thing' as referred in para 5.3.17 Vol 1 of the Section 42A Report is not correct.</p> <p>However, I do not concur that Policy RLR-P3 is solely to implement or give effect to Objective RLR-O3 and that it therefore should be limited to the 'highly productive rural land resource' as sought by the submitter. I disagree that the policy exists in the plan without an objective justifying it.</p>

	<p>In response to various submissions, the Section 42A Report recommendation favoured the wording of the amendment sought by Silver Fern Farms (para 5.3.18 Vol 1), and recommended as follows:</p> <p><i>'To limit the amount of further fragmentation of the District's rural land resource through limiting restricting lifestyle subdivision in the General Rural Zone, and particularly in the Rural Production Zone, and directing lifestyle site subdivision primarily to the Rural Lifestyle Zone'</i></p> <p>The legal submissions for James Bridge consider that the s42A report author has failed to give effect to Objective RLR-O3, which they consider is the key thing which must be considered when determining the appropriate policy:</p> <p>'Policy RLR-P3 must implement or give effect to RLR-O3: that is, the protection of "highly productive land". However, the policy as drafted goes beyond this. This effectively means the policy exists in the plan without an objective justifying it. This is both unlawful and inconsistent with good planning practice.</p> <p>Mr Bridge's submission seeks only to limit the application of the policy to the scope of the relevant objective' (paras 10 & 11).</p> <p>'The submissions in the s42A report are legally problematic.</p> <p>The author states "The key thing is that the wording used in the policy most accurately reflects the rules and standards that flow from it."2 With respect, this statement puts the cart before the horse. As noted above, when conducting a planning exercise, the Council must set objective and then set policies which implement or give effect to those objectives. The purpose of the rules is to determine activity status. The rules should reflect the objectives and policies in the plan. As a matter of law, the proposed rules in the plan are an irrelevant consideration when determining a policy since the rules need to reflect the policy, not the other way around.' (paras 12 & 13)</p>	<p>As I see it, Policy RLR-P3 implements both Objective RLR-O3 <u>and</u> Objective RLR-O2. Objective RLR-O2 refers to the rural land resource not being compromised by inappropriate subdivision, which is then implemented by the policy requiring limiting further fragmentation. Objective RLR-O3, which places a higher order of 'protection' on highly productive land, is reflected in the policy by the last part of the sentence which refers to this applying 'particularly' (i.e. having increased importance) in the RPROZ.</p> <p>In the absence of RLR-P3 referring to the rural land resource, there is no policy which then gives effect to the 'subdivision' aspect of RLR-O2 – I think the use and development aspect is covered by RLR-P4.</p> <p>Therefore, I have not changed my position and remain of the view that the amendment sought by the submitter should be rejected, and that the amendments recommended in response to other submissions are appropriate (including the recommendation above in response to Ms Wharfe's evidence, to make the policy more 'grammatically correct').</p>
7. RLR-P4	<p>Hort NZ (S81.042) [Evidence of Lynette Wharfe, paras 6.33-6.37, p14]</p> <p>Proposed Plan as notified:</p> <p><i>'To provide for a wide range of activities to establish, which complement the resources of the rural area, provided that they do not compromise the primary production role and associated amenity of the rural land resource, particularly in the Rural Production Zone'</i></p> <p>Hort NZ submission originally sought to replace the policy wording with the following:</p> <p><i>'To manage non-primary production activities that have an operational or functional need to locate in a rural location, provided they do not compromise primary production and the associated rural character'</i></p> <p>In response to various submissions, the Section 42A Report recommendation favoured the wording of the amendment sought by Transpower (para 5.3.23 Vol 1), and recommended as follows:</p> <p><i>'To provide for a wide range of activities to establish, which complement the resources of the rural area, provided that they do not <u>unduly</u> compromise the primary production role and associated rural character and amenity of the rural land resource, particularly in the Rural Production Zone, recognising that some</i></p>	<p>Policy RLR-P4 as notified, and as retained in the amended version recommended in the Section 42A Report, addresses 'a wide range of activities' and hence covers both primary production and non-primary production activities. Therefore, I remain of the view that limiting the policy to address only 'non-primary production activities' is inconsistent with the intent of the policy as notified.</p> <p>Otherwise, I am comfortable with restructuring the policy along the lines suggested by Ms Wharfe, and I revise my recommendation and recommend that Policy RLR-P4 be amended as follows (essentially retaining the wording as recommended in the Section 42A Report):</p> <p><i>'To provide for a wide range of activities to establish; in the rural area:</i></p> <ol style="list-style-type: none"> <i>1. which complement the resources of the rural area;</i> <i>2. provided that they do not <u>unduly</u> compromise the primary production role and associated rural character and amenity of the rural land resource, particularly in the Rural Production Zone,</i> <i>3. while recognising that some non-primary production activities have an operational or functional need to locate in a rural area'</i>

	<p><u>non-primary production activities have an operational or functional need to locate in a rural area'</u></p> <p>Ms Wharfe considers a slightly restructured version would provide a clearer direction (para 6.37), as follows:</p> <p><u>'To provide for a wide range of non-primary production activities to establish, in the rural area:</u></p> <p><u>1. which complement the resources of the rural area;</u></p> <p><u>2. provided that they do not unduly compromise the primary production role and associated rural character and amenity of the rural land resource, particularly in the Rural Production Zone;</u></p> <p><u>3. while recognising that some non-primary production activities have an operational or functional need to locate in a rural area'</u></p>	
8. RLR-P4	<p>James Bridge (105.004) [Legal Submissions from Gascoigne Wicks Lawyers, paras 16-23]</p> <p>James Bridge submission originally sought amendment to Policy RLR-P4 as follows:</p> <p><u>'To provide for a wide range of activities to establish, which complement the resources of the rural area, provided that they do not compromise the primary production role and associated amenity of the highly productive rural land resource, particularly within the Rural Production Zone'</u></p> <p>In response to various submissions, the Section 42A Report recommendation favoured the wording of the amendment sought by Transpower (para 5.3.23 Vol 1), and recommended as follows:</p> <p><u>'To provide for a wide range of activities to establish, which complement the resources of the rural area, provided that they do not unduly compromise the primary production role and associated rural character and amenity of the rural land resource, particularly in the Rural Production Zone, recognising that some non-primary production activities have an operational or functional need to locate in a rural area'</u></p> <p>The legal submissions for James Bridge considers the s42A report does not refer to the relevant issues or objectives. It also does not explain why they policy is relevant to all "rural land":</p> <p>'In hindsight, it is now apparent that the deletion of "of the rural area," creates a grammatical error. The operative change sought is at the end of the policy so Mr Bridge no longer seeks that deletion.' (para 19)</p>	<p>I acknowledge that the submitter is no longer seeking deletion of the words 'of the rural area' from the policy.</p> <p>Again, I do not concur that Policy RLR-P4 is solely to implement or give effect to Objective RLR-O3 and therefore should be limited to the 'highly productive rural land resource' as sought by the submitter. I disagree that the policy exists in the plan without an objective justifying it.</p> <p>As I see it, Policy RLR-P4 implements both Objective RLR-O3 and Objective RLR-O2. Objective RLR-O2 (as recommended to be amended in response to submissions) seeks that the primary production role and associated amenity of the District's rural land resource is retained and protected from inappropriate subdivision, 'use and development'. The changes sought by the submitter would mean RLR-O2 would not be given effect to at all.</p> <p>Therefore, I have not changed my position and remain of the view that the amendment sought by the submitter should be rejected, and that amendments recommended in response to other submissions are appropriate (including with the recommended amendment above in response to Ms Wharfe's evidence, to restructure the policy).</p>
9. New Policy RLR-PX	<p>Heretaunga Tamatea Settlement Trust (S120.010) [Evidence of Stephen Daysh, paras 3.1-3.21]</p> <p>HTST submission originally sought the following additional policy:</p> <p><u>RLR-PX Tangata whenua recognise the need for an economically sustainable rural environment which has access to reliable stored water resources to ensure the productive capacity of the land is maintained.</u></p> <p>The Section 42A Report (paras 5.3.27 & 5.3.28 Vol 1 of Section 42A Report), stated:</p>	<p>I note the legal submissions of Council's legal counsel that there is proper basis for the Panel to determine there is scope to consider the merits of the relief now sought, being the addition of a new policy in the RLR – Rural Land Resource chapter of the PDP as follows:</p> <p><u>RLR-PX To provide for an economically sustainable rural environment which has access to reliable stored water resources to ensure the productive capacity of the land is maintained.</u></p>

<p><i>'It is unclear from the submission what resource management issue this is addressing, and the linkages between issue, objectives, policies, and methods in the PDP are unclear to me. In my view, this is more a position statement than a District Plan policy, and does not flow through into any meaningful rules or other methods in support of the policy in the PDP.'</i></p> <p><i>It may be helpful if the submitter could provide further basis for inclusion of such a policy, and an accompanying section 32AA assessment, for the Hearings Panel to consider. In the absence of this, my recommendation is to reject this submission.'</i></p> <p>Mr Daysh considers that the policy has very clear linkages to both a resource management issue (RLR-I1) and the objectives (RLR-O1), policies and methods of the Rural Environment:</p> <p>'The ability for highly productive land to have access to a reliable water source is an essential and critical resource management issue which is of particular concern to mana whenua and all rural landowners involved in rural production across Central Hawke's Bay. The key issue of the Rural Environment states:</p> <p>RLR-I1 Incremental Loss of Highly Productive Land</p> <p>The focus of the PDP is on land fragmentation however, with reducing access to water into the future, it is my opinion that the productive output from the rural land resource across the District over time will diminish if there are no infrastructure interventions to store rainfall in the future.</p> <p>Objective 1 seeks to maintain the productive capacity of the District's rural land resource but there is no consideration in the objectives or policies for how this is to be maintained other than through limiting fragmentation.</p> <p>The introduction to the Strategic Direction 2 states:</p> <p>"Providing for a range and flexibility of land use activities is important for the future in adding diversity and resilience to the rural economy, thereby providing additional employment and economic opportunities to the community. However, this needs to be consciously balanced against the need to protect and retain the rural land resource, in particular the concentration of highly productive land in the District, alongside the health and availability of water".</p> <p>HTST consider that the matters identified in the introduction to the Rural Environment Chapter are not adequately reflected in the objectives and policies of the PDP. As noted above there is a balance between the health and availability of water and resilience of the highly productive rural environment' (paras 3.3-3.7)</p> <p>'RLR-O1 seeks to maintain the productive capacity of the rural land resource. With restrictions on water taken implemented by the HBRC Plan Change 6 in combination with clear evidence of a drying climate on the East coast of the North Island, this "maintain" objective relies on the ability to have ongoing access to water for growing' (para 3.16)</p> <p>Section 32AA Evaluation appended to Mr Daysh's evidence:</p> <p><u>'Effectiveness and efficiency</u></p> <p>The recommended new policy RLR-PX fills a critical gap in the policy regime of the PDP associated with the active policy support for water storage activities to</p>	<p>Turning now to the merits of the relief sought, while recognising the importance of access to water resources is a resource management issue for Central Hawke's Bay, I do not share the view that maintaining the productive capacity of the District's rural land resource (Objective RLR-O1) requires access to water.</p> <p>In the rural environment of the District, there is land identified as highly productive that has little or no access to water at this time. However, maintenance of productive capacity of this land does not rely on access to water, stored or otherwise – rather, access to water would 'enhance' the productive capacity of the rural land resource.</p> <p>On that basis, I do not consider it necessary to have the policy requested by the submitter in order to achieve Objective RLR-O1, and I have concern that such a policy (as currently worded) could inadvertently be used to claim that highly productive land is not highly productive due to having a lack of reliable stored water. This could then be offered up as an argument in support of fragmentation via subdivision, or loss of productive land through covering it with inappropriate development.</p> <p>Further, water storage itself, and the allocation of water, are functions of the Hawke's Bay Regional Council, and are not matters required to be addressed by the PDP. In that respect, I remain of the view that the submission of Heretaunga Tamatea Settlement Trust on this matter should be rejected and, to this extent, I have not changed my position.</p> <p>However, as mentioned above, I accept that reliable stored water resources and associated infrastructure do enable the productive capacity of land to be enhanced. Therefore, if the Panel is of a mind to include a policy of this nature, I suggest alternative wording to avoid some of the issues I have identified above (and better reflecting Policy POL LW1 of the Hawke's Bay Regional Policy Statement), as follows:</p> <p><u>'RLR-PX To provide for an economically sustainable rural environment which has access to reliable stored water resources to ensure the productive capacity of the land is maintained To recognise the value of reliable stored water resources and associated water storage infrastructure, where it provides increased water availability and security for water users, in enhancing the productive capacity of the rural land resource, while avoiding, remedying or mitigating adverse effects on freshwater values.'</u></p> <p>Note: Policy POL LW1 of the RPS is reproduced below, to assist the Panel:</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>enable the maintenance of primary production from the District's land resource and is therefore its inclusion will be more effective than the notified PDP that js no reference to the important nexus between water storage activities and productive land use.</p> <p>Policy RLR-PX better promotes the efficient use and development of natural and physical resources as set out in Section 7b) of the RMA through actively acknowledging that, with future predicted climate change leading to a drier Central Hawke's Bay District in the future coupled with substantial restrictions in primary producers access to surface and groundwater to support growing food and other crops codified in HBRC Plan Change 6, than the notified PDP.</p> <p><u>Costs/Benefits</u></p> <p>Through providing for an economically sustainable rural environment linking stored water with productive rural land use, Policy PLR-PX recognises the substantial economic costs that will accrue to the District if secure water supply can not be accessed for today's community and future generations to support their economic wellbeing. In comparison, the PDP as notified has no direct policy support for this critical issue.</p> <p><u>Risk of acting or not acting</u></p> <p>If recommended Policy RLR-PX is not included in the PDP there is clearly a risk that existing and future resource consents seeking to capture and store rainwater, that would otherwise pass through the District, are not supported by a directive policy in the Central Hawke's Bay District Plan.</p> <p><u>Decision about most appropriate action</u></p> <p>The hearings panel has a choice between no policy support linking stored water resources to the objective of the maintenance of the productive use of the District's land resource (in the notified PDP) and the inclusion of Policy PLR-PX as recommended in my client's submission. In planning terms, it is my opinion that the inclusion of Policy RLR-PX fills a significant policy void in the PDP as notified, and its inclusion in the PDP is the most appropriate option in terms of these two choices.'</p> <p>In verbal submissions to the Panel at the Hearing, Mr Daysh referred the Panel to sub-clause (k) of Policy POL-LW1 of the Hawke's Bay Regional Policy Statement, as being the key RPS policy of relevance, and that the PDP must give effect to.</p> <p>Mr Daysh offered the following revised wording for the new policy (highlighted grey):</p> <p><u><i>RLR-PX – Tangata whenua recognise the need for To provide for an economically sustainable rural environment which has access to reliable stored water resources to ensure the productive capacity of the land is maintained.</i></u></p> <p>In response to a question from the Chair as to whether there is scope to widen the policy, Mr Daysh verbally indicated that he considered the revised wording of the policy to be within scope of the original submission, stating that the issue is a 'whole of community' one, and tangata whenua are advocating that position on behalf of the whole community.</p>	<p>POL LW1 Problem solving approach - Catchment-based integrated management</p> <p>1. Adopt an integrated management approach to fresh water and the effects of land use and development within each catchment area, that:⁵</p> <ul style="list-style-type: none"> b) provides for mātauranga a hapū and local tikanga values and uses of the catchment; c) provides for the inter-connected nature of natural resources within the catchment area, including the coastal environment; cA) recognises and provides for the need to protect the integrity of aquifer recharge systems; cB) recognises and manages the co-existing values of wetland habitat and agricultural production; d) gives effect to provisions relating to outstanding freshwater bodies arising from the implementation of Policy LW1A; dA) maintains, and where necessary enhances, the water quality of those outstanding freshwater bodies identified in the catchment, and where appropriate, protects the water quantity of those outstanding freshwater bodies; e) promotes collaboration and information sharing between relevant management agencies, iwi, landowners and other stakeholders; f) takes a strategic long term planning outlook of at least 50 years to consider the future state, values and uses of water resources for future generations; g) aims to meet the differing demand and pressures on, and values and uses of, freshwater resources to the extent possible; gA) involves working collaboratively with the catchment communities and their nominated representatives; h) ensures the timely use and adaptation of statutory and non-statutory measures to respond to any significant changes in resource use activities or the state of the environment; iC) avoids development that limits the use or maintenance of existing electricity generating infrastructure or restricts the generation output of that infrastructure; iD) provides opportunities for new renewable electricity generation infrastructure where the adverse effects on the environment can be appropriately managed; iE) recognises and provides for existing use and investment; j) ensures efficient allocation and use of fresh water within limits to achieve freshwater objectives; and k) enables water storage infrastructure where it can provide increased water availability and security for water users while avoiding, remedying or mitigating adverse effects on freshwater values.
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Key Issue 3 – Functional Need for Rural Location

Issue/Plan Provision	Submitter Evidence	Response
10. RPROZ-P7	<p>Hort NZ (S81.152) [Evidence of Lynette Wharfe, paras 6.38-6.44, p15]</p> <p>Hort NZ submission originally sought, and Section 42A Report recommended, the following amendment:</p> <p><i>RPROZ-P7 To ensure activities do not locate in the Rural Productive Zone where the activity:</i></p> <ol style="list-style-type: none"> <i>1. has no functional or operational need for a rural location and will be inconsistent with the primary productive purpose and predominant character of the Rural Productive Zone;</i> <i>2. will constrain the establishment and use of land for primary production;</i> <i>3. exhibits no exceptional or unusual features that would differentiate it from possible later applications, which in combination would lead to incremental creep of urban activities and/or sporadic urban activities onto the highly productive land of the District; and/or</i> <i>4. will result in reverse sensitivity and/or lead to land use conflict</i> <p>Ms Wharfe considers 'that it would be more appropriate for the new clause recommended to be added to RPROZ-P7 be a standalone clause rather than inserting it into the proposed clause 1' (as originally sought), and offers the following revised wording (highlighted grey) (para 6.43):</p> <p><i>'RPROZ-P7 To ensure activities do not locate in the Rural Productive Zone where the activity:</i></p> <ol style="list-style-type: none"> <i>1. has no functional or operational need for a rural location; and</i> <i>2. will be inconsistent with the primary productive purpose and predominant character of the Rural Productive Zone;</i> <i>3. will constrain the establishment and use of land for primary production;</i> <i>4. exhibits no exceptional or unusual features that would differentiate it from possible later applications, which in combination would lead to incremental creep of urban activities and/or sporadic urban activities onto the highly productive land of the District; and/or</i> <i>5. will result in reverse sensitivity and/or lead to land use conflict'</i> <p>'This would be consistent with the recommended change to GRUZ-P7 in a similar policy where the functional or operational need is a separate clause' (para 6.44)</p>	<p>The 'and/or' used in the policy means an activity needs to only meet one of the listed criterion to mean decision makers must 'ensure' they do not locate in the zone. 'Ensure' is a strong directive term, in line with 'avoid', so adding a new category of activities to the list should, in my view, be done cautiously.</p> <p>The separation of (1) in the s42A recommendation will make no difference where an activity:</p> <ul style="list-style-type: none"> - Has a functional need and is consistent with the purpose and character of the RPZ (consistent with policy); - Has neither a functional need nor is consistent with the purpose and character of the RPZ (inconsistent with policy); <p>However, the following activities would be assessed differently if (1) is separated:</p> <ul style="list-style-type: none"> - an activity which has a functional need for a rural location but is inconsistent with the purpose and character of the RPZ (consistent with s 42A version but inconsistent with current suggestion); - an activity which has no functional need for a rural location but which is consistent with the purpose and character of the RPZ (consistent with s 42A version but inconsistent with current suggestion). <p>I am unclear whether Hort NZ intended to create an exception in the policy where an activity that might be inconsistent with rural character nevertheless had a functional need to locate there, but that is the effect of their relief sought. It did not actually seek to create a new category of inappropriate activities, and no person had the opportunity to oppose that possibility. Therefore, I consider splitting the recommended criterion (1) into two separate criteria expands the scope of the policy beyond what was sought in the Hort NZ submission and it would be inappropriate to agree with the change now sought.</p> <p>On that basis, I have not changed my position from that outlined in para 6.3.3 Vol 1 of Section 42A Report, as follows:</p> <p><i>RPROZ-P7 To ensure activities do not locate in the Rural Productive Zone where the activity:</i></p> <ol style="list-style-type: none"> <i>1. has no functional or operational need for a rural location and will be inconsistent with the primary productive purpose and predominant character of the Rural Productive Zone;</i> <i>2. will constrain the establishment and use of land for primary production;</i> <i>3. exhibits no exceptional or unusual features that would differentiate it from possible later applications, which in combination would lead to incremental creep of urban activities and/or sporadic urban activities onto the highly productive land of the District; and/or</i> <i>4. will result in reverse sensitivity and/or lead to land use conflict.</i>

Key Issue 4 – RPROZ Objectives & Policies

Issue/Plan Provision	Submitter Evidence	Response
11. RPROZ-O5	<p>Federated Farmers (S121.205) [Evidence of Rhea Dasent, paras 18-21, p3/4]</p> <p>Federated Farmers submission originally sought the following amendment: <u>RPROZ-O5 Adverse effects of activities that are inconsistent with the existing primary production land uses and rural character are managed to maintain rural character and amenity</u></p> <p>Section 42A Report recommendation was to reject and retain as notified.</p> <p>Ms Dasent considers 'concern is that seeking to manage any and all effects that are part of farming will send the message that farming effects are intolerable or unacceptable' (para 18)</p> <p>Remain concerned that the objective will inadvertently perpetuate reverse sensitivity against normal farming activities and undermines the 'right to farm' strategic direction of the rural zones' (para 20)</p> <p>Still want following: <u>'RPROZ-O5 Adverse effects of activities that are inconsistent with the existing primary production land uses and rural character are managed to maintain rural character and amenity'</u></p>	<p>I have not changed my position, as set out in para 2.3.7 Vol 2 of Section 42A Report:</p> <p><i>'I do not accept Federated Farmers' position that the focus of the objective should be on those adverse effects that are not consistent with the rural character and farming land uses, as adverse effects are potentially generated by any activity. The subsequent rule framework includes Permitted Activity standards that apply to all activities, as well as standards that apply to specific activities, including activities associated with primary production.'</i></p>
12. RPROZ-O5	<p>Hort NZ (S81.144) [Evidence of Lynette Wharfe, paras 7.3-7.8, p16/17]</p> <p>Hort NZ submission originally sought following amendment: <u>'RPROZ-O5 Adverse effects of activities that are inconsistent with the existing primary production land uses and rural character Non-primary production related activities are managed to maintain ensure that adverse effects do not compromise rural character and amenity or create reverse sensitivity effects'</u></p> <p>Section 42A recommended reject and retain as notified.</p> <p>Ms Wharfe considers 'While RPROZ-O6 does address reverse sensitivity I consider that RPROZ-O5 is very broad in terms of application, as identified in the submission of Federated Farmers and that adverse effects may be managed for a range of purposes – not necessarily exclusively for maintaining rural character and amenity.</p> <p>In my opinion, it is the activity, not the adverse effects, that are managed so the objective could be better worded to reflect this intent' (paras 7.7 & 7.8): <u>'Adverse effects of Activities are managed to ensure that adverse effects do not compromise maintain rural character and amenity'</u></p>	<p>I have not changed my position, as set out in para 2.3.8 Vol 2 of Section 42A Report:</p> <p><i>'I do not accept Hort NZ's position that the focus of the objective should be on non-primary production activities and avoiding reverse sensitivity effects – in any case, this matter is sufficiently addressed in Objective RPROZ-O6'</i></p> <p>However, I am comfortable with the revised wording provided by the Ms Wharfe, as I concur that it is the activity, not the adverse effects, that are to be managed, and recommend the following amendment: <u>RPROZ-O5 Adverse effects of Activities are managed to ensure that adverse effects do not compromise maintain rural character and amenity</u></p>
13. RPROZ-P2	<p>Silver Fern Farms (FS8.047 in support of Hort NZ (S81.147)) [Evidence of Steven Tuck, paras 4.2-4.4, p6/7]</p> <p>Silver Fern Farms supported the submission of Hort NZ, which originally sought to replace the policy as follows: <u>RPROZ-P2 To allow activities of a limited scale, which support the function and wellbeing of rural communities and/or enjoyment of the rural environment and contribute to the vitality and resilience of the District's economy, where adverse</u></p>	<p>I concur that the requested further amendment is appropriate to clarify that the policy is intended to apply to all non-primary production activities with a functional or operational need for a rural location.</p> <p>Therefore, I revise my recommendation, and recommend the following amendment (highlighted grey): <u>'To provide for non-primary production related activities...'</u></p>

	<p><u>effects are avoided, remedied or mitigated Provide for non-primary production activities that have a functional need or operational need for a rural location that are managed to ensure that:</u></p> <ol style="list-style-type: none"> <u>1. Their scale, intensity and built form are in keeping with the rural character of the rural environment.</u> <u>2. They maintain a level of amenity in keeping with the rural character of the rural environment.</u> <u>3. They minimise reverse sensitivity effects on existing rural production activities, intensive farming, mineral extraction or rural industrial activities.</u> <u>4. Adverse effects are avoided, remedied or mitigated.</u> <p>In response to various submissions, Section 42A Report recommended the following amendment (paras 2.3.16 – 2.3.20 Vol 2):</p> <p>RPROZ-P2 To allow activities of a limited scale, which support the function and wellbeing of rural communities and/or enjoyment of the rural environment and contribute to the vitality and resilience of the District's economy, where adverse effects are avoided, remedied or mitigated <u>To provide for non-primary production related activities that have a functional need or operational need for a rural location, and where they are managed to ensure that:</u></p> <ol style="list-style-type: none"> <u>1. their scale, intensity and built form are in keeping with the rural character of the Rural Production Zone;</u> <u>2. they maintain a level of amenity in keeping with the rural character of the Rural Production Zone;</u> <u>3. they minimise reverse sensitivity effects on activities otherwise anticipated within the Rural Production Zone; and</u> <u>4. adverse effects are avoided, remedied or mitigated.</u> <p>Mr Tuck generally supports the recommended amendment, but considers that 'the first clause should be further refined to delete the term "related" from the phrase "...non-primary production related activities". It seems to indicate an intent to only 'provide for' non-primary production activities that have no connection with primary production (e.g. a network utility). My concern in this regard is that in providing for "...non-primary production related activities", the policy omits to provide for primary production related activities, such as rural industry. No other provisions provide for non-primary production activities that do relate to primary production' (para 4.3 of Mr Tuck's evidence)</p>	<p>Note: refer also to revised recommended amendments in respect of this policy in response to matters arising in Key Issue 19 below.</p>
14. RPROZ-P2	<p>Te Mata Mushrooms (S102.067) [Evidence of Claire Price, para 8.1-8.5, p10/11]</p> <p>Te Mata Mushrooms submission originally sought clarification as to what type of activities are envisaged in this policy. They consider that it is 'Unclear as to whether this policy is referring to tourism, recreation and educational type land uses, or commercial and industrial activities'.</p> <p>In response to various submissions, Section 42A Report recommended the following amendment (paras 2.3.16 – 2.3.20 Vol 2):</p> <p>RPROZ-P2 To allow activities of a limited scale, which support the function and wellbeing of rural communities and/or enjoyment of the rural environment and</p>	<p>I am unsure whether there is scope within the original submission from Te Mata Mushrooms to make the amendment requested.</p> <p>Irrespective, I consider the policy wording recommended in the Section 42A Report is appropriate, and I have not changed my position.</p> <p>Note: refer also to revised recommended amendments in respect of this policy in response to matters arising in Key Issue 19 below.</p>

	<p>contribute to the vitality and resilience of the District's economy, where adverse effects are avoided, remedied or mitigated To provide for non-primary production related activities that have a functional need or operational need for a rural location, and where they are managed to ensure that:</p> <p><u>1. their scale, intensity and built form are in keeping with the rural character of the Rural Production Zone;</u></p> <p><u>2. they maintain a level of amenity in keeping with the rural character of the Rural Production Zone;</u></p> <p><u>3. they minimise reverse sensitivity effects on activities otherwise anticipated within the Rural Production Zone; and</u></p> <p><u>4. adverse effects are avoided, remedied or mitigated.</u></p> <p>Ms Price considers 'Building in reverse sensitivity matters to Policy 2 is considered appropriate. However, I consider the wording use could be better aligned with RLR-AER5 and RPROZ-P7(4) so it reads...' (para 8.2 of Ms Price's evidence) as follows:</p> <p><u>3. they minimise potential reverse sensitivity effects on activities otherwise anticipated within the are managed and land use conflict avoided Rural Production Zone; and</u></p>	
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Key Issue 5 – GRUZ Issues, Objectives & Policies

Issue/Plan Provision	Submitter Evidence	Response
15. GRUZ-O2	<p>Hort NZ (S81.105) [Evidence of Lynette Wharfe, para 7.11, p17]</p> <p>Ms Wharfe notes that the tracked change version of this objective is not consistent with the recommendation in the Section 42A Report. 'For completeness, the words 'rural and land based' should be deleted from GRUZ-O2(2)'</p>	<p>I agree this is in error – the tracked change GRUZ chapter requires correction accordingly, to delete the words 'rural and land based' from Objective GRUZ-O2(2), to be consistent with the recommendation in para 3.3.6 Vol 2 of Section 42A Report.</p>
16. GRUZ-O3	<p>Federated Farmers (S121.176) [Evidence of Rhea Dasent, para 24, p4]</p> <p>Ms Dasent advises that Federated Farmers are still pursuing the following amendment:</p> <p>'GRUZ-O3 Adverse effects of activities <u>that exceed limits</u> are managed to maintain rural character and amenity and, where applicable, the natural character and amenity values within the coastal environment'</p>	<p>I have not changed my position, as outlined in para 3.3.7 & 3.3.8 Vol 2 of Section 42A Report:</p> <p>'Objective GRUZ-O3 addresses the adverse effects of activities on rural character and amenity, and I note the level of support for its retention.</p> <p>I concur with Federated Farmers' position to the extent that some effects that might be considered adverse in other environments are acceptable and consistent with farming land uses. However, I do not agree that those effects are properly described as 'adverse' in the context of this zone. The subsequent rule framework includes Permitted Activity thresholds and standards that apply and these represent levels of effect that are not considered sufficiently adverse as to warrant control. I do not consider it correct for the Objective to refer to 'adverse effects that exceed limits', because that suggests that effects below those limits might be 'adverse' which I do not consider to be correct. On that basis, I do not support the change requested.'</p>

