

BEFORE THE HEARINGS PANEL

IN THE MATTER OF The Resource Management Act 1991

AND

IN THE MATTER OF Central Hawkes Bay Proposed District Plan Hearing
Stream 3 (Rural Environment)

STATEMENT OF EVIDENCE BY STEVEN JOHN TUCK

ON BEHALF OF SILVER FERN FARMS LIMITED

(SUBMITTER 116 & FURTHER SUBMITTER 8)

31 MAY 2022

1. INTRODUCTION

QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Steve Tuck. I am a senior consultant with the firm Mitchell Daysh Limited, which practices as a planning and environmental consultancy throughout New Zealand, with offices in Auckland, Hamilton, Tauranga, Napier and Dunedin.
- 1.2 I hold a Master of Social Science (Planning and Environment) from RMIT University, Melbourne. I am a member of the New Zealand Planning Institute and the Resource Management Law Association.
- 1.3 I have been engaged in private and public sector town planning and resource management roles in New Zealand and Australia for over ten years. My experience includes a mix of local authority and private consultancy resource management work. Most recently I have focused on providing consultancy advice relating to regional and district plans, resource consents and environmental effects assessments. This includes experience with large-scale projects in New Zealand and Victoria involving multi-disciplinary teams.
- 1.4 An outline of my recent relevant experience is included at **Appendix A**.
- 1.5 While this is not an Environment Court hearing, I confirm my obligations in terms of the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

SCOPE OF EVIDENCE

- 1.6 Mitchell Daysh Limited has been engaged by Silver Fern Farms Limited (“**Silver Fern Farms**”) to provide resource management advice about the Central Hawkes Bay Proposed District Plan (the “**PDP**”). I prepared Silver Fern Farms submission and further submission on the PDP.

- 1.7 In this statement of evidence, I will:
- 1.7.1 Summarise the background to Silver Fern Farms' submissions;
 - 1.7.2 Outline the main aspects of the relief sought by Silver Fern Farms' and address the recommendations of the Section 42A report;
 - 1.7.3 Where my recommendation differs to that of the Section 42A report, my suggested amendments to the provisions and reasons for those changes; and
 - 1.7.4 Provide a brief conclusion.
- 1.8 Silver Fern Farms' submission included numerous points not addressed in this statement of evidence. With respect to those submission points, I generally agree with the recommendations in the Section 42A report and so have not commented on them any further here.
- 1.9 In preparing this statement I have reviewed the following material:
- 1.9.1 Silver Fern Farms' submission and further submission on the PDP;
 - 1.9.2 Other relevant submissions and further submissions; and
 - 1.9.3 The Council's report and recommended provisions relating to the rural environment, prepared under RMA Section 42A (the "**s42A report**").

2. BACKGROUND TO SILVER FERN FARMS SUBMISSION

- 2.1 Silver Fern Farms is a meat processing and exporting business that on average, processes about 30% of New Zealand's lamb beef and venison each year. It operates 14 meat processing plants around New Zealand, including a meat processing plant east of Takapau (the "**Site**").
- 2.2 The Site comprises 485 hectares at no. 116 Fraser Road, Takapau. The meat processing plant is a large industrial-type complex located in the south-east of the Site. It employs about 800 people during seasonal peaks.

- 2.3 Under the Operative Central Hawkes Bay District Plan (“**Operative Plan**”) the Site and surroundings are in the Rural Zone¹. The Township Zone at Takapau is the nearest non-rural zone and is about 1.3 kilometres from the nearest Site boundary. The processing plant is about 2.3 kilometres from the Township Zone boundary. Land between the Site and the Township Zone is currently zoned Rural.
- 2.4 The PDP proposes to include the Site and surrounding land to the north, west and east in the Rural Production Zone (“**RPROZ**”). Land to the south of the Site and Oruawharo Road that is currently in the Rural Zone would be included in the General Rural Zone (“**GRUZ**”).
- 2.5 The land currently in the Township Zone would be rezoned to a Settlement Zone. This would continue to be the nearest urban zone to the Site. Land between the Site and the Settlement Zone would be in the RPROZ.

