

**BEFORE THE HEARINGS PANEL
IN CENTRAL HAWKES BAY**

IN THE MATTER of the Resource Management Act 1991 (“**the Act**”)

AND

IN THE MATTER of the Proposed Central Hawkes Bay District Plan

HEARING STREAM 6

**STATEMENT OF EVIDENCE BY JORDYN LANDERS FOR
HORTICULTURE NEW ZEALAND**

31 OCTOBER 2022

SUMMARY

1. This statement addresses Horticulture New Zealand's submission points relating to Hearing 6 on the Proposed Central Hawke's Bay District Plan.
2. The table included as Appendix 1 provides an overview of HortNZ's interests in this topic and response to the Section 42A recommendations.

QUALIFICATIONS AND EXPERIENCE

3. My full name is Jordyn Maree Landers. I am currently employed as a planner at Beca, a role I have been in since July 2022.
4. I was previously employed an Environmental Policy Advisor at Horticulture New Zealand (HortNZ) between August 2019 – July 2022. In this role I was involved with regional and district planning processes in regions where fruit and vegetables are grown commercially. Prior to my role with HortNZ, I was employed as an Environmental Planner at GHD.
5. I hold a Masters of Planning and a Bachelor of Science from the University of Otago. I am an intermediate member of the New Zealand Planning Institute (NZPI). I have over five years planning experience.
6. In my previous role at HortNZ I involved with the Proposed Central Hawkes Bay District Plan, including:
 - I was also involved with the preparation of HortNZ's submission and further submission on the Proposed Central Hawkes Bay District Plan; and
 - Prepared industry statements of evidence for Hearing Streams 1, 2 and 3 and attended Hearing Stream 3, as HortNZ's representative.
7. This statement addresses HortNZ submission points (and where applicable, further submission points) relating to Hearing 6 on the Proposed Central Hawke's Bay District Plan. I am authorised to give this evidence on behalf of HortNZ.
8. I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses (Environment Court of New Zealand Practice Note 2014) and agree to comply with it. This evidence I am presenting is

within my area of my expertise, except where I state that I am relying on the evidence of another person. To the best of my knowledge, I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.

9. In preparing this statement, I have reviewed:
- The following Section 42A reports dated 12 October 2022: Mapping and Rezoning Request (Volume 2), Miscellaneous.
 - HortNZ's submission and further submission.

RESPONSE TO SECTION 42A REPORT

10. The table attached as Appendix 1 provides an overview of HortNZ's submission and further submission points in relation to these topics, and response to the Section 42A recommendations.
11. Specific commentary on HortNZ's submission on the definition of 'day care facility' is provided below.

'Day care facility' definition

12. HortNZ's submission raised in respect of 'day care facilities' noted that "*it is not clear how this activity would be, in the context of the RPROZ chapter example, a Community Facility or captured by the 'Any other activity not otherwise provided for' rule*". A specific means of addressing this 'ambiguity' was not provided in the submission.
13. The following Proposed Central Hawke's Bay District Plan definitions are relevant:

Day care facility: land and/or buildings used for the care or welfare of people, including the aged and disabled during the day or part of a day. Such facilities do not provide for overnight stays, and do not include educational facilities, home businesses, or home-based education or care ancillary to a residential activity.

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

Educational facilities (NPStnds definition): means land or buildings used for teaching or training by child care services, schools, or

tertiary education services, including any ancillary activities.

14. It appears that 'day care facilities' does not include child-care services that include a teaching or training component (these being considered 'Education Facilities') but other forms of care facility.
15. I agree with the S42A report that '*arguably*' a day care facility *could* be considered within the community facilities definition. The implication being that:

*"Therefore, in all zones, other than the General Residential and Settlement Zones, a Day care facility could be provided for as a 'Community facility' with the respective conditions applying to determine when such a facility would be permitted, or a consent would be required."*¹.
16. This is the aspect which HortNZ's submission highlights as being unclear (i.e. in zones where there is not day care facility rule, whether community facilities is the intended rule).
17. Having reviewed the Proposed Central Hawke's Bay District Plan provisions, I note:
 - a. Specific rules for 'day care facilities' are only included in the General Residential Zone and Settlement Zones – these zones also include separate rules for 'Community Facilities' and 'Educational Facilities':
 - The rule for day care facilities in the General Residential Zone includes a '*must not exceed 10 persons*' standard in addition to compliance with other zone standards, whereas the latter (community facilities and educational facilities) have a '*limited to 100m² gross floor area*' standard.
 - In the Settlement Zone, the permitted activity standards between the Day Care Facilities rule and the 'Community Facilities' and 'Educational Facilities' rules are the same.
 - b. In other zones there are rules for 'Community Facilities' and 'Educational Facilities' rules only (i.e., no specific rule for 'day care facilities').
18. The other references in the plan to 'day care facilities' are as follows:

¹ Section-42A-Miscellaneous, para 6.3.22 (Stella Morgan)

- Transport chapter: TRAN-S1 Vehicle Parking, TRAN-S4 Vehicle Loading.
- Natural hazards chapter: NH-APP1 Building Importance Categories (BIC).
- Assessment matter GRZ-AM9 and assessment matter SETZ-AM8 (under the heading Community Facilities, Day Care Facilities, Educational Facilities’).

