SECTION 42A REPORT

Rebuttal Evidence

Hearing 18: Rural Zone – Landuse

Report prepared by: Jonathan Clease

Date: 24/09/20

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1 Introduction

1.1 Background

1. My full name is Jonathan Guy Clease. I am employed by a planning and resource management consulting firm Planz Consultants Ltd, as a senior planner and urban designer.

2. I am the writer of the original s42A report for Hearing 18: Rural Zone – Landuse.

3. My qualifications and experience are set out in the s42A report in section 1.1, along with my agreement to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 as set out in section 1.2.

4. The text changes as a result of this rebuttal evidence are set out in Appendix 2. Changes that are a result of the original s42A report are shown in red, with changes arising from this rebuttal evidence shown in blue.

2 Purpose of the report

5. In the directions of the Hearings Panel dated 26 June 2019, paragraph 18, states:

> *If the Council wishes to present rebuttal evidence it is to provide it to the Hearings Administrator, in writing, at least 5 working days prior to the commencement of the hearing of that topic.*

6. The purpose of this report is to consider the primary evidence filed by submitters.

7. Evidence was filed by the following submitters:

Submitter	Submission number
Auckland Waikato Fish and Game Council	433
Kenneth Barry	610
Bathurst Resources Ltd and BT Mining Ltd	771
Blue Wallace Surveyors Ltd	662
CDL Land NZ Ltd	612
Dairy NZ Incorporated	639
Department of Conservation	585
Dilworth Trust Board	577
Federated Farmers of New Zealand	680
Fire and Emergency New Zealand	378
First Gas Limited	945
Fulton Hogan Limited	575
Genesis Energy Limited	924
Andrew and Christine Gore	330
Hamilton City Council	535
Havelock Village Ltd	862
Heritage New Zealand Lower Northern Office	559
S & T Hopkins	451
Horticulture New Zealand	419

Hynds Pipe Systems	983
KCH Trust	437
KiwiRail Holdings Limited (KiwiRail)	986
Livestock Improvement Corporation	637
Lochiel Farmlands Limited	349
Mainland Poultry Limited	833
McCracken Surveys Limited	943
Meridian Energy Limited	580
Middlemiss Farm Holdings Limited on behalf of	794
New Zealand National Fieldays Society Inc	280
Ngaakau Tapatahi Trust	654
NZ Pork	197
New Zealand Transport Agency	742
Synlait Milk Ltd	581
Transpower NZ Ltd	576
T&G Global Limited	676
Tamahere Eventide Home Trust	FS1004
The Poultry Industry Association of New Zealand; Inghams Enterprises (NZ) Limited; Brinks NZ Chicken; The Egg Producers Federation of New Zealand; and Tegel Foods Limited	821
The Surveying Company	746
Waikato Regional Council	81
Zeala Ltd trading as Aztech Buildings	281

8. Evidence was received from a number of the above parties regarding the Rural Zone subdivision provisions. Evidence on subdivision matters are considered in the separate rebuttal evidence by Ms Katherine Overwater. The focus of my rebuttal is on the evidence received on the objectives, policies, and landuse rules for the Rural Zone. It should be noted that I have not provided rebuttal commentary on all evidence, particularly where either the submitter agrees with the position reached in the s42A report, or where we simply have a difference in view and there is little more to add.

3 Consideration of evidence received

Topics addressed in submitter evidence

9. The main topics raised in evidence from submitters that are in disagreement with the recommendations of the original s42A report for Hearing 14: Rural Zone – Land use included:

    a. General direction regarding rural character and amenity, the role of the Rural Zone, and the prioritisation of farming and primary production;

    b. The policy and rule approach for community facilities and rural commercial activities;

c. The policy approach for infrastructure and industry;

d. Setback/reverse sensitivity policies and rules for existing infrastructure and industrial facilities, including the National Fieldays centre;

e. Refinement of the earthworks provisions;

f. Refinement of the intensive farming provisions;

g. Quarry noise rules and the boundaries of the mapped Coal Mining Areas;

h. Worker accommodation;

i. Site-specific provisions for existing non-rural facilities

j. Hamilton's Urban Expansion Area ('UEA').

10. In addition to these broad themes, a number of submitters provided evidence on subdivision matters, in particular the proposed 40ha parent lot threshold, the mechanics of the Conservation Lot pathway, and the desire to include a transferable development rights mechanism. Subdivision evidence is considered in Ms Overwater's rebuttal statement, however I do touch on some discrete subdivision matters where these relate to the wider policy framework.

11. Whilst submitters have raised common themes, individual evidence often touches on a number of matters. In structuring my response, it can either be done thematically (with a consequence of jumping around between submitters), or by submitter (with a consequence of jumping around between themes). To make it easier for submitters, and noting the tight turn around between when this rebuttal will be available and the start of the hearing, I have arranged my rebuttal by submitter, but have endeavoured to group submitters around common themes.

4 Response to submitter evidence

Ngaakau Tapatahi Trust [654] and Dilworth School [577]

12. The Ngaakau Tapatahi Trust operates a health facility on the edge of Tamahere, with the facility specialising in Maaori mental health services. Dilworth School operates a rural campus near Mangatawhiri that includes boarding facilities. Both facilities are long-established and provide necessary services to the wider Waikato community.

13. The submitters and I are in agreement that such existing facilities need to be appropriately provided for in terms of the District Plan rule framework. The treatment of existing activities that do not fit easily within a rural zone framework was discussed in broad terms in paragraphs 54-59 of the s42A report. In short, the tools available are either rezoning (to a zone that permits the activity), scheduling, overlays/ precincts or some other form of specific area identification within a rural zone, site-specific rules, or reliance on the generic zone provisions and existing use rights or existing resource consents. The determination of which tool is the most appropriate will vary between facilities, and will likewise be influenced by how the District Plan is structured, for instance whether scheduling is available as a tool across zone chapters or not.

14. Personally, I consider scheduling to be a useful tool for addressing site-specific existing activities that are not generally anticipated (as permitted) within the zone. Scheduling typically involves the identification of the site in a schedule or list, a brief set of permitted activities, and where necessary any site-specific built form rules to differentiate from the generic zone provisions. If activities are proposed on the site that are not permitted in the schedule, then the rules simply default to those that would otherwise apply to the underlying zoning.

15. Both of the submitter's properties would suit scheduling, as would several other sites referred to in the s42A report such as existing retirement villages. The decision as to whether or not to include scheduling as a tool is however one that needs to be taken across zones, as similar out of zone activities are likely to occur within Residential and Village zones.

16. In the event that the Panel retains the notified plan approach of not using scheduling, then upon reflection of the submitter evidence, I consider that a site-specific rule should be added to better provide for these established activities. Whilst adding to a small degree to the complexity of the rule framework, such additions are relatively modest in length and the benefits of better providing for valued facilities and enabling their ongoing operation and adaption are considered to outweigh the costs of a somewhat more complex rule framework.

17. The evidence for Ngaakau Tapatahi Trust raises concerns with proposed Rule 22.1.3 (RD3)(c) that provides for 'community facilities', in terms of terminology and certainty. The definition of 'community facility', as recommended in the Hearing 5 s42A report, includes land and buildings used for 'health', and as such I consider that the use of the community facilities term in the rule includes health facilities (along with recreational, cultural, welfare, and worship activities). The alternative is to unpack the term 'community facility' in the rule and instead individually list the various activities included in the definition. This would increase certainty, but seems unnecessary, noting that the definitions for numerous terms include a range of activities and the structure of the Proposed Plan is to rely on the definition rather than unpack all defined terms in the rule tables.

18. Given the size of these sites, and the potential for significant expansion, it is not recommended that amendments be made to the site coverage provisions. The combination of activity and built form rules will enable expansion applications to be considered as a restricted discretionary activity in terms of both effects on rural character and amenity, and on the extent of the activity and its alignment with urban growth outcomes. It is noted that this regulatory outcome is the same as that recommended for new community facilities that are subject to a restricted discretionary consenting pathway.

Recommendations

19. It is therefore recommended that new rules be added using a similar format to that recommended for the Atawhai Assisi retirement village.

P20	Maintenance, operation, and alterations to: (a) Dilworth School *(legal description)*; (b) Tamahere Hospital *(legal description)*; Note: additions to these facilities are subject to Rule 22.1.3 RD3	(a) The alterations do not increase net floor area

Tamahere Eventide Home Trust [FS1004 and FS1005]

20. The submitter's evidence relates to two existing retirement villages located in the Rural Zone (Atawhai Assisi), and Country Living Zone (Tamahere Eventide). They seek a minor amendment to Policy 5.3.4 (Density of residential units) so that clause (c) reads as follows: "provide for alterations and additions to retirement villages existing or consented at (date of decision) 2021. The reason for the amendment is that the retirement villages have (or hope to have in the near future) resource consents that provide for development that has yet to be implemented.

21. I agree with the amendment sought, given the advanced stage the consenting is at for these two sites.

22. The submitter also seeks that the activity status for retirement villages in the Rural Zone (that are not otherwise provided for), should be discretionary rather than non-complying, noting that I have recommended a discretionary activity status where they are located within the Country Living Zone.

23. It is important to note that the recommended non-complying activity status would only apply to future new retirement villages and does not affect the Atawhai Assisi site (as that is provided for through (P19) and (RD8)). In my view it is appropriate to have a different activity status for future retirement villages in the Rural and Country Living Zones, given the very different contexts of these two zones. Country Living Zones are in essence a very low density urban zone, where residential, rather than rural production, is the key use. As such, retirement villages (which are in essence another form of residential accommodation), are more compatible with the zone intent than the rural zone, which does not have residential accommodation as its key purpose. The other key difference between the two zones is in their location. Country Living Zones are generally located adjacent or in close proximity to existing townships where residents have easy access to a wide range of services, infrastructure connections can be more efficiently provided, and where significant building mass can be visually integrated with an existing township form.

24. The potential acceptability of a new retirement village on the outskirts of a large town in terms of urban growth management, access to services, and lower potential reverse sensitivity risks to productive rural activities is therefore fundamentally different to a retirement village locating in a general rural setting.

Recommendations

25. It is recommended that non-complying status for new retirement villages in the Rural Zone be retained.

26. It is recommended that Policy 5.3.8 (c) be amended as follows:

Provide for alterations and additions to retirement villages existing or subject to a resource consent at *date of decision* 2021.

Livestock Improvement Corporation [637] and DairyNZ Inc. [639]

27. The submitters are largely in agreement with the amendments recommended in the s42A report regarding the existing agricultural research campuses. Their evidence notes that recommended Rule 22.5.2(P7) requires dwellings to be set back at least 200m from the Inghams Feed Mill located within Hamilton City Council's jurisdiction. They clarify that this setback requirement is a roll over from the Operative Plan that applied to the AgResearch campus at Ruakura, which has since became part of Hamilton City following territorial boundary alterations in 2009. The AgResearch campus is now provided for through the Hamilton City Plan, and as such the reference to a setback from the Inghams Feed Mill is no longer necessary.

28. With the benefit of this clarification I agree that such reference is not necessary and Rule 22.5.2 can be amended as follows:

P7	A staff facility, including: (1) a recreational facility (2) Staff dwellings (3) Cafeterias and cafés (4) Social clubs	(a) that is incidental to agricultural or horticultural research ~~(b) Any dwelling is located at least 200m from the site containing Inghams Feed Mill in Hamilton City Council's jurisdiction~~

T&G Global [676]

29. The submitter's evidence raises two outstanding concerns. The first is regarding a permitted pathway for packhouses and the processing of produce grown on other sites. The second concern is in regard to worker accommodation.

30. We agree that facilities such as packhouses and produce processing are a normal and anticipated element in the rural environment and indeed are integral to the operation of some horticultural activities. We also agree that the District Plan provisions need to provide clear direction regarding the establishment and operation of such facilities. Where we disagree is how best to control the scale and nature of such activities and the extent to which they should be permitted with no control, compared with assessment through a restricted discretionary consent process.

31. The recommended framework set out in the s42A report is based on the following:
    - The definition of 'farming', which includes "initial processing, as an ancillary activity, of farm produce grown on the same site, such as cutting, cleaning, grading, chilling, freezing, packaging, and storage";
    - The definition of 'rural industry' which includes "packhouses and coolstores that handle produce sourced from other sites, feed mills and animal feed production…";
    - Processing of produce grown on the same site falls within the definition of 'farming' and therefore is permitted under Rule 22.1.2(P1);
    - Processing of produce grown off site falls within the definition of 'rural industry' and is subject to a restricted discretionary consent under Rule 22.1.3 (RD2).

32. The submitter proposes an alternative framework whereby the Farming definition is amended to remove the reference to processing being ancillary, with the scale of processing solely controlled through the built form rules controlling site coverage and setbacks.

33. In my view the framework recommended in the s42A report does achieve the higher-order policy direction contained in the Waikato Regional Policy Statement ('WRPS') regarding enablement of the productive potential of versatile soils. Such enablement does not in my view translate to an open-ended permission for large-scale packhouse and processing facilities with no consideration of their potential effects. A restricted discretionary activity still enables such activities to occur, subject to site-specific assessment of their appropriateness, and the mitigation of effects through conditions if necessary.

34. The built form standards simply limit the scale of buildings. They do not control the appropriateness (or otherwise) of the activity occurring within the building, the traffic it generates through staffing and freight, or amenity effects related to the scale or intensity of the activity.

35. I consider that the framework recommended in the s42A report better balances enablement with management of potential effects than the alternative pathway put forward by the submitter.

36. The other topic raised by the submitter is in relation to the provision of worker accommodation. This topic is also raised by Pork NZ and Horticulture New Zealand.

37. We agree that on-site accommodation for workers (both seasonal and permanent) is something that is routinely provided on farms, in particular large or intensive farms that require staffing beyond the owner's family.

38. The s42A report recommended a framework that is aligned to the subdivision provisions and in summary provides for housing as follows:
    - One residential unit on any site less than 40ha is permitted;
    - One additional residential unit can be provided for every additional 40ha, up to a maximum of three units;
    - For sites over 40ha, a 'child lot' between 0.8-1.6ha can be created, with a residential unit enabled on that new lot;
    - For all sites containing an existing residential unit, an additional 'minor unit' can be provided, subject to limitations on size and location.

39. In my view, the recommended framework therefore readily provides for residential units on rural sites. The submitter seeks an additional pathway for 'worker accommodation'. They have provided as an appendix a summary of other district plan frameworks, however this summary is of limited value without assessing these zone frameworks as a package – for instance the ability to create 'child lots' is uncommon in my experience, so the allowance for an additional worker unit is often made as an alternative pathway to child lots (rather than an addition). Waipa is a good example of this, where an additional farm worker dwelling is permitted, provided the site is larger than 40ha. It is also required to be relocatable. The Operative Plan Franklin Section likewise provides for worker accommodation, subject to a lengthy list of assessment matters and criteria.