3. SILVER FERN FARMS SUBMISSION AND S42A RECOMMENDATIONS

- 3.1 With the Site’s spatial context in mind, the relief sought by Silver Fern Farms submission in relation to the Rural Land Resource (“**RLR**”) chapter of the PDP comprised the following key matters.
- 3.2 **Define ‘rural industry’** as per the National Planning Standards 2019: “*rural industry an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production*”. This distinguishes ‘rural industry’ from general ‘industry’, as the latter includes urban activities and is proposed as a non-complying activity in rural zones. The s42A report recommends accepting this relief².
- 3.3 **Add references to ‘rural industry’** to some overarching RLR strategic provisions as well as to GRUZ and RPROZ objectives and policies. The s42A report recommends rejecting this relief, on the grounds that:
- 3.3.1 Broadening the RLR strategic objectives and policies to refer to rural industry would be too enabling and suggestive of a permitted

¹ Shown on District Plan Map no. 12.

² Paragraph 5.4 of the Rural Environment – Volume 3 S42A report.

or controlled activity status for rural industry, which the s42A author does not support³.

3.3.2 Referring directly to rural industry in the RPROZ objectives and policies would detract from “...a clear focus on providing for primary production activities in the Rural Production Zone” and would be inconsistent with policy deterrence of activities that might constrain primary production⁴.

3.3.3 Instead, the s42A report recommends amendments to refer to rural industry (or, to ‘non-primary production’ more widely, as in RLR-P4) in the rural environment provisions as below:

RLR-P4 *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.*⁵

RLR-M3 *When requested, people wishing to establish in the rural area zones will be issued with a Land Information Memorandum advising them that they are establishing in a productive rural environment where amenity standards associated with the normal conduct of farming operations, and related activities such as established rural industry, in the Zone (that is, amenity standards that allow for fluctuating noise, odour and air quality levels resulting from accepted primary production management practices and rural industry activities) will be upheld by the Council. Provided that these activities are carried out within the provisions established by the District Plan or*

³ Paragraph 5.3.15 and -16 of the Rural Environment – Volume 3 S42A report.

⁴ Paragraphs 5.3.27, 5.3.33, 5.3.37 and 5.3. 42 to 5.3.45 of the Rural Environment – Volume 3 S42A report.

⁵ Paragraph 5.3.23 of the Rural Environment – Volume 1 S42A report.

*in accordance with a resource consent(s), the effects of the activities on amenity standards will not be considered a nuisance.*⁶

RPROZ Introduction (...) *The Zone is generally sparsely settled and is characterised by a predominance of open space. There are a few small number of commercial or industrial activities within the Zone that are of a small scale, and a small number of larger established rural industries, largely servicing the primary production sector and rural communities.*⁷

RPROZ-O4 *The predominant character of the Rural Production Zone is maintained, which includes: [...] (3) the sounds, and smells, and traffic associated with legitimate primary production activities, and established rural industries, anticipated from a working rural environment; [...]*⁸

- 3.4 **A controlled activity resource consent application pathway** for rural industry proposals in the RPROZ or GRUZ. This relief was rejected on grounds that a controlled activity application pathway does not provide sufficient scope to assess rural industry proposals. The s42A report recommends a new discretionary activity application pathway for rural industry proposals in the GRUZ and RPROZ⁹.
- 3.5 **Stronger deterrence of non-rural activities** in the GRUZ and RPROZ, to minimise the potential for reverse sensitivity effects on rural activities, and in recognition that the Rural Lifestyle Zone and urban zones amply provide for residential and other non-rural activities not dependent on a rural location¹⁰.
- 3.6 Rejection of a submission seeking to enable a range of non-rural ‘service activities in the rural environment’¹¹.
- 3.7 I discuss these matters in sections 4 to 7 of this evidence, below.

⁶ Paragraph 5.3.18 of the Rural Environment – Volume 3 S42A report.

⁷ Paragraph 5.3.20 of the Rural Environment – Volume 3 S42A report.

⁸ Paragraph 5.3.29 of the Rural Environment – Volume 3 S42A report.

⁹ Paragraphs 6.3.17 to -19 of the Rural Environment – Volume 3 S42A report.

¹⁰ Such as “service activities” which term includes a wide range of non-rural land uses.

