

SECTION 42A REPORT

Report on submissions and further submissions on the
Proposed Waikato District Plan Stage I

Hearing 18: Rural Zone

Report prepared by: Jonathan Clease

Date: 25th August 2020



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Blue Wallace Surveyors Ltd	662
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Further Submitter	Further Submission number
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Alstra (2012) Limited	FS1316
Ara Poutama Aotearoa (Department of Corrections)	FS1210
Auckland Council	FS1129
Auckland/Waikato Fish and Game Council	FS1045
Aztech Buildings for Zeala Limited	FS1370
Bathurst Resources Limited and BT Mining Limited	FS1198
BIOtech New Zealand	FS1225
Blue Wallace Surveyors Ltd	FS1287
David Stewart Bull	FS1212
Robert Burke	FS1006
Robert Fenton Burke	FS1003
Bruce Cameron	FS1343
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<i>Havelock Village Limited</i>	<i>FS1377</i> <i>FS1291</i>
<i>Jennie Hayman</i>	<i>FS1268</i>
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<i>Turangawaewae Trust Board</i>	<i>FS1139</i>
<i>Vodafone New Zealand Limited</i>	<i>FS1032</i>
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Please refer to Appendix I to see where each submission point is addressed within this report.

I Introduction

1.1 Qualifications and experience

1. My full name is Jonathan Guy Clease. I am employed by planning and resource management consulting firm Planz Consultants Limited as a Senior Planner and Urban Designer.
2. I hold a Bachelor of Science (Geography), a Master of Regional and Resource Planning, and a Master of Urban Design. I am a Full Member of the New Zealand Planning Institute.
3. I have twenty-four years' experience working as a planner, with this work including policy development, providing s42A evidence on plan changes, the development of plan changes and associated s32 assessments, and the preparation and processing of resource consent applications. I have worked in both the private and public sectors, in both the United Kingdom and New Zealand.
4. I have prepared the s.42A report for the Village Zone subdivision provisions as part of the Waikato District Plan Review. I have also recently been involved in the review of the District Plan for Christchurch and presented evidence on the notified provisions on behalf of submitters on commercial, industrial, Lyttleton Port, natural hazards, hazardous substances, and urban design topics. I have been involved in the development of the second generation Selwyn and Waimakariri District Plans, and the preparation of s42A reports processing private plan change applications. These topics have included rural-residential housing, commercial, urban design, and signage matters.

1.2 Code of Conduct

5. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
6. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners.

1.3 Conflict of Interest

7. To the best of my knowledge, I confirm that I have no real or perceived conflict of interest. In the past Planz Consultants Ltd have undertaken work for the Ministry of Education, Auckland Council, Fonterra, and Fulton Hogan who are submitters on this topic. None of these past projects have been located within Waikato District and Planz have not provided advice to any submitters or organisations on any topics to do with any part of the Waikato District Plan Review. I identify a potential conflict of interest in regards to a discrete submission point by Fonterra in relation to noise contours and their Te Rapa dairy factory and discuss this in more detail in the assessment of Policy 5.3.15 on noise.

1.4 Preparation of this report

8. I am the author of this report.
9. The scope of my evidence relates to the evaluation of submissions and further submissions received in regard to the objectives, policies, and land use rules for the Rural Zone. Whilst this report addresses most of the matters relating to the Rural Zone, there are a number of thematic topics that are considered in separate hearings, as follows:
 - Submissions on the overarching directions for the district, including urban growth management, were addressed in Hearing 3;

- Definitions were addressed in Hearing 5, albeit a number of terms that are specific to the Rural Zone are considered in this report;
 - Submissions seeking a change in zoning will be addressed in a later hearing, towards the end of the District Plan Review process;
 - Submissions on the Country Living Zone policies and rules were addressed in Hearing 12;
 - Submissions on landscape and biodiversity matters (Outstanding Natural Landscapes and Significant Natural Areas) will be addressed in Hearing 21b;
 - Submissions on Genetically Modified Organisms were addressed in Hearing 8b;
 - Submissions on Tangata Whenua matters, including papakainga housing, Whaanga Coast (and Rural Policy 5.3.18 on Whaanga Coast Development Areas) were addressed in Hearing 4;
 - Submissions on the storage and use of hazardous substances in the Rural Zone were considered in Hearing 8A;
 - Submissions on Hamilton's Urban Expansion Area ('UEA') and associated Objective 5.5.1 and Policy 5.5.2 were addressed in the Strategic Directions hearing, with rules considered in the Country Living hearing where that zone extends into the UEA. The rules applying in the Rural-zoned parts of the UEA are however considered in this report.
10. Ms Katherine Overwater has prepared a separate s42A report on the subdivision rules applying to the Rural Zone. In preparing this report I have been mindful of the strategic policy framework and associated s42A report prepared by Mr Alan Matheson and considered by the Panel as part of Hearing 3 and the direction contained in higher-order documents such as the Waikato Regional Policy Statement ('WRPS') and various National Policy Statements and National Planning Standards. I am likewise mindful of the outcomes sought through the Waikato 2070 growth strategy. The s42A report on the Country Living Zone provisions included commentary and comparison between the Operative Plan approach to development in Hamilton Urban Expansion Area ('UEA') which is also of relevance to this hearing. Finally, the s42A report on definitions (Hearing 5) is relied upon where these terms are used, as the definitions are often integral to understanding the application of policies and rules.
11. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2 Scope of Report and topic overview

Matters addressed by this report

12. This report is prepared in accordance with section 42A of the RMA. The report considers submissions that were received by the Council in relation to the Rural Zone objectives, policies, and associated land use rules within the Waikato Proposed District Plan ('the Proposed Plan'). In preparing this report I have had particular regard to the related report prepared by Ms Overwater relating to the Rural Zone subdivision rules. This separate report is to be considered at the same hearing and therefore the two reports dovetail with each other and should be read together for a full understanding of the proposed outcomes for the Rural Zone and Officer recommendations.

Overview of the topic / chapter

13. The anticipated environmental outcomes and character of the Rural Zone are at the core of many of the submissions received. These high level outcomes are discussed first in this report, as this sets the scene for assessing submissions on the more detailed rules that follow.
14. The notified Rural Zone chapter starts with an overall objective for the Rural Zone (Objective 5.1.1) and then has an objective and two policies focused on high class soils and productive potential. These provisions are in turn followed by an objective and a detailed set of policies relating to rural character and amenity that address the range of activities and issues that often arise in rural areas. The chapter's policy framework concludes with specific objectives and policies that consider quarrying and Hamilton's UEA.
15. This report begins with summarising the strategic context provided by WRPS and then makes some general observations regarding how best to provide for strategic infrastructure and existing 'out of zone' facilities as these are themes that recur across a number of subsequent provisions.
16. The report then addresses the 'scene-setting' objectives and policies for the Rural Zone¹ and the changes sought to this overall zone framework by submitters. Following consideration of these strategic outcomes, the report then addresses submissions on each of the subsequent thematic issues.
17. In terms of the requirements of s32AA RMA to assess any recommended text amendments, rather than write a separate s32AA assessment after the discussion on each provision I have instead focussed first on including within the analysis of submissions a reasonable level of detail setting out the rationale for any recommended changes. I have secondly provided a summary s32AA assessment at the end of the report that considers the effects of the recommended amendments as a coherent bundle.
18. The Proposed Plan is structured such that it has all the objectives and policies grouped together, followed by all the zone rules. Whilst such a structure makes sense for the Proposed Plan as a whole (and indeed is required by the National Planning Standards which set a consistent District Plan structure for all new plans throughout New Zealand), it has proven challenging to follow in reporting on the Rural Zone, given the large number of submissions and the range of issues covered. I have therefore structured my report by *issue*, so that the policy, relevant definitions, and related rules (and changes sought by submitters) on any given issue are addressed together. This enables the policy itself and the rules that implement the policy to be considered as a coherent package. It does however mean that the report 'jumps around' to a certain extent and does not follow exactly the order in which the various policies and rules were set out in the rural chapter.
19. Having reviewed the submissions and the s32 report underpinning the proposed zone provisions, the key issues addressed in this report can be summarised as follows:
 - The need to dovetail with the District Plan's strategic urban growth objectives that seek to provide for urban growth within and adjacent to existing townships and to conversely avoid urban activities from locating in the Rural Zone where the activity has no functional connection to the rural environment;
 - The need to maintain rural character and amenity. Rural character is a function first of the activities typically found within rural areas, and secondly the visual landscape that results from these activities, including in particular a very low density of dwellings.

¹ Objectives 5.1.1, 5.2.1 and 5.3.1 and associated policies 5.2.2, 5.2.3, 5.3.2

- In terms of anticipated activities, the policy framework seeks to provide for ongoing productive rural activity as an integral component of a working farm environment. Maintenance of the soil resource (especially high class soils) underpins such productive activity;
 - There is a related need to provide for community, recreation, and temporary activities that support rural communities as necessary and anticipated non-pastoral elements in rural environments, whilst not undermining strategic growth objectives;
 - There is likewise a need to provide for and manage intensive farming, rural industry, and quarrying as necessary but-non pastoral elements in rural environments. A key method for providing for such activities is managing interface amenity issues through requiring new rural industry, quarries, and intensive farming activities to contain effects within their site as far as practicable, and secondly by managing the location of new sensitive activities where they seek to locate close to established rural industry, intensive farms, or quarries;
 - In terms of built/ landscape outcomes, the maintenance of rural character turns on a dominance of open space over buildings, whilst providing for large rural buildings such as dairy sheds and silos, setting an appropriate framework for managing rural dwellings, and provisions relating to amenity issues such as noise, glare, signage, and building height/size/setbacks;
 - And finally, a bundle of site-specific provisions relating to agricultural research, Huntly Power Station, Meremere Dragway, and Hamilton's Urban Expansion Area.
20. The Proposed Plan is structured such that each zone has its own bespoke set of rules on thematic matters such as signage, noise, and glare, rather than the District Plan thematic provisions all being located within a single chapter (as is required by the National Planning Standards). This structure means that the recommendations made in this report (and the scope of the submissions received), are limited to the provisions as they apply to the Rural Zone context. Whilst consistency across the Proposed Plan for provisions that address similar issues is generally anticipated, there may well be reasons for the Panel to determine that different approaches are appropriate for rules addressing similar matters, dependent on the specific zone context. For example, the approach to noise or signage will be quite different for the Rural Zone and typical rural-based activities compared with, say, appropriate levels of noise or signage in residential or industrial zones. The recommendations (and ultimately the Panel's findings) in this chapter are therefore specific to the issues raised in this chapter and the environmental outcomes anticipated for the Rural Zone.

Procedural matters

21. At the time of writing this s42A report there have not been any formal pre-hearing conferences in relation to the provisions of the Rural Zone. A Zoom meeting was held with Louise Feathers, Planning consultant representing the Tamahere Trust [765 and 769] who operate two existing retirement villages that are located in the Rural Zone. This meeting occurred on 6th August 2020 and focussed on the proposed approach to managing retirement villages. Apart from the above Zoom meeting, no other pre-hearing meetings, Clause 8AA meetings, or further consultation on the submissions relating to Chapters 5– Rural environment or 22 Rural Zone were held prior to the finalisation of this s42A report and no other submitters sought to have a pre-hearing meeting. There are no outstanding procedural matters to consider for this hearing.

Statutory requirements

Resource Management Act 1991

22. As noted in the introduction of the s42A report by Mr Matheson² on the Proposed Plan's overarching strategic objectives, Sections 1.1 and 1.2 of *Chapter 1 - Introduction* of the Proposed Plan set out the relationship between s5, s32, and s72 of the Resource Management Act 1991 ('RMA'), which are respectively:
- The purpose of the RMA;
 - The functions of a territorial authority; and
 - The purpose of a district plan.
23. As set out in the various sections within *Chapter 1 – Introduction*, there are a number of guiding RMA plans such as the Waikato Regional Policy Statement ('WRPS'), documents such as the Future Proof Growth Strategy and associated Implementation Plan, the Waikato 2070 growth strategy, and agreements such as the Waikato River Joint Management Agreement 2010 that provide guidance for the preparation and content of the Proposed Plan. These documents and the WRPS are discussed in more detail below where relevant to the Rural Zone. The structure of a district plan is required to be consistent with the National Planning Standards ('NPS') that seek to provide a standard format for district plans across the country, and it is understood from the directions of the Hearing Panel that their decision for the Proposed District Plan will be in the form and structure prescribed by the NPS.
24. There are likewise several National Policy Statements and National Environmental Standards ('NES') that are of particular relevance to the Rural Zone. These include:
- NPS – Urban Development
 - Draft NPS – Highly Productive Land
 - NES – Production Forestry
 - NES – Air Quality.
25. Section 32 of the RMA requires that the objectives of the proposal be examined for their appropriateness in achieving the purpose of the RMA, and the provisions (policies, rules or other methods) of the proposal be examined for their efficiency, effectiveness and risk. The effects of new policies and rules on the community, the economy, cultural matters and the environment need to be clearly identified and assessed as part of this examination. The analysis must be documented, so stakeholders and decision-makers can understand the reasoning behind policy decisions.

Waikato Regional Policy Statement – Rural Directions

26. District Plans are required to 'give effect to' an operative Regional Policy Statements (s75 RMA). The WRPS is a substantial document that touches on a broad range of topics of relevance to the rural environment. The overview provided here is therefore very much a summary that focusses on the higher order direction on the key topics / issues raised by submitters.
27. The s42A report on Hearing 3 Strategic Directions included a high level discussion as to the direction provided in the Waikato Regional Policy Statement ('WRPS'), with a particular focus on urban growth outcomes, and in particular those anticipated under Policy 6.1 and

² Section 42A Report Hearing 3 Strategic Objectives, Alan Matheson (30 September 2019)

6.3. Ms Overwater's report on the subdivision rules likewise includes a helpful summary of the WRPS provisions of relevance to that topic. I have therefore focussed the below summary on the WRPS direction for the rural area outside of urban growth matters.

28. At a high level, the WRPS has a strong focus on water quality and quantity issues, the protection of areas with high landscape, ecological, heritage, and cultural values, and the mitigation of risk presented by natural hazards. The WRPS likewise provides specific direction on the following topics that are of particular relevance to this report.

High Class Soils

29. Objective 3.25 and Policy 14.1 seek to manage the soil resource by minimising sedimentation and erosion, maintaining or enhancing the biological, chemical, and physical soil properties; and retaining soil versatility to protect the existing and foreseeable range of uses of the soil resource.
30. Objective 3.26 and Policy 14.2 are specific to high class soils and seek to avoid a decline in the availability of high class soils for primary production due to inappropriate subdivision, use or development. The term 'high class soils' is defined in the WRPS as meaning those soils in Land Use Capability Classes I and II (excluding peat soils) and soils in Land Use Capability Class IIIe1 and IIIe5, classified as Allophonic Soils.
31. The policy therefore has as its primary purpose the need to maintain such soils for primary production. Alternative activities are contemplated as potentially being possible, provided that they are not 'inappropriate'.
32. Policy 14.5 relates specifically to peat soils and seeks to manage adverse effects of activities resulting from the use and development of peat soils, including by slowing the rate of subsidence and the loss of carbon by oxidation from peat soils. The policy focus for peat soil types is not therefore on the need to maintain them for the value they provide to primary production, but rather is focussed on managing hazard risk caused by ground subsidence as peat soils dry out following development, and the related release of carbon which can adversely impact on climate change.

Primary production and significant industry

33. Policy 4.4 seeks:
- The management of natural and physical resources provides for the continued operation and development of regionally significant industry and primary production activities by:*
- a. *recognising the value and long term benefits of regionally significant industry to economic, social and cultural wellbeing;*
 - b. *recognising the value and long term benefits of primary production activities which support regionally significant industry;*
 - c. *ensuring the adverse effects of regionally significant industry and primary production are avoided, remedied or mitigated;*
 - d. *co-ordinating infrastructure and service provision at a scale appropriate to the activities likely to be undertaken;*
 - e. *maintaining and where appropriate enhancing access to natural and physical resources, while balancing the competing demand for these resources;*
 - f. *avoiding or minimising the potential for reverse sensitivity; and*
 - g. *promoting positive environmental outcomes.*
34. The term 'Regionally significant industry' is defined as meaning "*an economic activity based on the use of natural and physical resources in the region and is identified in regional or district plans,*

which has been shown to have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits”.

35. In the context of the Rural Chapter, such industry that is ‘identified in a District Plan’ includes Huntly Power Station and associated coal and ash water areas, Meremere Dragway, mapped Agricultural Research Centres, and could also arguably include the existing mineral extraction operations located within the mapped coal and aggregate extraction areas.
36. Primary production in the WRPS is defined as meaning ‘the commercial production of raw material and basic foods, and which relies on the productive capacity of soil or water resources of the region. This includes the cultivation of land, animal husbandry/farming, horticulture, aquaculture, fishing, forestry, or viticulture. It does not include hobby farms, rural residential blocks, or land used for mineral extraction’. The exclusion of mineral extraction is important to note as the NPS definition of the same term includes mineral extraction. These definitions are discussed at length later in this report.
37. The policy direction for significant industry and primary production is that such activities are to be provided for, subject to the effects of such being appropriately managed. Of particular relevance is the need to avoid or minimise the potential for reverse sensitivity which is a topic explored at length later in this report. The WRPS policy direction is to be implemented under section 4.4.1 by District Plans providing for regionally significant industry and primary production by:
 - a. *identifying appropriate provisions, including zones, to enable the operation and development of regionally significant industry, which for new development is consistent with Policy 6.14 and Table 6-2;*
 - b. *maintaining the life supporting capacity of soil to support primary production;*
 - c. *maintaining and where appropriate enhancing access to natural and physical resources for regionally significant industry and primary production, while balancing the competing demand for these resources;*
 - d. *recognising the potential for regionally significant industry and primary production activities to have adverse effects beyond its boundaries and the need to avoid or minimise the potential for reverse sensitivity effects;*
 - e. *recognising the need to ensure regionally significant industry is supported by infrastructure networks of appropriate capacity;*
 - f. *recognising the benefits of enabling the co-location of regionally significant industry to support efficient use of infrastructure, and minimise transportation requirements;*
 - g. *recognising and balancing the competing demands for resources between regionally significant industry, primary production and other activities;*
 - h. *ensuring the adverse effects of regionally significant industry and primary production are avoided, remedied or mitigated; and*
 - i. *promoting positive environmental outcomes.*

Mineral Extraction

38. Policy 6.8 seeks that the “Management of development of the built environment appropriately recognises:
 - a. *the potential for impacts of subdivision, use and development on access to mineral resources;*
 - b. *the need for mineral resources to be available for infrastructure and building developments;*
 - c. *the potential benefits of further development of the region’s minerals and providing for the continued operation of existing lawfully established mineral extraction activities;*

- d. *the need to manage the adverse effects of extraction, which may include avoiding mineral extraction, or certain types of mineral extraction, in some areas;*
 - e. *the potential for land use development that is inconsistent with nearby mineral extraction activities; and*
 - f. *that some mineral resources are considered taonga or traditional resources by tāngata whenua.*
39. The policy focus is on the management of the built environment i.e. urban expansion, although new sensitive activities such as dwellings in the rural area could arguably be considered to form part of the built environment. Certainly the balance of the policy provides helpful direction as to the benefits of mineral extraction, the need to manage the effects of such extractive activities, and the need to manage new adjacent development that would create reverse sensitivity issues.
40. In conclusion, the VRPS provides a high level direction on how urban growth is to be provided for, the management of water and air quality, the protection of significant landscape, ecological, cultural and heritage values, and the enablement of primary production, mineral extraction, and regionally significant industry and infrastructure subject to the potential effects from these activities being appropriately managed.

Strategic infrastructure and facilities - Overview

41. A number of submissions have been received from organisations that operate either network infrastructure or large existing facilities that are located in or adjacent to the Rural Zone. These submitters include the following organisations:
- New Zealand Transport Agency [742] – state highway network;
 - KiwiRail Holdings Ltd [986] – rail network;
 - Radio New Zealand (777) – transmission towers;
 - Genesis Energy Ltd [924] - Huntly power station;
 - Meridian Energy Ltd [580] – existing wind farm;
 - Synlait Milk [581] – existing factory/ Heavy Industrial Zone
 - Fonterra [797] – Te Rapa Factory and irrigation area
 - Transpower New Zealand Ltd [FSI 350] – electricity transmission network;
 - First Gas Ltd [945] – reticulated pipe network;
 - Waipa District Council [939] – Mystery Creek Events Centre;
 - Pukekohe Motorcycle Club [807.5] - Harrisville Motocross Track
42. Network infrastructure is to be considered in depth in a separate upcoming hearing on Chapter 6 (policies) and Chapter 14 (rules). Because infrastructure is located across a number of zones, the intention is that the policy framework providing for that infrastructure is provided in a single chapter. A number of the above submitters have sought that reference to infrastructure be included in the policies that guide development in the Rural Zone. Ultimately the Panel will need to determine whether such direction needs to be provided in the policies for every zone containing infrastructure (the majority), or whether the policy direction in Chapter 6 is framed such that it applies across all zones, thereby avoiding the need to include multiple references to infrastructure across chapters.
43. For this hearing, and without the benefit of having considered the submissions (and more importantly future evidence) on Chapters 6 and 14, I have included brief reference to infrastructure in the recommended new Policy 5.3.2 relating to rural character

(infrastructure is an anticipated element in rural areas) and the recommended wording for Policy 5.3.7 relating to reverse sensitivity (the ongoing operation and upgrading of infrastructure should not be threatened by new sensitive activities). It may be that following focussed consideration of infrastructure as a topic in the upcoming hearing on Chapters 6 and 14 that such inclusion in the rural provisions is not necessary.

44. In parallel with provisions that enable the operation and development of infrastructure, the majority of the above submitters have also sought controls that limit the ability of new sensitive activities to locate in close proximity to existing facilities. In essence, the rules that enable infrastructure will be located in Chapter 14, but the policies and rules that control other activities in rural areas near infrastructure or established facilities are to be considered in this hearing on the Rural Zone provisions. This means that the topic of infrastructure will necessarily be split across two hearings.
45. The Proposed Plan as notified included Rule 22.3.7.2 which requires setbacks for sensitive activities close to arterial road and rail corridors, oxidation ponds, and wastewater treatment facilities. Rule 22.3.7.4 requires noise sensitive activities to be acoustically insulated where they are located close to the airport, Huntly Power Station, or the Waikato gun club. The principle of requiring setbacks as a tool for managing reverse sensitivity is therefore established in the Proposed Plan (and carried over from the Operative Plan).
46. I agree that setbacks can be a valid and effective tool in managing reverse sensitivity issues. I also agree that strategic infrastructure and established, regionally significant industry or facilities should be able to continue to operate without undue constraint, reflecting the large sunk capital cost in these facilities and the benefits that they bring to the wider community. Such direction is also contained in the WRPS. In principle I am therefore open to the use of setbacks as a tool being extended to other infrastructure and facilities beyond those listed in the notified rules.
47. Whilst agreeing with the principle of such a tool being valid, s32 requires an assessment of the costs and benefits of additional regulation, which is necessarily informed by an understanding of both the geographic extent of new rules and the degree to which they limit (or impose costs on) landowners. A number of the above submitters have sought additional setbacks from their respective networks, facilities, or factories, however the submissions have generally lacked detailed evidence regarding either the geographic extent of the setbacks when applied to established infrastructure network or the facility in question, or a detailed rationale as to why the extent of the requested setback is necessary for managing effects. In the absence of such evidence I have recommended in the analysis of the setback rules later in this report that no additional setbacks be imposed.
48. This is however something of an interim position. I am very open to considering evidence that clearly justifies the rationale for the setback, that demonstrates that the benefits of these setbacks outweighs the costs, and that they are effective and efficient tools for managing risks to the specific effects generated by existing infrastructure and facilities. I anticipate that where such evidence is provided by submitters I will be better able to provide an informed response via a rebuttal statement.

Transpower provisions

49. Waikato District Council [697] have sought to include a bespoke set of rules controlling earthworks and building in close proximity to Transpower's national transmission network. I understand that the Council's submission sought similar provisions be inserted in every zone.
50. The Council's submission has been opposed in further submissions by Transpower [FS1350] who have sought that a single set of provisions be included in the Plan that apply over all zones rather than repeated in every chapter. My understanding of the National Planning Standards ('NPS') is that all rules relevant to infrastructure are to be contained in the one

location in District Plans. As such the structural outcomes sought by Transpower appears to better align with the NPS.

51. The decision as to where such rules are best located is equally valid for the setback rules controlling sensitive activities and infrastructure more generally. It may be that these rules are therefore also ultimately located within Chapter 14.
52. I agree that the provisions sought by Council controlling earthworks and building near the transmission network are a valid tool and should be included in the District Plan (and likewise I understand that Transpower are not opposing such rules). Given their length, and their likely location in another section of the Plan, I have not shown these rules in the recommended text amendments as ultimately I do not consider that the Rural Chapter is the best place for them. I have however included a **yellow highlighted** note at the end of the relevant rules on earthworks and buildings so that the need for such provisions does not get overlooked. The same yellow highlighting tool is used where details such as decision dates need to be added to the final rule text.

Mercury Energy Further Submissions

53. Mercury Energy [FS1223, 1386, 1387, and 1388] has lodged numerous further submissions in blanket opposition to original submissions on the grounds that it is not clear how effects from flooding would be managed. I consider them to be irrelevant to the matters considered in this report, noting that natural hazards and associated provisions form Stage 2 of the District Plan Review process. These further submissions are recorded under the relevant points and my recommendations on them are recorded in Appendix I, but there is no further discussion of the Mercury further submissions in this report.

‘Out of zone activities’ - Overview

54. Zoning as a town planning tool is inherently somewhat blunt insofar as the majority of zones invariably contain long-established activities that do not fit neatly within the range of activities generally anticipated by the zone. In residential zones such activities can include facilities such as petrol stations, churches, and small industrial businesses. The Rural Zone is no different in that as well as a range of activities that are reasonably anticipated in a rural zone, there are also a number of long-established facilities that do not fit neatly within the policy outcomes sought for the rural environment. Given that these facilities are existing, and often represent significant capital value in buildings and infrastructure, and likewise often provide a valued service or function for the community, it is important that their ongoing operation (and potentially modest expansion and adaptation) is provided for in some way through the District Plan
55. In designing District Plans, there are typically four options or tools available, namely:
 - 1) Do not recognise or provide for them at all, with the facility left to rely on existing use rights (within the limitations set out in s10 RMA), or any existing resource consents;
 - 2) Scheduling, whereby the site retains the underlying zoning (in this case rural), but is specifically identified on a list of ‘out of zone’ activities, and is subject to bespoke rules for that facility;
 - 3) Change of Zone, whereby either the site is better suited to one of the other zones in the District Plan, or alternatively a specific zone is designed for that facility;

- 4) The rural zoning is retained, but specific policies and rules are inserted into the rural zone to recognise and provide for that facility.
56. Submitters that are representing existing facilities that do not neatly align with the range of activities typically experienced in the Rural Zone include:
- Dilworth Trust Board [577] – representing Dilworth boarding school;
 - Meremere Dragway Inc [791];
 - Dairy NZ [639] and the Livestock Improvement Corporation [637] - representing two agricultural research campuses;
 - Tamahere Trust [765] – Tamahere Eventide village;
 - Tamahere Trust [769] – Atawhai Assisi Village;
 - Sanderson Group Ltd [775] – Tamahere Country Club
57. The Operative Plan included scheduling as a tool, with the majority of these facilities included in those schedules. The Proposed Plan does not use scheduling. Instead Dilworth School and the retirement villages are not provided for (and therefore are reliant on the generic rural zone provisions), Meremere Dragway has its own policy and rule imbedded in the generic rural zone provisions, and the agricultural research centres have their own policies and bespoke set of rules as a 'specific area' within the Rural Zone chapter.
58. The submitters have generally sought a return to the Operative Plan approach of scheduling, and the associated Operative Plan rule package with which the submitters are familiar. Ultimately the Panel will need to determine which of the above possible tools is the best fit for each facility. This is a decision which may not be able to be made until after the hearings on submissions seeking rezoning. As an example, several of the retirement villages are located on the edge of existing townships and share a boundary with a Residential or Country Living Zone. It may be that ultimately an urban zoning to match the adjacent township zones is a better fit than the Rural Zone. Likewise for Meremere Dragway it may be a better fit to align it with the Motorsport and Recreation Zone that applies to Hampton Downs, with amendments to match the scale and nature of the Meremere facility. It is therefore anticipated that submissions relating to these facilities will be considered in both this hearing and the future hearing on rezoning
59. In the event that the Panel decide to retain the notified Plan approach for these facilities, I have considered the submissions and made recommendations on the basis that they remain in the Rural Zone.

3 Consideration of submissions received

Overview of submissions

60. There are 160 submissions and 82 further submissions from separate parties that will be addressed within this report. These submissions cover hundreds of individual submission points. As such the assessment has necessarily been grouped around common themes, and the level of discussion relative to every individual submission is therefore necessarily somewhat constrained. The submissions cover a wide range of issues, although there are

some matters which are subject to a number of submissions and/or contain common themes, such as:

- The need for greater clarity as to the outcomes and purpose of the Rural Zone at a policy level, particularly regarding character and dwelling density outcomes;
 - The need to provide for typical farming activities;
 - The need to provide for a range of non-farming activities that nonetheless are common elements in rural environments;
 - The need to manage the particular issues that arise from intensive farming and aggregate extraction, whilst recognising that these industries must inherently locate within rural environments;
 - The need to provide for long-established infrastructure and facilities and the protection of them from reverse sensitivity issues;
 - A rule package that enables typical farming buildings, structures, and noise whilst managing effects on the amenity of neighbours;
61. “All of Plan” submissions have been addressed in Hearing Report 2, which can be found via the council website link below, or found under Proposed DP - Stage 1 - Hearings - Hearing 2 - Council s42a report³.

Structure of this report

62. As noted above, this report is structured such that it begins with an integrated assessment of the key objectives and policies that address the anticipated outcomes and character for the Rural Zone. The report then considers each of the key issues in turn, generally following the order that they appear in the Rural Zone policies.

4 Rural Zone – overarching Objectives and Policies

Rural – Objective 5.1.1 – The Rural Environment

Introduction

63. Chapter 5 Rural Environment begins with a note that Objective 5.1.1 is the strategic objective for the rural environment and has primacy over all other objectives in Chapter 5. The note therefore establishes a clear hierarchy, with this first objective critical in setting the key outcomes for the rural environment.

Submissions

64. Twenty one submissions were received on the objective, with sixteen being supportive of the objective and seeking its retention and five submissions seeking amendments, including explicit reference to mineral extraction.

Submission point	Submitter	Summary of submission
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³ https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/hearings/hearing-2/section-42a-reports/hearing-2---s42a-report---plan-structure-and-all-of-plan.pdf?sfvrsn=bc40185a_8

697.555	Waikato District Council	Amend Chapter 5 Rural Environment navigation box as follows: The following objectives and policies apply to the Rural Zone. Specific policies apply to <u>Hamilton's Urban Expansion Area (Objective 5.5.1 and Policies 5.5.1 and 5.5.2)</u> and the following Specific Areas: <ul style="list-style-type: none"> • Agricultural Research Centres (Policy 5.3.16) • Huntly Power Station Coal and Ash Water (Policy 5.3.17) • Whaanga Coast Development Areas (Policy 5.3.18); <u>and</u> • <u>Hamilton's Urban Expansion Area (Objective 5.5.1 and Policies 5.5.1 and 5.5.2)</u>
<i>FS1387.6069</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 697.555</i>
12.6	Carl Ammon	Add more policy like Chapter 5 Rural Environment.
<i>FS1386.8</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 12.6</i>
164.3	Hiini Kepa	No specific decision sought, but submission states support for Chapter 5 Rural Environment.
<i>FS1386.141</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 164.3</i>
<i>FS1210.7</i>	<i>Ara Poutama Aotearoa (Department of Corrections)</i>	<i>Not stated</i>
330.56	Andrew and Christine Gore	No specific decision sought, however submission refers to Chapter 5 Rural Environment.
<i>FS1386.437</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 330.56</i>
579.90	Simon Ash for Lakeside Developments 2017 Limited	No specific decision sought, but submission generally supports the objectives and policies relating to Rural development (Chapter 5 Rural Environment).
<i>FS1087.14</i>	<i>Ports of Auckland Limited</i>	<i>Support submission point 579.90</i>
514.2	DP & LJ Ramsey Limited	Retain Objective 5.1.1 The rural environment, as notified.
<i>FS1388.547</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 514.2</i>
<i>FS1062.65</i>	<i>Andrew and Christine Gore</i>	<i>Oppose submission 514.2</i>
693.2	Alstra (2012) Limited	Retain Objective 5.1.1 The Rural Environment as notified.
<i>FS1387.372</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 693.2</i>
777.1	Radio New Zealand Limited	Retain Objective 5.1.1 The rural environment, especially Objective 5.1.1(a)(iii), except for the amendments sought below; AND Amend 5.1.1 Objective - The rural environment as follows: Subdivision, use and development <u>is provided for</u> within the rural environment where: ...
<i>FS1387.1173</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 777.1</i>

695.50	Sharp Planning Solutions Ltd	No specific decision sought with regards to Objective 5.1.1(a)(i) The rural environment, but the submission states that the matter of high class soils fragmentation could be fully solved/avoided by: Ensuring any Rural Zoned lots over 20ha can undertake a transferable rural lot subdivision; and On lesser sized Rural Zones land where high class soils exist, enabling a rural lot transfer option. AND Council should reconsider the exclusion of transferable rural lot rights.
FS1387.312	Mercury NZ Limited for Mercury D	Oppose submission 695.50
FS1379.263	Hamilton City Council	Oppose submission 695.50
FS1138.16	Glenn Michael Soroka and Louise Claire Meredith as Trustees of the Pakau Trust	Support submission 695.50
FS1138.14	Glenn Michael Soroka and Louise Claire Meredith as Trustees of the Pakau Trust	Support submission 695.50
FS1129.19	Auckland Council	Oppose submission 695.50
794.11	Middlemiss Farm Holdings Limited on behalf of	Amend Objective 5.1.1 The rural environment as follows: Objective 5.1.1 is the strategic objective for the rural environment and has primacy over all other objectives in Chapter 5. (a) Subdivision, use and development within the rural environment where: (i) high class soils are protected for productive rural activities; (ii) productive rural activities are supported, while maintaining and enhancing the rural environment; (iii) urban subdivision, use and development in the rural environment is avoided, <u>and other subdivision is managed.</u> AND Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.
FS1375.5	Radio New Zealand	Oppose submission 794.11
FS1387.1243	Mercury NZ Limited for Mercury D	Oppose submission 794.11
797.11	Fonterra Limited	Retain Objective 5.1.1 The Rural environment as notified.
FS1387.1262	Mercury NZ Limited for Mercury D	Oppose submission 797.11
81.210	Waikato Regional Council	Amend Objective 5.1.1(a)(i) The rural environment to incorporate peat soils as follows (for example): high class soils <u>and peat soils</u> are protected for productive rural activities.
827.41	New Zealand Steel Holdings Ltd	Amend Objective 5.1.1(a)(ii) The rural environment as follows (or words to similar effect):

		(ii) productive rural activities and other activities including mineral extraction are supported... AND Any other further or consequential amendments required.
<i>FS1198.23</i>	<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>Support submission 827.41</i>
923.81	Waikato District Health Board	Retain Objective 5.1.1- The Rural environment as notified.
<i>FS1387.1517</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 923.81</i>
509.1	Denise and Harold Williams	Retain Objective 5.1.1 The rural environment, as notified.
<i>FS1062.51</i>	<i>Andrew and Christine Gore</i>	<i>Oppose submission 509.1</i>
<i>FS1388.522</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 509.1</i>
513.1	Vanoo Limited	Retain Objective 5.1.1 The rural environment as notified.
<i>FS1062.54</i>	<i>Andrew and Christine Gore</i>	<i>Oppose submission 513.1</i>
<i>FS1388.539</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 513.1</i>
517.1	Amanda and Brian Billington	Retain Objective 5.1.1 The rural environment, as notified.
<i>FS1388.565</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 517.1</i>
746.100	The Surveying Company	Retain Objective 5.1.1- The rural environment as notified.
<i>FS1062.102</i>	<i>Andrew and Christine Gore</i>	<i>Oppose submission 746.100</i>
<i>FS1387.970</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 746.100</i>
873.1	Anita Moleta & Penny Gooding	Retain Objective 5.1.1 The rural environment, as notified.
<i>FS1387.1430</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 873.1</i>
874.1	Louise & Tony Cole	Retain Objective 5.1.1 The rural environment, as notified.
<i>FS1387.1437</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 874.1</i>
972.1	Mark Scobie	Retain Objective 5.1.1 The rural environment, as notified.
<i>FS1387.1608</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 972.1</i>
982.1	Joanna & Kevin Sands	Retain Objective 5.1.1 The rural environment, as notified.
<i>FS1387.1616</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 982.1</i>
985.1	Neil Crispe for Koch Farms Limited	Retain Objective 5.1.1 The rural environment as notified.
<i>FS1076.19</i>	<i>New Zealand Pork Industry Board</i>	<i>Support submission 985.1</i>
<i>FS1387.1625</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 985.1</i>

Analysis

65. Chapter 5 for the Rural Environment begins with an instructional note as to how the objectives and policies are structured. Waikato District Council [697.555] has sought a minor change to how this note is structured. I agree that the proposed wording better communicates how the objectives and policies are arranged, and that the introduction should be amended as sought by the submitter:
-
66. The Proposed Plan structure is unusual in that it includes a note that the opening objective for the Rural Chapter is the strategic objective for that chapter, rather than forming part of the wider district plan strategic objectives section. Submissions on the separate strategic objectives chapter were heard near the start of the Distinct Plan review process, with the proposed provisions largely silent on the rural environment. I note that some of those submissions sought a separate section in the Plan for strategic objectives - an approach that aligns with the National Planning Standards.
67. The proposed strategic, scene-setting, objective is as follows:
Subdivision, use and development within the rural environment where:
- (i) *High class soils are protected for productive rural activities;*
 - (ii) *Productive rural activities are supported, while maintaining or enhancing the rural environment;*
 - (iii) *Urban subdivision, use and development in the rural environment is avoided.*
68. These three strategic outcomes have been largely supported in submissions. No submissions seek their deletion or propose significant rewording or a change in focus. The five submissions seeking amendments are:
69. Radio NZ [777.1] seek a minor amendment to improve grammar and to more positively frame the objective as providing for subdivision, use, and development where the following three sub-clauses are met. I agree that the wording sought by the submitter improves understanding and better articulates the objective's purpose. The amendment sought by Radio NZ achieves similar ends to a separate amendment sought by Middlemiss Farm Holdings Ltd [794.11] to sub-clause (iii), to include reference to 'other subdivision being managed' – in short, recognition that the chapter seeks to be enabling of rural-related activities and development, subject to appropriate management.
70. The Waikato Regional Council [81.210] seeks an amendment to sub-cause (i) to include reference to peat soils. Whilst peat soils can be versatile, they are different from high class soils, which are the primary focus of the objective. The matter of productive soils is discussed in more detail below in the policies that have a specific focus on that matter. From my reading of WRPS Policy 14.5 the focus for peat soil types is not on the need to maintain them for the value they provide to primary production, but rather is focussed on managing hazard risk caused by ground subsidence as peat soils dry out following development.
71. Sharp Planning Solutions [695.50] do not seek specific text changes but rather simply note that land fragmentation pressures could be reduced through greater use of transferable development rights. Transferable lots as a tool are discussed in more detail in the related report by Ms Overwater addressing rural subdivision.

72. Middlemiss Farm Holdings Ltd [794.11] seek to delete reference to “productive” as a precursor to rural activities in sub-clauses (i) and (ii). New Zealand Steel Holdings Ltd (827.41) seek that sub-clause (ii) be amended to include reference to “*productive rural activities and other activities including mineral extraction are supported...*”. I understand that the intent of these submissions is to recognise at a strategic objective level that the rural environment quite legitimately includes a range of activities that are not related solely to active farming activities. The subsequent policy and rule framework provide for a range of rural-related community activities, rural industry, and activities such as mineral extraction which are inherently located in rural environments. I agree that the scope of the chapter, and the outcomes sought for the rural environment, are broader than simply farming, and that it is therefore appropriate for the objective to recognise the need to support a wider range of activities that are anticipated in the rural environment, whilst not threatening the strategic directions regarding urban growth management. It is noted that clause (ii) remains subject to the need to maintain or enhance the rural environment, and likewise complements clause (iii), which seeks to avoid urban development.
73. Middlemiss Farm Holdings also seek that Clause (iii) which provides direction to avoid urban forms of subdivision should also provide direction that other forms of subdivision are to be managed. I agree that the later specific policies (and rules) do enable more rural forms and densities of subdivision and development. These more enabling and anticipated forms of development are in my view captured in Clause (ii) which seeks to support productive rural activities, along with a range of other types of development that are anticipated in the rural environment. As such I do not consider any further amendments to Clause (iii) to be necessary, which enables this third clause to retain a very clear and directive purpose that is firmly focussed on aligning with the Strategic growth management direction of consolidating urban development in and around existing townships.

Recommendations and amendments

74. It is recommended that the introduction to Chapter 5 be amended as follows:

The following objectives and policies apply to the Rural Zone.

Specific policies apply to ~~Hamilton’s Urban Expansion Area (Objective 5.5.1 and Policies 5.5.1 and 5.5.2)~~ and the following Specific Areas:

- Agricultural Research Centres (Policy 5.3.16)
- Huntly Power Station Coal and Ash Water (Policy 5.3.17)
- Whaanga Coast Development Areas (Policy 5.3.18); and
- Hamilton’s Urban Expansion Area (Objective 5.5.1 and Policies 5.5.1 and 5.5.2)

75. It is recommended that Strategic Objective 5.1.1 be amended as follows:

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

- (i) High class soils are protected for productive rural activities;
- (ii) Productive rural activities, rural industry, network infrastructure, community 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.

Section 4.2

Rural Objective 5.2.1 and Policies 5.2.2 and 5.2.3 – Productive versatility of rural resources

Introduction

76. The first sub-clause of the strategic rural objective 5.1.1 relates to the protection of high class soils. The Proposed Plan then seeks to provide further direction on soils (and other natural features) through Objective 5.2.1 and two associated policies, namely Policy 5.2.2 relating to high class soils and Policy 5.2.3 relating to the effects of subdivision and subsequent development on soil.

Submissions

77. The package of one objective and two policies received considerable support through submissions. Forty submissions were received in support of the objective (subject to a minor text amendment), with only one submission seeking its deletion and three seeking amendments.

78. Policy 5.2.2 likewise received forty one submissions in support, with one in opposition, and one seeking an amendment. Policy 5.2.3 received fourteen submissions in support (some seeking a minor text amendment), and three seeking amendments. No submissions were received opposing the policy.