17. GRUZ-O3	<p>Hort NZ (FS17.84 in support of Federated Farmers (S121.176)) [Evidence of Lynette Wharfe, paras 7.12 & 7.13, p17/18]</p> <p>Federated Farmers submission originally sought the following amendment, and Hort NZ further submitted in support:</p> <p><i>'GRUZ-O3 Adverse effects of activities that exceed limits are managed to maintain rural character and amenity and, where applicable, the natural character and amenity values within the coastal environment'</i></p> <p>Ms Wharfe considers 'GRUZ-O3 is similar to RPROZ-O5 discussed above in that it should be the activity being managed, not the adverse effects', and would be better worded as follows (paras 7.12 & 7.13):</p> <p><i>'Adverse effects of Activities are managed to maintain rural character and amenity and, where applicable, the natural character and amenity values within the coastal environment'</i></p>	<p>I have not changed my position, as set out in paras 3.3.7 & 3.3.8 Vol 2 of Section 42A Report (outlined above).</p> <p>Hort NZ are a further submitter to Federated Farmers in this regard, and I do not consider there is scope to amend the wording as suggested in the evidence of Ms Wharfe.</p> <p>However, if the Panel is of a mind to carry the same wording across as recommended above for the equivalent Objective RPROZ-O5, this may be able to be done as a clause 16 RMA amendment.</p>
18. GRUZ-P7	<p>Hatuma Lime (S98.016) [Evidence of Claire Price, paras 7., p8/9]</p> <p>Hatuma Lime submission originally supported retention of GRUZ-P7 as notified.</p> <p>Hatuma Lime submission also originally sought amendment of Objective RLR-O2, as follows:</p> <p><i>'The primary production role, lawfully established activities (such as quarries) and associated amenity of the District's rural land resource is retained, and is not compromised by inappropriate subdivision, use and development.'</i></p> <p>Ms Price considers 'in the General Rural Zone Chapter there are no references to protect lawfully established land uses in the zone. Activities that may not be categorised entirely as primary production activities, yet are operating within consented or authorised parameters, are still vulnerable to reverse sensitivity from new sensitive activities.</p> <p>To that end, I consider further amendments to GRUZ Policy 7 would pull through the explanation in RLR Issue 1 (subclause 5) into a policy format that gives plan uses direction on matters arising between lawfully established activities and potential reverse sensitivity effects and reads:</p> <p><i>GRUZ-P7 To ensure incompatible activities do not locate in the General Rural Zone where the activity will:</i></p> <ol style="list-style-type: none"> <i>1. will undermine the primary productive purpose and predominant character of the General Rural Zone;</i> <i>2. will constrain the establishment and use of land for primary production; and/or</i> <i>2a. will, or potentially, undermine the effective operation of lawfully established activities;</i> <i>3. will result in reverse sensitivity and/or lead to land use conflict; and/or</i> <i>4. does not have a functional or operational need for a rural location.'</i> <p>Ms Price considers these amendments are within scope of submission points S98.007 and S98.016. (paras 7.2 & 7.3 of Ms Price's evidence)</p>	<p>The s42A report rejected the submission in relation to Objective RLR-O2, as outlined in para 5.3.8 Vol 1 of Section 42A Report, as follows:</p> <p><i>'I do not agree with Hatuma Lime that the objective should be broadened to reference 'lawfully established activities (such as quarries)'. In my view, the focus of the RLR – Rural Land Resource objectives is on protecting the productive capacity of the District's rural land resource and its primary production role. To broaden the objective to cover all lawfully established activities would significantly dilute that strategic direction, in my view. In any case, the relief sought is unnecessary because lawfully established activities have existing use rights pursuant to section 10 of the RMA. Further, I do not consider there is any reason to single out quarries.'</i></p> <p>In response to another submission from Hort NZ, the s42A report recommended the following amendment to Policy GRUZ-P7 (para 6.3.3 Vol 1 of Section 42A Report):</p> <p><i>GRUZ-P7 To ensure incompatible activities do not locate in the General Rural Zone where the activity will:</i></p> <ol style="list-style-type: none"> <i>1. will undermine the primary productive purpose and predominant character of the General Rural Zone;</i> <i>2. will constrain the establishment and use of land for primary production; and/or</i> <i>3. will result in reverse sensitivity and/or lead to land use conflict; and/or</i> <i>4. does not have a functional or operational need for a rural location.</i> <p>I do not consider that a submission specifically on Objective RLR-O2, can somehow be alternatively achieved through revised wording of a policy in the GRUZ chapter (Policy GRUZ-P7) that the submitter originally sought be retained as notified.</p> <p>Therefore, I do not consider there is scope within the original submission from Hatuma Lime to add new clause 2a as requested (or, indeed, scope within any other submissions relating to this policy), and I have not changed my position.</p>

Key Issue 6 – RPROZ Rules, Standards, Assessment Matters etc

Issue/Plan Provision	Submitter Evidence	Response
<p>19. RPROZ-R1 (RPROZ-AM6)</p> <p>RPROZ-R7 (RPROZ-AM7)</p>	<p>Hort NZ (S81.155, S81.160) [Evidence of Lynette Wharfe, paras 7.18-7.22, p18/19]</p> <p>Hort NZ submissions originally sought that the assessment matters for a number of specific activities be included in the rules where consent would be required such as RPROZ-R1 Residential Activity, R7 Home Business.</p> <p>The Section 42A Report recommendation was to reject these submissions.</p> <p>Ms Wharfe considers that 'the assessment matters are valuable to assist in ensuring that an activity complies with the objectives and policies of the Plan and that it should be clear that the assessment matters will be considered. At present they are not even referenced where an activity defaults to a discretionary activity – such as RPROZ-R1 2) 3) or RPROZ-R7 2) 3).</p> <p>To provide clarity in the Plan I consider that the relevant assessment matters should be listed where they may be considered as part of a discretionary activity.' (paras 7.21 & 7.22)</p>	<p>I have not changed my position, as set out in paras 4.3.9 & 4.3.10 Vol 2 of Section 42A Report (and similar in paras 4.3.16 & 4.3.17 Vol 2):</p> <p><i>'Assessment Matter RPROZ-AM6 is a broad set of assessment matters for assessing the effects of residential activities on the sustainable management of the soil resource and on the character and amenity of adjoining activities and the surrounding rural environment in a more general sense (not in response to an infringed standard). Therefore, adding Assessment Matter RPROZ-AM6 to the list of matters in Rule RPROZ-R1(2) is not in keeping with the rule framework adopted in the PDP.</i></p> <p><i>On that basis, I do not recommend adding Assessment Matter RPROZ-AM6 to the list of matters to which discretion is restricted in Rule RPROZ-R1(2).'</i></p> <p>Further, I consider the most recent request may not be within scope of Hort NZ's original submission.</p> <p>In any case, the Proposed Plan addresses this at the beginning of the Assessment Matters section with an all-encompassing note stating <i>'For Discretionary Activities, Council's assessment is not restricted to these matters, but it may consider them (among other factors'.</i></p> <p>Otherwise, a similar 'qualifier' would have to be inserted in each and every one of the affected rules in the PDP when referencing those Assessment Matters in clause 3 of the rules.</p>
<p>20. RPROZ-S1 Activity Thresholds</p>	<p>Hort NZ (S81.167) [Evidence of Lynette Wharfe, paras 7.29-7.36, p19/20]</p> <p>Hort NZ submission seeks deletion of aspects of Standard RPROZ-S1 Activity Thresholds relating to 'restaurants'.</p> <p>Ms Wharfe considers 'Restaurants are a 'commercial activity' and RPROZ-P9 applies – to avoid establishment of commercial activities that are unrelated to the primary productive purpose of the zone.</p> <p>In my opinion providing for restaurants as a permitted activity does not meet the objectives and policies of the Plan and is an inappropriate activity to be provided for as a permitted activity – even with limitations as set out in RPROZ-S1.</p> <p>Requiring a resource consent will ensure an adequate assessment of effects on the productive land resource, effects on rural character, and potential reverse sensitivity effects from incompatible activities' (paras 7.33-7.35)</p>	<p>I note that 'Restaurant' is defined in the PDP as <i>'any land and/or buildings, or part of a building, in which meals are regularly supplied for sale to the general public for consumption on the premises, including such premises for which a licence has been granted pursuant to the Sale and Supply of Alcohol Act 2012'.</i></p> <p>I have not changed my position, as set out in paras 4.3.27-4.3.29 Vol 2 of Section 42A Report:</p> <p><i>'In my view, provision for small-scale restaurants with a gross floor area limited to 100m2 and maximum capacity of 40 customers, is reasonable and can be complementary in the rural environment – noting that such activities would also have to comply with the 15m setback from neighbours (Standard RPROZ-S6). This would allow for small cafés, coffee stops, and perhaps small-scale dining experiences associated with vineyards/wineries or other primary production activities, to serve and add to the vibrancy of rural communities.</i></p> <p><i>If the separate threshold for restaurants is deleted from Standard RPROZ-S1, then the default threshold for commercial activities would apply in any case – which also imposes a 100m2 gross floor area limit, but also personnel limits. However, the commercial activity threshold does not impose customer capacity or hours of operation thresholds. Retention of</i></p>

		<p><i>the 'restaurants' activity threshold specifically recognises the different characteristics of restaurants, as distinct from other commercial activities. On that basis, I recommend that Standard RPROZ-S1(5), (6) and (7) relating to 'restaurants' be retained, as notified.'</i></p>
21. RPROZ-S6 Setback from Neighbours	<p>Hort NZ (S81.172, and FS17.77 opposing Surveying the Bay submission (S128.002) – refer Key Issue 6, para 4.3.44-4.3.47 Vol 2 of Section 42A Report) [Evidence of Lynette Wharfe, paras 7.37-7.56, p20-22]</p> <p>Firstly, Hort NZ submission (S81.172) sought a 30m setback for residential activities from internal boundaries in the RPROZ.</p> <p>Ms Wharfe considers 'Examples of plans with larger setbacks for residential activity are Western Bay of Plenty District and Tasman District which have setbacks of 30m and Central Otago has 25m. These are all horticultural growing areas that have recognised that a large setback assists in addressing potential conflicts and incompatibilities' (para 7.39)</p> <p>'It is the separation from the primary production activity that HortNZ is seeking to better manage through the application of a larger setback.</p> <p>The s42A Report contends that a 30m setback for residential activities would result in substantially more land being lost from production but does not produce any evidence to support this contention.</p> <p>The land surrounding a residential activity is still available for primary production use. In fact, more productive land could be lost by locating a residential activity adjacent to a boundary, thereby sterilising the neighbouring property from productive use in an effort to avoid reverse sensitivity effects, which is contrary to the objectives and policies of the zone.</p> <p>I note that the larger setback is only sought in the Rural Production Zone, not the General Rural Zone, because of the need to protect highly productive land for primary production activities.</p> <p>There is clear policy direction in the plan to enable primary production without being compromised by other activities such as RLR-P4, RLR-P5 and RPROZ-P5.</p> <p>In my opinion, providing a 30m setback for residential activities from the boundary would assist in achieving the policy direction in the Plan.' (paras 7.39-7.47 of Ms Wharfe's evidence)</p> <p>Secondly, Hort NZ (FS17.77) also further submitted in opposition to Surveying the Bay submission to include exceptions to the setback from boundaries, to allow small sites created under the Operative District Plan to apply a 5m side yard setback (instead of 15m as proposed in the PDP).</p> <p>'The s42A Report (4.3.42) concurs that a 5m setback is not conducive to avoiding sensitive activities location close to and potential compromising primary production activities.</p> <p>Yet in 4.3.44-4.3.46 the writer recommends that a 5m setback apply to sites that were created prior to 28 May 2021.</p>	<p>In relation to the request for a 30m setback from internal boundaries in the Rural Production Zone for residential activities, I have not changed my position as set out in paras 4.3.39-4.3.40 Vol 2 of Section 42A Report:</p> <p><i>'Hort NZ also seeks the imposition of a greater setback requirement specifically applying to residential buildings (30m from internal boundaries), to better reflect the clear policy direction in the PDP to avoid compromising primary production. I accept that the PDP has a clear policy direction around enabling primary production in rural areas without being compromised by other activities demanding higher levels of amenity (refer Policies RLR-P4 & RLR-P5 and Policy RPROZ-P5). However, in my view, the current 15m setback requirement is appropriate, and I note that a 30m separation is achieved when applied on both sides of a shared boundary – which is the approach adopted in the adjacent Hastings District.</i></p> <p><i>I consider that imposing a 30m setback for residential activities could also result in substantially more land inadvertently being lost from production in the effort to make new dwellings comply with the PDP, especially if applied on both sides of a shared boundary which could result in a 60m separation between. This would be inconsistent with the overarching strategic direction in the PDP to protect the District's highly productive land for primary production and minimise its loss (Objectives RLR-O1 & RLR-O2). Therefore, I do not support the amendment sought by Hort NZ in this respect.'</i></p> <p>However, I do concur with the submitter that the recommendation in response to the Surveying the Bay submission to include exceptions to the setback from boundaries, to allow small sites created under the Operative District Plan to apply a 5m side yard setback (instead of 15m as proposed in the PDP) should relate to those site <u>'less than' 4000m2</u> (rather than those 'greater than' 4000m2, as had been recommended in para 4.3.47 Vol 2 of Section 42A Report). Therefore, I revise my recommendation, as follows (highlighted grey):</p> <p><u>'Sites created before 28 May 2021 and greaterless than 4000m2 net site area</u></p> <p><u>Where a subdivision consent application to create a site is lodged with Council before 28 May 2021, and accepted under section 88 of the RMA 1991 and thereafter granted'</u></p> <p>This would apply similarly to applicable Standards RPROZ-S6, GRUZ-S5 & RLZ-S5.</p> <p>I consider this would then be a recommendation to 'Accept in part' the further submission of Hort NZ in this regard (rather than outright 'Reject').</p>

	<p>While there may be issues relating to the ability to meet an enlarged setback, a 5m setback is likely to lead to the types of effects that the Plan is seeking to manage and minimise.</p> <p>It is recognised that there is an issue for sites that were created when the Plan provided for a lesser setback.</p> <p>Tasman District has a provision that if the site was created prior to the current plan and is less than 2500m2 then a lesser setback of 5m can apply.</p> <p>...The recommended change to RPROZ-S6 is for sites created before 28 May 2021 and greater than 4000m2 net site area.</p> <p>I consider that it would be more appropriate that the change was limited to sites <u>less</u> than 4000m2 as those of a greater size would have the ability to accommodate a larger setback under the new plan.</p> <p>Therefore I support a setback for residential activities of 30m and a more focused set of provisions for sites created before May 2021' (paras 7.43-7.56)</p>	
--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Key Issue 7 – GRUZ Rules, Standards, Assessment Matters etc

Issue/Plan Provision	Submitter Evidence	Response
22. GRUZ-R1 (GRUZ-AM5)	<p>Hort NZ (S81.112) [Evidence of Lynette Wharfe, para 7.59, p23]</p> <p>Hort NZ submissions originally sought that the assessment matters for a number of specific activities be included in the rules where consent would be required such as GRUZ-R1 Residential Activity.</p> <p>The s42A report rejected these submissions</p> <p>Ms Wharfe refers back to para 7.18 of her evidence, considers that the assessment matters are valuable to assist in ensuring that an activity complies with the objectives and policies of the Plan and that it should be clear that the assessment matters will be considered. At present they are not even referenced where an activity defaults to a discretionary activity.</p> <p>To provide clarity in the Plan, considers that the relevant assessment matters should alternatively be listed where they may be considered as part of a discretionary activity.</p>	<p>I have not changed my position, as set out in paras 5.3.3-5.3.5 Vol 2 of Section 42A Report:</p> <p><i>'Assessment Matter GRUZ-AM5 is a broad set of assessment matters for assessing the effects of residential activities on the sustainable management of the soil resource and on the character and amenity of adjoining activities and the surrounding rural environment in a more general sense (not in response to an infringed standard). Therefore, adding Assessment Matter GRUZ-AM5 to the list of matters in Rule GRUZ-R1(2) is not in keeping with the rule framework adopted in the PDP.</i></p> <p><i>On that basis, I do not recommend adding Assessment Matter GRUZ-AM5 to the list of matters to which discretion is restricted in Rule GRUZ-R1(2).</i></p> <p><i>For clarification, where the assessment matters in GRUZ-AM5 do act as a useful list for consideration is in the assessment of residential activities that do not comply with the conditions in Rule GRUZ-R1(1)(a) as a Discretionary Activity (Rule GRUZ-R1(3)). This is acknowledged and anticipated in the 'Note' that sits at the front of the Assessment Matters sections in the various chapters across the PDP, which states as follows: 'For Discretionary Activities, Council's assessment is not restricted to these matters, but it may consider them (among other factors)'</i></p> <p>I am also unconvinced that the most recent request is within scope in terms of Hort NZ's original submission.</p> <p>In any case, the Proposed Plan addresses this at the beginning of the Assessment Matters section with an all-encompassing note stating <i>'For Discretionary Activities, Council's assessment is not restricted to these matters, but it may consider them (among other factors).'</i></p>

		Otherwise, a similar 'qualifier' would have to be inserted in each and every one of the affected rules in the PDP when referencing those Assessment Matters in clause 3 of the rules.
23. GRUZ-S1 Activity Thresholds	<p>Hort NZ (S81.123) [Evidence of Lynette Wharfe, para 7.60, p23] Hort NZ submission seeks deletion of aspects of Standard GRUZ-S1 Activity Thresholds relating to 'restaurants'.</p> <p>Ms Wharfe refers back to paras 7.33-7.35 of her evidence, considers 'Restaurants are a 'commercial activity' and GRUZ-P9 applies – to avoid establishment of commercial activities that are unrelated to the primary productive purpose of the zone.</p> <p>In my opinion providing for restaurants as a permitted activity does not meet the objectives and policies of the Plan and is an inappropriate activity to be provided for as a permitted activity – even with limitations as set out in GRUZ-S1.</p> <p>Requiring a resource consent will ensure an adequate assessment of effects on the productive land resource, effects on rural character, and potential reverse sensitivity effects from incompatible activities.'</p>	<p>I have not changed my position, as set out in paras 5.3.17-5.3.19 Vol 2 of Section 42A Report:</p> <p><i>'In my view, provision for small-scale restaurants with a gross floor area limited to 100m2 and maximum capacity of 40 customers, is reasonable and can be complementary in the rural environment – noting that such activities would also have to comply with the 15m setback from neighbours (Standard GRUZ-S5). This would allow for small cafés, coffee shops, and perhaps small-scale dining experiences associated with vineyards/wineries or other primary production activities, to serve and add to the vibrancy of rural communities.</i></p> <p><i>If the specific threshold for restaurants is deleted from Standard GRUZ-S1, then the default threshold for commercial activities would apply in any case – which also imposes a 100m2 gross floor area limit, but also personnel limits. However, the commercial activity threshold does not impose customer capacity or hours of operation thresholds. Retention of the 'restaurants' activity threshold specifically recognises the different characteristics of restaurants, as distinct from other commercial activities.</i></p> <p><i>On that basis, I recommend that Standard GRUZ-S1(5), (6) and (7) relating to 'restaurants' be retained, as notified.'</i></p>
24. GRUZ-S5 Setback from Neighbours	<p>James Bridge (S105.023) [Legal submissions from Gascoigne Wicks Lawyers, paras 31-43] James Bridge submission seeks that Standard GRUZ-S5(2) be amended as follows:</p> <p><i>'All Other Activities (excluding Accessory Buildings</i></p> <p><i>2. Minimum setback of building for an activity from internal boundaries is 15m, except as between sites of 2.5ha or less where the minimum setback is 5m.</i></p> <p><i>Domestic water storage tanks up to 2m in height are exempt from this standard.'</i></p> <p>The Section 42A Report recommendation was to reject this submission, as outlined in para 5.3.32 Vol 2 of Section 42A Report:</p> <p><i>'In terms of the amendment sought by James Bridge to apply a reduced 5m setback for sites comprising 2.5ha or less in Standard GRUZ-S5, I concur with Hort NZ that greater setbacks from primary production sites should be retained in order to ensure that reverse sensitivity issues adjacent to primary production sites are addressed. Therefore, I do not support the amendment as sought by James Bridge. However, I note my recommendation in Key Issue 6 of this report, in response to a submission from Surveying the Bay (S128.002) seeking to include exceptions in the Rural Zones of the Proposed Plan to allow small sites created under the previous (currently operative) District Plan to apply a reduced side yard setback (refer sections 4.3.44 to 4.3.47 of this report). This may go some way to addressing some of the submitter's concerns.'</i></p>	<p>In light of the legal submissions presented on behalf of the submitter, I realise there has been some misunderstanding of the relief sought. My recommendation in the Section 42A Report did not fully appreciate that the submitter was seeking a smaller setback in situations <u>only where both sites</u> on either side of the boundary were 2.5ha or less.</p> <p>I consider that there will be situations where a lesser setback may be appropriate, particularly where the boundary is between two residential lifestyle sites. However, some sites of 2.5ha or less in the General Rural Zone may still be accommodating existing primary production activity. In that case, there may still be potential for reverse sensitivity issues to arise, that warrants consideration.</p> <p>However, there are already options available to developers in this regard.</p> <p>In the case of a subdivision in the General Rural Zone, Standard SUB-S4(1) of the PDP requires:</p> <p><i>'For each lot capable of containing a residential dwelling, at least one stable building platform of 30 metres by 30 metres must be identified which is capable of (but is not limited to) containing a dwelling, a vehicle manoeuvring area and any accessory buildings, in compliance with the performance standards and performance criteria for the zone where it is located (including dwelling setbacks applicable to that zone)'</i></p> <p>In a situation where a subdivision is unable to nominate a complying building platform, the potential adverse effects of this become part of</p>

	<p>The legal submissions for James Bridge considers 'The effect of the amendment is to allow as a permitted activity a reduced setback of 5m from the boundary between relatively smaller lots in the General Rural Zone (i.e. lots 2.5ha or less)' (para 34 of legal submissions).</p> <p>'Many smaller lots in the General Rural Zone are clustered to minimise their impact on rural landscape values and natural character. Allowing smaller lots to cluster their dwellings will further facilitate this effort.</p> <p>The standard as currently drafted when combined with the proposed reduced minimum lot size in SUB-S2 to 2,500m² (which is supported by the 42A report) is likely to leave permitted lots with no permitted building platform:</p> <p>(a) Suppose you have a lot at the proposed minimum permitted size of 2,500m² and suppose that lot is perfectly square. The side of each lot would be 50 m. Requiring a setback of 15 m from all sides would leave a potential building platform of only 20m by 20m.</p> <p>(b) Most residential lots in the General Rural Zone are not square. The more irregular the smaller the permitted building platform will be. If the side of a lot is reduced to 40m, then the resulting permitted building platform will be only 10m wide which is unworkable' (para 36 of legal submissions).</p> <p>'The 42A reports principal reason for rejecting the submission is that "greater setbacks from primary production sites should be retained in order to ensure that reverse sensitivity issues adjacent to primary production sites are addressed". I submit that this issue is not engaged by the amendment proposed:</p> <p>The proposed amendment to the standard would only apply to internal boundaries "between sites of 2.5ha or less". Such sites are unlikely to be primary production sites and, if they are, they are unlikely to be of significance. The edges of clusters of smaller residential lots which are adjacent to large lots with primary production sites will continue to be subject to the 15m setback standard.</p> <p>Since the proposed amendment would not actually give rise to the situation raised by the s 42A author, their concern should be disregarded.</p> <p>The concerns raised by Horticulture NZ mirror those of the s 42A author and are addressed above' (paras 40-43 of legal submissions).</p>	<p>Council's consideration of the application. In situations like this, developers often apply for a land use consent to reduce setback requirements between sites at the same time as applying for subdivision consent.</p> <p>In the case of development of sites already established, I note that there is the option of applying for a Deemed Permitted Boundary Activity approval (pursuant to s87BA of the RMA), where written approval from the affected adjoining neighbour has been obtained.</p> <p><i>'For any proposals requiring resource consent due to the infringement of District Plan rules, it may be determined at this pre-application stage that the proposed activity is a 'boundary activity' (defined in section 87AAB(1) as an activity that "requires a resource consent because of the application of 1 or more boundary rules, but no other district rules,...and no infringed boundary is a public boundary."'). If a proposed activity is a 'boundary activity', the council must treat the proposal as a permitted activity, and give notice to this effect, as long as written approval is provided by the relevant neighbour(s) and certain information is supplied to the council.'</i> (Quality Planning website)</p> <p>On that basis, I have not changed my position.</p>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Key Issue 8 – Rural Lifestyle Zone

Issue/Plan Provision	Submitter Evidence	Response
25. RLZ-S5 Setback from Neighbours	<p>Hort NZ (S81.138, and FS17.77 opposing Surveying the Bay submission (S128.002) addressed in Key Issue 6 – refer para 4.3.44-4.3.47 Vol 2 of Section 42A Report) [Evidence of Lynette Wharfe, paras 7.67-7.80, p23/24]</p> <p>Hort NZ submission originally sought that the setbacks in RLZ-S5 include a separation distance from the boundary of the General Rural Zone or the Rural Production Zone of 15m (the Section 42A Report recommendation is to accept this aspect, as outlined in para 6.3.4 Vol 2 of Section 42A Report).</p> <p>Ms Wharfe considers 'However as a result of submissions by Surveying the Bay in Key Issue 6 the s42A Report is recommending that there be provisions for</p>	<p>I am comfortable with the further amendment sought in Ms Wharfe's evidence, to the recommended amendments for Standard RLZ-S5 sought by Surveying the Bay. I agree that at the zone boundary, there is a legitimate concern around greater potential for reverse sensitivity between a rural lifestyle-zoned site and an adjoining RPROZ or GRUZ site.</p> <p>Therefore, in my view, it is reasonable to apply a minimum 15m setback for residential activities from the zone boundary in the Rural Lifestyle Zone, and I agree that this is not necessarily an onerous requirement given 5m would still apply on all other boundaries.</p>

	<p>sites created before 28 May 2021 to have a minimum setback of 5m for residential activity.</p> <p>I do not support 5m setback of a rural lifestyle residential activity 5m from the zone boundary as the potential reverse sensitivity effects are significant' (paras 7.70 & 7.71 of Ms Wharfe's evidence)</p> <p>'I do not regard this to be an onerous requirement given 5m would still apply on other side or rear boundaries' (para 7.79)</p> <p>Hort NZ therefore seeks revised amendment to RLZ-S5(3) by adding (highlighted grey):</p> <p><u>'3. Minimum setback of buildings for a residential activity from internal boundaries is 5m, except where located on a boundary with the General Rural Zone or Rural Production Zone where 15m will apply.'</u></p>	<p>I also note the option of a reduced boundary setback, with written approval from the affected adjoining neighbour, to be treated as a Deemed Permitted Boundary Activity pursuant to s87BA of the RMA.</p> <p>On this basis, I revise my recommendation and recommend the following revised wording (highlighted grey):</p> <p><i>RLZ-S5 Setbacks from Neighbours</i></p> <p><u><i>Sites created before 28 May 2021 and less than 4000m2 net site area</i></u></p> <p>...</p> <p><u><i>3. Minimum setback of buildings for a residential activity from internal boundaries is 5m, except where located on a boundary with the General Rural Zone or Rural Production Zone where 15m will apply.</i></u></p> <p><u><i>4. ...</i></u></p> <p><i>[Note: As per the recommendations above in relation to equivalent RPROZ-S6 & GRUZ-S5, the above provision also needs to be amended to apply 5m setback to sites created prior to PDP where 'less than' 4000m2, rather than 'greater than' 4000m2]</i></p>
--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Key Issue 9 – Shading from Trees

Issue/Plan Provision	Submitter Evidence	Response
<p>26. GRUZ-P6 / RPROZ-P6</p> <p>GRUZ-S6 / RPROZ-S7</p> <p>GRUZ-AM2 / RPROZ-AM2</p>	<p>Hort NZ (S81.110, S81.151, S81.128 & S81.173, and FS17.115 & FS17.154 in support of Pork Industry Board submissions) [Evidence of Lynette Wharfe, paras 7.81-7.102, p24-27]</p> <p>Hort NZ's submission originally sought amendments to Policies GRUZ-P6/RPROZ-P6 to refer to 'manage location of trees', and sought either returning to the equivalent provisions as set out in the Operative District Plan, or further supported other submissions to delete the standards altogether. Hort NZ also further submitted in support of deleting Assessment Matters GRUZ-AM2/RPROZ-AM2.</p> <p>The s42A report recommended amendments to Policies GRUZ-P6/RPROZ-P6, but did not recommend deletion of Standards GRUZ-S6/RPROZ-S7 or Assessment Matters GRUZ-AM2/RPROZ-AM2 (as outlined in paras 7.3.1-7.3.14 Vol 2 of Section 42A Report).</p> <p>The Section 42A Report also recommended changing references to 'Shading of Land and Roads' to 'Effects of Continuous Tree Planting'.</p> <p>Ms Wharfe supports the recommended changes to the policies from 'avoid' to 'manage' (para 7.85 of Ms Wharfe's evidence), but opposes the recommended amendments 'which change the focus from 'adverse effects of shading from trees' as notified to 'adverse effects of continuous tree planting along boundaries'.</p> <p>This is a significant shift in the policy intent away from shading of trees, which no submitter sought' (paras 7.86 & 7.87 of Ms Wharfe's evidence)</p>	<p>I have not changed my overarching position that the proposed provisions in the PDP should address the potential adverse effects of continuous planting along boundaries on adjoining land and roads, and are an improvement on the Operative District Plan provisions they seek to replace, as stated in para 7.3.6 Vol 2 of Section 42A Report:</p> <p><i>'Unlike the Operative District Plan provisions which capture 'any tree planting (except for amenity tree planting) within 10m of the boundary of any property', the approach taken in the PDP is to capture only trees forming a continuous line for a distance of more than 20m within 10m of a property boundary or road boundary. In that respect, I do not agree with Hort NZ that reinstatement of the provisions of the Operative District Plan would be preferable in this respect. I consider the Operative District Plan provisions are more draconian, more complex to interpret (e.g. require determining whether trees will grow to 'shade a public road between the hours of 10am and 2pm on the shortest day of the year', and to 'shade a residential unit on a neighbouring property between the hours of 9am and 4pm on the shortest day of the year'), and introduce a third party written permission component from the affected landowner (a third party approval in this manner, is potentially ultra vires and in any event is not best practice). I also note that where the Operative District Plan standard is not met, the any tree planting other than amenity planting is deemed a Discretionary Activity. Under the provisions of the PDP, non-compliance with this standard would fall to a Restricted Discretionary activity status.'</i></p>