40. The framework proposed by the submitter is that an additional worker unit be permitted, subject to the same controls that apply for minor units, with the exception that the maximum size be increased to 120m^2, and subject to a prohibited subdivision rule to prevent it being separately on-sold. It is unclear whether the relief sought is in addition to the minor unit allowance, or instead of.

41. If it is instead of, then the only difference is in the size of the minor unit (70m^2 vrs 120m^2). I note that 120m^2 was a size limit also put forward by Pork NZ. The 70m^2 limit is consistent across the zones where minor units are permitted (Residential, Village, and Country Living). Given that these other zones are more urban in character, with residential neighbours generally located in closer proximity, I have considered whether a larger maximum floor limit for minor units in rural areas might be appropriate, whilst remaining ancillary to the principle unit.

42. Rather than introduce yet another pathway for residential accommodation in the rural area, and to avoid definition issues around who constitutes a worker and whether they have to be employed only on the site where the unit is located or can contract to other sites, my preference is to simply increase the maximum size of minor units. Of course, if a site does not contain any dwellings then a residential unit of any size can be erected for the use of workers.

43. Given the spaciousness and larger separation distance available in the rural area compared with urban environments, it is recommended that the maximum size be increased to 120m^2. It is also recommended that an additional clause is added to the rule to clarify that the unit can provide dormitory accommodation where it is for farm or seasonal workers as the definition of 'residential unit' limits it to use by a single household.

44. As the recommended approach is simply a larger minor unit, it is not considered that a prohibited rule regarding subdivision is necessary.

Recommendations

45. Amend Rule 22.3.2 as follows:

22.3.2 Minor dwelling

P1	(a) One minor residential unit ~~dwelling~~ not exceeding ~~70~~ 120m² gross floor area (excluding accessory buildings) within a Record of Title ~~lot~~. (b) The minor residential unit shall be located on the same Record of Title as an existing residential unit and shall: ~~Where there is an existing dwelling located within a lot:~~ (i) ~~The minor dwelling must be~~ Be located within ~~2~~100m of the existing residential unit ~~dwelling~~; (ii) ~~The minor dwelling must~~ Share a single driveway access with the existing residential unit ~~dwelling~~. Note: In addition to single households, minor units in the Rural Zone can include dormitory accommodation for farm or seasonal workers.
D1	A minor residential unit ~~dwelling~~ that does not comply with Rule 22.3.2.P1.

Pork NZ [197]

46. Pork NZ's evidence is silent on the policy and rule framework for intensive farming. The evidence instead focuses on two issues, namely worker accommodation, which is discussed above, and an amendment to the definition of 'ancillary earthworks' to provide for burying material in the event of a biosecurity incident.

47. As set out in the s42A report, the likelihood of such incidents is relatively rare, and they are typically undertaken in association with coordinated action by the Crown and could potentially fall within the scope of emergency works enabled under s330 RMA. Earthworks that are not 'ancillary' are likewise permitted under the general earthworks Rule 22.2.3.1 (P2) up to 1,000m³, which would be more than adequate for responding to smaller incidents. It could likewise be argued that 'offal pits', which are included within the definition of ancillary earthworks, also provide for the disposal of carcasses.

48. That said, the risk of adverse environmental effects arising through permitting earthworks for biosecurity disposal is also considered to be low, given that such events are rare, and that the primary environmental risk of what are essentially very large offal pits relates to ground water quality, which is a matter managed by the Waikato Regional Plan.

49. On balance, it is considered that there is low risk in acting, i,e. in enabling the outcomes sought by the submitter. Conversely, not providing for such earthworks could in the event of a large scale biosecurity event create unnecessary delays in being able to quickly dispose of infected carcasses on-site.

Recommendations

50. It is therefore recommended that the definition of 'ancillary earthworks' be amended to include provision for the disposal of material as part of a biosecurity response as follows:

Ancillary rural earthworks	(a) Means any earthworks or disturbance of soil associated with: cultivation, land preparation (including establishment of sediment and erosion control measures), for planting and growing operations; (b) harvesting of agricultural and horticultural crops (farming) ~~and forests (forestry)~~; and (c) maintenance and construction of facilities typically associated with farming ~~and forestry~~ activities, including, but not limited to, farm~~/forestry~~ tracks, roads and landings, stock races, silage pits, offal pits, farm drains, farm effluent ponds, feeding

	pads, fertiliser storage pads, airstrips, helipads, post holes, fencing, drilling bores, stock water pipes, water tanks and troughs, the maintenance of on-farm land drainage networks, and erosion and sediment control measures. (d) burying of material infected by un wanted organisms as declared by the Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.

Mainland Poultry [833]

51. Mainland Poultry Ltd own and operate a number of poultry layer farms across New Zealand, including a barn-raised farm that is under construction in Orini. The submitter supports the recommended approach to intensive farming at a policy level, but raises concerns with Rule 22.1.3 (RD1), which sets out the required setbacks for intensive farming operations from site boundaries. The recommended rule requires a 300m setback for buildings and outdoor enclosures used for intensive farming. It is understood that the submitter's principle concern is in regard to free-range poultry, with an example provided of a large free-range farm with birds able to arrange across 20ha, with perimeter post and wire netting fencing.

52. I agree with the submitter that requiring a setback in the example provided would be excessive and unnecessary. In my view, the type of extensive, free-range operation described by the submitter would not however be subject to the setback rule, as the operation would not fall within the recommended definition of 'intensive farming'. The management of free-range poultry was carefully considered through the s42A report and the drafting of the definition to make a clear delineation between when operations would be subject to the setback rules and when they would not. The relevant parts of the recommended definition are:

Intensive farming: Means farming and primary production involving livestock, poultry, or fungi whereby:

(1) It principally occurs within a building; or

(2) It occurs within outdoor enclosures or runs where the stocking density precludes the maintenance of pasture or ground cover; and

(3) Livestock or poultry feeding is not primarily dependent on the fertility of the soils on which the activity is located and is instead primarily dependent on supplies of food grown or produced elsewhere and transported to the livestock or poultry.

It includes:…

(a) Free-range poultry or game bird farming where matters (2) and (3) are met;

53. The tests of clauses (2) and (3) are conjunctive and both must be met for the operation to be intensive (and therefore subject to the setbacks). Extensive free-range systems where ground cover is maintained are not subject to the rule, as they are no different in principle to other pasture-based extensive farming systems.

54. I do not agree that 'outdoor enclosures' should be deleted from the rule, as sought by the submitter, as uncovered enclosures or runs can be very intensive. The above clarification regarding how the rule is intended to operate, and its close interrelationship with the definition, should however address the submitter's concerns.

Combined Poultry Industry Representatives [821]

55. The submitter provided a slide show format presentation that summarises the importance of the poultry industry and the size of viable operations. The evidence seeks reduced setbacks on the basis that the recommended setbacks require large land holdings in order to comply. The evidence does not provide any detailed justification as to why the smaller setbacks are adequate for managing amenity-related effects on neighbouring properties.

56. The setbacks recommended in the s42A report are unchanged from what was notified, and are a roll-over from the setbacks required in the Operative Plan (Waikato section). The evidence identifies that there are some 34 meat chicken growers in the district, with layer chicken operations in addition. Clearly, intensive chicken farms have been able to establish and operate under the long-established boundary setback framework. Where operations can demonstrate that a reduced setback will not give rise to unacceptable effects (or where neighbour consent is able to be obtained) then there is a consenting pathway available.

57. Given the potential for intensive farming to generate adverse amenity effects, and the lack of compelling evidence as to why reduced setbacks as sought by the submitter would not give rise to such effects, it is recommended that the setbacks be retained as notified.

Zeala Ltd (trading as Aztech Buildings) [281]

58. The submitter's evidence is focused on the management of intensive farming, in particular on the definitions which act as the trigger for whether an activity is intensive or not, and secondly on the rule framework including setback distances.

59. The key matters that the rule framework is seeking to manage are the amenity–related effects that can occur when large numbers of animals are housed in a confined space, be it a building or yards. These effects are principally odour, but can also include noise, dust, visual disturbance related to increased vehicle movements bringing feed to the stock, and the visual effects of large buildings.

60. The key tests in the proposed definition for when an activity becomes intensive is when stock is housed within buildings and enclosures, and densities are such that vegetated ground cover cannot be maintained, and feed is brought to the stock. These triggers are included in various wording forms in the majority of the definition examples provided by the submitter, and likewise align with my own review of intensive farming definitions. The transport of feed to stock, the lack of grassed ground cover, and the holding of this stock in buildings or enclosures, are consistently the tests as to when an activity becomes intensive. In my view, whether that feed is grown on the property or imported is irrelevant. The key purpose of the rule is to manage amenity-related effects on neighbours, and the potential for adverse effects from intensive stocking do not change, depending on where feed is sourced.

61. The package of potential effects will vary from operation to operation, depending on farm management, stock numbers, topography, local climate, proximity of neighbouring dwellings and the size of neighbouring farm holdings. As such, the setbacks are an approximation for mitigation, but are not a guarantee. This is why compliance with the setback still requires a case-by-case assessment to ensure that for any given proposal, the effects are able to be appropriately managed. Shifting to a permitted framework, where compliance with a setback means the intensive farming operation can establish as of right, would require a high level of confidence that the setbacks are sufficient for enabling adverse effects to be mitigated to acceptable levels in the vast majority of circumstances, and without any conditions mitigating effects or modifying on-farm management practices.

62. I accept that in order to meet the setbacks a large landholding is required. This does not of course mean that the entire landholding is an intensive farm, rather the buildings holding the stock are intensive, and can be surrounded by an extensive pastoral farming activity. The setback distances (and therefore site size) can likewise be reduced significantly through a

resource consent process, where either the effects can be proven to be acceptbale, or where neighbours' consents have been obtained.

63. In my view, the retention of the recommended definitions and the rule framework of restricted discretionary where setbacks are met and fully discretionary where they are not, is appropriate for managing effects, whilst not unreasonably restraining more intensive forms of farming system.

The Surveying Company Ltd [746]

64. The evidence prepared by Ms Wingrove raises similar concerns (and misunderstanding) to that of Mainland Poultry regarding intensive farming. To be clear, the intention is that free-range poultry farming, where pasture cover is maintained, is not 'intensive' and therefore is permitted, just the same as any other pasture-based extensive farming system. It is likewise not subject to any boundary setback requirements. In terms of the outcome the rule framework is looking to achieve, I therefore agree with the submitter.

65. In my view the proposed definition and associated rules are clear regarding the tests for determining when farming is extensive (and therefore permitted) or intensive, and therefore subject to a consent. That said, clearly several submitters have misunderstood how the rule framework is intended to function which does potentially point towards a lack of clarity in the recommended drafting. In my view the definition and rules are clear and no amendments are necessary or recommended. If however the Panel share the submitter's concerns, then it would be possible to redraft the definition of intensive and include a 'mirror image' definition for extensive or free-range farming that states the inverse of the intensive definition. A separate permitted rule could also be added for free-range farming, although in my view this would simply be a repeat of recommended P1 which permits farming.

66. The submitter seeks the following amendments to the definitions of 'rural commercial' and 'rural industry' so Rural Commercial '*means commercial activities that have a direct functional or operational need to locate in the Rural Zone or that service productive rural activities. It includes, but not limited to: veterinary practices, wineries and wedding venues, adventure tourism, farm tourism, and includes ancillary activities*', and rural industry means '*an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production. It includes, but not limited to: packhouses and coolstores that handle produce sourced from other sites, feed mills and animal feed production, and rural contractors' depots. It excludes waste disposal and extractive activities*'.

67. I do not agree with the amendments sought. The intention of listing the various activies that the definition includes is to provide certainty that such active definitely fall within the scope of the definition and associated rule framework. The amendments sought by the submitter open the door to a much wider range of potential activities that has the potential to both increase uncertainty in the application of the planning rule framework and could also threaten the urban growth objectives where non-rural commercial and industrial activities are to be located within urban areas.

68. The submitter seeks to delete the recommended condition P15 which limits permitted visitor accommodation to being within a building existing at the date of the Plan decisions. The rationale for this condition is set out in pages 278-280 of my s42A report. In summary, the intention is to enable Air B&B style uses in existing holiday homes, but to not permit the purpose-built construction of new homes for visitor accommodation purposes as a separate pathway to the rules controlling the density of residential units. Without the date limitation, new dwellings could be constructed to any density as a permitted activity on the basis that they are to be used for visitor accommodation, which would undermine the urban growth objectives of the Plan.

69. The submitter's evidence has led me to reflect on the interplay between the definitions for 'visitor accommodation' and the recommended definition for 'rural commercial'. The rural commercial definition includes farm tourism, adventure tourism, and wedding venues which in some cases can include accommodation elements. The intension is that the rural commercial pathway provides for the visitor attraction, but any visitor accommodation facilities are subject to the separate visitor accommodation rules. A consequential amendment is therefore recommended to the rural commercial definition to exclude visitor accommodation.

70. The submitter seeks that Rule 22.3.7.2(a)(vii) be amended. This rule specifies that new sensitive activities need to be setback at least 300m from 'the boundary of another site containing an intensive farming activity'. The submitter seeks that the reference to site boundary be removed as intensive farming activities are often located well within their sites and therefore it is unnecessarily onerous for neighbours to have to set back their dwellings from the site boundary which could be some distance from the intensive farming facility.

71. I agree with the intent of the change sought. I addressed this matter in paragraph 302 of my s42A report as it was an issue raised by several submitters. The s42A report agreed that the rule should be amended, however it appears that in error the recommendation was not carried through to the rule text changes. I do note that the rule needs to not limit residential units on the same site as the intensive farming operation, and therefore have recommended different wording to that sought by the submitter, albeit to achieve the same outcomes.

72. The submitter supports the s42A recommendations regarding minor units, and in particular that their occupation is not limited to just family members. The submitter also supports the requirement that they be located within 100m of other buildings. They seek that the 100m requirement be broadened so that rather than being linked to an existing residential unit it can simply be within 100m of farm buildings. I do not support this amendment. The intention is that minor units are clustered in reasonable proximity to the existing principle dwelling. Farm buildings can be erected as of right in any location (subject to compliance with boundary setbacks) and therefore a small storage shed could be established a considerable distance from the principle dwelling with the minor unit located next to this shed. This would undermine the intent of the minor unit rules that they be associated with, and subordinate to, an existing residential unit on the same site.