Submission point	Submitter	Summary of submission
Objective 5.2.1 – Rural Resources		
311.2	Harpal Singh-Sandu	Retain Objective 5.2.1 Rural resources.
<i>FS1386.372</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 311.2</i>
724.14	Sue Robertson for Tamahere Community Committee	Retain Chapter 5: Rural Environment provisions which address the protection of quality soils so they remain for production of food.
<i>FS1387.807</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 724.14</i>
332.3	Gwyneth & Barrie Smith	Retain Objective 5.2.1 Rural resources, except for the amendment sought below AND Amend Objective 5.2.1 Rural resources as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
<i>FS1386.458</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 332.3</i>
<i>FS1138.18</i>	<i>Glenn Michael Soroka and Louise Claire Meredith as Trustees of the Pakau Trust</i>	<i>Support submission 332.3</i>
355.2	Scott & Tina Ferguson	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1(a)(i) Rural resources as follows:

		(a) Maintain or enhance the: (i) Inherent life-supporting capacity, accessibility and versatility of soils, in particular high class soils; ...
<i>FSI386.513</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 332.3</i>
362.3	CYK Limited	Retain Objective 5.2.1 (a)(i) Rural Resources, except for the amendments sought below AND Amend Objective 5.2.1 (a)(i) Rural Resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, accessibility and versatility of soils, in particular...
<i>FSI386.524</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 362.3</i>
364.2	Michael Innes	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1(a)(i) Rural resources, as follows: Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
<i>FSI386.536</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 364.2</i>
433.1	Mischa Davis for Auckland Waikato Fish and Game Council	Amend Objective 5.2.1 (a) Rural resources, as follows: (a) Maintain or <u>and where required</u> , enhance the: ... (iv) Life-supporting <u>characteristics</u> and intrinsic natural characteristics <u>values of ecosystems</u> of water bodies and coastal waters and the catchments between them; (v) <u>The ecological health of fresh water bodies and ground water, including their catchments and connections.</u> AND/OR Any alternative relief to address the issues and concerns raised in the submission.
<i>FSI083.1</i>	<i>Ryburn Lagoon Trust Limited</i>	<i>Support submission 433.1</i>
<i>FSI330.37</i>	<i>Middlemiss Farm Holdings Limited</i>	<i>Support submission 433.1</i>
507.2	Whitford Farms Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 (a) (i) Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
<i>FSI388.514</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 507.2</i>
509.2	Denise and Harold Williams	Retain Objective 5.2.1 Rural resources, except for the amendment sought below

		AND Amend Objective 5.2.1 Rural resources. as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
<i>FSI 388.523</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 509.2</i>
512.2	Enton Farms Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the: (i) 333Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils....
<i>FSI 388.532</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 512.2</i>
513.2	Vanoo Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;...
<i>FSI 062.55</i>	<i>Andrew and Christine Gore</i>	<i>Oppose submission 513.2</i>
<i>FSI 388.540</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 513.2</i>
514.3	DP & LJ Ramsey	Retain Objective 5.2.1 (a)(i) Rural resources, except for the amendments sought below AND Amend Objective 5.2.1(a)(i) Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
<i>FSI 388.548</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 514.3</i>
516.2	Anthony and Maureen Vazey	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
<i>FSI 388.558</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 516.2</i>
517.2	Amanda and Brian Billington	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the:

		(i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
FSI 388.566	Mercury NZ Limited for Mercury E	Oppose submission 517.2
519.2	B and N Balle Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
FSI 388.574	Mercury NZ Limited for Mercury E	Oppose submission 519.2
520.2	Finlayson Farms Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
FSI 388.582	Mercury NZ Limited for Mercury E	Oppose submission 520.2
521.2	Max and Denise Irwin for A Irwin & Son Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
FSI 388.591	Mercury NZ Limited for Mercury E	Oppose submission 521.1
522.2	Joy & Wayne Chapman	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
FSI 388.600	Mercury NZ Limited for Mercury E	Oppose submission 522.2
523.2	R & B Litchfield Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
FSI 388.608	Mercury NZ Limited for Mercury E	Oppose submission 523.2

526.2	Roy & Lesley Wright	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
<i>FSI 388.637</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 526.2</i>
527.2	Mark Scobie	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
<i>FSI 388.643</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 527.2</i>
529.3	Wilcox Properties Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
<i>FSI 388.651</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 529.3</i>
530.2	John Van Lieshout	Retain Objective 5.2.1 Objective - Rural Resources, except for the amendment sought below AND Amend Objective 5.2.1 Rural Resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
532.2	Joanne & Kevin Sands	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 (a)(i) Rural Resources as follows: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
<i>FSI 388.667</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 532.2</i>
533.2	Colin & Rae Hedley	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 (a)(i) Rural Resources, as follows: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
<i>FSI 388.675</i>	<i>Mercury NZ Limited for</i>	<i>Oppose submission 533.2</i>

	<i>Mercury E</i>	
536.2	LJ & TM McWatt Limited	Retain Objective 5.2.1 Rural resource, except for the amendments sought below AND Amend Objective 5.2.1(a)(i) Rural Resources as follows: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
<i>FSI 388.722</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 536.2</i>
539.2	Garyowen Properties (2008) Limited	Retain Objective 5.2.1 Rural resources, except for the amendment sought below; AND Amend Objective 5.2.1 (a)(i) Rural Resources as follows: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
<i>FSI 388.731</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 539.2</i>
540.3	Glen Alvon Farms Limited	Retain Objective 5.2.1 Rural Resources, except for the amendments sought below; AND Amend Objective 5.2.1 (a) (i)- Rural Resources as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
<i>FSI 388.739</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 540.3</i>
544.2	KR & BC Summerville	Retain Objective 5.2.1 Rural Resources, except for the amendments sought below; AND Amend Objective 5.2.1 Rural Resources (a)(i) as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
<i>FSI 388.757</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 544.2</i>
686.3	Reid Crawford Farms Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below; AND Amend Objective 5.2.1 (a) (i) Rural resources as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
<i>FSI 387.260</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 686.3</i>
872.2	Tarati Farms Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below; AND Amend Objective 5.2.1(a)(i) Rural resources, as follows: (a) Maintain or enhance the:

		(i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
FSI387.1424	Mercury NZ Limited for Mercury D	Oppose submission 872.2
873.2	Anita Moleta & Penny Gooding	Retain Objective 5.2.1 Rural Resources, except for the amendments sought below AND Amend 5.2.1 (a)(i) Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils; ...
FSI387.1431	Mercury NZ Limited for Mercury D	Oppose submission 873.2
874.2	Louise & Tony Cole	Retain Objective 5.2.1 Rural Resources, except for the amendments sought below; AND Amend 5.2.1 (a)(i) Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils; ...
FSI387.1438	Mercury NZ Limited for Mercury D	Oppose submission 874.2
972.2	Mark Scobie	Retain Objective 5.2.1 Rural Resources, except for the amendments sought below; AND Amend Objective 5.2.1 (a)(i) Rural resources, as follows: "(a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils; "
FSI387.1609	Mercury NZ Limited for Mercury D	Oppose submission 972.2
982.2	Joanne & Kevin Sands	Retain Objective 5.2.1 Rural resources, except for the amendments sought below; AND Amend Objective 5.2.1 (a)(i) Rural Resources, as follows: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils;
FSI387.1617	Mercury NZ Limited for Mercury D	Oppose submission 982.2
985.2	Neil Crispe for Koch Farms Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Amend Objective 5.2.1 Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
FSI387.1626	Mercury NZ Limited for Mercury D	Oppose submission 985.2
419.93	Jordyn Landers for	Retain Objective 5.2.1 Rural resources, as notified.

	Horticulture New Zealand	
FSI 388.221	Mercury NZ Limited for Mercury E	Oppose submission 419.93
466.41	Brendan Balle for Balle Bros Group Limited	Retain Objective 5.2.1 Rural resources as notified.
FSI 388.421	Mercury NZ Limited for Mercury E	Oppose submission 466.41
535.29	Lance Vervoort for Hamilton City Council	Retain Objective 5.2.1 Rural resources.
FSI 388.702	Mercury NZ Limited for Mercury E	Oppose submission 535.29
680.57	Federated Farmers of New Zealand	Delete Objective 5.2.1 Rural resources. AND Any consequential changes necessary to give effect to the relief sought and/or concerns raised in the submission
FSI 171.71	Phoebe Watson for Barker & Associates on behalf of T&G Global	Oppose submission 680.57
FSI 387.168	Mercury NZ Limited for Mercury D	Oppose submission 680.57
FSI 168.52	Horticulture New Zealand	Support submission 680.57
FSI 379.244	Hamilton City Council	Oppose submission 680.57
794.12	Middlemiss Farm Holdings Limited on behalf of	Retain Objective 5.2.1 Rural resources.
FSI 387.1244	Mercury NZ Limited for Mercury D	Oppose submission 794.12
797.12	Fonterra Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below AND Delete Objective 5.2.1 (a)(iii) Rural resources. AND Any consequential amendments and/or further relief to give effect to the concerns raised in the submission.
FSI 387.1263	Mercury NZ Limited for Mercury D	Oppose submission 797.12
FSI 139.29	Turangawaewae Trust Board	Oppose submission 797.12
FSI 108.30	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose submission 797.12
81.212	Waikato Regional Council	Amend Objective 5.2.1 Rural resources wording to incorporate peat soils.
FSI 223.51	Mercury NZ Limited	Support submission 81.212
81.213	Waikato Regional Council	Amend Objective 5.2.1 (a)(ii) Rural resources as follows: The health and wellbeing of rural land and natural ecosystems <u>and biodiversity</u> ;
FSI 223.52	Mercury NZ Limited	Support submission 81.213
923.82	Waikato District Health	Retain Objective 5.2.1- Rural resources as notified.

	Board	
FS1387.1518	Mercury NZ Limited for Mercury D	Oppose submission 923.82
872.2	Tarati Farms Limited	Retain Objective 5.2.1 Rural resources, except for the amendments sought below; AND Amend Objective 5.2.1(a)(i) Rural resources, as follows: (a) Maintain or enhance the: (i) Inherent life-supporting capacity, <u>accessibility</u> and versatility of soils, in particular high class soils...
FS1387.1424	Mercury NZ Limited for Mercury D	Oppose submission 827.2
Policy 5.2.2 – High Class Soils		
332.4	Gwyneth & Barrie Smith	Retain Policy 5.2.2 High class soils.
355.3	Scott & Tina Ferguson	Retain Policy 5.2.2. High class soils, as notified.
362.4	CYK Limited	Retain Policy 5.2.2 High Class Soils.
364.3	Michael Innes	Retain Policy 5.2.2. High class soils.
507.3	Whitford Farms Limited	Retain Policy 5.2.2 High class soils, as notified.
509.3	Denise and Harold Williams	Retain Policy 5.2.2 High class soils, as notified.
512.3	Enton Farms Limited	Retain Policy 5.2.2 High class soils, as notified.
513.3	Vanoo Limited	Retain Policy 5.2.2 High class soils as notified.
FS1062.56	Andrew and Christine Gore	Oppose submission 513.3
514.4	DP & LJ Ramsey Limited	Retain Policy 5.2.2 High class soils, as notified.
516.3	Anthony and Maureen Vazey	Retain Policy 5.2.2 High class soils, as notified.
517.3	Amanda and Brian Billington	Retain Policy 5.2.2 High class soils, as notified.
519.3	B and N Balle Limited	Retain Policy 5.2.2 High class soils, as notified.
520.3	Finlayson Farms Limited	Retain Policy 5.2.2 High class soils, as notified.
521.3	Max and Denise Irwin for A Irwin & Son Limited	Retain Policy 5.2.2 High class soils, as notified.
FS1388.592	Mercury NZ Limited for Mercury E	Oppose submission 521.3
522.3	Joy & Wayne Chapman	Retain Policy 5.2.2 High class soils, as notified.
523.3	R & B Litchfield Limited	Retain Policy 5.2.2 High class soils, as notified.
526.3	Roy & Lesley Wright	Retain Policy 5.2.2 High class soils, as notified.
527.3	Mark Scobie	Retain Policy 5.2.2 High class soils, as notified.
529.4	Wilcox Properties Limited	Retain Policy 5.2.2 High class soils, as notified.
530.3	John Van Lieshout	Retain Policy 5.2.2 Policy - High class soils as notified.
532.3	Joanne & Kevin Sands	Retain Policy 5.2.2 High class soils as notified.
533.3	Colin & Rae Hedley	Retain Policy 5.2.2 High class soils, as notified.
536.3	LJ & TM McWatt Limited	Retain Policy 5.2.2 High class soils as notified.
539.3	Garyowen Properties (2008)	Retain Policy 5.2.2 High class soils, as notified.

	Limited	
540.4	Glen Alvon Farms Limited	Retain Policy 5.2.2 High class soils.
544.3	KR & BC Summerville	Retain Policy 5.2.2 High class soils as notified.
686.4	Reid Crawford Farms Limited	Retain Policy 5.2.2-High class soils, as notified.
872.3	Tarati Farms Limited	Retain Policy 5.2.2 High class soils, as notified.
873.3	Anita Moleta & Penny Gooding	Retain Policy 5.2.2 High Class Soils, as notified.
874.3	Louise & Tony Cole	Retain Policy 5.2.2 High Class Soils, as notified.
972.3	Mark Scobie	Retain Policy 5.2.2 High Class Soils, as notified.
982.3	Joanne & Kevin Sands	Retain Policy 5.2.2 High class soils, as notified.
985.3	Neil Crispe for Koch Farms Limited	Retain Policy 5.2.2 High class soils as notified.
372.26	Steve van Kampen for Auckland Council	Retain Policy 5.2.2. High class soils.
<i>FS1330.24</i>	<i>Middlemiss Farm Holdings Limited</i>	<i>Oppose submission 372.26</i>
419.54	Jordyn Landers for Horticulture New Zealand	Retain Policy 5.2.2 High class soils, as notified.
<i>FS1171.35</i>	<i>Phoebe Watson for Barker & Associates on behalf of T&G Global</i>	<i>Support submission 419.54</i>
466.42	Brendan Balle for Balle Bros Group Limited	Retain Policy 5.2.2 High class soils as notified.
535.30	Lance Vervoort for Hamilton City Council	Retain Policy 5.2.2 High class soils.
680.58	Federated Farmers of New Zealand	Delete Policy 5.2.2 (b) High class soils. AND Any consequential changes needed to give effect to this relief.
<i>FS1379.245</i>	<i>Hamilton City Council</i>	<i>Null</i>
<i>FS1171.72</i>	<i>Phoebe Watson for Barker & Associates on behalf of T&G Global</i>	<i>Disallow the submission.</i>
<i>FS1168.53</i>	<i>Horticulture New Zealand</i>	<i>Allow the submission to the extent that b) is deleted.</i>
794.13	Middlemiss Farm Holdings Limited on behalf of	Amend Policy 5.2.2 High class soils as follows: (a) Soils, in particular high class soils, are retained for their primary -productive value. (b) Ensure the adverse effects of activities do not compromise the physical, chemical and biological properties of high class soils. AND Add the distinction between "elite" and "prime" high class soils into the Proposed District Plan (similar to the Auckland Unitary Plan) to better manage soil resources, including appropriate changes to the objectives, policies and rules. AND

		Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.
797.13	Fonterra Limited	Retain Policy 5.2.2 High class soils as notified.
81.214	Waikato Regional Council	Retain Policy 5.2.2 High class soils.
<i>FS1062.15</i>	<i>Andrew and Christine Gore</i>	<i>Seek to disallow submission point 81.214.</i>
923.83	Waikato District Health Board	Retain Policy 5.2.2- High class soils as notified.
Policy 5.2.3 – Effects of subdivision and development on soils		
311.3	Harpal Singh-Sandhu	Retain Policy 5.2.3 Effects of subdivision and development on soils.
<i>FS1386.373</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 311.3</i>
332.5	Gwyneth & Barrie Smith	Retain Policy 5.2.3 Effects of subdivision and development on soils, except for the amendment sought below AND Amend Policy 5.2.3 Effects of subdivision and development on soils as follows: (b) Subdivision which provides a range of lifestyle options is directed away from high class soils and/or where indigenous biodiversity is being protected, <u>enhanced</u> , and/or restored (with plantings).
<i>FS1386.459</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 332.5</i>
362.5	CYK Limited	Retain Policy 5.2.3 (b) Effects of subdivision and development on soils, except for the amendments sought below AND Amend Policy 5.2.3 (b) Effects of subdivision and development on soils, as follows: (b) Subdivision which provides a range of lifestyle options is directed away from high class soils and/or where indigenous biodiversity is being protected, <u>enhanced</u> , and/or restored (with plantings).
<i>FS1386.525</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 362.5</i>
514.5	DP & LJ Ramsey Limited	Retain Policy 5.2.3 Effects of subdivision and development on soils. AND Amend Policy 5.2.3(b) Effects of subdivision and development on soils, as follows: Subdivision which provides a range of lifestyle options is directed away from high class soils and/or where indigenous biodiversity is being protected, <u>enhanced</u> , and/or restored (with plantings).
<i>FS1388.549</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 514.5</i>
529.5	Wilcox Properties Limited	Retain Policy 5.2.3 Effects of subdivision and development on soils, except for the amendments sought below AND

		Amend Policy 5.2.3. (b) Effects of subdivision and development on soils, as follows: (b) Subdivision which provides a range of lifestyle options is directed away from high class soils and/ or where indigenous biodiversity is being protected, <u>enhanced</u> , and/or restored (with plantings).
FSI 388.652	Mercury NZ Limited for Mercury E	Oppose submission 529.5
540.5	Glen Alvon Farms Limited	Retain Policy 5.2.3 Effects of subdivision and development on soils, except for the amendment sought below; AND Amend Policy 5.2.3- effects of subdivision and development on soils as follows: (b) Subdivision which provides a range of lifestyle options is directed away from high class soils and/or where indigenous biodiversity is being protected, <u>enhanced</u> , and/or restored (with plantings).
FSI 388.740	Mercury NZ Limited for Mercury E	Oppose submission 540.5
544.4	KR & BC Summerville	Retain Policy 5.2.3 Effects of subdivision and development on soils, except for the amendments sought below; AND Amend Policy 5.2.3 (b) as follows: (b) Subdivision which provides a range of lifestyle options is directed away from high class soils and/or where indigenous biodiversity is being protected, <u>enhanced</u> , and/or restored (with plantings).
FSI 388.758	Mercury NZ Limited for Mercury E	Oppose submission 544.4
686.5	Reid Crawford Farms Limited	Retain Policy 5.2.3 Effects of subdivision and development on soils, except for the amendments sought below; AND Amend Policy 5.2.3 (b) Effects of subdivision and development on soils, as follows: (b) Subdivision which provides a range of lifestyle options is directed away from high class soils and/or where indigenous biodiversity is being protected, <u>enhanced</u> , and/or restored (with plantings).
FSI 387.261	Mercury NZ Limited for Mercury D	Oppose submission 686.5
419.55	Jordyn Landers for Horticulture New Zealand	Retain Policy 5.2.3 Effects of subdivision and development on soils, as notified.
FSI 171.36	Phoebe Watson for Barker & Associates on behalf of T&G Global	Support submission 419.55
FSI 388.202	Mercury NZ Limited for Mercury E	Oppose submission 419.55
466.43	Brendan Balle for Balle Bros Group Limited	Retain Policy 5.2.3 (a) Effects of subdivision and development on soils to avoid fragmentation. AND

		Amend Policy 5.2.3 (b) Effects of subdivision and development on soils to reflect that subdivision is directed away from high-class soils where viable primary production can occur.
FSI 168.54	Horticulture New Zealand	Support submission 466.43
FSI 388.422	Mercury NZ Limited for Mercury E	Oppose submission 466.43
535.31	Lance Vervoort for Hamilton City Council	Retain Policy 5.2.3 Effects of subdivision and development on soils as notified.
FSI 388.703	Mercury NZ Limited for Mercury E	Oppose submission 535.31
680.59	Federated Farmers of New Zealand	Amend Policy 5.2.3 (a) and (b) Effects of subdivision and development on soils, as follows: (a) Subdivision, use and development minimises the fragmentation of productive rural land, particularly where high class soils are located. (b) Subdivision which provides a range of lifestyle <u>and economic</u> options is <u>managed in a way that ensures rural resources, character and environmental values are retained</u> , directed away from high class soils and/ or where indigenous biodiversity is being protected. AND Any consequential changes needed to give effect to this relief.
FSI 387.169	Mercury NZ Limited for Mercury D	Oppose submission 680.59
FSI 379.246	Hamilton City Council	Oppose submission 680.59
FSI 171.73	Phoebe Watson for Barker & Associates on behalf of T&G Global	Support submission 680.59
FSI 308.102	The Surveying Company	Oppose submission 680.59
FSI 139.47	Turangawaewae Trust Board	Oppose submission 680.59
FSI 108.56	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose submission 680.59
794.34	Middlemiss Farm Holdings Limited on behalf of	Amend Policy 5.2.3 Effects of subdivision and development on soils as follows: (a) Subdivision, use and development minimises the fragmentation of productive rural land, particularly where high class soils are located. (b) Subdivision which provides a range of lifestyle options is directed away from high class soils and/or where indigenous biodiversity is being protected, <u>where practicable</u> . AND Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.
FSI 387.1256	Mercury NZ Limited for Mercury D	Oppose submission 794.34
FSI 308.134	The Surveying Company	Support submission 794.34

797.41	Fonterra Limited	Retain Policy 5.2.3 Effects of subdivision and development on soils as notified.
<i>FS1387.1278</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 797.41</i>
81.215	Waikato Regional Council	Retain Policy 5.2.3 Effects of subdivision and development on soils.
<i>FS1223.53</i>	<i>Mercury NZ Limited</i>	<i>Support submission 81.215</i>
923.84	Waikato District Health Board	Retain Policy 5.2.3- Effects of subdivision and development on soils as notified.
<i>FS1387.1519</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 81.215</i>
746.1	The Surveying Company	Retain Policy 5.2.3- Effects of subdivision and development on soils, except for the amendments sought below AND Amend Policy 5.2.3 (b)- Effects of subdivision and development on soils as follows: Subdivision which provides a range of lifestyle options is directed away from high class soils and/or where indigenous biodiversity is being protected, <u>enhanced, and/or restored (with plantings)</u> .
<i>FS1268.11</i>	<i>Jennie Hayman</i>	<i>Oppose submission 746.1</i>
<i>FS1293.53</i>	<i>Department of Conservation</i>	<i>Support submission 746.1</i>
<i>FS1387.902</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 746.1</i>

Analysis – Objective 5.2.1 – Rural resources

79. The WRPS direction regarding high class soils was set out earlier in this report and has a focus on protecting them for primary production. A National Policy Statement for Highly Productive Land ('NPS-HPL') is under development, with a draft released for submissions in October 2019. The draft provisions were subject to a wide range of feedback, which at the time of writing was still being considered by the Ministry for Primary Industries and the Ministry for the Environment. A revised version of the NPS-HPL is expected to be released in mid-2021 for consideration by the relevant Ministers. Given the timing of the NPS-HPL development, a finalised version is not expected to be in place when the Panel are making their decisions, and as such is a matter that does not have any statutory weight.
80. There is therefore currently no NPS that the district plan is required to give effect to on the topic of versatile soils. The draft NPS-HPL does nonetheless provide a preliminary indication of the key issues, and it is efficient to be mindful of this likely direction to minimise the likelihood of having to undertake a further plan change soon after decisions are released. The draft NPS-HPL in summary requires councils, through their district plans, to identify 'highly productive land', with the Land Use Capability 1-3 soils ('LUC') being used as the default assessment for the extent of such soils. In the Waikato District LUC 1-3 covers much of the district. Having identified highly productive land, such areas are to be maintained for primary production. The NPS recognises that there is a tension between these outcomes and urban growth objectives that will need to be balanced when rezoning proposals are considered. In essence, the draft NPS seeks to raise the profile and importance of maintaining the productive potential of versatile soils as a matter to consider when setting district plan frameworks.

81. The Proposed Plan rural policy framework aligns with the broad direction in both the WRPS and the draft NPS-HPL by placing an emphasis on maintaining the productive potential of soil as a key matter in both the overarching strategic Objective 5.1.1 and Objective 5.2.1 and supporting policies.
82. There is widespread support for Objective 5.2.1, with many submitters seeking the objective's retention, subject to a minor amendment to clause (i) to include reference to accessibility as follows:
- Maintain or enhance the (i) Inherent life-supporting capacity, accessibility, and versatility of soils, in particular high class soils.*
83. The Proposed Plan includes the following definition for the term 'high class soils': '*means those soils in Land Use Capability Classes I and II (excluding peat soils) and soils in Land Use Capability Class IIIe1 and IIIe5, classified as Allophanic Soils, using the New Zealand Soil Classification*'. This is the same definition as that used for the same term in the WRPS. As far as I am aware, there are no submissions seeking to amend this definition, and no such submissions were considered as part of Hearing 5 on definitions.
84. It is my understanding of the submissions that the key concern is that in order for high class soils to be able to be productively used, they must be able to be accessed. Simple reliance on soil type and Land Use Capability ('LUC') classifications can be a blunt tool in understanding how productive soils are at a practical level. Whilst versatile soils tend to be located on flat to gently sloping land (and therefore are generally accessible), this is not always the case, and there may be locations that, whilst having high class soils under the LUC system, are nonetheless not particularly versatile due to slope steepness or individual site characteristics that limit access. Access to versatile soils for farming and horticulture can likewise be limited where land ownership becomes fragmented and small-holdings are used for residential lifestyle purposes rather than rural production.
85. The proposed amendment therefore seeks to both place emphasis on the need to maintain or enhance high class soils that are accessible/able to be utilised, and conversely also suggests that where high class soils are not accessible, their maintenance is not such a priority and alternative uses might be contemplated. Ultimately, a site or proposal-specific assessment will be necessary to determine matters such as accessibility and versatility of the soil resource on any given site, however it is appropriate that accessibility be recognised at a policy level as a legitimate matter to consider.
86. Waikato Regional Council [81.212] have sought the inclusion of a reference to peat soils in Clause (i). As noted above, by definition 'high class soils' explicitly exclude peat soils. Clause (i) scope covers the versatility of all soils. Whilst it has a particular emphasis on high class soils, it does not preclude consideration of other soil types when development proposals are being assessed.
87. Waikato Regional Council [81.213] likewise seek that clause (ii) be extended to include reference to natural ecosystems and biodiversity. In my view, ecosystems intrinsically include the biodiversity contained within them, and as such the additional wording is not necessary.
88. Auckland-Waikato Fish and Game [433.1] seek that clause (iv) be amended and a new clause (v) added (presumably replacing clause iii which addresses a similar matter) as follows:
- (a) ~~Maintain or~~ and where required, enhance the: ... (iv) Life-supporting characteristics and intrinsic natural characteristics values of ecosystems of water bodies and coastal waters and the catchments between them; (v) The ecological health of fresh water bodies and ground water, including their catchments and connections.*
89. Federated Farmers [680.57] seek that the entire objective be deleted, whilst Fonterra [797.12] support most of the objective but seek that clause (iii) be deleted. The reasons for the opposition are primarily regarding the scope and responsibilities of District Councils compared with Regional Councils. In particular, responsibility for managing the quality of

surface water and ground water are seen to sit squarely with the Waikato Regional Council and associated regional plans, and as such clause (iii) in particular constitutes unnecessary duplication of responsibilities.

90. The statutory responsibility for managing land use activities sits with district councils. Most types of farming are based on the soil resource, therefore maintaining the quality of that resource has a direct bearing on the ongoing viability of farming as both an economically-productive activity and the communities and landscapes that that activity generates and supports. Farming systems and practices can likewise have a direct effect on water quality and associated ecological values. As the submitters note, responsibility for managing water quality is a core function of regional councils, with the relevant regional plans containing detailed regulatory frameworks for managing land use activities (including farming) insofar as those activities impact water quality. Earthworks and the potential for sedimentation of waterways is likewise an activity that is often controlled in both regional and district plans, with Plan Change 1 to the Waikato Regional Plan addressing this very matter. Section 30(1)(c)(ii-iv) RMA states that among other matters the regional council functions include the management of the use of land for the maintenance and enhancement of the quality and quantity of water and ecosystems in water bodies and coastal water. The proposed clauses (iii) and (iv) of objective 5.2.1 therefore largely mirror the statutory responsibilities of regional councils.
91. On balance, I consider that the objective is valid for a district plan, especially as soil health underpins the productive rural environment upon which much of the district's economy is based. I do however agree that clauses (iii) and (iv) are directly and solely focused on water quality and waterbody characteristics, and as such are matters that are already addressed in a comprehensive matter in the suite of provisions contained within the Waikato Regional Plan. I note that the rural chapter rules do not contain any rules focused on managing water quality. Management of erosion and sediment control do form part of the proposed earthworks rules, however water quality is much broader than just sedimentation.
92. It is therefore recommended that the objective be retained, but that clauses (iii) and (iv) be deleted.

Analysis – 5.2.2 Policy – High class soils

93. The proposed policy on high class soils received significant support from submitters. Only two submissions sought amendments to the policy, namely Federated Farmers [680.58] who sought that clause (b) be deleted, and Middlemiss Farm Holdings [794.13], who sought that the policy distinguishes between elite and prime high class soils in a similar manner to the Auckland Plan.
94. Clause (b) seeks to “*ensure the adverse effects of activities do not compromise the physical, chemical and biological properties of high class soils*”. It is understood that Federated Farmers' opposition to this clause is in relation to the difficulty in measuring and enforcing the outcome, and that normal farming activities may be caught by the wording. Most farming activities are dependent on the soil resource, with farmers having a clear focus on maintaining and improving soil health as a necessity to underpin their farming operations. The versatility of high class soils is generally threatened by urbanisation (where they are wholly built over), lifestyle block fragmentation where the soil resource remains but its ability to be productively utilised is reduced, or through non-farming activities that degrade the health and utility of the soil, for instance yard-based industry or the outdoor storage of hazardous substances. Clause (b) is focused on managing this latter source of high class soil degradation and is designed to provide policy support and recognition that activities can adversely impact on soil health and preclude or limit future utilisation without urbanising the site. Clause (b) therefore dovetails with the subsequent Policy 5.2.3, which has a specific focus on managing the effects of subdivision and land fragmentation on high class soils. It is therefore recommended that Clause (b) be retained, noting the generally strong support for

the policy. The terminology used in Clause (b) likewise directly references the use of similar terminology in the WRPS Policy 14.1 on high class soils.

95. The Proposed Plan does not differentiate between high class, prime, or elite soils. Such terminology (and associated policy framework) forms part of the Auckland Unitary Plan in the rural area around Pukekohe. The proposed NPS-HPL may require the mapping and management of such soils, however this work has yet to be undertaken in sufficient detail in Waikato District to enable a bespoke policy and rule framework to be developed at this point in time. It is noted that, in the event that the proposed NPS becomes gazetted in the next couple of years, subsequent plan changes may be required to ensure that the District Plan properly gives effect to the NPS.

Analysis – 5.2.3 Policy – Effects of subdivision and development on soils

96. There is strong support for clause (a) of the policy, with no submissions in opposition or seeking any amendments. Clause (a) seeks “*subdivision, use, and development minimises the fragmentation of productive rural land, particularly where high class soils are located*”. It is therefore recommended that clause (a) be retained as notified.
97. A number of submissions seek that Clause (b) be amended to read “*subdivision which provides a range of lifestyle options is directed away from high class soils and/or where indigenous biodiversity is being protected, enhanced, and/or restored (with plantings)*”. Federated Farmers [680.59] alternatively seek that Clause (b) be reworded as follows: “*Subdivision which provides a range of lifestyle and economic options is managed in a way that ensures rural resources, character and environmental values are retained. ~~directed away from high class soils and/or where indigenous biodiversity is being protected.~~*”
98. The policy focus is squarely on managing the effects of subdivision, and more specifically land fragmentation leading to underutilisation of high class soils. The policy framework for urban growth and minimum lot sizes is addressed later in this report and also in Ms Overwater’s related report on the subdivision provisions. Given this focus, clause (b) is somewhat curious, insofar as fragmentation is already addressed in clause (a), urban growth and the location of Country Living and Village Zones (which provide lifestyle options) is addressed through separate policies on those zones, and the reference to protection of indigenous biodiversity is completely unrelated to the soil resource. The use of tradeable development lots and conservation lots where high value ecological areas are protected is discussed in Ms Overwater’s report.
99. Issues of managing rural subdivision and minimum lot sizes have attracted considerable interest from submitters. It is important that the Rural Chapter provides clear direction as to the anticipated outcomes, and clearly articulates expectations and development rights so that landowners and the wider community have a clear understanding as to how this important issue is to be managed. It is therefore recommended that Policy 5.2.3 retain its focus solely on the management of the soil resource through clause (a). Clause (b) is recommended to be deleted, with the issue of environmental compensation addressed through subsequent policies (in particular the recommendations on Policy 5.3.8) that address subdivision and minimum lot sizes.

Recommendations and amendments

100. It is recommended that Objective 5.2.1 and associated Policies 5.2.2 and 5.2.3 be amended 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 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.~~

5.2.2 Policy – High class soils

- (a) Soils, in particular high class soils, are retained for their primary productive value.
- (b) Ensure the adverse effects of activities do not compromise the physical, chemical and biological properties of high class soils.

5.2.3 Policy – Effects of subdivision and development on soils

- (a) Subdivision, use and development minimises the fragmentation of productive rural land, particularly where high class soils are located.
- ~~(b) Subdivision which provides a range of lifestyle options is directed away from high class soils and/or where indigenous biodiversity is being protected.~~

Rural – Objective 5.3.1 – Rural character and amenity

Introduction

101. The second and third sub-clauses of the rural strategic objective are given effect to through Objective 5.3.1 and associated policies that collectively address rural character and amenity outcomes, the density of dwellings, specific amenity-related effects such as noise, and the range of activities anticipated in rural areas (and conversely direction for those activities not anticipated). This objective and associated policies set the framework for the majority of the zone rules.

Submissions

102. Thirty-nine submissions were received in support of the objective, albeit many of these submissions sought that the objective be extended to read “rural character and amenity are maintained whilst recognising the localised character of different parts of the District”. Only one submission was received opposing the objective.

Submission point	Submitter	Summary of submission
332.6	Gwyneth & Barrie Smith	Retain Objective 5.3.1 Rural character and amenity, except for the amendment sought below AND Amend Objective 5.3.1 Rural character and amenity, as follows: (a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District</u> .
355.4	Scott & Tina Ferguson	Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below AND

		Amend Objective 5.3.1 Rural character and amenity, as follows: Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
362.6	CYK Limited	Retain Objective 5.3.1 (a) Rural character and amenity, except for the amendments sought below AND Amend Objective 5.3.1 (a) Rural character and amenity, as follows: (a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
364.4	Michael Innes	Retain Objective 5.3.1 Rural character and amenity, except for the amendment sought below AND Amend Objective 5.3.1(a) - Rural character and amenity, as follows: Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
507.4	Whitford Farms Limited	Amend Objective 5.3.1 Rural character and amenity, as follows: Rural character and amenity are maintained <u>while recognising the localised character of different parts of the district.</u>
509.4	Denise and Harold Williams	Retain Objective 5.3.1 Rural character and amenity, except for the amendment sought below AND Amend Objective 5.3.1 Rural character and amenity, as follows: Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
512.4	Enton Farms Limited	Amend Objective 5.3.1 Rural character and amenity, as follows: Rural character and amenity are maintained <u>while recognising the localised character of different parts of the district.</u>
513.4	Vanoo Limited	Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below AND Amend Objective 5.3.1 Rural character and amenity as follows: Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
<i>FS1062.57</i>	<i>Andrew and Christine Gore</i>	<i>Disallow entire submission.</i>
514.6	DP & LJ Ramsey Limited	Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below AND Amend Objective 5.3.1 (a) Rural character and amenity, as follows: Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
516.4	Anthony and Maureen Vazey	Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below

		<p>AND</p> <p>Amend Objective 5.3.1(a) Rural character and amenity as follows:</p> <p>Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
517.4	Amanda and Brian Billington	<p>Amend Objective 5.3.1(a) Rural character and amenity, as follows:</p> <p>Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
519.4	B and N Balle Limited	<p>Retain Objective 5.3.1 (a) Rural character and amenity, except for the amendments sought below AND</p> <p>Amend Objective 5.3.1(a) Rural character and amenity, as follows:</p> <p>Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
520.4	Finlayson Farms Limited	<p>Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below</p> <p>AND</p> <p>Amend Objective 5.3.1(a) Rural character and amenity, as follows:</p> <p>Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
521.4	Max and Denise Irwin for A Irwin & Son Limited	<p>Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below</p> <p>AND</p> <p>Amend Objective 5.3.1(a) Rural character and amenity, as follows:</p> <p>Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
522.4	Joy & Wayne Chapman	<p>Retain Objective 5.3.1 (a) Rural character and amenity, except for the amendments sought below AND</p> <p>Amend Objective 5.3.1(a) Rural character and amenity, as follows:</p> <p>Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
523.4	R & B Litchfield Limited	<p>Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below</p> <p>AND</p> <p>Amend Objective 5.3.1(a) Rural character and amenity, as follows:</p> <p>Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
526.4	Roy & Lesley Wright	<p>Retain Objective 5.3.1 (a) Rural character and amenity, except for the amendments sought below AND</p> <p>Amend Objective 5.3.1(a) Rural character and amenity, as follows:</p> <p>Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
527.4	Mark Scobie	<p>Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below</p>

		<p>AND</p> <p>Amend Objective 5.3.1(a) Rural character and amenity, as follows:</p> <p>Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
529.6	Wilcox Properties Limited	<p>Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below</p> <p>AND</p> <p>Amend Objective 5.3.1(a) Rural character and amenity, as follows:</p> <p>Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
530.4	John Van Lieshout	<p>Retain Objective 5.3.1- Rural character and amenity, except for the amendments sought below</p> <p>AND</p> <p>Amend Objective 5.3.1 - Rural character and amenity, as follows:</p> <p>(a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
532.4	Joanne & Kevin Sands	<p>Retain Policy 5.3.1 Rural character and amenity, except for the amendments sought below</p> <p>AND</p> <p>Amend Objective 5.3.1 (a) Rural character and amenity as follows:</p> <p>(a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
533.4	Colin & Rae Hedley	<p>Retain Policy 5.3.1 Rural character and amenity, except for the amendments sought below</p> <p>AND</p> <p>Amend Objective 5.3.1 (a) Rural character and amenity, as follows:</p> <p>(a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
536.4	LJ & TM McWatt Limited	<p>Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below</p> <p>AND</p> <p>Amend Objective 5.3.1 Rural character and amenity as follows:</p> <p>(a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>
539.4	Garyowen Properties (2008) Limited	<p>Retain Objective 5.3.1 (a) Rural character and amenity, except for the amendments sought below AND</p> <p>Amend Objective 5.3.1 (a) Rural character and amenity, as follows:</p> <p>(a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u></p>

		AND Retain Policy 5.3.1 Rural character and amenity as notified.
540.6	Glen Alvon Farms Limited	Amend Objective 5.3.1 Rural character and amenity, by adding text shown in underlined italics, as follows: (a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
544.5	KR & BC Summerville	Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below AND Amend Objective 5.3.1 - Rural character and amenity as follows: (a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
686.6	Reid Crawford Farms Limited	Amend Objective 5.3.1 (a) Rural character and amenity, as follows: (a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
872.4	Tarati Farms Limited	Amend Objective 5.3.1(a) Rural character and amenity, as follows: Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
873.4	Anita Moleta & Penny Gooding	Amend Objective 5.3.1 Rural character and amenity, as follows: (a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
874.4	Louise & Tony Cole	Amend Objective 5.3.1 Rural character and amenity, as follows: (a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
972.4	Mark Scobie	Amend Objective 5.3.1 (a) Rural character and amenity, as follows: (a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
982.4	Joanne & Kevin Sands	Retain Policy 5.3.1 Rural character and amenity as notified, except for the amendments sought below; AND Amend Objective 5.3.1 (a) Rural character and amenity, as follows: (a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
985.4	Neil Crispe for Koch Farms Limited	Retain Objective 5.3.1 Rural character and amenity, except for the amendments sought below; AND Amend Objective 5.3.1(a) Rural character and amenity as follows:

		Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
394.12	Gwenith Sophie Francis	Delete Objective 5.3.1 Rural character and amenity, and replace with a new objective that enables rural activities in rural zones. AND Amend the Proposed District Plan to make consequential or further additional relief, as is appropriate to give effect to the intent of the submission.
<i>FS1379.110</i>	<i>Hamilton City Council</i>	<i>Null</i>
419.56	Jordyn Landers for Horticulture New Zealand	Retain Objective 5.3.1 Rural character and amenity, as notified.
466.44	Brendan Balle for Balle Bros Group Limited	Retain Objective 5.3.1 (a) Rural character and amenity as notified.
680.60	Federated Farmers of New Zealand	Amend Objective 5.3.1 (a) Rural character and amenity, as follows: (a) <u>The values which contribute to R</u> rural character and amenity are maintained. AND Any consequential changes needed to give effect to this relief.
794.35	Middlemiss Farm Holdings Limited on behalf of	Retain Objective 5.3.1 Rural character and amenity.
827.42	New Zealand Steel Holdings Ltd	Retain Objective 5.3.1 Rural character and amenity, subject to the amendments to Policy 5.3.2 as sought below.
746.2	The Surveying Company	Amend Objective 5.3.1(a) - Rural Character and amenity as follows: (a) Rural character and amenity are maintained <u>while recognising the localised character of different parts of the District.</u>
<i>FS1268.12</i>	<i>Jennie Hayman</i>	<i>Support in part. Define some of the terms that appear to be accepted as givens (when they cannot be so). I acknowledge that defining “rural” character, and amenity, etc. is a challenging task, but that deficiency should be acknowledged and addressed via changes to provisions that reflect the variability within the rural environment. If there is case law relevant to these definitions, this could be acknowledged.</i>
<i>FS1387.903</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Null</i>

Analysis

103. Unlike many district plans, the Proposed Plan has a single rural zone. The use of a single zone has the benefit of a consistent regulatory framework being applied across the rural parts of the district and makes for a simplified (and shorter) plan structure. The major disadvantage of a ‘one size fits all’ approach is that the rural environment is not uniform in landscape or activities, and as such a single policy and rule framework can be somewhat blunt in appropriately acknowledging differing contexts and environments. The Proposed Plan to a certain extent seeks to address this by including overlays that identify matters such as areas with high landscape or ecological value.

104. The additional wording put forward by submitters is seeking to provide an acknowledgement at an objective level that rural character and amenity are not uniform, and therefore different outcomes will be appropriate in different areas. I agree with the sentiment expressed by the submitters. The challenge is that terms such as “rural character” and “amenity” are inherently subjective, and the notified wording does little to guide future plan users or decision makers as to the appropriate outcomes.
105. As a generalisation, there are three broad farm types/characters in the district:
- (a) intensive horticulture/market gardens primarily around Tuakau;
 - (b) flat to easy rolling land that is used primarily for dairying or equestrian activities;
 - (c) extensive sheep/beef hill country and bush/forestry.
106. These three different rural characters are derived from different soils/topography which support different farming systems. These in turn result in different visual landscapes, dwelling/lot density, and the types of farming-related structures, e.g. pack houses and glasshouses near Tuakau, dairy sheds and silos on the flats, and shearing sheds and cattle yards on the hill country.
107. Rural character is therefore the end visual result of differing farming systems. Whilst it does differ across the district, common elements include a dominance of open space over buildings, the inclusion of natural elements such as waterways, wetlands, bush, and coastline, and business activities that are linked to the land resource. Non-pastoral activities such as community facilities, rural industry, infrastructure, and mineral/aggregate extraction likewise contribute visual elements to the rural area that collectively make up its character.
108. The level and nature of amenity values are likewise an outcome of the various activities that occur in the area. Amenity includes expectations regarding levels of noise, odour, lighting, hours of operation, vehicle movements (and different types of vehicles like quad bikes, tractors and stock trucks) and privacy. Such expectations vary according to context, for example the level of noise or lighting anticipated as being reasonable in an industrial area will be quite different to acceptable levels in a residential area. Identifying reasonable expectations of amenity can be challenging in rural areas, as such areas are a combination of isolated dwellings (where there are generally high levels of privacy and low levels of noise), and a working farm where the day-to-day management of livestock and farming operations can create noise, dust, and odour as normal elements in what makes an area feel rural.
109. The proposed objective in my view is so brief as to not provide much in the way of helpful guidance to plan users regarding first the elements that make up rural character and amenity, and secondly how these elements might vary across the district. There appears to be limited scope provided by submissions for a more fulsome explanation, and the structure of the Proposed Plan likewise does not include zone descriptions or more narrative sections that enable the purpose of the zone to be fleshed out. I note that whilst no submissions have sought specific, detailed, alternative wording to Objective 5.3.1, there are numerous submissions across this chapter that raise issues of character (dwelling density and range of appropriate activities) and appropriate levels of amenity (through seeking changes to noise, lighting, setbacks from intensive farming etc). The themes of character, amenity, and anticipated activities and their associated effects therefore run through the submissions.
110. If the Panel is satisfied that there is sufficient scope, and noting that submitters will likewise have the ability to provide feedback through evidence to the Panel, it is recommended that the Objective be retained as notified, but that a new policy be inserted that provides direction on character and amenity, and responds to submitter concerns regarding the need to recognise that such character is not uniform. In arriving at the proposed wording I have drawn from the findings of the recent Christchurch District Plan Review, which was considered by an Independent Hearings Panel comprising an ex-High Court judge, an Environment Court Judge, and experienced planning practitioners. A similar need to better

identify character and amenity elements were recognised by that Panel as necessary to set the scene for subsequent more specific policies. I have also noted the wording in Policy 5.6.2, which articulates the character of the Country Living Zone in a more fulsome manner and provides an example of other zones having policies that better describe the anticipated character outcomes.

111. An alternative approach would be to divide the rural area up into several different rural zones such as an intensive market garden zone, a general rural zone, and a hill country rural zone to provide better differentiation as to anticipated outcomes and more nuanced rules controlling dwelling density and the types and scale of anticipated buildings. On Balance I consider that retention of the single zone approach is preferable, in part due to limited submission scope and the complexity of adding additional zone at this late stage in the Plan Review process, in part due to the challenges in defining exact zone boundaries when rural landscapes and farming systems tend to transition across an area rather than form a neat point of change, but also and more importantly because I consider that an acceptable framework can be developed using a single zone, with overlays for areas with significant natural value, and with more detailed policy direction.

Recommendations and amendments

112. It is recommended that Objective 5.3.1 be retained as notified:

5.3.1 Objective – rural character and amenity

- (a) Rural character and amenity are maintained.

113. It is recommended that a new policy be added to the Plan as follows:

5.3.1 Policy – Contributing elements to rural character and amenity values

- (a) Recognise that rural character and amenity values vary across the Waikato District resulting from the combination of the natural and physical resources present, including the location and extent of established and permitted activities. In particular, the District's rural environment is characterised by:
- (i) Market gardens and intensive horticulture, especially around Tuakau;
 - (ii) Dairy farming and equine activities in an open pastoral landscape on flat to gently rolling land;
 - (iii) Extensive sheep and beef farming, exotic forestry, and native bush areas on steeper hillslopes;
- (b) Recognise that elements that characterise an area as rural, from which desired amenity is derived, include the predominance of:
- (i) A landscape dominated by openness and vegetation;
 - (ii) Significant visual separation of dwellings and rural-related farm buildings between neighbouring properties;
 - (iii) Occasional community facilities, agricultural produce processing facilities, intensive farming, rural-related commercial and industrial activities, network infrastructure, and mineral extraction, with such activities integrated into a predominantly open space landscaped setting; and
 - (iv) Natural character elements of waterways, wetlands, water bodies, indigenous vegetation, and natural landforms, including the coastal environment along the District's western edge.
- (c) Recognise that rural productive activities in rural areas including farming, horticulture, intensive farming, plantation forestry, and rural industry, network infrastructure, and mineral extraction activities, can produce noise, odour, dust, visual and traffic effects

consistent with an anticipated rural working environment, and that may be noticeable to residents and visitors in rural areas.

Rural – Policy 5.3.4 – Density of dwellings & Policy 5.3.8 - Rural subdivision and character

Introduction

256. A key component of rural character is the density of residential units and the use of land for productive farming activities rather than lifestyle purposes. Managing dwelling density in the rural area is also critical to delivering a coordinated strategy of urban growth management based on consolidation around townships. The management of subdivision likewise has an important role to play in mitigating potential reverse sensitivity effects on established rural activities. The Proposed Plan seeks to provide such direction primarily through two policies, namely Policy 5.3.4 which addresses dwelling density (i.e. that provides direction for the landuse rules), and Policy 5.3.8 which addresses subdivision. Given that dwelling density is a strong determiner of character, this topic is addressed now (rather than following the numbering sequence of policies as notified), with the later sections of this report returning to consider policies on activities.

Submissions

257. Five submissions were received in support of Policy 5.3.4, with five seeking amendments to this policy. Six submissions were received in support of Policy 5.3.8, with two seeking its deletion, and forty three seeking amendments (the majority of which were the same pro forma submission relating to better identification of rural character outcomes).