	<p>'The objectives of both GRUZ and RPROZ recognise the primary production activities in the zones and adverse effects are managed to maintain rural character.</p> <p>I do not find support in the objectives to amend the policy as recommended because the planting of trees contributes to rural character and are part of primary production activities.</p> <p>The standards in GRUZ-S6 and RPROZ-S7 set rules which covers all boundaries regardless of the proximity of a sensitive activity on an adjoining property. They are an arbitrary set of provisions regardless of the effects – both positive and adverse.</p> <p>There is no rationale or reasons set out in the s32 Report for the prescribed distances and heights.</p> <p>Submitters sought that the standards be deleted and HortNZ sought that provisions in the operative plan be used to replace the standards.</p> <p>The provisions in the operative plan provide a clear measurable outcome regarding shading by having a standard linked to shading of public roads between 10am – 2pm on the shortest day or residential units on neighbouring properties between 9am – 4pm on the shortest day. Such measures address the potential adverse effects and suitable species can be selected to meet that requirement and are targeted at specific areas which may be sensitive to shading from trees.</p> <p>Hastings District Plan has a rule in the Rural Zone for shading of land, buildings and roads (5.2.5G) which is limited to shelterbelts of more than 20m to be setback 5m from the boundary or the boundary of a road. There is no limitation on height. The outcome sought is that adjoining land will not be significantly adversely affected by shading and safety of roads will be maintained' (paras 7.91 to 7.97 of Ms Wharfe's evidence)</p> <p>Hort NZ consider that a number of changes to the provisions are appropriate and seek the following changes:</p> <p>a) Amend GRUZ-P6 and RPSOZ-P6: <i>Manage location of trees so that adjoining public roads and properties are not adversely affected by shading.</i></p> <p>b) RPROZ-S6 and GRUZ-S6 by deleting clause 1 b)</p> <p>c) Amend GRUZ-AM2 and RPROZ-AM2 by deleting clause 1a).</p> <p>Such an approach would be consistent with Hastings District Plan and address the issues of shading that were in the notified Plan' (paras 7.101 & 7.102 of Ms Wharfe's evidence)</p>	<p>Originally, the intent was to align these provisions with similar provisions contained in the Hastings District Plan, and I referred to, and included an excerpt of, Standard 6.2.5H Shading of Land, Buildings and Roads' (from the Plains Production Zone in the Hastings District Plan) in para 7.3.5 Vol 2 of my Section 42A Report. The Plains Production Zone in the Hastings District Plan is similar to the Rural Production Zone in the Central Hawke's Bay PDP.</p> <p>I note that Ms Wharfe refers to 'Standard 5.2.5G Shading of Land, Buildings and Roads' applying in the Rural Zone in the Hastings District Plan in her evidence (para 7.97 of Ms Wharfe's evidence) and offers a revised set of changes to the provisions which she identifies 'would be consistent with Hastings District Plan and address the issues of shading that were in the notified Plan' (para 7.102 of Ms Wharfe's evidence). The Rural Zone in the Hastings District Plan is similar to the General Rural Zone in the Central Hawke's Bay PDP.</p> <p>It is important to note here that Standards 5.2.5G and 6.2.5H in the Hastings District Plan differ. Standard 6.2.5H is almost 'word for word' the same as Standards GRUZ-S6 & RPROZ-S7 in the PDP – applying both minimum distance <u>and</u> height limitation clauses. Standard 5.2.5G however, does not contain the height limitation clause (being clause (1)(ii) in Standard 6.2.5H).</p> <p>The Hastings District Plan standards also refer to '<i>trees forming a shelterbelt for a distance of more than 20 metres</i>', whereas the Central Hawke's Bay PDP standards refers to '<i>trees forming a continuous line for a distance of more than 20 metres</i>'. This was an attempt in the PDP not to specifically single out shelterbelts, and I still support this approach.</p> <p>Ms Wharfe's recommended tracked changes appended to her evidence, are as follows (highlighted grey):</p> <ol style="list-style-type: none">1. Amend Policies GRUZ-P6 and RPROZ-P6, as follows: <i><u>To avoid adverse effects of shading from trees on adjoining roads and properties. Manage location of trees so that adjoining public roads and properties are not adversely affected by shading.</u></i>2. Deleting clause (1)(b) from Standards GRUZ-S6 and RPROZ-S7, as follows: <table border="1"><tr><th colspan="2">GRUZ-S6 / RPROZ-S7 Shading of Land and Roads</th></tr><tr><td>Trees on boundaries</td><td><ol style="list-style-type: none">1. <i>Trees forming a continuous line for a distance of more than 20 metres on a side or rear boundary of a property under separate ownership:</i><ol style="list-style-type: none"><i>a. must be planted a minimum distance of 5m from an adjoining property boundary and be maintained so that the branches do not extend over that boundary; and</i><i>b. where planted a distance between 5m and 10m from an adjoining property boundary, must be maintained at a height of no more than their distance from the boundary +4m (for example, at a distance</i></td></tr></table>	GRUZ-S6 / RPROZ-S7 Shading of Land and Roads		Trees on boundaries	<ol style="list-style-type: none">1. <i>Trees forming a continuous line for a distance of more than 20 metres on a side or rear boundary of a property under separate ownership:</i><ol style="list-style-type: none"><i>a. must be planted a minimum distance of 5m from an adjoining property boundary and be maintained so that the branches do not extend over that boundary; and</i><i>b. where planted a distance between 5m and 10m from an adjoining property boundary, must be maintained at a height of no more than their distance from the boundary +4m (for example, at a distance</i>
GRUZ-S6 / RPROZ-S7 Shading of Land and Roads						
Trees on boundaries	<ol style="list-style-type: none">1. <i>Trees forming a continuous line for a distance of more than 20 metres on a side or rear boundary of a property under separate ownership:</i><ol style="list-style-type: none"><i>a. must be planted a minimum distance of 5m from an adjoining property boundary and be maintained so that the branches do not extend over that boundary; and</i><i>b. where planted a distance between 5m and 10m from an adjoining property boundary, must be maintained at a height of no more than their distance from the boundary +4m (for example, at a distance</i>					
27. GRUZ-P6 / RPROZ-P6 GRUZ-S6 / RPROZ-S7	<p>Federated Farmers (S121.183, S121.212, S121.195 & S121.225) [Evidence of Rhea Dasent, paras 33-38, p5/6]</p> <p>Federated Farmers submission sought amendments to Policies GRUZ-P6 & RPROZ-P6 to refer to 'manage' rather than 'avoid', and deletion of Standard GRUZ-S6/RPROZ-S7.</p>					

	<p>The Section 42A Report recommendation was to amend the Policies GRUZ-P6/RPROZ-P6, but not to delete Standards GRUZ-S6/RPROZ-S7 (as outlined in paras 7.3.1-7.3.13 Vol 2 of Section 42A Report).</p> <p>Ms Dasent considers there is continued concern about the impact of these provisions on shelterbelts, and concern that 'An unnecessary limitation on tree planting will have a deleterious effect on farming' (para 34 of Ms Dasent's evidence)</p> <p>'isn't convinced that the scale of the issue of shading justifies the strict level of regulation. The policy is specific in that it is the shading of trees that is the problem... The multiple facets focusing on tree height, length of the shelterbelt and a tree envelope contribute to a rule that is overly complicated, and redundant if the trees are on the southern side of the road' (para 35 of Ms Dasent's evidence)</p> <p>Does not support changing the emphasis from 'shading of land and roads' to 'effects of continuous planting', and does not agree matters like health of vegetation; health of livestock; fire risk and safety risk of windfall are relevant issues – 'These issues are already dealt with through biosecurity regulations for vegetation health, animal welfare regulations for livestock health, Worksafe for safety, the Property Law Act 2007 for neighbour nuisance issues, and Electricity (Hazards from Trees) Regulations 2003 for trees near powerlines' (para 36 of Ms Dasent's evidence)</p> <p>'Even plantation forestry doesn't have rules for the length of continuous planting, nor a maximum height, nor a tree envelope. Instead, the NES-PF 2017 Section 14 has a 10m setback from boundaries and must not shade a road between 10am and 2pm on the shortest day. Shelterbelts should not have more stringent rules than plantation forestry under the NES-PF' (para 37 of Ms Dasent's evidence)</p> <p>Agrees with amendments proposed by Lynette Wharfe for Hort NZ.</p>	<table><tr><td></td><td><p><i>of 5m from the boundary, the height limit is 9m; at a distance of 9m from the boundary, the height limit is 13m).</i></p></td></tr><tr><td><p><i>Trees adjoining public roads</i></p></td><td><p>2. <i>Trees forming a continuous line for a distance of more than 20 metres within 5 metres of a public road must be maintained at a height of less than 9 metres.</i></p></td></tr></table> <p>3. Delete clause (1)(a) from Assessment Matters GRUZ-AM2 and RPROZ-AM2, as follows:</p> <p><i>'GRUZ-AM2 / RPROZ-AM2 Shading of Land and Roads</i></p> <p>1. <i>Trees on Boundaries</i></p> <p><i>a. The degree to which planting within the setback area can adversely affect the health of vegetation or stock, or cause a significant increase in the risk of fire.</i></p> <p><i>b. The degree to which the planting of trees will overshadow adjoining sites and result in reduced sunlight and daylight, and/or result in the loss of productive land.</i></p> <p><i>c. The degree to which trees may potentially damage structures due to wind fall or root growth.</i></p> <p>2. <i>Trees adjoining Public Roads</i></p> <p><i>a. The degree to which planting will cause shading and ice forming on roads in winter, or root damage to the road.</i></p> <p><i>b. The degree to which trees may potentially cause a road safety risk due to wind fall.'</i></p> <p>Ms Dasent, in para 38 of her evidence, agreed with the amendments suggested by Ms Wharfe (above – Note: Federated Farmers have not submitted in respect of Assessment Matters GRUZ-AM2 & RPROZ-AM2 however).</p> <p>It would appear from the evidence of Ms Wharfe (Hort NZ) and Ms Dasent (Federated Farmers), that they do not consider the adverse effects of continuous trees along boundaries on the health of vegetation or stock, or the risk of fire, as being particular issues for Central Hawke's Bay, and that it is only shading effects that they consider warrant any consideration in the PDP.</p> <p>I have considered their evidence and, given that both these parties represent those most likely to be affected by the provisions on either side of the 'boundary', I am comfortable with the revised amendments to Standards GRUZ-S6 & RPROZ-S7 and Assessment Matters GRUZ-AM2 & RPROZ-AM2 suggested by Ms Wharfe (above), if the Panel is of a mind to agree. I revise my recommendations accordingly.</p> <p>However, I recommend that the revised wording of Policies GRUZ-P6 & RPROZ-P6 still follow the word structure employed throughout the PDP, as follows (highlighted grey):</p> <p><u><i>'To manage location of trees so that adjoining public roads and properties are not adversely affected by shading.'</i></u></p>		<p><i>of 5m from the boundary, the height limit is 9m; at a distance of 9m from the boundary, the height limit is 13m).</i></p>	<p><i>Trees adjoining public roads</i></p>	<p>2. <i>Trees forming a continuous line for a distance of more than 20 metres within 5 metres of a public road must be maintained at a height of less than 9 metres.</i></p>
	<p><i>of 5m from the boundary, the height limit is 9m; at a distance of 9m from the boundary, the height limit is 13m).</i></p>					
<p><i>Trees adjoining public roads</i></p>	<p>2. <i>Trees forming a continuous line for a distance of more than 20 metres within 5 metres of a public road must be maintained at a height of less than 9 metres.</i></p>					

Key Issue 10 – Rural Noise

Issue/Plan Provision	Submitter Evidence	Response
28. NOISE-S5 (27), (28) & (29) – Audible Bird Scaring Devices	<p>Hort NZ (S81.103) [Evidence of Lynette Wharfe, paras 7.105-7.113, p27/28]</p> <p>Ms Wharfe considers:</p> <p>‘NOISE S5 (27-29) provides for audible bird scaring devices subject to three standards.</p> <p>HortNZ sought that Standard 29 be amended to 65dB A_{SEL} rather than 50dBA LA_E.</p> <p>A level of 65dB A_{SEL} is consistent with other district plans:</p> <p>Western Bay of Plenty, Horowhenua, Gisborne, Marlborough, Whangarei and Hurunui are all based on 65dBA.</p> <p>The s42A Report (8.3.4) refers to a discussion with the acoustic expert who considers that 50dB LA_E is necessary to manage that audible avian distress alarm type of bird scaring devices.</p> <p>In my opinion, such an approach is penalising users of percussive audible bird scaring devices which can operate at 65dBA SEL.</p> <p>Some plans, such as Hastings, have different standards for the different devices.</p> <p>I support that approach because the limits then reflect the effects of the different devices.</p> <p>In my opinion S5(29) could be amended as follows:</p> <p><u>Where audible sound is used over a short of variable time duration no event from an avian distress alarm shall exceed 50dBA LA_E or 65dBA SEL from a percussive audible bird scaring device when assessed at the notional boundary of any other site in the General Rural, Rural Production Zone or Rural Lifestyle Zone or within the site boundary of any site in the General Residential or Settlement Zones</u>’ (paras 7.105-7.113 of Ms Wharfe’s evidence)</p>	<p>I defer to the response in the Memorandum from Marshall Day Acoustics in this matter (appended to this Right of Reply) and note that there has been no other expert noise evidence presented to the Panel.</p> <p>On that basis, I have not changed my position as set out in paras 8.3.4-8.3.6 Vol 2 of Section 42A Report:</p> <p><i>‘I have discussed Hort NZ’s proposed amendments to clauses 27 & 29 of Standard NOISE-S5 relating to ‘audible bird scaring devices’ with Council’s acoustic expert, Damian Ellerton (Marshall Day Acoustics) who has advised that the measurement and assessment position for noise for Rural Lifestyle zoned land should be ‘within the notional boundary’.</i></p> <p><i>However, in his view, the change to the proposed noise limits for bird scaring devices is not recommended, for the following reasons:</i></p> <p><i>‘The audible bird scaring provisions proposed are intended to control the two commonly used forms of bird scaring – percussive blast (shots) and audible avian distress alarm systems.</i></p> <p><i>The proposed 50dB LA_E is used to control the audible avian distress alarm type bird scaring devices as these can operate for a variable duration – and the LA_E acoustic parameter is a function of ‘loudness’ and time by its definition. I have reviewed several of the other District Plans referenced by HortNZ and their use of a higher limit – 65dBA SEL. The Plans referenced are using SEL in that case to control their percussive bird scaring noise and not the audible avian distress alarm type. CHBDP proposes L_zpeak noise limit of 100dB for percussive bird scaring noise because it is more practical way to measure that type of noise.’</i></p> <p><i>On the basis of the acoustic advice above, I recommend that Standard NOISE-S5(27) & (29) be amended to alter the measurement and assessment position for noise in Rural Lifestyle zoned land (but not the amendment sought to the proposed noise limit in clause 29) ...’</i></p>
29. NOISE-S5 (30) – Frost Fans	<p>Hort NZ (S81.104) [Evidence of Lynette Wharfe, paras 7.114-7.120, p28]</p> <p>Hort NZ’s submission sought that the noise level for frost fans be amended to 65dB LA_{eq} 15min, and for measurement at the notional boundary for the Rural Lifestyle Zone.</p> <p>Ms Wharfe states ‘The s42A Report writer has discussed this with the acoustic consultant, who recommends amendment to measurement at the notional boundary but sets out three reasons why he considers an increase in the noise level is not appropriate.</p> <p>I disagree with the reasons provided because mediation in the Environment Court is confidential to the parties in the room and general consensus of acoustic experts in a specific case should not be taken as a precedent for a district plan rule.</p> <p>While the Environment Court adopted a limit of 55dB LA_{eq} in Marlborough there are other plans that have a higher limit, including Hastings.</p>	<p>I defer to the response in the Memorandum from Marshall Day Acoustics in this matter (appended to this Right of Reply) and note that there has been no other expert noise evidence presented to the Panel.</p> <p>On that basis, I have not changed my position as set out in paras 8.3.7-8.3.9 Vol 2 of Section 42A Report:</p> <p><i>‘As for bird scaring devices above, I have discussed Hort NZ’s proposed amendments to clause 30 of Standard NOISE-S5 relating to ‘frost fans’ with Council’s acoustic expert, Damian Ellerton (Marshall Day Acoustics) who has similarly advised that the measurement and assessment position for noise for Rural Lifestyle zoned land should be ‘within the notional boundary’.</i></p> <p><i>However, in his view, the change to the proposed noise limits for frost fans is not recommended, for the following reasons:</i></p> <p><i>‘I disagree that a noise level of 65dB LA_{eq} within notional boundary of rural dwelling or at any point within Residential Zone as permitted by Hastings District Plan is appropriate for three reasons. Firstly, a number of other District Plans</i></p>

	<p>I note that the proposed provision is taken over a 10minute time frame whereas the Environment Court decision had a 15 minute timeframe over which the noise would be assessed.</p> <p>A 15 minute time frame better provides for the fluctuations in sound from a frost fan.</p> <p>In my opinion NOISE S5 (30) should be amended to 55dB LAeq (15 mins)' (paras 7.114-7.120 of Ms Wharfe's evidence)</p>	<p><i>(Marlborough and Hurunui) use 55dB LAeq noise limit – which compared to typical night-time noise limit of 40-45dB LAeq is a generous relaxation in and of itself. Secondly, I am aware of active Environment Court mediation regarding this issue in Central Otago and the general consensus amongst experts is the current noise limit of greater than 55dB LAeq is not appropriate or best practice. Thirdly, Environment Court decision 2014 NZEnvC 154 between Marlborough District Council and HortNZ/NZ Winegrowers included a noise limit of 55dB LAeq be used.'</i></p> <p><i>On the basis of the acoustic advice above, I recommend that Standard NOISE-S5(30) be amended to alter the measurement and assessment position for noise in Rural Lifestyle zoned land (but not the amendment sought to the proposed noise limit)...</i></p>
--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Key Issue 11 – Rural Subdivision

Issue/Plan Provision	Submitter Evidence	Response
30. SUB-R5 Subdivision to create a Lifestyle Site(s)	<p>Hort NZ (S81.081) [Evidence of Lynette Wharfe, paras 7.121-7.135, p29/30]</p> <p>Hort NZ's submission sought RDIS status for lifestyle subdivision in the RPROZ in the first instance, rather than CON.</p> <p>The Section 42A Report recommendation was to reject this submission.</p> <p>Ms Wharfe states 'I do not concur with the assessment (9.3.27) that a controlled activity status is appropriate in the Rural Production Zone.</p> <p>The objectives and policies are very clear about enabling primary production activities, avoiding fragmentation, maintaining rural character and avoiding reverse sensitivity effects' (paras 7.126 & 7.127 of Ms Wharfe's evidence)</p> <p>'I do not consider that a policy direction of 'avoid' can be achieved through a controlled activity consent.</p> <p>The rule framework needs to enable a full evaluation of the effects of the subdivision and the ability to decline the application if it is shown to contribute to fragmentation of land or limit the use of land for primary production purposes.</p> <p>A default activity standard of Discretionary where standards cannot be met is appropriate' (paras 7.132-7.134 of Ms Wharfe's evidence)</p>	<p>I have not changed my position as set out in para 9.3.27 Vol 2 of Section 42A Report:</p> <p><i>'With respect to the submissions seeking a more restrictive activity status for rural lifestyle subdivision in the Rural Production Zone (Hort NZ & Silver Fern Farms), I concur that the Rural Production Zone warrants greater protection from land fragmentation given the significance of the District's highly productive land as a valuable and finite resource. However, I consider the current Controlled activity status for complying rural lifestyle subdivision provides clear messaging to landowners about what rural lifestyle subdivision is anticipated and deemed acceptable in the zone, and defaulting to Discretionary enables full consideration of the adverse effects on the environment for those rural lifestyle subdivisions that do not comply with the Controlled Activity conditions.'</i></p> <p>I disagree with the submitter that a Controlled Activity status does not accord with the policy direction given that the conditions that apply to lifestyle subdivision in the RPROZ include a requirement that (Rule RPROZ-R5):</p> <ul style="list-style-type: none"> – the lifestyle site is based around an existing residential unit that has a net site area less than 12ha (clause (5)(a)(i)); and – that no additional sites are created and amalgamation of the balance lot is required (clause (5)(a)(ii)); and – that the newly amalgamated sites are adjoining and combine to a net site area greater than 12ha (clause (5)(a)(iii)); <p>and where these conditions are not met, the activity reverts to Discretionary Activity status (clause (7)).</p> <p>In my view, all these conditions work to achieve the policy direction in the PDP in terms of avoiding fragmentation of the highly productive land of the District, and can also result in the creation of lots with a greater net site area than existed prior to the subdivision, which would have a positive</p>

		<p>effect on the District's highly productive land. In allowing the creation of a lifestyle lot around an existing dwelling, with these conditions in place, this rule approach incentivises the amalgamation of existing non-complying lots (less than the proposed minimum net site area of 12ha) in order to achieve complying lots (12ha or more) over time. This has been the experience in Hastings with a similar lifestyle subdivision approach. For that reason, a Controlled Activity status, subject to compliance with the accompanying conditions, is appropriate.</p>
31. SUB-AM12(3)(b)	<p>Silver Fern Farms (S116.025) [Evidence of Steven Tuck, paras 6.1-6.8, p13-15]</p> <p>Silver Fern Farm's submission sought an amendment to clause (3)(b) of Assessment Matter SUB-AM12 to contemplate the registration of a covenant or consent notice precluding further lifestyle site subdivision of amalgamated non-contiguous lots created as a balance from an earlier lifestyle site subdivision.</p> <p>The Section 42A Report recommendation was to reject this submission.</p> <p>Mr Tuck considered this would provide more certainty about retention of the balance lot in whole, than the "somewhat ambiguous "low" likelihood statement in the notified provision does". He requests that the assessment matter be amended as requested.</p>	<p>I have considered the evidence of Mr Tuck, and there is a suggestion that this standard should refer to a covenant or consent notice requiring land to be held together to be referred to as a mechanism which might provide more surety that amalgamated titles will continue to be held together and not later be sought to be subdivided on the basis they cannot be used as a productive whole.</p> <p>Section 220(1)(b) RMA provides that a condition of subdivision may require:</p> <p><i>subject to subsection (2), a condition that any specified part or parts of the land being subdivided or any other adjoining land of the subdividing owner be—</i></p> <ul style="list-style-type: none"> (i) <i>transferred to the owner of any other adjoining land and amalgamated with that land or any part thereof; or</i> (ii) <i>amalgamated, where the specified parts are adjoining; or</i> (iii) <i>amalgamated, whether the specified parts are adjoining or not, for any purpose specified in a district plan or necessary to comply with any requirement of the district plan; or</i> (iv) <i>held in the same ownership, or by tenancy-in-common in the same ownership, for the purpose of providing legal access or part of the legal access to any proposed allotment or allotments in the subdivision:</i> <p>Section 220(2) then provides:</p> <p><i>For the purposes of subsection (1)(b)—</i></p> <ul style="list-style-type: none"> (a) <i>where any condition requires land to be amalgamated, the territorial authority shall, subject to subsection (3), specify (as part of that condition) that such land be held in 1 record of title or be subject to a covenant entered into between the owner of the land and the territorial authority that any specified part or parts of the land shall not, without the consent of the territorial authority, be transferred, leased, or otherwise disposed of except in conjunction with other land; and</i> <p>Section 241 then applies to direct how an amalgamation is to be recorded on a title, and similarly, how an amalgamation condition may be cancelled (s 241(3)).</p> <p>Given amalgamation is covered by the RMA, I do not consider that the suggested reference to the applicant offering a consent notice or covenant is necessary nor appropriate.</p> <p>It is not necessary because the requirement to amalgamate already contains sufficient security that the sites cannot be later separated without the territorial authority's approval (s 241(3)) and provides a range of mechanisms to secure the amalgamation.</p>

		<p>In my view it is not appropriate to refer to those mechanisms because it suggests that an applicant could somehow improve their prospects of having consent granted by offering a consent notice or covenant, when that is inherent in the proposal to amalgamate (i.e. it does not add anything to what is already being proposed). It may also suggest one mechanism of amalgamation is preferred to others available under the Act, whereas I consider it preferable to retain all options available under s 220 RMA.</p> <p>As such, I do not consider the additions sought should be supported. I have not changed my position and remain of the view that the submission be rejected.</p>
--	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Key Issue 12 – Artificial Crop Protection Structures, Workers & Seasonal Workers Accommodation

Issue/Plan Provision	Submitter Evidence	Response
32. GRUZ-RXX / RPROZ-RXX Artificial Crop Protection Structures	<p>Hort NZ (S81.114 & S81.157 and 81.127 & S81.172) [Evidence of Lynette Wharfe, paras 8.1-8.16, p30/31]</p> <p>Hort NZ's submission sought inclusion of a separate Permitted Activity rule in the General Rural and Rural Production Zones providing for Artificial Crop Protection Structures, subject to conditions. The submission also sought inclusion of a separate setback applying to artificial crop protection structures within Standards GRUZ-S5 & RPROZ-S6 Setback from Neighbours.</p> <p>The Section 42A Report recommendation was to incorporate new Permitted Activity rules, and a specific minimum setback from side and rear boundaries of 1m, for 'artificial crop protection structures' in the General Rural and Rural Production Zones, but with slightly altered wording from that sought by the submitter (as outlined in paras 2.3.1-2.3.4 Vol 3 of Section 42A Report).</p> <p>Ms Wharfe considers 'One of the reasons why they have included a specific rule for artificial crop protection structures is because the nature of the structures don't fit neatly within the planning framework for buildings and structures, so a bespoke response has been considered the most appropriate.' (para 8.4 of Ms Wharfe's evidence)</p> <p>'There is uncertainty as to whether a cover of permeable material constitutes a 'roof'.</p> <p>There is no definition of 'roof' in the RMA, National Planning Standards, Building Act 2004 or the Building Code.</p> <p>The Building Code does have performance standards in relation to roofs with the clear expectation that they prevent external moisture entering (Clause E2).</p> <p>On that basis, the horizontal cloth cover on an artificial crop protection structure will not be a 'roof' and so not a building under the National Planning Standards definition and the definition in the PCHBDP.</p> <p>It is my understanding that the bespoke rule for artificial crop protection structures is working very well in district plans as it includes all the requirements for the structures within the one rule and there is clarity as to what is required.</p>	<p>Although not specifically addressed in the wording of the new rules sought in Hort NZ's original submission, it is appropriate to reference the setback standards in the respective new rules in order to capture and invoke those setback standards within the rule framework adopted for the PDP.</p> <p>I consider this can be added as a 'consequential amendment' as part of adopting the new specific setback standard, and I revise my recommendation to also insert reference to the setback standard within the recommended new rule, as follows (highlighted grey), and similar for the equivalent RPROZ rule:</p> <p><u>GRUZ-RX Artificial Crop Protection Structures</u></p> <p><u>1. Activity Status: PER</u></p> <p><u>Where the following conditions are met:</u></p> <p><u>a. Limited to:</u></p> <p><u>i. Use of green or black cloth on vertical faces within 30m of the site boundary;</u></p> <p><u>ii. Use of green, black, or white cloth on horizontal surfaces.</u></p> <p><u>b. Compliance with:</u></p> <p><u>i. GRUZ-S2 Height of Buildings;</u></p> <p><u>ii. GRUZ-S5(4) Setback from Neighbours;</u></p> <p><u>ii. GRUZ-S7 Electrical Safety Distances; and</u></p> <p><u>iii. GRUZ-S13 Setbacks from National Grid.</u></p>