73. The submitter raises concerns regarding provision for workers accommodation. As set out above, the proposed plan provides for worker accommodation through a number of pathways, it is just not explicitly called 'worker accommodation' in the rule. These include the recommended increase in the number of dwellings that can be located on the same Record of Title to provide for additional units on large properties. Additional housing in the form of minor units (recommended above to be increased in size) provide an alternative route. The ability to subdivide off 'child lots' and establish additional dwellings (with additional minor units), provides a third pathway. In my view a fourth pathway is not necessary and has the potential to undermine strategic objectives regarding growth management. Other District Plans that make explicit provision for worker accommodation in my experience do so because they do not provide for minor units or child lot subdivision.

74. The submitter's evidence prepared by Ms Addy focusses on the subdivision provisions and therefore is primarily considered by Ms Overwater. In terms of wider matters relating to the wording of policies, I am open to alternative terminology to 'site', 'lot', or 'Record of Title', with the policy wording in part turning of the Panel's decisions on both the terminology used in the subdivision rules, and also the definition of 'site'. The submitter

prefers reference to 'site' in the policies, however the definition for site simply refers straight to land held within a single Record of Title.

75. I appreciate that policies should not simply repeat rules, and as such reference to minimum site sizes at a policy level is not generally necessary. Feedback from Council's consent planners is that there is ongoing pressure to subdivide below the minimum lot sizes set out in the rules. Because the effects of subdivision are often limited (as it is just 'lines of a map'), clear policy direction is necessary to avoid cumulative effects that can arise through the incremental formation of small lots. Ms Overwater's s42A report identified that in the last decade a significant proportion of new dwellings and associated urban growth in Waikato District has occurred in a sporadic manner throughout the Rural Zone, which cumulatively has not achieved the urban growth direction of consolidation in and around existing townships. I consider that having open-ended policy direction will perpetuate such sporadic subdivision and will weaken the integrity of the District Plan.

Recommendations

76. Amend the definition of rural commercial as follows:

Rural commercial	Means commercial activities that have a direct functional or operational need to locate in the Rural Zone or that service productive rural activities. It includes veterinary practices, wineries and wedding venues, adventure tourism, farm tourism, and includes ancillary activities. It excludes visitor accommodation,

77. Amend Rule 22.3.7.2(a)(vii) as follows:

P1	(a) Any building for a sensitive land use must be set back a minimum of: (i) 5m from the designated boundary of the railway corridor; (ii) 15m from a national route or regional arterial road; (iii) 35m from the designated boundary of the Waikato Expressway; (iv) 200m from an Aggregate Extraction Area or Extractive Resource Area containing a sand resource; (v) 500m from an Aggregate Extraction Area or Extractive Resource Area containing a rock resource, or a Coal Mining Area; (vi) 100m from a site in the Tamahere Commercial Areas A and C; (vii) 300m from the boundary of buildings or outdoor enclosures used for ~~another site containing~~ an intensive farming activity. This setback does not apply to sensitive activities located on the same site as the intensive farming activity; (viii) 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site; (ix) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed.
D1	Any building for a sensitive land use that does not comply with Rule 22.3.7.2 P1.

Federated Farmers of NZ [680]

78. The submitter has provided evidence that traverses a broad range of rural topics and provisions, and includes general support for the recommended framework for a number of these topics. I have focused on what I see to be the main matters of difference.

79. As with Hamilton City Council (discussed below), the submitter raises concerns regarding the provisions for community facilities in the rural area, and in particular schools and preschools. I understand their concerns to be primarily due to the potential for reverse sensitivity issues to arise. There are some 30 primary and secondary schools in the Rural

Zone, therefore schools are as common as intensive farming operations in Waikato District. Country schools are a long-established, and relatively common, feature of rural environments, and in my view this reality should be recognised in the zone framework. New community facilities are not permitted under the proposed framework. They are instead a restricted discretionary activity under Rule 22.1.3 (RD3), with consideration of effects on urban growth management addressed in matter (i), rural character in matter (ii), and reverse sensitivity in matter (v). In my view, the framework proposed in the s42A report is appropriate for recognising the range of activities that typically occur in rural areas, and the need to assess the effects of such activities on a case-by-case basis.

80. The submitter raises concerns with the wording in Objective 5.2.1(ii), which seeks to 'maintain or enhance …the health and wellbeing of rural land and natural ecosystems'. The submitter notes that the term 'rural land' is somewhat vague. I agree that the objective would be better focused by replacing the term 'rural land' with a reference to 'indigenous biodiversity', with this change also addressing in part a point made in evidence by Middlemiss Farm Holdings.

81. The submitter opposes the proposed new policy regarding rural character (Policy 5.3.2). They have not put forward alternative wording, but do suggest as an example the rural zone description in the Waipa District Plan. This zone description is structured more as a narrative description rather than a policy (a point acknowledged by the submitter). That said, the elements described in the Waipa example are to my reading actually quite similar to the key themes set out in the recommended Policy 5.3.2. I recognise that subjective concepts like rural character and amenity will mean different things to different people, and in the absence of a plan structure that includes zone descriptions it can be challenging to reduce the key elements that make up a large portion of the district into a single policy. That said, it is not considered that the alternatives put forward by submitters in evidence are compellingly better than the wording recommended in the s42A report.

82. The submitter is generally supportive of the proposed approach for rural industry and rural commercial activities, with the exception that the definition of 'rural commercial' should not include reference to wedding venues. In my experience, wedding venues located within a rural setting and extensive landscaped gardens or vineyards are common elements in rural areas. They are distinct activities and can be readily differentiated from temporary events that are 'one-off' occasions where people get married on the family farm. There are a number of examples of such facilities in Waikato District, as there are in most rural districts in New Zealand. As with community facilities, such activities are not permitted as of right, but instead need to be assessed on a case-by-case basis as a restricted discretionary activity, with a similar range of matters to be considered as set out above for community facilities. As such, it is recommended that reference to wedding venues in the rural commercial definition be retained.

83. The submitter is generally supportive of the recommended amendments to the definition of 'farm noise', however they seek that the definition also exclude noise from fixed plant. The definition is important, as it sets the parameters for noise sources that are exempt from compliance with the noise standards under Rule 22.2.1.1 (P1). Under the recommended noise rules, noise from fixed plant would be required to comply with the general noise standards set out in Rule 22.2.1.1(P2), or with a resource consent sought as a fully discretionary activity under Rule 22.2.1.1(D1).

84. It is important to distinguish between the two permitted pathways. P1 and the associated definition enables noise to be emitted without any upper limit, on the basis that such noise is temporary, transient, and to a certain extent unavoidable (such as the noise stock make or barking farm dogs when moving stock). This is a different scenario to the permitted pathway provided through Rule P2, whereby noise is permitted only up to the specified levels, in order to ensure that an acceptable level of amenity is provided to neighbours. In my view, noise from fixed plant and machinery falls comfortably within the scope of matters that

ought to be subject to Rule P2. The location of fixed plant and its potential to affect neighbouring properties is something that can be considered at the time the plant is designed and established. Fixed plant and its associated noise emissions tend to be different in terms of frequency compared with transient noise associated with occasional crop harvesting or stock movements. Whilst it is reasonable for rural neighbours to receive occasional loud noise for a day or two when a crop is harvested, it is not reasonable for them to be subject to unrestrained levels of noise on a permanent and ongoing basis, such as might be generated by fixed plant such as extraction fans on a building used for intensive farming. In my view it is not unreasonable for such plant to be designed to either comply with the noise standards, or be assessed through a consent process where the acceptability (or not) of its effects is able to be determined and if appropriate, conditions be placed on how it is operated.

85. The submitter is accepting of the rule relating to the 'Environmental Protection Area', provided this area is limited in its geographic extent to a specific development in Te Kauwhata. Confusion about the geographic extent and location of the 'Environmental Protection Area' was noted in several original submissions. I agree that the somewhat generic sounding title gives rise to concerns that there is an overlay that has wider applicability across the district. As such, it is recommended that Rule 22.3.7.6 be retitled as 'Building setback - Te Kauwhata Environmental Protection Area' to better communicate the discrete geographic application of this rule.

Recommendations

86. Amend Objective 5.2.1 – Rural resources, as follows:

5.2.1 Objective– rural resources

(a) Maintain or enhance the:

(i) Inherent life-supporting capacity, accessibility, and versatility of soils, in particular high class soils;

(ii) The health and wellbeing of ~~rural land~~ indigenous biodiversity and natural ecosystems~~;~~.

~~(iii) The quality of surface fresh water and ground water, including their catchments and connections;~~

~~(iv)Life-supporting and intrinsic natural characteristics of water bodies and coastal waters and the catchments between them.~~

87. Amend Rule 22.3.7.6 as follows:

22.3.7.6 Building setback – Te Kauwhata Environmental Protection Area

P1	Any building must be set back a minimum of 3m from ~~an~~ the Te Kauwhata Environmental Protection Area identified on the planning maps.
D1	Any building that does not comply with Rule 22.3.7.6 P1

Horticulture New Zealand [419]

88. The submitter has provided a significant body of evidence that traverses a broad range of rural topics and provisions, and that seeks significant redrafting of both the policy and rule framework. Given the extensive nature of the evidence it is not possible to provide detailed commentary on every matter raised. Ms Wharfe's evidence focusses on land use matters (supported by Ms Deverall's evidence), whereas the evidence of Mr Hodgson is focussed more on the subdivision provisions and is therefore considered by Ms Overwater.

89. Themes relating to worker accommodation, intensive farming, and enabling earthworks to address biosecurity emergencies are addressed above, with the recommended amendments

going some way to addressing the submitter's evidence on these themes. The submitter's evidence and amendmended provisions have a strong focus on the Rural Zone being for rural production, and as such they seek to delete policies and rules that recognise and provide for a range of other activities that typically locate in rural areas, including community facilities and rural commercial activities. This change in focus has led to the submitter seeking a significant number of text changes that ripple through the policies, definitions, and rules. We simply have a different view of the elements and activities that contribute and are a normal and anticipated part of the rural environment (and therefore the policy and rule framework that supports these activies). In my view the role and function of rural areas and the activities they contain is much broader than solely that associated with primary production, albeit that farming is the predominant activity. I do not therefore agree with the package of amendments sought on this theme.

90. I prefer the use of plain English terms such as farming to 'primary production', provided that the definition of farming is sufficiently broad to encompass the diversity of soil-based systems occurring in the District.

91. I agree with the amendment to the final clause of Policy 5.3.15 (noise) that protection of existing sensitive activities does not align well with the balance of the policy direction, and I prefer the replacement Clause (viii) proposed by the submitter.

92. I have addressed artificial crop protection structures in my s42A report. Whilst I agree that such structures should not be subject to site coverage controls, I do not agree that they should also be exempt from boundary setbacks or daylight recession plane requirements. Whilst they are temporary in the sense that the shade cloth covering the frames is often seasonal in nature, when it is in place they are substantial structures that have the potential to adversely affect outlook from adjacent properties. I likewise do not support permitting buildings up to 15m close to site boundaries given the very large size of modern farm-related buildings such as those discussed in the evidence for Zeala Ltd (Aztech Buildings).

93. The submitter seeks that Rule 22.3.7.2 (building setbacks for sensitive land uses) be amended to require new sensitive activities to be set back 100m from the boundary of a site containing a rural industry. They also seek that for sensitive activities that are not residential (e.g. child care, education, healthcare, visitor accommodation), that these be set back a minimum of 100m from any site containing a rural production activity i.e. any land used for farming. I do not consider these setbacks to be justifiable. They impose a potentially significant constraint across numerous landholdings. I do not agree that normal extensive farming activities generate sufficient adverse amenity effects that would justify a 100m setback, and likewise rural industry that is complying with noise and glare requirements should not be generating effects that extend 100m beyond the site boundary to the point that a setback is warranted. Conversely if such effects are routinely generated, then rural industry and farming activities should be subject to setbacks within their site in order to properly contain their effects down to acceptable levels. This is the framework adopted by the Plan for other activities such as intensive farming and aggregate extraction where the requirement for a setback cuts both ways. To a lesser extent the standard building setbacks of 25m serve a similar purpose for rural industry and provide a degree of separation between dwellings and farming activities occurring on neighbouring sites.

Recommendations

94. Amend Policy 5.3.15 – Noise and vibration as follows:

5.3.15 Policy – Noise and vibration

(a) Recognise and provide for the generation of noise from activities that are anticipated in the rural environment whilst managing the adverse effects of noise and vibration by ~~Adverse effects of noise and vibration are minimised by~~:

(i) Ensuring that the maximum sound levels are compatible with the surrounding environment;
(ii) Limiting the timing and duration of noise-generating activities;
(iii) Maintaining appropriate ~~buffers~~ separation between high noise environments and noise sensitive activities;
(iv) Ensuring frost fans are located and operated to minimise the adverse noise effects on other sites.
(v) Managing the location of sensitive land uses, particularly in relation to lawfully-established activities;
(vi) Requiring acoustic insulation where sensitive land uses ~~activities~~ are located within high noise environments, including the Airport Noise Outer Control Boundary, Huntly Power Station, and the Gun Club Noise Control Boundary.
(vii) Ensuring the adverse effects of vibration are managed by limiting the timing and duration of blasting activities and maintaining sufficient setback distances between aggregate extraction activities and dwellings or identified building platforms on another site.
(viii) Manage noise to minimise effects on existing adjacent noise sensitive activities, as far as practicable. ~~protect existing adjacent activities sensitive to noise effects.~~

Hamilton City Council [535], A&C Gore [330], CDL Land NZ Ltd [612]

95. Hamilton City Council's evidence largely supports the recommended policy framework set out in the s42A report. The only points of difference are in regard to the recommended wording for Objective 5.1.1 and Policy 5.3.9 insofar as they provide for community activities.

96. I understand from the submitter's evidence at para 29 that their concern with including reference to community activities is that the objective is 'weakened' by opening the door for urban activities to establish in rural areas.

97. As set out in the s42A report, I consider occasional community facilities to be a common and anticipated element in rural areas, i.e. they are as much 'rural' as they are 'urban'. For example, as noted above there are some 30 primary or secondary schools located within the Rural Zone. I do not see country schools, churches, or health facilities threatening the district-wide growth framework, but rather such facilities assist in maintaining strong rural communities. As such, I consider that reference to community facilities in recommended Objective 5.1.1 is appropriate.

98. The submitter identifies that both the objective and Policy 5.3.9 refer to 'community *activities*', whereas the related definition is for 'community *facilities*'. I agree that the wording in the policies should align where possible with the definitions, noting that with an activities-based plan, the use of the terminology 'activity' and 'facility' is somewhat interchangeable. The s42A report recommended an opening statement at the start of the definitions chapter to make it clear that a defined activity includes the building (or facility) that it is located within. I take the point that Policy 5.3.9 'unpacks' the definition of community facility so that the policy also includes explicit reference to child care, education, health, and spiritual activities. At a policy level I do not have a problem with such unpacking, as the purpose of a policy is to make clear the outcomes anticipated and to provide an easy point of reference for plan users contemplating such activities.