Submission point	Submitter	Summary of submission
Policy 5.3.4 – Density of dwellings and buildings within the rural environment		
197.7	NZ Pork	Retain Policy 5.3.4 - Density of dwellings and buildings within the rural environment.
FS1386.196	Mercury NZ Limited	Oppose submission 197.7
FS1168.56	Horticulture New Zealand	Support submission 197.7
394.9	Gwenith Sophie Francis	Add an objective to Chapter 5 Rural Environment, to encourage and enable innovative development opportunities which both provide additional living opportunities and enhance the sustainable utilisation of the rural environment through facilitating farm parks. AND Amend the Proposed District Plan to make consequential or further additional relief, as is appropriate to give effect to the intent of the submission.
FS1388.113	Mercury NZ Limited	Oppose submission 394.9
FS1379.113	Hamilton City Council	Oppose submission 394.9
676.3	T&G Global Limited	Retain Policy 5.3.4 (b) - Density of dwellings and buildings within the rural environment.
FS1168.57	Horticulture New Zealand	Support submission 676.3
FS1387.139	Mercury NZ Limited	Oppose submission 676.3
777.2	Radio New Zealand Limited	Retain Policy 5.3.4(a) Density of dwelling and buildings within the rural environment, as notified.

FS1387.1174	Mercury NZ Limited	Oppose submission 777.2
394.13	Gwenith Sophie Francis	Delete Policy 5.3.4 (a) Density of dwellings and buildings within the rural environment OR Amend Policy 5.3.4 (a) Density of dwellings and buildings within the rural environment to encourage clustering AND/OR Amend the Proposed District Plan to make consequential or further additional relief, as is appropriate to give effect to the intent of the submission.
FS1375.6	Radio New Zealand	Oppose submission 394.13
419.60	Horticulture New Zealand	Retain Policy 5.3.4 Density of dwellings and buildings within the rural environment, as notified.
FS1388.205	Mercury NZ Limited	Oppose submission 419.60
FS1171.38	T&G Global	Support submission 419.60
466.60	Balle Bros Group Limited	Retain Policy 5.3.4 Density of dwellings and buildings within the rural environment as notified.
680.63	Federated Farmers of New Zealand	Amend Policy 5.3.4 Density of dwellings and buildings within the rural environment, as follows: (a) <u>Shall be at a density and scale</u> Retain open spaces to ensure rural character is maintained. (b) Additional dwellings <u>shall be directly associated with the scale and intensity of the farming activities on site</u> support workers' accommodation for large productive rural activities. AND Any consequential changes needed to give effect to this relief.
FS1387.171	Mercury NZ Limited	Oppose submission 680.63
FS1375.7	Radio New Zealand	Oppose submission 680.63
FS1171.75	T&G Global	Support submission 680.63
794.38	Middlemiss Farm Holdings Limited on behalf of	Amend Policy 5.3.4 Density of dwellings and buildings within the rural environment as follows: (a) Retain open spaces to ensure rural character is maintained. (b) Additional dwellings support workers' accommodation for large productive rural activities. (c) <u>Require site specific design responses for subdivision provisions that avoid, remedy and mitigate, any potential significant adverse effects of buildings on rural character and amenity.</u> AND Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.
FS1387.1258	Mercury NZ Limited	Oppose submission 794.38
330.132	Andrew and Christine Gore	Amend Policy 5.3.4 Density of dwellings and buildings within the rural environment to allow urban development to take place in an amended environment that preserves the rural character, by less intensive urbanisation.
FS1379.75	Hamilton City Council	Oppose submission 330.132
FS1386.404	Mercury NZ Limited	Oppose submission 330.132

697.556	Waikato District Council	Add to Policy 5.3.4 Density of dwellings and building with the rural environment two new policies as follows: <u>(c) Additional dwellings and buildings do not compromise the rural character and amenity of the surrounding locality.</u> <u>(d) Provide for a minor dwelling, where it: (i) is located within proximity to the principal dwelling on a site; and (ii) maintains rural character and amenity.</u>
FS1168.58	Horticulture New Zealand	Support submission 697.556
FS1291.26	Havelock Village Limited	Oppose submission 697.556
FS1171.102	T&G Global	Support submission 697.556
FS1377.227	Havelock Village Limited	Oppose submission 697.556
FS1379.271	Hamilton City Council	Support submission 697.556
FS1387.607	Mercury NZ Limited	Oppose submission 697.556
Policy 5.3.8 – Effects on rural character and amenity from rural subdivision		
106.2	Bruce and Dorothy Chipman	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought AND Amend Policy 5.3.8(d) Effects on rural character and amenity from rural subdivision as follows: (d) Rural hamlet subdivision and boundary relocations <u>of consented lots and Records of Title</u> ensure the following:...
332.7	Gwyneth & Barrie Smith	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought below AND Amend Policy 5.3.8 Effects on rural character and amenity from rural subdivision as follows: (b) Ensure development does not compromise the predominant open space, character and amenity of rural areas. ... (d) Rural hamlet subdivision and boundary relocations ensure the following: (i) Protection of rural land for productive purposes; (ii) Maintenance of the <u>localised</u> rural character and amenity of the surrounding rural environment; (iii) Minimisation of cumulative effects. (e) Subdivision, use and development opportunities ensure that <u>localised</u> rural character and amenity values are maintained. ...
355.9	Scott & Tina Ferguson	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought below AND Amend Policy 5.3.8 Effects on rural character and amenity from rural subdivisions, as follows: (b) Ensure development does not compromise the predominant open space, character and amenity of rural areas. ... (d)(ii) Maintenance of the localised rural character and amenity of the surrounding rural environment; (e) ... ensure that <u>localised</u> rural character and amenity values are maintained.
FS1375.14	Radio New Zealand	Oppose submission 355.9
362.7	CYK Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above

364.9	Michael Innes	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
450.3	Alison Green for Rushala Farm Ltd	No specific decision sought, but the submitter opposes Policy 5.3.8 Effects on rural character and amenity from rural subdivision.
<i>FS1375.15</i>	<i>Radio New Zealand</i>	<i>Oppose submission 450.3</i>
507.9	Whitford Farms Limited	Amend Policy 5.3.8 Effects on rural character and amenity from rural subdivision, as above
509.9	Denise and Harold Williams	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
512.9	Enton Farms Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
513.9	Vanoo Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
<i>FS1062.62</i>	<i>Andrew and Christine Gore</i>	<i>Oppose submission 513.9</i>
514.7	DP & LJ Ramsey Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
516.9	Anthony and Maureen Vazey	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
517.9	Amanda and Brian Billington	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
519.9	B and N Balle Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
520.9	Finlayson Farms Limited	Retain Policy 5.3.8 Effects on rural character and amenity, except for the amendments sought above
521.9	Max and Denise Irwin for A Irwin & Son Limited	Amend Policy 5.3.8 Effects on rural character and amenity from rural subdivision, as above
522.9	Joy & Wayne Chapman	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
523.9	R & B Litchfield Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above

526.9	Roy & Lesley Wright	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
527.9	Mark Scobie	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
529.7	Wilcox Properties Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
530.9	John Van Lieshout	Retain Policy 5.3.8 - Effects on rural character and amenity from rural subdivision, except for amendments sought above
532.9	Joanne & Kevin Sands	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
533.9	Colin & Rae Hedley	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
536.9	LJ & TM McWatt Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
539.9	Garyowen Properties (2008) Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
540.7	Glen Alvon Farms Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision except for the amendments sought above
544.6	KR & BC Summerville	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
686.7	Reid Crawford Farms Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
746.3	The Surveying Company	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
<i>FS/387.904</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 746.3</i>
777.4	Radio New Zealand Limited	Amend Policy 5.3.8(e) and (f) Effects on rural character and amenity from rural subdivision, as follows: (e) <u>Ensure subdivision, use and development does not compromise opportunities ensure that rural character and amenity values are maintained.</u> (f) Subdivision, use and development ensures <u>that</u> the effects on public infrastructure are <u>minimised avoided.</u>

872.9	Tarati Farms Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
<i>FS1045.12</i>	<i>Auckland/Waikato Fish and Game Council</i>	<i>Oppose submission 872.9</i>
873.9	Anita Moleta & Penny Gooding	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
874.9	Louise & Tony Cole	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
972.9	Mark Scobie	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
982.9	Joanne & Kevin Sands	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought above
985.5	Neil Crispe for Koch Farms Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought
<i>FS1379.379</i>	<i>Hamilton City Council</i>	<i>Oppose submission 985.5</i>
<i>FS1076.20</i>	<i>New Zealand Pork Industry Board</i>	<i>Support submission 985.5</i>
197.11	Jeska McHugh for NZ Pork	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision.
330.58	Andrew and Christine Gore	No specific decision sought, however submission refers to Policy 5.3.8 Effects on rural character and amenity from rural subdivision.
372.27	Steve van Kampen for Auckland Council	Delete Policy 5.3.8(d) Effects on rural character and amenity from rural subdivision.
<i>FS1342.65</i>	<i>Federated Farmers</i>	<i>Oppose submission 372.27</i>
<i>FS1330.23</i>	<i>Middlemiss Farm Holdings Limited</i>	<i>Oppose submission 372.27</i>
419.63	Jordyn Landers for Horticulture New Zealand	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, as notified.
466.62	Brendan Balle for Balle Bros Group Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision as notified.
<i>FS1168.61</i>	<i>Horticulture New Zealand</i>	<i>Support submission 466.62</i>
535.51	Lance Vervoort for Hamilton City Council	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision.
680.67	Federated Farmers of New Zealand	Amend Policy 5.3.8 (e) Effects on rural character and amenity from rural subdivision, as follows: (e) Subdivision, use and development opportunities ensure that rural character and amenity values are maintained. Subdivision within the Rural Zone should give particular consideration to anticipated rural land use and development and

		<p><u>recognise that integrated and well planned subdivision design: (i) Creates desirable places to live. (ii) Results in the efficient and effective land use. (iii) Provides for anticipated future land use and development. (iv) Recognises the physical layout and underlying topography of the site. (v) Integrates with existing utility services and infrastructure. (vi) Gives effect to any relevant outline development plan or structure plan. (vii) Implements best practice urban design principles (viii) Enables efficient utilisation of productive farmland through appropriate provision for rearranging property ownership to enable management of farmland according to landowner need</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p>
FS1375.16	Radio New Zealand	Oppose submission 680.67
FS1348.23	Perry International Trading Group Limited	Support submission 680.67
695.51	Sharp Planning Solutions Ltd	No specific decision sought with regards to Policy 5.3.8(d) Effects on rural character and amenity from rural subdivision, but submission states rural hamlet subdivision should not occur in an adhoc manner, which will cumulatively result in undermining the rural character. Such subdivision should have entitlements transferred to land around existing towns and villages.
FS1379.264	Hamilton City Council	Oppose submission 695.51
742.38	Mike Wood for New Zealand Transport Agency	<p>Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision, except for the amendments sought below</p> <p>AND</p> <p>Amend Policy 5.3.8 Effects on rural character and amenity from rural subdivision, as follows: (c) Ensure subdivision, use and development minimise <u>avoids</u> the <u>adverse</u> effects of ribbon development ... (f) Subdivision, use and development ensures the <u>adverse</u> effects on public infrastructure are <u>avoided or mitigated</u> minimised</p> <p>AND</p> <p>Clarify what is meant by "urban forms of subdivision, use, and development" and "the boundaries of towns and villages" in Policy 5.3.8.</p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>
FS1375.17	Radio New Zealand	Support submission 742.38
777.10	Radio New Zealand Limited	<p>Amend Policy 5.3.8(f) Effects on rural character and amenity from rural subdivision to replace the term "public infrastructure" with "infrastructure", and all other instances where this term is used;</p> <p>OR</p> <p>Add a new definition for "public infrastructure" to Chapter 13 Definitions, which includes Radio New Zealand.</p>
FS1387.1178	Mercury NZ Limited	Oppose submission 777.10

794.14	Middlemiss Farm Holdings Limited on behalf of	Amend Policy 5.3.8 Effects on rural character and amenity from rural subdivision as follows: (a) Protect productive <u>the amenity values of</u> rural areas by directing urban forms of subdivision, use and development to within the boundaries of towns and villages. ... (d) Rural hamlet subdivision, <u>in situ environmental enhancement incentive subdivision</u> , and boundary relocations ensure the following: (i) Protection of r <u>Rural land can continue to be used</u> for productive purposes. ... AND Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.
797.45	Fonterra Limited	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision as notified.
81.217	Waikato Regional Council	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision.
<i>FS1062.16</i>	<i>Andrew and Christine Gore</i>	<i>Oppose submission 81.217</i>
330.133	Andrew and Christine Gore	Amend Policy 5.3.8 Effects on rural character and amenity from rural subdivision, so that urban development can take place in the form of rural development that does not have to regard the productive soils where the productive rural area is already compromised by development such as large scale public works.
<i>FS1375.13</i>	<i>Radio New Zealand</i>	<i>Oppose submission 330.133</i>
<i>FS1379.76</i>	<i>Hamilton City Council</i>	<i>Oppose submission 330.133</i>
433.5	Mischa Davis for Auckland Waikato Fish and Game Council	Add a new clause to Policy 5.3.8 Effects on rural character and amenity from rural subdivision, as follows: (g) <u>Ensure that the form and location of subdivision does not compromise public access to rivers, streams, lakes and wetlands and the quality of these environments.</u> AND/OR Any alternative relief to address the issues and concerns raised in the submission.
<i>FS1223.68</i>	<i>Mercury NZ Limited</i>	<i>Support submission 433.5</i>
<i>FS1330.38</i>	<i>Middlemiss Farm Holdings Limited</i>	<i>Oppose submission 433.5</i>

Analysis - Background





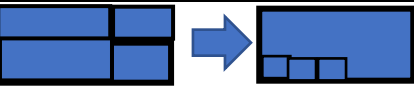
258. The policy outcomes regarding dwelling density and subdivision are closely related to the subdivision rules (which are tools to implement these policies). The subdivision rules are considered in depth in Ms Overwater's report. Whilst we have each drafted our own report, we have liaised with each other during the assessment of submissions on our respective topics to ensure an integrated approach is taken to the closely related policies and rules. Much of the discussion on the various subdivision pathways and processes is contained in Ms Overwater's report, and should be read together with this section in order to gain a full understanding of the recommendations on this theme.
259. Subdivision is at its most simplistic level simply the process by which the shape and number of land titles are altered. Titles are integral to land ownership and define the physical boundaries of who owns what. As such, the ability to alter boundaries is a key tool in enabling land ownership to change hands, particularly where the land that is sought to be

bought or sold does not match the shape of an existing title. Changes to title boundaries can include both amalgamation i.e. where multiple smaller titles are consolidated into a single large allotment, and conversely can result in the creation of additional titles where one large lot is subdivided into smaller lots. Subdivision and the legal identification of land ownership is one of the key tools that underpins New Zealand's society and economy. District Plans therefore need to provide a framework by which subdivision can occur and the matters that need to be considered such as access, servicing, effects on important cultural or natural values, and the mitigation of risks associated with matters such as natural hazards and land contamination.


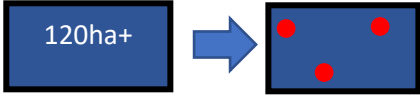

260. The act of subdivision simply alters how land is legally held i.e. it is just 'lines on a map'. Subdivision, and more specifically the creation of new lots, does however carry with it a strong expectation of being able to build a house on each lot. Subdivision is therefore often a precursor to enabling additional dwellings. District Plan subdivision provisions, and indeed the majority of the submissions on this topic, are primarily focussed on the minimum lot size and the associated expectation that the newly created lot can then be on-sold and a dwelling erected. Whilst changes to property boundaries can be undertaken for a wide range of reasons, the primary focus of most submitters is on the ease with which an additional title (and subsequent dwelling) can be created.
261. The majority of dwellings in the Waikato District are held as a single dwelling on a single Record of Title, especially where properties have a lifestyle rather than farming purpose. It is less common for multiple dwellings to be located on a single Record of Title, as it makes on-selling one of these dwellings challenging as the future owner would not also own the land. Once multiple dwellings are developed, there can therefore be pressure placed on Council to grant a subsequent subdivision application to enable individual dwellings to be on-sold. The environmental effects of such applications is often limited as the dwelling is already physically existing, therefore the argument is that the subdivision application is simply drawing lines on a map rather than altering the physical environment. Such applications therefore tend to turn on an assessment of policy outcomes the District Plan is trying to achieve. In short, the act of subdivision creates an expectation that an additional dwelling will be able to erected on the newly created lot, and conversely the erection of multiple dwellings on a single title creates an expectation that further subdivision should be allowed. It is therefore important that the policies relating to dwelling density and subdivision implement the strategic outcomes sought for the rural environment, and that the landuse rules that control the density of dwellings align with the subdivision rules that set the minimum size for the titles those dwellings are located within.
262. As set out in the above policy discussion on the purpose and role of the Rural Zone, the key function of the zone is to enable ongoing rural production. Farm houses are integral to farming operations and are a long-established element in rural environments. The presence of occasional houses located within large open space settings is therefore an anticipated aspect of rural character. The Proposed Plan seeks to prioritise the maintenance of productive potential of rural environments (including occasional farmhouses), both for the economic benefits that such activity brings to the District, and as an activity that underpins rural character. In parallel to prioritising the maintenance of productive rural potential, the Proposed Plan seeks to manage growth through a policy of consolidation in and around existing townships where network infrastructure can be efficiently provided, travel distances reduced, and the vibrancy and viability of existing townships and the services they provide strengthened.
263. The key tools by which these outcomes are achieved are first through the use of zoning to direct where urban activities should occur, and secondly through rules in the Rural Zone to control subdivision and dwelling density. Ms Overwater's report discusses the legacy issues/rule framework applying through the Operative District Plan, and in particular the ability to

create a small ‘child lot’ of 0.8-1.6ha in size, for every 20ha of ‘parent’ or balance lot. This Operative Plan approach enables landowners to release equity in their farm, and provides a degree of housing choice for people seeking a section that is larger than those provided in the Country Living Zone, but without the maintenance associated with a larger rural property. The expectations of landowners regarding subdivision potential created through the legacy of the Operative Plan have been reflected in these enabling provisions being rolled-over into the Proposed Plan.

264. As set out in Ms Overwater’s report, there has been a significant number of smaller lots created over the last few decades, with these lots having a more residential lifestyle function, rather than supporting productive farming activities. Land fragmentation impacts on productive potential through both limiting the farming options that can be undertaken on small sites, and through lifestyle activities resulting in reverse sensitivity issues for larger farming or rural land-based operations. The prevalence of small lots can also cumulatively impact on the strategic objectives of managing urban growth through consolidation of townships. There is therefore a tension between the multiple enabling pathways for subdivision and subsequent additional dwellings provided through the legacy provisions of the Operative Plan, and the key outcomes of consolidated growth management and a rural area that prioritises primary production. Ms Overwater has recommended that the minimum size of the ‘parent lot’ be increased from 20ha to 40ha as a more effective tool for aligning the subdivision rules with the policy outcomes sought for the Rural Zone.
265. The Proposed Plan provides multiple pathways⁴ by which additional lots (and additional dwellings) can be located within the Rural Zone. All the below pathways enable an additional dwelling to be placed on each lot, and show scenarios in accordance with the amended rules recommended by myself and Ms Overwater.

Creation of additional titles	General Subdivision – Rule 22.4.1.2 Pathway 1) For any landholding that has a title date prior to 6 December 1997 and with a minimum parent title of 40ha, one additional lifestyle lot between 0.8-1.6ha can be created.	
	Conservation Lot Incentive – Rule 22.4.1.6 Pathway 2) Additional small lots (8,000m ² – 1.6ha) are enabled where Significant Natural Areas are legally protected – links to Policy 3.2.8	
	Reserve Lot incentive – Rule 22.4.1.7 Pathway 3) Additional small lots enabled where land is provided for parks, walkways and reserves in accordance with a Council Parks Strategy.	
Changes to existing titles	Boundary Adjustment – Rule 22.4.1.4 Pathway 4) Boundaries of existing titles can be adjusted to create a large balance lot and small lifestyle lots between 0.8-1.6ha.	
	Rural Hamlet – Rule 22.4.1.5 Pathway 5) Multiple boundaries can be adjusted to create a cluster of up to 4 lifestyle lots and	

⁴ Subdivision of Maaori freehold land under Rule 22.4.1.3 provides an additional pathway subject to Te Ture Whenua Maori Act 1993

	one balance lot.	
Creation of additional dwellings	New Residential Units – Rule 22.3.1(a) Pathway 6) One new unit for every existing lot less than 40ha	
	New Residential Units – Rule 22.3.1(b) Pathway 7) One new unit for every 40ha of site area, up to a maximum of 3 units	
	Minor units – Rule 22.3.2 Pathway 8) One minor unit can be erected ancillary to every existing dwelling.	

Objectives

266. As assessed near the start of this report, the Rural Zone policy framework begins with Objective 5.1.1. This objective is the ‘strategic objective’ for the rural chapter and is located in Chapter 5, rather than Chapter 3 which contains the other strategic objectives. Clause (iii) of the objective states that ‘urban subdivision’, use and development in the rural environment is avoided’. I understand from the Council’s consent planners that recent consent decisions have found that new lots in the Rural Zone at Country Living sizes i.e. approximately 5,000m² are not ‘urban’ and have therefore approved applications down to this size. Moving forward, the outcomes sought for the Rural Zone are distinct from Country Living environments. As such there may be merit in having the Country Living policies located in a stand-alone chapter (as do the policy frameworks for most other zones), as under the notified structure Country Living policies sit within the rural policy framework which suggests that Country Living environments are ‘rural’, when in reality the land use activities anticipated in this zone are squarely low-density residential in nature rather than having a focus on primary production.
267. The policy relating to rural subdivision recommended below therefore seeks to provide less ambiguous direction as to the section size outcomes anticipated for the Rural Zone in order to avoid more urban forms of subdivision and to maintain a clear distinction between Country Living and Rural Zone environments.
268. The strategic Objective 5.1.1 is achieved through the subsequent policies and rules for the Rural Zone. Of particular relevance is Objective 5.3.1 which seeks that rural character and amenity are maintained. This succinct objective is recommended above to be supported by a new policy that sets out in more detail the elements that contribute towards rural character and amenity, including recognising:
- “That elements that characterise an area as rural, from which desired amenity is derived, include the predominance of:*
- *A landscape dominated by openness and vegetation; and*
 - *Significant visual separation of dwellings and buildings between neighbouring properties”*
269. The two primary policies that address density outcomes are located under Objective 5.3.1. These policies relate to dwelling density (5.3.4) and subdivision (Policy 5.3.8). The scope of submissions on both of these policies is reasonably narrow, with submitters focussed on seeking discrete amendments to specific clauses rather than changing the overall direction

provided in these policies. In my opinion there would be value in more detailed policy direction being provided, especially regarding the various (and quite different) subdivision pathways available through the rule framework discussed by Ms Overwater. The recommended wording will depend on the Panel being satisfied that sufficient scope exists through a combination of consequential amendments flowing from submissions seeking changes on the rule package, and submissions such as those from Hamilton City Council, Auckland Council, and the Waikato Regional Council that have a more strategic focus on the way in which urban growth is to be managed.

Policy 5.3.4 Density of Dwellings

270. This policy relates primarily to landuse i.e. the erection of dwellings without a subdivision process. It has two clauses seeking two separate outcomes, namely:
- (a) *Retain open spaces to ensure rural character is maintained.*
 - (b) *Additional dwellings support workers' accommodation for large productive rural activities.*
271. Five submissions were received in support of the policy and sought its retention, with five submissions seeking amendments to the policy.
272. Waikato District Council [697.556] sought to add two additional clauses as follows: “(c) Additional dwellings and buildings do not compromise the rural character and amenity of the surrounding locality. (d) Provide for a minor dwelling, where it: (i) is located within proximity to the principal dwelling on a site; and (ii) maintains rural character and amenity”. Federated Farmers [680.63] and Middlemiss Farm Holdings [794.38] likewise sought improved direction on rural character outcomes and improved linkages between the provision of dwellings where these support and are commensurate with the scale of farming activities. I agree that more specific direction regarding rural character outcomes and the management of minor units is helpful, albeit with somewhat amended wording to that sought by the submitters.
273. G Francis [394.9 & 394.13] seeks that the policy provide for innovative design solutions that include clustering dwellings and enable farm parks. Farm parks are a land development model that typically involves a cluster of dwellings that overlook a vineyard, orchards, or some other form of productive rural use where the balance lot is held in some form of collective ownership. In my view such models are best progressed through private plan change processes as the density of dwellings is often urban (or Country Living) density and can have significant implications for urban form, rural character, and infrastructure provision. They are quite different in concept to the ‘rural hamlets’ pathway enabled through boundary relocations. As such specific provision for this form of development at a policy level is not supported.
274. The submitters representing existing retirement villages (discussed in the section on permitted activities), sought as a consequential amendment that policy reference be provided that recognises existing retirement villages and the associated need for these facilities to adapt and change over time. I agree that such policy reference is appropriate and have recommended a clause on existing retirement villages be included in this policy.

Policy 5.3.8 Effects on rural character and amenity from rural subdivision

275. Six submitters seek the retention of this policy, including Hamilton City Council [535.51], Waikato Regional Council [81.217], Fonterra [797.45], Horticulture NZ [419.63], Balle Bros Group [466.62], and NZ Pork [197.11]. Auckland Council [372.27] and Rushala Farm [450.3] conversely seek that the policy be deleted. Forty three submitters seek amendments to the policy, with the majority of these submitters seeking identical amendments to delete the Clause (b) reference to maintaining an open space character and replace that with reference

to more localised character. I note that this same large group of submitters also sought greater clarification as to the elements that contribute to rural character through submissions on Objective 5.3.1. The recommended new policy on rural character above provides greater direction as to what rural character means. I consider that one of the key determinants of a rural environment is that the density of dwellings and associated subdivision patterns are at a much lower density than urban areas i.e. the key visual contrast between urban and rural is that the balance between built form and open space switches such that open space dominates in a rural environment.

276. Federated Farmers [680.67] seeks that an additional list of matters be added to the policy regarding subdivision design and servicing outcomes. The matters sought by the submitter are more appropriate to greenfield areas where what was once farmland has been rezoned for urban purposes. The matters sought by the submitter in part conflate 'subdivision' with 'urban land development' and as such I consider them to have limited value in a zone framework that seeks to maintain large lots, with limited provision for smaller rural residential activities.
277. The submitter does seek that the policy gives greater recognition that subdivision '*enables efficient utilisation of productive farmland through appropriate provision for rearranging property ownership to enable management of farmland according to landowner need*'. I agree with the sentiment in the submission that subdivision is not just about creating small lots for lifestyle purposes, but is also integral to enabling changes in land ownership to facilitate ongoing rural productive activity. I note that the subdivision rule framework controlling general subdivision (Rule 22.4.1.2) has a focus on enabling the creation of 'child lots'. The creation of any new titles that are greater than 1.6ha in size is a non-complying activity under Rule 22.4.1.2 (NC1) i.e. subdividing a 200ha lot into 2 x 100ha lots is non-complying. This restriction is also found in the Operative Plan and I understand from discussions with Council's consent planners that such applications are extremely uncommon. When changes in the boundaries of a large lot is desired, this either typically involves the sale is to an adjacent landowner (and therefore a boundary relocation process is undertaken), or larger farms are invariably comprised on a number of titles, and therefore if the sale of part of the farm is desired then a boundary relocation process is undertaken to alter the extent of the block to be sold. The policy direction to enable subdivision where that is associated with the more efficient use of land for primary production is therefore implemented through the boundary relocation provisions in Rule 22.4.1.1 (RD1).
278. NZTA [742.38] seeks that the policy be clarified to better describe what is meant in Clause (a) by 'urban forms of subdivision' and 'the boundaries of towns and villages'. I agree that this terminology can be improved. The policy direction is to avoid urban forms. This is a strong direction and reflects the strategic outcomes of managing growth through consolidation of townships, and where urban density of development should occur on land with some form of urban zoning. As a general principle, objectives and policies should not repeat the content of rules, but rather should state the outcome sought, with the rule simply the tool to achieve the outcome. That said, I do consider there to be merit in referencing the minimum lot size anticipated through the child lot process, and likewise referencing the need for balance lots to be a minimum of 40ha. Alternative wording such as 'avoiding urban forms' or 'retaining large balance lots' without putting a numerical limit on such outcomes simply creates ambiguity and uncertainty in the policy direction.
279. NZTA and Radio NZ [777.4 and 777.10] seek amendments to Clause (f) in relation to effects on infrastructure. The term 'infrastructure' is defined in the Plan, and as sought by RNZ it is recommended that the policy simply refer to infrastructure (rather than the undefined 'public infrastructure'). I note that the recommended amendment and associated definition of infrastructure would cover both the strategic road network operated by NZTA and the radio transmitter network operated by RNZ.

280. RNZ have also sought that the policy direction be to 'avoid' adverse effects on infrastructure rather than 'minimise' such effects. Given that infrastructure covers a wide range of networks and facilities, it may not be possible (or desirable) to avoid all effects, for example any connection to a reticulated water supply network will result in a reduction (or adverse effect) on the capacity of that network, however such reduction may well be acceptable. The direction to 'minimise' effects is considered to provide a strong policy framework that is sufficient for protecting network operations, whilst providing limited scope for small (yet acceptable) levels of effect. As noted towards the start of this report, the management of infrastructure is a topic that is covered at length in Chapter 6.
281. Auckland-Waikato Fish and Game [433.5] seek an additional clause be added to 'ensure that the form and location of subdivision does not compromise public access to rivers, streams, lakes, and wetlands and the quality of these environments'. I agree that this is a valid matter to consider when designing new title boundaries.
282. As set out in Ms Overwater's report, numerous submitters have sought changes to the various subdivision rule pathways, including in particular the 'parent/ child' pathway, and the ability to use boundary relocations to create smaller lifestyle blocks. As a consequential amendment to these submissions, and to improve the structuring of the subdivision policy, it is recommended that the policy be more clearly separated into clauses that relate to subdivision in general, and clauses that provide improved direction for the various pathways by which small lifestyle lots can be created.
283. Given the closely linked nature of dwelling density and subdivision, and the impact that they have on rural character, it is recommended that the two policies be located sequentially.

Recommendations and Amendments

284. It is recommended that Policy 5.3.4 be deleted and replaced with a new policy as follows:

~~**Policy 5.3.4 – Density of dwellings and buildings within the rural environment**~~

~~(a) Retain open spaces to ensure rural character is maintained.~~

~~(b) Additional dwellings support workers' accommodation for large productive rural activities.~~

Policy 5.3.4 – Density of Residential Units

(a) Maintain an open and spacious rural character through:

(i) Providing for residential units as an ancillary element to farming and productive rural activities;

(ii) Limiting provision of residential units to no more than one per Record of Title, except for particularly large titles where a minimum of 40ha is provided for each residential unit;

(iii) Limiting the size, location, and number of minor residential units and requiring such units to be ancillary to an existing residential unit;

(b) Provide for papakainga housing within Maaori freehold land; and

(c) Provide for alterations and additions to retirement villages existing at **date of decision 2021**;

285. It is recommended that Policy 5.3.8 be deleted and replaced with a new policy as follows:

~~**Policy 5.3.8 – Effects on rural character and amenity from rural subdivision**~~

- ~~(a) Protect productive rural areas by directing urban forms of subdivision, use, and development to within the boundaries of towns and villages.~~
- ~~(b) Ensure development does not compromise the predominant open space, character and amenity of rural areas.~~
- ~~(c) Ensure subdivision, use and development minimise the effects of ribbon development.~~
- ~~(d) Rural hamlet subdivision and boundary relocations ensure the following:

 - ~~(i) Protection of rural land for productive purposes;~~
 - ~~(ii) Maintenance of the rural character and amenity of the surrounding rural environment;~~
 - ~~(iii) Minimisation of cumulative effects.~~~~
- ~~(e) Subdivision, use and development opportunities ensure that rural character and amenity values are maintained.~~
- ~~(f) Subdivision, use and development ensures the effects on public infrastructure are minimised.~~

Policy 5.3.8 – Rural Subdivision

- (a) Protect the productive potential of rural areas; and
- (b) Maintain an open and spacious rural character; and
- (c) Minimise adverse effects on the safe and efficient operation of infrastructure;
Through:
 - (i) Enabling subdivision that supports farming and rural primary production activities;
 - (ii) Avoiding subdivision that creates lots smaller than 0.8ha to maintain a clear distinction between rural areas and the more urban Country Living Zones;
 - (iii) Avoiding the creation of new lots that are wholly located on high class soils. For sites that are partially covered in high class soils, new lots are to be located primarily on that part of the site that does not include high class soils;
 - (iv) Mitigating potential reverse sensitivity effects on lawfully established productive rural activities, intensive farming, rural industry, infrastructure, or extractive activities, through ensuring new lots are designed to provide adequate setbacks for future sensitive activities.
 - (v) Ensuring that the subdivision design and layout does not adversely affect public access to rivers and water bodies or the quality of these environments.
- (d) Make limited provision for small rural lifestyle lots, where in addition to the matters set out in (a), (b), and (c) the subdivision:
 - (i) Includes the physical and legal protection of a Significant Natural Area; or
 - (ii) Includes the provision of public parks and reserves where these are located in accordance with a Council Parks Strategy; or
 - (iii) Provides a large balance lot greater than 40ha so that an overall spacious rural character is maintained; or
 - (iv) Involves a boundary relocation to create a large balance lot greater than 40ha and a limited number of small rural lifestyle lots that are clustered to form a hamlet; and

- (v) For (d)(iii) and (iv) avoids ribbon development and the cumulative effects of multiple small rural residential lots locating on the same road frontage.

Rural – Dwelling Density Rules 22.3.1-2

Introduction

257. Whilst subdivision is often the precursor to the creation of an additional dwelling, subdivision does not always occur first. As such the Proposed Plan includes a set of rules that control the number (or density) of dwellings that can be located on any given Record of Title. The Proposed Plan likewise provides for minor residential units as a means of providing housing choice and affordability.

Submissions

258. Three submissions were received in support of the Proposed Plan Rule 22.3.1 on the number of dwellings within a lot, with one being neutral. Nine submissions were received seeking amendments to the rule, with the key matters being an increase in the number of dwellings permitted on large lots, and use of the terminology in the rule. Eight submissions were received in support of Rule 22.3.2 on minor units, with eighteen seeking amendments to the clauses controlling unit size, separation distance from the principal dwelling, and the need to share a driveway.

Submission point	Submitter	Summary of submission
Rule 22.3.1 – Number of dwellings within a lot		
292.5	David Yzendoorn for David and Barbara Yzendoorn	Amend Rule 22.3.1 P1 (a) Number of dwellings within a lot to permit more than one dwelling on lots less than 40ha.
FS1379.61	Hamilton City Council	Oppose submission 295.5
FS1386.300	Mercury NZ Limited	Oppose submission 295.5
471.5	Andrew Wood for CKL	Amend Rule 22.3.1 Number of dwellings within a lot, so that the term "lot" is replaced with "site". AND Any consequential amendments necessary.
FS1388.441	Mercury NZ Limited	Oppose submission 471.5
690.8	Paramjit & Taranpal Singh	Amend Rule 22.3.1 Number of dwellings within a lot, to allow for three dwellings on lots over 100ha as a permitted activity.
FS1387.304	Mercury NZ Limited	Oppose submission 690.8
676.17	T&G Global Limited	Retain Rule 22.3.1 Number of dwellings within a lot insofar as the use of existing residential dwellings within the rural environment by agricultural, horticultural and seasonal workers is currently enabled as the use of a residential unit.
FS1387.149	Mercury NZ Limited	Oppose submission 676.17
FS1168.72	Horticulture New Zealand	Support submission 676.17
746.80	The Surveying Company	Amend Rule 22.3.1 P1 Number of dwellings within a lot to provide for three dwellings on lots over 100 hectares

		as a permitted activity.
FS1387.953	Mercury NZ Limited f	Oppose submission 746.80
794.16	Middlemiss Farm Holdings Limited	Delete Rule 22.3.1 Number of dwellings within a lot; AND Add a more enabling provision. AND Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.
FS1171.109	T&G Global	Support submission 794.16
FS1387.1246	Mercury NZ Limited	Oppose submission 794.16
FS1379.326	Hamilton City Council	Oppose submission 794.16
797.30	Fonterra Limited	Retain Rule 22.3.1 Number of dwellings within a lot as notified.
FS1387.1271	Mercury NZ Limited	Oppose submission 797.30
81.163	Waikato Regional Council	Retain Rule 22.3.1 Number of dwellings within a lot.
FS1223.35	Mercury NZ Limited	Support submission 81.163
FS1062.11	Andrew and Christine Gore	Oppose submission 81.163
943.13	McCracken Surveys Limited	Amend Rule 22.3.1 (a) Number of dwellings within a lot, to replace the word "lot" with "site".
FS1387.1567	Mercury NZ Limited	Oppose submission 943.13
330.147	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.3.1 Number of dwellings within a lot.
FS1386.411	Mercury NZ Limited	Oppose submission 330.147
680.218	Federated Farmers of New Zealand	Amend Rule 22.3.1 Number of dwellings within a lot, as follows: (a) One dwelling within a lot containing less than 40 <u>20</u> ha, (b) No more than two dwellings within a lot containing between 20 ha to 40ha or more; AND Add new clause (c) to Rule 22.3.1 Number of dwellings within a lot, as follows: <u>(c) No more than three dwellings within a lot containing over 40 ha or more;</u> (e)(d) Any dwelling(s) under Rule 22.3.1 PI (a), (b) and (c) must not be located within any: (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) Outstanding Natural Character Area; (iv) High Natural Character Area. AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
FS1171.90	T&G Global	Support submission 680.218
FS1387.213	Mercury NZ Limited	Oppose submission 680.218
FS1379.237	Hamilton City Council	Oppose submission 680.218
695.211	Sharp Planning Solutions Ltd	No specific decision sought for Rule 22.3.1 PI(b) Number of dwellings within a lot, however the submitter has concerns that where land has been previously subdivided only the dwelling entitlement that was taken should

		count, and only on that parcel that was amalgamated. Any remaining entitlements that occur on the land should provide for entitlement to subdivide, and should not restrict subdivision of amalgamated titles where one of the parcels was not previously utilised.
FS1387.359	Mercury NZ Limited	Oppose submission 695.211
697.797	Waikato District Council	Amend Rule 22.3.1 PI Number of dwellings within a lot, as follows: (a) One dwelling within a lot <u>record of title</u> containing an <u>area</u> less than 40ha; (b) No more than two dwellings within a lot <u>record of title</u> containing an <u>area</u> 40ha or more; (c) Any dwelling(s) under Rule 22.3.1 PI (a) and (b) must not be located within any of the <u>following landscape and natural character areas</u> : (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) Outstanding Natural Character Area; (iv) High Natural Character Area.
FS1387.690	Mercury NZ Limited	Oppose submission 697.797
Rule 22.3.2 – Minor Dwellings		
14.2	Steve Cochrane	Amend Rule 22.3.2 PI Minor dwelling to accommodate caregivers, not just dependent relatives. AND Amend Rule 22.3.2 PI Minor dwelling to provide more flexibility in the location of minor dwellings on the site.
FS1386.11	Mercury NZ Limited	Oppose submission 14.2
FS1308.4	The Surveying Company	Support submission 14.2
69.1	Lucy Stallworthy	Delete the part of Rule 22.3.2 Minor dwelling, requiring minor dwellings to be within 20m of an existing dwelling.
FS1308.103	The Surveying Company	Support submission 69.1
FS1386.55	Mercury NZ Limited	Oppose submission 69.1
70.1	Ben Stallworthy	Delete the part of Rule 22.3.2 Minor Dwelling requiring minor dwellings to be within 20m of an existing dwelling.
FS1386.57	Mercury NZ Limited	Oppose submission 70.1
128.2	Trevor Reid	Delete the requirement in Rule 22.3.2 PI (b)(i) Minor dwelling for the minor dwelling to be located within 20m of the existing dwelling. AND Delete the requirement in Rule 22.3.2 PI(b)(ii) Minor dwelling for a minor dwelling to share a driveway with the existing dwelling.
FS1092.16	Garth & Sandra Ellmers	Support submission 128.2
FS1039.9	Colette Brown	Support submission 128.2
FS1101.3	Christine McNeill	Support submission 128.2
FS1386.110	Mercury NZ Limited	Oppose submission 128.2
130.3	Kathleen Reid	Delete the requirement in Rule 22.3.2 PI(b)(ii) for the minor dwelling to be located within 20m of the existing dwelling. AND Delete the requirement in Rule 22.3.2 PI(b)(ii) Minor

		dwelling for minor dwellings to share a driveway with the existing dwelling.
FS1308.3	<i>The Surveying Company</i>	<i>Support submission 130.3</i>
FS1386.114	<i>Mercury NZ Limited</i>	<i>Oppose submission 130.3</i>
171.1	Louis (Luke) Faesenkloet	Retain Rule 22.3.2 Minor Dwelling, particularly that a minor unit is a permitted activity that the maximum size is 70m ² , that the minor dwelling is located within 20m of the dwelling and that the minor dwelling shares driveway access with the existing dwelling AND Amend the Proposed District Plan to clarify that the 70m ² maximum gross floor area for a minor dwelling does not include a garage.
FS1386.148	<i>Mercury NZ Limited</i>	<i>Oppose submission 171.1</i>
276.6	Ted and Kathryn Letford	Retain Rule 22.3.2 Minor dwelling.
FS1386.284	<i>Mercury NZ Limited</i>	<i>Oppose submission 276.6</i>
363.2	Divina Libre	Retain Rule 22.3.2 (PI) Minor dwelling, and ensure that it does not include reference to dependent persons in the rule.
FS1386.533	<i>Mercury NZ Limited</i>	<i>Oppose submission 363.2</i>
363.3	Divina Libre	Delete Rule 22.3.2 (PI)(b)(i) Minor dwelling, that requires minor dwellings to be within 20m of the main dwelling.
FS1386.534	<i>Mercury NZ Limited</i>	<i>Oppose submission 363.3</i>
FS1006.1	<i>Robert Burke</i>	<i>Support submission 363.3</i>
407.2	Mel Libre	Retain Rule 22.3.2 PI Minor dwelling and do not include reference to dependent persons in the rule.
407.3	Mel Libre	Delete Rule 22.3.2 PI(b)(i) Minor dwelling, requiring a minor dwelling to be within 20m of the main dwelling.
FS1308.31	<i>The Surveying Company</i>	<i>Support submission 407.3</i>
418.4	Ethan Findlay	Delete Rule 22.3.2 PI(a) Minor dwelling, which limits the gross floor area of a minor dwelling. AND Amend other parts of the district plan as necessary to give effect to the relief sought.
FS1003.1	<i>Robert Fenton Burke</i>	<i>Support submission 418.4</i>
FS1171.110	<i>T&G Global</i>	<i>Support submission 418.4</i>
FS1388.162	<i>Mercury NZ Limited</i>	<i>Oppose submission 418.4</i>
418.5	Ethan Findlay	Delete Rule 22.3.2 PI(b)(i) Minor dwelling, which requires minor dwellings to be 20m from the main dwelling. AND Amend other parts of the district plan as necessary to give effect to the relief sought.
FS1388.163	<i>Mercury NZ Limited</i>	<i>Oppose submission 418.5</i>
426.2	Kim Angelo Libre	Retain Rule 22.3.2 PI Minor dwelling and that it does not include reference to dependent persons in the rule.

FS1062.41	Andrew and Christine Gore	Support submission 426.6
FS1388.254	Mercury NZ Limited	Oppose submission 426.6
426.3	Kim Angelo Libre	Delete Rule 22.3.2 PI (b) (i) Minor dwelling requiring the minor dwelling to be within 20 metres of the main dwelling.
FS1388.255	Mercury NZ Limited	Oppose submission 426.3
FS1062.43	Andrew and Christine Gore	Support submission 426.3
FS1062.42	Andrew and Christine Gore	Support submission 426.3
452.2	R Mitchell	No specific decision sought, but the submitter supports Rule 22.3.2 Minor dwelling as it would enable minor dwellings for use as per their original historic title.
FS1388.323	Mercury NZ Limited	Oppose submission 452.2
471.6	CKL	Amend Rule 22.3.2 Minor dwelling, so that the term "lot" is replaced with "site" AND Amend Rule 22.3.2 PI (a) Minor dwelling as follows: (a) One minor dwelling not exceeding 70m ² gross floor area (<u>excluding garage</u>) within a lot. AND Any consequential amendments necessary.
FS1388.442	Mercury NZ Limited	Oppose submission 471.6
FS1060.1	Anthony Weddle	Support submission 471.6
489.6	Ann-Maree Gladding	Amend Rule 22.3.2 PI (b)(i) Minor Dwelling, as follows: The minor dwelling must be located within 20m <u>150m</u> of the dwelling;
FS1388.479	Mercury NZ Limited	Oppose submission 489.6
683.3	Carolyn Watson	Amend Rule 22.3.2 PI(b)(i) Minor dwelling, as follows: (i) The minor dwelling must be located within 20m <u>50m</u> of the dwelling;
FS1387.249	Mercury NZ Limited	Oppose submission 683.3
696.7	Brenda and Gavin Butcher for Parkmere Farms	Retain Rule 22.3.2 Minor dwelling (a) A single minor dwelling is a permitted activity; (b) 70m ² as the maximum gross floor area (c) The absence of limitations on the type of person occupying the minor dwelling (e.g. dependent family member); (d) Absence of provisions requiring the minor dwelling to be temporary.
FS1387.384	Mercury NZ Limited	Oppose submission 696.7
696.8	Brenda and Gavin Butcher for Parkmere Farms	Delete Rule 22.3.2(b)(i) Minor dwelling, which requires the minor dwelling to be within 20m of the primary dwelling.
FS1387.385	Mercury NZ Limited	Oppose submission 696.8
735.5	Cindy and Tony Young	Retain Rule 22.3.2 Minor dwelling.