	<p>The rule that is sought in the HortNZ submission was developed for the Western Bay of Plenty District Plan in conjunction with stakeholders, such as NZTA, to ensure that potential adverse effects were adequately addressed. The limitation of cloth colour adjacent to roads and boundaries arose out of that process to ensure that the reflectivity of the cloth did not present a risk as white cloth adjacent to a road was considered to be a potential glare hazard, otherwise a greater setback would be required. Limitations of colour adjacent to boundaries was to limit amenity effects.’ (paras 8.7-8.12 of Ms Wharfe’s evidence)</p> <p>‘I do note that there is one amendment required regarding setbacks from neighbours.</p> <p>GRUZ-S5 and RPROZ-S6 are recommended to be amended to include a specific setback for artificial crop protection structures but the new recommended rules do not include a reference to the standards.</p> <p>Therefore GRUZ-RXX Artificial crop protection structures and RPROZ-RXX Artificial crop protection structures should both be amended by adding either GRUZ S5 or RPROZ-S6 to the list in 1 b).’ (paras 8.14-8.16 of Ms Wharfe’s evidence)</p>	
33. RPROZ-S2 Total Building Coverage	<p>Hort NZ (S81.168) [Evidence of Lynette Wharfe, paras 8.17-8.23, p31/32]</p> <p>Hort NZ’s submission sought the deletion of wording in Standard RPROZ-S2, as follows:</p> <p><i>‘RPROZ-S2 Total Building Coverage</i></p> <p><i>All</i></p> <ol style="list-style-type: none"> <i>1. Maximum building coverage (including hardstand and sealed areas) must not exceed 35% of the net site area or 1500m2, whichever is the lesser, except:</i> <ol style="list-style-type: none"> <i>a. for sites containing post-harvest facilities, the maximum building coverage is 35% of the net site area or 2500m2, whichever is the lesser.</i> <i>2. Netting, structures (including artificial crop protection structures), and greenhouses where crops are grown under or within those structures directly in the soil of the site, are excluded from total building coverage calculations.</i> <p>The Section 42A Report recommendation was to reject this submission.</p> <p>Ms Wharfe considers ‘This submission point is addressed at 2.3.3 of the s42A Report and is rejected on the basis that productive soil could be lost unless the limitation exists.</p> <p>In my opinion the soil would not be lost to production as it would be either under the structure or utilised on the site.</p> <p>Greenhouses are a horticultural growing system and it is important that they can establish where there are adequate services to support the system.</p> <p>A limitation as in RPROZ-S2 is constraining in that regard.</p> <p>The National Planning Standards does not distinguish greenhouses or classify them as intensive indoor primary production so, in my opinion, the district plan should regard them as an appropriate primary production system.’ (paras 8.18-8.22 of Ms Wharfe’s evidence)</p>	<p>The issue appears to be that the submitter considers greenhouses where horticulture is grown on hardstand should not be restricted in the RPROZ (the District’s valuable highly productive land). However, I remain of the opinion that while such greenhouse systems are growing crops in the productive zone and are a legitimate primary production system, the growing of the crops does not in itself rely on the quality of the soils beneath the hardstand. The hardstand not only removes the ability to use the soils beneath (potentially forever) but such horticultural growing systems could in fact be located outside the RPROZ, including zones where the soils have no productive qualities at all.</p> <p>It should be noted that this standard is only in relation to the total building coverage threshold for the RPROZ, not the horticultural activity itself, which is still permitted as a primary production activity (subject to compliance with the standards).</p> <p>I consider this approach is consistent with Objectives RPROZ-O2 and RPROZ-O3, which seek to protect the rural land resource from being compromised by inappropriate building and development, and that activity do not reduce the potential for the highly productive land of the District to be used in a productive and sustainable manner.</p> <p>Therefore, I have not changed my position as set out in para 2.3.3 Vol 3 of the Section 42A Report:</p> <p><i>‘However, I do not support amendment of Standard RPROZ-S2, as sought by Hort NZ, that would effectively exclude all greenhouses from the total building coverage calculation. As currently written, this standard only excludes greenhouses from the building coverage calculation ‘where crops are grown under or within those structures directly in the soil of the site’.</i></p> <p><i>This reflects the intent of the standard, which is to limit the loss of productive soils. Where a greenhouse is established on hardstand, any productive soils beneath are likely lost, whereas the productive soils</i></p>

		<i>supporting crops grown under or within greenhouses where they are directly in the soil of the site are still available for current and future generations. This is an important distinction, and I recommend that this aspect of the standard be retained as notified.'</i>						
34. GRUZ-R2 / RPROZ-R2 Seasonal Workers Accommodation	<p>Hort NZ (S81.113 & S81.156) [Evidence of Lynette Wharfe, para 8.24-8.43, p32/33]</p> <p>Hort NZ's submission sought deletion of either Permitted Activity condition (1)(a)(i) (max floor area 125m2) or condition (1)(a)(ii) (max 24 people accommodated) and sought inclusion of a requirement to be constructed in accordance with the specific Code of Practice for Seasonal Worker Accommodation, in Rules GRUZ-R2 & RPROZ-R2.</p> <p>The Section 42A Report recommendation was to reject this submission.</p> <p>Ms Wharfe clarifies in her evidence that 'The submissions actually sought the deletion of EITHER 1 a) i) OR 1) a) ii) – not both.' (para 8.31)</p> <p>MS Wharfe considers 'It is highly unlikely that 24 people could be accommodated in 125m2 so there is somewhat of a disjunct between the two thresholds.</p> <p>Other plans have used a range of thresholds for a permitted activity:</p> <p>(a) Opotiki – no more than 12 workers</p> <p>(b) Selwyn – Recommended to be no more than 12 workers</p> <p>(c) Hastings – 125m2</p> <p>The number of 12 workers was established as it basically equates to a van load of workers who could then be transported to site in the one vehicle and restricts the effects of the permitted activity.</p> <p>Likewise the limitation of the area limits the level of effects' (para 8.32-8.35)</p> <p>'The purpose for seeking reference to the Code of Practice for Seasonal Worker accommodation is linked to provision for disability structures, which the Code of Practice acknowledges are not necessary where the expectation for seasonal workers is that they are able bodied, as set out in 2.3.16 of the s42A Report.</p> <p>There were a number of issues that arose from growers seeking consents for seasonal worker accommodation and being required to put in disability access and facilities which were not relevant to the type of accommodation being established.</p> <p>Rather than specifying that disability facilities are not required, compliance with the Code of Practice provided a link for council to assess the appropriateness of the proposed facilities.</p> <p>The Code of Practice for Seasonal Worker Accommodation has been adopted in a number of district plans and appears to have addressed the issue that was previously of concern.</p> <p>It also ensures that the accommodation is of an adequate standard for the purposes of housing workers' (paras 8.36-8.40)</p> <p>Ms Wharfe's seeks deletion of clause (1)(a)(ii) and replacement with <u><i>'Is in accordance with the Code of Practice for Seasonal Worker Accommodation'</i></u>.</p>	<p>I can confirm that this submission point was interpreted and summarised incorrectly in the Council's notified 'Summary of Submissions', as seeking <u>both</u> criteria in clause (1)(a) be deleted. However, I do not believe this error has disadvantaged anyone who may otherwise have further submitted on this matter and, having sought advice from Council's legal counsel, I do not consider re-notification of the summary of this submission point is required.</p> <p>My recommendation as set out in para 2.3.13 & 2.3.20, was on the basis of the above incorrect interpretation of the submission, as having sought deletion of both criteria.</p> <p>After considering the evidence of Ms Wharfe, I agree that one of the two criterion is sufficient, given that it is unlikely that 24 people could be accommodated in 125m2 in any case. I am therefore comfortable recommending deletion of the maximum people accommodated criterion in condition (1)(a)(ii) and retention of the permitted gross floor area limit of 125m2 in condition (1)(a)(i) (which largely aligns with the approach to seasonal worker accommodation in the Hastings District Plan).</p> <p>However, I have not changed my position as set out in para 2.3.19 Vol 3 of the Section 42A Report, in respect of inserting a Permitted Activity condition that seasonal worker accommodation be 'in accordance with the Code of Practice for Seasonal Worker Accommodation' (refer details of the Code provided in para 2.3.16 Vol 3 of the Section 42A Report):</p> <p><i>'...I do not consider the Code provides any relevant limitations that can be applied in a District Plan rule framework setting, and relates almost exclusively to Building Consent application or Department of Labour matters, as opposed to matters relevant to potential effects on the environment.'</i></p> <p>On the basis of the above, I revise my recommendation to 'accept in part' the submission of Hort NZ, and recommend amendments to Rules GRUZ-R2 and RPROZ-R2, as follows:</p> <table><tr><th colspan="2">GRUZ-R2 (and equivalent RPROZ-R2) Seasonal workers accommodation</th></tr><tr><td><p>1. Activity Status: PER</p><p>Where the following conditions are met:</p><p>a. Limited to:</p><p>i. A maximum gross floor area of 125m².</p><p>ii. A maximum number of people to be accommodated on site of 24.</p><p>iii. All new buildings are relocatable in design or able to be reconfigured to buildings accessory to land-based primary production.</p><p>iv. The site is not a 'lifestyle site' (a site created through the lifestyle site subdivision provisions of the District Plan).</p></td><td><p>2.Activity status where compliance with condition GRUZ-R2(1)(b) is not achieved: RDIS</p><p>Matters over which discretion is restricted:</p><p>a.Assessment matters:</p><p>i. GRUZ-AM1.</p><p>ii. GRUZ-AM2.</p><p>iii. GRUZ-AM3.</p><p>b.Assessment matters in the following chapters:</p><p>i. TRAN – Transport.</p><p>ii. LIGHT – Light.</p><p>iii. NOISE – Noise.</p></td></tr><tr><td></td><td><p>3.Activity status where compliance with condition GRUZ-R2(1)(a) is not achieved: RDIS</p></td></tr></table>	GRUZ-R2 (and equivalent RPROZ-R2) Seasonal workers accommodation		<p>1. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. Limited to:</p> <p>i. A maximum gross floor area of 125m².</p> <p>ii. A maximum number of people to be accommodated on site of 24.</p> <p>iii. All new buildings are relocatable in design or able to be reconfigured to buildings accessory to land-based primary production.</p> <p>iv. The site is not a 'lifestyle site' (a site created through the lifestyle site subdivision provisions of the District Plan).</p>	<p>2.Activity status where compliance with condition GRUZ-R2(1)(b) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>a.Assessment matters:</p> <p>i. GRUZ-AM1.</p> <p>ii. GRUZ-AM2.</p> <p>iii. GRUZ-AM3.</p> <p>b.Assessment matters in the following chapters:</p> <p>i. TRAN – Transport.</p> <p>ii. LIGHT – Light.</p> <p>iii. NOISE – Noise.</p>		<p>3.Activity status where compliance with condition GRUZ-R2(1)(a) is not achieved: RDIS</p>
GRUZ-R2 (and equivalent RPROZ-R2) Seasonal workers accommodation								
<p>1. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. Limited to:</p> <p>i. A maximum gross floor area of 125m².</p> <p>ii. A maximum number of people to be accommodated on site of 24.</p> <p>iii. All new buildings are relocatable in design or able to be reconfigured to buildings accessory to land-based primary production.</p> <p>iv. The site is not a 'lifestyle site' (a site created through the lifestyle site subdivision provisions of the District Plan).</p>	<p>2.Activity status where compliance with condition GRUZ-R2(1)(b) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>a.Assessment matters:</p> <p>i. GRUZ-AM1.</p> <p>ii. GRUZ-AM2.</p> <p>iii. GRUZ-AM3.</p> <p>b.Assessment matters in the following chapters:</p> <p>i. TRAN – Transport.</p> <p>ii. LIGHT – Light.</p> <p>iii. NOISE – Noise.</p>							
	<p>3.Activity status where compliance with condition GRUZ-R2(1)(a) is not achieved: RDIS</p>							

		<p>b. Compliance with:</p> <ul style="list-style-type: none"> i. GRUZ-S2; ii. GRUZ-S3; iii. GRUZ-S4; iv. GRUZ-S5; v. GRUZ-S6; vi. GRUZ-S7; vii. GRUZ-S8; viii. GRUZ-S9; and ix. GRUZ-S10. <p>c. Compliance with:</p> <ul style="list-style-type: none"> i. GRUZ-S11 (setback from existing intensive primary production); and ii. GRUZ-S12 (setback from gas transmission network). <p>d. Compliance with GRUZ-S13 (setbacks from National Grid).</p> <p>Note: Under the Hawke's Bay Regional Resource Management Plan, there are also requirements in respect of new domestic sewage systems (including minimum land area requirements).</p>	<p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> a. Whether the proposed building location will allow for efficient use of the remaining undeveloped land for primary production activities. b. Whether the scale and design of the proposed building complements the character of the area. c. Whether the siting of the activity will impact on the amenity of adjoining properties, or any dwelling established in an adjoining zone within 100m of the activity. d. Whether soil values have been taken into account in selecting the site for the building. e. Whether traffic generation associated with the number of occupants will adversely impact on the road network. f. Where located within the coastal environment area, the degree to which the proposed buildings will be compatible and integrate with the natural character and amenity of the surrounding area, including the scale, design and appearance of buildings. <p>4. Activity status where compliance with condition GRUZ-R2(1)(c) is not achieved: DIS</p> <p>5. Activity status where compliance with condition GRUZ-R2(1)(d) is not achieved: NC</p>
--	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Key Issue 13 – Intensive Primary Production Definitions, Issues, Objectives & Policies

Issue/Plan Provision	Submitter Evidence	Response
35. Definitions	<p>Federated Farmers (S121.238) (Evidence of Rhea Dasent, paras 42-46, p7/8]</p> <p>Federated Farmers' submission sought to ensure that the definition of 'Intensive Primary Production' not capture normal pastoral farming activities where animals are temporarily sheltered inside structures, by amending the notified version of the definition as follows:</p> <p><i>INTENSIVE PRIMARY PRODUCTION</i> <i>refers to any of the following:</i></p> <ol style="list-style-type: none"> <i>commercial livestock (excluding the farming of mustelids) kept and fed <u>permanently</u> in buildings or in outdoor enclosures on a particular site, where the stocking density precludes the maintenance of pasture or ground cover</i> <i>land and buildings used for the commercial boarding and/or breeding of cats, dogs and other domestic pets</i> <i>farming of mushrooms or other fungi</i> <i>commercially growing crops indoors in containers and/or on a permanent floor, with limited or no dependence on natural soil quality on the site.</i> <p>The Section 42A Report recommendation was to reject this submission, and in response to other submissions instead replace the definition of 'Intensive Primary Production' with the following:</p>	<p>While Federated Farmers are not a submitter or further submitter in respect of the requested definition of 'Intensive Outdoor Primary Production' definition, which was recommended in response to Pork Industry submission (S42.005), they are a submitter in respect of the broader definition of 'Intensive Primary Production'.</p> <p>With this in mind, I accept there may be an unintended consequence of including the three definitions as recommended in para 3.3.9 Vol 3 of the Section 42A Report, in terms of inadvertently capturing feed pads and stand-off pads under the definition of 'Intensive Outdoor Primary Production' which is effectively included now as a subset of the broader definition of 'Intensive Primary Production' which is then the term that is used throughout the PDP, and specifically regulated in the PDP (i.e. subject to GRUZ-R14 & RPROZ-R14).</p> <p>The intention was <u>not</u> to capture feed pads and stand-off pads in the definition of 'Intensive Primary Production' as notified, and the expectation was for them to fall within the definition of 'Primary Production' and provided for accordingly (i.e. subject to GRUZ-R3 & RPROZ-R3).</p> <p>To address this, I revise my recommendation and recommend amending the definition of 'Intensive Outdoor Primary Production' as proposed by the Pork Industry (and subsequently recommended in the Section 42A Report), as follows (highlighted grey):</p>

	<p><u>INTENSIVE PRIMARY PRODUCTION</u> <u>means any activity defined as intensive indoor primary production or intensive outdoor primary production.</u></p> <p>And insert new definitions for 'Intensive Indoor Primary Production' and 'Intensive Outdoor Primary Production' as follows:</p> <p><u>INTENSIVE INDOOR PRIMARY PRODUCTION</u> <u>means primary production activities that principally occur within buildings and involve growing fungi, or keeping or rearing livestock (excluding calf-rearing for a specified time period) or poultry.</u></p> <p><u>INTENSIVE OUTDOOR PRIMARY PRODUCTION</u> <u>means any primary production activities involving the keeping or rearing of livestock (excluding calf-rearing for a specified time period), that principally occurs outdoors, which by the nature of the activity, precludes the maintenance of pasture or ground cover.</u></p> <p>Ms Dasent agrees with adopting the National Planning Standards definition of 'Intensive Indoor Primary Production' but disagrees that it should be separated into Intensive Indoor Primary Production and Intensive Outdoor Primary Production. (para 43)</p> <p>Ms Dasent considers that 'the definition of Intensive Outdoor Primary Production will exacerbate my concern that normal pastoral farming will be inappropriately included and regulated' (para 44) and wants it deleted (para 46).</p> <p>'Feedpads and stand-off pads do not have pasture or ground cover, yet are a normal feature of pastoral farming. Many farmers would have used feed pads or areas for weeks or even months during the 2020 drought to feed stock with supplementary feed while the rest of the farm recovers pasture. Stand-off pads are an important farm management tool to protect vulnerable soil from pugging during wet weather, or to empty out stock before transport. Neither of these normal farm practices, which are necessary for environmental and animal welfare purposes, should be defined as intensive primary production.' (para 45)</p>	<p><u>'means any primary production activities involving the keeping or rearing of livestock on a permanent basis (excluding calf-rearing for a specified time period), that principally occurs outdoors in outdoor enclosures on a particular site, which by the nature of the activity, precludes the maintenance of pasture or ground cover.'</u></p> <p>I consider the addition of reference to 'a permanent basis' clarifies that use of feedlots and standoff pads are not captured, and therefore I do not consider further changes are necessary to clarify this. However, should the Panel consider 'feedpads' and 'standoff pads' should be expressly excluded, then definitions of those terms would be required.</p> <p>Definitions for feedpads and stand-off pads have been developed by the Hawke's Bay Regional Council and Dairy NZ, as follows (which could provide some assistance):</p> <p><u>'A feedpad is an area of land to which animals are brought for supplementary feeding on a regular basis, where the stocking density or feedpad structure precludes the maintenance of pasture or groundcover'</u> (from HBRC 'Feedlots and Feedpads' Factsheet, Winter 2020¹)</p> <p><u>'A stand-off pad is a purpose built, drained loafing area where stock can be held for long periods when it is not suitable to have them on pasture. In most cases, stand-off pads are not a place to feed animals but a large area for stock to lie down. It may however be next to a feeding area'</u> (Dairy NZ website²)</p>
36. New Policy RPROZ-PXX	<p><u>Te Mata Mushrooms</u> (S102.075) [Evidence of Claire Price, paras 9.1-9.6, p11/12]</p> <p>Te Mata Mushrooms submission originally sought a new policy be introduced in the Rural Production Zone, as follows:</p> <p><u>Recognise the economic benefits derived from well functioning and operating intensive primary production activities, as well as the flow on to post harvest facilities, service activities, the generation of employment and overall increase of social and cultural wellbeing to the local community.</u></p> <p>The recommendation in the Section 42A Report was to reject this submission.</p> <p>Ms Price considers 'The intention of the policy is not to cast over other policies in the Rural Production Zone, but to sit alongside and be another consideration that</p>	<p>In my view, the revised wording is similarly unnecessary. Further, it is very unclear what 'well functioning and operating intensive primary production activities' means, e.g. does 'well functioning and operating' relate to efficiency of production versus the level of capital investment? or minimising of environmental effects? or does it apply to the effective management structure of the company that is operating the activities? I consider that the revised policy is also imprecise.</p> <p>Therefore, I have not changed my position as set out in paras 3.3.20-3.3.22 Vol 3 of Section 42A Report:</p> <p><u>'I do not support the inclusion of an additional policy in both the General Rural and Rural Production Zones, as sought by Te Mata Mushrooms, seeking to specifically recognise the economic benefits, and social and</u></p>

¹ <https://www.hbrc.govt.nz/assets/Document-Library/Information-Sheets/Land/Feedlot-infosheet-HBRC.pdf>

² <https://www.dairynz.co.nz/business/infrastructure-investment/off-paddock-facilities/stand-off-pad/#:~:text=A%20stand%20Doff%20pad%20is,next%20to%20a%20feeding%20area.>

	<p>future decision makers would find helpful in understanding the full breadth of matters pertaining to intensive primary production activities.</p> <p>To that end, I have rewritten the policy and consider it can be an effective and efficient way to achieve Objective RPROZ-01.</p> <p>...</p> <p><u>To consider the economic benefits derived from well functioning and operating intensive primary production activities, and flow on benefits to the wellbeing of the local community.</u></p> <p>I consider there is scope within Submission point S102.075 to make these minor wording changes' (paras 9.3-9.6 of Ms Price's evidence)</p>	<p><i>cultural wellbeing, of well-functioning and operating intensive primary production activities in the District.</i></p> <p><i>In my view, the policy sought is too broad in terms of the wide range of activities referenced, and with the additional wording proposed for the General Rural and Rural Production Zone introductions, issues, objectives and policies as recommended above, the value of primary production including intensive primary production to Central Hawke's Bay will be sufficiently well recognised in the proposed policy framework.</i></p> <p><i>Further, positive effects are able to be considered as part of assessing a resource consent for intensive primary production activities through the section 104 RMA assessment. Section 104(1)(a) requires the consent authority to have regard to any actual or potential effects, including positive effects.'</i></p>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Key Issue 14 – Intensive Primary Production Rules, Standards, Assessment Matters etc

Nil

Key Issue 15 – Rural Industry Definitions, Issues, Objectives & Policies

Issue/Plan Provision	Submitter Evidence	Response
37. General	<p>Federated Farmers (S121.) [Evidence of Rhea Dasent, para 49, p8]</p> <p>Ms Dasent supports 'Section 42a Report's recommendation to define rural industry as being unique from other industrial activities, and that it is appropriately located in the rural zones' (para 49)</p>	N/A – included for further context
38. National Planning Standards – Zone Framework	<p>Hort NZ (S81.026, S81.108, S81.139, S81.148, FS17.14, FS17.18, FS17.82, FS17.83, FS17.86, FS17.88, FS17.119, FS17.120, FS17.121, FS17.124, FS17.126) [Evidence of Lynette Wharfe, paras 8.61-8.72, p35/36]</p> <p>Hort NZ's submission sought inclusion of a definition of 'Rural Industry' in the PDP, and various amendments to the RLR, GRUZ & RPROZ chapters to explicitly recognise rural industry that requires a rural location within the issues, objectives and policies of those chapters.</p> <p>The evidence of Ms Wharfe discusses approach to rural industry as follows:</p> <p>'Rural industry is specifically identified in the National Planning Standards Zone descriptions as being appropriate in the Rural Production Zone and the General Rural Zone.</p> <p>I note that in 5.3.23 the s42A Report writer considers that the National Planning Standards are 'guides' and that they do not translate into mandatory direction, as this is the prerogative of each council.</p> <p>I consider that the Zone descriptions in the National Planning Standards provide clarity as to what could reasonably be anticipated in the respective zones and that inclusion of a definition of rural industry and specific reference to rural</p>	<p>Ms Wharfe's evidence, at para 5.5, states that <i>"The National Planning Standards provide guidance in the Zone Framework, which has descriptors for respective zones. The zone descriptors for the General Rural Zone, Rural Production Zone and Rural Lifestyle Zone are relevant to consideration of the Rural Environment in the PCHBDP"</i>. She essentially suggests that the National Planning Standard zone descriptors are required to be reflected in the content of the rules for each zone.</p> <p>I disagree with Ms Wharfe's analysis of how the Standards work. The 'Purpose' section of the Standards states (emphasis added):</p> <p><i>'The purpose of the first set of national planning standards (the planning standards) is to improve the efficiency and effectiveness of the planning system by providing nationally consistent:</i></p> <ul style="list-style-type: none"> • <i>structure</i> • <i>format</i> • <i>definitions</i> • <i>noise and vibration metrics</i> • <i>electronic functionality and accessibility for regional policy statements, regional plans, district plans and combined plans under the Resource Management Act 1991 ('RMA').</i>

	<p>industry in the descriptors for the General Rural Zone and the Rural Production Zone indicate that this is a matter for council to consider and address.</p> <p>I support the approach of the National Planning Standards identifying rural industry, as set apart from industrial activities, as I am aware of considerable pressures in some districts where industrial activities seek to locate in rural zones. By making the distinction it is identifying that rural industry, but not industrial activities, are appropriate in rural zones.</p> <p>The policy framework in the Plan clearly identifies in RPROZ-P9 and GRUZ-P9 that industrial or commercial activities unrelated to primary production purpose of the zones are avoided.</p> <p>I support that policy intent.</p> <p>However there is no corresponding policy framework for rural industry. In the strikethrough version of the GRUZ and RPROZ chapters attached to the s42A Report there is no reference in the policy framework for rural industry, even though there are rules to provide for the activity.</p> <p>In my opinion that is a policy gap which needs to be addressed.</p> <p>The s42A Report is recommending that the National Planning Standards definition for rural industry be included in the Plan:</p> <p>Means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production.</p> <p>I support the recommended to include the definition of rural industry.</p> <p>It is important to note that the definition of rural industry includes 'industry or business' so is not limited to 'industrial activities' related to primary production, and could include rural services and commercial activities.</p> <p>There are a range of places in the policy framework where there could be recognition of rural industry and the range of submissions provide considerable scope' (paras 8.61-8.72)</p>	<p><u><i>The planning standards do not alter the effect or outcomes of policy statements or plans.</i></u></p> <p>The Standards are essentially intended to standardise the structure of, and terms used in, the Plan, but are not intended to dictate what a particular district enables or discourages in a particular area.</p> <p>In terms of the zone descriptors, there are a limited number of options from which councils must choose, based on the best fit for what is intended to be addressed within a zone. CHBDC has chosen 'Rural Production Zone' and 'General Rural Zone' to cover its working rural areas. Both of these indicate that the zones "... may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location" (emphasis added).</p> <p>Ms Wharfe suggests that the reference to 'associated rural industry' and 'activities that require a rural location' in the zone description requires the zone rules to provide for such activities with a permissive activity status. This ignores not only the clear purpose statement in the Standard which is not to affect the outcomes of plans, but also ignores the word 'may' in the descriptors. The reference to those additional activities simply means that if rural industry or other activities are provided for, the zone descriptor can still be used – those activities might or might not be enabled within the Rural Production or General Rural zones.</p> <p>I disagree with the emphasis Ms Wharfe places on the zone descriptors as dictating the activities to be provided for and their activity status. In my view it is clear that this is not how the Standards are intended to be applied.</p> <p>I have not changed my position on the approach to rural industry as set out in para 5.3.8 Vol 3 of the Section 42A Report:</p> <p><i>'I consider there is merit in differentiating between industrial activities generally, and those which directly support, service, or are dependent on primary production and that require a rural location. In my view, the PDP goes some way towards achieving this with the introduction of provisions for 'post-harvest facilities' (and accompanying definition). The PDP takes the approach that industrial activities that do not operationally or functionally require a rural location are best located in an appropriately serviced industrial zone. However, I acknowledge that there are rural industries requiring a rural location that would not constitute 'post-harvest facilities', such as a dairy factory, meat processing plant, or sawmill.'</i></p> <p>In my view, there is not a policy gap in terms of rural industry, as aspects are captured broadly in the objectives and policies that refer to post-harvest facilities, and commercial activities and industrial activities generally. It is unclear what type of rural industries are anticipated in the rural zones, that are not already provided for, and that should be permitted.</p> <p>Objectives GRUZ-O2/RPROZ-O4 (as amended by recommendations) and Policies GRUZ-P3/RPROZ-P3 and GRUZ-P9/RPROZ-P9 capture the character of the zone as including post-harvest facilities, and managing the scale of post-harvest facilities (which are an integral form of rural industry, specific), and more generally in terms of avoiding establishment of commercial or industrial activities that are unrelated to the primary</p>
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		productive purpose or that are of a scale that is incompatible with the predominant character and amenity of the rural area.
39. RLR-P5	<p>Silver Fern Farms (S116.013) [Evidence of Steven Tuck, paras 4.5-4.13, p7-9] Silver Fern Farms' submission sought the following amendment to Policy RLR-P5:</p> <p><i>'To enable primary production and related activities, <u>such as rural industry</u>, to operate, <u>upgrade and expand</u> in rural areas in accordance with accepted practices without being compromised by other activities demanding higher levels of amenity, <u>particularly in the Rural Production Zone</u>.'</i></p> <p>The Section 42A Report recommendation was to reject this submission.</p> <p>Mr Tuck considers 'that the absence of reference to rural industry in the overarching Rural Land Resource policies is inappropriate. Rural industry is recognised in documents relevant to, and acknowledged in, the PDP. In my opinion, it is reasonable to carry that recognition forward into the PDP for clarity.' (para 4.7 of Mr Tuck's evidence)</p> <p>'The Introduction section to the Rural Land Resource chapter of the PDP says that the PDP seeks to give effect to a pending National Policy Statement for Highly Productive Land ("NPS-HPL"). The August 2019 ministerial discussion document about the NPS-HPL directly references rural industry in the GRUZ and RPROZ zone descriptors.</p> <p>Those NPS-HPL zone descriptors were carried over into the National Planning Standards zone descriptors (below). These descriptors assist councils to decide which zones from the National Planning Standards to use in district plans.' (paras 4.8 & 4.9 of Mr Tuck's evidence)</p> <p>'In my view, it is somewhat inconsistent to omit recognition of rural industry from the policy framework on grounds that the National Planning Standards zone descriptors are not mandatory directions, when the s42A report also says that because the National Planning Standards "...recognise 'intensive primary production' in the zone descriptions for General Rural and Rural Production Zones" references to 'intensive primary production' need to be added throughout the rural environment provisions.</p> <p>By definition, rural industry is situated in rural areas and associated with primary production activities. The activity's operational needs preclude it from locating elsewhere. It is often part and parcel of the rural environment, in terms of built form, land area and operational intensity, but also in terms of economic and social importance to local (sometimes, sub-regional) communities. I consider that the RPROZ and GRUZ zone descriptors and 'rural industry' definition in the National Planning Standards reflect this.</p> <p>Given the foregoing, I consider it is appropriate to include a specific reference to 'rural industry' in the strategic rural land resource provisions, as discussed above in relation to RLR-P5.' (paras 4.11-4.13 of Mr Tuck's evidence)</p>	<p>I refer to my comments above in response to the evidence of Ms Wharfe regarding interpretation of the zone descriptors contained the National Planning Standards (similarly, the discussion document on a proposed NPS-HPL, which has the same zone descriptor wording, which also includes the word 'may').</p> <p>In regard to the amendment sought to Policy RLR-P5, I have not changed my position as set out in paras 5.3.13-5.3.16 Vol 3 of the Section 42A Report, as follows:</p> <p><i>'I do not concur with Te Mata Mushrooms and Silver Fern Farms that Objective RLR-O2 should be broadened to reference 'rural industry' as the strategic objectives in relation to the rural land resource revolve around protecting the District's significant concentration of highly productive land from incremental and irreversible loss – broadening the strategic objectives as sought would indicate that all rural industry is inherently consistent with that approach. As outlined above, new industry that does not have a functional or operational requirement for a rural location is best directed to appropriately serviced industrial zones.</i></p> <p><i>I recommend that the amendment sought by Te Mata Mushrooms is rejected (noting the amendment to Objective RLR-O2 proposed as a result of recommendations outlined in Key Issue 2 of this report).</i></p> <p><i>Silver Fern Farms also seeks amendments to Objective RLR-O4 and Policy RLR-P5 to reference rural industry. In my view, Objective RLR-O4 reflects the overarching strategic objective to recognise the primary production role of the District's rural land resource as the priority. For the same reasons as above, I do not support broadening the objective or the policy in the way sought. Policy RLR-P5 refers to 'enabling primary production and related activities' – it would be inappropriate to similarly 'enable' rural industry, as this suggests it should have a permitted or controlled activity status, which is not supported (refer recommendations in Key Issue 16 in response to submissions addressing applicable rules and standards).</i></p> <p><i>I note recommended amendments for Policy RLR-P4 (refer Key Issue 2) include recognition that some non-primary production activities have an operational or functional need to locate in a rural area. This is a more appropriate way to acknowledge the place of other activities such as 'rural industry'.'</i></p>