99. A key concern raised in submitter evidence is the use of non-complying activity status for the majority of activities within the Hamilton Urban Explanation Area ('UEA'), and the use of discretionary status for some community-related activities, with the submitter seeking a prohibited activity status. Similar concerns are raised in regard to the subdivision rules which are addressed in Ms Overwater's rebuttal.

100. I consider that non-complying status is appropriate as a tool for implementing an 'avoid' policy direction. In my experience non-complying status is the standard 'avoid' policy-to-rule activity status relationship included in most second generation plans. The proposed Objective 5.5.1 is to '*protect land within Hamilton's Urban Expansion Area for future urban development*' and the related Policy 5.5.2 is to '*avoid subdivision, use, and development within Hamilton's Urban Expansion Area to ensure future urban development is not compromised*'. To my reading neither the objective nor the policy are to 'avoid everything full stop', but are instead to only avoid those things that would compromise future urban development within the UEA. For instance, rural farming activity (a 'use') is permitted, presumably on the basis that it does not compromise urban development. The planning framework is therefore clearly accepting of some uses occurring and not needing to be avoided.

101. Within this context, non-complying activity status simply provides a pathway by which proposed landuse that does not compromise urban development could be considered, while sending a strong signal that it will have to demonstrate unique qualities and is not something generally contemplated by the plan. If a landuse proposal came forward on the basis that it was contrary to the policy, but effects on urban growth were less than minor (unlikely but possible), then consent could still be declined under s104(1) – just because a proposal passes the 104D gateway test does not mean it will be granted. That said, if the proposed land use does not have any adverse effects on future urban development potential, then the objective and policy are still able to be achieved, therefore it is difficult to see where the concern lies.

102. In an activities-based plan format it is important to differentiate between the activity rules and the built form rules, as they control quite different matters. Just because a preschool is contemplated as a discretionary activity in the UEA, it does not follow that a 5,000m^2 preschool building would be acceptable, just because the built form rules permit a building of that size. The built form rules control the mass of buildings and have a primary focus on managing visual amenity and landscape outcomes. The activity rules, in association with the policy direction, control the types and scale of activities that can occur. The recommended framework is a fully discretionary one for community facilities where they are located within UEA, on the basis that all such facilities should be assessed on a case-by-case basis through a resource consent process, and where all potential effects are open to consideration. As set out above, clear policy direction regarding the need to avoid uses that might compromise future urban development means that proposals that are of a scale that would threaten such growth should be declined.

103. The UEA framework was developed some 15 years ago. Under the agreement attached as an appendix to the submitter's evidence, the timeframes for which land is to be transferred to Hamilton City Council extend out to 2045, some 40 years after the agreement was first signed. Clearly there is considerable history between the Councils in reaching this agreement and I am reluctant to relitigate long-held positions. As such, I would simply make three observations. The first is that as a growth management tool, numerous urban growth areas are identified in Waikato 2070, and greenfield rezoning areas are identified in the Proposed Plan as notified, with numerous additional areas sought by submitters. The

proposed framework for these future development areas does not include prohibited activity status covering both land use and subdivision until such time as these areas are developed. The framework as sought by the submitter is therefore noticeably out of step with growth management/rezoning tools proposed for the balance of growth areas in the District Plan, accepting that these frameworks remain subject to further consideration through the upcoming hearings on rezoning submissions.

104. The second observation is that prohibited activity status for both land use and subdivision places a significant limitation on land owners. Such limitations might be justifiable where the adverse risks of development are significant, or the timeframes for when the limitations are in place are reasonably short in duration. In the case of the UEA, the restrictions have already been in place for some 15 years, during which time according to the submitter's evidence no spatial planning for these areas has been undertaken and the location of future roads and infrastructure therefore remains unknown. To continue with such significant limitations in place for a further 25 years seems hard to justify in s32 terms.

105. As a third observation, the restrictions sought by the submitter are greater than those imposed through the designation process, where land to facilitate infrastructure is to be acquired by the requiring authority and the landowner compensated, with designations to be given effect to within a five year period, unless an extension is granted based on evidence of substantial progress having been undertaken.

106. The evidence of the Gores and CDL provide examples of the realities faced by landowners within the UEA, and in the case of CDL, illustrates that there may be circumstances where subdivision can actually facilitate future coordinated urban growth rather than frustrate it (noting that Ms Overwater addresses CDL's relief more specifically). I understand from the Gore's evidence that their land holding has been reduced through the development of the adjacent expressway such that it is not in their view readily usable for productive farming activities, yet the UEA framework prevents other development opportunities such as large lot subdivision combined with ecological restoration. From my reading of the Gore's evidence, their relief is best considered as a rezoning request, although I am doubtful that rezoning of a small block within the UEA is appropriate. It does, however, reinforce the view that the UEA has been in place for 15 years, with apparently little progress having been made on how it might be developed in the future, and does place significant limitations on existing landowners.

107. On balance, I consider that the recommended framework of strong policy direction, combined with non-complying activity status for most non-rural activities and discretionary status for a small selection of community facilities, strikes an appropriate balance between enabling some use and development to occur over the next 25 years in a manner that does not unduly prejudice integrated urban growth.

108. As a final discrete matter, the submitter seeks additional assessment matters for the expansion of the two existing retirement villages (Atawhai Assisi and Tamahere Eventide). The assessment matters already refer to the need to consider effects on network infrastructure (matter (iv)) and transport (matter (vi)). It is however recommended that matter (iv) be amended to also include reference to capacity.

Recommendations

109. It is recommended that Objective 5.1.1(ii) and Policy 5.3.4(b)(i) be amended to refer to community facilities ~~activities~~.

110. It is recommended that Rule 22.1.3(RD8) and the equivalent Country Living rule assessment matter (iv) be amended as follows: Connectivity to, and capacity of, public reticulated water supply and wastewater, or the adequacy of services provided on-site.

NZ National Fieldays Society Inc [280]

111. The submitter sets out the history and significance of the National Fieldays centre at Mystery Creek. The facility is located within Waipa District, therefore its operation is controlled by the provisions of the Waipa District Plan. The Waipa Plan contains provisions controlling noise emissions from the facility, with different standards applying to 'activity days' when events are being held. The event days rule is based on a noise contour, part of which extends into the Waikato District. The submitter seeks the inclusion of an equivalent rule in the Waikato Plan, along with a mapped contour, so that the contour forms a complete 'circle' rather than somewhat artificially stopping at the territorial boundary.

112. The part of the contour located within Waikato District extends over both Rural and Country Living-Zoned areas, and as such this matter was also considered as part of the Country Living Hearing 12[1] (see pages 22-25 of Ms Chibnall's closing statement). The s42A report for that hearing recommended that the contour be shown on the Waikato planning maps for information only.

113. In order to address this matter, I will summarise the existing Waipa Plan provisions, comment on my understanding of the legal jurisdictional issues associated with cross-boundary enforcement, then conclude with a recommended response. As the response to this issue involves matters of legal interpretation, legal input was sought (attached as **Appendix 3**). I rely on this advice in reaching the recommendations below.

114. As identified in the submitter's evidence, the Fieldays facility was subject to an Environment Court consent order, with rules subsequently included in the Waipa Plan. I note that the current rule wording in the Waipa Plan differs somewhat from that set out in the consent order.

115. In terms of jurisdictional control, it is my understanding from legal advice that a District Plan can only control or restrict activities (and associated effects), that are generated within the district. It cannot impose restrictions (or conversely enable activities) that are located in adjoining distircts. Enforcement of rule breaches can likewise only be undertaken by the council within the same district as the activity is located. In short, the Waikato Plan cannot legally control effects generated within Waipa District, and neither can Waikato Council take enforcement action were such a rule to be breached. Waipa Council can conversely take enforcement action on activities located within Waipa District, and can likewise respond to noise control complaints made by residents living within Waikato District.

116. Noise is somewhat unusual from a regulatory perspective, in that regardless of the content of district plans, s16 RMA sets out a general duty to avoid 'unreasonable' noise, with a determination of what is unreasonable being based on a contextual assessment, e.g. the same level of noise might be reasonable in an industrial environment and unreasonable in a

[1] https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/hearings/hearing-12/additional-council-responses-and-reports/closing-statement-report-for-hearing-12-country-living-zone.pdf?sfvrsn=d42e89c9_2

residential one. S16 provides a 'backstop' by which Waipa Council can take enforcement action in the event that complaints are received from Waikato residents, and the existing Waipa-based rule framework would provide helpful guidance as to what is unreasonable.

117. Rule 9.4.2.15 in the Waipa Plan controls noise generated on 'non-activity' days. The point of measurement is the notional boundary of any dwelling. The rule extends to include dwellings located within Waikato District as it is simply identifying the point of measurement – the activity itself is located within the same district as the rule.

118. As an aside, I note that the consent order rule included reference to the point of measurement being at dwellings that existed at the time the consent order was made. This date limit no longer exists, therefore Fieldays are in my view exposed to some risk that their permitted envelope will reduce over time if new dwellings are established closer to the facility - i.e. the current Waipa rule does not provide any long-term certainty. This is an issue with the Waipa Plan, and amending the Waikato Plan will not resolve it.

119. Rule 9.4.2.16 relates to noise generated on activity days. It is important to note that the point of measurement shifts in clauses (a) and (b) of this rule from the notional boundary of a dwelling to being the boundary of the noise contour as shown on the planning maps. This approach provides certainty, as the permitted envelope is set by the noise contour and is not put at risk by future dwellings locating within the contour and reducing the distance from where the point of measurement is taken. Of course, the contour does not exist in Waikato District as the Waipa planning maps do not extend across territorial boundaries. It therefore appears that there is no additional noise allowance for event-day noise received within Waikato District. In my view, the Waipa District Council is in breach of the Consent Order because of the omission of noise limits received within the Waikato District in Rule 9.4.2.16(a) and (b).

120. Clause (c) of that same rule controls noise emitted between 12:30am and 7:30am, and switches the point of measurement back to the notional boundary of dwellings, including those located within Waikato District. So for this time period there is a noise limit, with the same risk identified above to Fieldays in the event that future dwellings locating closer to the facility will have the effect of reducing the permitted noise envelope.

121. So where does that leave us? Were the Waikato District Council to include the increased noise limits in its District Plan based on the Waipa Plan noise contour, this would create enforcement issues, given that the activity causing the noise is located in the Waipa District.

122. A more effective solution for the submitter would be for the Waipa Plan to be amended to include an appendix to the event day noise rule showing the whole contour (including the portion within Waikato District), as the appendix would be simply illustrating the point of measurement for the noise rule. Or alternatively the Waipa Plan Rule 9.4.2.16(a) and (b) could be amended to include reference to noise limits measured at the notional boundary of any dwelling within the Waikato District, with a date added to provide long-term certainty. Either way, the solution is an amendment to the Waipa Plan rather than the Waikato Plan.

Recommendations

123. I have reached the same conclusion as that recommended in the Country Living s42A report - that the contour be inserted in the Waikato Plan for information only. This will enable it to be identified on LIMs and will provide a limited degree of assistance in managing amenity expectations. In my view, Fieldays ultimately need to pursue an amendment to the Waipa Plan to amend the point of measurement of the noise rules.

Middlemiss Farm Holdings Ltd [794]

124. The relief sought by the submitter is focused largely on transferable subdivision rights. As part of this primary relief, the submitter's evidence seeks a number of consequential amendments to the objective and policy framework. Whilst the matter of transferable rights is addressed by Ms Overwater, I have also addressed some of the proposed policy amendments that potentially have wider implications for how the zone framework functions.

125. The submitter seeks to amend Objective 5.1.1 to include a new clause (iii) such that the objective would seek that 'subdivision, use and development within the rural environment is provided for where:…significant indigenous vegetation, biodiversity and ecosystem services are protected, restored, and enhanced". It is understood that the proposed wording is sought to facilitate transferable rights where biodiversity is protected or enhanced. In my view the proposed wording will have the effect of only providing for subdivision, use and development where the ecological enhancement occurs. In short, any rural activity that does not enhance biodiversity would not be enabled. This wording shift has the effect of significantly reorienting the primary objective of the rural chapter away from providing for normal farming (and common non-farming) activities, and towards activities only being able to occur when in association with ecological enhancement. Whilst ecological enhancement is something to be enabled and promoted, it should not be the key criterion that all other activities must first meet.

126. The submitter identifies that Clause (ii), as recommended, provides for a more diverse range of activities than just productive farming, but notes that this list either needs to be extended, or alternatively the reference to 'productive' be removed. I agree that this clause should also recognise rural commercial and conservation activities, which would link with subsequent policies - with the rule framework for these two additional activities - and would also go some way towards addressing the submitter's concerns regarding the need to facilitate ecological protection and restoration.

127. The submitter provides amended wording for the two policies relating to dwelling density and subdivision, with alternative amendments provided, depending on whether the Panel prefer the notified version, or the replacement polices[2] recommended in the s42A report. The need for the amendments proposed by the submitter largely turn on the Panel's findings regarding the merit (or not) of the District Plan incorporating a transferable development rights mechanism. I understand from Ms Overwater that her recommendations remain that such a mechanism not be provided, therefore the amendments sought by the submitter to these two policies are likewise unnecessary. Conversely, if the Panel find merit in including a transferable development rights pathway, then I agree with the submitter that such a pathway will necessitate clear policy direction. The text amendments proposed on page 16 of Mr Hartley's evidence to Policy 5.3.9(d)(i)(b) appear reasonable for providing a pathway for transferable development rights, if the Panel wish to include the transferable development rights mechanism.

Recommendations

128. Amend Objective 5.1.1 – The Rural Environment as follows:

5.1.1 Objective – The Rural Environment

(a) Subdivision, use and development within the rural environment is provided for where:

(i) High class soils are protected for productive rural activities;

[2] Numbered 5.3.8 and 5.3.9 is Appendix 1 of the s42A rural landuse report

(ii) Productive rural activities, rural industry, network infrastructure, rural commercial, conservation activities, community facilities, ~~activities,~~ and extractive activities are supported, while maintaining or enhancing the rural environment;

(iii) Urban subdivision, use and development in the rural environment is avoided.

Bathurst Resources Ltd [771]

129. The submitter operates several large coal mining operations in the north of the district, focused on the Maramarua Mine, West Mine, and Rotowaru Mine. It is understood from the submitter's evidence that these mines provide coal for both thermal and metallurgical purposes to large industrial facilities, including Huntly Power Station and Glenbrook Steel Mill. My understanding of the submitter's evidence[3] is that their primary relief is focused on more accurate identification of 'Coal Mining Areas' and 'Extractive Resource Areas' on the planning maps, which will improve the application of the proposed policy and associated rule framework relating to these areas.