19. I have reviewed the options proposed in the S42A report for addressing the ambiguity, I note below my understanding of these options and in the left column my comments:

<p>Option 1</p> <p>Delete Rules GRZ-R4 and SETZ-R4 providing for ‘Day care facilities’ and delete the corresponding definition in the ‘Interpretation’ section, on the basis that such facility can be provided for as community facilities.</p>	<p>There is merit in this option, however, note that:</p> <ul style="list-style-type: none"> • There remain other provisions in the plan where ‘day care facility’ is used in a specific context (refer above). • Reduces ‘ambiguity’ – however still relies on interpreting that the activity (day care facility) would be a ‘community facility’. • Potentially changes the intent in the GRZ zone, where a maximum 10-person standard applies in the notified plan.
<p>Option 2</p> <p>Delete Rules GRZ-R4 and SETZ-R4 providing for ‘Day care facilities’</p> <p>Including an additional condition in all other ‘community facilities’ rules adding as a standard: <i>‘The maximum number of persons catered for at a Day care facility at any</i></p>	<p>There is merit in this option, however, note that:</p> <ul style="list-style-type: none"> • SETZ-R4 does not currently include a ‘maximum number of person standard’ • I support including the ‘must not exceed 10 persons’ standard in other zones, however, note this may change the intent of the notified provisions • Has the benefit in clarifying that day

<i>one time must not exceed 10 persons'</i>	care facilities are considered 'community facilities' by virtue of including a day care facility specific standard in the community facility rules
Option 3 Retain Rules GRZ-R4 and SET-R4 and amend the zone rule for community activities, to specially exclude day care facilities.	There is merit in this option, however, note that: <ul style="list-style-type: none"> • This does not necessarily address the 'ambiguity' that exists in other zones where there are no specific day care facility rules

20. From the perspective that it is intended that 'day care facilities' are also 'community facilities'², I consider that all options proposed in the S42A report would help clarify the provisions, however, I propose for consideration an alternative option for addressing the ambiguity raised in HortNZ's submission:

- a. Amending the definition of day care facility to make it clear that this is a 'subset' of community facility, to make the linkage clear (on the assumption that this is the plan intent):

Day care facility: land and/or buildings used for the care or welfare of people, including the aged and disabled during the day or part of a day. Such facilities do not provide for overnight stays, and do not include educational facilities, home businesses, or home-based education or care ancillary to a residential activity.

This is a definition is a subset of 'community facility'.

- b. And as consequential amendments, as suggested in 'Option 3' above, in the zones (GRZ and SETZ) that include rules for both day care facilities' and 'community facilities' amend the zone rule for community facilities to read:

GRZ-R6 Community facilities (excluding Day care facilities)

SETZ-R7 Community facilities (excluding Day care facilities).

(Or delete SETZ-R4 Day care facilities in it's entirely as the

² Noting that this is appears to be the approach in the operative District Plan.

conditions are the same as SETZ-R7 Community facilities).

Jordyn Landers

31 October 2022

APPENDIX 1: Response to S42A recommendations

Provision	HortNZ submission	HortNZ further submission	Summary of S42A recommendation	Response to S42A
S42A Report – Mapping and Rezoning Requests (Volume 2)				
RPROZ-O2	-	FS12.122 - Te Mata Mushrooms	Accept FS (reject primary submission)	Support S42A recommendation.
S42A Report – Miscellaneous				
Community facility	-	FS17.4 – Heretaunga Tamatea Settlement Trust	Accept FS (reject primary submission)	Support S42A recommendation – as this term is defined by the National Planning Standards.
Day care facility	S81.012 Clarify the relationship of this term to 'Community Facilities'	-	Accept – <i>'preference would be option 1 to delete the definition of Day care facility, and associated rules GRZR4 and SETZ-R4, on the basis that the PDP provides for such activities as a Community facility'</i>	Refer to discussion in para 13-20 above. In principle, support the S42A recommendation – but propose for consideration an alternative approach of addressing HortNZ's submission.
Health care facility	S81.016 Clarify the relationship of this term to 'Community Facilities'	-	Accept - recommends that the definition of 'Health care facility' be deleted.	Support S42A recommendation.
[General]	-	FS17.76 – Centralines	Accept FS (reject primary submission)	Support S42A recommendation.