<p>40. RLR-O2 / RPROZ-O4</p>	<p>Te Mata Mushrooms (S102.013, S102.063) [Evidence of Claire Price, paras 7.1-7.7, pp8-10]</p> <p>Te Mata Mushrooms' submission sought amendment of Objective RLR-O2, as follows:</p> <p><i>'The primary production role, <u>lawfully established rural industries and intensive rural production activities</u> and associated amenity of the District's rural land resource is retained, and is not compromised by inappropriate subdivision, use and development.'</i></p> <p>and also requested new objective RPROZ-OXX, as follows:</p> <p><u>RPROZ-OX The character of the Rural Production Zone may change in areas where the land supports the following activities:</u></p> <p><u>a. primary production activities,</u> <u>b. intensive primary production activities,</u> <u>c. rural industry and service activities,</u> <u>d. ancillary activities that require a rural location, whereby these above types of activities have buildings and structures that [differ?] different to those captured in Objective RPROZ -O4.</u></p> <p>The Section 42A Report recommended both submissions be rejected.</p> <p>Ms Price considers 'Retaining RLR Objective 2 so it reflects the high-level aim of protecting the districts highly productive land from inappropriate land uses is appropriate. However, consequential amendments to reflect the essence of Submission point S102.013 are appropriate. For instance, in response to other submission points, greater recognition has been given to intensive rural production activities (as intensive primary production activities) through the rural environment provisions. Yet, when reviewing the amendments recommended to RPROZ Objective 4 (Character of the Rural Production Zone), it is noted that 'intensive primary production activities' is not included.' (para 7.4 of Ms Price's evidence)</p> <p>Ms Price seeks the following alternative relief, through amendment to sub-clause 3 of Objective RPROZ-O4, which would instead recognise 'intensive primary production activities' alongside the other activities listed in that objective (highlighted grey):</p> <p><i>RPROZ-O4 The predominant character of the Rural Production Zone is maintained, which includes:</i></p> <ol style="list-style-type: none"> <i>1. <u>overall</u> low-density built form, with open space and few structures;</i> <i>2. a predominance of <u>rural and land-based</u> primary production activities and associated buildings such as barns and sheds, <u>post-harvest facilities, seasonal workers accommodation,</u> and artificial crop protection structures and crop support structures, <u>which may vary across the district and seasonally;</u></i> <i>3. <u>the sounds, and smells, and traffic</u> associated with <u>legitimate</u> primary production activities, <u>intensive primary production activities,</u> and <u>established rural industries, anticipated from a working rural environment;</u></i> <i>4. existing rural communities and community activities, such as rural halls, reserves and educational facilities;</i> <i>5. a landscape within which the natural environment (including farming and forest landscapes) predominates over the built one;</i> 	<p>I have not changed my position in respect of the amendment sought to Objective RLR-O2 as set out in paras 5.3.13 & 5.3.14 Vol 3 of Section 42A Report:</p> <p><i>'I do not concur with Te Mata Mushrooms and Silver Fern Farms that Objective RLR-O2 should be broadened to reference 'rural industry' as the strategic objectives in relation to the rural land resource revolve around protecting the District's significant concentration of highly productive land from incremental and irreversible loss – broadening the strategic objectives as sought would indicate that all rural industry is inherently consistent with that approach. As outlined above, new industry that does not have a functional or operational requirement for a rural location is best directed to appropriately serviced industrial zones.</i></p> <p><i>I recommend that the amendment sought by Te Mata Mushrooms is rejected (noting the amendment to Objective RLR-O2 proposed as a result of recommendations outlined in Key Issue 2 of this report).'</i></p> <p>Nor have I changed my position in respect of the inclusion of the new objective sought for the Rural Production Zone as set out in paras 5.3.46, 5.3.47 & 5.3.50 Vol 3 of Section 42A Report:</p> <p><i>'As stated above, the primary role of the General Rural Zone and, even more so, the Rural Production Zone in the PDP is to provide for primary production, including intensive primary production, in the first instance, and then to provide for a range of activities that support primary production where these require a rural location – in this case, the PDP makes targeted provision for post-harvest facilities and for small-scale commercial activities as Permitted Activities in these zones. And as stated above, recommendations in subsequent Key Issue 16 of this report, recommend a new Discretionary Activity rule providing for 'Rural Industry (excluding Post-Harvest Facilities)' in the Rural Production Zone. However, all remaining industrial activities are Non-Complying Activities, reflecting that the PDP aims to direct these to the appropriate industrial zone in the first instance.</i></p> <p><i>In my view, it is not appropriate to have objectives in a PDP that invoke blanket recognition of future change in the character of a zone, as sought by Te Mata Mushrooms. I also consider 'rural industry and service activities' is too broad an activity. The proposed objectives appear to pave the way for activities that may not achieve the purpose of the zone and may have adverse effects on the environment.</i></p> <p>...</p> <p><i>That hierarchy of providing for other activities provided they do not compromise the primary production role of the land resource is not appropriately reflected in the new objectives and policies sought by Te Mata Mushrooms, which suggests all are equally important.'</i></p> <p>In para 7.5 of her evidence, Ms Price seeks alternative partial relief through an amendment of Objective RPROZ-O4 instead, to recognise 'intensive primary production activities' alongside the other activities listed (and recommended to be listed in response to other submissions) in that objective.</p>
------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p><i>6. an environmental contrast and clear distinction between town and country (including a general lack of urban infrastructure, such as street lighting, solid fences and footpaths)</i></p> <p>'This recognition of intensive primary production activities as anticipated in a working rural environment would satisfy the relief sought in submission point (S102.063), while retaining RLR Objective 2 as the reporting officer has recommended. These amendments are considered to be within scope of submission points S102.063 and S102.013.' (para 7.6 of Ms Price's evidence)</p>	<p>I note that Te Mata Mushrooms submitted separately on Objective RPROZ-O4, in support of retention of the objective as notified (S102.088) but in supporting the objective also referred to the additional objective sought (S102.063). Therefore, I concur with Ms Price that the alternative relief is within scope of Te Mata Mushrooms' submissions.</p> <p>However, I do not support the addition of 'intensive primary production activities' to the list of activities in sub-clause 3 of Objective RPROZ-O4 as sought, as this would imply that sounds, smells and traffic associated with intensive primary production is necessarily anticipated from a working rural environment, when they are often noisy, smelly and involve higher traffic volumes than generally anticipated from primary production activities within the zone. This is further evident in that 'intensive primary production activities' are not provided for in the PDP as Permitted Activities in the General Rural or Rural Production Zones, but are Controlled Activities subject to compliance with considerable setbacks from residential zone boundaries (500m) and property boundaries (200m), where the matters over which control is reserved includes effects on character and amenity of the zone from traffic, generation of noxious, offensive or objectionable odour etc – refer Rules GRUZ-R14 and RPROZ-R14.</p> <p>Therefore, my recommendations as outlined in the Section 42A Report still stand in this regard.</p>
41. GRUZ-O2 / RPROZ-O4	<p>Silver Fern Farms (S116.031 relating to equivalent RPROZ-O4) [Evidence of Steven Tuck, paras 4.14-4.16, p9/10]</p> <p>Silver Fern Farms submission originally sought inclusion of 'rural industry' activities in Objective RPROZ-O4(3), as follows:</p> <p><i>(3) sounds and smells associated with legitimate primary production and rural industry activities;</i></p> <p>The s42A report (para 5.3.29 Vol 3 of Section 42A Report) supported recognising established rural industries in the Rural Production Zone, and recommended the following amendment (highlighted grey, alongside other amendments recommended in response to other submissions on this objective):</p> <p><i>(3) the sounds, and smells, and traffic associated with legitimate primary production activities, and established rural industries, anticipated from a working rural environment; [...]</i></p> <p>Mr Tuck considers 'However, the s42A report does not recommend amending GRUZ-O2(3) to reference rural industry in a similar fashion to RPROZ-O4(3). The s42A report does not discuss why this distinction arises.'</p> <p>'The s42A report recommends amending GRUZ-O2 "As for the equivalent objective in the Rural Production Zone...", so the omission of reference to "established rural industries" in GRUZ-O2 may just be a clerical error. In any case, I recommend amending GRUZ-O2(3) similarly to RPROZ-O4(3). In the context of the wider PDP framework for the rural environment, I am of the view that it would be inconsistent for policy to recognise the effects of rural industry as characteristic of the RPROZ but not of the GRUZ' (paras 4.15 & 4.16 of Mr Tuck's evidence).</p> <p>Mr Tuck considers GRUZ-O2(3) should be amended similarly to RPROZ-O4(3).</p>	<p>There appears to be some confusion. I note that the reference to amending GRUZ-O2 'as for the equivalent objective in the RPROZ' is in para 3.3.6 Vol 2 of the Section 42A Report (Key Issue 5) (the reference in para 3.3.6 should have been to RPROZ-O4 not RPROZ-O2) and relates back to the prior analysis and recommendations as outlined in paras 2.3.4 & 2.3.5 earlier in Vol 2 of the Section 42A Report (Key Issue 4), which did <u>not</u> relate to insertion of 'rural industry' in the objective.</p> <p>However, the inclusion of 'established rural industries' was specifically recommended for insertion in response to the submission from Silver Fern Farms as outlined in para 5.3.29 Vol 3 of the Section 42A Report (Key Issue 15).</p> <p>I note that the same request was not made by the submitter in respect of GRUZ-O2, therefore there is limited scope to amend GRUZ-O2 in the same way as has been afforded RPROZ-O4. This may simply have been on the basis that the Silver Fern Farms Takapau site within Central Hawke's Bay, is located within the Rural Production Zone?</p> <p>Having said that, there may be 'established rural industries' in the General Rural Zone also and, given the two objectives are identical otherwise, this may be able to be considered as a minor clause 16 RMA amendment, if the Panel is of a mind to investigate this option.</p> <p>In all other respects, I have not changed my position.</p>

<p>42. GRUZ-P3 / RPROZ-P3</p>	<p>Hort NZ (S81.108 & S81.148) [Evidence of Lynette Wharfe, paras 8.65-8.78, p36/37]</p> <p>Hort NZ's submission originally sought amendment of Policy GRUZ-P3 & equivalent Policy RPROZ-P3, as follows:</p> <p>GRUZ-P3 <i>To manage the scale of post-harvest facilities and rural commercial activities rural industry to ensure that they remain compatible with the primary productive purpose of the General Rural Zone, and potential adverse effects on the character and amenity of the rural area are avoided, remedied or mitigated.</i></p> <p>RPROZ-P3 <i>To manage the scale of post-harvest facilities and rural commercial activities rural industry to ensure that they remain compatible with the primary productive purpose of the Rural Production Zone, and potential adverse effects on the character and amenity of the rural area are avoided, remedied or mitigated.</i></p> <p>The Section 42A Report recommendation was to reject these submissions, but to amend the policies as a clause 16 minor amendment, as follows, to more correctly refer to 'commercial activities' which is the term used throughout the PDP:</p> <p>GRUZ-P3 <i>To manage the scale of post-harvest facilities and rural-commercial activities to ensure that they remain compatible with the primary productive purpose of the General Rural Zone, and potential adverse effects on the character and amenity of the rural area are avoided, remedied or mitigated.</i></p> <p>RPROZ-P3 <i>To manage the scale of post-harvest facilities and rural-commercial activities to ensure that they remain compatible with the primary productive purpose of the Rural Production Zone, and potential adverse effects on the character and amenity of the rural area are avoided, remedied or mitigated.</i></p> <p>Ms Wharfe considers there is a policy gap which needs to be addressed:</p> <p>'It is important to note that the definition of rural industry includes 'industry or business' so is not limited to 'industrial activities' related to primary production, and could include rural services and commercial activities.</p> <p>There are a range of places in the policy framework where there could be recognition of rural industry and the range of submissions provide considerable scope.</p> <p>The RLR objectives include objectives and direction for primary production and highly productive land and residential activities and other activities unrelated to primary production but there are no objectives for activities that support primary production.</p> <p>Likewise the objectives and policies for the GRUZ and RPROZ chapters focus on primary production activities but not for activities that support primary production...' (paras 8.71-8.74 of Ms Wharfe's evidence)</p> <p>Ms Wharfe does not support the recommended changes to GRUZ-P3 and RPROZ-P3 to change rural commercial activities to commercial activities:</p>	<p>Whilst not providing for 'rural industry' as a specified activity in and of itself, the PDP as notified <u>does</u> provide for primary production-related activities that similarly 'support, service or are dependent on primary production', in the following way:</p> <ul style="list-style-type: none"> - <u>post-harvest facilities</u> are Permitted Activities, subject to managing their scale (with a generous 2500m² gross floor area limit per site), and compliance with Permitted Activity standards; - <u>commercial activities</u> are Permitted Activities, subject to managing their scale (100m² gross floor area limit), and compliance with Permitted Activity standards; - <u>industrial activities</u> (other than post-harvest facilities) are Non-Complying Activities <p>'Post-harvest facilities', by definition, include various activities and business that directly supports, services and is dependent on primary production. In my view, 'post-harvest facilities' are Central Hawke's Bay's localised provision for 'rural industry' in the PDP, along with the provision for small-scale commercial activities – both provided for as Permitted Activities. These are the types of facilities and businesses anticipated in the rural area within the Central Hawke's Bay context. As stated above, the National Planning Standards (and the discussion document for a proposed NPS-HPL) provide for Council's to interpret zone descriptors through localised provisions in this way.</p> <p>In this vein, I refer to paras 6.3.14-6.3.17 Vol 3 of the Section 42A Report: 'The approach in the PDP, as reflected in the RLR – Rural Land Resource chapter, has been to provide for primary production in the rural zones in the first instance, and then to provide for other supporting activities that similarly require a rural location provided they do not compromise the primary production role of the rural zones.</p> <p>As stated, the PDP introduces provision for 'post-harvest facilities' in the General Rural and Rural Production Zones (along with an accompanying definition). There is reasonably generous provision for 'post-harvest facilities' up to 2,500m² gross floor area in the General Rural Zone and Rural Production Zone as a Permitted Activity, subject to compliance with the various zone standards. The PDP takes the approach that industrial activities that do not directly support primary production and do not require a rural location, are best directed to an appropriately serviced industrial zone. This is closely aligned with the approach in the neighbouring Hastings District Plan.</p> <p>However, I acknowledge that potentially there are rural industries that require a rural location and may be appropriate in the rural zones, that may not constitute 'post-harvest facilities'. I consider there is merit in differentiating between 'industrial activities' generally, and those which are not 'post-harvest facilities' but still directly support, service, or are dependent on primary production and that require a rural location. I consider such industries are appropriately termed 'rural industry'. Note: inclusion of this term in the PDP (and its accompanying National Planning</p>
-------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

'Commercial activities are specifically sought to be avoided in GRUZ-P9 and RPROZ-P9. Including commercial activities in GRUZ-P3 and RPROZ-P3 contradicts the specific policies to avoid these activities.

I have considered whether rural industry could be retrofitted into the existing policy framework or whether new standalone provisions would be more appropriate.

I consider that an amendment to GRUZ-P3 and RPROZ-P3 would provide recognition of rural industry by deleting 'rural commercial activities' and replacing with 'rural industry'.

Alternatively a new policy could be included in both GRUZ and RPROZ chapters as follows:

To enable primary production related activities, such as rural industry, which have a functional or operational need to establish in the rural area' (paras 8.75-8.78 of Ms Wharfe's evidence)

Standards definition) has been recommended in response to submissions in Key Issue 15 of this report.

In my view, 'rural industry' warrants a greater level of scrutiny than the types of 'facilities' that fall within the definition of 'post-harvest facilities' and, therefore, do not support provision for such industry as a Permitted or Controlled Activity...

The recommendation in the Section 42A Report is to insert a new rule in the General Rural Zone and the Rural Production Zone specifically providing for 'Rural Industry' (where not already captured by the 'post-harvest facilities' and 'commercial activities' rules) as a Discretionary Activity, with an important clear direction to consider the necessity of a rural location, and that the rules relating to 'Industrial Activities' (being Non-Complying Activities) are amended to exclude 'rural industry' as a consequence, as follows:

GRUZ-RXX Rural industry (other than post-harvest facilities)

1. Activity Status: DIS Where the following conditions are met: N/A Subject to (but not limited to) the following assessment matter: a. The necessity of a rural location.	2. Activity status where compliance is not achieved: N/A
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------

RPROZ-RXX Rural industry (other than post-harvest facilities)

1. Activity Status: DIS Where the following conditions are met: N/A Subject to (but not limited to) the following assessment matter: a. The necessity of a rural location.	2. Activity status where compliance is not achieved: N/A
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------

GRUZ-R19 Industrial activities (other than post-harvest facilities and rural industry)

1. Activity Status: NC Where the following conditions are met: N/A	2. Activity status where compliance not achieved: N/A
-----------------------------------------------------------------------	-------------------------------------------------------

RPROZ-R19 Industrial activities (other than post-harvest facilities and rural industry)

1. Activity Status: NC Where the following conditions are met: N/A	2. Activity status where compliance not achieved: N/A
-----------------------------------------------------------------------	-------------------------------------------------------

The above recommended changes address a gap in the rule framework, identified through submissions, that inadvertently makes any other 'rural industry' (regardless of need for a rural location) default to a Non-Complying Activity in the PDP as notified. I continue to support this approach.

Therefore, in terms of inserting the term 'rural industry', **I have not changed my position** as set out in paras 5.3.37 & 5.3.38 Vol 3 of the Section 42A Report, as follows:

'I do not support inclusion of 'rural industry' in these policies. The primary focus of the General Rural and Rural Production Zones, in the context of Central Hawke's Bay and as reflected in the RLR – Rural Land Resource chapter of the PDP, is to support primary production-related activities, to safeguard the life-supporting capacity of the valuable soil resource, and to

		<p>sustain the potential of the District's concentration of highly productive land to meet the reasonably foreseeable needs of future generations. The approach in the rural zones is to provide for primary production in the first instance, and then to provide for other supporting activities that similarly require a rural location provided they do not compromise the primary production role of the zones.</p> <p>Policies GRUZ-P3 and RPROZ-P3 implement the objectives for the rural zones in the PDP, which are then implemented by the rules and Permitted Activity site coverage conditions applying to post-harvest facilities (Rules GRUZ-R6(1)(a) & RPROZ-R6(1)(a)) and the Activity Thresholds applying to commercial activities (Standards GRUZ-S1 & RPROZ-S1) in the General Rural and Rural Production Zones.'</p> <p>I remain of the view to reject the submission to replace the term 'rural commercial activities' with 'rural industry', and I similarly do not recommend adopting the alternative policy presented by the submitter. However, I consider that it would be appropriate to re-order the wording of Policies GRUZ-P3 & RPROZ-P3 as a clause 16 RMA minor amendment, to better articulate their intent that such activities are those related to primary production. Therefore, I revise my recommendation as follows (highlighted grey):</p> <p>GRUZ-P3 To manage the scale of post-harvest facilities and rural commercial activities related to the primary productive purpose of the General Rural Zone, to ensure that they remain compatible with that purpose the primary productive purpose of the General Rural Zone, and potential adverse effects on the character and amenity of the rural area are avoided, remedied or mitigated.</p> <p>RPROZ-P3 To manage the scale of post-harvest facilities and rural commercial activities related to the primary productive purpose of the Rural Production Zone, to ensure that they remain compatible with that purpose the primary productive purpose of the Rural Production Zone, and potential adverse effects on the character and amenity of the rural area are avoided, remedied or mitigated.</p> <p>The aspects of functional and operational need, and where such activities are unrelated to primary production, are already addressed elsewhere in the policies (e.g. Policies GRUZ-P7 & GRUZ-P9 and Policies RPROZ-P7 & RPROZ-P9).</p> <p>I consider this in keeping with Objectives GRUZ-O1 and RPROZ-O1 around the zones being used predominantly for primary production activities (including intensive primary production) and associated ancillary activities.</p> <p>I wish to clarify that GRUZ-P9/ RPROZ-P9 are policies to avoid establishment of commercial or industrial activities that are unrelated to the primary productive purpose of the zone, or that are of a scale that is incompatible with the predominant character and amenity of the rural area.</p>
--	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		They are not policies directed at avoiding all commercial activities whatsoever – there is an element of scale and compatibility with the character and amenity of the rural area, which is then provided for through Permitted Activity rules for such activities subject to various conditions and compliance with Activity Threshold standards.
--	--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Key Issue 16 – Rural Industry Rules, Standards, Assessment Matters etc

Issue/Plan Provision	Submitter Evidence	Response
43. GRUZ-R9 / RPROZ-R9 Commercial activities not otherwise provided for	<p>Hort NZ (S81.118 & S81.162) [Evidence of Lynette Wharfe, paras 8.79-8.91, p37/38]</p> <p>Hort NZ's submission sought to change/rename Rule GRUZ-R9 & equivalent Rule RPROZ-R9, so that they relate to provision for 'Rural Industry', rather than 'Commercial Activities not otherwise provided for' as notified.</p> <p>The Section 42A Report recommendation was to reject these submissions, but to recommend inclusion of a separate new rule specifically providing for 'rural industry' as a Discretionary Activity in both the General Rural and Rural Production Zones (and other consequential amendments as a result).</p> <p>Ms Wharfe, in her evidence notes that the Section 42A report 'supports commercial activities, while not providing for rural services and industry which are more clearly aligned with the purpose of the zone to provide for, and support, primary production' (para 8.87 of Ms Wharfe's evidence)</p> <p>'In addition, the s42A Report is recommending or supporting that activities that are not generally anticipated in the rural zones are accorded a Restricted Discretionary Status – such as community facilities, educational facilities, and camping grounds.</p> <p>In my opinion an activity that supports primary production and is anticipated in the rural zones should not have a more stringent activity status than activities that are not generally anticipated in the rural zones.</p> <p>While a rule is recommended for rural industry as a discretionary activity it does not provide for 'small-scale' rural industry or businesses as a permitted activity, that are more appropriately located within the rural zones than commercial activities which are provided for as a permitted activity' (paras 8.88-8.90 of Ms Wharfe's evidence)</p> <p>As an alternative relief, Ms Wharfe seeks (in para 8.91 of Ms Wharfe's evidence) inclusion of a Permitted Activity rule for rural industry up to 200m², <u>and</u> amendment of the new Rule GRUZ-RXX Rural Industry and Rule RPROZ-RXX Rural Industry (recommended in the Section 42A Report) to provide a Restricted Discretionary Activity status, rather than 'Discretionary Activity status.</p>	<p>I do not agree that the rules as recommended do not provide for 'small-scale' rural industry or businesses as a Permitted Activity. The PDP as notified, includes significant provision for post-harvest facilities which are a form of rural industry and clearly related to the primary productive purpose of the GRUZ & RPROZ.</p> <p>'Post-harvest facilities' are defined in the PDP as:</p> <p><i>buildings operated by one or more growers and used for wine-making, or the storage, packaging, washing, inspecting and grading of eggs, fruit, vegetables or other (natural and unprocessed) primary produce brought to the post-harvest facility from a range of locations, and includes ancillary activities directly associated with post-harvest operations.</i></p> <p>a. Includes:</p> <ul style="list-style-type: none"> <i>i. pack-houses, cool-stores and wineries</i> <i>ii. use of the site for the collection and distribution of horticultural products (including grapes)</i> <i>iii. preparation and shrink wrapping horticultural products in preparation for distribution to retail outlets</i> <i>iv. collection and distribution of agricultural products including the cross loading of trucks used in the collection and delivery of horticultural products</i> <i>v. the on-site servicing and maintenance of vehicles and equipment associated with the activities</i> <p>b. Excludes:</p> <ul style="list-style-type: none"> <i>i. retail sales</i> <i>ii. other industrial activities (e.g. forestry and dairy processing facilities)</i> <p>In my view, the above offers considerable scope for establishing industry and business activities in the rural area of the District that directly support, service, or are dependent on primary production, in the context of Central Hawke's Bay.</p> <p>Post-harvest facilities up to 2,500m² gross floor area per site, are provided for in Rules GRUZ-R6 & RPROZ-R6 as Permitted Activities. This is considerably greater than the 100m² gross floor area limits applying to community facilities (GRUZ-R10/RPROZ-R10), educational facilities (GRUZ-R11/RPROZ-R11), visitor accommodation (GRUZ-R8/RPROZ-R8).</p> <p>Further, provision is also made for 'Commercial activities not otherwise provided for' (GRUZ-R9/RPROZ-R9) providing for small-scale businesses to establish in the rural area. This would also offer some strictly limited additional provision for commercial businesses to establish in the rural area</p>

		<p>– including where it directly supports, services, or is dependent on primary production.</p> <p>As stated previously, it is unclear what other types of rural industries/businesses are anticipated in the rural zones, that are not already provided for, that should be permitted. Therefore, I do not support, nor consider it necessary, to make further provision for rural industry (up to 200m2) as a Permitted Activity in the General Rural and Rural Production Zones.</p> <p>I also do not support amending the activity status of the recommended new rules for 'Rural Industry' (GRUZ-RXX/RPROZ-RXX) from Discretionary to Restricted Discretionary, as that would be inconsistent given the Discretionary Activity status applying to post-harvest facilities that exceed the gross floor area threshold in GRUZ-R6/RPROZ-R6. In my view, the provision for 'post-harvest facilities' and for 'commercial activities not otherwise provided for' is appropriate and sufficient in the Central Hawke's Bay context.</p> <p>Beyond these provisions, I remain of the view that a Discretionary Activity status for 'Rural Industry', and 'Non-Complying Activity status where proposing 'Industrial activities (other than post-harvest facilities and rural industry)', is appropriate. Therefore, I have not changed my position as set out in paras 6.3.17-6.3.19 Vol 3 of Section 42A Report, as follows:</p> <p><i>'In my view, 'rural industry' warrants a greater level of scrutiny than the types of 'facilities' that fall within the definition of 'post-harvest facilities' and, therefore, do not support provision for such industry as a Permitted or Controlled Activity as sought by Te Mata Mushrooms and Silver Fern Farms.</i></p> <p><i>Further, I do not support the alternative option of changing the application of Rules GRUZ-R9 and RPROZ-R9 from 'Commercial activities not otherwise provided for' to instead apply to 'Rural Industry', as sought by Hort NZ. In my view, Rules GRUZ-R9 and RPROZ-R9 are necessary to continue to provide for small-scale commercial activities not otherwise provided for in these zones (as a Permitted Activity, subject to activity thresholds in Standards GRUZ-S1 and RPROZ-S1 respectively, and compliance with the relevant general zone standards).</i></p> <p><i>Given the above, I recommend inserting a new rule in the General Rural Zone and the Rural Production Zone specifically providing for 'Rural Industry' as a Discretionary Activity with an important clear direction to consider the necessity of a rural location, and that Rules GRUZ-R19 and RPROZ-R19 be amended to exclude 'rural industry' as a consequence, as follows:</i></p>
--	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<table><tr><td colspan="2">GRUZ-RXX Rural industry (other than post-harvest facilities)</td></tr><tr><td>1. Activity Status: DIS Where the following conditions are met: N/A Subject to (but not limited to) the following assessment matter: a. The necessity of a rural location.</td><td>2. Activity status where compliance is not achieved: N/A</td></tr></table> <table><tr><td colspan="2">RPROZ-RXX Rural industry (other than post-harvest facilities)</td></tr><tr><td>1. Activity Status: DIS Where the following conditions are met: N/A Subject to (but not limited to) the following assessment matter: a. The necessity of a rural location.</td><td>2. Activity status where compliance is not achieved: N/A</td></tr></table> <table><tr><td colspan="2">GRUZ-R19 Industrial activities (other than post-harvest facilities and rural industry)</td></tr><tr><td>1. Activity Status: NC Where the following conditions are met: N/A</td><td>2. Activity status where compliance not achieved: N/A</td></tr></table> <table><tr><td colspan="2">RPROZ-R19 Industrial activities (other than post-harvest facilities and rural industry)</td></tr><tr><td>1. Activity Status: NC Where the following conditions are met: N/A</td><td>2. Activity status where compliance not achieved: N/A</td></tr></table>	GRUZ-RXX Rural industry (other than post-harvest facilities)		1. Activity Status: DIS Where the following conditions are met: N/A Subject to (but not limited to) the following assessment matter: a. The necessity of a rural location.	2. Activity status where compliance is not achieved: N/A	RPROZ-RXX Rural industry (other than post-harvest facilities)		1. Activity Status: DIS Where the following conditions are met: N/A Subject to (but not limited to) the following assessment matter: a. The necessity of a rural location.	2. Activity status where compliance is not achieved: N/A	GRUZ-R19 Industrial activities (other than post-harvest facilities and rural industry)		1. Activity Status: NC Where the following conditions are met: N/A	2. Activity status where compliance not achieved: N/A	RPROZ-R19 Industrial activities (other than post-harvest facilities and rural industry)		1. Activity Status: NC Where the following conditions are met: N/A	2. Activity status where compliance not achieved: N/A
GRUZ-RXX Rural industry (other than post-harvest facilities)																		
1. Activity Status: DIS Where the following conditions are met: N/A Subject to (but not limited to) the following assessment matter: a. The necessity of a rural location.	2. Activity status where compliance is not achieved: N/A																	
RPROZ-RXX Rural industry (other than post-harvest facilities)																		
1. Activity Status: DIS Where the following conditions are met: N/A Subject to (but not limited to) the following assessment matter: a. The necessity of a rural location.	2. Activity status where compliance is not achieved: N/A																	
GRUZ-R19 Industrial activities (other than post-harvest facilities and rural industry)																		
1. Activity Status: NC Where the following conditions are met: N/A	2. Activity status where compliance not achieved: N/A																	
RPROZ-R19 Industrial activities (other than post-harvest facilities and rural industry)																		
1. Activity Status: NC Where the following conditions are met: N/A	2. Activity status where compliance not achieved: N/A																	
44. RPROZ-R9 Commercial activities not otherwise provided for	<p>Hort NZ (S81.162) [Evidence of Lynette Wharfe, paras 7.23-7.28, p19]</p> <p>In addition to the above, Ms Wharfe states in her evidence:</p> <p>‘HortNZ made submissions on RPROZ-R9 which are considered as part of Key Issue 16 in respect to Rural Industry.</p> <p>I note that the s42A Report states:</p> <p><i>In my view, there is a legitimate place for small scale, one-off, commercial enterprises in the Rural Production Zone where it does not compromise the highly productive land resource or generate issues of reverse sensitivity.</i></p> <p>The issue I have with this statement no assessment is done as part of the permitted activity to determine whether the land resource will be compromised or reverse sensitivity effects generated.</p> <p>Further the policy direction in the Plan is RPROZ-R9 to avoid establishment commercial activities that are unrelated to primary production.</p> <p>If the report writer considers that the activity is linked to primary production then an additional condition should be applied to this intent’ (paras 7.23-7.27 of Ms Wharfe’s evidence)</p>	<p>I consider this as outside the scope of Hort NZ’s original submission, and therefore the request to add a condition to Rule RPROZ-R9 cannot be considered.</p> <p>However, the intent of the PDP as notified was to provide for small scale, one-off, commercial enterprises in the rural area, and that the limiting to 100m² gross floor area addressed issues of compromising the highly productive land resource. In terms of reverse sensitivity, commercial activities are not generally characterised as sensitive activities. Hort NZ did not refer to evidence of reverse sensitivity effects being generated by commercial activities that have chosen to establish in a rural environment and I am not aware of any such example, despite the same provision for limited commercial activity being made in the Hastings District Plan, and similar provision in other areas.</p> <p><i>[I note that the Pork Industry Board (S42.073) and further submitter Silver Fern Farms (FS8.051) seek deletion of this rule on reverse sensitivity grounds]</i></p>																
45. New Rule RPROZ-RXX Rural Industry	<p>Silver Fern Farms (S116.039) [Evidence of Steven Tuck, paras 5.1-5.10, pp 10-13]</p> <p>Silver Fern Farms’ submission sought a Controlled Activity resource consent pathway for rural industry, with a Restricted Discretionary Activity status for proposals not compliant with the conditions applying to the Controlled Activity rule, as follows:</p> <p><i>‘RPROZ-R21 Rural industry</i></p> <p><i>1. Activity Status: PER</i></p> <p><i>Where the following conditions are met:</i></p>	<p>See response above in relation to provision for rural industry and post-harvest facilities in the PDP.</p> <p>I concur with Mr Tuck that the definition of ‘rural industry’ <i>‘contemplates a variety of business and industrial activities ranging from modest to large scale, for example a contractor’s depot to a dairy factory’</i> (para 5.2 of his evidence). In my view, however, neither a contractor’s depot nor a dairy factory would be activities that should be provided for as Controlled Activities in the rural area, as in both cases, the potential adverse effects of</p>																