130. The Operative Plan identified 'Coal Mine Policy Areas', which were shown on the planning maps and had a geographic focus around existing coal mining operations. They also provided for some expansion of these existing operations as they also covered large unworked areas in the general vicinity. The Proposed Plan included a modified approach, whereby existing coal mining areas are identified, with a geographically tighter focus. Existing aggregate extraction operations are likewise mapped. There are 5 mapped Coal Mining Areas and some 22 mapped Aggregate Extraction Areas.

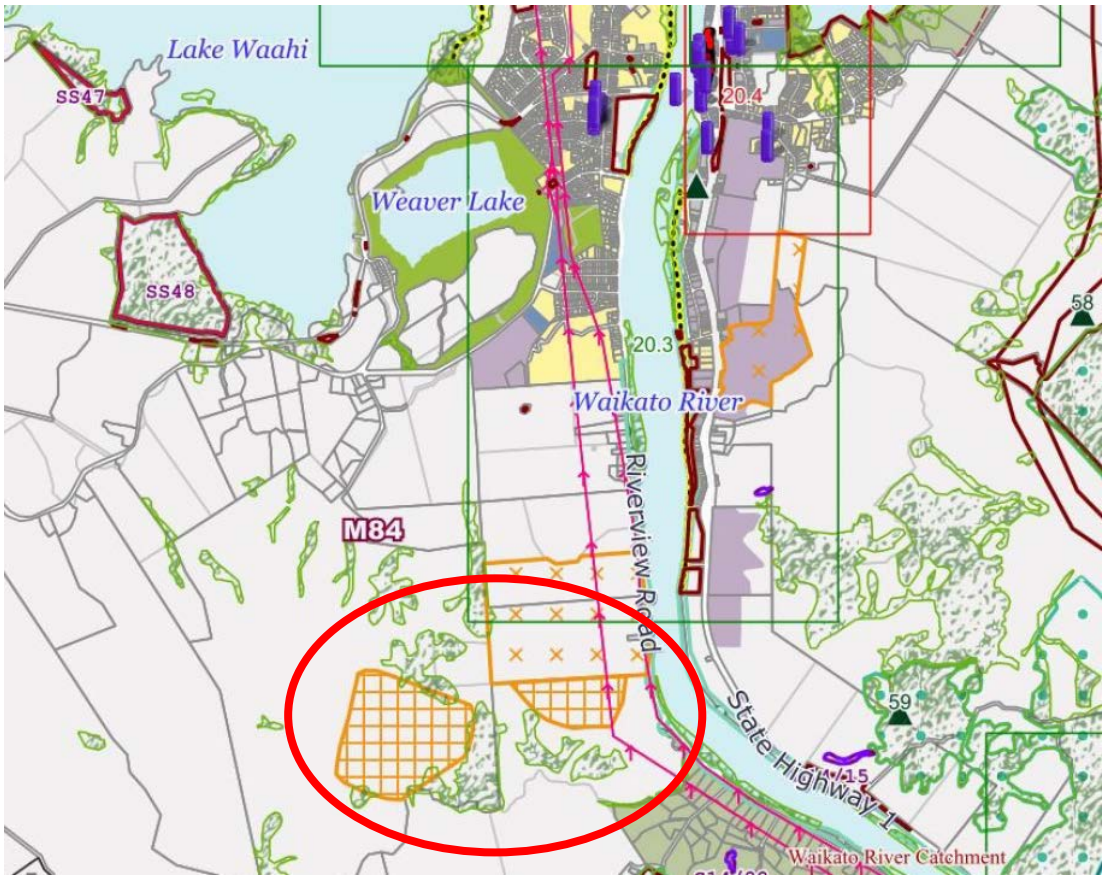
131. Whilst having a more supportive policy framework, there was little material difference between the notified rule package applying to extractive activities located within these two overlays or being located in the general Rural Zone. As notified, extractive activity is subject to the same fully discretionary rule, regardless of whether they are located within or outside of an overlay. It was recommended in the s42A report that the rule framework be modified to reflect the expectation that extractive activity is generally anticipated within these two overlays, with a recommended restricted discretionary consenting pathway proposed through a new rule 22.1.3 (RD7). As an aside, I have not identified any evidence that opposes this shift to a restricted discretionary pathway.

132. Whilst there was no difference in the rules controlling aggregate extraction, the notified plan did include a requirement for new sensitive activities to be set back from the edge of these two overlays (Rule 22.3.7.2(a)(iv) and (v)). The new noise rule (discussed below) in response to the evidence by Fulton Hogan likewise enables higher noise emissions where the noise source is located within one of these mapped areas and is generated by extractive activity.

133. The notified plan also included a third category of mapped area called and 'Aggregate Resource Area' (recommended to be renamed as an 'Extractive Resource Area' in the s42A report). According to Policy 5.4.2(b)(ii), this third category of mapped area is to identify the site of *potential* extractive activity. It is important to emphasise that this third category is limited to just two geographically discrete blocks located to the south of Huntly on the west bank of the Waikato River. An extract from Planning Map 20 ('Hakarimata') is shown below, with the Extractive Resource Area shown as yellow cross-hatch inside the red oval.

[3] I had a telephone call with the submitter's legal counsel on 21 September for the purposes of clarifying the relief sought.

Figure 1. Geographic extent of the Extractive Resource Area



134. In summary, the notified framework, as amended by s42A recommendations, is that at a policy level the role of extractive industry is recognised, as is its locational requirements to be in a rural area as part of the activities that contribute to rural character. Extractive activities within the mapped areas are restricted discretionary, and outside these areas are fully discretionary. Sensitive activities seeking to locate near the boundary of the mapped areas need to be set back an appropriate distance to manage reverse sensitivity risk.

135. The first area of relief sought by the submitter is that the boundary of the 'Coal Mining Areas' more accurately aligns with the geographic extent of their existing licenses and permits issued under the Crown Minerals Act. The extent of these areas is shown in red in the attachments to the submitter's evidence, and also include the haul roads linking the Rotowaro and West Mines, and likewise linking West Mine with Huntly Power Station.

136. It is my understanding that all of the land shown in red in the submitter's evidence is subject to either a license or permit from the Crown that controls the extraction of the coal resource. Where the land is subject to a licence, land use consent from the district council is not required (however regional consents are still needed). It is my understanding that licenses are a historic form of agreement that are no longer used for new activities/areas. Where the land is subject to a permit (the more modern form that replaced the license process), both landuse and regional consents may be required for new activities, depending on whether District or Regional Plan rules are triggered.

137. The extent of the mapped coal mining areas in the Proposed Plan is noticeably smaller than the mapped areas in the Operative Plan. Given that Bathurst has existing permits and

licenses, can only undertake extraction with the agreement of the landowners, and is subject to obtaining the necessary land use and regional consents, the mapped areas in the Plan should in my view align with the extent of these existing licenses and permits. The amendments are relatively modest in terms of geographic scale, and apart from some very discrete areas to the northwest of the Rotowaro Mine, do not appear to extend over any areas that were not mapped in the Operative Plan.

138. The second outcome sought by the submitter is that the 'Extractive Resource Areas', where potential future extractive activities are contemplated, should be mapped, at least insofar as the coal resource is concerned. The extent of these areas is shown in yellow on Annexure C of the submitter's evidence. They are extensive areas, reflecting the geographic extent of the Waikato coal deposits.

139. The purpose of the mapped Extractive Resource Areas is to enable a discrete, site-specific site south of Huntly where aggregate extraction is expected to occur. As such it is not intended as a much broader tool applying to all locations where coal or aggregate might be located. Instead, the Proposed Plan framework is simply that new extractive activities outside of the existing overlay areas be assessed as a discretionary activity.

140. Whilst conceptually I can see the potential merit in mapping areas where coal or aggregate resources are located, to signal to plan users that extraction may occur in the future, the geographic extent of such areas is very large, and in the case of the aggregate resource I am not aware of any existing map sources that would identify such areas with accuracy. I likewise note that the areas identified by the submitter simply reflect where coal deposits are located. They extend beneath urban areas such as Huntly township, and areas where greenfield urban development is being sought by submitters, such as the 'Sleepyhead' site at Ohinewai. Just because the resource exists does not mean that its future extraction is something that would be appropriate, therefore I do not support the mapping of these potential areas in the absence of a much more detailed s32 assessment. I note also that the extent of the Coal Mining Area overlay, as sought by the submitter, does provide for some expansion of existing facilities, with a discretionary consent pathway available for new mines outside of these areas.

141. As a third discrete matter, the submitter has sought a permitted pathway for earthworks associated with exploration and prospecting. The earthworks rules permit up to 1,000m^3 per year, and drilling bores is likewise permitted under the ancillary earthworks definition. It may be that these permitted standards are sufficient to enable prospecting activity to occur, at least up to the extent that farming-related earthworks are permitted. If these standards are not adequate, I am open to the submitter putting forward specific text amendments for consideration.

Recommendations

142. It is recommended that the boundaries of the Coal Mining Areas relating to the submitter's three existing mines be aligned with the boundary of their existing licenses and permits, as shown in red in Annexure E of their evidence.

143. It is recommended that the boundaries of the Extractive Resource Areas on the planning maps be retained as notified.

Fulton Hogan Ltd [575]

144. The submitter provided acoustic evidence regarding the noise rules applicable to extractive industry. In summary, the Operative Plan included a bespoke noise rule for extractive

activities. This rule was not rolled over into the Proposed Plan, which instead simply included a single noise rule for activities in the Rural Zone. The Proposed Plan rule in essence is 5dBA lower than the bespoke rule, and is based on L_{Aeq} rather than L10. The submitter, in evidence, seeks that the operative rule be carried through, subject to changing the dBA measurement from L10 to L_{Aeq}, and updating reference to the current NZ Standard on noise measurement.

145. The submitter's acoustic evidence has been provided to acoustic experts Tonkin and Taylor for review. Tonkin and Taylor have provided a memo which is attached as '**Appendix 4**'. They agree that the noise limits set out in the Fulton Hogan evidence are reasonable for both enabling extractive activities and maintaining an acceptable level of amenity in the surrounding area. They also agree that a shift from L10 to L_{Aeq} is appropriate and does not materially change the level of noise that is able to be emitted.

146. I accept the acoustic evidence of both Mr Hegley for Fulton Hogan and as reviewed by Tonkin and Taylor, therefore recommend that a new rule be added to the noise section to provide different standards for extractive industry.

147. I note that the Operative Plan rule linked the point of noise measurement to the notional boundary of dwellings existing as at 25 September 2004 (the date of the Operative Plan). In essence, this is a tool for providing for existing quarry operations, i.e. if a new dwelling is located closer, then the noise limit can be exceeded. It is effective for existing operations, and I understand Mr Hegley's evidence to be primarily focused on the noise rule as it applies to existing sites.

148. The link to 2004 dwellings is problematic for any new quarry proposals. If a new quarry is seeking to establish or expand then keeping the reference to 2004 will mean that the noise limits applicable to the new quarry will be different, depending on the age of any existing dwellings that happen to be located near the prospective site. In my view new quarry proposals, where they are located outside of identified extraction areas, should be subject to the general noise rules, which will mean that either the siting of new quarries needs to be on larger blocks, or site-specific mitigation considered through a resource consent process. It is therefore recommended that the new rule only apply to existing quarries (as at the date of decision), or where located within one of the three mapped aggregate extraction areas where future extractive activity is contemplated.

149. I have structured the rule following the same format as other noise rules (fully discretionary where an activity does not comply with the permitted standards). In my view the matters to consider for noise breaches are relatively discrete and could suit a Restricted Discretionary activity status. The submitter has not proposed a lesser activity status and therefore any shift to restricted discretionary would need to rely on wider relief sought by other submitters in terms of how the District Plan treats noise rules. I note that the notified Plan tends to use discretionary as the standard activity status for noise breaches and therefore ultimately the activity status should be treated consistently across zones.

Recommendation

150. Add a new rule to the noise rules as follows:

22.2.1.4 Noise – Extractive activity

P1	(b) Noise generated by extractive activity from a facility existing or operating under resource consent at *(date of decision)*, shall be measured at the notional boundary of any residential unit existing at 25 September 2004, or at any site in a Residential, Village, or Country Living Zone; (c) Noise generated by new extractive activity located within a Coal Mining Area, Aggregate Extraction Area, or Extractive Resource Area shall be measured at the notional boundary of any residential, or at any site in a Residential, Village,

	or Country Living Zone; (d) Noise generated from extractive activity subject to clause (a) or (b) shall not exceed: (i) 55dB (L_{Aeq}), 7am to 7pm Monday to Friday; (ii) 55dB (L_{Aeq}), 7am to 6pm Saturday; (iii) 50dB (L_{Aeq}), 7pm to 10pm Monday to Friday; (iv) 50dB (L_{Aeq}), 7am to 6pm Sundays and Public Holidays; (v) 45dB (L_{Aeq}) and 70dB (L_{AFmax}) at all other times including Public Holidays. (e) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 "Acoustics – Measurement of Environmental Sound". (f) Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 "Acoustic – Environmental noise".
D1	Noise that does not comply with Rule 22.2.1.4 P1

Synlait Milk Ltd [581], Hynds Pipe Systems [983], Havelock Village Ltd [862], S&T Hopkins [451]

151. Synlait Milk Ltd ('Synlait') and Hynds Pipe Systems ('Hynds') operate separate industrial facilities located within a Heavy Industrial Zone on the southern edge of Pokeno. As set out in the submitters' evidence, the zoning of this block came about through a plan change process, with the land subsequently developed for industrial activities over the last decade. As such, both factories are relatively new plants.

152. Hynds also own a greenfield block adjacent to their factory site which had an Aggregate Extraction Zoning in the Operative Plan, a Rural Zoning in the Proposed Plan, and for which Hynds are seeking a change to Heavy Industrial zoning through submissions. The zone boundaries and associated setbacks are helpfully illustrated in Appendix 2 of the Hynds evidence. There are submissions from other parties seeking land in the vicinity to be rezoned as Residential Zone.

153. Both Synlait and Hynds seek to manage potential reverse sensitivity issues that might arise in the future were new sensitive activities (primarily residential) to locate within the adjacent sites which are zoned Rural in the Proposed Plan as notified. Synlait seek a 300m setback for new sensitive activities, whereas Hynds seek a setback boundary based on a nearby ridgeline to be shown on the planning maps.

154. The evidence from these two parties has given rise to rebuttal evidence filed on behalf of S & T Hopkins, who own a nearby site at 67 Pioneer Road. The Hopkins are seeking through their own primary submission that their land be rezoned for residential purposes. A letter has likewise been received from counsel acting for Havelock Village Ltd, who are also seeking a residential zoning for their existing Rural Zoned land.