FS1387.820	Mercury NZ Limited	Oppose submission 735.5
735.6	Cindy and Tony Young	Delete Rule 22.3.2(b)(i) Minor dwelling, which requires the minor dwelling to be within 20m of the primary dwelling.
FS1387.821	Mercury NZ Limited	Oppose submission 735.6
754.5	Pieter Van Leeuwen	Retain the following aspect of Rule 22.3.2 Minor Dwelling: Permitted activity status; 70m ² maximum gross floor area; Absence of limitations on the type of person occupying the minor dwelling; and Enabling the minor dwelling to be a permanent building.
FS1387.1105	Mercury NZ Limited	Oppose submission 754.5
754.6	Pieter Van Leeuwen	Delete Rule 22.3.2 PI(b)(i) Minor dwelling requiring the minor dwelling to be within 20m of the primary dwelling.
FS1387.1106	Mercury NZ Limited	Oppose submission 754.6
782.6	Jack Macdonald	Amend Rule 22.3.2 PI(b)(i) Minor dwelling, as follows: (i) The minor dwelling must be located within 20m <u>150m</u> of the dwelling;
FS1387.1229	Mercury NZ Limited	Oppose submission 782.6
814.1	Jenny Goodwright for Awaroa Farm Ltd	Amend Rule 22.3.2 Minor dwelling - PI (b)(i), as follows: The minor dwelling must be located within 20 <u>100</u> m of the dwelling;
FS1387.1299	Mercury NZ Limited	Oppose submission 814.1
922.6	John Rowe	Amend Rule 22.3.2 PI(b)(i) Minor dwelling, as follows: (i) The minor dwelling must be located within 20m <u>150m</u> of the dwelling;
FS1387.1473	Mercury NZ Limited	Oppose submission 922.6
970.1	Margaret O'Brien	Amend Rule 22.3 Land Use Building and Rule 22.3.2 Minor dwelling, to allow for a "Dependent Persons dwelling" to be designated as a "Minor dwelling", particularly at 2289B Kakaramea Road, Hamilton.
FS1387.1607	Mercury NZ Limited	Oppose submission 970.1
Rule 22.3.3 – Buildings and Structures in Landscape and Natural Character Areas		
731.12	Jean Tregidga	Amend Rule 22.3.3 Buildings and structures in Landscape and Natural Character Areas, by permitting dwellings and accessory buildings within natural features and outstanding natural landscapes.
FS1180.12	Jean Tregidga	Support submissions 731.12
330.149	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.3.3 Buildings and structures in Landscape and Natural Character Areas.
Rule 22.1.2 – Permitted Activities		

419.9	Horticulture New Zealand	Add a new permitted activity to Rule 22.1.2 Permitted Activities, as follows: <u>Workers' accommodation that comply with Rule 22.3.X Workers' accommodation.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1388.178</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 419.9</i>
<i>FS1306.7</i>	<i>Hynds Foundation</i>	<i>Support submission 419.9</i>
<i>FS1171.12</i>	<i>T&G Global</i>	<i>Support submission 419.9</i>
Rule 22.1.3 – Restricted discretionary Activities		
419.12	Horticulture New Zealand	Add a new restricted discretionary activity provision to Rule 22.1.3 Restricted Discretionary Activities, as follows: <u>Workers' accommodation that does not comply with Rule 22.3 X</u> <u>Council's discretion is restricted to the following matters:</u> <u>1. Those matters in Rule 22.3.X that are not able to be met.</u> <u>2. Methods to avoid, remedy or mitigate the effects on existing activities, including the provision of screening, landscaping and methods for noise control.</u> <u>3. The extent to which the application complies with the Code of Practice for Able Bodied Seasonal Workers, published by the Department of Building and Housing 2008.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1342.91</i>	<i>Federated Farmers</i>	<i>Support submission 419.12</i>
<i>FS1171.14</i>	<i>T&G Global</i>	<i>Support submission 419.12</i>
<i>FS1388.181</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 419.12</i>

419.25	Horticulture New Zealand	<p>Add a new provision to Rule 22.3 Land Use - Building, as follows:</p> <p><u>Workers' accommodation is a permitted activity where it meets the following standards:</u></p> <p><u>(a) The relevant zone standards for yards, height, daylight protection and parking are complied with</u></p> <p><u>(b) Access - No additional formed accesses are to be created to any State Highway</u></p> <p><u>(c) Is associated with the horticultural activity</u></p> <p><u>(d) Comprises of a combination of communal kitchen and eating areas and sleeping and ablution facilities</u></p> <p><u>(e) Accommodates up to 12 workers</u></p> <p><u>(f) Complies with Code of Practice for Able Bodies Seasonal Workers, published by Department of Building and Housing 2008.</u></p> <p>AND</p> <p>Any consequential or additional amendments as a result of changes sought in the submission.</p>
FS1171.20	T&G Global	Support submission 419.25
FS1076.16	New Zealand Pork Industry Board	Support submission 419.25
FS1308.33	The Surveying Company	Support submission 419.25
FS1342.92	Federated Farmers	Support submission 419.25
FS1388.186	Mercury NZ Limited	Oppose submission 419.25

Analysis – Rule 22.3.1 – Number of dwellings within a lot

259. As noted above, three submissions were received in support of the Proposed Plan rule on the number of dwellings within a lot, with one being neutral. Nine submissions were received seeking amendments to the rule, with the key matters being an increase in the number of dwellings permitted on large lots, and use of the terminology in the rule.
260. Ms Overwater is recommending that the minimum lot size be 40ha, with an allowance for a single additional title of 0.8-1.6ha to be created for every 40ha balance. This is an increase from the 20ha balance requirement in both the Operative Plan and the Proposed Plan as notified. The related land use rule in the Proposed Plan as notified has three legs:
- PI(a) one dwelling within a lot less than 40ha;
 - PI(b) No more than two dwellings within a lot of more than 40ha;
 - PI(c) No dwellings within areas of identified landscape or natural character values.
261. The PI(a) limit of one dwelling on a lot less than 40ha aligns with the recommended 40ha minimum subdivision requirement in Ms Overwater's report. It also enables a dwelling to be erected on smaller existing lots and where owners are likely to have an expectation that such rights are available due to the Operative Plan also enabling a dwelling on existing titles. In short, the expectation is that each dwelling will be on a lot of at least 40ha, except where either smaller lots are already in existence or where new child lots are created and the dwelling follows the subdivision rather than vice versa.

262. D&B Yzendoorn [295.5], Middlemiss Farm Holdings [794.16], and Federated Farmers [680.218] seek that clause (a) be amended to enable additional dwellings on lots less than 40ha. P&T Singh [690.8], and The Surveying Company [746.80] seek that Clause (b) be amended so that the number of dwellings able to be located on lots larger than 100ha be increased to 3, and Federated Farmers [680.218] seeks that 3 dwellings be permitted on lots larger than 40ha.
263. Given the above strategic outcomes sought for the rural area, and the multitude of subdivision pathways outlined in Ms Overwater's report, it is not recommended that the number of dwellings on lots smaller than 40ha be increased. Ms Overwater's recommendation to increase the size of the balance lot to 40ha means that some amendments are necessary to Clause (b) to ensure that the subdivision and landuse controls remain aligned. It is therefore recommended that no more than one dwelling be permitted on lots smaller than 40ha, and that for lots larger than 40ha one additional dwelling is permitted for every additional 40ha of area, up to a maximum of three dwellings per lot i.e. <40ha = 1 dwelling; once lots are larger than 80ha = 2 dwellings; and more than 120ha = 3 dwellings. This will keep the proportion of dwellings to open space (1 unit per 40 ha) consistent with the outcomes anticipated through the subdivision rules, and retains the Proposed Plan approach of having an upper cap on the number of dwellings on any given lot. It also enables additional dwellings to be constructed on larger farms where the scale of the farming operation necessitates more than one family living on the site. It is important to emphasise that for lots over 40ha in area, an additional dwelling can also be facilitated if subdivision is undertaken first to create a smaller child lot whilst maintaining balance areas of more than 40ha.
264. Horticulture NZ [419.25] have made a series of submission points on the activity rules seeking provision for seasonal worker accommodation as a permitted activity. I appreciate that large horticulture operations often require seasonal workers at peak times (typically harvest season), and that for some larger operations it is convenient to accommodate temporary staff in hostel-style accommodation on-site. Such workers may just be employed on the site where they are living, or may be contracted to work on a series of different farms or orchards in the wider area. Such bespoke forms of accommodation can help to meet peaks in seasonal demand for accommodation. Given the numerous pathways by which additional dwellings can be erected, and the strong strategic policy direction concerning urban growth, I am cautious that providing yet another pathway for seasonal worker accommodation creates the potential to undermine these strategic directions. Defining and enforcing seasonal accommodation is problematic, and simply permitting additional residential units for farm workers could lead to a proliferation of new dwellings in rural areas. In short, providing a further pathway for 'worker accommodation' for a small number of specialist facilities risks opening the door to a large number of general residential proposals and thereby undermining strategic outcomes for both the rural zone and urban growth management. I am not convinced that this issue can be overcome through different definitions and therefore in weighing the costs, benefits, and risks have preferred a stricter approach to residential units rather than providing another pathway that may be challenging in practice to limit.
265. The provision for child lots, combined with minor units, enables additional accommodation to be provided on larger rural sites, without needing to create additional permitted pathways. If particularly bespoke or unique forms of hostel-style accommodation are required, then it is considered appropriate that the effects of such are considered through a resource consent process, and where conditions could be placed on the consent regarding the operation of such facilities as such facilities can be much larger and have a different form, intensity, and character compared with standard residential dwellings. As such it is recommended that the submission points sought by Horticulture NZ on worker accommodation be rejected.

266. No submitters sought to amend Clause (c) which does not permit dwellings within areas of high landscape value as a permitted activity. Waikato District Council [697.797] seeks a minor amendment to this clause to improve its readability which is supported.
267. Waikato District Council [697.797] also seeks that the rule refer to 'record of title' rather than 'lot'. CKL [471.5] and McCracken Surveys [943.13] conversely seek that the rule refer to 'site' rather than 'lot'. I note that the definition of 'site' is recommended in Hearing 5 to refer to a single Record of Title. I also note that the subdivision rules are recommended to refer to 'Record of Title'. To maintain consistency and to make clear that the density rules are based on titles, rather than applicant-defined 'sites', it is recommended that 'Record of Title' be used.
268. I note that no submitters sought to amend the fully discretionary activity status for applications that do not meet the minimum lot size requirements (Rule 22.3.1 DI). In my opinion non-complying status would be more appropriate given the clear policy direction regarding urban growth management and the enablement of productive farming activities which can be threatened by lifestyle block subdivision, especially the cumulative effects of such over time. The subdivision rules have non-complying as the activity status for lots that do not meet the required minimum size requirements, and it appears inconsistent to have a more enabling landuse rule activity status. There are no submissions seeking to amend the activity status, and therefore scope to make such a change is reliant on submissions on the strategic outcomes of urban growth management and the wider outcomes sought for the rural environment. The amendment to non-complying status is shown in the below recommendations, dependent on the Panel agreeing that sufficient scope exists to make such a change. Discretionary status is recommended to be retained for dwellings proposed in the landscape areas identified in Clause (c), where they meet minimum site size requirements in Clause (a) or (b) i.e. the notified approach is retained of dwellings requiring a site-specific assessment due to landscape values, even where they meet minimum site size requirements.
269. I also note that the s42A report on definitions recommended the deletion of the term 'dwelling' and its replacement with 'residential unit' to align with the terms used in the National Planning Standards. It is recommended that as a consequential amendment to the change in definitions that the terminology in Rule 22.3.1 is also amended to refer to residential unit.

Recommendations and Amendments

270. Amend Rule 22.3.1 as follows:

PI	<p>(a) One dwelling <u>residential unit</u> within a lot <u>Record of Title</u> containing <u>an area</u> less than 40ha;</p> <p>(b) No more than two dwellings Within a lot <u>Record of Title</u> containing <u>an area of 40ha</u> or more, <u>one additional residential unit is permitted for every additional 40ha of area up to a maximum of three residential units</u>;</p> <p>(c) Any dwelling(s) <u>residential unit(s)</u> under Rule 22.3.1 PI (a) and (b) must not be located within any <u>of the following landscape and natural character areas</u>:</p> <ul style="list-style-type: none"> (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) Outstanding Natural Character Area; (iv) High Natural Character Area.
DI	<p>A dwelling <u>residential unit</u> that does not <u>complies</u> with Rule 22.3.1 PI <u>(a) or (b) and is located within an area listed in (c)</u>.</p>

<u>NCI</u>	<u>A residential unit that does not comply with Rule 22.3.1 PI(a) or (b).</u>
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Analysis – Rule 22.3.2 Minor Dwellings

271. Eight submitters support the rule and seek its retention. Nineteen submitters seek amendments to the rule. These submitters are generally supportive of the intent of the rule to enable minor units, with the submitters seeking to either clarify how the rule works or to alter the various requirements that minor units must meet.
272. The s42A report on definitions recommended that the term ‘minor dwelling’ be deleted and replaced with ‘minor residential unit’ to align with the National Planning Standards. Under the recommended definition, minor residential unit “*means a self-contained residential unit that is ancillary to the principal residential unit, and is held in common ownership with the principal residential unit on the same site*”.
273. Minor residential units are a tool aimed at both improving housing affordability by enabling additional residential accommodation, and enabling dependent family members to reside on the same site but within a separate building from the main dwelling. These enabling outcomes are balanced against the wider strategic outcomes regarding urban growth management and the need to manage a proliferation of additional dwellings in rural areas.
274. The rule enabling minor units has significant implications for residential density and rural character outcomes. In essence every new lot enabled through the rural subdivision rules, and/ or every existing farm house has the ability to add a second dwelling (subject to meeting the rule requirements). The minor unit can physically be either a stand-alone dwelling or integrated into the primary dwelling. The minor unit rule therefore potentially doubles the number of residential units that are able to be located in the Rural Zone. I readily acknowledge that minor units are not a form of housing that will suit all situations, and many rural homeowners will choose not to have a minor unit, however the potential for minor units needs to be borne in mind when considering submissions seeking more enabling rules on rural subdivision and minimum lots sizes.
275. The ability to provide minor units on the 0.8-1.6ha ‘child’ lots enabled through the subdivision rules in particular has the potential to alter the density of dwellings in rural areas and affect rural character. No submissions were received on the minor unit rule seeking that the rule only apply to sites above a certain size and therefore I am cautious that scope does not exist to impose such a limitation, plus I note that minor units are proposed to be enabled in the Country Living and Village Zones. The Panel may however wish to consider whether minor units should only be permitted on sites larger than 1.6ha to maintain the strategic density, rural character, and urban growth outcomes sought by submitters more generally, and for which scope does exist.
276. The definition, combined with the Proposed Plan rule 22.3.2, place limits on the size and nature of minor residential units as follows:
- The unit is to be ancillary to a principal residential unit (definition);
 - It is to be held in common ownership as the principal unit (definition);
 - It is to be held on the same site as the principal unit (definition);
 - It is to be no more than 70m² GFA (Rule - PI(a));
 - It is to be located no more than 20m from the principal unit (Rule - PI(b)(i));

- It is to share a common driveway with the principal unit (Rule - PI (b)(ii)).

277. It is likewise important to note that neither the definition nor the rule limit the occupants to just family members i.e. the unit can be occupied by tenants who are unrelated to the people living in the principal unit. The definition and rule likewise do not require the minor unit to be temporary i.e. such units can be permanent buildings. Confirmation of these two enabling matters were sought by several submitters and conversely no submitters sought that such limitations apply. I agree that the use of minor units should not be limited to just family members and that they should be able to be permanent buildings. As this is simply confirmation that the rule does not include such limitations, no amendments to the rule are required.
278. Submitters have sought amendments to all of three clauses of the rule.

Size of unit

279. Submitters have sought that either there be no limits on the size of a minor unit, or that the limit be increased. A key element in the definition is that such units are to be ancillary to the principal unit. The s42A recommendation on the term 'ancillary activity' is that it means 'an activity that supports and is subsidiary to a primary activity'. The ancillary nature of minor units implies that they are smaller than, and subordinate to, the principal unit. The rule likewise does not simply enable a second residential unit on lots, rather the term indicates that minor units are different (and smaller) than normal residential units.
280. Limitation on the size of such units therefore goes to the heart of the ancillary and subordinate nature of these dwellings. The limitation to 70m² is sufficient to enable a reasonable two bedroom unit⁵. L Faesenkloet [171.1] has sought that the rule be clarified so that the 70m² limitation does not apply to garages. I agree that this clarification should be added to the rule, noting in particular that in the rural zone there is no limit on the size or number of accessory or farm buildings (subject to meeting overall site coverage requirements), and therefore detached garages could be built as of right. The confusion will only arise if a minor unit has an attached garage.

Separation distance

281. The proposed rule requires minor units to be located within 20m of an existing dwelling (Clause b)(ii)). A number of submitters have sought that this requirement either be deleted entirely or be increased in size, with 50m, 100m, and 150m distances being suggested as alternatives. The requirement for minor units to be in close proximity to the principal unit again goes to the intended purpose of such units being ancillary in that it 'supports and is subsidiary to' the primary activity. The intention is not that the rule provide simply for second dwellings, as such would result in pressure for future subdivision. The intent is instead to provide alternative living accommodation that supports and is a part of the activity undertaken by the principal unit. As such I consider that the requirement to limit separation distance serves an important purpose, along with the limitation on unit size, in ensuring that such units are not simply second dwellings. That said, 20m is a relatively short distance in the context of larger rural landholdings. It is recommended that the distance be increased to 100m to provide greater flexibility in site design, whilst still ensuring that buildings are located in reasonable proximity to each other and to limit future subdivision pressure to simply 'carve off' an area around the minor unit.

Shared Driveway

⁵ A number of the larger metro City Plans set minimum unit size requirements in higher density areas, with 60m² deemed adequate for 2-bed units

282. The second leg of Clause (b)(ii) requires that minor units must share a single driveway with the existing dwelling. Submitters have sought that this requirement be removed. As with the separation distance, the shared driveway is an important tool in emphasising that minor units are linked to the principal dwelling and are not simply stand-alone second dwellings on the same property. A requirement to be located such that the unit shares the same driveway likewise helps to reduce pressure in the future to subdivide it off with its own access. It is therefore recommended that the shared driveway requirement be retained.
283. I note that Clause (b) starts with 'where there is an existing dwelling located within a lot'. The definition of minor residential unit makes it clear that such units are to be ancillary to existing residential units i.e. if there is an empty field with no existing dwellings, then there cannot by definition be just a minor unit, as there is no principle unit to be ancillary to. Instead a 70m² residential unit being constructed in an empty field is simply a small principle unit. Consequential amendments to the start of Clause (b) are recommended as a result of the changed definition. The term 'dwelling' is likewise recommend to be replaced with 'residential unit' to align with the Hearing 5 recommendations.

Same lot

284. The notified rule refers to minor units being held 'within a lot'. The definition of 'minor unit' refers to it being held in common ownership with the principal unit on the same site'. If the rule enables minor units to be located on separate titles to the principal unit, then there is nothing to stop that unit (and title) being on-sold to a third party, thereby negating the requirement that such units be held in common ownership with the principal unit. A consent notice could be placed on the titles requiring that they be held together as a tool to avoid such an outcome, however it is considered more efficient to simply require the units to be held on the same title. The requirements that they share the same driveway and are located in reasonable proximity to each other likewise supports them being on the same title. The Rural Zone rule package has also sought to consistently use 'Record of Title'. To ensure consistency with the rest of the rule framework, and to help ensure that the definition requirement of minor units being held with the principal unit endure, it is recommended as a consequential amendment that 'record of title' be used.

Activity status

285. Where minor units do not meet the requirements of PI, they require a resource consent as a discretionary activity under Rule DI. I have considered whether this activity status is appropriate or whether non-complying would better achieve the policy outcomes regarding density and rural character. In the event that a proposal sought to locate a minor unit on a different lot that was not in some way bound to the lot containing the principal dwelling, or looked to subdivide off the minor unit onto its own site, then the activity would at that point by definition cease to be a 'minor unit' and would instead be subject to compliance with the general landuse rule regarding dwelling density and the associated 40ha (recommended) minimum site requirement. The discretionary rule is therefore only triggered by proposals that are remaining on the same lot as the principal dwelling and are instead seeking consent to breach the limitations on floor area, separation distance, or shared driveways. Such matters are appropriately assessed as a discretionary activity as there may well be site-specific circumstances where a greater floor area or separation distance is appropriate and the effects of such are able to be appropriately managed.

Recommendations and Amendments

286. It is recommended that Rule 22.3.2 be amended as follows:

PI	<p>(a) One minor dwelling residential unit not exceeding 70m² gross floor area (excluding accessory buildings) within a Record of Title lot.</p> <p>(b) The minor residential unit shall be located on the same Record of Title as an</p>
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	<p>existing residential unit and shall: Where there is an existing dwelling located within a lot:</p> <p>(i) The minor dwelling must be <u>Be</u> located within <u>2100m</u> of the <u>existing residential unit dwelling</u>;</p> <p>(ii) The minor dwelling must Share a single driveway access with the existing <u>residential unit dwelling</u>.</p>
DI	A minor <u>residential unit dwelling</u> that does not comply with Rule 22.3.2.PI.

Rural – Policy 5.3.2 - Productive rural activities

Introduction

114. The Proposed Plan seeks to recognise and provide for productive rural activities, i.e. farming, as the dominant activity in the rural zone.

Submissions

115. Six submissions support the policy and seek its retention. Three submitters seek that the policy include specific reference to intensive farming, with four other submitters seeking various other amendments. No submissions were received in opposition to the policy.

Submission point	Submitter	Summary of submission
197.6	NZ Pork	Retain Policy 5.3.2- Productive rural activities.
281.5	Zeala Ltd for Trading as Aztech Buildings	Retain Policy 5.3.2 Productive rural activities. AND Amend rules to be consistent with this policy.
636.4	Anna Noakes	Amend Policy 5.3.2 Productive rural activities, to include Intensive Farming.
<i>FS1265.4</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 636.4</i>
<i>FS1316.11</i>	<i>Alstra (2012) Limited</i>	<i>Support submission 636.4</i>
<i>FS1388.616</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 636.4</i>
676.2	T&G Global Limited	Retain Policy 5.3.2 - Productive Rural Activities.
821.7	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	Retain Policy 5.3.2 Productive rural activities, except for the amendments outlined below; AND Amend Policy 5.3.2(a)(i) Productive rural activities, as follows: (a) Recognise and protect the continued operation of the rural environment as a productive working environment by: (i) Recognising that buildings and structures associated with farming, <u>intensive farming</u> , and forestry and other operational structures for productive rural activities contribute to rural character and amenity values; ...
<i>FS1316.10</i>	<i>Alstra (2012) Limited</i>	<i>Support submission 821.7</i>
<i>FS1317.8</i>	<i>Quinn Haven Investments Limited and M & S Draper</i>	<i>Oppose submission 821.7</i>

FS1265.3	Mainland Poultry Limited	Support submission 821.7
833.4	Mainland Poultry Limited	Amend Policy 5.3.2 (a)(i) Productive rural activities, as follows: Recognise and protect the continued operation of the rural environment as a productive working environment by: (i) Recognising that buildings and structures associated with farming, <u>intensive farming</u> , and Forestry...
FS1316.9	Alstra (2012) Limited	Support submission point 833.4.
FS1076.10	New Zealand Pork Industry Board	<i>Intensive farming is a productive rural activity that can only locate in the Rural Zone and should be enabled. Buildings associated with intensive farming are a legitimate aspect of rural character.</i>
FS1338.1	Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd	Null
419.58	Horticulture New Zealand	Retain Policy 5.3.2 Productive rural activities, as notified.
466.58	Balle Bros Group Limited	Retain Policy 5.3.2 Productive rural activities as notified.
FS1062.47	Andrew and Christine Gore	Disallow submission point 466.58.
581.13	Synlait Milk Ltd	Add a new clause (iv) to Policy 5.3.2 Productive rural activities as follows: <u>(iv) Encourage the adoption of sustainable farming practices to ensure long-term operation of farming as part of the rural economy.</u>
FS1330.47	Middlemiss Farm Holdings Limited	Accept Submission.
FS1341.29	Hynds Pipe Systems Limited	Null
FS1342.147	Federated Farmers	Disallow submission point 581.13.
680.61	Federated Farmers of New Zealand	Retain Policy 5.3.2 Productive rural activities, as notified, subject to the amendment sought below: 5.3.2 Policy - Productive Rural production activities (a) Recognise and protect the continued operation of the rural environment as a productive working environment by: (i) Recognising that buildings and structures associated with farming and forestry and other operational structure for productive rural activities contribute to rural character and amenity values; (ii) Ensuring productive rural activities contribute to rural character and amenity values (ii) Providing for lawfully-established rural activities and protecting them from sensitive land uses <u>and reverse sensitivity effects.</u> <u>(iv) Recognising the use and development of rural resources enables people and communities to provide for their economic, social and cultural wellbeing.</u> AND

		Any consequential changes necessary to give effect to the relief sought and/or concerns raised in the submission
FS1168.55	Horticulture New Zealand	Allow the submission.
FS1198.27	Bathurst Resources Limited and BT Mining Limited	The submission point be disallowed in part to the extent that the wording changes may exclude extractive activities.
FS1265.5	Mainland Poultry Limited	Allow in part with the changes to Policy 5.3.2 as per our original submission (833.4).
FS1316.12	Alstra (2012) Limited	Support submission point 680.61 in part with the changes to Policy 5.3.2 as per Mainland submission point 833.4.
FS1171.74	T&G Global	Allow the submission.
794.36	Middlemiss Farm Holdings Limited	Amend Policy 5.3.2 Productive rural activities as follows: (a) Recognise and protect <u>enable</u> the continued operation of the rural environment as a productive working environment by: (i) Recognising that buildings and structures associated with farming and forestry and other operational structures for productive rural activities contribute to rural character and amenity values; (ii) Ensuring productive rural activities are supported by appropriate rural industries and services; (iii) Providing for lawfully-established rural activities and protecting them from sensitive land uses. AND Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.
797.42	Fonterra Limited	Retain Policy 5.3.2 Productive rural activities as notified.
827.43	New Zealand Steel Holdings Ltd	Add a new clause (iv) to Policy 5.3.2(a) Productive rural activities as follows: (a) Recognise and protect the continued operation of the rural environment as a productive working environment by: ... <u>(iv) Recognising other productive activities that are located in the rural environment, including mineral extraction activities.</u>
FS1198.24	Bathurst Resources Limited and BT Mining Limited	The submission point be allowed in full.

Analysis

116. The proposed policy is the key 'enabling policy' for the range of farming activities typically found in rural environments. The phrase 'productive rural activities' is not defined in the Proposed Plan, however farming is defined as meaning:

an agricultural, horticultural, or apicultural activity having as its primary purpose the production of any livestock or crop using in-situ soil, water and air as the medium for production. It includes:

(a) Ancillary produce stalls;

(b) Processing of farm produce grown on the land, such as cutting, cleaning, grading, chilling, freezing, packaging, and storage.

117. Several submitters have sought that the policy include explicit reference to intensive farming and mineral extraction as being activities that are anticipated and enabled in rural environments. These two activities have their own specific policies (5.3.6 for intensive farming and 5.4.2 for mineral extraction), which provide policy direction that such activities are anticipated in rural environments, subject to appropriate management. Reference to their location within rural environments is also included in the new policy recommended above on rural character. Given the specific direction on these activities and the more general direction provided in the new recommended policy, I do not consider that further explicit reference is necessary in this policy, and indeed would potentially combine and confuse the wide enabling direction of this policy with the ‘anticipated but subject to management’ direction of the policies on intensive farming and mineral extraction.
118. Middlemiss Farm Holdings [794.36] have sought minor changes to the policy to include reference to the ‘enablement’ of rural activities rather than ‘protection’. I agree that the focus of the policy is on recognising the predominant land use occurring in rural areas and to provide for it through the rural zone framework. I therefore agree with the word change sought. I also note that Policy 5.3.7 on reverse sensitivity has a focus on ‘protection’.
119. Federated Farmers [680.61] and Middlemiss Farm Holdings seek to delete the reference to productive rural activities. The focus of the policy is to recognise and provide for farming and ties in with the preceding policies on soils and the retention of their productive potential, i.e. the rural environment is a working and economically productive environment. The removal of the reference to ‘productive’ weakens this emphasis and is not supported. Non-economically productive activities that occur in rural environments, e.g. community activities, are discussed in more detail below.
120. Federated Farmers seek an amendment to clause (iii) so that it reads “providing for lawfully-established rural activities and protecting them from sensitive land uses and reverse sensitivity effects”. I agree with this amendment, as it more fully articulates the outcome the policy is trying to achieve, i.e. the potential for new sensitive uses to complain about the operation of lawfully-established businesses, which in turn creates pressure on those businesses to modify or close their operations. It is noted that the management of reverse sensitivity issues is addressed in more detail though Policy 5.3.7.
121. Federated Farmers’ final proposed text change is the addition of a further clause as follows: “(iv) Recognising the use and development of rural resources enables people and communities to provide for their economic, social and cultural wellbeing.” The proposed wording provides explanation as to the purpose of the policy and the reason why productive rural activities are to be enabled, i.e. farming is not an end in itself but is to derive benefits and wellbeing for land owners and the wider community. It is recommended that this additional clause be accepted.

Recommendations and amendments

122. Amend Policy 5.3.2 – Productive rural activities as follows:
- (a) Recognise and ~~protect~~ **enable** the continued operation of the rural environment as a productive working environment by:
 - (i) Recognising that buildings and structures associated with farming and forestry and other operational structures for productive rural activities contribute to rural character and amenity values;
 - (ii) Ensuring productive rural activities are supported by appropriate rural industries and services;
 - (iii) Providing for lawfully-established rural activities and protecting them from sensitive land uses **and reverse sensitivity effects**;

- (iv) Recognising the use and development of rural resources enables people and communities to provide for their economic, social and cultural wellbeing.

Rural – Policy 5.3.9 Non-rural activities

Introduction

123. The Proposed Plan recognises that in addition to farming activities addressed in Policy 5.3.2, there is a range of other activities that, whilst not directly concerned with the rearing of animals or crops in a pastoral context, are nonetheless common and anticipated elements in a working rural environment, provided they are at a scale and intensity consistent with maintaining rural character and amenity values.

Submissions

124. Four submissions were received in support of the policy and seek its retention. Nine submissions seek amendments to the policy, with those amendments generally seeking explicit reference to specified activities. Three submissions were received opposing the policy and seeking its deletion. One submission was received seeking a specific policy that addresses education facilities in the rural zone.

Submission point	Submitter	Summary of submission
402.9	Tuakau Proteins Limited	Amend Policy 5.3.9 (a) Non-rural activities, as follows (or words to similar effect): (a) manage any non-rural activities, including equestrian centres, horse training centres and forestry and rural industries , to achieve a character, scale, intensity and location that are in keeping with rural character and amenity values. AND Any consequential amendments and/or additional relief to give effect to the concerns raised in the submission
FS1388.142	Mercury NZ Limited for Mercury E	Oppose submission 402.9
781.4	Ministry of Education	Add a new policy in Chapter 5: Rural Environment to provide for education facilities in the rural environment as follows: <u>Policy - Education Facilities within the Rural Environment To allow activities which are compatible with the role, function and predominant character of the Rural Environment, while managing the effects of the activities on the environment, including: Education facilities</u>
FS1387.1213	Mercury NZ Limited for Mercury D	Oppose submission 394.9
FS1379.321	Hamilton City Council	Oppose submission 394.9
FS1345.129	Genesis Energy Limited	Support submission 394.9
499.3	Adrian Morton	Amend Policy 5.3.9 Non-rural activities, to include "gun club shooting activities".
FS1311.33	Ethan & Rachael Findlay	Oppose submission 499.3
FS1276.38	Whaingaroa Environmental Defence Inc. Society	Support submission 499.3

FSI388.503	Mercury NZ Limited for Mercury E	Oppose submission 499.3
757.3	Karen White	Amend Policy 5.3.9 (a) Non-Rural Activities to include "gun club shooting activities."
297.34	Counties Manukau Police	Add to Policy 5.3.9 Non-rural activities a new point as follows: <u>(c) ensure any non-rural activities and associated buildings, structures and facilities conform to the national guidelines for CPTED</u>
FSI386.314	Mercury NZ Limited for Mercury C	Oppose submission 297.34
378.62	Fire and Emergency New Zealand	Retain Policy 5.3.9 Non-rural activities, to the extent that it anticipates non-rural activities in the Rural Zone AND Amend Policy 5.3.9 Non-rural activities, as follows: (a) Manage any non-rural activities, including equestrian centres, horse training centres, <u>emergency service facilities</u> , forestry and rural industries, to achieve a character, scale, intensity and location that are in keeping with rural character and amenity values, (b) Avoid buildings and structures dominating land on adjoining properties, public reserves, the coast or waterbodies; <u>and</u> (c) <u>Enable non-rural activities that provide for the health, safety and well-being of the community and that service or support an identified local need.</u> AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
FSI388.50	Mercury NZ Limited for Mercury E	Oppose submission 378.62
FSI035.169	Pareoranga Te Kata	Support submission 378.62
419.64	Horticulture New Zealand	Amend the title of Policy 5.3.9 Non-rural activities, as follows: Policy 5.3.9 Other Non- rural activities AND Amend Policy 5.3.9 Non-rural activities, to further clarify and refine the policy OR Amend Policy 5.3.9 Non-rural activities by combining it with Policy 5.3.3 Industrial and commercial activities. AND Any consequential or additional amendments as a result of changes sought in the submission.
FSI171.40	Phoebe Watson for Barker & Associates on behalf of T&G Global	Support submission 419.64
FSI340.54	TaTa Valley Limited	Support submission 419.64
FSI345.100	Genesis Energy Limited	Oppose submission 419.64

FS1370.3	Aztech Buildings for Zeala Limited	Support submission 419.64
FS1388.207	Mercury NZ Limited for Mercury E	Oppose submission 419.64
466.63	Brendan Balle for Balle Bros Group Limited	Retain Policy 5.3.9 Non-rural activities as notified.
FS1388.430	Mercury NZ Limited for Mercury E	Support submission 466.63
535.52	Lance Vervoort for Hamilton City Council	Retain Policy 5.3.9 Non-rural activities.
FS1388.705	Mercury NZ Limited for Mercury E	Oppose submission 535.52
575.30	Fulton Hogan Limited	Retain Policy 5.3.9 Non-rural activities, as notified.
FS1292.44	McPherson Resources Limited	Support submission 575.30
576.11	Transpower New Zealand Ltd	Add a new clause (c) to Policy 5.3.9 Non-rural activities, as follows: (c) Recognise that some activities require a rural location AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in the submission.
FS1345.23	Genesis Energy Limited	Support submission 576.11
FS1258.59	Meridian Energy Limited	Support submission 576.11
FS1340.88	TaTa Valley Limited	Support submission 576.11
680.68	Federated Farmers of New Zealand	Delete Policy 5.3.9 Non-rural activities. AND Any consequential changes necessary to give effect to the relief sought and/or concerns raised in the submission.
FS1334.45	Fulton Hogan Limited	Oppose submission 680.68
FS1258.74	Meridian Energy Limited	Support submission 680.68
FS1292.45	McPherson Resources Limited	Support submission 680.68
FS1379.249	Hamilton City Council	Oppose submission 680.68
FS1345.36	Genesis Energy Limited	Oppose submission 680.68
FS1387.173	Mercury NZ Limited for Mercury D	Oppose submission 680.68
691.12	McPherson Resources Limited	Retain Policy 5.3.9 - Non-rural activities, as notified. This relief is sought in the event that any part of the submission from point 691.1 to 691.15 is not accepted by WDC.
FS1334.44	Fulton Hogan Limited	Support submission 691.12
695.52	Sharp Planning Solutions Ltd	Delete Policy 5.3.9(a) Non-rural activities.
FS1387.313	Mercury NZ Limited for	Oppose submission 695.52

	<i>Mercury D</i>	
<i>FS1379.265</i>	<i>Hamilton City Council</i>	<i>Oppose submission 695.52</i>
<i>FS1292.46</i>	<i>McPherson Resources Limited</i>	<i>Oppose submission 695.52</i>
<i>FS1334.46</i>	<i>Fulton Hogan Limited</i>	<i>Oppose submission 695.52</i>
827.46	New Zealand Steel Holdings Ltd	Delete Policy 5.3.9 Non-rural activities
<i>FS1379.339</i>	<i>Hamilton City Council</i>	<i>Oppose submission 827.46</i>
<i>FS1334.48</i>	<i>Fulton Hogan Limited</i>	<i>Oppose submission 827.46</i>
<i>FS1292.48</i>	<i>McPherson Resources Limited</i>	<i>Oppose submission 827.46</i>
697.557	Waikato District Council	Amend Policy 5.3.9 Non-rural activities heading as follows: Policy – Non-rural activities <u>Managing activities in the rural zone.</u>
<i>FS1168.62</i>	<i>Horticulture New Zealand</i>	<i>Oppose submission 697.557</i>
<i>FS1387.608</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 697.557</i>
697.558	Waikato District Council	Amend Policy 5.3.9(a) Non-rural activities as follows: Manage any non-rural <u>non-farming</u> activities, including: <u>equestrian centres, horse training centres, forestry animal boarding, daycare, breeding and training establishments, and rural industries...</u> AND Add to Policy 5.3.9 Non-rural activities a new policy (c) as follows: <u>(c) Provide for and manage facilities associated with recreational and sporting activities, including equestrian centres, and horse training centres.</u>
<i>FS1292.47</i>	<i>McPherson Resources Limited</i>	<i>Oppose submission 697.558</i>
<i>FS1334.47</i>	<i>Fulton Hogan Limited</i>	<i>Oppose submission 697.558</i>
<i>FS1342.183</i>	<i>Federated Farmers</i>	<i>Oppose submission 697.558</i>
<i>FS1387.609</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 697.558</i>
697.559	Waikato District Council	Add after Policy 5.3.9 Non-rural activities a new policy for retirement villages as follows: <u>5.3.9A Policy – Retirement villages</u> <u>(a) Provide restricted opportunities for retirement villages within 800m distance of towns and villages within the rural environment.</u>
<i>FS1004.7</i>	<i>Tamahere Eventide Home Trust - Tamahere Eventide Retirement Village</i>	<i>Oppose submission 697.559</i>
<i>FS1005.11</i>	<i>Tamahere Eventide Home Trust - Atawhai Assisi Retirement Village</i>	<i>Oppose submission 697.559</i>
<i>FS1345.70</i>	<i>Genesis Energy Limited</i>	<i>Oppose submission 697.559</i>
<i>FS1379.272</i>	<i>Hamilton City Council</i>	<i>Oppose submission 697.559</i>
<i>FS1387.610</i>	<i>Mercury NZ Limited for</i>	<i>Oppose submission 697.559</i>

Analysis

125. As discussed above, the Proposed Plan provides an enabling policy approach for productive rural activities. The Proposed Plan also recognises that there is a range of activities that also occur in rural areas that are not based on pastoral farming systems but that nonetheless support rural communities and economies. Finally, the Proposed Plan includes policy direction for activities that are NOT anticipated or expected in rural environments. This policy direction is summarised as follows:
- (a) Productive rural activities: Policy 5.3.2 – Enables farming and forestry as anticipated activities;
 - (b) Intensive farming: Policy 5.3.6 – Enables intensive farming, subject to appropriate management of effects;
 - (c) Mineral extraction: Objective 5.4.1 and Policy 5.4.2 – Enables mineral extraction subject to locational and management criteria;
 - (d) Temporary events: Policy 5.3.10 – Enables temporary events, subject to appropriate management of effects;
 - (e) Home occupations: Policy 5.3.11 – Enables home occupations subject to limits on scale and intensity;
 - (f) Forestry and rural industry: Policy 5.3.3(a) and 5.3.9 – Manage according to scale and character;
 - (g) Equestrian and horse training: Policy 5.3.9 – Manage according to scale and character;
 - (h) Industrial and Commercial: Policy 5.3.3 – Manage rural industry according to scale and character and avoid non-rural commercial and industrial;
 - (i) Residential activities: Policies 5.3.4 and 5.3.8 – enable, subject to meeting minimum site size and locational criteria.
126. Community activities (e.g. health, education, spiritual, child care), recreation, emergency service activities, rural tourism, conservation activities, and boarding kennels are conversely not subject to any policy direction.
127. The direction provided in the policy framework is important for determining the subsequent rules that are key methods for achieving these policies. In general, activities that are to be ‘enabled’ at policy level are either permitted activities, or permitted subject to meeting criteria on their scale and location, and restricted discretionary if these criteria are not met. In short, they are anticipated in principle, subject to site-specific assessment of specific proposals through a resource consent process. Activities that are common in rural areas but that can give rise to a wider range of effects are typically fully discretionary activities. Activities that are to be avoided or that are not anticipated have a non-complying status. The policy framework therefore sets the direction as to the outcomes the Proposed Plan is seeking to achieve in the rural environment, and provides the framework for the subsequent rule package. It is therefore important that the policy framework provides clear direction as to how activities are to be managed, especially given the ‘activities-based’ design of both the Proposed Plan and the National Planning Standards.
128. The ‘non-rural’ policy 5.3.9 essentially provides direction for activities that are broadly anticipated in the rural environment, yet do not have an activity-specific policy. Clause (a) provides some direction on some activities, and clause (b) relates to built form outcomes. It

is recommended that the built form clause be separated out into a separate policy that addresses building height, setbacks, and site coverage matters, as there is very limited policy direction for what are important rules regarding rural character and amenity outcomes.

129. A number of submitters have sought greater clarity as to the policy's purpose and direction. Horticulture NZ [419.64] and Waikato District Council [679.558] in particular have recognised the need to provide for a broader range of activities that are commonly found in rural environments, and the need to appropriately provide for rural industry. I agree that the policy naming is unhelpful, and the policy content would benefit from providing more focused direction for the range of community and recreation activities that are typically found, or that have a functional need, to locate in rural environments. Such activities are an anticipated and beneficial contributor to vibrant and sustainable rural communities. Such enablement should not, however, be open-ended, with it important that the scale, intensity and design of such facilities are carefully managed to be consistent with both rural amenity values and the wider strategic objectives addressing how urban growth is to be managed.
130. It is recommended that the policy be reframed to provide more explicit direction on community and recreation activities, with rural industry and rural tourism direction forming part of Policy 5.3.3 on industrial and commercial activities. Network infrastructure as a topic is addressed in a separate hearing (and set of plan-wide provisions). Forestry is addressed in Policy 5.3.2. Residential density and retirement villages have discussed above in the assessment of the rural density policies, and boarding kennels are discussed below in the policy on intensive farming.

Recommendations and amendments

131. It is recommended that Policy 5.3.9 be deleted and replaced. The reference to how rural industry is managed is incorporated in Policy 5.3.3. Clause (b) of the policy is incorporated within a recommended new policy on built form outcomes (discussed below in relation to the height and setback rules).

~~5.3.9 Policy – Non-rural activities~~

~~(a) Manage any non-rural activities, including equestrian centres, horse training centres, forestry and rural industries, to achieve a character, scale, intensity and location that are in keeping with rural character and amenity values.~~

~~(b) Avoid buildings and structures dominating land on adjoining properties, public reserves, the coast or waterbodies.~~

5.3.9 Policy – other anticipated activities in rural areas

(a) Enable activities that provide for the rural community's social, cultural, and recreational needs, subject to such activities being of a scale, intensity, and location that are in keeping with rural character and amenity values and are consistent with managing urban growth through a consolidated urban form.

(b) Activities subject to this policy include:

- (i) Community activities including child care, education, health, and spiritual activities;
- (ii) Recreation activities that require a rural or extensive open space setting including equestrian and horse training centres, gun clubs and shooting ranges, golf courses, and walking and cycling trails;
- (iii) Emergency Service facilities;
- (iv) Conservation activities.

Rural – Policy 5.3.3 - Industrial and commercial activities

Introduction

132. The Proposed Plan seeks to enable rural industry (subject to management as to scale and character), and to concurrently avoid general industrial or commercial activities that have no functional need to be located in the rural environment.

Submissions

133. Two submissions were received in support of the policy and seeking its retention. Eight submissions are seeking amendments to the policy, with the changes sought focusing on either providing for industry where the effects can be managed, or seeking recognition of specific activities such as mineral extraction, infrastructure, or coal and ash management facilities associated with the Huntly Power Station.