	<p>a. RPROZ-S2(1)(a) - RPROZ-S11 inclusive. b. RPROZ-S13 - RPROZ-S15 inclusive. Matters over which control is reserved: c. The method of storage and use of materials associated with the operation of the activity that may generate noxious, offensive, or objectionable odour beyond the site boundary. d. Setbacks from wāhi tapu, wāhi taonga and sites of significance identified in SASM-SCHED3 that are located within the site of the activity. e. RPROZ-AM14 General.</p> <p>2. Activity status where compliance with condition RPROZ-R21(1) is not achieved: RDIS.'</p> <p>In response to various submissions on this subject, the Section 42A Report recommendation was to include a new rule explicitly providing a Discretionary Activity resource consent pathway in the Rural Production Zone for 'rural industry' (to also apply in the General Rural Zone as well).</p> <p>Considers 'The definition of rural industry contemplates a variety of business and industrial activities ranging from modest to large scale, for example a contractors' depot to a dairy factory. Silver Fern Farms submission recognised that given the pre-eminence of primary production in the GRUZ and RPROZ, a permitted activity status for rural industry would not be an appropriate starting point for rural industry resource consent applications.</p> <p>However, modest rural industry activities (whether for new activities, or for additions/alterations to an existing activity) might comply with the performance standards set out in the GRUZ and RPROZ about:</p> <ul style="list-style-type: none"> • Setbacks from road, railway, gas transmission and electricity networks (including the National Grid) and the Waipukurau Aerodrome; • Setbacks from sites of cultural or ecological significance; • Compliance with amenity performance standards regarding building coverage, height and height in relation to boundaries, setbacks to side and rear boundaries, boundary planting, light and noise emissions. <p>Where activities could comply with this array of environmental performance standards it was suggest that a controlled activity status for rural industry would be an appropriate and efficient way to facilitate the assessment of small-scale and inoffensive rural industry proposals, which after all, would be situated (and anticipated) in a rural zone. Separate district plan rules regulate the effects of other land use matters like earthworks, heritage, biodiversity, and regional plan rules regulate discharges. Those are adequate to assess a proposal that presents a risk of adverse effects of a scale or type not typically anticipated in a rural environment.' (paras 5.2-5.4 of Mr Tuck's evidence)</p> <p>'I consider that a catch-all discretionary activity status for rural industry - regardless of a proposal's scale or effects - is too blunt and is not necessary. It generates uncertainty for applicants for minor rural industry resource consents, which in my view is unwarranted (given that the rule regime suggested in the submission means that to comprise a controlled activity, a proposal would need to meet all of the relevant environmental performance standards in the Plan). Rural industry can only locate in the RPROZ or GRUZ. A proposal could only</p>	<p>such activities on the environment warrant a higher level of scrutiny and the ability to decline consent.</p> <p>I have not changed my position as set out in para 6.3.15-6.3.17 Vol 3 of Section 42A Report:</p> <p><i>'...the PDP introduces provision for 'post-harvest facilities' in the General Rural and Rural Production Zones (along with an accompanying definition). There is reasonably generous provision for 'post-harvest facilities' up to 2,500m2 gross floor area in the General Rural Zone and Rural Production Zone as a Permitted Activity, subject to compliance with the various zone standards. The PDP takes the approach that industrial activities that do not directly support primary production and do not require a rural location, are best directed to an appropriately serviced industrial zone. This is closely aligned with the approach in the neighbouring Hastings District Plan.</i></p> <p><i>However, I acknowledge that potentially there are rural industries that require a rural location and may be appropriate in the rural zones, that may not constitute 'post-harvest facilities'. I consider there is merit in differentiating between 'industrial activities' generally, and those which are not 'post-harvest facilities' but still directly support, service, or are dependent on primary production and that require a rural location. I consider such industries are appropriately termed 'rural industry'. Note: inclusion of this term in the PDP (and its accompanying National Planning Standards definition) has been recommended in response to submissions in Key Issue 15 of this report.</i></p> <p><i>In my view, 'rural industry' warrants a greater level of scrutiny than the types of 'facilities' that fall within the definition of 'post-harvest facilities' and, therefore, do not support provision for such industry as a Permitted or Controlled Activity as sought by Te Mata Mushrooms and Silver Fern Farms.'</i></p> <p>I remain of the view that a new rule explicitly providing for 'Rural Industry' as a Discretionary Activity is appropriate, and my recommendations stand in this regard.</p>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>comply with the controlled activity performance standards if it is modest and unlikely to entail adverse effects that could not be managed by consent conditions. An application of that type is not likely to have any adverse implications on the achievement of the PDP's strategic rural environment policy objectives.</p> <p>As such I recommend that a controlled activity status apply to rural industry proposals, subject to the controlled activity conditions shown in Appendix B.</p> <p>I acknowledge that it is appropriate for rural industry proposals larger than contemplated by the controlled activity conditions to be the subject of broader assessment. As such, I recommend that rural industry proposals unable to comply with the conditions for controlled activities be assessed as a discretionary activity, with reference to (but not limited to) the assessment matter recommended by the s42A report ("The necessity of a rural location"). The other assessment matters (RPROZ-AM1 to RPROZ-AM16) will also assist the assessment of any discretionary resource consent applications.</p> <p>In my opinion the assessment matter will aid the distinction of rural industry proposals from more generic "industry" activities which may not be able to demonstrate a functional or operational need for a rural location.' (paras 5.7-5.10 of Mr Tuck's evidence)</p>	
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Key Issue 17 – Agricultural Aviation Movements, Rural Airstrips, & Helicopter Landing Areas Definitions, Rules & Noise Standards

Issue/Plan Provision	Submitter Evidence	Response
<p>46. Definitions</p> <p>GRUZ-R4 / RPROZ-R4</p> <p>GRUZ-R5 / RPROZ-R5</p> <p>GRUZ-RXX / RPROZ-RXX</p>	<p>Federated Farmers (S121.109, S121.110, S121.111, S121.189, S121.190, S121.218, S121.248) [Evidence of Rhea Dasent, paras 50-52, p8/9]</p> <p>Federated Farmers' submission originally sought to ensure agricultural aviation movements and landing areas are provided for as Permitted Activities (in Rules GRUZ-R4/RPROZ-R4); excluding such movements from the definition of 'rural airstrips'; and also excluding such movements where 'ancillary to primary production undertaken on the same site' from the rules applying to 'rural airstrips and/or helicopter landing areas' (in Rules GRUZ-R5/RPROZ-R5).</p> <p>Federated Farmers also sought deletion of the specific noise standards applying to agricultural aviation movements in the PDP (Standard NOISE-S5(11) & (12)), and deletion of reference to such movements in the respective specific noise standards applying to 'rural airstrips' and 'helicopter landing areas' (Standard NOISE-S5(13) & NOISE-S5(16)).</p> <p>The Section 42A Report recommendation was to reject all these submissions.</p> <p>Ms Dasent considers '...provisions for airstrips and aviation must not unnecessarily regulate those that are ancillary to the farming land use and only used occasionally for spraying or fertiliser application on the farm. This use is distinct from a depot or base, and should not be regulated the same.</p> <p>Federated Farmers was also concerned that the definition of rural airstrips will inappropriately capture an airstrip on a farm which is only used temporarily when</p>	<p>In response to all the evidence presented at the Hearing on this issue (in particular, that of Ms Wharfe and Mr Lawson), I have revised my recommendations in respect of the agricultural aviation provisions in the General Rural and Rural Production Zones, as follows.</p> <p>I still support the broad intent of the provisions, as outlined in paragraphs 7.3.4-7.3.17, Volume 3 of my s42A report, in that:</p> <ul style="list-style-type: none"> - normal agricultural aviation activity be provided for as a Permitted Activity, reflecting the important function it plays in support of primary production; and - new or expanded rural airstrips and helicopter landing areas be provided for as a Permitted Activity subject to conditions in terms of location and adverse effects on amenity such as avoiding unreasonable noise. <p>I acknowledge the evidence and presentations from Fed Farmers, Hort NZ, and the agricultural aviation sector (NZAAA & Aerospread) that there are some aspects of the provisions of the PDP as notified that they consider unnecessarily regulate agricultural aviation activities. I address these in turn.</p> <p><u>Agricultural Aviation Activity</u></p> <p>I concur with the various submitters that the intermittent operation of an aircraft from a rural airstrip or helicopter landing area for primary production</p>

	<p>fertiliser or spraying is done on that same farm, and then reverts back to grazing for livestock once work is complete.</p> <p>I support the evidence of Lynette Wharf for Horticulture New Zealand on this topic..., and agree with her suggested rules...' (paras 50-52 of Ms Dasent's evidence)</p>	<p>purposes is an anticipated and long-accepted activity within the rural area, and that agricultural aviation activity should remain enabled to continue largely as it does now, without unnecessary regulation.</p> <p>To better achieve this, I recommend a change to the term 'agricultural aviation movements' to instead refer to 'agricultural aviation activity' and amendment of the definition accordingly, coupled with amendment of the definition for 'rural airstrip' (refer attached set of revised provisions). I consider this will provide greater clarity in interpretation of Rules GRUZ-R4 and RPROZ-R4 and, in my opinion, is within the broad scope of submissions on this topic.</p> <p>In terms of the application of noise standards to agricultural aviation activities, the response from Council's noise expert (Marshall Day Acoustics) following the Hearing – contained in the memo in Appendix 5 (attached) – indicates that they have not changed their position in this respect, in terms of providing exemption from any noise limits for up to 14 days per year. They note that in almost all rural agricultural aviation cases, compliance with NZS 6805 would be achieved.</p> <p>The memo from Marshall Day Acoustics states:</p> <p><i>'An option we have been asked to consider is whether all agricultural aviation movements could be exempt from needing to comply with noise limits, with reliance simply being placed on s 16 to avoid unreasonable noise. The suggestion is that the Plan could refer to the Council having regard to NZS 6805 when determining whether the noise levels generated by an airstrip were reasonable.</i></p> <p><i>Our opinion on this option is that this is likely to add an unnecessary burden on the Council to investigate what is or isn't reasonable, is open to potentially protracted challenge, and could involve costly assessment. In most cases the airstrips in question would likely not involve agricultural flight operations occurring for more than 14 days. With the 14 day exemption, it is simpler and therefore more pragmatic to carry out an investigation of compliance.</i></p> <p><i>Overall, our position and recommendations have not changed and therefore we consider the 14 day exemption should be retained.'</i></p> <p>Given there has been no expert acoustic evidence provided to the Panel to the contrary, I therefore remain of the view that Standard NOISE-S5(11) & (12) should be retained as notified.</p> <p><u>Rural Airstrips / Helicopter Landing Areas</u></p> <p>With respect to Rules GRUZ-R5 & RPROZ-R5, I have considered the evidence and presentation of the various submitters.</p> <p>I remain of the view that condition (1)(a), which imposes locational limits for rural airstrips etc, is appropriate in terms of potential adverse effects on amenity for areas that are more densely populated (urban and settlement areas) and for existing noise sensitive activities, and in terms of potential adverse effects on safety in the vicinity of state highways. In those situations, I consider it appropriate that new or expanded rural</p>
--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>airstrips/helicopter landing areas be subject to a degree of assessment via a resource consent process.</p> <p>However, I accept that condition (1)(b) limiting aircraft movements to 1000 movements per year is potentially unworkable and, in this respect, I note paragraph 17 of the legal submissions of Mr Lawson on behalf of J & S Calder as follows:</p> <p><i>'From a top dressing perspective, 1000 aircraft movements per year effectively limits the submitters use of a rural airstrip to 500 loads of fertiliser per annum. In an average date, Mr Calder will take off and land 100 times a day (200 aircraft movements) meaning that the 1000 aircraft movements per [annum] limits the use of a rural airstrip to 5 days per annum. This effectively means that there will be a proliferation of airstrips (which is undesirable) or vast tracts of Central Hawke's Bay will be unable to be fertilised by air. Most rural airstrips will exceed 1000 aircraft movements per annum and the alternative of requiring a resource consent for virtually every airstrip in Central Hawke's Bay is both unreasonable and unprecedented throughout the country.'</i></p> <p>In his legal submissions, Mr Lawson goes on to submit (in paragraphs 20-22) that:</p> <p><i>'...the ability to top dress the land within the rural zones of Central Hawke's Bay is an integral and essential component of farming [in] Hawke's Bay and therefore an integral and essential component of the sustainable management of natural and physical resources within the district.</i></p> <p><i>People with an affiliation and connection to the rural sector living within the rural zones understand the importance of top dressing industry to primary production.</i></p> <p><i>The people who choose to live within the rural zone for lifestyle or other non-rural reasons should accept the existing amenity effects and practices that occur in the rural zone...</i></p> <p>Similarly, condition (1)(c) is considered by various submitters to be unnecessarily restrictive. Mr Lawson, in his legal submissions, referred to this condition imposing a limitation on the size of fertiliser bins, barns and implement sheds, and hangars housing aeroplanes. Whilst I believe all the examples given, except the hangar, would be considered 'buildings and structures ancillary to primary production', I accept that there is little additional resource management purpose served by this condition given the other Permitted Activity standards applying to Rules GRUZ-R5 & RPROZ-R5 via condition (1)(d) – particularly Standard RPROZ-S1, which applies a broad total building coverage limit in the Rural Production Zone in terms of limiting the loss of highly productive land. Therefore, my revised recommendation is to delete conditions (1)(b) & (1)(c).</p> <p>To this end, I remain of the view that the general Permitted Activity standards applying to Rules GRUZ-R5 & RPROZ-R5 via condition (1)(d) – such as 'height of buildings', 'height in relation to boundary', 'setback from roads and rail network', 'setback from neighbours', 'shading of land and</p>
--	--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>roads', 'electricity safety distances', transport in relation to access, parking and loading, light, and noise – should be retained.</p> <p>I note in paragraph 31 of Mr Lawson's legal submissions, support for the use of NZS 6805:1992 Airport Noise Management and Land Use Planning, <i>'as this is the New Zealand standard that has been specifically formulated to address the noise derived from aircraft using airports and airstrips'</i>. In that sense, I remain of the view that the specific noise standards applying to rural airstrips and helicopter landing areas in Standard NOISE-S5(13-18) of the PDP should be retained (with minor amendments to reflect other recommendations, and to apply the standard to the notional boundary of a building containing a noise sensitive activity in the Rural Lifestyle Zone, in addition to the General Rural and Rural Production Zones).</p> <p>In respect of all other amendments sought in submissions relating to this topic, my position has not fundamentally changed.</p> <p>Given the above, I wish to revise my recommendations and seek that the relevant definitions and rules applying to aviation activities in the General Rural and Rural Production Zones (including NOISE-S5) be amended as outlined at the end of this table, and reflected in Appendix 2, and that my recommendations in response to the respective submissions and further submissions be revised accordingly as reflected in Appendix 3.</p>
<p>47. Definitions GRUZ-R4 / RPROZ-R4 GRUZ-R5 / RPROZ-R5 GRUZ-RXX / RPROZ-RXX NOISE-S5(11), (13) & (16)</p>	<p>NZ Agricultural Aviation Association (NZAAA) & Aerospread Ltd (S43.001, S43.002, S43.003, S43.004, S43.006, S43.008, S43.009, S43.010 and S38.001, S38.002, S38.003, S38.004, S38.008, S38.010, S38.011) [Joint statement of Bruce Peterson and Bill MacGregor]</p> <p>NZAAA & Aerospread Ltd submissions originally sought adoption of Civil Aviation Authority (CAA) definitions, and adoption of CAA daylight tables as the guide for daylight operations for agricultural aviation aircraft, deletion of the 14-day exemption aspect in NOISE-S5(11), (13) & (16), deletion of NOISE-S5(12), retention of Rules GRUZ-R4 & RPROZ-R4, clarification that Rules GRUZ-R5 & RPROZ-R5 will not apply to agricultural aviation activity ancillary to primary production, and made various further submissions supporting or opposing other submissions on these same provisions.</p> <p>The Section 42A Report recommendation was to reject the majority of their submissions.</p> <p>In essence, their statement indicated concerns 'that normal agricultural aviation activity could become constrained by the unintended consequences of one size fits all regulations. We operate in an already highly regulated industry and are acutely aware of the impact of over-regulation on productive economic activity. To this end we make the following submissions.</p> <p>We have three specific areas we wish to see amended or clarified for agricultural aviation operations plus changes to definitions and addition of national standards/industry best practice. These are in the areas of noise; hours of operation, number of movement, number of days of operation; restrictions on the footprint of fertiliser 'bins' at rural airstrips. These apply to both fixed wing and helicopters so where the term aircraft is used it applies to both.' (pg 3 of joint statement)</p>	<p>Refer response above</p> <p>I note there are <u>no</u> hours of operation restrictions applying (or recommended) in relation to the aviation rules in the PDP, including in relevant noise standards (noise from aircraft movements is specifically exempt from the NOISE-S4 zone noise limits via NOISE-S5(11-18)).</p>

<p>48. GRUZ-R4 / RPROZ-R4</p> <p>GRUZ-R5 / RPROZ-R5</p> <p>GRUZ-RXX / RPROZ-RXX</p> <p>NOISE-S5(11), (13) & (16)</p>	<p>Hort NZ (S81.015, S81.022, S81.100) [Evidence of Lynette Wharfe, paras 8.92-8.123, p38-42]</p> <p>Hort NZ made various submissions and further submissions in respect of the definitions, rules, and noise standards applying to agricultural aviation activities and rural airstrips etc.</p> <p>The Section 42A Report recommendation was to accept the submissions in support of various provisions, accept in part the amendment sought to NOISE-S5(13) & (16), and to reject the following submissions:</p> <ul style="list-style-type: none"> - S81.015 seeking amendment of the definition of 'helicopter landing areas' - S81.022 seeking amendment to the definition of 'noise sensitive activity' - S81.100 to provide a total exemption for 'agricultural aviation movements' in NOISE-S5(11) <p>Ms Wharfe states in her evidence that the 'understanding of the issue is that the intent is to provide for agricultural aviation activities as a permitted activity but to manage other aerial activities, especially where land is being used as a depot or base.</p> <p>However, the way the rules are currently drafted it is unclear and normal agricultural aviation activities could be required to obtain resource consent.</p> <p>As I understand the notified provisions agricultural aviation would be able to function as a permitted activity if:</p> <p>(a) The relevant zone rule is met - RPROZ-R4 or GRUZ-R4; and</p> <p>(b) The activity is not occurring on a new, or expansion of an existing, rural airstrip or helicopter landing area - GRUZ-R5 or RPROZ-R5; and</p> <p>(c) The activity occurs from an airstrip or helicopter landing area which has not been used more than 14 calendar days in a year – refer NOISE S(5)</p> <p>If the requirement of S5 (11, 13 or 16) of 14 calendar days cannot be met then the activity would need to meet requirements in NOISE S5 regarding noise limits. If those limits cannot be met then a resource consent would be required' (paras 8.96-8.99 of Ms Wharfe's evidence)</p> <p>'I have considered how the proposed provisions could be amended to better encompass the three distinct activities and concluded that an amended framework based on the proposed rules would better address the issues and provide clarity.</p> <p>The structure would be:</p> <p>(a) GRUZ-R4 and RPROZ-R4 Use of rural airstrips and helicopter landing areas for agricultural aviation movements ancillary to primary production – Permitted – no conditions or noise controls</p> <p>(b) GRUZ-R5 and RPROZ-R5 Use of rural airstrips and helicopter landing areas for activities other than agricultural aviation – Permitted with conditions based on proposed GRUZ-R5 - Default RDIS.</p> <p>(c) GRUZ-RXX and RPROZ-RXX Use of land for aircraft base or depot DIS activity as recommended in the s42A Report.</p>	<p>Refer response above</p>
--------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------

	<p>The NOISE provisions could be amended as sought by submitters to delete the reference to 14 calendar days for agricultural aviation movements and include agricultural aviation activities ancillary to primary production as a permitted activity.</p> <p>In my opinion this approach would address concerns of other submitters about use of rural airstrips for activities other than agricultural aviation ancillary to primary production and provide clear direction for the level of activity for other activities. I consider this to be an effective and efficient planning approach and that there is considerable scope in the submission made to amend the provisions as proposed' (paras 8.120-8.123 of Ms Wharfe's evidence)</p>	
<p>49. GRUZ-R5 / RPROZ-R5 NOISE-S5(11) & (12)</p>	<p>Josh & Suzie Calder (S58.001-S58.004) [Legal Submissions of Matthew Lawson]</p> <p>Original Submissions:</p> <ul style="list-style-type: none"> - Josh and Suzie Calder (S58.004) seek an amended definition of 'Rural Airstrip' to ensure that it includes airstrips from which aircraft involved in agricultural aviation fly from and to at the start and finish of each working day. - Josh & Suzie Calder (S58.001 & S58.002) seek deletion of conditions (1)(a) – (f) in Rules GRUZ-R5 and RPROZ-R5, being the conditions for permitted activity status for new or expansion of existing rural airstrips, and all other necessary adjustments to the PDP in order to give effect to this. - Josh & Suzie Calder (S58.003) seek to remove both clauses (11) & (12) and to instead simply provide a total exemption from the noise standards for all agricultural aviation movements (along with all other necessary amendments to the PDP to give effect to this). <p>The Section 42A Report recommendation was to reject all of these submissions.</p> <p>'The submitters support the permitted activity status for the development of new or expansion of existing rural airstrips or helicopter landing areas.</p> <p>However, the submitters oppose the conditions for permitted activity status conditions a-f in rule GRUZ-R5 and RPROZ-R5).' (paras 10 & 11 of Mr Lawson's legal submissions)</p> <p>Condition (1)(a) – refer paras 12-14 Condition (1)(b) – refer to paras 15-22 Condition (1)(c) – refer to para 23 Condition (1)(d) – refer to para 24-27 (and within that, Standard RPROZ-S2 Total building coverage – refer to paras 28-29, Standard GRUZ-S11/RPROZ-S12 Noise– refer to paras 30-39)</p>	<p>Refer response above</p> <p>In addition, I wish to clarify that the Certificate of Compliance that this submitter holds is effectively a resource consent to operate in accordance with the Operative Plan, and this continues to allow their activity even if the PDP changes the rules that apply to other airstrips. The new rules would only apply to them if they wanted to take advantage of more lenient new rules (e.g. use on Sunday which doesn't seem to be covered by the Certificate of Compliance although they would still have existing use rights), or if they sought to expand their existing activity past what is authorised by their Certificate of Compliance. There is a sense in these legal submissions that the Calder's existing use is going to be further restricted, which is not the case.</p>

REVISED RECOMMENDED AMENDMENTS (tracked changes):

Relevant Definitions:

AIRCRAFT	has the same meaning as in section 2 of the RMA (as set out in the box below) <div>means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by reactions of the air against the surface of the earth.</div>
AIRCRAFT MOVEMENT	means a single flight operation (landing or departure) of any aircraft, excluding helicopters.
HELICOPTER MOVEMENT	means a single helicopter flight operation (landing or departure) of any helicopter.
AGRICULTURAL AVIATION ACTIVITY MOVEMENTS	means intermittent operation of an aircraft from a rural airstrip or helicopter landing area movements for purposes ancillary to primary production, biosecurity and biodiversity purposes activities , including topdressing, spraying, stock management, pest control, the application of fertiliser or agrichemicals, application, and frost mitigation, and associated refueling.
EMERGENCY AVIATION MOVEMENTS	means intermittent aircraft and helicopter movements associated with the following: <ul style="list-style-type: none"> (a) landing or departing in an emergency (b) emergency flights required to rescue persons from life threatening situations or to transport patients, human organs or medical personnel in medical emergency (c) using an airstrip due to unforeseen circumstances as a necessary alternative to an airstrip elsewhere (d) flights required to meet the needs of a national or civil defence emergency declared under the Civil Defence Act 1983 (e) flights certified by the Minister of Defence as necessary for reasons of National security in accordance with section 4 of the Defence Act (f) undertaking firefighting or search and rescue duties.

RURAL AIRSTRIP	means any <u>specified</u> area of land, building or structure intended or designed to be used, whether wholly or partly, for <u>the landing, departure, aircraft movement, or servicing of aircraft in the rural area,</u> including agricultural aviation movements ancillary to primary production activities.
HELICOPTER LANDING AREA	means any area of land, building or structure intended or designed to be used, whether wholly or partly, for helicopter movement or servicing, including heliports and helipads.
AIRPORT / AERODROME	has the same meaning as 'airport' in section 2 of the RMA (as set out in the box below) <div>means any defined area of land or water intended or designed to be used, whether wholly or partly, for the landing, departure, movement, or servicing of aircraft.</div>
NOISE SENSITIVE ACTIVITY	means any: <ul style="list-style-type: none"> (a) buildings used for residential activity (b) marae & urupa (c) place of worship (d) visitor accommodation (e) teaching areas and sleeping/wellness rooms in an educational facility (f) home-based education and care service (g) day care facility (h) hospital or sleeping/wellness rooms in a health care facility (i) rest home or retirement village but does not include an activity if it was not lawfully established.
NOTIONAL BOUNDARY	means a line 20 metres from any side of a residential unit or other building used for a noise sensitive activity, or the legal boundary where this is closer to such a building.
HELICOPTER DEPOT	<u>means a site regularly used as a base for the operation, servicing, refueling, and storage of helicopters.</u>

Agricultural Aviation Activities:

GRUZ-R4 Agricultural aviation ~~movements ancillary to primary production activities~~

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| 1. Activity Status: PER
Where the following conditions are <u>met</u> : N/A

<i>Note: NOISE-S5(11) & (12) apply to noise associated with agricultural aviation activities.</i> | 2. Activity status where compliance not achieved: N/A |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|

RPROZ-R4 Agricultural aviation ~~movements ancillary to primary production activities~~

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| 1. Activity Status: PER
Where the following conditions are <u>met</u> : N/A

<i>Note: NOISE-S5(11) & (12) apply to noise associated with agricultural aviation activities.</i> | 2. Activity status where compliance not achieved: N/A |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|

Rural Airstrips / Helicopter Landing Areas:

GRUZ-R5 New, or expansion of existing, rural airstrips and/or helicopter landing areas

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Activity Status: PER
Where the following conditions are met:
a. The rural airstrip or helicopter landing area is located a minimum distance of:
i. 2km from any General Residential, Large Lot Residential (Coastal), Settlement, or Rural Lifestyle Zone boundary, and
ii. 500m from the notional boundary of any building associated with an existing or consented noise sensitive activity not located on the same site, and
iii. 50m from a State Highway.
b. Total combined aircraft and helicopter movements do not exceed a total of 1,000 movements per calendar year (excluding emergency aviation movements and agricultural aviation movements ancillary to primary production activities undertaken on the same site).
c. Limited to 100m² gross floor area of buildings ancillary to the activity per site.
d. Compliance with:
i. GRUZ-S2;
ii. GRUZ-S3;
iii. GRUZ-S4;
iv. GRUZ-S5;
v. GRUZ-S6;
vi. GRUZ-S7;
vii. GRUZ-S8;
viii. GRUZ-S9; and
ix. GRUZ-S10.
e. Compliance with GRUZ-S12 (setback from gas transmission network).
f. Compliance with GRUZ-S13 (setbacks from National Grid). | 2. Activity status where compliance with condition GRUZ-R5(1)(d) is not achieved: RDIS
Matters over which discretion is restricted (where relevant to the infringed standard(s)):
a. Assessment Matters:
i. GRUZ-AM1.
ii. GRUZ-AM2.
b. Assessment matters in the following chapters:
i. TRAN – Transport.
ii. LIGHT – Light.
iii. NOISE – Noise.