155. I agree with Synlait and Hynds that the potential for reverse sensitivity effects needs to be addressed. I am aware that the extent of Industrial Zoned land (and in particular Heavy Industrial Zoned land) is limited in the District and needs to be protected from reverse sensitivity effects. In my view, the first step in determining the appropriate rule framework is to resolve what the zoning of the adjacent land will be, via Hearing 25 (zoning extents). I

would anticipate that submitters seeking to establish residential zones will need to be able to demonstrate how amenity effects from the existing factories on future residents will be appropriately managed, along with the range of urban growth and servicing-related matters that need to be considered as part of any change in zone. Conversely, if the adjacent rural land is rezoned for industrial purposes (as sought by Hynds), then the need for a Rural Zone buffer is rendered unnecessary for the existing Synlait and Hynds plants, albeit that the same issue and need for a setback as measured from the outer edge of the new extended industrial zone boundary may arise (depending on the adjacent zoning).

156. In short, Heavy Industrial Zones are in my view best provided for (and buffered) via zoning patterns and having adjacent land zoned for compatible activities. Where such an approach is not possible, then I agree in principle that a sensitive activity setback could be a legitimate tool for managing reverse sensitivity, with the extent of the setback needing to be based on expert evidence and tailored to the specific context of the site where matters such as topography are taken into account.

157. As an aside, I note that there are just four Heavy Industrial-zoned blocks identified in the Proposed Plan, namely the Pokeno block subject to these submissions, the Huntly Power Station (discussed in more detail below), the former Meremere power station, and the Affco freezing works site in Horotiu. I note that the latter three sites are all located in close proximity to established Residential Zones, and no sensitive activity setbacks are proposed in the adjacent Rural Zone in the Plan as notified. That said, a Pokeno-specific setback may still be justifiable, especially as the latter three sites simply reflect the realities of historic urban growth patterns that are not necessarily desirable to repeat in what is more of a greenfield context in Pokeno.

Recommendations

158. That no setbacks be introduced at this point into the District Plan Review process. Once the zoning pattern is resolved through Hearing 25 (zoning extents), if the adjacent land retains a Rural Zoning, then the extent of setbacks should be determined, with local topography/ridgelines a potentially useful guide.

Lochiel Farmlands Ltd [349]

159. The submitter seeks amendments to the earthworks rules to enable greater volumes. I note firstly that the submitter's landholdings of some 3,500ha are very much at the large end of farms in Waikato District. The submitter's evidence appears to misunderstand the proposed rule framework. The earthworks to form the building platform for an effluent pond would be permitted under Rule 22.2.3.1 (P1)(iv) (assuming the pond needs a Building Consent). The earthworks associated with maintenance of 35km of farm tracks as another example put forward by the submitter would fall under the definition of 'ancillary rural earthworks' and would therefore also permitted under Rule P1(i).

160. Farm quarries are permitted in their own right, with the standards not applied cumulatively. Therefore, the proposed rules provide for 1000m^3 for a farm quarry under P1(a)(ii) **and** a further 1000m^3 of earthworks in any 12 month period under Rule P2(a)(i) – this is only 500m^3 less than the 2,500m^3 requested by the submitter.

161. It is acknowledged that not all farms will have a farm quarry, particularly those that are smaller. Splitting the standards in this way nonetheless provides increased scope for permitted earthworks for those larger farming operations such as Lochiel. Beyond this it is considered appropriate that they require consent.

162. No increase to the thresholds is therefore recommended.

Department of Conservation [585]

163. The submitter seeks several discrete amendments to the earthworks policy and rules to better enable conservation activities to occur. I agree that Policy 5.3.18 would benefit from a minor amendment to clarify that conservation activities are not necessarily ancillary to rural activities. In terms of how the policy is structured, I consider this is best achieved by elevating the reference to conservation activities to clause (a) at the start of the policy.

164. In making this change, I note that the definition for 'conservation activities' has not been introduced through this Hearing, but instead is a cross-zone definition that is used in multiple chapters.

165. I consider that reference to erosion and sediment control is important for Rule 22.2.3.1(P1)(b) and should be retained, subject to the minor amendment discussed below in response to Fish and Game's evidence.

Recommendations

166. Amend Policy 5.3.18 as follows:

5.3.~~5~~ 18 Policy – Earthworks activities

(a) ~~Provide for~~ Enable earthworks where they support rural activities and conservation activities including:
  (i) Ancillary rural earthworks~~; and~~;
  (ii) Farm quarries;
  (iii) The importation of fill material or cleanfill to a site.; and
  (iv) Indigenous biodiversity restoration ~~Conservation activity.~~
  ~~(iii) Use of cleanfill where it assists the rehabilitation of quarries.~~
(b) Manage ~~the effects of~~ earthworks to ensure that:
  (i) Erosion and sediment loss is avoided or mitigated;
  (ii) The ground is geotechnically sound and remains safe and stable for the duration of the intended land use;
  (iii) Changes to natural water flows and established drainage paths are avoided or mitigated;
  (iv) Adjoining properties and ~~public services~~ infrastructure are protected;
  (v) Historic heritage and cultural values are recognised and protected;
  (vi) Ecosystem protection, restoration, rehabilitation or enhancement works are encouraged.

Auckland Waikato Fish and Game Council [433]

167. The submitter is largely in support of the position reached in the s42A report. They seek to facilitate the construction of maimais in areas with identified high landscape or ecological value and adjacent to water bodies in the Country Living Zone. I note that both of these topics are to be addressed in separate hearings. I also note that the Country Living Zone is essentially a large lot residential zone that is generally located on the edge of townships. As

such, the discharge of firearms in what is a spacious suburban context is unlikely to align with either amenity expectations or the safe use of firearms.

168. A similar issue arises with the use of maimias in the Environmental Protection Area (Rule 22.3.7.6). As noted above in the response to the evidence by Federated Farmers, the Environmental Protection Area is a discrete, site-specific rule that applies to a greenfield development site in Te Kauwhata. In this context, I do not consider maimais and the use of firearms to be appropriate in an area that is in close proximity to suburban development. I have separately recommended that the title of this area be renamed to avoid the apparent confusion it is causing.

169. The submitter has sought that Rule 22.2.3.1(P1), which enables conservation activities, be amended such that it includes a requirement that sediment be managed rather than retained on the site through the implementation of erosion and sediment controls. I agree that this change in wording is helpful, as it reflects the reality that the retention of sediment may not be possible in all circumstances, whilst retaining the need for it to be appropriately managed. A consequential amendment to the similar condition in Rule (P2) is also recommended.

170. It is noted that the National Environmental Standard for Freshwater ('NES-FW') has recently been gazetted in August 2020. The NES-FW sets out a series of rules that control activies that could impact on freshwater quality. The NES-FW provides for both vegetation clearance and earthworks within 10m of a natural wetland, where such works are for the purpose of wetland restoration. The extent of such works is limited to 500m^2 or 10% of the wetland, whichever is smaller. District Plans cannot contain rules that are more onerous than those in an NES[4]. The proposed rule applies to a broad range of circumstances rather than just wetlands, therefore is not replaced by the NES-FW. It is however recommended that an advice note be added to Clause 22.2.3 to alert plan users to the NES provisions.

Recommendations

171. Amend Clause 22.2.3 as follows:

22.2.3 Earthworks

(1) Rule 22.2.3.1 – Earthworks General, provides the permitted rules for earthworks in the Rural Zone. These rules do not apply to earthworks for subdivision or extractive activities.

(2) There are specific standards for earthworks within rules:
  (a) Rule 22.2.3.2 – Earthworks - Maaori Sites and Maaori Areas of Significance
  (b) Rule 22.2.3.3 – Earthworks - Significant Natural Areas
  (c) Rule 22.2.3.4 – Earthworks – within Landscape and Natural Character Areas

(3) The National Environmental Standards for Freshwater 2020 also contain rules relating to earthworks and apply in addition to the District Plan rules.

172. Amend Rule 22.2.3.1 (P1) and (P2) as follows:

P1	(b) Earthworks ancillary to a conservation activity must meet the following conditions: (i) Sediment resulting from the earthworks is managed ~~retained~~ on the site through implementation and maintenance of erosion and sediment controls;

[4] More stringent rules are however possible when s6RMA values are in play. The rules relating to Significant Natural Areas and landscapes are to be considered through a separate hearing.

P2	(vii) Sediment resulting from the filling is managed ~~retained~~ on the site through implementation and maintenance of erosion and sediment controls.

Waikato Regional Council [81]

173. I agree with the submitter where they correctly note that the New Zealand Coastal Policy Statement 'trumps' the NES on Plantation Forestry, and therefore District Plans can contain rules that manage the establishment and harvesting of production forests in the coastal environment. A separate Hearing 21b (Landscapes) will consider areas with high ecological or landscape characteristics, including the coastal environment. The need (or not) to control production forestry in these areas is best determined through this separate hearing, where effects on such values can be considered.

174. The submitter notes that several of their submission points relating to earthworks rules have been coded to Hearing 2, when they were intended to apply to each set of zone rules. These points relate to a waterway setback for earthworks, and a revegetation requirement.

175. I agree that a requirement to set back earthworks from the edge of waterbodies is a common requirement in District Plans, and the 5m distance put forward by the submitter does not appear to be unreasonable. I note that an exception is required to exempt earthworks associate with buildings where they are separately permitted on the basis that earthworks effects are able to be managed through the separate Building Consent process.

176. I also agree that exposed earthworks should be revegetated in a timely manner. The two months put forward by the submitter may be too short to coincide with the next available planting season and may mean that plants do not have sufficient time to become established prior to summer. The requirement in the notified rule for revegetation to occur within 6 months therefore appears to strike a reasonable balance and will avoid unnecessary plant failure.

Recommendations

177. It is recommended that a new condition be added to Rule 22.2.3.1(P1)(a) as follows:

P1	Except as otherwise specified in Rule 22.2.3.2, Rule 22.2.3.3 or Rule 22.2.3.4 ~~Earthworks for~~: (i) Ancillary rural earthworks; (ii) A ~~F~~farm quarry where the volume of aggregate extracted does not exceed 1000m³ ~~per~~ in any single consecutive 12 month period; ~~(iii) Construction and/or maintenance of tracks, fences or drains;~~ (iii) Earthworks required to form a ~~A~~ building platform that will be subject to a building consent ~~for a residential activity, including accessory buildings~~, where undertaken in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development; (iv) Earthworks are setback 5m horizontally from any waterway, open drain or overland flow path, unless undertaken in order to construct a building permitted under Rule 22.3.7.5 P2. (b) Earthworks ancillary to a conservation activity must meet the following conditions: (i) Sediment resulting from the earthworks is retained on the site through

	implementation and maintenance of erosion and sediment controls.

Heritage New Zealand Pouhere Taonga [559]

178. The submitter raises concerns regarding earthworks within Maaori Areas of Significance. To be clear, the earthworks provided for through Rule 22.2.3.1 (and associated P1 relating to ancillary rural earthworks) *do not* apply within Maaori Sites and Maaori Areas of Significance as these are separately controlled through Rule 22.2.3.2 (where all earthworks require consent as a restricted discretionary activity) and were addressed separately in Hearing 20 (Maaori Areas and Sites of Significance).

179. A series of amendments are proposed by the submitter to the definition of 'ancillary rural earthworks' to restrict these to the maintenance of existing activities/ facilities and to not permit any 'new' earthworks. In my view the changes sought by the submitter would have wide-ranging implications on the type of earthworks able to be undertaken and would significantly increase the number of 'normal' farming activities that would require consent. In my view the costs of the amendments would significantly outweigh the benefits. It may well be that the above clarification regarding the separate controls applying to Maaori sites addresses the submitter's concerns on this matter.

180. Signage is not permitted on heritage buildings, except where it is for identification and interpretation, and is limited to no more than $3m^2$ in area. The submitter considers that the permitted size could still give rise to unacceptable effects and instead seeks that all signage on heritage building require a consent. I accept that a poorly designed sign of this size could potentially have adverse effects on heritage items. Conversely, it is important that heritage items are capable of ongoing use as a key means of ensuring that the building is maintained and valued. In my view a single sign of $3m^2$ is not unreasonable, and the costs of requiring all signage to go through a consent process outweigh the potential benefits of having some control over the potential for the occasional sign to be sub-optimal in its design. On balance no changes are recommended to the signage provisions.

First Gas [945]

181. The submitter's evidence focusses on two key outcomes, namely controls on earthworks near their pipeline and secondly controls on new sensitive activities (primarily residential units) being established near the pipeline.

182. In terms of earthworks, this is not a reverse sensitivity issue, with reverse sensitivity policies not being relevant. The issue instead is simply the need to manage activities that could directly damage the existing in-ground pipe asset. The asset route is subject to a mix of designations, and easements, with the width of these varying along its length. The submitter identifies issues they have had in the past with landowners undertraining earthworks that have had the potential to damage their asset.

183. In my view the solution is primarily one of education of landowners regarding both the risks to workers of doing earthworks near gas pipes, and secondly regarding the legal rights (and landowner obligations) associated with designations and easements. If landowners have ignored or are not aware of their legal obligations regarding the asset crossing their property, then I am not convinced that a rule in the District Plan will fix such behaviour.

184. In terms of the separate issue of setbacks for sensitive activities, the pipeline traverse through urban environments, including Residential, Village, and Country Living Zones. Residential dwellings are therefore located in close proximity to the pipeline through these

areas. These issues have been considered in the s42A reports for the Residential, Country Living, Village, and Industrial zones. The consistent recommendations have been that the costs of the relief sought by the submitter outweigh the benefits and that the issue is better addressed via the requiring authority undertaking a Notice of Requirement process to expand the extent of their designation to ensure their network is adequately provided for, and where landowners could seek compensation where appropriate. I note that in the urban zones there will be far higher numbers of people living and working in close proximity to the pipeline than through rural areas and therefore it is difficult to justify requiring a setback in the much more spacious Rural Zone when none has been recommended for the more intensely populated urban environments.

KiwiRail [986]

185. KiwiRail have sought an amendment to Rule 22.2.3.1(P1)(a)(v) so that earthworks do not need to be revegetated. I understand KiwiRail's point to be that there are other methods for stabilising land other than revegetation, and that in some circumstances (such as rail cuttings) revegetation is not a preferred option when other stabilisation techniques may be as effective. It was never the intention that revegetation be an option to avoid the need to stabilise earthworks, as suggested by the submitter, and on that basis an 'or' is not considered to be appropriate. The focus is very much on stabilisation (by whatever method), and then addressing any remaining bare ground. On that basis it is recommended that the clause be amended to clarify this matter.

186. KiwiRail have sought a 1.5m setback for earthworks from rail infrastructure. It is understood that the rail corridor exists in its own record of Title, and there are no instances where the railway lines pass over third party land (as is the case with Transpower transmission lines for example). On that basis, all earthworks adjacent to the rail corridor would be subject to the 1.5m boundary setback required through Rule 22.2.3.1 (P2)(iv). The standard boundary setback requirement therefore effectively provides for the relief sought by the submitter.