Submission point	Submitter	Summary of submission
302.44	EnviroWaste New Zealand Limited	Add provision to Policy 5.3.3(b) Industrial and commercial activities for industrial and commercial activities where effects on rural character can be mitigated. AND Amend the Proposed District Plan to make consequential amendments or additional amendments to address the matters raised in the submission.
<i>FS1287.10</i>	<i>Blue Wallace Surveyors Ltd</i>	<i>Support submission 302.44</i>
<i>FS1386.355</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 302.44</i>
<i>FS1379.67</i>	<i>Hamilton City Council</i>	<i>Oppose submission 302.44</i>
419.59	Horticulture New Zealand	Amend Policy 5.3.3 Industrial and commercial activities, to further clarify and refine the policy OR Amend Policy 5.3.3 Industrial and commercial activities by combining it with Policy 5.3.9 Non-rural activities. AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1340.53</i>	<i>TaTa Valley Limited</i>	<i>Support submission 419.59</i>
<i>FS1370.2</i>	<i>Aztech Buildings for Zeala Limited</i>	<i>Support submission 419.59</i>
<i>FS1388.204</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 419.59</i>
466.59	Balle Bros Group Limited	Retain Policy 5.3.3 Industrial and commercial activities as notified.
<i>FS1388.428</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 466.59</i>
575.28	Fulton Hogan Limited	Retain Policy 5.3.3 Industrial and commercial activities except for the amendments sought below. AND Add a new clause to Policy 5.3.3 -Industrial and Commercial Activities, by adding on an additional point as follows:

		<p>(a) Rural industries and services are managed to ensure they are in keeping with the character of the Rural Zone.</p> <p>(b) Avoid locating industrial and commercial activities in rural areas that do not have a genuine functional connection with the rural land or soil resource.</p> <p>(c) <u>Allowing for mineral and aggregate extraction activities insofar as they are lawfully established in the Rural Zone.</u></p> <p>AND</p> <p>Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.</p>
FS1377.147	Havelock Village Limited	Support submission 575.28
FS1319.12	New Zealand Steel Holdings Limited	Support submission 575.28
FS1198.28	Bathurst Resources Limited and BT Mining Limited	Support submission 575.28
FS1292.35	McPherson Resources Limited	Support submission 575.28
FS1332.37	Winstone Aggregates	Support submission 575.28
680.62	Federated Farmers of New Zealand	<p>Amend Policy 5.3.3 Industrial and commercial activities as follows:</p> <p>(a) (b) Industrial and commercial Rural industries and services are managed to ensure <u>that any potential adverse effect on the they are in keeping with the character of the Rural Zone are avoided, remedied or mitigated.</u></p> <p>(b) Avoid locating industrial....</p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p>
FS1387.170	Mercury NZ Limited for Mercury D	Oppose submission 680.62
FS1379.247	Hamilton City Council	Oppose submission 680.62
691.10	McPherson Resources Limited	<p>Retain Policy 5.3.3 Industrial and commercial activities, except for the amendments sought below;</p> <p>AND</p> <p>Add clause (c) to Policy 5.3.3 Industrial and commercial activities, as follows (or words to similar effect):</p> <p>(c) <u>Allowing for mineral and aggregate extraction activities insofar as they are existing in the Rural Zone. This relief is sought in the event that any part of the submission from point 691.1 to 691.15 is not accepted by WDC;</u></p> <p>AND</p> <p>Any consequential amendments or alternative relief to address the matters raised in the submission.</p>
FS1319.26	New Zealand Steel Holdings Limited	Support submission 691.10
FS1334.35	Fulton Hogan Limited	Support submission 691.10
794.37	Middlemiss Farm Holdings Limited on behalf of	Retain Policy 5.3.3 Industrial and commercial activities.

FS1387.1257	Mercury NZ Limited for Mercury D	Oppose submission 794.37
827.44	New Zealand Steel Holdings Ltd	Amend Policy 5.3.3(b) Industrial and commercial activities as follows (or words to similar effect): (b) Avoid locating industrial and commercial activities in rural areas that do not have a genuine functional connection with the rural land or soil resource <u>or other resources (such as minerals)</u> AND Any other further or consequential amendments required.
FS1334.34	Fulton Hogan Limited	Support submission 827.44
FS1198.25	Bathurst Resources Limited and BT Mining Limited	Support submission 827.44
FS1292.34	McPherson Resources Limited	Support submission 827.44
FS1345.68	Genesis Energy Limited	Support submission 827.44
924.47	Alice Barnett for Genesis Energy Limited	Add clause (c) to Policy 5.3.3- Industrial and Commercial Activities as follows: (c) <u>Provide for the existing coal and ash transport and management facilities associated with the Huntly Power Station.</u>
FS1387.1555	Mercury NZ Limited for Mercury D	Oppose submission 924.47
662.2	Blue Wallace Surveyors	Retain Policy 5.3.3 Industrial and commercial activities, except for the amendments sought below AND Add a new clause (c) to Policy 5.3.3 Industrial and commercial activities as follows (or words to similar effect): (c) <u>Recognise that activities associated with non-rural infrastructure be provided for within the rural environment.</u>
FS1387.95	Mercury NZ Limited for Mercury D	Oppose submission 662.2
FS1379.222	Hamilton City Council	Oppose submission 662.2

Analysis

134. Policy 5.3.3 has two quite separate clauses. Clause (a) seeks to manage rural industry to ensure that it is in keeping with rural character and amenity. Clause (b) seeks to avoid any industrial or commercial activity that does not have a functional need to be located in rural environments.
135. Clause (a) recognises that rural environments often include industrial activities that are integral to supporting farming operations and processing farm produce. Common examples include rural equipment contractors' yards, produce packing sheds, timber mills, dairy factories, and freezing works. The latter examples are typically large-scale facilities that can also be located in industrial zones, although small-scale, boutique examples also occur. The Proposed Plan as notified defines 'rural industry' as meaning "an industry that involves the direct handling or processing to the first stage of manufacture of any raw produce harvested from farming, rural contractors' depots, or any other land-related agricultural activity, but excludes waste disposal, extractive industries and electricity generation". Extractive industries such as mining and

quarrying, and waste management activities, are addressed through their own policies, as they are different in character and effects from rural industry and commercial activities.

136. The NPS includes a definition for rural industry, with the s42A report for Hearing 5 recommending that the notified definition be deleted and replaced by the NPS definition as follows: '*rural industry means an industry or business undertaken in a rural environment that directly support, services, or is dependent on primary production*'. The definition (and associated submissions) is discussed in more detail in the section below on the rural industry rule
137. Whilst the title of the policy includes commercial activities, the policy itself is silent on rural commercial (as opposed to rural industrial) activities. Commercial activities that are dependent on a rural amenity and setting, or that service farming activities include rural tourism, veterinary clinics, wineries and wedding venues, farm stays, and adventure tourism activities.
138. Rural commercial and industrial activities form part of the character of rural environments, albeit they are not pastoral in appearance. They either provide a strong functional nexus with the rural hinterland that they serve, or are dependent on rural character and amenity to attract visitors. There are often operational efficiency benefits from such activities being located in rural areas close to where the farming activities are being undertaken.
139. There is a considerable range of rural commercial and industrial activities. The wide range of activities results in a wide range of potential effects, including traffic generation, noise, and visual dominance of large buildings. Where the business includes potentially sensitive activities such as guest accommodation, reverse sensitivity issues may also occur if the activity is located in close proximity to other established productive rural activities. In my experience, district plans generally anticipate such activities, subject to an assessment through a resource consent process, i.e. a restricted discretionary activity (or a permitted activity with low thresholds as to scale and intensity). Such an approach at a policy level therefore involves acknowledging that such activities are typically found in rural environments and form part of rural character, but that their effects need to be managed to ensure that they are appropriate for their local context.
140. Clause (a) is therefore generally appropriate for addressing rural industry. It is recommended that clause (a) be expanded to also cover rural commercial activities, with an associated definition of this term added to the district plan. There is considerable scope for such amendments through the suite of submissions on the permitted activity rules that seek better direction for a range of rural-related but non-farming activities. Horticulture NZ [419.59] have likewise sought that the policy be amended to provide greater direction and clarity of purpose, including as an option its incorporation with Policy 5.3.9, which links to the above recommendation regarding the inclusion of rural commercial and industrial activities in Policy 5.3.3, rather than having differing references to these activities across two policies. Clause (a) also includes reference to such activities needing to have a functional or operational need to locate in a rural environment.
141. The s42A report on definitions recommended the inclusion of the following definitions for 'functional need' and 'operational need', based on the NPS definitions of those terms, as follows:
- a. *Functional need means for a proposal or activity to traverse, locate, or operate in a particular environment because the activity can only occur in that environment.*
 - b. *Operational need means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics of constraints.*

142. Whilst some rural industrial activities could in theory also locate in industrial zones, their functional need is based on the efficiency of being close to the product source, e.g. packing sheds being located in the middle of a market garden area rather than some distance away in an industrial zone. The proposed amended policy therefore refers to both functional and operational needs.
143. Clause (b) is focused on industrial or commercial activities that have no functional nexus or connection to the rural land or soil resource. There is often pressure for rural properties to be developed for non-rural commercial or industrial activities, as the land value is considerably lower than equivalent land that has an industrial zoning. The adequacy of zoned industrial and commercial land will be addressed in later hearings assessing submissions seeking rezoning. The strategic objectives set a clear direction that urban growth in the district is to be managed primarily through the intensification and expansion of existing townships, rather than ad hoc development occurring in rural environments. Such a policy approach is consistent with the direction of the Waikato Regional Policy Statement (as set out in the strategic objectives s42a report), and likewise is in both long-established sub-regional growth strategies such as 'Future Proof', and the recently developed Waikato 2070 growth strategy. The aim of consolidation around existing townships goes beyond a simple consideration of immediate visual and character effects, and is instead based on the need for efficient servicing and funding of network infrastructure, reducing transport emissions and congestion through enabling people to live and work in close proximity, and in having a coherent landscape and urban pattern in the district with vibrant and economically-robust townships that are clearly separated by productive rural environments.
144. Envirowaste NZ Ltd [302.44] and Federated Farmers [680.62] have sought that clause (b) of the policy be amended so that its focus is on controlling the effects of non-rural commercial and industrial activities, rather than seeking to avoid such activities per se. The challenge with the approach put forward by submitters is that in rural areas immediate site-specific effects can often be mitigated due to the large size of landholdings that enable non-rural activities to be visually screened behind shelterbelts and where large setbacks to neighbouring properties are sufficient for managing noise and amenity effects. A policy framework that enables a wide range of non-rural activities, provided immediate amenity effects can be managed, has the potential to cumulatively threaten and subvert the strategic urban growth management framework established under both the WRPS and the Proposed Plan's strategic objectives. As such, it is recommended that the approach set out in Clause (b) be retained, such that industrial and commercial activities that have no functional need or connection to rural resources be avoided. It is noted that a policy approach of 'management' is typically implemented through a discretionary activity rule framework, whereas a policy approach to 'avoid' is typically implemented through rules that have a non-complying status and the associated s104D statutory tests that any subsequent resource consents must pass.

Recommendations and amendments

145. It is recommended that Policy 5.3.3 be amended to provide more overt direction for rural commercial and rural industrial activities as follows:

5.3.3 Policy – Industrial and commercial activities

~~(a) Rural industries and services are managed to ensure they are in keeping with the character of the Rural Zone.~~

(a) Provide for rural industry and rural commercial activities where they are either dependent on the rural soil resource or have a functional or operational need for a rural location. Such activities are to be managed to ensure that:

(i) their scale, intensity, and built form are in keeping with rural character;

- (ii) they maintain a level of amenity for neighbouring sites in keeping with a rural environment; and
 - (iii) they minimise reverse sensitivity effects on existing productive rural, intensive farming, mineral extraction, or rural industrial activities.
- (b) Avoid ~~locating~~ industrial and commercial activities ~~in areas~~ that do not have a genuine reliance on functional connection with the rural land or soil resource or a functional or operational need to locate in the Rural Zone.
146. Add a new definition for ‘rural commercial’ activities 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.

Rural – Policy 5.3.6 – Intensive farming

Introduction

147. The Proposed Plan seeks to enable intensive farming, provided such operations are managed responsibly to reduce potential effects on neighbouring properties as much as is practicable. New intensive farming operations are required to be set back a specified distance from site boundaries to ensure that suitable buffers are in place, and likewise new sensitive activities (primarily residential) seeking to establish near existing intensive farming operations are required to be set back. The key ‘enabling’ direction is provided through Policy 5.3.6, with the management of new sensitive activities provided through Policy 5.3.7. This latter policy on reverse sensitivity is reasonably broad in scope, and as well as intensive farming, also addresses the need to accept a certain level of effects as part of a working rural environment where these effects are generated by normal extensive farming activities, mineral extraction, and rural industry.
148. The rule framework that provides for the various setbacks is likewise spread across several provisions. For new intensive farming operations, the key rules are 22.1.3 (RD1), with any activity that does not meet the various conditions requiring consent as a fully discretionary activity under Rule 22.1.5 (D2). As such, there is no permitted pathway for intensive farming.
149. The complementary rules that control the proximity of new sensitive activities to existing intensive farming operations are set out in Rule 22.3.7.2 (PI)(vii), with sensitive activities requiring a consent as fully discretionary activities under Rule 22.3.7.2 (DI) if the setbacks are not met. It is important to note that the intensive farming controls that deal with land use activities are located within Section 22.1, whereas the controls for sensitive activities form part of the building setback rules in Section 22.3 that deal with land use building matters.
150. Intensive farming is a broad term that covers a number of activities. The definitions relating to these activities therefore have an important bearing on the scope of the policies and rules where those terms are used.
151. Whilst it is a single topic area, the intensive farming provisions are spread across a number of policies and rules. The complexity is exacerbated by the policy relating to reverse sensitivity and the associated rule relating to building setbacks, covering activities that are broader than just intensive farming - the same provisions have received submissions from aggregate mining companies, infrastructure providers, and rural industry. This makes analysis and reporting challenging, as the assessment is either structured by provision (and therefore

needs to address submissions from a range of industries and activities), or is done on a thematic activity basis, which means that the same policy or rule is assessed multiple times.

152. Accepting that there is no clear and simple way in which to report on these provisions, the assessment of submissions has been structured so that I first consider Policy 5.3.6 on intensive farming, and then address submissions on Rules 22.1.3 (RDI) and 22.1.5 (DI), so that the policy on enabling intensive farming, and the rules controlling their establishment are considered together. I have also considered submissions on relevant definitions at this point, as the definitions are integral to how the policy and rule framework operates.
153. Having considered the framework by which new or expanded intensive farming operations are to be managed, I have then turned to access the ‘flip side of the coin’ concerning how new sensitive activities seeking to locate in close proximity to established operations are to be managed. This includes consideration of Policy 5.3.7 on reverse sensitivity, noting that the associated assessment extends beyond just intensive farming. I then consider Rule 22.3.7.2 (PI)(vii) and (DI), which sets out the required building setbacks for new sensitive activities seeking to locate in close proximity to an existing intensive farming operation.
154. So the assessment is structured primarily by provision, with the policy and associated rule discussed together. The exception is Policy 5.3.7, which also includes reference to outdoor lighting, frost fans, and mineral extraction. Given the number of submissions on these disparate matters, it does mean that elements of both Policy 5.3.7 and Rule 22.3.7.2 (PI) on sensitive building setbacks are addressed in separate sections. One of the recommendations is to amend the structure of these provisions so that there is clearer direction for the various activities.

Submissions

155. Three submissions were received in support of the policy and seek its retention. One submission seeks its deletion. Seven submissions seek amendments to the policy.

Submission point	Submitter	Summary of submission
821.5	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	Add to Chapter 5 Rural Environment a separate policy for poultry hatcheries, as follows: <u>To enable poultry hatchery operations to be located where the anticipated effects are consistent with the underlying zone.</u>
FS1316.7	Alstra (2012) Limited	Support submission point 821.5
FS1265.2	Mainland Poultry Limited	Support submission point 821.5.
833.8	Mainland Poultry Limited	Amend Chapter 5 Rural Environment to provide for poultry farming where it can meet the performance standards.
FS1387.1358	Mercury NZ Limited for Mercury D	Oppose submission 833.8
197.9	NZ Pork	Retain Policy 5.3.6 Intensive farming activities.
FS1265.7	Mainland Poultry Limited	Support submission 197.9
FS1316.13	Alstra (2012) Limited	Support submission 197.9
281.7	Zeala Ltd for Trading as Aztech Buildings	Retain Policy 5.3.6(a) Intensive farming activities, except for the amendments sought below AND Amend Policy 5.3.6 (a) Intensive farming activities as follows:

		Enable <u>Provide for</u> intensive farming activities provided they operate in accordance with industry best practice and management of <u>that are not reliant on the productive capacity of the soil on the site provided that the operative effectively manages the</u> adverse effects both on-site and <u>on</u> any neighbouring sites.
FS1265.8	Mainland Poultry Limited	Oppose submission 281.7
FS1316.14	Alstra (2012) Limited	Oppose submission 281.7
567.7	Ngati Tamaoho Trust	Add a new clause (b) to Policy 5.3.6 - Intensive farming activities, as follows: (b) <u>promote the use of earth-bunds and silt traps for all cropping, tree clearance and harvesting activities.</u>
FS1316.17	Alstra (2012) Limited	Oppose submission 567.7
FS1265.11	Mainland Poultry Limited	Oppose submission 567.7
636.3	Anna Noakes	Delete Policy 5.3.6 (a) Intensive farming activities.
FS1265.10	Mainland Poultry Limited	Oppose submission 636.3
FS1338.2	Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd	Oppose submission 636.3
FS1316.16	Alstra (2012) Limited	Oppose submission 636.3
693.4	Alstra (2012) Limited	Retain Policy 5.3.6 - Intensive farming activities as notified.
FS1265.14	Mainland Poultry Limited	Support submission 693.4
798.9	Ngati Te Ata	Add a new clause to Policy 5.3.6 Intensive farming activities as follows: (b) <u>promote the use of earth-bunds and silt traps for all cropping, tree clearance and harvesting activities.</u>
FS1265.13	Mainland Poultry Limited	Oppose submission 798.9
FS1171.104	Phoebe Watson for Barker & Associates on behalf of T&G Global	Oppose submission 798.9
821.8	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	Retain Policy 5.3.6 Intensive farming activities, as notified.
FS1265.6	Mainland Poultry Limited	Support submission 821.8
FS1316.19	Alstra (2012) Limited	Support submission 821.8
466.46	Balle Bros Group Limited	Amend Policy 5.3.6 Intensive farming activities as follows: Enable intensive farming activities provided that they operate in accordance with industry best practice and management of

		<u>any</u> adverse effects both on <u>the</u> site and <u>at the boundary of</u> any adjoining sites.
FS1316.15	Alstra (2012) Limited	Support submission 466.46
FS1265.9	Mainland Poultry Limited	Support submission 466.46
680.65	Federated Farmers of New Zealand	Amend Policy 5.3.6 Intensive farming activities, as follows: (a) Enable-Recognise that intensive farming activities <u>may be increasingly required as the twin pressures on land required for urban growth and food production increases, provided they operate in accordance with industry best practice and management of adverse effects both on-site and any neighbouring sites.</u> (b) <u>Ensure that intensive farming activities operate in such a way as to appropriately manage adverse effects both on-site and on any neighbouring sites.</u> AND Any consequential changes needed to give effect to this relief.
FS1316.18	Alstra (2012) Limited	Oppose submission 680.65
FS1108.57	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose submission 680.65
FS1139.48	Turangawaewae Trust Board	Oppose submission 680.65
FS1275.6	Zeala Limited trading as Aztech Buildings	Support submission 680.65
FS1265.12	Mainland Poultry Limited	Oppose submission 680.65
FS1379.248	Hamilton City Council	Oppose submission 680.65

Analysis

156. Policy 5.3.6 seeks to “enable intensive farming activities provided they operate in accordance with industry best practice and management of adverse effects both on-site and any neighbouring sites”.
157. NZ Pork [197.9], The Poultry Industry Association [821.8], and Alstra [693.4] support the policy and seek its retention. Anna Noakes [636.3] conversely opposes the policy and seeks its deletion.
158. Aztech Buildings [281.7], Federated Farmers [680.65], and Balle Bros Group [466.46] all seek that the policy be amended. The Aztech Building amendment is to make clear that the policy only applies to activities that are not dependent on the productive potential of soil. Such wording forms part of a wider discussion on the definition of intensive farming and the triggers at which ‘normal’ farming operations tip over into becoming ‘intensive’. This matter is best resolved in the assessment of definitions below, with the defined term then being used in the policy, rather than amending the policy itself. The Federated Farmers wording is more in the form of commentary as to why intensive farming may increase in importance, rather than setting clear policy direction. Ngati Tamaoho Trust [567.7] and Ngati Te Ata [798.9] both seek an additional clause (b) to be added to the policy to “promote the use of earth-bunds and silt traps for all cropping, tree clearance and harvesting activities”. These concerns are addressed through the separate discussion on earthworks provisions, and are also addressed in the Waikato Regional Plan which controls sediment discharge to waterways. I note that intensive farming does not tend to involve much cropping or tree clearance, and tends to be focused more on the intensive rearing of animals (primarily

chickens and pigs), as opposed to market gardens or agricultural activities that generate earthworks. I agree that the amendments sought by Balle Bros Group helpfully clarify the scope of the policy, and in particular that operators are responsible for managing effects up to the boundary with adjoining sites.

159. As an overview, and as identified in the Federated Farmers submission, intensive farming has an important role to play in providing food for a growing global population. Intensive farming is likewise an anticipated element in the rural environment, and conversely it is not anticipated in or immediately adjacent to urban environments. It is therefore important that the Rural Zone provisions appropriately recognise and provide for it. Such provision is not however open-ended. Intensive livestock facilities can produce adverse effects, with odour and dust being the most common amenity-related issues. It is therefore important that such facilities are properly managed to minimise such effects as far as practicable. Total elimination will not always be possible, and neither should it necessarily be an expectation in a working rural environment. The most common tool for striking an appropriate balance between enablement and maintenance of reasonable levels of amenity for neighbouring properties is to require intensive farming operations to be well set back from site boundaries, as well as adopting appropriate management practices in terms of how stock is managed and mechanical plant is designed and operated. Overall, I consider that the Proposed Plan policy, subject to the minor amendments sought by Balle Bros Group, achieves an appropriate balance between enabling an activity that is anticipated in the rural environment, and managing the effects.
160. It is recommended that greater direction be provided to the second leg of Policy 5.3.6, based on the wording in Policy 5.3.7(h), as a consequential amendment to restructuring in relation to reverse sensitivity which is discussed below.

Recommendations and amendments

161. Amend Policy 5.3.6 as follows:
- 5.3.6 Policy – Intensive Farming activities
- (a) Enable intensive farming activities provided that they operate in accordance with industry best practice and management ~~of any~~ adverse effects both on the site and at the boundary of any adjoining sites, including effects associated with odour, dust, noise, traffic, and visual amenity.

Intensive farming - Definitions

Introduction

162. The Proposed Plan includes a definition for 'intensive farming', 'animal feedlot', and 'boarding, breeding or animal training establishment'. It does not include definitions for pig farming or poultry farming, although a number of submitters have sought the inclusion of such defined terms. The National Planning Standards include a definition for 'intensive indoor primary production'.

Submissions

163. Fourteen submissions were received seeking changes to the intensive farming definition, either through amendments or through the complete deletion and replacement of the term.
164. Five submissions were received seeking amendments to 'poultry farming', one to 'pig farming', and one in support and two seeking to delete the definition of 'feed lot'.

Definitions – Intensive Farming

636.1	Anna Noakes	Amend definition of "Intensive Farming" by reverting to the definition in the Operative District Plan. AND Delete "Goat Farming" from the definition of "Intensive Farming."
FS1316.31	Alstra (2012) Limited	Oppose submission 636.1
FS1265.34	Mainland Poultry Limited	Oppose submission 636.1
636.5	Anna Noakes	Amend the definition of Intensive Farming, by reverting to the Operative Plan definition for Intensive Farming.
FS1388.617	Mercury NZ Limited for Mercury E	Oppose submission 636.5
FS1265.35	Mainland Poultry Limited	Oppose submission 636.5
FS1316.32	Alstra (2012) Limited	Oppose submission 636.5
676.6	T&G Global Limited	Amend the definition of "Intensive farming" in Chapter 13 Definitions to specifically exclude horticulture activities under cover of either a greenhouse or shade house. AND Any further or consequential amendments necessary to address the concerns raised in the submission.
FS1168.106	Horticulture New Zealand	Support submission 676.6
705.1	Jean Hamilton	Delete the definition of "intensive farming" from Chapter 13 Definitions.
FS1316.35	Alstra (2012) Limited	Oppose submission 705.1
706.2	Francis and Susan Turton	No specific decision sought, but the submission questions the definition of "intensive farming" in Chapter 13 Definitions.
813.1	Hamish Noakes	Delete the definition of "Intensive farming" in Chapter 13 Definitions; OR Amend the definition of "Intensive farming" in Chapter 13 Definitions, to remove confusion. e.g. Farming dependent on the soils of the site should not be classed as intensive and intensive farming is reliant on food being brought in.
FS1316.37	Alstra (2012) Limited	Oppose submission 813.1
FS1265.40	Mainland Poultry Limited	Oppose submission 813.1
821.2	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	Amend the definition of "Intensive Farming" in Chapter 13 Definitions as follows; Means farming which is not dependent on the fertility of the soils on which it is located and which may be under cover or within an outdoor enclosure , and be dependent on supplies of food produced on and/or off the land where the operation is located. ... (c) poultry or game bird farming undertaken wholly or principally within sheds or other shelters or buildings; (d) free-range poultry or game bird farming <u>while inside an enclosure</u> : ...

FS1265.41	Mainland Poultry Limited	Support submission 821.2
FS1316.38	Alstra (2012) Limited	Support submission 821.2
833.2	Mainland Poultry Limited	Amend the definition of "Intensive farming" in Chapter 13 Definitions, as follows: Means farming which is not dependent on the fertility of the soils on which it is located and which may be under cover or within an outdoor enclosure and be dependent on supplied of food produced on and/or off the land where the operation is located ... (c) poultry or game bird farming undertaken wholly or principally within sheds or other shelters or buildings; (d) free-range poultry or game bird farming <u>while inside an enclosure.</u>
FS1316.26	Alstra (2012) Limited	Support submission 833.2
FS1338.7	Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd	Support submission 833.2
281.19	Zeala Ltd for Trading as Aztech Buildings	Delete the whole definition of "Intensive Farming" in Chapter 13: Definitions AND Add the following replacement definition for "Intensive Farming" in Chapter 13: Definitions: <u>Means the commercial raising and keeping of plants or animals contained in buildings or outdoor enclosures, that occurs independent of the soil fertility on the site, is dependent on a high input of food or fertiliser from beyond the site, and may (but not necessarily) involve artificially controlled growing conditions. It may include the use of feedlots for farmed animals; free range farming where feed is introduced from off site, and vegetable, fruit and herb growing operations indoors in artificially controlled growing conditions.</u>
FS1342.57	Federated Farmers	Oppose submission 281.19
FS1076.13	New Zealand Pork Industry Board	Support submission 281.19
FS1168.121	Horticulture New Zealand	Oppose submission 281.19
FS1171.3	Phoebe Watson for Barker & Associates on behalf of T&G Global	Oppose submission 281.19
FS1316.27	Alstra (2012) Limited	Oppose submission 281.19

FS1265.30	Mainland Poultry Limited	Oppose submission 281.19
746.18	The Surveying Company	<p>Amend the definition of "intensive farming" in Chapter 13: Definitions as follows:</p> <p>Intensive pig farming undertaken wholly or principally in sheds or other shelters or buildings;</p> <p>(a) Intensive pig farming undertaken wholly or principally in sheds or other shelters or buildings;</p> <p>(b) Free range pig farming;</p> <p>(c) Poultry or game bird farming undertaken wholly or principally within sheds or other shelters or buildings;</p> <p>(d) Free range poultry or game bird farming;</p> <p>(e) Mushroom farming; and</p> <p>(f) Intensive goat farming <u>animal feedlots feeding livestock on food other than pasture grasses.</u></p> <p>It excludes the following, provided the building is used for the purpose for which it was built: ...; and</p> <p>(d) Glass house production or nurseries;</p> <p>(e) Free-range poultry or game bird farming;</p> <p>(f) Free-range pig farming; and</p> <p>(g) Concentrated but temporary wintering of stock as part of normal farming operations, such as using animal feedpads and standoff pads.</p> <p><u>(h) Poultry Hatcheries</u></p>
FS1374.7	Zeala Limited trading as Aztech Buildings	Support submission 746.18
FS1342.203	Federated Farmers	Support submission 746.18
FS1316.36	Alstra (2012) Limited	Support submission 746.18
FS1265.39	Mainland Poultry Limited	Support submission 746.18
FS1076.1	New Zealand Pork Industry Board	Support submission 746.18
FS1076.7	New Zealand Pork Industry Board	Support submission 746.18

877.10	Leigh Michael Shaw & Bradley John Hall	<p>Amend the definition for "Intensive farming" in Chapter 13 Definitions as follows:</p> <p>(a) intensive pig farming undertaken wholly or principally in sheds or other shelters or buildings;</p> <p>(b) free range pig farming;</p> <p>(c) poultry or game bird farming undertaken wholly or principally within sheds or other shelters or buildings;</p> <p>(d) free range poultry or game bird farming</p> <p>(e) mushroom farming; and</p> <p>(f) intensive goat farming <u>animal feedlots feeding livestock on food other than pasture grasses.</u></p> <p>It excludes the following, provided the building is used for the purpose for which it was built: ...</p> <p>(c) calf pens or wintering accommodation for less than 30 stock (except where stock are being reared for the replacement of breeding stock to be used on the same property); and</p> <p>(d) glasshouse production or nurseries</p>
FS1316.39	Alstra (2012) Limited	Support submission 877.10
FS1265.42	Mainland Poultry Limited	Support submission 877.10
FS1076.8	New Zealand Pork Industry Board	Support submission 877.10
FS1076.2	New Zealand Pork Industry Board	Support submission 877.10
419.126	Jordyn Landers for Horticulture New Zealand	<p>Delete the definition of "Intensive farming" in Chapter 13 Definitions and replace with a definition of "intensive primary production" as follows:</p> <p><u>Intensive primary production Means primary production activities that involve the production of fungi, livestock or poultry that principally occur within buildings.</u></p> <p>OR</p> <p>Amend the definition of "Intensive farming" in Chapter 13 Definitions, as follows:</p> <p>Means farming It excludes the following, provided the building is used for the purpose for which it was built:</p> <p>(a) woolsheds;</p> <p>(b) dairy sheds;</p> <p>(c) calf pens or wintering accommodation for less than 30 stock (except where stock are being reared for the replacement of breeding stock to be used on the same property); and</p> <p>(d) glasshouse <u>greenhouse</u> production or nurseries</p> <p>AND</p> <p>Delete reference to the number of stock if the definition of "Intensive primary production" is retained, and instead include those in the rules or conditions.</p> <p>AND</p> <p>Any consequential or additional amendments as a result of changes sought in the submission.</p>
FS1370.5	Aztech Buildings for Zeala Limited	Oppose submission 419.126

FS1171.56	T&G Global	Support submission 419.126
FS1265.31	Mainland Poultry	Support submission 419.126
FS1316.28	Alstra (2012) Limited	Support submission 419.126
587.1	Bruce Cameron	Amend the definition of "Intensive farming" in Chapter 13 Definitions to increase the stock permitted from 30 to 500.
680.253	Federated Farmers of New Zealand	Delete the definition of "Intensive farming" in Chapter 13 Definitions AND Replace with the following definition of "Intensive Farming" in Chapter 13: Definitions: <u>Means the commercial raising and keeping of plants or animals permanently contained in buildings or outdoor enclosures, that occurs independent of the soil fertility on the site, is dependent on a high input of food or fertiliser from beyond the site, and may (but not necessarily) involve artificially controlled growing conditions and includes boarding kennels or catteries, but does not include the sheltered rearing and weaning of calves, lambs or goats undertaken indoors as part of a farming activity nor the use of wintering barns, stabling of horses, feed pads and stand-off pads where stock are not held on a permanent basis.</u> AND Any consequential amendments needed to give effect to this relief.
FS1076.14	New Zealand Pork Industry Board	Support submission 680.253
FS1171.95	T&G Global	Oppose submission 680.253
FS1265.36	Mainland Poultry Limited	Oppose submission 680.253
FS1275.11	Zeala Limited trading as Aztech Buildings	Support submission 680.253
FS1316.33	Alstra (2012) Limited	Oppose submission 680.253
FS1168.122	Horticulture New Zealand	Oppose submission 680.253
697.395	Waikato District Council	Amend the definition of "Intensive farming" as follows: Means farming which is not dependent on the fertility of the soils on which it is located and which may be under cover or within an outdoor enclosure, and be is dependent on supplies of food produced on and/or off the land where the operation is located....
FS1374.4	Zeala Limited trading as Aztech Buildings	Oppose submission 697.395
FS1265.37	Mainland Poultry Limited	Oppose submission 697.395
FS1316.34	Alstra (2012) Limited	Oppose submission 697.395
FS1168.123	Horticulture New Zealand	Oppose submission 697.395
FS1171.101	T&G Global	Oppose submission 697.395
Definitions – Poultry Farming		

821.3	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	Add a definition for "Poultry Hatchery" in Chapter 13 Definitions, as follows: <u>Poultry Hatchery means a place where eggs are incubated and hatched in a managed process.</u> OR Amend the definition of "Rural Industry" in Chapter 13 Definitions, as follows: Means an industry that involves the direct handling or processing to the first stage of manufacture of any raw produce harvested from farming, rural contractors' depots, <u>poultry hatcheries</u> or any other land-related agricultural activity, but excludes waste disposal, extractive industries and electricity generation.
FS1265.43	Mainland Poultry Limited	Support submission 821.3
877.3	Leigh Michael Shaw & Bradley John Hall	Add to Chapter 13: Definitions a separate definition for "Poultry Hatcheries" as per the Franklin Section of the Operative District Plan.
FS1387.1449	Mercury NZ Limited for Mercury D	Oppose submission 877.3
746.12	The Surveying Company	Add a new definition for "Free Range Poultry Farming" to Chapter 13: Definitions as per the operative Franklin Section of the Operative District Plan.
FS1387.911	Mercury NZ Limited for Mercury D	Oppose submission 746.12
746.13	The Surveying Company	Add a new definition for "Poultry Hatcheries" to Chapter 13: Definitions as per the Franklin section of the Operative District Plan.
FS1387.912	Mercury NZ Limited for Mercury D	Oppose submission 746.13
877.2	Leigh Michael Shaw & Bradley John Hall	Add to Chapter 13: Definitions a separate definition for "Free Range Poultry Farming" as per the Franklin Section of the Operative District Plan.
FS1168.87	Horticulture New Zealand	Support submission 877.2
FS1387.1448	Mercury NZ Limited for Mercury D	Oppose submission 877.2
Definitions – Pig farming		
197.35	NZ Pork	Delete reference to "free-range pig farming" from the definition of "Intensive farming" in Chapter 13: Definitions. AND Add a new definition to Chapter 13 Definitions for "Extensive Farming" as follows: <u>Extensive Farming Means the keeping, breeding or rearing of stock for commercial purposes, on pasture at a stocking density that sustains the maintenance of pasture or ground cover.</u>

FS1342.55	Federated Farmers	Oppose submission 197.35
Definitions – Animal feed lot		
697.365	Waikato District Council	Delete from Chapter 13: Definitions the definition for "Animal feed lot".
FS1374.2	Zeala Limited trading as Aztech Buildings	Support submission 697.365
FS1342.177	Federated Farmers	Support submission 697.365
680.128	Federated Farmers of New Zealand	Retain the definition of "Animal feed lot" in Chapter 13 Definitions, as notified.
FS1275.8	Zeala Limited trading as Aztech Buildings	Oppose submission 680.128
281.15	Zeala Ltd for Trading as Aztech Buildings	Delete the definition of "Animal Feed Lot" in Chapter 13: Definitions.

Analysis

165. The policy framework, and as importantly the set of rules that control both new intensive farming operations, and new sensitive activities near existing intensive farming operations, revolve around how that term is defined. As such, the proposed definitions have attracted a range of submissions. The key terms in the Proposed Plan, the National Planning Standards, and the Operative Plan where referred to by submitters are as follows:

Intensive farming (Proposed Plan)	<p>Means farming which is not dependent on the fertility of the soils on which it is located and which may be under cover or within an outdoor enclosure, and be dependent on supplies of food produced on and/or off the land where the operation is located.</p> <p>It includes:</p> <ul style="list-style-type: none"> (a) intensive pig farming undertaken wholly or principally in sheds or other shelters or buildings; (b) free-range pig farming; (c) poultry or game bird farming undertaken wholly or principally within sheds or other shelters or buildings; (d) free-range poultry or game bird farming; (e) mushroom farming; and (f) intensive goat farming. <p>It excludes the following, provided the building is used for the purpose for which it was built:</p> <ul style="list-style-type: none"> (a) woolsheds; (b) dairy sheds; (c) calf pens or wintering accommodation for less than 30 stock (except where stock are being reared for the replacement of
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	breeding stock to be used on the same property); and (d) glasshouse production or nurseries.
Animal Feed lot (Proposed Plan)	Means a covered or uncovered hard standing area used for the purpose of intensively feeding animals. It does not include the concentrated but temporary wintering of stock numbers normally present on a property in areas such as feed stalls or feed pads.
Intensive indoor primary production (NPS)	means primary production activities that principally occur within buildings and involve growing fungi, or keeping or rearing livestock (excluding calf-rearing for a specified time period) or poultry.
Primary production (NPS)	means: (a) any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and (b) includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a); (c) includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but (d) excludes further processing of those commodities into a different product.
Intensive indoor farming (Waikato Regional Plan)	The housing and growth of livestock, or fungi, that is reliant on food and/or raw materials brought into the building. It specifically excludes intensive pastoral farming or greenhouses.
Intensive farming (Operative Plan – Waikato section)	Means the commercial raising and keeping of plants or animals, which is dependent on a high input of food or fertiliser throughout the year from beyond the site and are permanently contained in buildings or outdoor enclosures, and includes boarding kennels or catteries but do not include the rearing of calves, the wintering of farm animals in sheds, or the stabling of horses.
Poultry hatchery (Operative Plan – Franklin section)	Means an intensive farming operation to enable the production processing, incubation, and hatching or fertilised eggs other than domestic poultry and includes ancillary activities and buildings including breeder and rearing sheds.
Free range poultry (Operative Plan – Franklin section)	Means the keeping of poultry (greater than 41 birds) where poultry have access to areas of open land, with livestock housing that is either permanent or moveable.

166. There is general agreement across the submissions that intensive farming is a distinct activity that should be subject to a different policy and rule framework than extensive farming and horticulture. The challenge is clearly defining when the threshold from extensive to intensive is crossed, especially where livestock is housed outdoors. In looking to distil the range of views expressed in submissions, some common themes appear:

- The focus of the policy and rule is on managing effects associated with intensive operations, with the key effect being odour;
- Apart from mushroom farming (and composting), horticultural activities undertaken within greenhouses and plant nurseries do not tend to generate high levels of amenity effects, and accordingly are not the focus of the rule (and are explicitly

excluded in the Proposed Plan definition) – the focus of the intensive farming issue is on livestock rather than horticulture;

- There is general agreement that occasional or supplementary livestock feeding or sheltering within buildings is not 'intensive', especially when such activity forms an ancillary component to what is otherwise an extensive pasture-based farming system. Examples of such exclusions include dairy sheds where cows are fed supplements while they are milked, calf-rearing for on-farm stock replacement, winter loafing shelters and outdoor winter feedpads where animals have free access to large outdoor areas, and transporting supplementary hay or silage to paddock-based livestock;
- There is general agreement that intensive farming does occur when the livestock are housed primarily within buildings;
- There is general agreement that intensive farming does occur when the primary feed source is grown elsewhere and brought to the animals. The key element is that the feed is brought to the stock, rather than the stock moved to where the feed is growing. Large landholdings can have intensive farming areas where the feed is grown on site, and then cut and carried to the part of the site where the stock are housed;
- Traditionally in New Zealand intensive farming has been predominantly used for poultry and pigs, although intensive goat farming (primarily for milk) is a growing industry in the district. Whilst beef feedlots do exist, they are relatively uncommon. The term 'intensive farming' therefore tends to be synonymous with chicken and pig farming. A number of submissions have sought to distinguish between more intensive poultry and pig farming systems and free-range farming where the chickens and pigs spend much more time outside and are kept at much lower densities.
- It is more challenging to define a threshold where the livestock is enclosed and fed outside in an intensive manner. Two tests are referred to in submissions to define the threshold – namely that 'animals are kept within an enclosure', and the above 'feed is grown elsewhere' test, which when applied to an outdoor context is determined first by the proportion that imported feed contributes to the overall diet, and secondly whether stocking densities are sufficiently low that permanent grass cover is maintained. The maintenance of pasture cover is an important proxy for an activity that is at sufficiently low density that the two key issues of odour and dust are likely to be adequately mitigated. These two tests can be challenging to determine and enforce because:
 - (a) Taken to an extreme, any fenced paddock can be said to be an 'enclosure';
 - (b) The proportion of diet test can vary across the year, depending on season, and requires continual monitoring to determine compliance;
 - (c) The maintenance of permanent grass cover test can be challenging when applied to pasture-based farming systems where winter fodder crops are grown and animals break-fed with a movable electric fence in what is otherwise a pasture-based system. It also requires ongoing monitoring with ambiguous thresholds for when localised patches of bare earth cumulatively reach an unacceptable threshold.
- That said, by not referring to such tests, the definition can be equally ambiguous;
- It is noted that the NPS definition is applicable only to indoor operations. There is no NPS definition for when intensive farming occurs outside. The Waikato Regional Plan definition likewise refers to indoor operations, although the Waikato Regional

Plan also relies on the general powers under s17 RMA (discussed below) to take enforcement action where an activity generates offensive or objectionable odours.

Reliance just on the NPS definition

167. The NPS definition is limited, in that it does not capture either intensive outdoor farming, nor does it provide clarity regarding the range of exclusions. The greater breadth of the Proposed Plan definition is therefore preferred, noting that it does not conflict with the NPS version insofar as it applies to indoor farming activities.

Key criteria

168. The Proposed Plan definition's opening sentence generally captures the key criteria by which a farming activity becomes 'intensive', namely that it is located in a building or enclosure, and that it is not dependent on soil fertility/production, but rather is dependent on food produced in a different place from where it is consumed. It is recommended that the opening sentence states more explicitly that the subsequent activities need to meet this criterion for them to be 'intensive'; to better align with the NPS definition; and to clearly separate out horticultural activities as not being part of the intensive farming rule package, in line with the amendments sought by Horticulture NZ [419.126] and T&G Global [676.6], as follows:

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

- (1) Principally occurs within a building; or
- (2) 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.

Pigs

169. Clause (a) of the notified definition captures intensive pig farming within buildings, with no submissions disagreeing with this position. Clause (b) captures free-range pig farming. I accept that the definition as worded means that any farm that includes pigs by definition arguably becomes intensive, i.e. there is no permitted extensive pig-farming pathway. NZ Pork [197.35] sought that the reference to free-range pig farming be deleted and replaced with a new definition for extensive farming in order to provide such a pathway. The above recommended change to the opening sentence helps to clarify that free-range pig farming is only captured when matters 2 and 3 are triggered. Given the nature of pigs and their propensity for rooting, in practice the maintenance of pasture cover will only be possible at extremely low stocking rates. It is recommended that clause (b) be amended to make this clear as follows:

It includes:

- (a) Intensive pig farming undertaken wholly or principally in sheds or other shelters or buildings;
- (b) Free-range pig farming where matters (2) and (3) are met

Chickens and mushrooms

170. As with pigs, there appears to be little disagreement from submitters that poultry kept permanently within buildings meets the definition under clause (c). Clarification is sought by the Poultry Industry [821.2] and Mainland Poultry [833.2], seeking to exclude free-range

chicken farming under clause (d) from the intensive definition where the chickens are not kept within an enclosure. The Surveying Company [746.12 and .18] and L Shaw & B Hall [878.2 and .10] likewise seek the deletion of clause (d) and the inclusion of a separate definition and permitted activity pathway for free-range chickens. It is recommended that clause (d) be retained to ensure that it still captures more intensive outdoor-run based systems, but that it be amended to again reference that free-range chickens are only captured when matters (2) and (3) are met.

171. The Surveying Company [746.13 and .18], L Shaw & B Hall [877.3 and .10], and the Poultry Industry Association [821.3] have sought the inclusion of a new definition for 'poultry hatchery' using the wording from the Operative Plan Franklin section, and an associated permitted activity pathway. As I understand it, poultry hatcheries have a focus on egg incubation and chick hatching, with the chicks then transferred to poultry farms before they grow into full-sized birds. As such, the odour associated with hatcheries may be less than that potentially generated by chicken farms. In the absence of any evidence regarding the extent of potential amenity effects from hatchery operations I am cautious about excluding them from the definition of intensive farming and the associated boundary setbacks required for new facilities (and conversely whether or not there is a need to require sensitive activity setbacks from established hatchery facilities). The submitters are welcome to provide the Panel with evidence on this matter in order to help determine whether or not hatchery operations should be excluded from the intensive farming framework.
172. No submissions were received on mushroom farming. Given that it forms part of the NPS definition, and that as far as I am aware it only occurs within buildings, it is recommended that clause (e) be deleted, as fungi are now captured in the new opening sentence recommended above. It is recommended that clauses (c)-(e) be amended as follows:
- (c) Poultry or game bird farming undertaken wholly or principally within sheds or other shelters or buildings;
 - (d) Free-range poultry or game bird farming where matters (2) and (3) are met;
 - ~~(e) mushroom farming;~~ and

Goats and livestock

173. Anna Noakes [636.1], The Surveying Company [746.18] and L Shaw and B Hall [877.10] seek to delete the explicit reference in clause (f) to intensive goat farming. I agree that reference to goats is not necessary, as the farming of any type of livestock that meets matters (1)-(3) is intensive. The Surveying Company and L Shaw and B Hall have sought that clause (f) instead refer to animal feed lots where stock are not fed on pasture-based food. This dovetails with the separate definition for 'animal feed lots' which Waikato District Council [697.365] and Aztech Buildings [281.15] seek to delete, noting that as far as I can identify it is not a term used in any provisions in Chapters 5 and 22. It also dovetails with the range of exclusions which are discussed below.
174. Feed lots are farming systems where instead of being pastoral-based, animals are housed on hardstand surfacing (either under cover or not) and feed is transported to them. Whilst relatively uncommon in New Zealand, feed lots for both beef cattle and dairy cattle are common in North America. Feed lots can occur at a scale where they are quite intensive and can give rise to a range of amenity-related issues commensurate with other types of intensive farming. Given that they can occur outside (albeit usually on hardstand surfacing and in pens), it is helpful to be explicit that they do fall within the scope of the intensive farming definition and rule package. Feed lots should not be confused with winter feed pads, which are simply reinforced areas within paddocks where supplementary feed is delivered to

pasture-based livestock for a relatively short period over winter. It is recommended that clause (f) be renumbered to (e) and amended as follows:

~~(e)(f) Intensive goat farming animal feed lots that are barns or covered or uncovered pens where matters (2) and (3) are met.~~

175. It is also recommended that the definition of ‘animal feed lot’ be retained, as it provides useful clarity on these terms and is recommended to be explicitly referenced within the intensive farming definition.