3. Activity status where compliance with conditions GRUZ-R5(1)(a), GRUZ-R5(1)(b), GRUZ-R5(1)(c) and/or GRUZ-R5(1)(e) is not achieved: DIS

4. Activity status where compliance with condition GRUZ-R5(1)(f) is not achieved: NC |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

RPROZ-R5 New, or expansion of existing, rural airstrips and/or helicopter landing areas

<p>1. Activity Status: PER Where the following conditions are met:</p> <p>a. The rural airstrip or helicopter landing area is located a minimum distance of:</p> <ul style="list-style-type: none"> i. 2km from any General Residential, Large Lot Residential (Coastal), Settlement, or Rural Lifestyle Zone boundary, and ii. 500m from the notional boundary of any building associated with an existing or consented noise sensitive activity not located on the same site, and iii. 50m from a State Highway. <p>b. Total combined aircraft and helicopter movements do not exceed a total of 1,000 movements per calendar year (excluding emergency aviation movements and agricultural aviation movements ancillary to primary production activities undertaken on the same site).</p> <p>c. Limited to 100m² gross floor area of buildings ancillary to the activity per site.</p> <p>d. Compliance with:</p> <ul style="list-style-type: none"> i. RPROZ-S2; ii. RPROZ-S3; iii. RPROZ-S4; iv. RPROZ-S5; v. RPROZ-S6; vi. RPROZ-S7; vii. RPROZ-S8; viii. RPROZ-S9; ix. RPROZ-S10; and x. RPROZ-S11. <p>e. Compliance with:</p> <ul style="list-style-type: none"> i. RPROZ-S13 (building restrictions near Waipukurau Aerodrome); and ii. RPROZ-S14 (setback from gas transmission network) <p>f. Compliance with RPROZ-S15 (setbacks from National Grid).</p>	<p>2. Activity status where compliance with condition RPROZ-R5(1)(d) is not achieved: RDIS Matters over which discretion is restricted (where relevant to the infringed standard(s)):</p> <p>a. Assessment Matters:</p> <ul style="list-style-type: none"> i. RPROZ-AM1. ii. RPROZ-AM2. iii. RPROZ-AM4. <p>b. Assessment matters in the following chapters:</p> <ul style="list-style-type: none"> i. TRAN – Transport. ii. LIGHT – Light. iii. NOISE – Noise. <p>3. Activity status where compliance with conditions RPROZ-R5(1)(a), RPROZ-R5(1)(b), RPROZ-R5(1)(c) and/or RPROZ-R5(1)(e) is not achieved: DIS</p> <p>4. Activity status where compliance with condition RPROZ-R5(1)(f) is not achieved: NC</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Airport/Aerodrome/Helicopter Depot:

GRUZ-RXX Airport / aerodrome (other than rural airstrip), and helicopter depot

<p>1. Activity Status: DIS Where the following conditions are met: N/A</p>	<p>2. Activity status where compliance not achieved: N/A</p>
--------------------------------------------------------------------------------	--------------------------------------------------------------

RPROZ-RXX Airport / aerodrome (other than rural airstrip), and helicopter depot

<p>1. Activity Status: DIS Where the following conditions are met: N/A</p>	<p>2. Activity status where compliance not achieved: N/A</p>
--------------------------------------------------------------------------------	--------------------------------------------------------------

Assessment Matters:

GRUZ-AMXX Rural Airstrips and Helicopter Landing Areas (located within 2km of a Residential, Settlement or Rural Lifestyle Zone boundary, within 500m of existing noise sensitive activities on a different site, or within 50m of a State Highway)

1. The number, frequency, and hours of flight operations.
2. The position of the flight path for take-offs and landings.
3. The extent to which the rural airstrip and/or helicopter landing area, and flight operations, will have adverse effects on amenity (such as noise, light, traffic, and dust effects) on the surrounding area.
4. The necessity to locate on the site, and the availability and feasibility of other alternatives.

RPROZ-AMXX Rural Airstrips and Helicopter Landing Areas (located within 2km of a Residential, Settlement or Rural Lifestyle Zone boundary, within 500m of existing noise sensitive activities on a different site, or within 50m of a State Highway)

1. The number, frequency, and hours of flight operations.
2. The position of the flight path for take-offs and landings.
3. The extent to which the rural airstrip and/or helicopter landing area, and flight operations, will have adverse effects on amenity (such as noise, light, traffic, and dust effects) on the surrounding area.
4. The necessity to locate on the site, and the availability and feasibility of other alternatives.

Noise Standards:

NOISE-S5 Specific Activities exempt from the Noise Limits in NOISE-S4.

Note: Regardless of the exemptions below, all land uses are subject to section 16 and Part 12 of the RMA.

Agricultural Aviation <u>Activities</u> Movements	<ol style="list-style-type: none">11. Exempt for up to 14 days in any calendar year.12. Otherwise, must comply with the noise limits as for rural airstrips (NOISE-S5(13), (14) & (15)) and helicopter landing areas (NOISE-S5(16), (17) & (18)).
Rural Airstrips	<ol style="list-style-type: none">13. The day-night average sound level (L_{dn}) generated by aircraft movements (excluding emergency aviation movements, and agricultural aviation activities<u>movements</u> for up to 14 days in any calendar year) must not exceed 55 dB L_{dn}, measured at the notional boundary of any building containing a noise sensitive activity on a separate site under different ownership in the General Rural, and Rural Production, <u>and Rural Lifestyle</u> Zones, or at the boundary of any site containing a noise sensitive activity in all other zones.14. Aircraft noise must be measured and assessed in accordance with the provisions of NZS 6805:1992 Airport Noise Management and Land Use Planning.15. Aircraft maintenance and engine testing that is ancillary to aircraft operations is excluded from the calculations above and must comply with the zone-specific noise limits in NOISE-S4.
Helicopter Landing Areas	<ol style="list-style-type: none">16. The day-night average sound level (L_{dn}) generated by helicopter movements (excluding emergency aviation movements, and agricultural aviation activities<u>movements</u> for up to 14 days in any calendar year) must not exceed 50 dB L_{dn}, measured at the notional boundary of any building containing a noise sensitive activity on a separate site under different ownership in the General Rural, and Rural Production, <u>and Rural Lifestyle</u> Zones, or at the boundary of any site containing a noise sensitive activity in all other zones.17. Noise may be averaged over periods of seven consecutive days and the averaged value must not exceed 50 dB L_{dn}, and in any case the limit must not be exceeded by 3 dB on any day.18. Helicopter noise must be measured and assessed in accordance with the provisions of NZS 6807:1994 – Noise management and land use planning for helicopter landing areas.

Key Issue 18 – National Grid & Gas Transmission Network

Issue/Plan Provision	Submitter Evidence	Response
<p>50. Setbacks from National Grid GRUZ-S13 / RPROZ-S15</p>	<p>Federated Farmers (S121.199, S121.200, S121.229 & S121.230 and FS25.87, FS25.99, FS25.102 & FS25.104 opposing submissions of Transpower) [Evidence of Rhea Dasent, paras 53-73, pp9-14]</p> <p>Ms Dasent submits that rules for the National Grid Yard must be consistent with NZECP34 and NPS-ET, and not undermine landowners' rights awarded by their legal easements and other legislation' (para 53)</p> <p>'With the exception of the setback from poles missing, and the vehicular access issue, the Central Hawke's Bay District Plan rule is consistent with the well-established rule I have encountered elsewhere' (para 54)</p> <p>'A single setback and yard width of 12m should not be considered reasonable nor appropriate for all support structures regardless of voltage or whether in pole or tower form. Therefore, Federated Farmers opposes the deletion of the 8m setback from poles in standard GRUZ-S13/RPROZ-S15.3. This is because a single setback of 12m is more onerous than what is required in the NZECP34 for poles, and poles are the majority support structure within the district.</p> <p>8m is the engineering safe distance between any building and a pole (exceeding a 66kv circuit voltage) in NZECP34 Section 2.4 Table 1. This 8m setback has been calculated by engineers, the Code was developed in consultation with the Electricity Engineers' Association of NZ (Inc) and the Institution of Professional Engineers NZ, as well as with Transpower. We can all rely on this 8m setback as being robust, based on structural and electrical engineering and evidence-based' (paras 60 & 61)</p> <p>'Vehicular access is the other matter that Federated Farmers wishes to address. The property belongs to the private landowner, who is hosting the National Grid. The expectation is that outside the National Grid Yard, it is the property owner who decides what activities and structures go where for their own convenience and needs, not Transpower's' (para 68)</p> <p>'...it is not reasonable for a district plan to regulate an aspect that is already well-managed through statutory provisions, non-statutory methods, and is unlikely to be a resource management issue in the rural zones.</p> <p>The Electricity Act 1992 already provides Transpower with rights to enter private property to access their assets. Specifically, Section 23 Rights of Access in Respect of Existing Works. Access to structures for routine maintenance and operation, and during emergencies is so important, that it is protected in the Electricity Act and doesn't need further protection in a district plan' (paras 69 & 70)</p> <p>'Federated Farmers supports the deletion of b)i) Demonstration of compliance with an external code is onerous and unnecessary.</p> <p>Federated Farmers continues to seek deletion of b)ii) because vehicle access over private land is a matter between the landowner and the network utility operator.</p>	<p>Transpower advised that the National Grid in Central Hawke's Bay was established under landowner agreements in 1942, therefore, Transpower have no easements over the affected properties. They advised the hearing that, if they were to extend the National Grid in the District, they would seek a designation for the width of the National Grid Corridor under the District Plan, which would be wider than an easement.</p> <p>They advised that within Central Hawke's Bay, the majority of the 700 support structures for the National Grid are single poles. The access and maintenance requirements for these are largely the same as for tower support structures. A 12m setback around each tower or support structure is required for access, maintenance and safety purposes.</p> <p>Mr Cartwright (for Transpower) advised that NZECP34:2001 prescribes the minimum safe distances for the construction of buildings and structures, for the use of mobile plant, and for excavation near transmission line support structures and overhead lines. However, it does not address the wider third-party effects that compromise the National Grid and which are managed by the National Policy Statement for Electricity Transmission (NPSET). NZECP34 also does not adequately address electricity safety hazards and potential effects of the transmission lines on activities near them, it does not restrict subdivision of land near lines, it allows underbuilding, and it does not prevent the types of inappropriate development contemplated by the NPSET from occurring.³</p> <p>Transpower submitted that adopting an 8m setback from poles (as is provided for under NZECP34) would not provide an appropriate corridor width and would not give effect to Policies 10 and 11 of the NPSET. Transpower had been involved in rewriting the NZECP34 since 2015 but the regulations were administered by MBIE and the work was ongoing.</p> <p>Transpower submitted that reliance on the setback in the NZECP34 is not sufficient to ensure the grid is not compromised. The National Grid Yard standards being sought by them are based on an engineering approach to give effect to the NPSET.</p> <p>Transpower advised that they own and operate two 110kV lines within the Central Hawke's Bay District (i.e., the Woodville A and B lines). These are primarily located within the Rural Production Zone and the lines north of the Mangaonuku Stream are within the General Rural Zone.</p> <p>There are three other similar districts (Waikato, Horowhenua and Waimate) which feature 110kv lines on poles, and each of their district plans has a default 12m setback from the support structures, being the</p>

³ Submitter speaking notes – Transpower New Zealand Limited (Benjamin Roy Cartwright and Dougall Campbell [S79, FS18] – HS3

	<p>Federated Farmers opposes the deletion of the 8m setback from poles because:</p> <ul style="list-style-type: none"> • A single 12m setback for all structures is inconsistent with NZECP34 safety distances Section 2.4 which provides 8m from a pole; and • An 8m setback from poles will not compromise the National Grid as required by Policy 10 of NPS-ET; • A single 12m setback for all structures is not an appropriate buffer corridor under Policy 11 of NPS-ET' (in Table on pgs 13/14 of statement) 	<p>same as that sought by Transpower for the Central Hawke's Bay Proposed Plan.⁴</p> <p>In response to the Panel Minute 9 Direction (issued following Hearing Stream 3), Transpower provided a table setting out the definition of National Grid Yard (which outlines the setback from support structures and relevant rules relating to setbacks from support structures from 16 district plans in New Zealand. The table shows that each of the district plans (either operative or proposed) have, in the last five years, adopted a common approach whereby all the rules require buildings and structures to be setback at least 12m from the outer visible edge of support structures (whether they are poles or towers). There are, however, some exceptions for certain activities within 8m-12m of the support structure, including horticultural structures and artificial crop protection support structures, fences, or where Transpower has given written approval. This reflects the approach within the Central Hawke's Bay Proposed Plan.⁵</p> <p>In response to the Panel Minute 9 Direction, Federated Farmers provided a table of definitions of 'National Grid Yard' from 21 district plans in the North Island (excluding City Councils and including 5 of the district plans assessed by Transpower). Based on the definitions of National Grid Yard in the district plans referred to, Federated Farmers consider that the National Grid Yard width for single poles under the definitions appears to be 10m, rather than 8m. They note that not many districts have single poles present, although there are some with pi-poles which they accept need a wider setback to single poles. On that basis, Federated Farmers have requested that the minimum setback distance they have sought in their submission, for buildings and structures from poles, be changed from 8m to 10m, which they consider is an appropriate buffer distance to meet the obligations under Policy 11 of the NPSET.⁶</p> <p>Transpower notes that some district plan definitions of 'National Grid Yard' include a 10m setback from the centreline for 110kV lines on poles, however, the rules of those district plans require a 12m setback for buildings and structures from National Grid Yard support structures.⁷ As such, they submit that it is inappropriate to rely only on the definition of 'National Grid Yard' in the district plans assessed, as the definition alone does not give the full and correct account of the setbacks actually required under the rules of those plans.</p> <p>I have reviewed the additional 16 district plans referred to by Federated Farmers (i.e., those plans not referred to by Transpower) and found that one of them (Whangarei District Plan) has a setback of 10m, one (Hastings District Plan) relies on the setbacks under NZECP34:2001, and one (Waitomo District Plan) does not appear to have a setback from the</p>
--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

⁴ Summary Statement of Pauline Mary Whitney for Transpower New Zealand Limited, dated 15 June 2022.

⁵ Response to Panel Minute 9 Direction following Hearing Stream 3, Pauline Whitney for Transpower New Zealand Limited, dated 14 July 2022.

⁶ Supplementary Evidence Federated Farmers of New Zealand, dated 15 July 2022.

⁷ Response to Panel Minute 9 Direction following Hearing Stream 3, Pauline Whitney for Transpower New Zealand Limited, dated 14 July 2022.

		<p>National Grid Yard. The remaining 13 district plans have a minimum setback of 12m.</p> <p>On the basis of the above, I have not changed my position and remain of the view that it is appropriate to retain a 12m setback for buildings and structures from National Grid Yard support structures. However, I consider that it would be appropriate to amend Standards GRUZ-S13(3) and RPROZ-S15(3) of the Proposed Plan (as set out in Appendix 2), so that it is clear the 12m minimum setback is measured from the 'outer visible edge of a National Grid Yard support structure', which is consistent with how the 12m is measured under the other relevant district plans referred to by Transpower and Federated Farmers. I consider that this amendment can be made as a minor change under clause 16(2) of the First Schedule of the RMA, as an alteration of information of minor effect.</p>
<p>51. Setbacks from National Grid GRUZ-S13 / RPROZ-S15</p>	<p>Hort NZ (FS17.79, FS17.92 & FS17.117 opposes submissions of Transpower) [Evidence of Lynette Wharfe, paras 9.1-9.11, pp42-43]</p> <p>Ms Wharfe supports retaining provisions in the zone chapters, 'Transpower is seeking that the provisions for the National Grid be located within the Energy and Infrastructure chapter, rather than in the relevant zone chapters.</p> <p>Interestingly, Transpower sought the opposite in the Selwyn District Plan hearing – seeking that the provisions be located in zone chapters rather than the Energy and Infrastructure chapter.</p> <p>I consider that the provisions are more accessible for plan users in zone chapters' (paras 9.6-9.8)</p> <p>'I support the Federated Farmers submissions that seek that provisions for a pole be retained in the Plan as they do not require the same setbacks as for towers. Therefore, I support the retention of '8m from a pole' in GRUZ-S13/ RPROZ-S15 3). Such an approach is consistent with NZECP34:2001' (para 9.11)</p>	<p>For the reasons I have outlined above, I have not changed my position and remain of the view that it is appropriate to retain a 12m setback for buildings and structures from National Grid Yard support structures, but with some exceptions for certain activities, as set out under Standards GRUZ-S13(3) and RPROZ-S15(3) of the Proposed Plan.</p>
<p>52. Setbacks from National Grid GRUZ-S13 / RPROZ-S15</p>	<p>Transpower (S79.095, S79.097, S79.111, S79.113, S79.110 & S79.126 and S79.098, S79.099, S79.100, S79.101, S79.102, S79.103, S79.104, S79.105, S79.106, S79.107, S79.108, S79.109, S79.114, S79.115, S79.116, S79.117, S79.118, S79.119, S79.120, S79.121, S79.122, S79.123, S79.124, S79.125 and FS18.30, FS18.33, FS18.34 & FS18.31 opposing Federated Farmers)</p> <p><u>Paras 46-51, pp 13-14 of Dougall Campbell's evidence:</u></p> <p>In response to submitters who consider compliance with NZECP 34:2001 should be enough to ensure safe and efficient use of land near the National Grid. Assertions incorrect, as fail to acknowledge the range of electricity transmission issues covered by NPSET e.g. does not address the other electrical safety hazards and potential effects of the lines on activities in close proximity to them. The Code also does not protect the integrity of the National Grid from effects of other activities, e.g. subdivision of land near lines, it allows underbuilding, and it does not distinguish between sensitive and non-sensitive activities and, therefore, does not prevent the types of inappropriate development contemplated by NPSET occurring.</p>	<p>Ms Whitney refers to the references to NZECP 34:2001 in Standards GRUZ-S13(1)(b)(i) / RPROZ-S15(1)(b)(i), however, I think that she may mean Standards GRUZ-S13(2)(b)(i) / RPROZ-S15(2)(b)(i) as they were notified in the Proposed Plan (i.e., not as those standards are numbered in the tracked changes versions of the chapters in Appendix A of the s42A report).</p> <p>The standards referred to by the submitter apply to all buildings and structures 'Under the National Grid conductors (wires)' permitted on sites within any part of the National Grid Yard. Transpower requests that the requirement under the standards, to demonstrate that safe electrical clearance distances required by NSECP 34:2001 are maintained for all buildings and structures under all National Grid line operating conditions, is retained.</p> <p>I concur that to give effect to NPSET, the NZECP 34:2001 clause should be retained in Standards GRUZ-S13(2)(b)/RPROZ-S15(2)(b).</p> <p>I also support the submitter's request to amend the rules listed in Ms Whitney's evidence, so the rules reference Standard GRUZ-S13/RPROZ-</p>

	<p><u>Benjamin Cartwright Section 8, pp 24-25:</u></p> <p>Main hazard associated with the National Grid is electric shocks. Risk likely to be highest within 10m-12m of the centreline of a transmission line, but some associated effects transferred beyond 12m.</p> <p>Pp 41-42, paras 13.6 – 13.10 Minimum safety requirements in NZECP 34:2001 neither seek to protect the integrity of the National Grid from the effects of third parties, not prevent development (including sensitive and intensive development) from occurring directly underneath transmission lines. It also does not adequately account for Earth Potential Rise (EPR) hazard contours</p> <p>Para 8.21.4 Pauline Whitney – “Based on the evidence, sole reliance on NZECP 34:2001 is insufficient to give effect to the strong policy directive in NPSET. Requests that the references to the Code in Standards GRUZ-S13(1)(b)(i) //RPROZ-S15(1)(b)(i) be retained (not deleted as recommended by s42A).</p> <p><u>Paras 8.21.5 Pauline Whitney:</u></p> <p>To give effect to NPSET, seeks that the NZECP 34:2001 clause be retained in Standards GRUZ-S13/RROZ-S15,</p> <p><u>Section 8.20 of Pauline Whitney’s evidence, paras 8.20.1-8.20.6:</u></p> <p>Recommends following rules be amended to reference Standard GRUZ-S13/RPROZ-S15, and for a default Non-Complying Activity status where there is non-compliance with the standard:</p> <ul style="list-style-type: none"> • RPROZ-RXX Rural Industries • RPROZ-RXX Artificial Crop Protection Structures • RPROZ-R13 Relocated Buildings • RPROZ-R17 Relocatable Building Depots • RPROZ-R18 Any other activity • RPROZ-R19 Industrial Activities • GRUZ-R13 Relocated Buildings • GRUZ-RXX Commercial boarding and/or breeding of cats, dogs and other domestic pets • GRUZ-RXX Artificial Crop Protection Structures • GRUZ-R16 Camping Grounds • GRUZ-R17 Relocatable Building Depots • GRUZ-R18 Any other activity • GRUZ-R19 Industrial Activities 	<p>S15 and the activity status for non-compliance with the standard is ‘Non-Complying’.</p> <p>I revise my recommendations accordingly. My recommended amendments to the standards and rules in the GRUZ and RPROZ chapters are set out in Appendix 2.</p> <p>However, I do not support amending Rules RPROZ-R13 /GRUZ-R13 Relocated Buildings, as the rules only relate to the relocation of a building itself, not the activity. The requirement to comply with the standards will be captured by the activity rules, e.g. GRUZ-R1 Residential Activities. Also, GRUZ-R19 /RPROZ-R19 Industrial activities already provides for Non-Complying Activity status, so there is no need to amend them.</p>
<p>53. Setbacks from Gas Transmission Network</p> <p>GRUZ-S12 / RPROZ-S14</p>	<p>Federated Farmers (S121.198, S121.228) [Evidence of Rhea Dasent, paras 74-87, pp14-16]</p> <p>Ms Dasent submits that all provisions for the gas transmission network be deleted ‘because legal easement agreements already address any issues. High pressure gas pipelines have 100% easement agreement coverage where they cross over private land, which already stipulate setbacks, no build zones, and manage other activities like earthworks for the purpose of protecting the line and safety. District Plan provisions must not undermine legal easement agreements. In addition, there are no National Policy Statements for gas transmission to give effect to’ (para 74)</p>	<p>Federated Farmers seek the deletion of Standards GRUZ-S12 and RPROZ-S14, which require buildings associated with Residential Activities to be set back from a gas transmission pipeline forming part of the Gas Transmission Network by a minimum of 20m, and setback a minimum distance of 30m from above ground incidental equipment forming part of the Gas Transmission Network.</p> <p>I note that First Gas requested these setbacks in their submission on the Draft District Plan, which were subsequently included within the PDP.</p> <p>The response to these submission points in the Section 42A Report (para 2.3.31 Vol 4) was as follows:</p>

	<p>'...nor does Section 6 of the RMA give gas the status of being a matter of national importance, nor does the Gas Act 1992 assign national significant status for gas transmission' (para 75)</p> <p>'The District Plan only needs to show the designated high pressure gas transmission lines on the district planning maps, and ensure that resource consent applicants are reminded to consult with the easement grantee, just as they would with any other easement grantee. First Gas can then provide the developer with any advice or material as they please.</p> <p>As for excavation, earthworks or digging near transmission lines, First Gas has a permit system. There is no need for a District Plan to have an additional permit system by requiring a resource consent. Council staff will not have any greater knowledge than First Gas on the matter, that justifies a duplicate permit regime. First Gas even provide the permit for free in order to avoid a disincentive for applications' (paras 80 & 81)</p> <p>'There is no evidence that reverse sensitivity is a demonstrable issue in the district that justifies regulation. Has the District Council logged many complaints against the gas transmission pipelines? Are the complaints undermining First Gas' confidence to continue operating? I suggest that the opposite is bigger concern: that the pipelines are "out of sight, out of mind" and that more education by the gas operator is required to ensure landowners know where the transmission pipelines cross their property.</p> <p>The District Plan 20m setback is far in excess of the easement widths of 12 metres wide for a single pipeline, with an additional 4 metres for each additional pipeline. There is no justification why the district plan requires a setback that is 66% greater than the legal easement to manage either reverse sensitivity or safety. The easements stipulate that no structures (not just houses, but any structure) are allowed on the easement site.</p> <p>Health and safety of owners and occupiers of buildings is a commendable concern, but this is already managed through the easements, and the safety campaigns run by First Gas, and WorkSafe monitoring and enforcement under the Gas Act 1992. First Gas has a wealth of educational and guidance material for a range of audiences, a Dial-before-you-Dig helpline, and free access to their staff for advice. First Gas clearly describe the health and safety at work obligations in their pamphlets, including this one specifically for farmers¹². This level of health and safety service provided by First Gas and WorkSafe cannot be bettered by the District Plan.</p> <p>Therefore, all provisions (other than the mapping of the gas transmission lines) should be deleted from the District Plan' (paras 84-87)</p>	<p><i>'I do not support Federated Farmer's request to delete Standards GRUZ-S12 and RPROZ-S14, as the setbacks for new residential buildings (being sensitive activities) from the Gas Transmission Network are important to ensure there are no reverse sensitivity effects on the transmission network that could interfere with its ongoing operation as infrastructure of national, regional and local importance. The setback for residential activities is also important to ensure the health and safety of owners and occupiers of the residential buildings.'</i></p> <p>While I still recognise the national, regional and local importance of the Gas Transmission Network, I acknowledge Federated Farmers' submission that the PDP setbacks are far in excess of the 12m width (with an additional 4m for each additional pipeline) of the legal easement agreements First Gas has with private landowners.</p> <p>Graeme Roberts from First Gas advised the hearing that the gas pipeline through Central Hawke's Bay District is an offshoot of the main pipelines, being the North Island Main Line and the Maui Pipeline. Less than 10% of the pipeline within the District is designated. Mr Roberts advised that the 12m easement agreement (i.e. 6m either side of the gas pipeline) that First Gas has with landowners is not of sufficient width to alert landowners to the presence of the pipeline. First Gas consider 20m either side of the pipeline is an industry best standard for controlling residential and sensitive activities near high pressure gas pipelines. Mr Roberts advised that the most catastrophic event that could occur, if the pipeline was damaged, was a giant gas flare coming out of the ground which would incinerate anything within 20m of it. He therefore considered it appropriate that a resource consent be required for activities proposed to be located within 20m of the pipeline.</p> <p>The 20m setback from the pipeline required under Standards GRUZ-S12 and RPROZ-S14 apply only to Residential Activities. While the potential for a catastrophic event to occur in association with the pipeline may be low, the impact of such an event if it did occur would be very high for any residential activities located within 20m of the pipeline. Given that, and the limited application of the standards to Residential Activities, I have not changed my position and consider that it is reasonable and appropriate to retain the standards as notified.</p>
<p>54. Setbacks from Gas Transmission Network</p> <p>GRUZ & RPROZ Rules referencing Standard GRUZ-S12 / RPROZ-S14</p>	<p>Hort NZ (S81 various) [Evidence of Lynette Wharfe, paras 9.12-9.13, p43]</p> <p>Ms Wharfe supports the changes recommended in the s42A Report in respect of the gas pipeline 'where references to the gas pipeline are deleted as a standard in a number of rules.</p> <p>The Gas network is managed through easements over properties which it traverses and as such is the more appropriate mechanism for addressing potential issues arising from the location of the pipeline' (paras 9.12 & 9.13)</p>	<p>To clarify, where I have recommended in my s42A report that the references to Standard GRUZ-S12 / RPROZ-S14 be deleted, that is because the rules do not apply to Residential Activities and, therefore, the standard is not relevant to those rules. Therefore, I have not changed my position.</p>

55. RPROZ-S14 Setback from Gas Transmission Network	<p>First Gas (FS3.027, FS3.035 opposing Federated Farmers) [Evidence of Graham Roberts, para 46, p11]</p> <p>First Gas opposed Federated Farmers' submission requesting the deletion of Standard RPROZ-S14.</p> <p>First Gas now requests that the standard be amended to apply to 'Sensitive Activities' instead of 'Residential Activities'.</p>	<p>First Gas was a further submitter and I consider that their request to amend Standard RPROZ-S14 is out of the scope of the original Hort NZ submission they supported.</p> <p>While I recognise that Standard RPROZ-S14 is limited to only applying to residential activities, I consider that there is no scope within the submissions received to extend its application to 'sensitive activities'. Therefore, I have not changed my position.</p>
56. GRUZ-S12 Setback from Gas Transmission Network	<p>First Gas [Evidence of Graham Roberts, para 33, p9]</p> <p>First Gas opposed Federated Farmers' submission requesting the deletion of Standard GRUZ-S12.</p> <p>First Gas now requests that the standard be amended to apply to 'Sensitive Activities' instead of 'Residential Activities'.</p>	<p>First Gas was a further submitter and I consider that their request to amend Standard GRUZ-S12 is out of the scope of the original Hort NZ submission they supported. Also, as a further submitter, First Gas can only support or oppose a submission, and cannot request any amendments.</p> <p>While I recognise that Standard GRUZ-S12 is limited to only applying to residential activities, I consider that there is no scope within the submissions received to extend its application to 'sensitive activities'. Therefore, I have not changed my position.</p>
57. RPROZ-R10 Community Facilities	<p>First Gas [Evidence of Graham Roberts, paras 40-41, p10]</p> <p>First Gas supported Hort NZ's request to delete the reference to Standard RPROZ-S14 under Rule RPROZ-R10.</p> <p>However, First Gas is seeking that Standard RPROZ-S14 be amended to apply to 'sensitive activities' instead of 'residential activities' (see below)</p>	<p>First Gas was a further submitter, and therefore is only able to support or oppose the original submission. I consider that their request to amend Standard RPROZ-S14 is out of the scope.</p> <p>While I recognise that Standard RPROZ-S14 is limited to only applying to residential activities, I consider that there is no scope within the submissions received to extend its application to 'Sensitive Activities' (which would encompass a number of other activities, such as visitor accommodation and educational facilities, as well as residential activities). Therefore, I have not changed my position.</p>
58. RPROZ-R11 Education Facilities	<p>First Gas [Evidence of Graham Roberts, paras 42-43, pp10-11]</p> <p>First Gas supported Hort NZ's submission requesting that the reference to Standard RPROZ-S14 be deleted from Rule RPROZ-R11(1)(c)(ii). They now want it retained on the basis that they now request that Standard RPROZ-S14 be amended such that it refers to 'Sensitive Activities' instead of 'Residential Activities'.</p>	<p>As above, I consider that the further submitter's request is out of the scope of submissions. Therefore, I have not changed my position.</p>
59. GRUZ-R10 Community Facilities	<p>First Gas [Evidence of Graham Roberts, paras 24-25, pp6-7]</p> <p>First Gas supported HortNZ's request to delete the reference to Standard GRUZ-S12 under Rule GRUZ-R10.</p> <p>However, First Gas is seeking that Standard GRUZ-S12 be amended to apply to 'sensitive activities' instead of 'residential activities' (see below)</p>	<p>First Gas was a further submitter, and therefore is only able to support or oppose the original submission. I consider that their request to amend Standard GRUZ-S12 is out of the scope.</p> <p>While I recognise that Standard GRUZ-S12 is limited to only applying to residential activities, I consider that there is no scope within the submissions received to extend its application to 'sensitive activities'. Therefore, I have not changed my position.</p>
60. GRUZ-R11 Educational Facilities	<p>First Gas [Evidence of Graham Roberts, paras 26-27, p7]</p> <p>First Gas supported HortNZ's submission requesting that the reference to Standard GRUZ-S12 be deleted from Rule GRUZ-R11(1)(c)(ii). They now want it retained on the basis that they now request that Standard GRUZ-S12 be amended such that it refers to 'Sensitive Activities' instead of 'Residential Activities'</p>	<p>As above, I consider that the further submitter's request is out of the scope of submissions. Therefore, I have not changed my position.</p>