¹¹ Te Mata Mushrooms Limited, submitter no. 102.

4. POLICY RECOGNITION OF “RURAL INDUSTRY”

4.1 The s42A report recommends amendments (below) that I consider go some way towards recognising rural industry in the notified PDP. I support the following amendments recommended by the s42A report:

- 4.1.1 Amend RLR-P4 to recognise that “...*some non-primary production activities have an operational or functional need to locate in a rural area*”.
- 4.1.2 Amend RPROZ-O4(3) to incorporate certain features of rural industry as characteristics of the rural environment.
- 4.1.3 Amend RPROZ-P4 to clarify that expectations about built form in this zone must acknowledge that the zone is “... *a working rural environment*”.

Policy RPROZ-P2

4.2 I generally support the s42A report’s version of RPROZ-P2 below, noting that the amendments to RPROZ-P4 mentioned above appropriately qualify RPROZP2(1).

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:*

- 1. their scale, intensity and built form are in keeping with the rural character of the Rural Production Zone;*
- 2. they maintain a level of amenity in keeping with the rural character of the Rural Production Zone;*
- 3. they minimise reverse sensitivity effects on activities otherwise anticipated within the Rural Production Zone; and*
- 4. adverse effects are avoided, remedied or mitigated.¹²*

¹² Paragraphs 2.3.16 to 2.3.20 of the Rural Environment – Volume 2 S42A report.

- 4.3 However, in my opinion 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.
- 4.4 I suggest that this be resolved by deleting the term “related” from RPROZ-P2 so that it provides for all non-primary production activities with a functional or operational need for a rural location - whether related to primary production or not.

Policy RLR-P5

- 4.5 The s42A report recommends rejecting Silver Fern Farms submission to amend RLR-P5 to refer to rural industry, on the grounds that doing so would inappropriately ‘enable’ rural industry as a permitted or controlled activity¹³. The s42A report recommends RLR-P5 as follows:

***RLR-P5** To enable primary production and related activities to operate in rural areas in accordance with accepted practices without being compromised by other activities demanding higher levels of amenity.*

- 4.6 The National Planning Standards definition of rural industry identifies that a rural location is a distinguishing characteristic of the activity:

***Rural industry** means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production.*

- 4.7 I consider that the absence of reference to rural industry in the overarching Rural Land Resource policies is inappropriate. Rural industry is recognised in

¹³ Paragraph 5.3.15 of the Rural Environment – Volume 3 S42A report.

documents relevant to, and acknowledged in, the PDP. In my opinion, it is reasonable to carry that recognition forward into the PDP for clarity.

- 4.8 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 descriptors¹⁴.
- 4.9 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.

*General rural zone: Areas used predominantly for primary production activities, including intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, **including associated rural industry**, and other activities that require a rural location.*

*Rural production zone: Areas used predominantly for primary production activities that rely on the productive nature of the land and intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, **including associated rural industry**, and other activities that require a rural location.*

- 4.10 However, the s42A report does not recommend any specific reference to rural industry in the PDP’s strategic policies for rural areas. In discussing the recommendation to reject direct policy recognition of rural industry, the s42A report says:

“...the National Planning Standards are guides for determining what zone titles, out of the fixed list provided, best reflect the choice of

¹⁴ 'Valuing highly productive land A discussion document on a proposed national policy statement for highly productive land'. Retrieved 25 May 2022 from <<https://www.mpi.govt.nz/dmsdocument/36624-Discussion-document-on-a-proposed-National-Policy-Statement-for-Highly-Productive-Land>>.

zones adopted in a District Plan. It is my understanding that the National Planning Standards do not then translate this into mandatory direction as to the provisions that should then ultimately apply in that particular zone”.

- 4.11 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 provisions¹⁵.
- 4.12 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.
- 4.13 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.

Objective GRUZ-O2

- 4.14 Objective GRUZ-O2 is the equivalent provision to RPROZ-O4 in guiding decision-making in the General Rural Zone. The s42A report recommends that RPROZ-O4(3) be amended to refer to “*established rural industries*” (see below/paragraph 3.3.3 above). That amendment means RPROZ-O4 anticipates the characteristics of the rural environment including sounds, smells and traffic associated with rural industry.