Animal feed lot	Means a covered or uncovered hard standing area used for the purpose of intensively feeding animals. It does not include the concentrated but temporary wintering of stock numbers normally present on a property in areas such as feed stalls or feed pads.
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Exclusions

176. The Proposed Plan definition includes a series of exclusions that are intended to provide further clarity as to activities that are not intensive farming. The Surveying Company [746.18] and L Shaw & B Hall [877.10] both seek the following exclusions “(g) concentrated but temporary wintering of stock as part of normal farming operations, such as using animal feedpads and standoff pads”. Federated Farmers [680.253] seek that the exclusions include “the sheltered rearing and weaning of calves, lambs or goats undertaken indoors as part of a farming activity nor the use of wintering barns, stabling of horses, feed pads and stand-off pads where stock are not held on a permanent basis”.
177. The submissions reflect the reality that there is a spectrum of farming activity from wholly pasture-based to wholly within buildings. Within this spectrum it is common for predominantly pasture-based systems to include more intensive elements for specific times of the year, such as during calving/lambing or for supplementary feeding in winter. Feed pads and stand-off pads are outdoor areas where the ground is reinforced either as a concrete pad (more commonly for feed pads) or gravel base course with wood chip cover to provide a non-muddy area where cattle can be concentrated during winter to avoid both pugging damage to pasture and to provide a dry area for them to lie down. The intensive farming provisions are not intended to capture more intensive elements that are ancillary to what are predominantly extensive pasture-based farming operations. I therefore agree with the intent of the submissions seeking more explicit direction in the definition regarding activities that are excluded. It is not considered that the terms ‘feedpad’ and ‘stand-off pad’ need to be defined, as they are in common usage in the farming industry.
178. I note that clause (c) excludes “calf pens or wintering accommodation for less than 30 stock (except where stock are being reared for the replacement of breeding stock to be used on the same property)”. The intent of this exclusion is to distinguish between facilities that have a specific focus on breeding/rearing and therefore are more likely to be intensively used throughout the year, compared with facilities that are simply used for on-farm stock replacement that is ancillary to a pasture-based system and are therefore used in a less intensive manner. Whilst there are no submissions on this clause, it may be that the limitation would be better focused on the length of time the facility is used, e.g. ‘where no individual animal is housed for more than 3 months in any calendar year’, rather than the number of stock and whether those stock are to remain on-farm or are to be on-sold. In the absence of submissions on this clause it is recommended that the existing wording be retained, although submitters may wish to present evidence on this point.
179. Clause (d) of the definition exclusions explicitly refers to glasshouse production or nurseries. I agree with this exclusion, noting the submission from Horticulture NZ [419.126]

stating that the term 'glasshouse' should be 'greenhouse'. The recommended amendments to the opening sentence likewise help to reinforce that the definition is not intended to capture horticulture.

180. It is recommended that the exclusions in the definition be amended as follows:

It excludes the following, provided the building is used for the purpose which it was built:

- (a) Woolsheds;
- (b) Dairy sheds;
- (c) ~~Indoor rearing or weaning of livestock calf pens or wintering accommodation~~ for less than 30 stock (except where stock are being reared for the replacement of breeding stock to be used on the same property) or under cover wintering accommodation;
- (d) Feed pads and stand-off pads ancillary to pasture-based farming;
- (e) Horse stables;
- (f) ~~glasshouse~~ Greenhouse production or nurseries.

Recommendations and amendments

181. Taking the above recommendations together, it is recommended that the definition of 'intensive farming' be as follows:

~~Means farming which is not dependent on the fertility of the soils on which it is located and which may be under cover or within an outdoor enclosure and be dependent on supplies of food produced on and/or off the land where the operation is located.~~

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) Intensive pig farming undertaken wholly or principally in sheds or other shelters or buildings;
- (b) Free-range pig farming where matters (2) and (3) are met;
- (c) Poultry or game bird farming undertaken wholly or principally within sheds or other shelters or buildings;
- (d) Free-range poultry or game bird farming where matters (2) and (3) are met;
- ~~(e) mushroom farming~~; and
- ~~(e)(f) Intensive goat farming~~ Animal feed lots that are barns or covered or uncovered pens where stock are housed on a long-term basis and matters (2) and (3) are met.

It excludes the following, provided the building is used for the purpose which it was built:

- (a) Woolsheds;
- (b) Dairy sheds;
- (c) ~~Indoor rearing or weaning of livestock calf pens or wintering accommodation~~ for less than 30 stock (except where stock are being reared for the replacement of breeding stock to be used on the same property) or under cover wintering accommodation;

- (d) Feed pads and stand-off pads ancillary to pasture-based farming;
- (e) Horse stables;
- (f) glasshouse Greenhouse production or nurseries.

Intensive farming – Activity rules 22.1.3 (RDI) and 22.1.4 (D3)

Introduction

182. The Proposed Plan does not provide a permitted activity pathway for intensive farming. Rule 22.1.3 (RDI) provides for intensive farming as a restricted discretionary activity, subject to the farm meeting various locational and boundary setback conditions. This rule also provides some exemptions from the standard zone rules relating to building height and site coverage. Council's discretion is restricted to the following matters:
- (i) Traffic effects;
 - (ii) Effects on amenity values, including odour, visual impact, landscaping;
 - (iii) Location, type and scale of development; and
 - (iv) Noise effects.
183. Where an intensive farming operation does not meet the conditions in RDI, the activity requires consent as a fully discretionary activity under Rule 22.1.4 (D3).
184. The structure of the Proposed Plan means that internal setback requirements for new intensive farming operations are located in the activity tables as conditions. This structural approach differs from that employed for new sensitive land uses that are seeking to establish near existing intensive farms or industry, where the setback requirements are located in section 22.3 dealing with building location rules (see Rule 22.3.7.2). I have considered whether it would be more efficient to also locate the intensive farming setback conditions in the built form rule section so all setbacks rules are located in the same part of the chapter, however because some forms of intensive farming can occur outdoors, for example pen-based feedlots or intensive poultry runs (and therefore are not located within buildings), on balance the Proposed Plan structuring approach is recommended to be retained. It does however mean that in order to gain a full understanding of how intensive farming and reverse sensitivity issues are managed, it is necessary to refer to two separate rule sections.

Rule 22.1.2 – Permitted Activities		
833.3	Mainland Poultry Limited	Add a new rule to Rule 22.1.2 Permitted Activity to provide for Poultry farming as a permitted activity where it can meet the performance standards for permitted farming activities.
FS1308.156	The Surveying Company	Support submission 833.3
FS1387.1354	Mercury NZ Limited for Mercury D	Oppose submission 833.3
FS1379.345	Hamilton City Council	Oppose submission 833.3

833.5	Mainland Poultry Limited	<p>Add a new permitted activity to Rule 22.1.2 Permitted Activities, as follows:</p> <p><u>Intensive farming limited to poultry farming Conditions:</u></p> <p>(a) <u>For housed poultry buildings are set back at least:</u></p> <p>(i) <u>50 metres from any site boundary (other than a road boundary); and</u></p> <p>(ii) <u>300 metres from a sensitive activity; and</u></p> <p>(iii) <u>500 metres from any boundary of a Residential, Village and Country Living Zone;</u></p> <p>(iv) <u>Building coverage does not exceed 10% of the site. Rule 22.3.6 (Building Coverage does not apply;</u></p> <p>(v) <u>Building height does not exceed 15m. Rule 22.3.4 (Building Height) does not apply;</u></p> <p>(b) <u>It is not located in:</u></p> <p>(i) <u>An Outstanding Natural Feature;</u></p> <p>(ii) <u>An Outstanding Natural Landscape;</u></p> <p>(iii) <u>A Significant Amenity Landscape;</u></p> <p>(iv) <u>An Outstanding Natural Character Area; or (v) A High Natural Area</u></p> <p>OR</p> <p>Add a new permitted activity to Rule 22.1.2 Permitted Activities that enables poultry farming as a permitted activity that complies with the proposed conditions specifically to the property at 64 Old Road, Orini, being Part Lot 1 DP 12365.</p>
<i>FS1379.346</i>	<i>Hamilton City Council</i>	<i>Oppose submission 833.5</i>
<i>FS1387.1355</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 833.5</i>
833.6	Mainland Poultry Limited	<p>Amend Rule 22.1.3 RDI Restricted Discretionary Activity, to provide for poultry farming where it does not comply with the permitted activity conditions in Rule 22.1.2 Permitted Activities as proposed by the submission;</p> <p>AND</p> <p>Amend Rule 22.1.5 DI Discretionary Activities as a consequential amendment.</p>
<i>FS1387.1356</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 833.6</i>
<i>FS1338.12</i>	<i>Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd</i>	<i>Support submission 833.6</i>

680.187	Federated Farmers of New Zealand	<p>Add to Rule 22.1.2 a new permitted activity rule for Intensive farming, as follows:</p> <p><u>PXX Intensive farming with activity specific conditions:</u></p> <p>(a) <u>Not within 300 metres of an existing dwelling that is under separate ownership.</u></p> <p>(b) <u>Not within 50 metres of any boundary</u></p> <p>(c) <u>Meets all of the following conditions:</u></p> <p>(i) <u>Land Use – Effects in Rule 22.2</u></p> <p>(ii) <u>Land Use – Building in Rule 22.3</u></p> <p>(iii) <u>Building coverage does not exceed 3% of the site: Rule 22.3.6 (Building Coverage) does not apply;</u></p> <p>(iv) <u>Building height does not exceed 15m:</u></p> <p style="padding-left: 40px;">A. <u>Rule 22.3.4 (Building Height) does not apply:</u></p> <p>AND</p> <p>Delete Rule 22.1.3 RDI (a) to (e) Restricted Discretionary Activities</p> <p>AND</p> <p>Add to Rule 22.1.3 RDI Restricted Discretionary Activities the following:</p> <p><u>RDI (a) Intensive farming activity that does not comply with Rule 22.1.1 PXX</u></p> <p>AND</p> <p>Retain the matters of discretion in Rule 22.1.3 RDI Restricted Discretionary Activities Matters of Discretion</p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
FSI 265.46	Mainland Poultry Limited	Support submission 680.187
FSI 275.15	Zeala Limited trading as Aztech Buildings	Support submission 680.187
FSI 306.44	Hynds Foundation	Support submission 680.187
FSI 308.96	The Surveying Copmany	Support submission 680.187
FSI 387.202	Mercury NZ Limited for Mercury D	Oppose submission 680.187
746.69	The Surveying Company	<p>Add a new permitted activity (PI3) to Rule 22.1.2 Permitted Activities for free-range poultry farming as follows:</p> <p><u>Free-range poultry farming Activity Specific conditions</u></p> <p>(a) <u>Coops and associated areas for the treatment and/or disposal of wastes and composting must be set back at least 20m from the nearest site boundary.</u></p>
FSI 265.47	Mainland Poultry Limited	Support submission 746.69
FSI 306.47	Hynds Foundation	Support submission 746.69
FSI 387.943	Mercury NZ Limited for Mercury D	Oppose submission 746.69

821.16	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	Add a new rule (P13) to Rule 22.1.2 Permitted Activities, as follows: <u>P13 For poultry farming, (a) buildings are set back at least:</u> <u>(i) 100 metres from any site boundary (other than a road boundary); and</u> <u>(ii) 300m from a sensitive activity; and</u> <u>(iii) 500 metres from any boundary of a Residential, Village and Country Living Zone and (b) for free range, a vegetated range area is maintained.</u>
<i>FSI 265.48</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 821.16</i>
<i>FSI 379.338</i>	<i>Hamilton City Council</i>	<i>Oppose submission 821.16</i>
<i>FSI 308.154</i>	<i>The Surveying Company</i>	<i>Support submission 821.16</i>
877.26	Leigh Michael Shaw & Bradley John Hall	Add a new permitted activity to Rule 22.1.2 Permitted Activities as follows: Activity: <u>Free-Range Poultry Farming Activity specific conditions:</u> <u>(a) Coops and associated areas for the treatment and/or disposal of wastes and composting must be setback at least 20m from the nearest site boundary.</u>
<i>FSI 308.161</i>	<i>The Surveying Company</i>	<i>Support submission 877.26</i>
<i>FSI 387.1466</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 877.26</i>
<i>FSI 306.65</i>	<i>Hynds Foundation</i>	<i>Support submission 877.26</i>
<i>FSI 265.49</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 877.26</i>
Rule 22.1.3 – Restricted Discretionary		
341.6	Tainui Group Holdings Limited	Retain Rule 22.1.3 RDI Restricted Discretionary Activities for Intensive Farming.
<i>FSI 265.51</i>	<i>Mainland Poultry Limited</i>	<i>Oppose submission 341.6</i>
706.6	Francis and Susan Turton	No specific decision sought, but the submission opposes Rule 22.1.3 RDI (a) and (b) Restricted Discretionary Activities and questions the use of the term "intensive farming" and whether this provision is concerned with soil fertility, cropping and or feed.
<i>FSI 387.787</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 706.6</i>
<i>FSI 265.57</i>	<i>Mainland Poultry Limited</i>	<i>Oppose submission 706.6</i>
798.30	Ngati Te Ata	Add a new matter of discretion to Rule 22.1.3 RDI Restricted Discretionary Activities for Intensive farming as follows: <u>(v) environmental effects.</u>
<i>FSI 387.1289</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 798.30</i>
<i>FSI 265.61</i>	<i>Mainland Poultry Limited</i>	<i>Oppose submission 798.30</i>

821.19	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	Amend Rule 22.1.3 RDI (a)(iii) Restricted Discretionary Activities relating to Intensive farming, as follows: (a) Intensive farming that meets all of the following conditions: (i) Land Use - Effects in Rule 22.2 (ii) Land Use - Building in Rule 22.3 (iii) Building coverage does not exceed 3% of the site: ...
FS1076.18	New Zealand Pork Industry Board	Support submission 821.19
FS1265.54	Mainland Poultry Limited	Allow in part with amendments in line with the relief sought as per submission point 833.5 and 833.6.
697.749	Waikato District Council	Amend Rule 22.1.3 RDI Intensive farming, as follows: (a) Intensive Farming that meets all of the following conditions: (i) Land Use – Effects in Rule 22.2 (ii) Land Use – Building in Rule 22.3 (iii) Building coverage does not exceed 3% of the site: A. Rule 22.3.6 (Building Coverage) does not apply; (iv) Building height does not exceed 15m; A. Rule 22.3.4 (Building Height) does not apply; (b) Intensive farming is not located in: (i) An Outstanding Natural Feature; (ii) An Outstanding Natural Landscape; (iii) A Significant Amenity Landscape; (iv) An Outstanding Natural Character Area; or (v) A High Natural Character Area (c) For pig farming (excluding free-range pig farming), buildings and adjacent yard areas <u>outdoor enclosures</u> are set back at least: (i) 300 metres from any site boundary; (ii) From any boundary of a Residential, Village or Country Living <u>Zone</u> : A. 1200 metres (500 or less-fewer pigs); or B. 2000 metres (more than 500 pigs); (d) For free-range poultry farming, buildings and outdoor enclosures are set back at least: (i) 100 metres from any site boundary; and (ii) 500 metres from any boundary of a Residential, Village and Country Living Zone; (e) For housed poultry and all other intensive farming, buildings and adjacent yard areas <u>outdoor enclosures</u> are set back at least: (i) 300 metres from any site boundary; and (ii) 500 metres from any boundary of a Residential, Village and Country Living Zone.
FS1076.4	New Zealand Pork Industry Board	Oppose submission 697.749
FS1265.56	Mainland Poultry Limited	Oppose submission 697.749
FS1387.672	Mercury NZ Limited for Mercury D	Oppose submission 697.749

481.4	Bruce and Kirstie Hill for Culverden Farm	Amend the definition of "intensive farming" in Chapter 13 Definitions, to be more detailed, in the context of Rule 22.4.1.3 RDI Restricted Discretionary Activities.
<i>FSI171.60</i>	<i>T&G Global</i>	<i>Oppose submission 481.4</i>
<i>FSI265.32</i>	<i>Mainland Poultry Limited</i>	<i>Oppose submission 481.4</i>
<i>FSI316.29</i>	<i>Alstra (2012) Limited</i>	<i>Oppose submission 481.4</i>
482.7	Kirstie Hill on behalf of Hill Country Farmers Group	Amend the definition of "Intensive Farming", in the context of Rule 22.1.3 RDI Restricted Discretionary activities.
<i>FSI265.33</i>	<i>Mainland Poultry Limited</i>	<i>Oppose submission 482.7</i>
<i>FSI316.30</i>	<i>Alstra (2012) Limited</i>	<i>Oppose submission 482.7</i>
636.6	Anna Noakes	Amend the activity status for Intensive farming from Restricted Discretionary to Permitted Activity.
<i>FSI387.55</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 636.6</i>
<i>FSI379.217</i>	<i>Hamilton City Council</i>	<i>Oppose submission 636.6</i>
<i>FSI265.55</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 636.6</i>
197.18	NZ Pork	<p>Amend Rule 22.1.3 RDI Restricted Discretionary Activities, as follows: ↓</p> <p><u>INTENSIVE PIG FARMING is a restricted discretionary activity subject to meeting the following standards:</u></p> <p>(a) <u>Compliance with the setback standards.</u></p> <p>(b) <u>Activity does not generate dust or odour which create a nuisance at or beyond the boundary of a site.</u></p> <p>(c) <u>Activity to operate in accordance with Pork Industry Board Code of Practice and Environmental Management Industry Guide.</u></p> <p>(d) <u>Activity has an Industry Approved Farm Environment Plan.</u></p> <p><u>OUTDOOR PIG FARMING is a restricted discretionary activity subject to meeting the following standards:</u></p> <p>(a) <u>Compliance with the setback standards.</u></p> <p>(b) <u>Groundcover is maintained in accordance with best farming practices including any relevant industry good management practices.</u></p> <p>(c) <u>Activity does not generate dust, which create a nuisance at or beyond the boundary of a site.</u> (d) <u>Activity has an Industry Approved Farm Environment Plan.</u></p> <p>AND</p> <p>Add a new rule to Rule 22.1.5 Discretionary activity that any activity that breaches these standards is a Discretionary Activity.</p>
<i>FSI386.201</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 197.18</i>

281.12	Zeala Ltd for Trading as Aztech Buildings	<p>Amend Rule 22.1.3 RDI Restricted Discretionary Activities so that Intensive Farming is a Permitted Activity subject to compliance with standards that reflect the potential adverse effects of differing types of intensive farming.</p> <p>AND</p> <p>Add a Restricted Discretionary Activity for Intensive Farming activities that do not comply with the Permitted Activity Standards, where the potential effects (odour, noise and visual amenity) are able to be assessed to avoid, remedy or mitigate such effects.</p> <p>AND</p> <p>Amend the yard setback requirement to 100 metres for Intensive Farming as a Permitted Activity.</p> <p>AND</p> <p>Delete the specific building coverage requirement for intensive farming and rely on the building coverage standards within Rule 22.3.6 and other general development standards within the Rural Zone, noting that the effects of "farming" operations that do not comply with standards relating to activities, effects or building contained in Rules 22.12, 22.2 and 22.3 (unless otherwise specified as controlled, restricted discretionary or non-complying), default to full Discretionary assessment under Rule 22.1.5.</p>
<i>FSI386.291</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 281.12</i>
<i>FSI035.18</i>	<i>Pareoranga Te Kata</i>	<i>Support submission 281.12</i>
<i>FSI265.50</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 281.12</i>
<i>FSI379.57</i>	<i>Hamilton City Council</i>	<i>Oppose submission 281.12</i>
<i>FSI076.17</i>	<i>New Zealand Pork Industry Board</i>	<i>Support submission 281.12</i>
746.71	The Surveying Company	Add a new controlled activity (C1) to Section 22.1 Land Use-Activities for poultry hatcheries.
<i>FSI387.944</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 746.71</i>
<i>FSI265.45</i>	<i>Mainland Poultry Limited</i>	<i>Oppose submission 746.71</i>
746.73	The Surveying Company	Delete from Rule 22.1.3- Restricted Discretionary Activities any reference to free range poultry farming and impose more suitable setbacks.
<i>FSI387.946</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 746.73</i>
<i>FSI338.9</i>	<i>Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd</i>	<i>Support submission 746.73</i>
<i>FSI306.49</i>	<i>Hynds Foundation</i>	<i>Support submission 746.73</i>
<i>FSI265.58</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 746.73</i>

746.74	The Surveying Company	Delete from Rule 22.1.3 RDI - Restricted Discretionary Activities any reference to poultry hatcheries OR Amend Rule 22.1.3 RDI - Restricted Discretionary Activities by excluding poultry from the conditions.
FSI387.947	Mercury NZ Limited for Mercury D	Oppose submission 746.74
FSI306.50	Hynds Foundation	Support submission 746.74
FSI265.59	Mainland Poultry Limited	Support submission 746.74
FSI338.10	Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd	Support submission 746.74
746.75	The Surveying Company	Delete the 300m boundary setback requirement for poultry farming from Rule 22.1.3 RDI - Restricted Discretionary Activities. AND Add a reference to assessment criteria/guidelines and effects of the activity as per the Franklin Section of the Operative District Plan.
FSI387.948	Mercury NZ Limited for Mercury D	Oppose submission 746.75
FSI265.60	Mainland Poultry Limited	Support submission 746.75
FSI374.8	Zeala Limited trading as Aztech Buildings	Support submission 746.75
FSI338.11	Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd	Support submission 746.75
FSI306.51	Hynds Foundation	Support submission 746.75
821.17	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	Amend Rule 22.1.3 RDI (d) Restricted Discretionary Activities relating to free-range poultry farming, as follows: (d) For free-range poultry farming, buildings and outdoor enclosures are set back at least: (i) 100-50 metres from any site boundary (<u>other than a road boundary</u>); and (ii) <u>200m from a sensitive activity</u> ; and (ii -iii) 500 metres from any boundary of a Residential, Village and Country Living Zone; <u>and (iv) a vegetated range area is maintained.</u> ...
FSI265.52	Mainland Poultry Limited	Support submission 821.17

877.29	Leigh Michael Shaw & Bradley John Hall	Delete reference to free range poultry farming from Rule 22.1.3 RDI Restricted Discretionary Activities. AND Delete Rules 22.1.3 RDI (d)(i) and (ii) pertaining to setbacks for poultry farming. AND Add the assessment criteria/guidelines and effects of free range poultry farming as per the Franklin Section of the District Plan, particularly with regards to a more suitable setback as a permitted activity e.g. 20m.
FS1387.1469	Mercury NZ Limited	Oppose submission 877.29
FS1265.62	Mainland Poultry Limited	Support submission 877.29
FS1308.165	The Surveying Company	Support submission 877.29
695.201	Sharp Planning Solutions Ltd	Amend Rule 22.1.3 RDI (c)(ii) B Restricted Discretionary Activities to have a minimum 1200m setback apply to the said zones and if an existing pig farm already occurs at the setback, then the effects of that have to be taken into account as well; AND Amend Rule 22.1.3 RDI (c)(ii) B Restricted Discretionary Activities to require any development occurring within that setback to have an enforced Council no complaints covenant applied.
FS1076.3	New Zealand Pork Industry Board	Support submission 695.201
FS1387.354	Mercury NZ Limited for Mercury D	Oppose submission 695.201

Analysis

185. The key effects that arise with intensive farming are odour, dust, the visual appearance of large buildings, noise, and traffic, with odour and dust being the most typical source of complaints. The National Environmental Standard for Air Quality does not address odour or dust emissions from agricultural sources. Regional councils have the responsibility to manage air quality, while district councils manage land uses which have the potential to discharge odours that cause amenity effects. Under Section 15 RMA, unless a regional rule specifies that any non-industrial or trade premises discharge to air requires consent, it is permitted. Section 17 RMA provides a catch-all power for councils (both regional and district) to issue an enforcement order or an abatement notice where an activity is generating effects that are 'noxious, dangerous, offensive, or objectionable', with the latter two terms of particular relevance to odour effects.
186. Whether an odour has an offensive or objectionable effect requires an overall judgement that considers the frequency, intensity, duration, offensive/character, and location of the odour impact ('FIDOL' factors). For instance, some level of agricultural odour may be reasonable and anticipated in a rural environment, whereas that same level of odour would be unacceptable were it received in a residential suburban context.
187. The threshold for enforcement of odour or dust being 'offensive or objectionable' is a higher threshold than the point at which odour or dust might start to be noticeable or impact on amenity. Whilst as a general principle activities are expected to contain effects within the site as far as practicable, in rural environments it is not unreasonable to anticipate a degree of agriculturally-derived odour to extend beyond site boundaries as a normal element in a working rural environment.

188. On the flip side of the coin, district councils also have the ability to manage the location of new sensitive activities seeking to locate in close proximity to discharges, whereas regional councils do not, as regional powers are limited to the quality of the air discharge, rather than the proximity of new sensitive receivers to existing discharges.
189. The Waikato Regional Plan addresses air quality matters. It includes the following statement which helpfully sets out the various responsibilities between regional and district councils in the Waikato region as follows:

6.1.7.1 Territorial Authority and Regional Council Responsibilities for Air Quality

Waikato Regional Council will, in conjunction with territorial authorities, work to clarify the roles and responsibilities of each agency in relation to air quality, starting from the position that:

1. *Waikato Regional Council's responsibility is to develop policy, consider resource consents on the discharge of contaminants to air from specific sources, and undertake the monitoring and enforcement of those discharges.*
2. *The functions of territorial authorities are to consider the control of effects on air quality from land use when establishing district plan provisions and when considering applications for subdivisions and land use consents, and undertake the monitoring and enforcement of such controls.*
3. *Waikato Regional Council will work with territorial authorities to reduce duplication and inconsistency in the management of air quality under the RMA.*
4. *The transfer of powers for processing and/or monitoring of resource consents from Waikato Regional Council to a territorial authority will be considered in an area or on an issue where it satisfies the relevant statutory criteria in s33 of the RMA.*

6.1.7.2 Land Use Planning

Waikato Regional Council will encourage territorial authorities to manage, through district plans, building consents, applications for subdivision, land use consent, Land Information Memoranda and education, any significant adverse effects of land use activities on air quality that arise out of any exercise of their powers and functions including:

2. *As a first principle, ensuring that discharging activities take all reasonable steps to internalise their discharged effects including making use of the best practicable option.*
3. *Where this (i.e. Clause One) cannot be reasonable achieved and, it is necessary and reasonable to do so, controlling new land uses that are sensitive to the discharge of contaminants from other existing land uses.*
4. *Making available to the public information about significant or objectionable sources of discharges to air and surrounding sensitive areas.*
5. *Considering the effects of land use on air quality issues such as construction and demolition, earthworks and road sealing and other activities not requiring consent for discharge from Waikato Regional Council.*

190. Chapter 6 of the Waikato Regional Plan includes a series of rules that control air discharges, with these rules in summary:

- **Rule 6.1.8 (a)-(e)** provides a standard set of conditions for permitted activities, including condition (b) that “the discharge shall not result in odour that is objectionable to the extent that it causes an adverse effect at or beyond the boundary of the subject property”;
- **Rule 6.1.15.1** enables the discharge of contaminants to air from buildings associated with all intensive indoor farming as a permitted activity where it meets the conditions of rule 6.1.8. This permitted pathway excludes pig farms, broiler chicken farms, and mushroom farming. Pig farms and chicken broiler farms are not permitted by this Rule because, as stated in the WRP “they are the most frequent

source of odour complaints in the Region. They are complex operations that present a significantly greater risk of breaching the permitted activity conditions for objectionable odour than other activities”.

- **Rule 6.1.15.2** provides for existing intensive indoor pig and broiler farms to be extended as a controlled activity. The WRP notes that this rule applies “where good management practices or location have meant that there is no history of verified complaints in the two years prior to the application for a new consent. This rewards good operators by giving them certainty at consent renewal time without removing all regulation. The nature of these activities is that the risk of them generating adverse effects from objectionable odour increases if the scale, intensity or management of the operation changes. Where such changes occur, and as a consequence the level of adverse effects from the discharge increases, Council needs to have the ability to decline the consent under Rule 6.1.15.3”. Broiler chicken farm effluent disposal to land is separately managed under Rule 3.5.5.1, and effluent discharge to water under Rule 3.5.4.5.
- **Rule 6.1.15.3** controls Intensive indoor farming operations that are unable to comply with Rules 6.1.15.1 and 6.1.15.2 as a restricted discretionary activity. This rule therefore applies to all types of intensive farming that generate offensive or objectionable odour beyond the site, and new indoor pig and broiler chicken farms.
- **Section 5.2.8** manages Mushroom farming.
- **Section 6.2** controls the discharge of agrichemicals to air i.e. crop spraying.

191. The WRP therefore provides a layer of regulatory control concerning odour and dust effects which are two of the most common effects associated with intensive farming. Whilst the WRP rules focus on intensive indoor farming, the general powers under s17 RMA still enable enforcement of odour or dust from intensive outdoor farming, where the effects of such are offensive or objectionable. To enable regulatory efficiency and to minimise overlap, the district plan provisions should therefore focus on managing other potential effects derived from intensive farming, such as the visual dominance of large buildings, traffic and noise, with consideration of odour and dust limited to managing amenity where this sits between ‘noticeable but reasonably anticipated in a rural environment’ and ‘offensive and objectionable’.
192. The Proposed Plan does not provide a permitted pathway for intensive farming, with all new activities requiring a resource consent as a restricted discretionary activity, subject to meeting conditions regarding boundary setbacks and location. Where these conditions are not met the activity becomes fully discretionary. The proposed restricted discretionary rule is supported by Tainui Group Holdings [341.6].
193. A number of submitters have sought that the rule framework be reorganised to provide a permitted pathway, subject to meeting conditions (Mainland Poultry [833.3 and .5], Federated Farmers [680.187], Poultry Industry Association [821.16], Anna Noakes [636.6]), Aztech Buildings [281.12], and for free-range poultry (The Surveying Company [746.69, .73 and .74], L Shaw & B Hall [877.26]).
194. In part the relief sought by submitters turns on the above discussion on the definition of intensive farming. Under the recommended definition, extensive free-range pig and poultry farms that do not require a high proportion of supplementary feed, and where the animals have free access to the outdoors and are kept at stocking rates where pasture cover is able to be maintained, are not considered to be ‘intensive’ and therefore would not be subject to the proposed intensive farming rules. This clarification of the definition addresses in part the concerns raised by the above submitters, along with the Hill Country Farmers Group [482.7], Culverden Farm [481.4], and F & S Turton [706.6].
195. It is recommended that clause (d) of Rule 22.1.3 (RD1) that refers to free-range poultry be deleted, as intensive poultry (whether housed or in intensive outdoor runs) is subject to

clause (e), and conversely extensive free-range poultry where ground cover is maintained is not intended to be subject to the rule. I likewise welcome submitter evidence as to whether or not poultry hatchery operations should fall within the intensive farming definition and if so, whether a controlled activity pathway with a reduced setback is appropriate, as sought by The Surveying Company [746.71].

196. At a policy level, intensive farming is an anticipated activity in rural environments. It will not, however, be appropriate in all locations within the Rural Zone. The Proposed Plan therefore makes such activities fully discretionary as the starting point, where all effects are able to be considered. Where sites are particularly large, the Proposed Plan recognises that significant setback distances from neighbours can act as a form of mitigation. A restricted discretionary pathway with a more limited range of matters to consider is therefore provided for intensive farming on large sites with substantial setbacks. These setback distances (like many rule thresholds) are an inherently blunt tool, with actual odour, dust, noise, and traffic effects varying, depending on a wide range of site-specific circumstances including stocking rates, site and building design, management practices, topography, and local climatic conditions. It is therefore considered appropriate that intensive farming operations are able to be assessed on a case-by-case basis, and operations made subject to conditions where necessary, to ensure that potential effects are able to be effectively managed and enforced. As such, it is recommended that the Proposed Plan framework of a fully discretionary activity status, with a reduction to Restricted Discretionary status where locational conditions and setbacks are met, be retained.
197. In order to limit duplication between district and regional councils, it is recommended that the matters of discretion be amended to separate out odour and dust, and to limit consideration of these matters where either a Certificate of Compliance or a resource consent has been obtained from the regional council. This avoids double-handling of the same issue where the applicant has already obtained the necessary regional consents, and conversely enables the amenity-related effects of odour and dust to be considered if such regional consents have not been obtained.
198. NZ Pork [197.18] appear comfortable with a restricted discretionary pathway for intensive pig farming that meets the various conditions. The submitter seeks that additional conditions be inserted so that as well as meeting setback requirements, new intensive farms be required to have an approved farm environment plan, be operated in accordance with Pork Industry Board Code of Practice, and that outdoor farms maintain groundcover and not generate dust. In part these matters are addressed in the above definition, whereby outdoor pig farming that is able to maintain ground cover and does not rely on a high proportion of imported feed is not subject to this rule. I am cautious that referencing industry codes of practice or farm environment plans provides sufficient clarity as a rule trigger for when the restricted discretionary or fully discretionary pathways are to be followed, along with compliance with such plans containing subjective elements and issues with referencing external documents that may be subject to regular updates. They do, however, have value as matters of discretion in informing whether the effects of a proposed activity are able to be adequately managed and the operation is to be run in a responsible manner. It is therefore recommended that an additional matter of discretion be added to RDI.
199. Waikato District Council [697.749] has sought a number of minor alterations to improve the accuracy of the rule. It is recommended that these amendments be accepted.
200. For completion, it is noted that no submissions were received challenging the limitation on intensive farming not being able to locate as a restricted discretionary activity within the areas with high landscape or natural values listed in Clause RDI(b).

Recommendations and amendments

201. It is recommended that Rule 22.1.3 (RDI) be amended as follows:

RDI	<p>(a) Intensive Farming that meets all of the following conditions:</p> <ul style="list-style-type: none"> (i) Land Use – Effects in Rule 22.2 (ii) Land Use – Building in Rule 22.3 (iii) Building coverage does not exceed 3% of the site: <ul style="list-style-type: none"> A. Rule 22.3.6 (Building Coverage) does not apply; (iv) Building height does not exceed 15m; <ul style="list-style-type: none"> A. Rule 22.3.4 (Building Height) does not apply; <p>(b) <u>Intensive farming</u> is is not located in:</p> <ul style="list-style-type: none"> (i) An Outstanding Natural Feature; (ii) An Outstanding Natural Landscape; (iii) A Significant Amenity Landscape; (iv) An Outstanding Natural Character Area; or (v) A High Natural Character Area <p>(c) For <u>intensive</u> pig farming, buildings and adjacent yard areas <u>outdoor enclosures</u> are set back at least:</p> <ul style="list-style-type: none"> (i) 300 metres from any site boundary; (ii) From any boundary of a Residential, Village or Country Living <u>Zone</u>: <ul style="list-style-type: none"> A. 1200 metres (500 or <u>fewer less</u> pigs); or B. 2000 metres (more than 500 pigs); <p>(d) For free-range poultry farming, buildings and outdoor enclosures are set back at least:</p> <ul style="list-style-type: none"> (i) 100 metres from any site boundary; and (ii) 500 metres from any boundary of a Residential, Village and Country Living Zone; <p>(d) (e) For housed or free-range poultry that meets the definition for intensive farming, and all other intensive farming, buildings and adjacent yard areas outdoor enclosures are set back at least:</p> <ul style="list-style-type: none"> (i) 300 metres from any site boundary; and (ii) 500 metres from any boundary of a Residential, Village and Country Living Zone. 	<p>(a) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) traffic effects; (ii) effects on amenity values, including odour, visual impact, landscaping; (iii) location, type and scale of development; and (iv) noise effects; and (v) <u>odour and dust, except where a Certificate of Compliance or resource consent has been obtained from the Waikato Regional Council for air discharges.</u> (vi) <u>Whether the farm will operate in accordance with an approved farm Environment Plan or relevant industry codes of practice.</u>
D3	Any activity that does not comply with (Rule 22.1.3 RDI or RD2)	

Animal Boarding

202. One submission was received in support and one seeking minor amendments.

Rule 22.1.5 – Non-complying Activities

697.755	Waikato District Council	Amend Rule 22.1.5 D16 Discretionary Activities, as follows: <u>Animal</u> boarding, <u>daycare</u> , breeding or animal training establishment.
FS1387.678	Mercury NZ Limited for Mercury D	Oppose submission 697.755
680.191	Federated Farmers	Retain D16

203. The Proposed Plan includes as a separate activity ‘boarding, breeding or animal training establishment’. Such activities require consent as a fully discretionary activity under Rule D16. The definition as originally notified means “*an activity carried out on land or within buildings where board and lodging, breeding and training is provided or intended to be provided for more than five animals (excluding offspring up to 3 months of age). This does not include dog kennels, calf rearing sheds, stables and similar shelters for private farming uses*”.
204. This rule is assessed here as it overlaps with the definitions of both ‘farming’ and ‘intensive farming’. Federated Farmers [680.191] have sought that rule D16 be retained, while Waikato District Council [697.752] have sought a minor amendment to Rule D16 so that it reads “animal boarding, daycare, breeding or ~~animal~~-training establishment”.
205. Animal breeding is an integral component in most pastoral farming operations, with lambs and calves grown for both sale and to replace breeding stock. Horse breeding is addressed under the equestrian and horse training definitions, and the reference in the above definition to exclude stables likewise seeks to limit the scope of the activity. Large-scale indoor breeding operations are addressed in the above assessment of intensive farming, noting that I am open to evidence from submitters on whether or not poultry hatcheries also fall within ‘intensive’. To avoid confusion as to the rule (and definition) scope, and as a consequential amendment to the above changes to the farming and intensive farming definitions, it is recommended that the scope of this definition be narrowed so that it just applies to dog and cat boarding and breeding, i.e. large-scale kennels and catteries, where noise effects in particular can be an issue. I note that this term was also considered as part of Hearing 5 on definitions and occurs across several zone rule frameworks. As such, the final content of this definition will need aligning across the various zones. The Chapter 5 recommendations included inserting reference to daycare and domestic animals. The recommended text below builds on the amendments recommended Hearing 5.
206. I agree with the Waikato District Council submission that the rule should encompass daycare activities, as it is becoming more common for kennels to also take dogs on a daily basis whilst the owners are at work, i.e. more akin to a daycare activity rather than only when the owners are away on holiday. It is recommended that a consequential amendment be made to the definition of this same term so the rule and the definition align.

Recommendations and amendments

207. Amend Rule D16 as follows:

D16	A <u>dog or cat</u> boarding, <u>daycare</u> , breeding or animal training establishment.
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208. Amend the definition of ‘boarding, breeding or animal training establishment’ as follows:

<u>Dog or cat</u> boarding, <u>daycare</u> , breeding or animal training	Means an activity carried out on land or within buildings where board, <u>daycare</u> and lodging, breeding and <u>or</u> training is
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establishment	provided or intended to be provided for more than five domestic dogs or cats animals (excluding offspring up to 3 months of age). This does not include dog kennels, calf-rearing sheds, stables and similar shelters for ancillary to private farming or residential activities uses. agricultural and horticultural research activities or agricultural research centres.
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Rural – Policy 5.3.7 Reverse Sensitivity effects

Introduction

209. The Proposed Plan seeks to manage reverse sensitivity issues through Policy 5.3.7 and associated Rule 22.3.7.2, which specifies building setbacks for new sensitive land uses.

Submissions

210. Twelve submissions were received in support of the policy. Fifteen submissions sought amendments to the policy, with these submissions generally supportive of the overall intent of the policy but seeking greater clarification or specification of types of industry or activities.

Submission point	Submitter	Summary of submission
581.12	Synlait Milk Ltd	Add policies to Chapter 5 Rural Environment which specifically address the potential for increased housing density in the rural environment to encroach on lawfully established heavy industry activities in adjoining zones.
<i>FSI 388.950</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 581.12</i>
<i>FSI 377.154</i>	<i>Havelock Village Limited</i>	<i>Oppose submission 581.12</i>
<i>FSI 341.28</i>	<i>Hynds Pipe Systems Limited</i>	<i>Support submission 581.12</i>
<i>FSI 345.58</i>	<i>Genesis Energy Limited</i>	<i>Support submission 581.12</i>
<i>FSI 333.11</i>	<i>Fonterra Limited</i>	<i>Support submission 581.12</i>
<i>FSI 306.30</i>	<i>Hynds Foundation</i>	<i>Support submission 581.12</i>
<i>FSI 330.46</i>	<i>Middlemiss Farm Holdings Limited</i>	<i>Oppose submission 581.12</i>
281.8	Zeala Ltd for Trading as Aztech Buildings	Add a new line to Policy 5.3.7 (a) Reverse sensitivity effects as follows: <u>(vi) buildings associated with rural production.</u>
<i>FSI 265.16</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 281.8</i>
<i>FSI 171.2</i>	<i>T&G Global</i>	<i>Support submission 281.8</i>
<i>FSI 168.60</i>	<i>Horticulture New Zealand</i>	<i>Support submission 281.8</i>
<i>FSI 168.59</i>	<i>Horticulture New Zealand</i>	<i>Support submission 281.8</i>
<i>FSI 1316.22</i>	<i>Alstra (2012) Limited</i>	<i>Support submission 281.8</i>
281.9	Zeala Ltd for Trading as Aztech Buildings	Retain Policy 5.3.7(h) Reverse sensitivity effects. AND Amend rules to be consistent with this policy.
<i>FSI 265.17</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 281.9</i>
367.5	Mercer Residents and Ratepayers Committee	Retain Policy 5.3.7 Reverse sensitivity effects.