187. The submitter notes that whilst the NES – Plantation Forestry Regulation 14 controls afforestation, it does not control the replanting of recently harvested blocks, where this could occur within 10m of the rail corridor, and therefore they seek that the District Plan include a 10m setback requirement from the rail corridor to control replanting. The NES-PF provides separate definitions for 'afforestation' (planting areas that have not had forestry on them for at least 5 years), and 'replanting' (replanting areas that have been harvested within 5 years). So the two definitions dovetail to cover both circumstances. Replanting is also addressed in the NES-PF through Regulation 77-78. It permits the replanting of harvested land, with the only setbacks being from waterbodies or areas containing specified s6 RMA values. It is therefore recommended that the NES-PF continue to be relied upon for controlling replanting (and indeed District Plans cannot impose a rule that is more onerous than a NES, as sought by the submitter).

188. The submitter seeks an acoustic insulation requirement for new sensitive activities located near the rail corridor. Their primary relief is that this requirement forms part of Chapter 14 (infrastructure) so that it applies consistently across all of the zone the corridor passes through. As such they will be providing more detailed evidence on this relief as part of Hearing 22. I agree that the outcome sought by the submitter is best considered as part of the package of controls applying to infrastructure, especially as the rail network traverse a number of zones (and therefore is different to say a wind farm or waste water treatment plant which are only located within the Rural Zone). It is not recommended that any Rural Zone-specific amendments to the rule or policy package be made prior to Hearing 22 (Infrastructure and Energy).

Recommendations

189. Amend Rule 22.2.3.1(P2)(a)(v) as follows:
(v) Areas exposed by earthworks are stabilised on completion and any remaining bare ground re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks.

Meridian [945]

190. The submitter's evidence focusses on the need for a setback for sensitive activies from their existing 28 turbine Te Uku wind farm that is located on the coastal hills to the south of Raglan.

191. In my s42A repot I identified that I was comfortable in principle with regionally significant infrastructure assets being protected from reverse sensitivity risks, provided the distance of the setback could be robustly justified and the benefits of the setback outweighed the costs. Meridian provided a copy of the conditions of the consent under which the wind farm was established. I understand from the conditions of the original consent that Meridian was required to demonstrate that the facility would not generate more than 40dBA L_{95} as measured at the notional boundary of any dwellings existing at that time. The original decision was presumably predicated on the basis that the Environment Court was satisfied that noise over this level would result in adverse amenity effects on dwelling occupants.

192. Meridian's evidence has included a copy of a Noise Management Plan prepared to demonstrate compliance with the resource consent conditions. This management plan helpfully includes a map as Figure 13 showing various noise contours, with the 40dBA contour shown in red. I understand that at the time the consent was granted there were no existing dwellings within or close to the 40 dBA contour. Waikato planning administration staff have confirmed that no new dwellings have been established within the 40dBA contour in the intervening period. A copy of the noise contour, superimposed on the Waikato planning maps[5], is shown below.

193. I note that approximately 20% of the area within the contour is subject to several s6 overlays. Within these areas new dwellings are a fully discretionary activity and therefore are already subject to a consenting requirement.

ONL – blue diagonals	
ONF – blue dots	
SNA – green bushy areas	

194. I also note that the wind farm is located in an extensively farmed hill country setting where landholdings (Records of Title) are generally large and where there appear to be alternative options available to landowners to site dwellings clear of the contour.

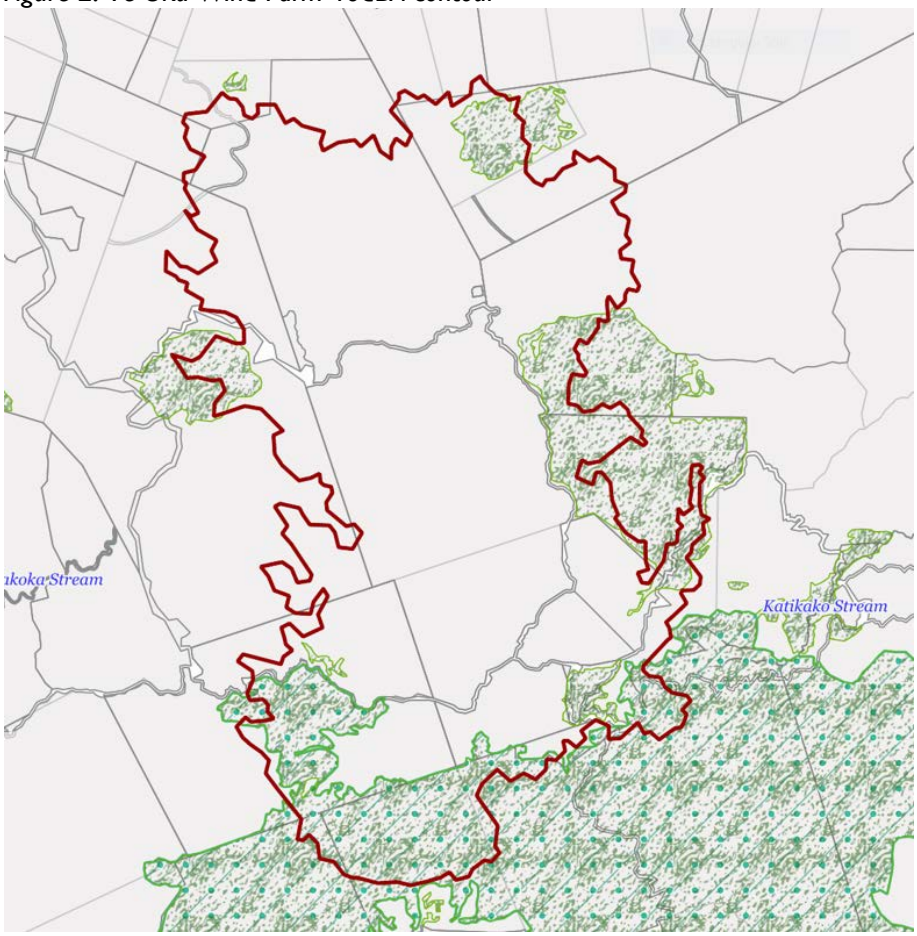
[5] The plotting of this contour has been approximated from the submitter evidence to inform this hearing process. If the contour is to be included in the District Plan Maps then a more fine-grained plotting/ transfer of data files will be required.

195. Given this context of no existing dwellings near the infrastructure, a clearly justified and measured setback, the very low number of potentially affected properties, and the existence of planning controls over a portion of the area, I agree with the submitter that the inclusion of a setback requirement is justifiable. The costs-benefit balance is quite different compared with the number of properties affected and the geographic extent of setbacks sought by other submitters who hold network infrastructure. The inclusion of the Te Uku setback can therefore be readily differentiated.

196. I consider the key rule is 22.3.7.2 which sets out the setbacks for sensitive activities. Dwellings that do not comply are able to be assessed on a case-by-case basis as a discretionary activity where possible mitigation such as acoustic insulation can be considered. Given that there are no existing residential units (or other sensitive activities) located within the contour, I do not consider rule 22.3.7.4 to be necessary, noting that this rule permits noise sensitive activities subject to acoustic insulation.

197. The submitter has included an assessment in accordance with s32AA requirements which I agree with.

198. *Figure 2. Te Uku Wind Farm 40dBA contour*



Recommendations

199. It is recommended that Rule 22.3.7.2 (P1)(a) be amended by adding an additional setback requirement as follows:

(a) Any building for a sensitive land use must be set back a minimum of:…
(x) not located closer to any wind turbine within the Te Uku wind farm that the 40 dBA L_{95} noise contour shown on the planning maps.

200. Amend the planning maps by adding the 40 dBA L_{95} noise contour as shown in Figure 13 of Attachment B to the submitter's evidence ('*Te Uku Wind Farm Noise Management Plan*').

Genesis Energy Ltd [924]

201. The submitter's evidence is focussed on two key matters. The first is the protection of the existing Heavy Industrial Zoned Huntly Power Station ('HPS') from reverse sensitivity caused by new sensitive activities locating in the adjacent Rural Zone. In this respect the submitter raises similar issues to those considered above by Synlait and Hynds. The second issue is the provision for power station-related infrastructure where this infrastructure is located within the Rural Zone.

202. The submitter identifies that the Waikato Regional Policy Statement includes a definition of 'reverse sensitivity'. We appear to be in agreement that the term should be defined. I likewise agree that it improves consistency between the two planning documents if the terminology aligns where appropriate. I am comfortable with the WRPS definition and recommend that the WRPS definition replaces that recommended in the s42A report.

203. The submitter seeks an additional clause be added to Policy 5.3.5 'Industrial and Commercial activities' to recognise existing non-rural activities, with a particular focus on providing for the coal and ash transport and management facilities associated within the HPS. I agree that this infrastructure is integral to the operation of the HPS and should be provided for. Rather than include generic amendments that will potentially apply to a wide range of sites and activities, I prefer the approach recommended in the s42A report which includes a specific Policy 5.3.20 to provide for the HPS facilities. I also note that infrastructure is subject to a separate policy framework that is the subject of Hearing 22. Because infrastructure is located across zones, it is anticipated that policies providing for its use and development are located in the Infrastructure chapter. This cross-zone policy direction provides for *infrastructure*, whereas Policy 5.3.5 provides for *industry* and commercial activities.

204. Depending on the findings of the infrastructure hearing, it may be that references to infrastructure can be removed from all zone policy frameworks and instead the specific infrastructure policies relied upon. Pending that future hearing, for now I agree with the submitter that Objective 5.5.1(a)(ii) should simply refer to 'infrastructure' rather than 'network infrastructure'.

205. I agree with the change to the title of Policy 5.3.7 to include explicit reference to reverse sensitivity. I also agree with the amendments to clause (b) sought by the submitter. I do not consider the proposed clause (c) to be necessary as this wording seems to largely repeat the matters addressed in clause (b).

206. As discussed above in response to the Synlait/ Hynds evidence, I accept in principle that setbacks for sensitive activities can be a useful tool for managing reverse sensitivity risk, and are a tool that could be applied to activies occurring in adjacent zones such as the Heavy Industrial Zone. I do not support a blanket 500m setback as sought by Genesis in their original submission. Applied as a 'circle' from the edge of the Industrial Heavy zone it extends across the Waikato River and covers a reasonable proportion of Huntly township. It would also take in numerous existing dwellings located to the south of the HPS. The submitter in evidence has suggested that the setback could be reduced such that it only applies to 'the area north of Hetherington Road'. As a rule this still remains uncertain as to its application. It may be that rather than a specific distance in the rule, that the setback is more appropriately shown on the planning maps and I would invite the submitter to provide a map showing where exactly they think the setback should apply, along with the text

amendments they are seeking to Rule 22.3.7.2. I note that if such setbacks are ultimately included in the Plan, then reference should be included in Policy 5.3.7(b) to 'Heavy Industrial Zones'. I have not shown this amendment in the track changed recommendations as I remain unsure as to whether such a setback rule will be included pending rezoning decisions in Pokeno and consideration of the geographic extent for HPS.

207. The submitter has sought a suite of amendments to the area specific rules under section 22.6. I generally agree with the amendments sought by the submitter, including the addition of a transport rule providing for the truck movements that are integral to the operation of the facility. I do not agree with the deletion of the rule cross-references under Rule 22.6.1(b) as this format is consistent across the various specific area rule packages and provides a more direct reference to the relevant rural zone rules.

208. I agree that the amendments sought to the introduction to Rule 22.6.2 assist in clarifying how the rule package works, apart from the deletion of the reference to Rule 22.3.1 Earthworks. The Areas Specific rules do not include any controls on earthworks, with this matter instead subject to the generic Rural Zone rules. Deletion of this cross-reference implies that unlimited earthworks are permitted without any conditions or controls.

209. I do not agree with the shift in activity status from discretionary to a restricted discretionary activity status for coal-related activities that do not comply with rule P1. Rule P1 sets an enabling framework. Coal-related activities that are not specified are quite open-ended in terms of scope – for example a new open cast coal mine would be a coal-related activity not provided for in P1. I readily accept that such an activity is unlikely to occur, but the open-ended nature of 'coal-related activities' not otherwise provided for mean that I am cautious about restricting the matters of assessment to only those relating to visual effects and traffic, as sought by the submitter.

Recommendations

210. It is recommended that the definition of 'reverse sensitivity' be amended as follows:

Reverse sensitivity	~~Means the effect on existing lawful activities from the introduction of new sensitive land uses that may lead to restrictions on existing lawful activities as a consequence of complaints.~~ Means the vulnerability of a lawfully established activity to a new activity or land use. It arises when a lawfully established activity causes potential, actual to perceived adverse environmental effects on the new activity, to a point where the new activity may seek to restrict the operation or require mitigation of the effects of the established activity.

211. It is recommended that Objective 5.5.1(a)(ii) be amended as follows:

(a)…(ii) Productive rural activities, rural industry, ~~network~~ infrastructure, community activities, and extractive activities are supported, while maintaining or enhancing the rural environment;

212. It is recommended that Policy 5.3.7 be amended as follows:

5.3.7 Policy – Reverse sensitivity and s~~S~~eparation of incompatible activities

(a) Contain adverse effects as far as practicable within the site where the effect is generated, including through the provision of adequate separation distances between the activity and site boundaries.

(b) Ensure that the design and location of new or extended sensitive land uses achieves adequate separation distances and/or adopts appropriate mitigation measures to mitigate potential reverse sensitivity effects on lawfully-established productive rural activities, intensive farming, rural industry, strategic infrastructure, extractive activities, or Extraction Resource Areas.