¹⁵ Paragraph 3.3.11 of the Rural Environment – Volume 3 S42A report.

- 4.15 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.

GRUZ-O2(3) *the sounds, ~~and~~ smells, and traffic associated with legitimate primary production activities anticipated from a working rural environment;*

RPROZ-O4(3) *the sounds, ~~and~~ smells, and traffic associated with legitimate primary production activities, **and established rural industries,** anticipated from a working rural environment; [...]*

- 4.16 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.

5. RURAL INDUSTRY CONSENTING PATHWAY

- 5.1 The notified PDP did not provide a resource consent application pathway for rural industry. Silver Fern Farms submission sought¹⁶ a controlled activity resource consent application pathway with a restricted discretionary activity status for proposals not compliant with the conditions applying to the controlled activity rule¹⁷.
- 5.2 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 preeminence 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.

¹⁶ Submission point S116.040.

¹⁷ Silver Fern Farms proposed rule is shown at paragraph 6.2.5 of the Rural Environment – Volume 3 S42A report.

5.3 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:

- 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.

5.4 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.

5.5 Silver Fern Farms submitted that an application that does not comply with the controlled activity conditions would be assessed as a restricted discretionary activity. This approach would enable a resource consent application to be declined if necessary, but had the benefit of also recognising that rural industry is anticipated in the GRUZ and RPROZ. This approach was supported by a proposed new restricted discretionary assessment matter referencing the operational needs of rural industry for a rural location.

- 5.6 The s42A report recommends rejecting Silver Fern Farms submission^{18, 19} in favour of an unqualified discretionary application pathway for rural industry proposals in the GRUZ and the RPROZ²⁰, shown below.

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

- 5.7 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 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.

- 5.8 As such I recommend that a controlled activity status apply to rural industry proposals, subject to the controlled activity conditions shown in **Appendix B**.

- 5.9 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

¹⁸ Paragraphs 6.2.5 and 6.3.17 of the Rural Environment – Volume 3 S42A report.

¹⁹ Paragraphs 6.2.17 and 6.3.21 – 6.3.22 of the Rural Environment – Volume 3 S42A report.

²⁰ Paragraphs 6.3.10 to 6.3.19 of the Rural Environment – Volume 3 S42A report.

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.

- 5.10 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.

6. NON-RURAL ACTIVITIES AND REVERSE SENSITIVITY EFFECTS

- 6.1 The s42A report recommends amendments, which I support, to clarify the policy settings regarding non-rural activities that are unrelated to primary production and have no operational or functional need for a rural location. The amended provisions include RPROZ-O4, RPROZ-P2, RPROZ-P4, RPROZ-P7, RPROZ-P8, as well as similar amendments to corresponding GRUZ objectives and policies.
- 6.2 SUB-AM12(3)(b) is an Assessment Matter relating to controlled or restricted discretionary applications to subdivide land to create lifestyle lot sites in the GRUZ or RPROZ under rules SUB-R5(2), -(5), -(6) or SUB-R7(3), as below.

SUB-AM12 Lifestyle Sites in the Rural Production Zone

[sub-clauses 1. and 2. not shown here]

3. Amalgamated sites not adjoining

In deciding whether a Rural Production Zone lifestyle site subdivision creating an amalgamation of titles not adjoining, the Council will have regard to whether any of the following factors apply:

- a. The titles are positioned in a manner that allows them to be effectively used together for sustained independent production in accordance with Rural Production Zone policy.*

b. The likelihood of a successful application being made to subdivide the titles in the future on the basis that they cannot effectively be used together is low.