<i>FS1386.548</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 367.5</i>
402.4	Tuakau Proteins Limited	<p>Amend Policy 5.3.7 Reverse sensitivity effects, as follows (or words to similar effect):</p> <p>(a) Recognise the following features are typical of the rural environment and the effects are accepted and able to be managed:</p> <ul style="list-style-type: none"> (i) Large numbers of animals being farmed, extensive areas of plants, vines or fruit crops, plantation forests and farm forests; (ii) Noise, odour, dust, traffic and visual effects associated with the use of land for farming, horticulture, forestry, farm quarries; (iii) Existing mineral extraction and processing activities; (iv) Minor dwellings; (v) Papakainga housing developments within Maori freehold land; <u>(vi) Rural industry.</u> <p>(b) Avoid adverse effects outside the site and where those effects cannot be avoided, they are to be mitigated.</p> <p>(c) <u>Reduce and/or</u> mitigate the adverse effects of reverse sensitivity through the use of setbacks and the design and <u>location of</u> subdivisions and development.</p> <p>(d) The scale, intensity and timing and duration of activities are managed to ensure compatibility with the amenity and character of the rural environment.</p> <p>(e) Enable the use of artificial outdoor lighting for night time work.</p> <p>(f) Ensure glare and light spill from artificial lighting in the rural environment does not:</p> <ul style="list-style-type: none"> (i) Compromise the safe operation of the road transport network; and (ii) Detract from the amenity of other sites within the surrounding environment. <p>(g) Frost fans are located and operated to ensure adverse effects on the surrounding environment are minimised.</p> <p>(h) Provide for intensive farming activities <u>and rural industry</u>, recognising the potential adverse effects that need to be managed, including noise, visual amenity, rural character or landscape effects, and odour.</p> <p>AND</p> <p>Any consequential amendments and/or additional relief to give effect to the concerns raised in the submission.</p>
<i>FS1038.6</i>	<i>Simon Dromgool</i>	<i>Oppose submission 402.4</i>
<i>FS1388.138</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 402.4</i>
587.2	Bruce Cameron	No specific decision sought, but the submission states (with reference to policy 5.3.7 Reverse sensitivity effects) that intensive farming must operate within their own boundaries and any setbacks must not extend into neighbouring properties and must not affect neighbouring properties in any activities they wish to carry out within their boundaries.
<i>FS1316.20</i>	<i>Alstra (2012) Limited</i>	<i>Oppose submission 587.2</i>

FSI388.969	Mercury NZ Limited for Mercury E	Oppose submission 587.21
FSI265.19	Mainland Poultry Limited	Oppose submission 587.2
676.4	T&G Global Limited	Retain Policy 5.3.7(a)(iv) - Reverse Sensitivity Effects AND Amend Policy 5.3.7 - Reverse Sensitivity Effects to provide explicit recognition of workers' accommodation within the rural environment. AND Any further or consequential amendments necessary to address the concerns raised in the submission.
FSI387.140	Mercury NZ Limited for Mercury D	Oppose submission 676.4
693.5	Alstra (2012) Limited	Retain Policy 5.3.7 - Reverse sensitivity effects as notified.
FSI387.374	Mercury NZ Limited for Mercury D	Oppose submission 693.5
FSI265.22	Mainland Poultry Limited	Support submission 693.5
723.4	Winstone Aggregates	Retain Policy 5.3.7 Reverse Sensitivity Effects.
FSI387.798	Mercury NZ Limited for Mercury D	Oppose submission 723.4
777.3	Radio New Zealand Limited	Retain Policy 5.3.7 Reverse sensitivity effects, except for the amendments sought below; AND Amend Policy 5.3.7(a)(ii) Reverse sensitivity effects, as follows: Recognise the following features are typical of the rural environment and the effects are accepted and able to be managed: ... (ii) Noise, odour, dust, traffic and visual effects associated with the use of land for farming, horticulture, forestry, farm quarries, <u>and infrastructure</u> ; AND Add a new clause to Policy 5.3.7 Reverse Sensitivity effects, as follows: (i) <u>Avoid any adverse effects of reverse sensitivity to ensure the ongoing and efficient operation of infrastructure is not compromised.</u>
FSI387.1175	Mercury NZ Limited for Mercury D	Oppose submission 777.3
821.9	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	Retain Policy 5.3.7 Reverse sensitivity effects; AND Add an additional point (i) to Policy 5.3.7 Reverse sensitivity effects as follows: ... (h) Provide for intensive farming activities, recognising the potential adverse effects that need to be managed, including noise, visual amenity, rural character or landscape effects, and odour. (i) <u>Protect existing intensive farming activities from sensitive land uses to avoid future conflicts between users.</u>
FSI316.25	Alstra (2012) Limited	Support submission 821.9

FS1076.12	New Zealand Pork Industry Board	Support submission 821.9
FS1265.15	Mainland Poultry Limited	Support submission 821.9
860.5	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.3.7 (a) (ii) and (iii) Reverse Sensitivity Effects.
FS1334.41	Fulton Hogan Limited	Support submission 860.5
FS1332.5	Winstone Aggregates	Support submission 860.5
FS1292.41	McPherson Resources Limited	Support submission 860.5
197.10	NZ Pork	Retain Policy 5.3.7 Reverse sensitivity effects, except for the amendments sought below AND Amend Policy 5.3.7 (a)(ii) Reverse sensitivity effects as follows: (ii) Noise, odour, dust, traffic and visual effects associated with the use of land for farming, horticulture, <u>Intensive Farming</u> , forestry, farm quarries;
FS1265.20	Mainland Poultry Limited	Support submission 197.10
FS1316.21	Alstra (2012) Limited	Support submission 197.10
330.57	Andrew and Christine Gore	No specific decision sought, however submission refers to Policy 5.3.7 Reverse sensitivity effects.
FS1386.438	Mercury NZ Limited for Mercury C	Oppose submission 330.57
372.28	Steve van Kampen for Auckland Council	Retain Policy 5.3.7. Reverse sensitivity effects.
FS1388.8	Mercury NZ Limited for Mercury E	Oppose submission 372.28
394.28	Gwenith Sophie Francis	Amend Policy 5.3.7 Reverse sensitivity effects, to recognise the appropriateness of reverse sensitivity covenants AND/OR Amend other plan provisions as consequential or additional amendments as necessary to give effect to the relief sought. AND Amend the Proposed District Plan to make consequential or further additional relief, as is appropriate to give effect to the intent of the submission.
FS1388.126	Mercury NZ Limited for Mercury E	Oppose submission 394.28
FS1334.36	Fulton Hogan Limited	Support submission 394.28
FS1375.8	Radio New Zealand	Oppose submission 394.28
FS1292.36	McPherson Resources Limited	Support submission 394.28
FS1265.21	Mainland Poultry Limited	Support submission 394.28
FS1316.23	Alstra (2012) Limited	Support submission 394.28
419.62	Jordyn Landers for Horticulture New Zealand	Amend Policy 5.3.7 Reverse sensitivity effects, as follows: (a) Recognise the following features are typical of the rural environment and the effects are accepted and able to be

		<p>managed:</p> <p>(i) Large numbers of animals being farmed, extensive areas of <u>commercial vegetable production</u>, plants, vines or fruit crops, plantation forests and farm forests;</p> <p>...</p> <p>(c) <u>Avoid or</u> mitigate the adverse effects of reverse sensitivity through the use of setbacks and the design of subdivisions and development.</p> <p>AND</p> <p>Any consequential or additional amendments as a result of changes sought in the submission.</p>
FS1375.9	Radio New Zealand	Support submission 419.62
FS1388.206	Mercury NZ Limited for Mercury E	Oppose submission 419.62
FS1171.39	Phoebe Watson for Barker & Associates on behalf of T&G Global	Support submission 419.62
466.61	Balle Bros Group Limited	Retain Policy 5.3.7 Reverse sensitivity as notified.
FS1388.429	Mercury NZ Limited	Oppose submission 466.61
553.37	Malibu Hamilton	Retain Policy 5.3.7 (a)(v) Reverse sensitivity effects.
FS1388.792	Mercury NZ Limited	Oppose submission 553.37
575.29	Fulton Hogan Limited	<p>Retain Policy 5.3.7 (h) Reverse sensitivity effects, except for the amendments sought below;</p> <p>AND</p> <p>Amend Policy 5.3.7 (h) Reverse sensitivity effects, as follows (or words to similar effect):</p> <p>(h) Provide for intensive farming activities <u>and mineral and aggregate extraction activities</u>, recognising the potential adverse effects that need to be managed, including noise, visual amenity, rural character or landscape effects, and odour.</p> <p>AND</p> <p>Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.</p>
FS1292.37	McPherson Resources Limited	Support submission 575.29
FS1332.38	Winstone Aggregates	Support submission 575.29
FS1319.13	New Zealand Steel Holdings Limited	Support submission 575.29
FS1198.29	Bathurst Resources Limited and BT Mining Limited	Support submission 575.29
FS1377.148	Havelock Village Limited	Support submission 575.29
680.66	Federated Farmers of New Zealand	<p>Amend Policy 5.3.7 (a) and (b) and (c) Reverse sensitivity effects, as follows:</p> <p>(a) Recognise the following features are typical of the rural environment and the effects are accepted and able to be managed:</p> <p>(i) Large numbers of animals being farmed, extensive</p>

		<p>areas of plants, vines or fruit crops, plantation forests and farm forests;</p> <p>(ii) Noise, odour, dust, traffic and visual effects <u>including buildings and structures</u> associated with the use of land for farming, horticulture, forestry, farm quarries;</p> <p>(iii) Existing mineral extraction and processing activities;</p> <p>(iv) Minor dwellings;</p> <p>(v) Papakaainga housing developments within Maaori Freehold land.</p> <p>(b) <u>Manage activities to ensure that adverse effects (other than minor effects) are avoided, remedied or mitigated. Avoid adverse effects outside the site and where those effects cannot be avoided, they are to be mitigated.</u></p> <p>(c) Mitigate the adverse effects of reverse sensitivity through the use of setbacks and the design of subdivisions and development <u>where appropriate...</u></p> <p>AND</p> <p>Add to Policy 5.3.7 Reverse sensitivity effects a new clause (i) as follows:</p> <p>(i) <u>Ensure that land use activities that are sensitive to the effects of rural activities do not constrain the operation of rural activities.</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p>
FSI 387.172	Mercury NZ Limited	Oppose submission 680.66
FSI 338.3	Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd	Support submission 680.66
FSI 375.10	Radio New Zealand	Support submission 680.66
FSI 275.7	Zeala Limited trading as Aztech Buildings	Support submission 680.66
FSI 292.38	McPherson Resources Limited	Support submission 680.66
FSI 334.37	Fulton Hogan Limited	Support submission 680.66
FSI 139.49	Turangawaewae Trust Board	Support submission 680.66
FSI 171.76	T&G Global	Support submission 680.66
FSI 108.58	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Support submission 680.66
691.11	McPherson Resources Limited	Retain Policy 5.3.7(a)(iii) Reverse sensitivity effects, as notified. This relief is sought in the event that any part of the submission from point 691.1 to 691.15 is not accepted by WDC.
FSI 334.38	Fulton Hogan Limited	Support submission 691.11
742.37	New Zealand Transport Agency	Retain Policy 5.3.7 Reverse sensitivity effects, except for the amendments sought below AND

		Amend Policy 5.3.7(f)(i) Reverse sensitivity effects as follows: Compromise the safe operation of the road <u>land</u> transport network ... AND Request any consequential changes necessary to give effect to the relief sought in the submission.
<i>FS1387.859</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 742.37</i>
771.10	Bathurst Resources Ltd and BT Mining Ltd	Amend Policy 5.3.7(a)(iii) Reverse sensitivity effects as follows: (a) Recognise the following features are typical of the rural environment and the effects are accepted and able to be managed: (iii) Existing mineral extraction and processing activities <u>and future extraction and processing activities within Coal Mining Resource Areas</u> ; AND Any consequential amendments necessary to address the matters raised in the submission.
<i>FS1285.8</i>	<i>Terra Firma Mining Limited</i>	<i>Support submission 771.10</i>
<i>FS1334.39</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 771.10</i>
<i>FS1292.39</i>	<i>McPherson Resources Limited</i>	<i>Support submission 771.10</i>
797.44	Fonterra Limited	Retain Policy 5.3.7 Reverse sensitivity effects except for the amendments sought below. AND Amend Policy 5.3.7(c) Reverse sensitivity effects to read (or words to similar effect): Mitigate the adverse effects of reverse sensitivity through the use of setbacks <u>for sensitive activities</u> and the design of subdivisions and development. AND Delete Policy 5.3.7 (d) Reverse sensitivity effects AND Any consequential amendments or further relief to give effect to the concerns raised in the submission.
<i>FS1171.103</i>	<i>T&G Global</i>	<i>Support submission 797.44</i>
<i>FS1387.1279</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 797.44</i>
<i>FS1375.11</i>	<i>Radio New Zealand</i>	<i>Support submission 797.44</i>
<i>FS1265.18</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 797.44</i>
<i>FS1313.26</i>	<i>Perry Group Limited</i>	<i>Support submission 797.44</i>
<i>FS1316.24</i>	<i>Alstra (2012) Limited</i>	<i>Oppose submission 797.44</i>
<i>FS1345.35</i>	<i>Genesis Energy Limited</i>	<i>Support submission 797.44</i>
827.35	New Zealand Steel Holdings Ltd	Amend Policy 5.3.7 Reverse sensitivity effects as follows (or words to similar effect): (a) Recognise the following features are typical of the rural environment and the effects are accepted and able to be managed: ... (iii) Existing m Mineral extraction and processing activities; ... (c) Mitigate the adverse effects of reverse sensitivity

		<p>through the use of setbacks and design of subdivisions and development.</p> <p>(cc) <u>Avoid locating sensitive activities in a buffer area adjoining an Aggregate Extraction Area, unless those sensitive activities can avoid compromising existing and future mineral extraction....</u> ...</p> <p>OR</p> <p>Add a comparable policy regarding reverse sensitivity in the event that a specific Maoro Mining Zone is introduced.</p> <p>AND</p> <p>Any other further or consequential amendments required.</p>
<i>FSI 334.40</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 827.35</i>
<i>FSI 198.30</i>	<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>Not stated</i>
<i>FSI 292.40</i>	<i>McPherson Resources Limited</i>	<i>Support submission 827.35</i>
860.20	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.3.7 (b) Reverse sensitivities effects.
<i>FSI 334.42</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 860.20</i>
<i>FSI 285.18</i>	<i>Terra Firma Mining Limited</i>	<i>Support submission 860.20</i>
<i>FSI 292.42</i>	<i>McPherson Resources Limited</i>	<i>Support submission 860.20</i>
<i>FSI 332.20</i>	<i>Winstone Aggregates</i>	<i>Support submission 860.20</i>
860.21	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.3.7 (c) Reverse sensitivity effects.
<i>FSI 285.19</i>	<i>Terra Firma Mining Limited</i>	<i>Support submission 860.21</i>
<i>FSI 332.21</i>	<i>Winstone Aggregates</i>	<i>Support submission 860.21</i>
<i>FSI 292.43</i>	<i>McPherson Resources Limited</i>	<i>Support submission 860.21</i>
<i>FSI 334.43</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 860.21</i>
924.14	Genesis Energy Limited	Add clause (vi) to Policy 5.3.7 (a)- Reverse Sensitivity Effects as follows: <u>(vi) Existing and proposed regionally significant industry and regionally significant infrastructure.</u>
<i>FSI 176.279</i>	<i>Watercare Services Ltd</i>	<i>Support submission 924.14</i>
<i>FSI 198.31</i>	<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>Support submission 924.14</i>
<i>FSI 350.8</i>	<i>Transpower New Zealand Limited</i>	<i>Support submission 924.14</i>
<i>FSI 387.1547</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 924.14</i>
<i>FSI 375.12</i>	<i>Radio New Zealand</i>	<i>Support submission 924.14</i>
433.4	Auckland Waikato Fish and Game Council	Add a new clause to Policy 5.3.7 (a) Reverse sensitivity effects, as follows: <u>(vi) recreational hunting</u> AND/OR Any alternative relief to address the issues and concerns raised in the submission.
<i>FSI 083.4</i>	<i>Ryburn Lagoon Trust Limited</i>	<i>Support submission 433.4</i>

Analysis

211. The term ‘reverse sensitivity’ is a planning concept whereby new sensitive land uses seek to locate in close proximity to existing activities. The long-established activities were ‘here first’ and may for many years have been generating effects as part of their normal operations that extended beyond the site boundaries, but that did not result in any complaints when the adjacent land was used for extensive pastoral farming. New, more sensitive activities (typically residential dwellings), then become established and generate complaints about the existing activity to the point that the existing activity is forced to curtail or reduce their operations, and/or have their ability to adapt and expand constrained.
212. The s42A report on definitions in Hearing 5 recommended that the term ‘sensitive land use’ be defined as follows:
- (a) *an education facility including a childcare facility, waananga and koohanga reo;*
 - (b) *a residential activity, including papakainga building, retirement village, travellers’ accommodation, student accommodation, home stay;*
 - (c) *health facility or hospital;*
 - (d) *place of assembly*
213. As set out above, the district plan seeks to manage the tension between incompatible activities through, at a high level, the use of zoning, whereby various parts of the district are set aside for various activities, where like activities (and their effects) are able to be grouped. So housing locates in residential zones, industry locates next to other factories in industrial zones, and activities based on the productive potential of soil or rural resources are able to establish and operate in rural areas.
214. The zones and associated rule frameworks thereby establish the context for the anticipated environmental outcomes. There is an expectation that a wide range of activities that are typically found in rural areas come with an associated range of typical effects such as noise, odour, dust etc. Anyone living in such an environment should therefore have a reasonable expectation that such effects will be encountered across site boundaries. This is not, however, a free for all. There is an equal expectation that activities will manage their effects as far as practicable to contain those effects within the boundaries of the site to an acceptable level – in essence to be a good neighbour. The Rural Zone rules therefore set limits on matters such as noise, glare, building size, and in the case of intensive farming, require setbacks from site boundaries as a proxy for managing more subjective effects such as odour. The rules set limits on the level of effects that are reasonable as of right, with effects beyond the rule able to then be assessed on a case-by-case basis through the resource consent process so that site-specific circumstances and mitigation or consent conditions are considered.
215. Given that effects cannot always be contained within site boundaries, especially for facilities that may have established some years ago, the Proposed Plan also seeks to manage the tension between various activities through requiring new sensitive activities to be set back from existing rural-based activities as an alternative method for managing effects.
216. The policy approach to this issue therefore needs to have three legs:
- (1) **Anticipated environment:** Recognition of the sorts of activities, and associated effects, that are reasonably anticipated in rural environments, and that indeed form part

of the character and amenity of the rural environment. This first leg forms part of the recommended Policy 5.3.1 discussed above on rural character. For ease of reference, the key wording of relevance to this discussion is proposed clause (b) to:

Recognise that elements that characterise an area as rural, from which desired amenity is derived, include the predominance of ...Occasional community facilities, agricultural produce processing facilities, intensive farming, rural-related commercial and industrial activities, network infrastructure, and mineral extraction, with such activities integrated into a predominantly open space landscaped setting;

And Clause (c) which seeks to:

Recognise that rural productive activities in rural areas including farming, horticulture, intensive farming, plantation forestry, and rural industry, network infrastructure, and mineral extraction activities, can produce noise, odour, dust, visual and traffic effects consistent with an anticipated rural working environment, and that may be noticeable to residents and visitors in rural areas.

- (2) **Manage on-site effects:** Recognition that there is an onus on activities that generate effects to manage or mitigate those effects as far as practicable. This is reflected in the recommended policies on rural industry, intensive farming, mineral extraction, noise, and outdoor lighting, and is implemented through rules requiring new intensive farming operations and mineral extraction to be assessed through a consent process, setback from boundaries, and rules that set limits on matters such as noise and glare.
- (3) **Manage the proximity of new sensitive land uses:** Recognition that not all effects can be contained on-site, especially for existing operations, and that it is therefore also necessary to control the proximity of new sensitive activities. This is the primary purpose of Policy 5.3.7 and is implemented through rules specifying setback distances for new sensitive activities.

286. Policy 5.3.7 as notified has a complex structure that can be summarised as follows:

- Clause (a) lists activities that can occur in rural environments;
- Clause (b) directs these activities to avoid or mitigate effects beyond the site;
- Clause (c) seeks to use setbacks as a tool for reducing reverse sensitivity risks;
- Clause (d) is similar to clause (b) and again seeks to manage effects from anticipated activities to ensure that they are compatible with a rural environment;
- Clauses (e) and (f) seek to enable outdoor lighting;
- Clause (g) is again linked to clause (b) and (d), in that noise effects from frost fans are to be minimised;
- Clause (h) seeks to provide for intensive farming whilst managing the effects of that activity.

287. The policy is therefore an at times awkward mix of stating activities that are anticipated in rural environments; directing that such effects are to be avoided or mitigated such that they do not extend beyond the site; and at the same time seeking to control reverse sensitivity issues generated by new sensitive activities which would only occur if effects do indeed extend beyond the site.

288. It is recommended that the policy approach in the Proposed Plan be streamlined such that the plan framework better articulates the above 'three legs'. The submissions all appear to be supportive of the need for the rural zone policies as a package to address these three matters, with submissions only varying between how best to amend the notified wording. Leg one is captured in the above recommended Policy 5.3.1 on Rural Character. Leg two is captured largely through the activity-specific policies, including the recommended policies on

intensive farming, rural industry, and aggregate extraction, although it is recommended that this policy on reverse sensitivity reiterate the need to set back new effect-generating activities from site boundaries as a key method of managing effects and to reiterate the onus on activities to manage effects on-site as far as practicable.

289. The third leg relating to the management of new sensitive activities is recommended to be the focus of Policy 5.3.7 and is a matter that is not addressed in any depth in other policies. It is therefore proposed that the policy have a focus on the separation of incompatible activities, with the first clause focused on the need for activities to manage effects on-site and through setbacks, and the second clause focused on the need to manage new sensitive activities, with the primary tool again being through the use of setbacks.
290. Specific clauses in the existing policy relating to glare/outdoor lighting are recommended to be separately addressed in a specific policy on this matter (and discussed in more detail below when submissions on the lighting rules are assessed). The specific clause relating to the effects of frost fans (which is primarily noise) is already covered in Policy 5.3.15(a)(iv) relating to noise and therefore this clause is recommended to be deleted.

Recommendations and amendments

291. It is recommended that Policy 5.3.7 be retitled and rewritten as follows:

5.3.7 Policy – Separation 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 sensitive land uses achieves adequate separation distances to mitigate potential reverse sensitivity effects on lawfully-established productive rural activities, intensive farming, rural industry, strategic infrastructure, or extractive activities.

292. The above recommendation is based to a certain extent on the provisions in the notified policy being relocated, rather than deleted, to improve the overall structure of the rural policies. This reallocation is to improve the functionality of the policy package, and as such does not rely on submission scope. For ease of reference I have set out where the directions contained in the various clauses in the notified policy are recommended to be addressed:

<p>(a) Recognise the following features are typical of the rural environment and the effects are accepted and able to be managed:</p> <p>(i) — Large numbers of animals being farmed, extensive areas of plants, vines, or fruit crops, plantation forests and farm forests;</p> <p>(ii) — Noise, odour, dust, traffic and visual effects associated with the use of farming, horticulture, forestry, farm quarries;</p> <p>(iii) — Existing mineral extraction and processing activities;</p>	<p>Incorporated into proposed Policy 5.3.1 – Rural Character</p>
<p>(iv) — Minor dwellings;</p> <p>(v) — Papakainga housing developments within Maaori</p>	<p>Incorporated into Policy 5.3.4 – density, and Policy 5.3.8 - subdivision</p>

Freehold land:	
(b) Avoid adverse effects outside the site and where those effects cannot be avoided, they are mitigated.	Incorporated into Policy 5.3.7(a). Also referenced in activity-specific policies
(c) Mitigate the adverse effects of reverse sensitivity through the use of setbacks and the design of subdivisions and development.	Incorporated into Policy 5.3.7(b)
(d) The scale, intensity, timing and duration of activities are managed to ensure compatibility with the amenity and character of the rural environment.	Incorporated into Policy 5.3.7(a). Also referenced in Policy 5.3.15 - noise
(e) Enable the use of artificial outdoor lighting for night time work. (f) Ensure glare and light spill from artificial lighting in the rural environment does not: (i) Compromise the safe operation of the road transport network; and (ii) Detract from the amenity of other sites within the surrounding environment.	Incorporated into a new policy that addresses outdoor lighting.
(g) Frost fans are located and operated to ensure adverse effects on the surrounding environment are minimised.	Deleted, as this matter is addressed in Policy 5.3.15(a)(iv) - noise
(h) Provide for intensive farming activities, recognising the potential adverse effects that need to be managed, including noise, visual amenity, rural character or landscape effects, and odour.	Incorporated into Policy 5.3.6 – Intensive farming

293. It is recommended that 'reverse sensitivity' be a defined term, as it is a phrase that, whilst common in town planning contexts, may not be widely known by district plan users:

<u>Reverse sensitivity</u>	<u>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.</u>
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Rural – Building setback - sensitive land uses – Rule 22.3.7.2

Introduction

294. A key tool in managing reverse sensitivity is the use of setback requirements for new sensitive land uses. The Proposed Plan specifies these setbacks in Rule 22.3.7.2. It is important to note that noise-sensitive activities are separately controlled through Rule 22.3.7.4 and are discussed later in this report. The terms 'sensitive land use' and 'noise sensitive' are separately defined, albeit that there is considerable overlap in the activities that they cover.

295. The setbacks for sensitive land uses are broader than just intensive farming, and also include major arterial roads and rail infrastructure, wastewater treatment facilities, extractive industry, and the Tamahere Commercial Areas A and C, where more industrial land uses are anticipated.
296. Submissions on this rule in regard to setbacks from mineral and aggregate extraction operations are discussed separately below in the section on this topic. It is another example of the one provision being split across several topics.

Submissions

297. Four submissions were received in support of the rule. Twenty four submissions seek amendments to the rule package, with these submitters generally supportive of the intent of the setbacks and generally seeking greater clarification or the inclusion of references to specific industries or facilities. Submitters have also sought that the setback from intensive farming be measured from the edge of the building containing the intensive farming operation, rather than from the site boundary.

Submission point	Submitter	Summary of submission
461.1	Donna-Maria Lincoln	No specific decision sought, but submission states support for Rule 22.3.7.2 Building setback - sensitive land use. AND No specific decision sought, but submission expresses concern that a major and minor dwelling cannot be built on each of the 4 titles on the property at 100 McGovern Road, Waerenga.
FS1388.370	Mercury NZ Limited for Mercury E	Oppose submission 461.1
676.9	T&G Global Limited	Amend Rule 22.3.7.2 - Building setback sensitive land use to enable the provision of accommodation for agricultural, horticultural and seasonal workers where that accommodation is within 300m of an intensive farming activity. AND Any further or consequential amendments necessary to address the concerns raised in the submission.
FS1387.144	Mercury NZ Limited	Oppose submission 676.9
FS1348.19	Perry International Trading Group Limited	Support submission 676.9
833.7	Mainland Poultry Limited	Amend Rule 22.3.7.2PI (a)(vii) Building setback - sensitive land use, as follows: (vii) 300m from the any boundary of building on another site containing an intensive farming activity;
FS1338.14	Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The	Support submission 833.7

	<i>Egg Producers Federation of NZ; and Tegel Foods Ltd</i>	
<i>FS1387.1357</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 833.7</i>
197.29	NZ Pork	Retain Rule 22.3.7.2 PI Building setback sensitive land use as notified.
<i>FS1308.7</i>	<i>The Surveying Company</i>	<i>Oppose submission 197.29</i>
<i>FS1386.206</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Oppose submission 197.29</i>
<i>FS1265.68</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 197.29</i>
372.18	Auckland Council	Retain Rule 22.3.7.2. Building setback - sensitive land use.
<i>FS1388.5</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 372.18</i>
<i>FS1265.69</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 372.18</i>
<i>FS1308.25</i>	<i>The Surveying Company</i>	<i>Oppose submission 372.18</i>
419.32	Horticulture New Zealand	Retain Rule 22.3.7.2 Building setback sensitive land use, except for the amendments sought below AND Add two new clauses (x) and (xi) to Rule 22.3.7.2 PI (a) Building setback sensitive land use, as follows: (a) Any building for a sensitive land use must be set back a minimum of: ... <u>(x) 100m from the boundary of another site containing a rural industry or services activity.</u> <u>(xi) 100m from the boundary of another site containing a farming activity where the sensitive land use is not a residential activity.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1388.189</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 419.32</i>
<i>FS1330.26</i>	<i>Middlemiss Farm Holdings Limited</i>	<i>Oppose submission 419.32</i>
<i>FS1171.26</i>	<i>T&G Global</i>	<i>Support submission 419.32</i>
<i>FS1265.70</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 419.32</i>
489.15	Ann-Maree Gladding	Amend Rule 22.3.7.2 PI (iv) and (v) Building setback sensitive land use, to add text to clarify that the setback distances are taken from the actual extraction area only and not from the legal boundaries of the title that contains the extraction area; OR Amend the definition of "Aggregate Extraction Area" in Chapter 13 Definitions, to clarify that the setback distances are taken from the actual extraction area only

		and not from the legal boundaries of the title, that contains the extraction area.
FS1292.77	McPherson Resources Limited	Support submission 489.15
FS1334.80	Fulton Hogan Limited	Oppose submission 489.15
FS1319.2	New Zealand Steel Holdings Limited	Oppose submission 489.15
FS1388.483	Mercury NZ Limited	Oppose submission 489.15
489.16	Ann-Maree Gladding	Amend Rule 22.3.7.2 P1 (vii) Building setback sensitive land use, to be 300m from the actual intensive farming activity, rather than the boundary of the site. Submission seeks rewording and clarification of the rule.
FS1308.71	The Surveying Company	Support submission 489.16
FS1265.71	Mainland Poultry Limited	Oppose submission 489.16
FS1388.484	Mercury NZ Limited for Mercury E	Oppose submission 489.16
575.21	Fulton Hogan Limited	Retain Rule 22.3.7.2 (a) Building setback sensitive land use except for the amendments sought below AND Amend Rule 22.3.7.2 (a) Building setbacks sensitive land use, as follows (or word to similar effect): (a) Any building for a sensitive land use must be set back a minimum of: ... (iv) 200m from an Aggregate Extraction Area, <u>mineral or aggregate extraction activities</u> containing a sand resource; (v) 500m from an Aggregate Extraction Area, <u>mineral or aggregate extraction activities</u> containing a rock resource; ... AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
FS1292.79	McPherson Resources Limited	Support submission 575.21
FS1332.35	Winstone Aggregates	Support submission 575.21
580.10	Meridian Energy Limited	Add a new clause (x) into Rule 22.3.7.2P1(a) Building setback sensitive land use, as follows: (x) <u>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.</u> AND

		Amend the Proposed District Plan as necessary to address the matters raised in the submission.
581.32	Synlait Milk Ltd	Amend Rule 22.3.7.2 Building setback - sensitive land use to include a requirement for sensitive land uses to be setback from a Heavy Industrial Zone boundary.
<i>FS1341.49</i>	<i>Hynds Pipe Systems Limited</i>	<i>Support submission 581.32</i>
<i>FS1388.953</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 581.32</i>
<i>FS1377.155</i>	<i>Havelock Village Limited</i>	<i>Oppose submission 581.32</i>
591.11	Stevenson Waikato Ltd	Amend Rule 22.3.7.2 PI Building setback sensitive land use, as follows: (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 Aggregate Extraction Area <u>or</u> <u>Aggregate Resource Area</u> containing a sand resource; (v) 500m from an Aggregate Extraction Area <u>or</u> <u>Aggregate Resource Area</u> containing a rock resource; (vi) 100m from a site in the...
<i>FS1388.998</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 591.11</i>
<i>FS1292.78</i>	<i>McPherson Resources Limited</i>	<i>Support submission 591.11</i>
<i>FS1334.81</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 591.11</i>
<i>FS1146.19</i>	<i>Gleeson Quarries Huntly Limited on behalf of</i>	<i>Support submission 591.11</i>
676.13	T&G Global Limited	Amend Rule 22.3.7.2 - Building setback sensitive land use to classify sensitive activities as Restricted Discretionary Activities, and limit Council's discretion in the same way as Rule 22.3.7.4. AND Any further or consequential amendments necessary to address the concerns raised in the submission.
<i>FS1387.145</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 676.13</i>
676.16	T&G Global Limited	Amend Rule 22.3.7.2 Building setback - sensitive activities, to clarify that the setback does not apply where the sensitive land use is located on the same land as an intensive farming activity.

		AND Any further or consequential amendments necessary to address the concerns raised in the submission.
FS1387.148	Mercury NZ Limited for Mercury D	Oppose submission 676.16
691.20	McPherson Resources Limited	Amend Rule 22.3.7.2 PI (a) Building setback sensitive land use as follows (or words to similar effect): (a) Any building for a sensitive land use must be set back a minimum of: .. (iv) 200m from an Aggregate Extraction Area, <u>mineral or aggregate extraction activities</u> containing a sand resource; (v) 500m from an Aggregate Extraction Area, <u>mineral or aggregate extraction activities</u> containing a rock resource; AND Any consequential amendments or alternative relief to address the matters raised in the submission.
FS1334.82	Fulton Hogan Limited	Support submission 691.20
746.85	The Surveying Company	Amend Rule 22.3.7.2 Building Setback -Sensitive land use after further consideration of its effect on applications for poultry farming activities OR Delete the setback distances in relation to poultry farming in Rule 22.3.7.2 Building Setback -Sensitive land use.
FS1265.72	Mainland Poultry Limited	Oppose submission 746.85
FS1387.956	Mercury NZ Limited	Oppose submission 746.85
FS1338.13	Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd	Support submission 746.85
777.13	Radio New Zealand Limited	Add a new setback requirement to Rule 22.3.7.2 PI (a) Building setback - sensitive land use as follows: (a) Any building for a sensitive land use must be set back a minimum of: ... (x) <u>800m from the boundary of any radio transmitter owned and operated by Radio New Zealand, as defined in section 2(1) of the Radiocommunications Act 1989.</u>
FS1387.1181	Mercury NZ Limited	Oppose submission 777.13

782.15	Jack Macdonald	Amend Rule 22.3.7.2 Building setback - sensitive land use, by adding text to PI (a) (iv) and (v) to confirm that the specified separation distances are measured from the identified Aggregate Extraction Area rather than the title boundaries that contain this extraction area OR Amend the definition of 'Aggregate Extraction Area' in Chapter 13: Definitions so that it refers to the consented extraction area, rather than the title boundary of the subject site.
FS1292.80	McPherson Resources Limited	Support submission 782.15
FS1387.1233	Mercury NZ Limited	Oppose submission 782.15
FS1319.35	New Zealand Steel Holdings Limited	Oppose submission 782.15
FS1334.83	Fulton Hogan Limited	Oppose submission 782.15
782.16	Jack Macdonald	Amend Rule 22.3.7.2 PI (a)(vii) Building setback - sensitive land use, as follows: (a) Any building for a sensitive land use must be set back a minimum of: ... (vii) 300m from the <u>actual</u> boundary of another site containing an intensive farming activity;
FS1265.73	Mainland Poultry Limited	Support submission 782.16
FS1387.1234	Mercury NZ Limited	Oppose submission 782.16
797.33	Fonterra Limited	Retain Rule 22.3.7.2 Building setbacks sensitive land use, except for the amendments sought below AND Amend Rule 22.3.7.2 Building setbacks sensitive land uses to include the additional locations as follows (or words to similar effect): <u>200m from an identified Coal Mining Area, 300m from the boundary of another site containing a Factory Wastewater Irrigation Farm.</u> AND Any consequential amendments or further relief to give effect to the concerns raised in the submission.
FS1387.1273	Mercury NZ Limited for Mercury D	Oppose submission 797.33
821.11	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	Amend Rule 22.3.7.2 PI (a)(vii) Building setbacks - setback land use, as follows: (vii) 300m from the boundary of <u>closest point of a building on</u> another site containing an intensive farming activity;

FSI265.67	Mainland Poultry Limited	Support submission 821.11
827.37	New Zealand Steel Holdings Ltd	Retain Rule 22.3.7.2(iv) and (v) Building setback sensitive land use.
922.17	John Rowe	Amend Rule 22.3.7.2 PI (a)(vii) Building setback - sensitive land use, as follows: (a) Any building for a sensitive land use must be set back a minimum of: ... (vii) 300m from the <u>actual</u> boundary of another site containing an intensive farming activity;
FSI387.1478	Mercury NZ Limited	Oppose submission 922.17
FSI265.74	Mainland Poultry Limited	Support submission 922.17
924.37	Alice Barnett for Genesis Energy Limited	Add a new setback requirement to Rule 22.3.7.2 PI Building Setback- Sensitive Land Use as follows: (x) <u>500m from the boundary of the Huntly Power Station.</u>
986.54	Pam Butler on behalf of KiwiRail Holdings Limited (KiwiRail)	Amend Rule 22.3.7.2 Building setback sensitive land use as follows (or similar amendments to achieve the requested relief): Building setback sensitive land-use PI <u>Sensitive land use</u> (a) Any <u>new building or alteration to an existing building</u> for a sensitive land use must be set back a minimum of: (i) 5m from the designated boundary of the railway corridor ... <u>P2 Railway corridor any new buildings or alterations to an existing building must be setback 5 metres from any designated railway corridor boundary</u> OR Retain Rule 22.3.7.2 PI (a)(i) Building setback sensitive land use if the primary relief above is not accepted AND Any consequential amendments to link and/or accommodate the requested changes.
FSI033.7	Spark New Zealand Trading Limited	Oppose submission 986.54
FSI032.7	Vodafone New Zealand Limited	Oppose submission 986.54
FSI031.7	Chorus New Zealand Limited	Oppose submission 986.54
680.230	Federated Farmers of New Zealand	Retain Rule 22.3.7.2 Building setback sensitive land use, as notified, if the changes sought to the definition of "Sensitive land use" are accepted. OR Delete Rule 22.3.7.2 PI (a)(vii) Building setback

		<p>sensitive land use from the rule.</p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
FS1171.93	T&G Global	Support submission 680.230
FS1258.78	Meridian Energy Limited	Not Stated
697.811	Waikato District Council	<p>Add new rules to Rule 22.3.7.2 Building setback - sensitive land use, as follows:</p> <p><u>22.3.7.2 Building setback - Sensitive land use</u></p> <p><u>P2</u></p> <p>(a) Any building for a sensitive land use must be set back a minimum of:</p> <p>(i) <u>10m from the centre line of any electrical distribution or transmission lines, not associated with the National Grid, that operate at a voltage of up to 110kV;</u></p> <p>(ii) <u>12m from the centre of line of any electrical distribution or transmission lines, not associated with the National Grid, that operate at a voltage of 110kV or more.</u></p> <p><u>P3</u></p> <p>(a) <u>Within the National Grid yard, alterations or additions to a building used for an existing sensitive land use must comply with all the following conditions:</u></p> <p>(i) <u>Not increase the building height or footprint; and</u></p> <p>(ii) <u>Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions; and</u></p> <p>(iii) <u>Locate a minimum 12m from the outer visible foundation of any National Grid tower and locate a minimum 12m from any pole and associated stay wire, unless Transpower has given written approval in accordance with clause 2.4.1 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663</u></p> <p><u>D1</u></p> <p><u>Any building for a sensitive land use that does not comply with Rule 22.3.7.2 P1 or P2.</u></p> <p><u>NCI</u></p> <p><u>Any activity within the National Grid Yard that does</u></p>

		<p><u>not comply with Rule 22.3.7.2 P3.</u></p> <p><u>NC2</u></p> <p><u>Any new building for a sensitive land use within the National Grid Yard</u></p> <p><u>NC3</u></p> <p><u>Any change of use of an existing building to a sensitive land use within the National Grid Yard</u></p> <p><u>NC4</u></p> <p><u>The establishment of any new sensitive land use within the National Grid Yard</u></p>
FS1345.84	Genesis Energy Limited	Support submission 697.811
FS1350.116	Transpower New Zealand Limited	Oppose submission 697.811
742.229	New Zealand Transport Agency	<p>Retain Rule 22.3.7.2 PI Building setback sensitive land use, except for the amendments sought below AND Amend Rule 22.3.7.2 PI (a)(ii) Building setbacks sensitive land use as follows:</p> <p>15m <u>35m</u> from a national route or regional arterial road;</p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>
FS1171.114	T&G Global	Oppose submission 742.229
FS1221.4	Cindy and Tony Young	Oppose submission 742.229
FS1283.4	Parkmere Farms	Oppose submission 742.229
FS1387.896	Mercury NZ Limited	Oppose submission 742.229

Analysis

298. A key tool for managing potential reverse sensitivity issues is the use of rules requiring new sensitive land uses to be set back from established activities that have the potential to generate adverse effects. The Proposed Plan setbacks for sensitive activities are largely a roll-over of the equivalent rules in the Operative Plan (Waikato Section), albeit that the activity status of new activities within the setbacks is restricted discretionary in the Operative Plan and fully discretionary in the Proposed Plan. The setback distances are therefore long-established.

299. Proposed Rule 22.3.7.2 is as follows:

PI	<p>(a) Any building for a sensitive land use must be set back a minimum of:</p> <ul style="list-style-type: none"> (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 containing a sand resource; (v) 500m from an Aggregate Extraction Area containing a rock resource; (vi) 100m from a site in the Tamahere Commercial Areas A and C; (vii) 300m from the boundary of another site containing an intensive farming activity; (viii) 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site;
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	(ix) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed.
DI	Any building for a sensitive land use that does not comply with Rule 22.3.7.2 P1.

300. Four submissions were received in support of the rules. Of the submissions seeking amendments to the rule, except where noted below, none sought to change the long-established distances from the Operative Plan. As such, I have relied on the s.32 report and what appears to be general acceptance of the appropriateness of these distances.

Setbacks for worker accommodation

301. T&G Global (676.9) have sought that seasonal worker accommodation be permitted within 300m of intensive farming activities. Whilst such workers may only be housed on a temporary or seasonal basis, and therefore potentially less likely to complain about amenity issues, due to the potential reverse sensitivity issues that might arise where large numbers of workers able to live near to existing intensive farming operations, it is recommended that worker accommodation remain subject to the rule. I note that the setback only applies from intensive farming on another site. Worker accommodation on the same site as the intensive farming activity is not therefore subject to a setback, on the basis that the owners or workers on the same site will not object to effects generated by that activity.

Point of measurement

302. Mainland Poultry [833.7], A Gladding [489.16], J Macdonald [782.15], J Rowe [922.17], and the Poultry Industry Association [821.11] have all sought that clause (a)(vii) be amended so that the point of measurement be 300m from the building containing the intensive farming activity, rather than the site boundary. I agree with the clarification sought by submitters. The key outcome that the rule is seeking to achieve is a large separation distance between the new sensitive land use and the generator of potential amenity effects. Given that many intensive farming activities are located on reasonably large landholdings, with generous setbacks to site boundaries from the intensive farming activity, measuring the setback from the activity makes the rule more efficient and does not unduly penalise neighbouring site owners through forcing larger setbacks than necessary. The amendment sought by submitters does potentially reduce development potential on the site on which the intensive farming operation is located, as it will limit the ability of the operation to expand towards the site boundary with an adjoining lot that could now contain a sensitive land use closer than 300m. That said, the rule is designed primarily to recognise existing facilities rather than enable their expansion at the expense of the development options that would otherwise be enjoyed by adjoining landowners.
303. I note that the recommended definition of intensive farming extends to intensively-farmed outdoor areas such as feed lot pens or intensive poultry runs. It is therefore recommended that the point of measurement be from the boundary of any buildings or outdoor enclosures containing an intensive farming activity.

Radio Transmitters

304. Radio NZ (777.13) seeks to add a new clause as follows: (x) 800m from the boundary of any radio transmitter owned and operated by Radio New Zealand, as defined in section 2(1) of the Radio communications Act 1989. I recognise that the infrastructure managed by the submitter is a lifeline utility and forms part of a national infrastructure network. In principle I agree that reverse sensitivity risk should be managed where they may impinge on the ongoing operation of existing networks, in the same way as the Proposed Plan seeks to control reverse sensitivity near wastewater treatment plants and arterial road and rail networks. Chapter 6 provides cross-zone policy direction for infrastructure, and includes

explicit reference to the need to protect infrastructure from reverse sensitivity matters (Objective 6.1.6 and Policy 6.1.7). Submissions on this chapter have yet to be heard.

305. The submitter is seeking an 800m setback, which equates to limiting new sensitive land uses over a 200ha area⁶. Given the significant geographic extent of the setback, I suggest that the submitter may wish to present evidence justifying the size of the setback and assessing the economic impacts that it would have on landowners in the vicinity, and whether a lesser setback would provide adequate mitigation of reverse sensitivity matters. If the Panel are minded to grant the submission, it is recommended that the setback be shown on the planning maps, given the small number of transmitters in Waikato District and to enable plan users to be aware of the transmitter and the setback requirements.

Wind farms

306. Meridian Energy [580.10] seek to add a new clause into Rule 22.3.7.2PI(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. I note that a similar submission point was made by the same submitter to the related Rule 22.3.7.4 on noise-sensitive activities.
307. Meridian Energy operates the large-scale Te Uku wind farm in Waikato District. As with the above submission from Radio NZ, I agree in principle that strategic infrastructure such as large-scale windfarms should be able to continue to operate with the risk of reverse sensitivity being appropriately managed. The principle of achieving such management through the use of setbacks is therefore supportable in principle. In order to determine whether the costs of such regulation outweigh the benefits, the submitter may wish to provide evidence as to the geographic extent of the proposed setback (noting it is based on the noise generated by the wind farm rather than a specified distance). The reliance on noise readings to determine permitted activity status for new dwellings may also be challenging for landowners who are not familiar with wind farm noise and where compliance will involve the commissioning of an acoustic assessment on a site-by-site basis. Meridian, as operator of the wind farm, may hold mapped noise contours as part of the assessment process that lead up to the wind farm being commissioned. If so, it would make the proposed rule easier to understand if the geographic extent of the noise contour were able to be mapped.
308. Given that standard building construction is generally sufficient to reduce external to internal noise by 15dBA (with windows shut), the submitters may likewise wish to present evidence as to why 40dBA is an appropriate regulatory threshold. In my experience noise boundaries as a regulatory tool tend to be set at 55dBA externally (to achieve a 40dBA internal noise environment).

Rail Corridors

309. KiwiRail [986.54] seek that clause (i) be amended to read 'any new buildings or alterations to an existing building must be setback 5 metres from any designated railway corridor boundary'. The key difference between the wording sought by the submitter and the rule as notified is that the 5m setback requirement would apply to all buildings, rather than 'sensitive land uses'. It is my understanding that the 5m setback for all buildings is sought not so much to manage reverse sensitivity as to enable maintenance of the rail corridor and to also enable landowners to maintain their buildings without having to encroach into the rail corridor, i.e. it is a health and safety outcome rather than mitigation of amenity effects to manage reverse sensitivity.

⁶ πr^2 where R=800m

310. Such setbacks can be onerous to landowners in urban contexts given the geographic extent of the rail corridor. In rural environments where landholdings are typically much larger, and where the rail corridor tends to run along the outside of farm holdings, a requirement for a 5m setback for all buildings should be able to be achieved without unduly impinging on site development potential.
311. Given that the purpose of the setback is not 'sensitive land uses', it is recommended that this setback requirement be considered in tandem with other submissions on the general boundary setback rule (Rule 22.3.7.1) assessed below. I note that both the notified rule, and the setbacks recommended below, are both larger than 5m from boundaries, and therefore the relief sought by KiwiRail is effectively addressed through the generic setback rules and no bespoke reference to the rail corridor is necessary.

Huntly Power Station

312. Genesis Energy [924.37] have sought a new clause covering sensitive land uses within 500m of Huntly Power Station. Huntly Power Station is significant infrastructure where reverse sensitivity risks should be managed. As with the above infrastructure providers, I do not in principle have any objections to the use of setbacks as a tool for mitigating this risk. The submitter is welcome to provide evidence as to why a 500m setback is considered necessary, noting that sensitive land uses are already required to be acoustically insulated where they are located within 350m of Huntly Power Station (see Appendix I of the Proposed Plan). I am not convinced that further setbacks are needed on the basis of the information provided in the submission, but am happy to consider specific evidence from the submitter on this matter.

Other matters

313. The submissions on this topic by Fontera, Synlait, NZTA, and various aggregate extractors, are discussed in separate sections relating to extractive industries, noise policy 5.3.15, and rule 22.3.7.4 relating to noise-sensitive activities.

Rural – Earthworks - definitions

Introduction

217. The Proposed Plan contains definitions relating to earthworks as well as definitions specifically related to the mineral extraction industry. Mineral extraction industry is considered as a separate topic below. The term 'farm quarry' is also used in the Proposed Plan. This is considered under the earthworks topic as there are key aspects of that definition that sets it apart from the mineral extraction industry and mean it is more appropriately dealt with as a subset of earthworks undertaken in the rural area.
218. The definitions are integral to understanding what activities are covered by the earthworks Policy 5.3.5 and which activities are separately addressed by policies relating to extractive industries. I have therefore ordered my consideration of this topic by first assessing submissions on the definitions.
219. The Proposed Plan as notified contains four definitions relevant to earthworks (excluding mineral extraction), albeit that two of these are effectively repetition of the same term.
220. The definition of 'earthworks' was considered in the s42A report on Hearing 5, with the recommendation being that the notified definition be replaced with the NPS definition. The other three definitions are more specific to the Rural Zone and therefore submissions on these terms are considered as part of this hearing rather than Hearing 5.

- Earthworks⁷** means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand, and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.
- 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, farm drains, farm effluent ponds, feeding pads, fencing and sediment control measures.
- Farm quarry** Means the extraction of minerals taken for use ancillary to farming and horticulture, and only used within the property of extraction. No extracted material (including any aggregate) shall be exported or removed from the property of origin and there shall be no retail or other sales of such material. For example, farm quarries include the extraction of material for farm and forestry tracks, access ways and hardstand areas on the property of origin.
- Rural ancillary earthworks** Means the disturbance of soil associated with cultivation, land preparation (including of sediment and erosion control measures), for planting and growing operations and harvesting of agricultural and horticultural crops and forests; and 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, farm drains, farm effluent ponds, and fencing and sediment control measures.