Key Issue 19 – Camping Grounds, Community Facilities, Educational Facilities & Visitor Accommodation

Issue/Plan Provision	Submitter Evidence	Response
61.	<p>Hort NZ (S81 various) [Lynette Wharfe, paras 9.14-9.15, pp43-44]</p> <p>Ms Wharfe states Hort NZ 'made submissions and further submissions on a suite of activities that are addressed in Key Issue 19:</p> <ul style="list-style-type: none"> (a) Camping grounds (b) Community facilities (c) Educational facilities (d) Visitor accommodation. <p>In my opinion providing for these activities needs to be clearly linked to the functional or operational need to locate in the rural area as discussed in Key Issue 3. Such an approach is consistent with the National Planning Standards Zone Framework which I have based my framework on in Section 5 of this evidence' (paras 9.14 & 9.15)</p>	<p>Hort NZ indirectly raises an issue with the recommended amendments to Policies GRUZ-P2 and RPROZ-P2 in response to other submission points. The recommended amendments have inadvertently removed the policy in the notified PDP that is supported by Rules GRUZ-R8/RPROZ-R8, GRUZ-R10/RPROZ-R10, GRUZ-R11/RPROZ-R11 and GRUZ-R16/RPROZ-R16 that provide for small-scale community facilities, camping grounds, educational facilities and visitor accommodation as Permitted Activities in the General Rural Zone and the Rural Production Zone.</p> <p>The notified policies read as follows:</p> <p>GRUZ-P2 To allow activities of a limited scale which support the function and wellbeing of rural communities and/or enjoyment of the rural environment, and contribute to the vitality and resilience of the District's economy, where adverse effects are avoided, remedied or mitigated.</p> <p>RPROZ-P2 To allow activities of a limited scale which support the function and wellbeing of rural communities and/or enjoyment of the rural environment, and contribute to the vitality and resilience of the District's economy, where adverse effects are avoided, remedied or mitigated.</p> <p>The policies, as recommended to be amended in the s42A report, read as follows:</p> <p>GRUZ-P2 To provide for non-primary production related activities that have a functional need or operational need for a rural location, and where they are managed to ensure that:</p> <ol style="list-style-type: none"> 1. their scale, intensity and built form are in keeping with the rural character of the General Rural Zone; 2. they maintain a level of amenity in keeping with the rural character of the General Rural Zone; 3. they minimise reverse sensitivity effects on activities otherwise anticipated within the General Rural Zone; and 4. adverse effects are avoided, remedied or mitigated. <p>RPROZ-P2 To provide for non-primary production related activities that have a functional need or operational need for a rural location, and where they are managed to ensure that:</p> <ol style="list-style-type: none"> 1. their scale, intensity and built form are in keeping with the rural character of the General Rural Zone; 2. they maintain a level of amenity in keeping with the rural character of the General Rural Zone; 3. they minimise reverse sensitivity effects on activities otherwise anticipated within the General Rural Zone; and 4. adverse effects are avoided, remedied or mitigated. <p>The recommended amendments to the policies removed the reference to activities supporting the function and wellbeing of rural communities</p>

		<p>and/or enjoyment of the rural environment, and contributing to the vitality and resilience of the District's economy. This omission was not intended by the reporting officer, and I revise my recommendations and recommend the amended wording in the policies be altered so the policies read as follows (highlighted grey):</p> <p>GRUZ-P2 To provide for non-primary production related activities that have a functional need or operational need for a rural location, <u>and/or that support the function and wellbeing of rural communities and/or the enjoyment of the rural environment, and contribute to the vitality and resilience of the District's economy.</u> and where they are managed to ensure that:</p> <ol style="list-style-type: none"> 1. their scale, intensity and built form are in keeping with the rural character of the General Rural Zone; 2. they maintain a level of amenity in keeping with the rural character of the General Rural Zone; 3. they minimise reverse sensitivity effects on activities otherwise anticipated within the General Rural Zone; and 4. adverse effects are avoided, remedied or mitigated. <p>RPROZ-P2 To provide for non-primary production related activities that have a functional need or operational need for a rural location, <u>and/or that support the function and wellbeing of rural communities and/or the enjoyment of the rural environment, and contribute to the vitality and resilience of the District's economy.</u> and where they are managed to ensure that:</p> <ol style="list-style-type: none"> 1. their scale, intensity and built form are in keeping with the rural character of the General Rural Zone; 2. they maintain a level of amenity in keeping with the rural character of the General Rural Zone; 3. they minimise reverse sensitivity effects on activities otherwise anticipated within the General Rural Zone; and 4. adverse effects are avoided, remedied or mitigated.
62. Camping Grounds GRUZ-R16 / RPROZ-R16	<p>Hort NZ (S81.122 & S81.166) [Evidence of Lynette Wharfe, paras 9.16-9.28, pp44-45]</p> <p>Ms Wharfe states Hort NZ 'support the inclusion of camping grounds in the definition of sensitive activities.</p> <p>However, I do not support the recommendation to amend the activity status to RDIS.</p> <p>There are Assessment matters in the Plan (GRUZ-AM11 and RPROZ-AM12) which would be specifically considered as part of a discretionary consent application.</p> <p>However, the way that the plan is structured those matters would not be considered as part of a restricted discretionary consent application.</p> <p>The s42A Report refers to the assessment matters in 3.3.20 but the recommendation on activity status does not include compliance with those assessment matters.</p> <p>While the listed standards in GRUZ-R16 and RPROZ-R16 may be relevant, I consider consideration of the assessment matters and alignment with the</p>	<p>I concur with the submitter that Rules GRUZ-R16 and RPROZ-R16, as they are recommended to be amended by the Reporting Officer, do not require Restricted Discretionary Activities to be assessed against Assessment Matter GRUZ-AM11/RPROZ-AM12, which relate specifically to Camping Grounds.</p> <p>I disagree with the submitter that Camping Grounds are not anticipated in the General Rural Zone and the Rural Production Zone. As a non-primary production activity, the provision of camping grounds supports Policies GRUZ-P2 and RPROZ-P2, which I have recommended (above) be amended so they continue to refer (as notified) to the contribution that such activities make to the function and wellbeing of rural communities and/or the enjoyment of the rural environment, and to the vitality and resilience of the District's economy.</p> <p>Therefore, I have not changed my position and stand by my recommendation to change the activity status of camping grounds under Rules GRUZ-R16 and RPROZ-R16 from a Discretionary Activity to a Restricted Discretionary Activity. However, I revise my recommendation</p>

	<p>objectives and policies in the plan are more important where an activity may create reverse sensitivity effects.</p> <p>The objectives and policies do not anticipate the establishment of camping grounds in the rural zones as they are a sensitive activity (GRUZ-O4 and P5 and RPROZ-O6 and P5) and also a commercial activity (RPROZ-P9 and GRUZ-P9)</p> <p>The s42A Report is recommending that Rural Industry – an activity that has a functional or operational need to locate in the rural area - be a Discretionary activity.</p> <p>In my opinion, it is inconsistent to provide a lesser activity status for an activity that does not require a rural location as compared to an activity such as rural industry.</p> <p>Therefore, I do not agree with the s42A Report recommendation to amend the activity status for camping grounds to restricted discretionary and seek that it be retained as Discretionary' (paras 9.20-9.28)</p>	<p>and recommend that the wording of the rules be amended further to include Assessment Matter GRUZ-AM11/RPROZ-AM12 as a matter over which discretion is restricted.</p>
<p>63. Community Facilities GRUZ-R10 / RPROZ-R10</p>	<p>Hort NZ (S81.119 & S81.163) [Evidence of Lynette Wharfe, paras 9.29-9.39, pp45-46]</p> <p>Ms Wharfe states Hort NZ do not support retaining community facilities as a Permitted Activity subject to conditions, 'If the plan had a standard relating to functional or operational need to locate in the rural area and compliance was required with that standard, it may be possible to provide for community activities without a full discretionary consent assessment.</p> <p>However, the plan does not have such a standard and the s42A Report rejects the submissions to add the assessment matters to the matters to which discretion is restricted in the rules for community facilities' (paras 9.37-9.38)</p>	<p>I disagree with the submitter that Community Facilities are not anticipated in the General Rural Zone and the Rural Production Zone. As a non-primary production activity, the provision of community facilities supports Policies GRUZ-P2 and RPROZ-P2, which I have recommended (above) be amended so they continue to refer (as notified) to the contribution that such activities make to the function and wellbeing of rural communities and/or the enjoyment of the rural environment, and to the vitality and resilience of the District's economy.</p> <p>Regard to Hort NZ's request to amend Rule GRUZ-R10 and RPROZ-R10 to include Assessment Matter GRUZ-AM8/RPOZ-AM9, I stated the following in paragraph 3.3.32 of the s42A report (Vol 4):</p> <p><i>"I do not support Hort NZ's request for Rules GRUZ-R10(2) and RPROZ-R10(2) to be amended to include Assessment Matter GRUZ-AM8/RPROZ-AM9 as an additional matter over which discretion will be restricted where there is an infringement of the Standards under Rules GRUZ-R10(1)(a) and RPROZ-R10(1)(a). Rules GRUZ-R10(2) and RPROZ-R10(2) establish the assessment matters over which discretion is restricted, as being those that are relevant to the infringed standard(s) only. Standards GRUZ-S2 to GRUZ-S10, and Standards RPROZ-S2 to RPROZ-S11, relate to standards such as total building coverage, height of buildings, height in relation to boundary, setbacks from roads and neighbours, shading, access, parking and loading, light, and noise. Assessment Matters GRUZ-AM8 and RPROZ-AM9 are each a broader set of assessment matters for assessing the effects of community facilities and educational facilities in a more general sense (not responding to an infringed standard(s)). Therefore, adding these assessment matters to the list of matters in Rules GRUZ-R10 and RPROZ-R10 is not in keeping with the rule framework adopted in the Proposed Plan. On that basis, I do not support Hort NZ's request to add the Assessment Matter to the list of matters to which discretion is restricted in these rules."</i></p> <p>In this regard, I have not changed my position from that outlined in the s42A report.</p>

<p>64. Community Facilities GRUZ-R10</p>	<p><i>Heretaunga Tamatea Settlement Trust</i> (S120.025) [Evidence of Stephen Daysh, paras 5.1-5.2, p11]</p> <p>Heretaunga Tamatea Settlement Trust (S120.025) submission supports provision for community facilities within the General Rural Zone, however, seeks that the activity status in Rule GRUZ-R10 for 'community facilities' that exceed 100m2 gross floor area per site be amended to be a 'Controlled' activity, rather than 'Discretionary'.</p> <p>Does not agree with s42A report recommendation to reject HTST's submission requesting that Community Facilities over 100m2 be a Controlled Activity. Considers that community facilities are an important component of the rural environment and add vibrancy of rural communities and provide essential facilities, such as meeting places and access to much needed community facilities.</p> <p>Considers that community facilities up to 200m2 should be provided for as a Controlled Activity (as per Educational Facilities).</p>	<p>I note that para 3.3.31 Vol 4 of Section 42A Report indicates the HTST submission relates to both RPROZ-R10 and GRUZ-R10, however the submission is only in relation to GRUZ-R10.</p> <p>I assume the submitter is seeking that community facilities up to 200m2 should be provided for as a Permitted Activity (as per Educational Facilities), not 'Controlled'.</p> <p>In any case, I consider there is no scope in the original submission to consider increasing the permitted gross floor area limit from 100m2 to 200m2, as the original submission only requested a change in activity status not gross floor area.</p> <p>In this regard, I have not changed my position from that outlined in the s42A report.</p>
<p>65. Educational Facilities GRUZ-R11 / RPROZ-R11</p>	<p><i>Hort NZ</i> (S81.120 & S81.164) [Evidence of Lynette Wharfe, paras 9.40-9.52, p46-47]</p> <p>Ms Wharfe states Hort NZ do not support increasing floor area be increased to 200m2 for educational facilities as a Permitted Activity, 'There does not appear to be any clear justification for the increase to 200m2. In addition, the area does not include outdoor areas that a facility may have and use, including playgrounds and sports fields.</p> <p>Educational facilities includes child care facilities so it could be reasonably anticipated that a child care facility could establish in the rural area without any requirement to consider reverse sensitivity or the need to locate in the area.</p> <p>The issues with educational facilities are similar to community facilities. There are situations where there is a functional or operational need for an educational facility to locate within the rural area.</p> <p>Recommended policy GRUZ-P2 and RPROZ-P2 both provide a framework for non-primary production activities that have a functional or operational need for a rural location and how they will be managed.</p> <p>But in the present rule framework there is no mechanism to assess that need.</p> <p>Therefore I do not support the recommended changes to GRUZ-R11 and RPROZ-R11 and seek that the activity status be amended to discretionary' (paras 9.47-9.51)</p>	<p>I disagree with the submitter that Educational Facilities are not anticipated in the General Rural Zone and the Rural Production Zone. As a non-primary production activity, the provision of educational facilities supports Policies GRUZ-P2 and RPROZ-P2, which I have recommended (above) be amended so they continue to refer (as notified) to the contribution that such activities make to the function and wellbeing of rural communities and/or the enjoyment of the rural environment, and to the vitality and resilience of the District's economy.</p> <p>In this regard, I have not changed my position from that outlined in the s42A report.</p>
<p>66. Visitor Accommodation GRUZ-R8 / RPROZ-R8</p>	<p><i>Hort NZ</i> (S81.117 & S81.161) [Evidence of Lynette Wharfe, paras 9.53-9.69, pp47-48]</p> <p>Ms Wharfe states Hort NZ 'sought that this clause be deleted and replaced with a limitation of no more than 4 guests at one time.</p> <p>The s42A Report is recommending that the submissions be rejected and the rule retained as notified.</p> <p>The writer considers that the limitation of 3 months is necessary to ensure the temporary nature of the activity, rather than being akin to a residential activity.</p>	<p>As a non-primary production activity, the provision of Visitor Accommodation supports Policies GRUZ-P2 and RPROZ-P2, which I have recommended (above) be amended so they continue to refer (as notified) to the contribution that such activities make to the function and wellbeing of rural communities and/or the enjoyment of the rural environment, and to the vitality and resilience of the District's economy.</p> <p>In this regard, I have not changed my position from that outlined in paragraphs 3.347-3.357 of the s42A report (Vol 4).</p>

	<p>I concur that visitor accommodation should not be used as a proxy for residential activity, but consider that a length of 3 months is a considerable length of time for a paying temporary guest.</p> <p>While not entirely applicable to visitor accommodation the plan has a definition of temporary event which describes it as: 'A short term or intermittent use of any land, buildings and structures for an activity'.</p> <p>In my opinion, 3 months is not 'short-term' and is more suggestive of a longer term residency than temporary.</p> <p>The definition of visitor accommodation is:</p> <p><i>Means land and/or buildings used for accommodating visitors, subject to a tariff being paid, and includes any ancillary activities.</i></p> <p>This definition limits the use of the facility.</p> <p>I support the submission of HortNZ to seek a limit on the number of visitors that can be accommodated at any one point in time as a permitted activity.</p> <p>Such a condition means that the scale of the activity is restricted.</p> <p>The s42A Report does not consider that the restriction on number is necessary to limit the scale of the activity because it would be limited by the 100m2 floor area in S1.</p> <p>Visitor accommodation is a commercial activity which Policies GRUZ-P9 and RPROZ-P9 seek to avoid where they are unrelated to the primary productive use of the zone and are incompatible with the character and amenity of the rural area.</p> <p>As a permitted activity which defaults to RDIS with limited matters of discretion there is no ability to assess the appropriateness of the facility in terms of meeting the policy or compliance with RPROZ-AM8 and GRUZ-AM7 for visitor accommodation.</p> <p>Therefore I consider that providing for visitor accommodation without such an assessment should be confined to ensure that the scale is small and potential for adverse effects such as reverse sensitivity limited.</p> <p>The following changes are sought to GRUZ-R8 and RPROZ-R8 for visitor accommodation:</p> <p>(a) Amend 1) i) to length of stay for any one guest must be no greater than 1 month in any 12 month period</p> <p>(b) Add a new clause 1 a) ii) there must be no more than 4 guests at any one point in time</p> <p>(c) Amend 2) to DIS and include reference to RPROZ-AM8 and GRUZ-AM7' (paras 9.55-9.69)</p>	
--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Key Issue 20 – Emergency Services & Firefighting Water Supply

Issue/Plan Provision	Submitter Evidence	Response
<p>67. Proposed Firefighting Water Supply Standard</p> <p>GRUZ-S15 / RPROZ-S17</p>	<p>Federated Farmers (FS25.101 & FS25.129 opposing FENZ (S57.156 & S57.195)) [Evidence of Rhea Dasent, paras 88-94, pp16-18]</p> <p>Ms Dasent opposes the proposed standard 'because it is going to be a stretch for rural and lifestyle property owners to achieve. A redeeming feature of the rule is that it only applies to habitable buildings, and not all buildings. However, there are many aspects that will make it unworkable:</p> <ul style="list-style-type: none"> • Requiring every existing rural building to retrofit firefighting supply is impractical and onerous. • A 45,000 litre tank is 7.5m long, 3.45m wide and 3.2m high. This is enormous, and will be unfeasible to locate on many properties. Even 2x 25,000l tanks will take up a huge area and be difficult to position within 90m of every house. • Such a tank would only be used once in one or two decades if you were extremely unlucky, so the cost-benefit is heavily skewed to cost. There is a strong inherent benefit to not burning your house down in the first instance. • Being full of water with no flow as it cannot be used for potable supply, a tank would require frequent maintenance. • Would a 45,000l dam require a resource consent to construct, and would it be allowed to be so close to a house? • It will add an additional \$10,000 to \$15,000 cost to every rural property that does not already have the natural water source available. • The water flow requirement in d)ii) will require a retrofit pump to achieve, which means gravity-fed systems will be forced to upgrade even though electricity to the site may be difficult to achieve. Those with existing pumps may also have to upgrade a perfectly good system to one that meets this standard' (para 90) <p>'I really question the need for such a rule. How many rural houses has the Central Hawkes Bay District lost to fire where the lack of stored 45,000l or higher flow were the deciding factors? The fire-fighting engines also transport water to the emergency. If their water supply is insufficient, the local fire-fighting entity should invest in an additional tanker themselves rather than passing the cost onto property owners.</p> <p>Most rural properties already have an alternative water supply available – either their reticulated house or farm supply, a bore, or surface water such as a dam. It would be sensible to require a new farm park or lifestyle development with multiple lots that are closely space to provide firefighting water at time of subdivision consent. It is not sensible to require every existing farm or stand-alone lifestyle property to retrofit a specific firefighting water supply.</p> <p>If the rules proceed, the Council will be committing itself to monitoring and enforcing them. Will the Council run a campaign to inform rural people of this new requirement? Will the Council assess the options (natural supply, storage or flow requirements) for every property? Will there be a fund available for people that may not be able to afford the new expense of retrofitting a suitable supply?</p>	<p>With the inclusion of the recommended new standard, there would be no requirement to retrofit a water supply (including pumps, for any existing habitable buildings – it would only apply to new buildings with habitable rooms, or the provision of new habitable rooms to existing buildings.</p> <p>New habitable rooms in new or existing buildings will generally require a building consent, and building consent applications would be assessed by Council officers for compliance with the relevant District Plan rules and standards when applications are received (as Council currently does, including checking compliance with standards for setbacks from boundaries, height, etc.). Any requirements for a resource consent would be identified at that time.</p> <p>I acknowledge Federated Farmers' question, about whether there is any need for such a standard. As I have outlined in the s42A report, there are other Councils in New Zealand that have included such a standard in their District Plan, and others that have not. If the Hearing Panel was of a mind to recommend the inclusion of the standard, I consider that a key benefit of doing this is ensuring FENZ has the water they need available on site so they can put out a fire when they are called by a building owner/occupier during a fire emergency.</p> <p>In this regard, I have not changed my position from that outlined in paragraphs 4.3.10 – 4.3.30 of the s42A report (Vol 4).</p>

	<p>I suggest that the subdivision rules for multi-lot lifestyle/farmpark developments require a firefighting supply, and that there are no rules requiring retrofit supplies in the rural zones. The existing regulations under SNZ PAS 4509:2008, the Building Consent process for new houses, and bylaws are sufficient' (paras 91-94)</p>	
<p>68. Proposed Firefighting Water Supply Standard GRUZ-S15 / RPROZ-S17</p>	<p>Hort NZ (FS17.114 & FS17.153 opposing FENZ (S57.156 & S57.195)) [Evidence of Lynette Wharfe, paras 9.72-9.76 p49]</p> <p>Ms Wharfe states 'I do support a limitation of any firefighting water requirements to buildings where there is a habitable room, as opposed to all development as sought by FENZ.</p> <p>However I do not support the recommended GRUZ-S15 and RPROZ-S17 as the standard would require 45,000 litres of water even if a sprinkler system is installed where a lesser quantity of water is required in the Firefighting Water Supplies Code of Practice.</p> <p>Therefore the standard should include a lesser amount to recognise where sprinklers are installed in a building.</p> <p>The Firefighting Water Supplies Code of Practice has a table that sets out requirements and I consider that reference to the Code is preferable, rather than interpreting and prescribing the standards in the Code into the Plan.</p> <p>Therefore I support reference to SNA PAS 4509:2008 NZ Fire Service Firefighting Water Supplies Code of Practice in GRUZ-S15 and RPROZ-S17 rather than listing some requirements from the Code in the Plan' (paras 9.72-9.76)</p>	<p>I consider that it is not appropriate to replace Standard GRUZ-S15/RPROZ-S17 with reference to the SNA PAS 4509:2008 NZ Fire Service Firefighting Water Supplies Code of Practice, as the Code of Practice could be amended by FENZ without the opportunity for input from CHBDC or District residents, and potentially a change to the District Plan, which would have cost and efficiency implications for the Council. I also consider it inappropriate that Plan users need to refer to a document that sits outside the District Plan, and which may not be readily available to them. I therefore consider that the standard as recommended would provide more certainty for Plan users.</p> <p>In this regard, I have not changed my position from that outlined in paragraphs 4.3.10 – 4.3.30 of the s42A report (Vol 4).</p>
<p>69. Proposed Firefighting Water Supply Standard GRUZ-S15 / RPROZ-S17</p>	<p>FENZ (S57.156 & S57.195) [Tabled Statement from Paul McGimpsey, p2]</p> <p>FENZ is supportive of the recommended standards and assessment matters for GRUZ & RPROZ & RLZ 'and consider that this approach will provide for firefighting water where suppl095ies may be inadequate' (pg 2).</p>	<p>During Hearing Stream 1, the Reporting Officers requested the opportunity to engage with FENZ's planner with a view to coming back to the Hearing Panel with an agreed position on FENZ's request to include a servicing standard for the provision of a firefighting water supply for sites not able to be connected to a reticulated Council water supply.</p> <p>FENZ's request for such a standard in the rural zones was addressed in the s42A report for the Hearing Stream 3 Rural Topic. FENZ have advised the Council that they are supportive of the recommended firefighting water supply Standards GRUZ-S15 and RPROZ-S17.</p> <p>That leaves for reconsideration, the recommendations of the s42A reports for Hearing Stream 1 and Hearing Stream 2 on FENZ's request for the inclusion of a firefighting water supply standard and related assessment matter in the Coastal Environment and Urban Environment chapters of the PDP.</p> <p>The Central Hawke's Bay Water Supply Bylaw 2021 (Section 6.4) requires water storage for water supply to rural and/or individual premises for on-site water storage (i.e. for sites that are not connected to a Council reticulated water supply, including those in urban areas). Under the Bylaw, at least one water storage tank of at least 30,000 litres capacity must be provided on the site. However, there is no requirement for rural premises to provide onsite water storage for firefighting purposes.</p> <p>Given this, there is no need for me to consider the appropriateness of including a standard for a firefighting water supply for urban premises that are not connected to a Council reticulated water supply. Therefore, the</p>

	<p>only FENZ submission points I need to reconsider are those that relate to the request to include a firefighting water supply standard and assessment matter in the LLRZ - Large Lot Residential Zone and SETZ – Settlement Zone chapters, including related amendments to the zone rules.</p> <p>For the same reasons I have given for recommending the inclusion of a new firefighting water supply standard in the GRUZ – General Rural Zone, RPROZ – Rural Production Zone, and RLZ – Rural Lifestyle Zone chapters (refer to paragraphs 4.3.10 – 4.3.30 of the s42A report (Vol 4) for Hearing Stream 3 Rural Topic), I consider that it would be appropriate to add the following standard and assessment matter to the Large Lot Residential Zone and Settlement Zone chapters, and I revise my recommendations accordingly, as follows:</p> <div><div><u>LLRZ-SXX Water supply for firefighting</u></div><div><u>SETZ-SXX Water supply for firefighting</u></div></div> <table><tr><td><u>All buildings (excluding accessory buildings that do not include a habitable room)</u></td><td><div><div>1. <u>Where water is not supplied to a site by Council or a private community supply, or water is supplied by Council but is a restricted supply flow, access to a water supply for firefighting purposes shall be made available to all buildings on a site that is or will be:</u></div><div><div>a. <u>accessible to firefighting equipment; and</u></div><div>b. <u>between 6 and 90 metres from the buildings on the site; and</u></div><div>c. <u>on the same site as the buildings (except where the specified volume or flow of water is in a pond, dam or river that is within the required distances); and</u></div><div>d. <u>either:</u><div><div>i. <u>stores at least 45,000 litres, in addition to a potable water supply on the site; or</u></div><div>ii. <u>provides at least 25 litres per second for a minimum of 30 minutes.</u></div></div></div></div></div></td></tr></table> <p><u><i>Note: Further advice and information about managing fire risk and storage of water for firefighting purposes can be obtained from Fire and Emergency New Zealand and SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice.</i></u></p>	<u>All buildings (excluding accessory buildings that do not include a habitable room)</u>	<div><div>1. <u>Where water is not supplied to a site by Council or a private community supply, or water is supplied by Council but is a restricted supply flow, access to a water supply for firefighting purposes shall be made available to all buildings on a site that is or will be:</u></div><div><div>a. <u>accessible to firefighting equipment; and</u></div><div>b. <u>between 6 and 90 metres from the buildings on the site; and</u></div><div>c. <u>on the same site as the buildings (except where the specified volume or flow of water is in a pond, dam or river that is within the required distances); and</u></div><div>d. <u>either:</u><div><div>i. <u>stores at least 45,000 litres, in addition to a potable water supply on the site; or</u></div><div>ii. <u>provides at least 25 litres per second for a minimum of 30 minutes.</u></div></div></div></div></div>
<u>All buildings (excluding accessory buildings that do not include a habitable room)</u>	<div><div>1. <u>Where water is not supplied to a site by Council or a private community supply, or water is supplied by Council but is a restricted supply flow, access to a water supply for firefighting purposes shall be made available to all buildings on a site that is or will be:</u></div><div><div>a. <u>accessible to firefighting equipment; and</u></div><div>b. <u>between 6 and 90 metres from the buildings on the site; and</u></div><div>c. <u>on the same site as the buildings (except where the specified volume or flow of water is in a pond, dam or river that is within the required distances); and</u></div><div>d. <u>either:</u><div><div>i. <u>stores at least 45,000 litres, in addition to a potable water supply on the site; or</u></div><div>ii. <u>provides at least 25 litres per second for a minimum of 30 minutes.</u></div></div></div></div></div>		

		<p><u><i>Note: The above does not replace Regional Council rules which control the taking and use of groundwater and surface water.</i></u></p> <p><u>LLRZ-AMXX Water supply for firefighting</u></p> <p><u>SETZ-AMXX Water supply for firefighting</u></p> <ol style="list-style-type: none"> 1. <u>The extent of compliance with SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice and health and safety of the community, including neighbouring properties.</u> 2. <u>Technical advice provided by Fire and Emergency New Zealand.</u> <p>I recommend that consequential amendments be made to the relevant rules in the LLRZ – Large Lot Residential Zone and the SETZ – Settlement Zone chapters, to refer to the above new standard and assessment matter (refer to the tracked changes versions of the chapters in Appendix 2).</p> <p>The relevant FENZ submission points in the recommendation tables for Hearing Streams 1 and 2 have been amended to reflect the above recommendations on the FENZ submission points and are attached in Appendix 3.</p>
--	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------