- 6.3 In some cases, applicants will propose to amalgamate non-contiguous lots to satisfy the requirement that no additional lots be created (in the RPROZ) or that the balance lot be at least 20 hectares (in the GRUZ). It is foreseeable that landowners may subsequently propose further lifestyle site subdivision of the balance lot on grounds that as a non-contiguous parcel, it cannot be used effectively for rural activities. This would provide a method to carry out piecemeal lifestyle site subdivisions, fragmenting the rural land base.
- 6.4 As notified, SUB-AM12(3)(b) seeks to forestall any such proposal to further subdivide non-contiguous parcels, by requiring a proposal to amalgamate non-contiguous parcels to be considered in terms of *“The likelihood of a successful application being made to subdivide the titles in the future on the basis that they cannot effectively be used together is low”*.
- 6.5 Silver Fern Farms submission sought amendment of this provision 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. This would provide more surety about retention of the balance lot in whole, than the somewhat ambiguous “low” likelihood statement in the notified provision does.
- 6.6 The s42A report indicates uncertainty about the outcome sought by the relief requested and recommends rejecting the submission by Silver Fern Farms. It states that the registration of a covenant or consent notice precluding future re-subdivision of the balance lot *“...is par for the course”* in any application to create lifestyle sites in the RPROZ with a non-contiguous balance lot²¹.
- 6.7 I consider that a direct reference in SUB-AM12(3)(b) to registering a consent notice or covenant will clarify how a proponent could address any concerns about reverse sensitivity caused by ad-hoc piecemeal lifestyle site

²¹ Paragraph 9.3.36 of the Rural Environment – Volume 3 S42A report.

subdivision, and associated Plan integrity matters. This also makes the matter an explicit consideration, rather than reliance on an assumed course of action.

- 6.8 As such I recommend that SUB-AM12(3)(b) be amended as shown in Appendix B.

7. TE MATA MUSHROOMS LTD, SUBMISSION #102

- 7.1 Te Mata Mushrooms Land Company Limited (“**TMM**”) submission sought for land west of Fraser Road and east of the proposed Settlement Zone for Takapau, including land within the Site, be set aside for future commercial and industrial development and use. This outcome was sought by applying a Future Development Overlay, Industrial Zone, Commercial Zone or Settlement Zone, or a combination of these instruments, to the area. A number of associated amendments to RLR, RPROZ and GRUZ provisions were requested by TMM.
- 7.2 TMM proposed²² (and Silver Fern Farms further submission opposed) to enable ‘service activities’ in the GRUZ and RPROZ. This would form a component of the rural-to-urban conversion of the area that TMM sought. The s42A report recommended rejecting the submissions by TMM on this.
- 7.3 I consider the relief sought by TMM in this regard would facilitate the establishment in the rural zones of various non-rural activities unrelated to rural activities and with no functional or operational need for a rural location, as illustrated by the PDP definition of ‘service activity’ (below).

Service activity *the use of land and buildings for the primary purpose of the transport, storage, warehousing, maintenance or repair of goods and materials, excluding relocatable building depots.*

- 7.4 Given the various issues and considerations that influence the policy framework the PDP seeks to establish for the GRUZ and RPROZ, I consider that granting the relief sought by TMM would be inappropriate and

²² S102.036, S102.050, S102.051, S102.063, S102.074, S102.075 and S102.060

consequently support the recommendation of the s42A report to reject these submissions.

- 7.5 Given the foregoing I support the recommendation of the s42A report to reject the relief sought by TMM.

8. CONCLUSION

- 8.1 Overall, I consider that while the s42A report recommends useful amendments to objectives and policies of the Rural Land Resource chapter of the PDP, they do not go far enough in recognising the presence of rural industry activities in the rural environment. I also consider that the unqualified discretionary activity status that the s42A report recommends for rural industry is too onerous and I prefer the more nuanced approach that I suggest earlier in my evidence.
- 8.2 As such, it is my view that various provisions in the Rural Land Resource chapter of the PDP require revision and refinement to appropriately recognise and provide for rural industry activities. These revisions would, in my assessment, better achieve the requirements of section 32 of the Act and the Acts' overall purpose of achieving the sustainable management of natural and physical resources.