213. It is recommended that section 22.6 be amended as follows:

22.6 Specific Area - Huntly Power Station - Coal and Ash Management Areas ~~Water~~

22.6.1 Application of Rules

~~(a)~~ (a) The rules that apply to a permitted activity are set out in Rule 22.6.2. ~~within the Huntly Power Station: Coal and Ash Water Specific Area as identified on the planning maps are as follows:~~

~~(i) Rule 22.2 Land Use – Effects~~

~~(ii) Rule 22.3 Land Use – Building, except:~~

~~A. Rules 22.3.7 Building setbacks do not apply and Rule 22.6.3 applies instead; and~~

~~B. Rule 22.3.4 Height does not apply and Rule 22.6.4 applies instead.~~

~~C. Rule 22.6.5;~~

~~D. Rule 22.6.6; and~~

~~E. Rule 22.6.7~~

(b) The rules that apply to any other activity that is not provided for in Rule 22.6.2 are those that apply to the Rural Zone as follows:

(i) Rule 22.1 Land Use – Activities

(ii) Rule 22.2 Land Use – Effects

(iii) Rule 22.3 Land Use – Building; and

(iv) Rule 22.4 Subdivision

22.6.2 Permitted Activities – Huntly Power Station Coal and Ash Management Areas

(a) In addition to the specific area 22.6 rules, t~~T~~he additional rules that apply to a specific permitted activity within the Huntly Power Station: Coal and Ash Management ~~Water~~ Specific Area as identified on the planning maps are as follows:

(i) Rule 22.2 Land Use – Effects

(ii) Rule 22.3 Land Use – Building, except:

A. Rules 22.3.7 Building setbacks do not apply and Rule 22.6.~~3~~4 applies instead; and

B. Rule 22.3.4 Height does not apply and Rule 22.6.~~4~~5 applies instead.

~~C. Rule 22.6.6 Coal stockpile height, setback and coverage;~~

~~D. Rule 22.6.7 Ash disposal and transport of coal ash water; and~~

~~E. Rule 22.6.8~~7 ~~Energy corridor – transportation of minerals and substances~~

P1	(a) Coal related activities involving: (i) stockpiling;

	(ii) screening and sorting; (iii) use of transportation conveyors; (iv) erection, operation, and maintenance of loading and unloading facilities; and (v) an activity that is ancillary to those listed in (i) – (iv) above.
P2	(a) The management, stockpiling, transportation, and disposal of coal ash and ~~the transport of~~ coal ash water where: (i) these materials are transported between the Huntly Power Station and the ash ~~disposal~~ ponds located adjacent to Te Ohaaki Road via the pipeline located within Specific Area 22.6; and (ii) they involve the operation and maintenance of the ash disposal ponds located adjacent to Te Ohaaki Road within Specific Area 22.6; (iii) they involve the transportation of ash form the ash ponds to a long-term disposal facility, provided the heavy vehicle movement are not more than 85 per day.

22.6.3 Restricted Discretionary Activities – Huntly Power Station Coal and Ash Management Areas

(a) The activities listed below are restricted discretionary activities.

RD1	(a) The management, stockpiling, transportation, and disposal of coal ash and ~~the transport of~~ coal ash water that does not comply with Rule 22.6.7 P~~1~~2. (b) Council's discretion is restricted to the following matters: (i) visual amenity; and (ii) traffic effects.

22.6.~~3~~4 Discretionary Activities – Huntly Power Station Coal and Ash Management Areas

(a) The activities listed below are discretionary activities.

D1	A~~n~~ coal-related activity that does not comply with Rule 22.6.2 P1.

Rule 22.6.~~4~~5 Building Setback and Location – Huntly Power Station Coal and Ash Management Areas

P1	(a) A building must be: (i) set back at least 20m from every boundary of Specific Area 22.6 where its height exceeds 20m; and (ii) set back at least 10m from every boundary of Specific Area 22.6 where its height is up to 20m; or (iii) located within an energy corridor.
D1	A building that does not comply with Rule 22.6.4 P1.

22.6.~~5~~6 Building height – Huntly Power Station Coal and Ash Management Areas

P1	(a) A building must not exceed a height of: (i) 30m within an area of up to 1500m^2; and (ii) 20m for the balance of Specific Area 22.6.

D1	A building that does not comply with Rule 22.6.5 P1.

22.6.~~6~~7 Coal stockpile height, setback and coverage – Huntly Power Station Coal and Ash Management Areas

P1	(a) Coal stockpiles must: (i) not exceed a height of 15m; (ii) be set back at least 5m from the boundary of Specific Area 22.6; (iii) not exceed 25% of Specific Area 22.6.
RD1	(a) Coal stockpiles that do not comply with Rule 22.6.6 P1. (b) Council's discretion is restricted to the following matter: (i) visual amenity

~~**22.6.7 Ash disposal and transport of coal ash water**~~

~~P1~~	~~(b) The disposal of coal ash and the transport of coal ash water where:~~ ~~(iv) these materials are transported between the Huntly Power Station and the ash disposal ponds located adjacent to Te Ohaaki Road via the pipeline located within Specific Area 22.6; and~~ ~~(v) they involve the operation and maintenance of the ash disposal ponds located adjacent to Te Ohaaki Road within Specific Area 22.6.~~
~~RD1~~	~~(c) The disposal of coal ash and the transport of coal ash water that does not comply with Rule 22.6.7 P1.~~ ~~(d) Council's discretion is restricted to the following matters:~~ ~~(iii) visual amenity; and~~ ~~(iv) traffic effects.~~

22.6.8 Energy corridor - transportation of minerals and substances – Huntly Power Station Coal and Ash Management Areas

P1	(a) The transportation of minerals and substances in an energy corridor must comply with all the following conditions: (i) be limited to coal ash, aggregate, overburden, cleanfill, wastewater and other liquids (other than a hazardous substance); (ii) not deposit discernible minerals or dust; and (iii) not result in odour identified outside the energy corridor.
RD1	(a) Any activity that does not comply with Rule 22.6.8 P1. (b) Council's discretion is restricted to the following matter: (i) adverse amenity effects.

Appendix 1: Table of amended recommendations

Having reviewed the submitter evidence, I have recommended a number of consequential amendments. In general these do not alter my original accept/ reject recommendations as the amendments are simply further refining the direction set out in the s42A report.

There are however several recommended amendments as a result of submitter evidence that do constitute a change in direction. Because of the substantial length of the original table I have set out below just those submission points where my accept/ reject recommendation has changed.

Submission point	Submitter	Support Oppose	Summary of submission	Reasons	Recommendation
580.10	Andrew Feierabend for Meridian Energy Limited	Oppose	Add a new clause (x) into Rule 22.3.7.2P1(a) Building setback sensitive land use, as follows: (x) the distance necessary to ensure wind turbine noise from any authorised or lawfully established large-scale wind farm does not exceed 40 dBA measured at the sensitive land use in accordance with NZS6808:2010. AND Amend the Proposed District Plan as necessary to address the matters raised in the submission.	Non-compliance with this rule triggers a discretionary activity status. The same reverse sensitivity noise issues arise for lawfully established large-scale wind farms and they equally warrant the protection of a minimum setback distance. Inclusion of a setback distance for large-scale wind farms is necessary to give effect to Objective 6.1.6 and Policy 6.1.7 addressing reverse sensitivity. The minimum setback would be specified by NZS 6808:2010	~~Reject~~ Accept
575.16	Fulton Hogan Limited		Add a new rule to Section 22.2.1 - Noise, (22.2.1.4), as follows (or words to similar effect): NOISE - MINERAL AND AGGREGATE EXTRACTION ACTIVITIES Any noise created by a mineral or aggregate extraction activities is permitted provided that if measured at the notional boundary of any dwelling which existed at [insert date of plan becoming operative], does not exceed: 55dBA (L10) 7am to 7pm Monday to Friday; 55dBA (L10) 7am to 6pm Saturday; 50dBA (L10) 7pm to 10pm Monday to Friday; 50dBA (L10) 7am to 6pm Sundays and Public Holidays) e. 45dBA (L10) and 70dBA (Lmax) at all other times including Public Holidays. AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.		~~Reject~~ Accept
FS1319.8	*New Zealand Steel Holdings Limited*	*Support*	*Allow in part. As per its original submission, NZS supports specific noise limits for 'Extractive Activities' but in relation to WHN considers*	*NZS has sought specific provisions for WNH Mine in its original submission. However, NZS supports specific noise*	~~Reject~~ Accept

			these should be contained in a special WHN zone.	*limits for mineral and aggregate extraction activities (for 'Extractive Activities') that are consistent with the noise provisions of the operative district plan.*	
FS1292.70	*McPherson Resources Limited*	*Support*	*Allow the submission point.*	*McPherson support the inclusion of noise provisions specifically related to extraction activities. Such a rule defines what effects are anticipated and accepted from these sorts of activities and are intended to safeguard both the industry as well as the surrounding properties.*	~~Reject~~ Accept
FS1377.145	*Havelock Village Limited*	*Support*	*Support.*	*As an alternative to residential zoning, HVL seeks that land it controls be rezoned as Aggregate Extraction Zone. HVL supports amendments that provide greater clarity and flexibility for extractive industries.*	~~Reject~~ Accept
FS1332.30	*Winstone Aggregates*	*Support*	*Support.*	*The submission point reflects the matters that affect the aggregate industry as a whole.*	~~Reject~~ Accept
419.9	Jordyn Landers for Horticulture New Zealand	Neutral/ Amend	Add a new permitted activity to Rule 22.1.2 Permitted Activities, as follows: Workers' accommodation that comply with Rule 22.3.X Workers' accommodation. AND Any consequential or additional amendments as a result of changes sought in the submission.	The submitter seeks a suite of provisions to provide for workers' accommodation as a permitted activity in the Rural Zone.	~~Reject~~ Accept in part
FS1388.178	*Mercury NZ Limited for Mercury E*	*Oppose*	*Null*	*At the time of lodging this further submission, neither natural hazard flood provisions nor adequate flood maps were available, and it is therefore not clear from a land use management perspective, either how effects from a significant flood event will be managed, or whether the land use zone is appropriate from a risk exposure. Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.*	~~Accept~~ Accept in part
FS1306.7	*Hynds Foundation*	*Support*	*Support.*	*The current Proposed Plan provisions would result in a number of activities that are anticipated within rural areas defaulting to non-complying activities. Hynds Foundation support the inclusion of activities that are compatible within a rural setting as permitted, controlled, restricted discretionary and discretionary*	~~Reject~~ Accept in part

				activities. Activities such as rural tourism, rural commercial services, emergency management, and veterinary centres are generally anticipated and have functional, operational and economic benefits of siting within the Rural Zone. Refer to the Auckland Unitary Plan which has further definition of these activities.	
FS1171.12	*Phoebe Watson for Barker & Associates on behalf of T&G Global*	*Support*	*Allow the submission to extent consistent with this further submission.*	*This submission proposes the provision of workers accommodation subject to a number of conditions. This submission is supported in so far as it is consistent with T & G Global's submission also seeking to provide for workers accommodation within the Rural environment.*	~~Reject~~ Accept in part
419.25	Jordyn Landers for Horticulture New Zealand	Neutral/ Amend	Add a new provision to Rule 22.3 Land Use - Building, as follows: Workers' accommodation is a permitted activity where it meets the following standards: (a) The relevant zone standards for yards, height, daylight protection and parking are complied with (b) Access - No additional formed accesses are to be created to any State Highway (c) Is associated with the horticultural activity (d) Comprises of a combination of communal kitchen and eating areas and sleeping and ablution facilities (e) Accommodates up to 12 workers (f) Complies with Code of Practice for Able Bodies Seasonal Workers, published by Department of Building and Housing 2008. AND Any consequential or additional amendments as a result of changes sought in the submission.	The submitter seeks specific provision for workers' accommodation. The submitter seeks the insertion of a new rule to set the standards for workers' accommodation as a permitted activity, similiar to those that have been adopted in the Proposed Opotiki District Plan.	~~Reject~~ Accept in part
FS1171.20	*Phoebe Watson for Barker & Associates on behalf of T&G Global*	*Support*	*Allow the submission to extent consistent with this further submission.*	*This submission is supported. This submission for the provision of workers accommodation provides an alternative to the provision for workers accommodation contained in T & G's own submission on the basis that the accommodation of workers for rural production activities should be provided for within the rural area, however the reference to the Code of Practice is not a resource management matter.*	~~Reject~~ Accept in part
FS1076.16	*New Zealand Pork Industry Board*	*Support*	*The submitter seeks specific provision for workers' accommodation.*	*Provide for farm workers accommodation for a range of rural production activities*	~~Reject~~ Accept in part
FS1308.33	*The Surveying Company*	*Support*	*Null*	*We agree that there should be some provision made for workers' accommodation, even if this is provided for as a restricted discretionary activity. Workers accommodation can play an important part in the long term viability and expansion of legitimate rural*	~~Reject~~ Accept in part

				production activities on sites under 40 hectares in size. Whilst a minor dwelling of up to 70m2 provides one option for housing farm workers, it does not adequately cater for a farm worker with a family or seasonal workers sharing communal facilities. A larger dwelling is required to cater for a farm employee and their family.	
FS1342.92	*Federated Farmers*	*Support*	*Allow submission point 419.25.*	*FFNZ understands the intent of this submission relating to worker accommodation in the rural zone and wish to remain involved as any planning response is adopted.*	~~Reject~~ Accept in part
FS1388.186	*Mercury NZ Limited for Mercury E*	*Oppose*	*Null*	*At the time of lodging this further submission, neither natural hazard flood provisions nor adequate flood maps were available, and it is therefore not clear from a land use management perspective, either how effects from a significant flood event will be managed, or whether the land use zone is appropriate from a risk exposure. Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.*	~~Accept~~ Accept in part
197.12	NZ Pork	Neutral/Amend	Amend the definition for "Ancillary rural earthworks" in Chapter 13 Definitions to include the following activities: <u>burying of material infected by unwanted organisms as declared by Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.</u>	A permitted activity status and the exclusion of ancillary rural earthworks from the definition of earthworks is supported but should be amended to manage biosecurity responses.	~~Reject~~ Accept
FS1168.93	*Horticulture New Zealand*	*Support*	*Allow the submission.*	*The submitter seeks the amendment of the definition for "Ancillary rural earthworks" in Chapter 13 Definitions to include the following: burying of material infected by unwanted organisms as declared by Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993. The plan should identify this to avoid delay in responding to a biosecurity*	~~Reject~~ Accept

				threat.	
FS1323.99	*Heritage New Zealand Pouhere Taonga*	*Oppose*	*That the amendments sought are declined.*	*HNZPT is concerned regarding the extensive amendments proposed to this definition, as ancillary earthworks appears to be a permitted activity in Maaori Sites and Areas of Significance and could therefore result in adverse effects on Maaori sites and areas that contain archaeological sites as the activity would not be assessed.*	~~Accept~~ Reject
466.53	Balle Bros Group Limited	Neutral/Amend	Amend the definition for "Ancillary rural earthworks" in Chapter 13 Definitions to include the following activities: burying of material infected by unwanted organisms as declared by Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.	A permitted activity status and the exclusion of ancillary rural earthworks from the definition of earthworks is supported but should be amended to manage biosecurity responses.	~~Reject~~ Accept
FS1323.101	*Heritage New Zealand Pouhere Taonga*	*Oppose*	*That the amendments sought are declined.*	*HNZPT is concerned regarding the extensive amendments proposed to this definition, as ancillary earthworks appears to be a permitted activity in Maaori Sites and Areas of Significance and could therefore result in adverse effects on Maaori sites and areas that contain archaeological sites as the activity would not be assessed.*	~~Accept~~ Reject

Appendix 2: Recommended text amendments

Appendix 3: Legal advice regarding cross-boundary rules

Appendix 4: Acoustic advice regarding extractive industry noise