APPENDIX A: RECENT (2021-2022) PROFESSIONAL EXPERIENCE

- Manawa Energy Limited (formerly Trustpower Limited): Ongoing provision of planning advice and reporting about hydro-electricity generation projects located throughout New Zealand.
- OceanaGold (New Zealand) Limited: Prepared parts of the Assessment of Environmental Effects for a new underground gold and silver mine near Waihi.
- OceanaGold (New Zealand) Limited: Prepared the Assessment of Environmental Effects associated with the extension of mining activities on former road reserve at Waihi.
- Waiaua Bay Farm Limited: Prepared the Assessment of Environmental Effects for Kauri Cliffs Golf Course groundwater abstractions; Ongoing provision of planning advice regarding bulk water storage, site master planning and district plan review proceedings.
- Whakatāne District Council: Prepared parts of the Assessment of Environmental Effects for the Whakatāne Boat Harbour under the COVID-19 fast-track resource consenting legislation.
- Silver Fern Farms Limited: Prepared submissions and further submissions on the Proposed Otago Regional Policy Statement and an Assessment of Environmental Effects for stormwater discharges associated with the firm's Hāwera meat processing site.
- Ryman Healthcare Limited: Prepared due diligence, resource consenting and planning evidence documents associated with retirement village developments throughout New Zealand.
- Tauranga City Council: Completed the Welcome Bay Planning Study and various documentation in support of changes to the Tauranga City Plan.

APPENDIX B SUGGESTED AMENDMENTS

Deletions are shown with strikethrough and additions with underlining.

Notified PDP text	S42A recommended text	S Tuck recommended text
<p>RLR-P5 To enable primary production and related activities to operate in rural areas in accordance with accepted practices without being compromised by other activities demanding higher levels of amenity.</p>	<p><i>As notified.</i></p>	<p>RLR-P5 To enable primary production and related activities (<u>including rural industry</u>) to operate in rural areas in accordance with accepted practices without being compromised by other activities demanding higher levels of amenity.</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>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> <u>1. their scale, intensity and built form are in keeping with the rural character of the Rural Production Zone;</u></p>	<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 Rural Production Zone; 2. they maintain a level of amenity in keeping with the rural character of the Rural Production Zone; 3. they minimise reverse sensitivity effects on activities otherwise anticipated within the Rural Production Zone; and 4. adverse effects are avoided, remedied or mitigated.

Notified PDP text	S42A recommended text	S Tuck recommended text
	<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><i>No rule notified.</i></p>	<p><u>RPROZ-RXX Rural industry (other than post-harvest facilities)</u></p> <p><u>1. Activity Status: DIS</u></p> <p><u>Where the following conditions are met: N/A</u> <u>Subject to (but not limited to) the following assessment matter:</u></p> <p><u>a. The necessity of a rural location.</u></p> <p><u>2. Activity status where compliance not achieved: N/A</u></p>	<p><u>RPROZ-RXX Rural industry (other than post-harvest facilities)</u></p> <p><u>1. Activity Status: CON</u> <u>Where the following conditions are met:</u></p> <p><u>a. Compliance with:</u></p> <p><u>i. RPROZ-S2 Total Building Coverage;</u></p> <p><u>ii. RPROZ-S3 Height of Buildings;</u></p> <p><u>iii. RPROZ-S4 Height in Relation to Boundary;</u></p> <p><u>iv. RPROZ-S5 Setback from Roads and Rail Network;</u></p> <p><u>v. RPROZ-S6 Setback from Neighbours;</u></p> <p><u>vi. RPROZ-S7 Continuous Tree Planting along Boundaries;</u></p> <p><u>vii. RPROZ-S8 Electricity Safety Distances;</u></p> <p><u>viii. PPROZ-S9 Transport (Access, Parking, Loading);</u></p> <p><u>ix. RPROZ-S10 Light;</u></p> <p><u>x. RPROZ-S11 Noise.</u></p>

Notified PDP text	S42A recommended text	S Tuck recommended text
		<p>xi. <u>RPROZ-S13 Buildings and structures by Waipukurau Aerodrome</u></p> <p>xii. <u>RPROZ-S14 Setback from Gas Transmission Network</u></p> <p>xiii. <u>RPROZ-S15 Setback from National Grid Yard</u></p> <p>xiv. <u>RPROZ-S17 Water supply for firefighting Matters over which control is reserved:</u></p> <p><u>b. 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.</u></p> <p><u>c. Setbacks from wāhi tapu, wāhi taonga and sites of significance identified in SASM-SCHED3 that are located within the site of the activity.</u></p> <p><u>2. Activity status where compliance with condition RPROZ-RXX(1) is not achieved: DIS</u></p> <p><u>Subject to (but not limited to) the following assessment matter:</u></p> <p><u>a. The necessity of a rural location.</u></p>

Notified PDP text	S42A recommended text	S Tuck recommended text
<p>SUB-AM12 Lifestyle Sites in the Rural Production Zone <i>[sub-clauses 1. and 2. not shown here]</i></p> <p>3. Amalgamated sites not adjoining In deciding whether a Rural Production Zone lifestyle site subdivision creating an amalgamation of titles not adjoining, the Council will have regard to whether any of the following factors apply:</p> <p>a. The titles are positioned in a manner that allows them to be effectively used together for sustained independent production in accordance with Rural Production Zone policy.</p> <p>b. The likelihood of a successful application being made to subdivide the titles in the future on the basis that they cannot effectively be used together is low.</p>	<p><i>As notified.</i></p>	<p><u>2. Activity status where compliance with condition RPROZ-RXX(2) is not achieved: N/A.</u></p> <p>SUB-AM12 Lifestyle Sites in the Rural Production Zone <i>[sub-clauses 1. and 2. not shown here]</i></p> <p>3. Amalgamated sites not adjoining In deciding whether <u>to grant a subdivision consent for a</u> Rural Production Zone lifestyle site subdivision creating an amalgamation of titles not adjoining, the Council will have regard to whether any of the following factors apply:</p> <p>a. The titles are positioned in a manner that allows them to be effectively used together for sustained independent production in accordance with Rural Production Zone policy.</p> <p>b. The likelihood of a successful application being made to subdivide the titles in the future on the basis that they cannot effectively be used together is <u>precluded by the registration of restrictive covenants and/or consent notices (where these are offered) against the certificate of title(s) for all sites being amalgamated</u> low.</p>

Section 32AA evaluation: new rule “*RPROZ-RXX Rural industry (other than post-harvest facilities)*”

Effectiveness and efficiency

The suggested new rule distinguishes minor ‘rural industry’ proposals that comply with conservative controlled activity conditions and larger proposals that may require greater scrutiny. This is considered more efficient than an unqualified discretionary activity status for rural industry. For minor proposals, the latter consenting pathway is likely to be disproportionate to the potential effects of modest proposals that comply with the controlled activity conditions.

Costs and benefits

Rural industry is, by definition, **only** anticipated in the rural environment, and the definition of “rural industry” covers a variety of business and industrial activities. Not all rural industry proposals will be large developments that cannot meet the controlled activity conditions, nor have effects that cannot be managed by standard consent conditions.

Providing a controlled activity status for minor rural industry proposals recognises the foregoing and in my view it is beneficial to refine the rule framework to reflect this. I consider it will provide benefits in minimising the transactional costs of routine, small-scale proposals that comply with the controlled activity conditions. Under the s42A report recommended provisions these would face the costs of a discretionary activity consenting pathway, with consequential costs to the economic sustainability of the rural environment.

Risk of acting or not acting

If a controlled activity pathway for minor rural industry proposals is not included in the PDP, all applications for rural industry will be subject to a discretionary activity status, regardless of their effects and compatibility with the surrounding rural environment. This risks undue constraints on the use and development of the rural environment for rural activities. In contrast, a controlled activity/discretionary activity rule framework presents few risks, because proposals that do not meet the controlled activity conditions will follow the discretionary activity consenting pathway.

Decision about most appropriate option

The Hearings Panel could choose between an unqualified discretionary activity status as recommended by the s42A report, the controlled activity/discretionary activity rule framework set out in this evidence, or another rule framework, such as a restricted discretionary/ discretionary activity status structure.

The drawbacks of applying an unqualified discretionary activity status are outlined above. I consider that a different rule framework (such as restricted discretionary/ discretionary) would not appropriately anticipate the presence and variety of rural industry activities. Nor, in my view, would this be as efficient and effective as a controlled activity/discretionary activity rule framework in dispensing with routine proposals quickly and focussing assessment on more significant proposals.

Overall, it is my opinion that a controlled/discretionary activity rule framework most appropriately balances the anticipated presence of (various) rural industry activities in the rural environment, enables assessment procedures that are commensurate with the scale and significance of a proposal, without detracting from the pre-eminence of permitted primary production activities.