Submissions

221. Submissions in relation to the notified definitions of 'earthworks' were addressed in the s42A report on Hearing 5. Nine submissions and six further submissions were received seeking amendments to the notified definitions of 'ancillary rural earthworks'; and two submissions in relation to the definition of 'farm quarry', as summarised below.

Ancillary Rural Earthworks/Rural Ancillary Earthworks		
197.12	NZ Pork	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>

⁷ As recommended in s42A report for Hearing 5

FS1168.93	Horticulture New Zealand	Support submission 197.12
FS1323.99	Heritage New Zealand Pouhere Taonga	Oppose submission 197.12
466.53	Balle Bros Group Limited	<p>Amend the definition of "Ancillary Rural Earthworks in Chapter 13 Definitions to provide clarity around the term land preparation, specifically to include: <u>means the disturbance of soil by machinery for planting, replanting, tending or harvesting pasture or crops. Land preparation includes blading, contour ploughing, ripping, mounding, stepping, contouring, bunding and sediment control measures and drainage associated with horticultural crops but does not include direct drilling or mechanical land preparation associated with plantation forestry.</u></p> <p>AND</p> <p>Amend the definition for "Earthworks" in Chapter 13 Definitions to exclude ancillary rural earthworks as follows: Means modification of land surfaces by blading, contouring, ripping, moving, removing, placing or replacing soil or earth, or by excavation, or by cutting or filling operations, but <u>excludes ancillary rural earthworks.</u></p>
FS1323.101	Heritage New Zealand Pouhere Taonga	Oppose submission 466.53
466.56	Balle Bros Group Limited	Delete the definition for "Rural ancillary earthworks" from Chapter 13 Definitions.
797.23	Fonterra Limited	Retain the definition of "ancillary rural earthworks" in Chapter 13: Definitions as notified.
81.192	Waikato Regional Council	Amend the definition of "ancillary rural earthworks" in Chapter 13: Definitions to provide for flood protection and drainage schemes managed by the Waikato Regional Council.
FS1041.2	Aka Aka Otatau Land Drainage Subcommittee	Supports the submission point.
FS1323.98	Heritage New Zealand Pouhere Taonga	That the amendments sought are declined.
81.195	Waikato Regional Council	Amend the definition for "Rural Ancillary Earthworks" in Chapter 13: Definitions to clarify the terminology and to be consistent.

419.134	Horticulture New Zealand	Delete the definition for "Rural ancillary earthworks" from Chapter 13 Definitions. AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1342.97</i>	<i>Federated Farmers</i>	<i>Support submission 419.134</i>
680.127	Federated Farmers of New Zealand	Amend the definition of "Ancillary rural earthworks" in Chapter 13 Definitions, as follows: (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 <u>of crops and pasture</u> ; (b) harvesting of agricultural and horticultural crops (farming) and forests (forestry); <u>and planting trees, removing trees and horticultural root ripping</u> ; (c) maintenance and construction of facilities typically associated with farming and forestry activities, including, but not limited to, farm/forestry tracks, roads, <u>vehicle manoeuvring areas and landings, stock marshalling yards, stock races, silage pits, offal pits, burying dead stock and plat waste farm drains, farm effluent ponds, feeding pads, digging post holes, fencing and sediment control measures, drilling bores, installing and maintaining services such as water pipes and troughs, off-stream farm water storage dams, hard stand areas for stock, fertiliser storage pads, airstrips and helipads.</u> (d) <u>Farm quarries where quarry winnings are only used within the farm site</u> AND Any consequential amendments needed to give effect to this relief.
<i>FS1171.81</i>	<i>T&G Global</i>	<i>Support submission 680.127</i>
<i>FS1353.102</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose submission 680.127</i>
680.263	Federated Farmers of New Zealand	Retain the definition of "Rural ancillary earthworks" in Chapter 13 Definitions, as notified.

FS1323.107	Heritage New Zealand Pouhere Taonga	Oppose submission 680.263
697.364	Waikato District Council	Amend the definition of "Ancillary rural earthworks" as follows: Means any earthworks or disturbance of soil associated with: (a) 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, farm drains, farm effluent ponds, feeding pads, fencing and <u>erosion and sediment control measures</u> .
FS1323.103	Heritage New Zealand Pouhere Taonga	Oppose submission 697.364
FS1342.186	Federated Farmers	Support submission 697.364
697.505	Waikato District Council	Delete from Chapter 13: Definitions the definition for "Rural ancillary earthworks" AND Replace all references in the Plan to "Rural ancillary earthworks" to "Ancillary rural earthworks".
FS1342.181	Federated Farmers	Support submission 697.505
559.286	Heritage New Zealand Lower Northern Office	Retain the definition of "Ancillary rural earthworks" in Chapter 13: Definitions, subject to below. AND Amend rules to ensure Ancillary rural earthworks are being assessed as a restricted discretionary activity should they occur in a Maaori site or area of significance, or waahi tapu site or waahi tapu area, or the setting of a heritage item.
FS1342.135	Federated Farmers	Oppose submission 559.286
559.287	Heritage New Zealand Lower Northern Office	Delete the definition of "Rural Ancillary Earthworks" in Chapter 13: Definitions.

Farm quarry		
680.136	Federated Farmers of New Zealand	Retain the definition of "Farm quarry" in Chapter 13 Definitions, as notified.
697.387	Waikato District Council	Amend the definition of "Farm quarry" as follows: Means the extraction of minerals <u>or aggregate</u> taken for use ancillary to farming and horticulture, and only used within the property of extraction. No extracted material (including any aggregate) shall be exported or removed from the property of origin and there shall be no retail or other sales of such material. For example, farm quarries include the extraction of <u>Common uses of aggregate include material for farm and forestry tracks, access ways and hardstand areas on the property of origin.</u> This does not include extractive industry.

Analysis

222. The submissions of the Waikato District Council [697.505], Horticulture NZ [419.134], Heritage NZ [559.289], and Balle Bros Group Ltd [466.56] seek to address the obvious repetition by deleting the definition of 'rural ancillary earthworks' in the notified plan, and retaining the alternative definition of 'ancillary rural earthworks' which is the term used in the corresponding rule (Rule 22.2.3.1). On that basis it is recommended that these submissions are accepted. Fonterra Ltd [797.23], Heritage NZ [559.286], and Federated Farmers [680.263] each requested that the definition of 'rural ancillary earthworks' be retained; as a matter of consequence it is recommended that these be accepted in part, as the alternative definition for what is essentially the same activity is being retained. The deletion of 'rural ancillary earthworks' also goes some way to addressing the matters of consistency raised in the submission of the Waikato Regional Council [81.195].
223. The approach in the Proposed Plan is to include a broad definition of the term earthworks, and then also a more specific definition of the term "ancillary rural earthworks". The latter definition effectively acts as providing an exemption for typical everyday rural activity from the volume, area, depth, setback and reinstatement standards otherwise applying to general earthworks (although in most cases the activities covered in the definition would comply in any case).
224. The submission by the Waikato District Council [697.364] seeks to remove reference within the ancillary rural earthworks definition to forestry-related activities. I agree with the deletion of such references. Forestry-related earthworks are one of the key matters addressed in the alternative regulatory framework provided through the NES – Production Forestry. As such inclusion of the same activity within the District Plan would result in unnecessary regulatory duplication and confusion. With removing forestry activity from the definition (and therefore the permitted pathway in Rule 22.2.3.1 (PI)) it is recommended as a consequential amendment that the reference to the NPS-PF be included within the 'how to use the rules section located under the main earthworks heading 22.2.3 to alert plan users that forestry-related earthworks are controlled through this separate regulatory framework.
225. The submission from Waikato District Council also seeks to add a reference to 'erosion' when referring to sediment control measures. It is considered that these changes are appropriate and provide a more effective regulatory framework than the Proposed Plan as notified.

226. The submission by NZ Pork [197.12] seeks that ancillary rural earthworks include the burying of material infected by unwanted organisms as declared by the Ministry of Primary Industries or an emergency under the Biosecurity Act. The scale of earthworks potentially falling under this description goes well beyond earthworks “typically associated with farming activity”, and may exceed the 1000m³ limit set out in Rule 22.2.3.1 P2 (a)(i). Furthermore, in such biosecurity emergency cases it is likely to be the Crown undertaking such activity and the RMA provides for such emergency activity without the need for consent. On that basis it is recommended that the NZ Pork submission [197.12] be rejected.
227. The submission by Ballle Bros Group [466.53] seeks changes to the definition of ancillary rural earthworks to further clarify the day-to-day rural activity that is included therein. As it stands the definition already includes the broad reference to *cultivation, land preparation (including establishment of sediment and erosion control measures), for planting and growing operations*. The relief sought in the submission seeks to further clarify that by specifically listing activities that in my view already fall under the broader description of cultivation and land preparation; including blading, contour ploughing, ripping, mounding, stepping and contouring. Similarly bunding as part of sediment control measures is already included within the third part of the definition as notified. Bunding beyond that required for sediment control could involve large scale earthworks and therefore in my view should not be included under ancillary rural earthworks. The relief sought also adds that ancillary rural earthworks does not include “*direct drilling or mechanical land preparation associated with plantation forestry*”. In my view the inclusion of this exception would contradict the balance of the definition, which provides for ‘growing operations’, with reference to forestry-related earthworks covered by the provisions of the NES-PF and therefore the exception is not necessary.
228. This submission also seeks that ancillary rural earthworks be specifically excluded from the definition of earthworks. Given the framework of the Proposed Plan it is not considered that this is necessary. Furthermore, if excluded from the definition, then the Rules set out in 22.2.3.1 would not apply and there would be no activity based rules relating to ancillary rural earthworks. As set out above, ancillary rural earthworks are a subset of earthworks, but specifically provided for as a permitted activity (listed in P1). It is acknowledged that there are some issues with the rule framework, and these are considered further below. Overall, it is considered that the recommended amendments to the rule discussed below are a more effective way of providing the relief sought than amending the definition.
229. The submission of Federated Farmers [680.127] similarly seeks to have additional activities specifically listed within the definition of ancillary rural earthworks. It is noted that the proposed change to the first part of the activities listed in (a) restricts land preparation, planting and growing operations to only those related to “crops and pasture”. In my view there is no need to grant the relief sought as the planting of (non-production forest) trees is already included in (a), and removing trees and horticultural root ripping clearly falls within the activity described as “harvesting of agricultural and horticultural crops”. In my view the submitter’s proposed changes to (a) and (b) do not make the definition any clearer and may in fact have the opposite effect.
230. The Federated Farmers submission also seeks to add to the list of rural activities explicitly included in (c). It is noted that this part of the definition is not an exhaustive list, using the term “including, but not limited to”. I do however agree that there are activities listed in the relief sought by Federated Farmers that would typically appear in a District Plan list of activities exempt from the earthworks standards, such as offal pits, post holes, drilling or bores and installation of stock drinking water. Conversely, some of the activities sought for inclusion are not appropriate given the potential scale of earthworks that would be involved, such as farm water storage dams/ponds. These activities could potentially go well over the earthworks volume limits and if not undertaken in an appropriate location, result in adverse

effects on the environment, and are also likely to be of a scale to trigger the need for separate consents under the Waikato Regional Plan. For the same reasons discussed above in regard to the submission by NZ Pork, the burying of dead stock is not considered to be an appropriate exemption, unless it falls within the scale of a typical farm offal pit. The last part of the Federated Farmers submission seeks to have farm quarries included as part of this definition as opposed to being defined separately. The rule framework requires the two definitions to be kept separate, as farm quarries are subject to a maximum volume limit in order to be permitted. The relief sought by Federated Farmers would remove that limit and provide for farm quarries of any scale, which would not ensure that potential environmental effects of such activity are adequately managed.

231. The submission by the Waikato Regional Council [81.192] seeks that the definition of ancillary rural earthworks provides for flood protection and drainage schemes managed by the Regional Council. As explained above, the effect of this would be to provide an exception from the balance of the earthworks provisions for such activity. However, the scale of earthworks that might fall under flood protection schemes could potentially be very large, and in that circumstance it is considered appropriate for the Proposed Plan to control the amenity effects of such earthworks. By contrast the other activities provided for under the definition of ancillary rural earthworks involve a relatively small scale of earthworks and/or are those typically experienced and anticipated in rural areas such a field cultivation. It is considered that there is merit in providing for the maintenance of existing on-farm land drainage schemes under ancillary rural earthworks. Such earthworks are considered to be of a smaller scale and in keeping with the other activities falling under the exceptions provided for under the definition. On that basis it is recommended that the submission by the Waikato Regional Council [81.192] is accepted in part.
232. Two submissions were received in relation the definition of 'farm quarry' included in the Proposed Plan. The submission by Federated Farmers [680.136] sought that the definition in the notified plan be retained. The submission by the Waikato District Council [697.387] sought various changes to clarify that the definition includes aggregate, shall not be used off the site on which it originates, listing the common uses extracted material would be put to and that farm quarries are not otherwise classified as an extractive industry, which is a listed discretionary activity under the rule framework. It is recommended that this submission be accepted and therefore the submission of Federated Farmers of NZ [680.136] be accepted in part.

Recommendations and Amendments

233. As described above, it is recommended that the definitions relevant to earthworks subject to submissions be amended 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.

Farm quarry Means the extraction of minerals or aggregate taken for use ancillary to farming and horticulture, and only used within the property of extraction. No extracted material (including any aggregate) shall be ~~exported or~~ removed from the property of origin and there shall be no retail or other sales of such material. ~~For example, farm quarries include the extraction of material for~~ Common uses of aggregate include farm and forestry tracks, access ways and hardstand areas ~~on the property of origin~~. This does not include extractive industry.

Rural ancillary earthworks ~~Means the disturbance of soil associated with cultivation, land preparation (including of sediment and erosion control measures), for planting and growing operations and harvesting of agricultural and horticultural crops and forests; and 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, farm drains, farm effluent ponds, and fencing and sediment control measures.~~

Rural – Policy 5.3.5 – Earthworks

Introduction

234. The Proposed Plan seeks to provide for earthworks that are ancillary and support rural activity as a permitted activity. Otherwise, earthworks are subject to various standards relating to volume, area, depth and boundary setback in order to manage adverse effects.

Submissions

235. Four submissions were received in support of the policy and sought its retention. Nine submission sought amendments to the policy, with the suggested amendments focussed on adding additional clarity to various clauses.

Submission point	Submitter	Summary of submission
197.8	NZ Pork	Retain Policy 5.3.5 - Earthworks activities.
281.6	Zeala Ltd for Trading as Aztech Buildings	Amend Policy 5.3.5 (a) Earthworks activities as follows: (a) Provide for <u>Enable</u> earthworks where they support rural activities including: ...
723.3	Winstone Aggregates	Retain Policy 5.3.5: Earthworks Activities, as notified.
297.17	Counties Manukau Police	Add to Policy 5.3.5 Earthworks activities a new line as follows: <u>Manage the earthworks site to ensure that resources at the site are safe and to minimise the risk of victimization.</u>
FS1342.59	Federated Farmers	<i>Oppose submission 297.17</i>
FS1269.15	Housing New Zealand Corporation	<i>Oppose submission 297.17</i>
419.61	Horticulture New Zealand	Retain Policy 5.3.5 Earthworks activities, as notified.
466.45	Balle Bros Group Limited	Retain Policy 5.3.5 Earthworks activities as notified, except for the amendments outlined below AND Add a new point to Policy 5.3.5 Earthworks activities as

		follows: (a)(iv) Sustainable management and reuse of high class soils.
559.54	Heritage New Zealand Lower Northern Office	Retain Policy 5.3.5 Earthworks activities, except for the amendments sought below. AND Add a new clause 'v' to Policy 5.3.5 Earthworks as follows: <u>(v) Avoid adverse effects on historic heritage and cultural values.</u>
680.64	Federated Farmers of New Zealand	Amend Policy 5.3.5 (b) (iv) Earthworks activities as follows: (iv) Adjoining properties and public services are protected <u>from the adverse effects of inappropriate earthworks.</u> AND Any consequential changes needed to give effect to this relief.
742.36	New Zealand Transport Agency	Retain Policy 5.3.5 Earthworks activities, except for the amendment sought below AND Amend Policy 5.3.5(b)(iv) Earthworks activities as follows: Adjoining properties, and public services <u>and infrastructure</u> are protected AND Request any consequential changes necessary to give effect to the relief sought in the submission.
FS1272.11	KiwiRail Holdings Ltd	Support submission 742.36
FS1345.43	Genesis Energy Limited	Support submission 742.36
797.43	Fonterra Limited	Retain Policy 5.3.5 Earthworks activities as notified.
827.45	New Zealand Steel Holdings Ltd	Add a clause (iv) to Policy 5.3.5 (a) Earthworks activities as follows (or words to similar effects): <u>(iv) Earthworks associated with mineral extraction activities.</u>
FS1198.26	Bathurst Resources Limited and BT Mining Limited	Support submission 827.45
433.3	Auckland Waikato Fish and Game Council	Amend Policy 5.3.5 Earthworks activities, as follows: (a) Provide for earthworks where they support rural activities <u>or are for ecosystem protection, rehabilitation or restoration works</u> , including: ... <u>(iv) wetland enhancement work</u> ... AND/OR Any alternative relief to address the issues and concerns raised in the submission.
FS1083.3	Ryburn Lagoon Trust Limited	Support submission 433.3
FS1293.27	Department of Conservation	Support submission 433.3
FS1340.58	TaTa Valley	Support submission 433.3
1342.119	Federated Farmers	Support submission 433.3
585.5	Department of Conservation	Amend Policy 5.3.5 Earthworks activities to address the management of kauri dieback and measures to prevent the spread of the disease.
FS1342.150	Federated Farmers	Oppose submission 585.5

Analysis

236. The Policy as notified is as follows:

5.3.5 Policy – Earthworks activities

- (a) *Provide for earthworks where they support rural activities including:*
 - (i) *Ancillary rural earthworks and farm quarries;*
 - (ii) *The importation of fill material to a site;*
 - (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 are protected.*

237. Submissions in support of the policy were received from NZ Pork [197.8], Winstone Aggregates [723.3], Horticulture NZ [419.61] and Fonterra [797.43]. It is noted that earthworks activity also impacts on the productive versatility of soils, mineral and extractive industry and waste management facilities, which are all separately dealt with in the Proposed Plan and in this report. Not surprisingly given the layout of the Proposed Plan, various submitters have sought that cross-references to these matters are included within Policy 5.3.5, particularly where the Proposed Plan seeks to “provide for” earthworks. However, where such matters are dealt with under more specific objective and related policies elsewhere, it is considered that to also include them in Policy 5.3.5 simply adds repetition and potential confusion with the rule framework where those activities are not “provided for”.
238. Aztech Buildings [281.6] seek to replace “provide for” with “enable” when referring to earthworks that support rural activities. In my view the term “enable” would only be more appropriate where the activity described therein would be permitted under the Plan rules. Ancillary rural earthworks are permitted; and farm quarries and clean filling are also permitted subject to conditions. However, the rehabilitation of quarries is not provided for, with “an extractive industry” and “waste management facility” each being a listed discretionary activity. On that basis it is recommended that (a)(iii) referring to the “*use of cleanfill where it assists the rehabilitation of quarries*” is removed from Policy 5.35 altogether, as it is not ‘provided for’; and in any case is dealt with under Rural Policy 5.3.13 referring to Waste management activities. Otherwise, it is recommended that the relief sought by Aztech Buildings [281.6] is accepted.
239. Similarly, it is not considered appropriate to grant the relief sought by NZ Steel Holdings Ltd [827.45] that earthworks associated with mineral extraction industries are “provided for”. As a listed discretionary activity they are not in my view “provided for” in all locations, but more appropriately ‘managed’; and are otherwise subject to Rural Objective 5.4.1 and Policy 5.4.2 in any case.
240. The submission by Balle Bros Group [466.45] seeks to retain Policy 5.35 but also add reference to provide for earthworks where they relate to the “*sustainable management and reuse of high class soils*”. The protection of high class soils is specifically dealt with in Rural Objective 5.2.1 and Policies 5.2.2 and 5.2.3. Policy 5.2.2 in particular sets out that high class soils “*are retained for their primary productive value*” and to “*ensure the adverse effects of activities do not compromise the physical, chemical and biological properties of high class soils*”. Given this specific policy reference to high class soils already contained in the Proposed Plan, it is considered that further acknowledgement within the earthworks policy is not required.

241. The submission of Heritage NZ Pouhere Taonga [559.54] seeks to retain Policy 5.3.5 as notified, but add a reference to managing earthworks so as to avoid adverse effects on historic heritage and cultural values. It is noted that Rule 22.2.3.2 refers specifically to Earthworks and the effects on Maaori Sites and areas of significance. On that basis it is considered appropriate to signal within the policy framework that the Proposed Plan is seeking to avoid adverse effects on such values. In terms of historic heritage, this is dealt with under Chapter 7 of the Proposed Plan. On that basis it could be considered that to include reference to historic heritage within the rural chapter is further repetition no different to the various other requests considered above. However, those are references already contained within the Rural Chapter. To aid in the usability of the Proposed Plan it is recommended that the relief sought by Heritage NZ Pouhere Taonga is accepted in part. The proposed wording requires some amendment to work within the wording used in the Proposed Plan, and I also have reservations over the proposed use of the term 'avoid'. My understanding of current case law dictates that this term is interpreted as an effective prohibition. There may be circumstances where there is no alternative to undertaking earthworks that either run the risk of damaging historic heritage and/or cultural values, or will directly impact such values. The key is that such risks or impacts are managed, mitigated or otherwise remedied where appropriate through a consent process. A blanket policy to avoid all adverse effects prevents that opportunity. On that basis it is considered appropriate to include alternative relief to the effect that that *historic heritage and cultural values are recognised and protected*. On that basis the submission by Heritage NZ Pouhere Taonga (559.54) is recommended to be accepted in part.
242. The New Zealand Transport Agency [742.36] seeks to amend Policy 5.35(b)(iv) to add reference to infrastructure also being protected. At present the policy refers to adjoining properties and 'public services' only. The term 'public services' is not defined, whereas 'infrastructure' is a defined term. It is recommended that use of the term 'infrastructure' better aligns with the intent of the policy direction and the definitions in the Proposed Plan than the undefined and somewhat ambiguous reference to public services. The NZTA submission was supported by further submissions from KiwiRail Holdings Ltd [FS1272.1] and Genesis Energy Ltd [FS1345.43] who are likewise the operators of network infrastructure. It is recommended that these submissions be accepted.
243. The Auckland Waikato Fish & Game Council [433.3] request that Policy 5.35 is amended to add reference to providing for earthworks that facilitate ecosystem protection, rehabilitation or protection, including wetland enhancement work. It is noted that the Proposed Plan earthworks rules as notified make no specific reference to activity associated with ecosystem enhancement. However, the Fish & Game submission also seeks the introduction of such rules so that any amended policy framework sought would follow through into the earthworks rules.
244. The difficulty of the approach set out in the submission is that if such earthworks are not subject to any of the volume, area, depth or other conditions included within the rules then potentially large scale earthworks could be provided for under the Proposed Plan. A decision would also have to be made as to whether permitted activity status would apply to only general earthworks, or would also include earthworks undertaken in sensitive areas such as Maaori Sites of Significance, Significant Natural Areas and Landscape and Character Areas. Obviously such areas are sensitive to change and earthworks undertaken on the pretence of ecosystem protection and/or enhancement could have the opposite effect if allowed with no consenting oversight. I am also concerned that providing for such earthworks, particularly in the absence of any maximum limits, would create a significant permitted baseline comparison for applications that do require consent. Notwithstanding these concerns, I agree that conservation activities should be encouraged and enabled. In permitting such activity without threshold caps does involve a degree of trust that the organisations undertaking conservation activities are focused on an outcome of ecological

enhancement and therefore the works will be undertaken in a manner that does not frustrate such outcomes. It is recommended that Policy 5.35(b) is amended to note that earthworks to facilitate 'conservation activity' as an activity to be enabled, with this term defined in the Proposed Plan as:

Means activities associated with indigenous habitat, wetlands and wildlife management and restoration that fundamentally benefit indigenous biodiversity or raise public awareness of indigenous biodiversity values. This includes stock exclusion, research and monitoring, the establishment, maintenance or upgrading of public walking or cycle tracks, interpretive and directional signs, accessory buildings including those for tourism, interpretation or education purposes and the provision of access for plant or animal pest management.

245. This definition encompasses (amongst others) the matters referred to in the Fish & Game submission of ecosystem protection, restoration and enhancement. This would provide a favourable policy pathway by which to recognise the positive contribution of such earthworks that would otherwise exceed the limits set out in the applicable Proposed Plan rules. On that basis it is recommended that the submission by Fish & Game [433.3] and associated further submissions in support are accepted in part. My recommendations on the associated rules controlling earthworks ancillary to conservation activities are discussed below.
246. The submission by the Counties Manukau Police [297.17] seeks that earthworks are managed "to ensure that resources at the site are safe and to minimise the risk of victimization". This submission was opposed by both Federated Farmers [FS1342.59] and Housing NZ Corporation [FS1269.15]. The submission appears to be based on a concern related to health and safety of persons that might gain access to the site. These matters are dealt with through Health and Safety based legislation, and my understanding is such that the general public would not be able to gain access to a site on which earthworks of any scale are being undertaken. Therefore it is not considered that this wording is necessary to be included in the District Plan, and it is recommended that the Police submission (297.17) be rejected.
247. The submission by Federated Farmers of NZ [680.64] seeks to add that adjoining properties and public services are protected "from the adverse effects of earthworks". Given that this part of the policy commences by stating "Manage the effects of earthworks to ensure that...", it is considered that the suggested wording is superfluous and that this submission point be rejected.
248. The Department of Conservation [585.5] sought to amend the earthworks policy to address the management of Kauri dieback disease. This was opposed by Federated Farmers [FS1342.150]. The matter of Kauri dieback is primarily related to land administered by public bodies, whether that be the Department of Conservation themselves or by local authorities. These agencies are obviously aware of the issue and would not undertake any activity that would contribute or exacerbate Kauri dieback. On that basis, and such policy would be largely ineffective. It is recommended that this submission be rejected and the further submission of Federated Farmers accepted. I note that the issue of kauri die back and the role that District Plan provisions could play in the management of that disease will be considered in more detail in the upcoming hearing on Significant Natural Areas.
249. Given the recommended changes discussed above, it is recommended that these submissions are accepted in part only.

Recommendations and Amendments

250. The recommendations on submissions and amendments to Policy 5.3.5 as a result of the above assessment are set out below.

5.3.5 Policy – Earthworks activities

- (a) ~~Provide for~~ Enable earthworks where they support rural activities including:
- (i) Ancillary rural earthworks; ~~and f~~
 - (ii) Farm quarries;
 - (iii) The importation of fill material or cleanfill to a site; ~~and~~
 - (iv) 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.

Rural – Earthworks Rules 22.2.3

Introduction

251. The Proposed Plan earthworks rules seek to provide for earthworks that are ancillary and support rural activity as a permitted activity, along with the formation of a building platform for residential and accessory buildings. Farm quarries are also permitted where the volume of aggregate extracted does not exceed 1000m³ in any consecutive 12 month period. Otherwise, earthworks are subject to various standards relating to volume, area, depth and boundary setback in order to manage adverse effects. These standards are more onerous in sensitive areas (sites of Maaori significance, Significant Natural Areas and Landscape and Natural Character Areas).

Submissions

252. Ten submissions were received in support of the rule and seeking its retention. Five submissions conversely sought the deletion of the rule. Forty five submissions sought amendments to the rules, with the amendments generally seeking either to permit a different range of activities and/or to change the permitted quantities. It is noted that consideration of submissions on earthworks in the sensitive sites/areas covered by Rules 22.2.3.2, 22.2.3.3 and 22.2.3.4 are considered in other hearings.

Submission point	Submitter	Summary of submission
Rule 22.2.3.1 – Earthworks – General		
349.8	Lochiel Farmlands Limited	Retain Rule 22.2.3.1 PI(a)(i) Earthworks - General for ancillary rural earthworks as a permitted activity.
<i>FSI 386.497</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 349.8</i>
349.9	Lochiel Farmlands Limited	Add a provision in rule 22.2.3.1.PI Earthworks - General permitting earthworks for farm buildings.
<i>FSI 386.498</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 349.9</i>
437.5	KCH Trust	Retain Rule 22.2.3.1 Earthworks - General.

FS1388.264	Mercury NZ Limited	Oppose submission 437.5
471.4	Andrew Wood for CKL	Amend Rule 22.2.3.1 P4 (a)(i) Earthworks - General, as follows: (i) not exceed a volume of 200m³ <u>1000m³</u> ; AND Any consequential amendments necessary.
FS1388.440	Mercury NZ Limited	Oppose submission 471.4
FS1302.10	Mercer Airport	Support submission 471.4
591.1	Stevenson Waikato Ltd	Add a new permitted activity within Rule 22.2.3.1 Earthworks - General, as follows: <u>P5 Earthworks for extractive industry within the Aggregate Extraction Areas and Aggregate Resource Areas shown on the planning maps provided that sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls. NB earthworks for extractive industry within the Aggregate Extraction Areas and Aggregate Resource Areas shown are not subject to the conditions of P2 above.</u>
FS1292.75	McPherson Resources Limited	Support submission 591.1
FS1319.15	New Zealand Steel Holdings Limited	Support submission 591.1
FS1146.14	Gleeson Quarries Huntly Limited	Support submission 591.1
FS1388.996	Mercury NZ Limited	Oppose submission 591.1
FS1334.78	Fulton Hogan Limited	Support submission 591.1
FS1377.172	Havelock Village Limited	Support submission 591.1
FS1333.15	Fonterra Limited	Support submission 591.1
637.6	Livestock Improvement Corporation	Amend Rule 22.2.3.1 P1(a)(iv) Earthworks - General as follows: (a) Earthworks for... ... (iv) A building platform for a residential activity, including accessory buildings identified on a building consent, or required outside the building platform to maintain stable slopes for the authorised construction work. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
FS1387.56	Mercury NZ Limited	Oppose submission 637.6
637.7	Livestock Improvement Corporation	Amend Rule 22.2.3.1 P2(b) Earthworks - General as follows: (b) <u>With the exception of earthworks for the activities listed in Rule 22.2.3.1 P1, earthworks within a site must meet all of the following conditions...</u> AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
FS1387.57	Mercury NZ Limited	Oppose submission 637.7
639.6	Dairy NZ Incorporated	Amend Rule 22.2.3.1 P1(a)(iv) Earthworks - General as follows: (a) Earthworks for... ... (iv) A building platform for a residential activity, including accessory buildings identified on a building consent, or required outside the building platform to maintain stable slopes for the

		<p><u>authorised construction work.</u> AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
FS1387.61	Mercury NZ Limited	Oppose submission 639.6
639.7	Dairy NZ Incorporated	<p>Amend Rule 22.2.3.1 P2(b) Earthworks - General as follows: (b) <u>With the exception of earthworks for the activities listed in Rule 22.2.3.1 PI, earthworks within a site must meet all of the following conditions...</u> AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
FS1387.62	Mercury NZ Limited for Mercury D	Oppose submission 639.7
691.8	McPherson Resources Limited	<p>Amend Rule 22.2.3.1 PI (a)(i) Earthworks - General, as follows (or words to similar effect): Ancillary rural <u>and mineral/aggregate extraction</u> earthworks; AND Any consequential amendments or alternative relief to address the matters raised in the submission.</p>
FS1334.77	Fulton Hogan Limited	Support submission 691.8
FS1319.25	New Zealand Steel Holdings Limited	Support submission 691.8
701.3	Steven & Theresa Stark	<p>Amend Rule 22.2.3.1 PI Earthworks - General, as follows: PI (a) Earthworks for: (ii) <u>(A) Farm quarry where the volume of aggregate does not exceed 1000m3 per single consecutive 12 month period on a property <40ha</u> <u>(B) Farm quarry where the volume of aggregate does not exceed 3000m3 per single consecutive 12 month period on a property ≥40ha.</u> AND Amend Rule 22.2.3.1 P2 Earthworks - General, as follows: P2 (a) Earthworks within a site must meet all of the following conditions: (i) <u>(A) Do not exceed a volume of more than 1000m3 and an area of more than 2000m2 over any single consecutive 12 month period on a property <40ha</u> <u>(B) Do not exceed a volume of more than 3000m3 and an area of more than 6000m2 over any single consecutive 12 month period on a property ≥40ha.</u></p>
FS1387.785	Mercury NZ Limited	Oppose submission 701.3
757.7	Karen White	Amend Rule 22.2.3.1 (a) (iii) P4 Earthworks- General to a maximum slope of 1:2.5.
757.8	Karen White	Add to Rule 22.2.3.1 PI (a) Earthworks - General the following text: <u>"over any consecutive 12 month time period."</u>
838.7	Madsen Lawrie Consultants	Retain Rule 22.2.3.1 (P2)(a) Earthworks - General with a threshold of 1000m3 for permitted earthworks on a site.
FS1387.1370	Mercury NZ Limited	Oppose submission 838.7
197.21	NZ Pork	Retain Rule 22.2.3.1 PI Earthworks - General, as notified.

FS1386.202	Mercury NZ Limited	Oppose submission 197.21
197.22	NZ Pork	Retain Rule 22.2.3.1 P2 Earthworks- General, insofar as supporting the permitted and restricted discretionary activity thresholds (volume and area) for earthworks in the Rural Zone AND Delete Rule 22.2.3.1 P2 (iii) Earthworks - General requiring all earthworks to be setback 1.5m from all boundaries.
FS1386.203	Mercury NZ Limited	Oppose submission 197.22
FS1302.11	Mercer Airport	Support submission 197.22
281.13	Zeala Ltd for Trading as Aztech Buildings	Retain the permitted activity status for ancillary rural earthworks in Rule 22.2.3.1 P1 (a)(i) Earthworks General
FS1035.19	Pareoranga Te Kata	Support submission 281.13
330.81	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.3.1 Earthworks - General.
FS1386.449	Mercury NZ Limited	Oppose submission 330.81
349.10	Lochiel Farmlands Limited	Amend Rule 22.2.3.1 P1 (a)(ii) Earthworks - General, to increase the volume of aggregate permitted for a farm quarry from 1000m ³ to 2500m ³ .
FS1342.62	Federated Farmers	Support submission 349.10
349.11	Lochiel Farmlands Limited	Amend Rule 22.2.3.1 Earthworks - General, to reflect the earthworks limits in the Thames Coromandel District Council's Proposed District Plan's Rural Zone, as follows: maximum area per site per calendar year is 10,000m ² (1ha) maximum volume per site per calendar year is 2,500m ³ maximum height of any fill and/or cut is 5m.
FS1386.499	Mercury NZ Limited	Oppose submission 349.11
418.18	Ethan Findlay	No specific decision sought, but submission opposes Rule 22.2.3.1 Earthworks- General.
FS1388.173	Mercury NZ Limited	Oppose submission 418.18
419.20	Horticulture New Zealand	Amend Rule 22.2.3.1 P1 (a)(iv) Earthworks - General, as follows: (a) Earthworks for: ... (iv) A building platform for a <u>permitted</u> residential activity, including accessory buildings. AND Any consequential or additional amendments as a result of changes sought in the submission.
FS1388.183	Mercury NZ Limited	Oppose submission 419.20
FS1342.98	Federated Farmers	Oppose submission 419.20
419.21	Horticulture New Zealand	Amend Rule 22.2.3.1 P3 (a) Earthworks - General , as follows: (a) Earthworks for the purpose of creating a building platform for a <u>permitted</u> residential <u>activity</u> purposes within a site, using imported fill material must meet the following condition: ... AND Any consequential or additional amendments as a result of changes sought in the submission.
FS1388.184	Mercury NZ Limited	Oppose submission 419.21

419.22	Horticulture New Zealand	Add a new permitted activity to Rule 22.2.3.1 Earthworks - General, as follows: AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1388.185</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 419.22</i>
433.31	Auckland Waikato Fish and Game Council	Add a new clause to Rule 22.2.3.1 P1 (a) Earthworks - General, as follows: <u>(v) Ecosystem protection, restoration or enhancement (e.g. conservation covenants, works involved with wetland enhancement).</u> AND/OR Any alternative relief to address the issues and concerns raised in the submission.
<i>FS1293.28</i>	<i>Department of Conservation</i>	<i>Support submission 433.31</i>
<i>FS1340.63</i>	<i>TaTa Valley Limited</i>	<i>Support submission 433.31</i>
433.50	Auckland Waikato Fish and Game Council	Delete Rule 22.2.3.1 P2 (a) (v) and (vi) Earthworks - General AND Add a new Note to Rule 22.2.3.1 P2 Earthworks - General, as follows: <u>Note: Where earthworks are specifically for small dams and damming water as allowed by Rule 3.6.4.4 of the Waikato Regional Plan then (i) and (ii) do not apply. Where earthworks are specifically for the maintenance and enhancement of existing lawfully established damming of perennial water bodies, as allowed by Rule 3.6.4.5 of the Waikato Regional Plan, then (i) and (ii) above do not apply.</u> AND/OR Any alternative relief to address the issues and concerns raised in the submission.
<i>FS1293.29</i>	<i>Department of Conservation</i>	<i>Support submission 433.50</i>
<i>FS1083.11</i>	<i>Ryburn Lagoon Trust Limited</i>	<i>Support submission 433.50</i>
433.51	Auckland Waikato Fish and Game Council	Amend Rule 22.2.3.1 RDI (B) Earthworks - General, as follows: ... (v) location of the earthworks to waterways , significant indigenous vegetation and habitat ... (x) flood risk, including natural water flows and established drainage paths ; ... AND/OR Any alternative relief to address the issues and concerns raised in the submission.
<i>FS1083.12</i>	<i>Ryburn Lagoon Trust Limited</i>	<i>Support submission 433.51</i>
<i>FS1340.69</i>	<i>TaTa Valley Limited</i>	<i>Support submission 433.51</i>
<i>FS1293.30</i>	<i>Department of Conservation</i>	<i>Support submission 433.51</i>
433.64	Auckland Waikato Fish and Game Council	Amend the Proposed District Plan to provide for earthworks as permitted for ecosystem protection, restoration and enhancement.
<i>FS1377.97</i>	<i>Havelock Village Limited</i>	<i>Support submission 433.64</i>
<i>FS1340.73</i>	<i>TaTa Valley Limited</i>	<i>Support submission 433.64</i>
<i>FS1342.123</i>	<i>Federated Farmers</i>	<i>Support submission 433.64</i>

466.14	Balle Bros Group Limited	Retain Rule 22.2.3.1 P1 Earthworks - General as notified.
FS1388.406	Mercury NZ Limited	Oppose submission 466.14
466.15	Balle Bros Group Limited	Delete Rule 22.2.3.1 P2 (iii) Earthworks - General.
FS1388.407	Mercury NZ Limited	Oppose submission 466.15
FS1302.13	Mercer Airport	Support submission 466.15
FS1168.68	Horticulture New Zealand	Support submission 466.15
575.19	Fulton Hogan Limited	Retain Rule 22.2.3.1 (i) Earthworks- General except for the amendments sought below AND Amend Rule 22.2.3 (a)(i) Earthworks as follows (or words to similar effect): (i) Ancillary rural <u>and mineral and aggregate extraction</u> earthworks; AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
FS1332.33	Winstone Aggregates	Support submission 575.19
FS1292.74	McPherson Resources Limited	Support submission 575.19
FS1319.10	New Zealand Steel Holdings Limited	Support submission 575.19
FS1377.146	Havelock Village Limited	Support submission 575.19
637.13	Livestock Improvement Corporation	Retain the parts of Rule 22.2.3.1 (P1) relating to: Earthworks that provide for ancillary rural earthworks, Farm quarry construction and/or maintenance of tracks, fences or drains, and Building platform for a residential activity, including accessory buildings.
FS1387.59	Mercury NZ Limited	Oppose submission 637.13
639.13	Dairy NZ Incorporated	Retain the parts of Rule 22.2.3.1 (P1) relating to: Earthworks that provide for ancillary rural earthworks, Farm quarry construction and/or maintenance of tracks, fences or drains, and Building platform for a residential activity, including accessory buildings.
FS1387.64	Mercury NZ Limited	Oppose submission 639.13
662.13	Blue Wallace Surveyors Ltd	Retain Rule 22.2.3.1 P3 Earthworks - General, except for the amendments sought below AND Amend Rule 22.2.3.1 P3 (a) Earthworks - General as follows: (a) Earthworks for the purpose of creating a building platform <u>and accessway</u> for residential purposes within a site, using imported fill material must meet the following condition:
FS1387.102	Mercury NZ Limited	Oppose submission 662.13
FS1308.91	The Surveying Company	Support submission 662.13
746.78	The Surveying Company	Retain Rule 22.2.3.1- Earthworks-General as notified.
FS1387.951	Mercury NZ Limited	Oppose submission 746.78
797.25	Fonterra Limited	Retain Rule 22.2.3.1 Earthworks General except for the amendments sought below. AND

		Amend Rule 22.2.3.1 P2 (a)(i) Earthworks General as follows (or words to similar effect): Do not exceed a volume of more than 1000m³ and an area of more than 2000m ² over any single consecutive 12 month period. AND Any consequential amendments or further relief to give effect to the concerns raised in the submission.
FS1139.30	Turangawaewae Trust Board	Oppose submission 797.25
FS1108.31	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose submission 797.25
FS1387.1269	Mercury NZ Limited	Oppose submission 797.25
877.15	Leigh Michael Shaw & Bradley John Hall	Retain Rule 22.2.3.1 Earthworks - General as notified.
FS1387.1459	Mercury NZ Limited	Oppose submission 877.15
943.23	McCracken Surveys Limited	Amend Rule 22.2.3.1 P1 (a) (iv) Earthworks - General, as follows; (iv) A building platform for a residential activity, including accessory buildings and access.
FS1387.1573	Mercury NZ Limited	Oppose submission 943.23
FS1308.175	The Surveying Company	Support submission 943.23
943.24	McCracken Surveys Limited	Delete Rule 22.2.3.1 P2 (a) (iii) Earthworks - General.
FS1387.1574	Mercury NZ Limited	Oppose submission 943.24
FS1308.176	The Surveying Company	Support submission 943.24
943.25	McCracken Surveys Limited	Amend Rule 22.2.3.1 P4 (a) (i) Earthworks - General, as follows: (i) not exceed a total volume of 200 1000m ³ ;
FS1387.1575	Mercury NZ Limited	Oppose submission 943.25
FS1169.1	Te Kowhai Community Group	Support submission 943.25
945.19	First Gas Limited	Add a new clause (vii) to Rule 22.2.3.1 P2 (a) Earthworks - General as follows: <u>(vii) Earthworks to a depth of greater than 200mm are to be located a minimum of 12m from the centre line of a gas pipeline.</u> AND Any consequential amendments and other relief to give effect to the matters raised in the submission.
FS1305.22	Andrew Mowbray	Oppose submission 945.19
FS1342.256	Federated Farmers	Support submission 945.19
FS1289.2	Mowbray Group	Oppose submission 945.19
945.20	First Gas Limited	Add a new matter of discretion to Rule 22.2.3.1 RD1 (b) Earthworks - General as follows: <u>(xii) Effects on the safe, effective and efficient operation, maintenance and upgrade of infrastructure, including access.</u> AND Any consequential amendments and other relief to give effect to the matters raised in the submission.
680.199	Federated Farmers of New Zealand	Retain Rule 22.2.3.1 P1 Earthworks- General, except for the amendment sought below AND Amend Rule 22.2.3.1 P1 Earthworks - General, as follows:

		<p>(a) Earthworks for:</p> <p>(i) Ancillary rural earthworks (ii) Farm quarry where the volume of aggregate does not exceed 1000m³ per single consecutive 12 month period; (iii) Construction and/or maintenance of tracks <u>and stock underpasses</u>, fences or drains;</p> <p>(iv) A building platform for a residential activity, including accessory buildings</p> <p>(v) <u>A building platform for farm buildings and sheds</u> (vi) <u>Land cultivation and pasture maintenance, including horticultural root ripping and shelterbelt maintenance</u></p> <p>(vii) <u>Water supply lines, troughs, water tanks, off-stream dams</u></p> <p>(viii) <u>Constructed wetlands, effluent ponds, stormwater detention ponds, and stormwater bunds</u></p> <p>(ix) <u>Rural firebreaks</u></p> <p>(x) <u>Airstrips, helipads, fertiliser storage areas</u></p> <p>(xi) <u>Silage pits, and fodder storage hard-stand areas</u> (xii) <u>Offal pits, burying dead stock and plant waste.</u> (xiii) <u>For the purpose of pest and weed control or stock exclusion. This includes maintaining or constructing perimeter fencing and tracks for safe and efficient trap setting and earthworks for culvert crossings and stock bridges</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
FS1387.209	Mercury NZ Limited	Oppose submission 680.199
FS1275.16	Zeala Limited trading as Aztech Buildings	Support submission 680.199
FS1114.22	Fire and Emergency New Zealand	Support submission 680.199
FS1171.87	T&G Global	Support submission 680.199
680.200	Federated Farmers of New Zealand	<p>Amend Rule 22.2.3.1 P2 (a) Earthworks - General, as follows:</p> <p>(a) Earthworks within a site, <u>excluding ancillary rural earthworks which are permitted under 22.2.3.1 P1</u>, must meet all of the following conditions:...</p> <p>AND</p> <p>Delete Rule 22.2.3.1 P2 (a) (vi) Earthworks-General.</p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
FS1171.88	T&G Global	Support submission 680.200
680.201	Federated Farmers of New Zealand	<p>Delete Rule 22.2.3.1 P4 (a) (vii) Earthworks - General.</p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p>

		Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
FS1387.210	Mercury NZ Limited	Oppose submission 680.201
680.202	Federated Farmers of New Zealand	Retain Rule 22.2.3.1 RDI Restricted Discretionary Activities Earthworks - General, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
FS1387.211	Mercury NZ Limited	Oppose submission 680.202
695.204	Sharp Planning Solutions Ltd	Amend Rule 22.2.3.1 P1, P2 and P4 Earthworks general so that earthworks are based on the site area i.e. a 1:1 ratio so a 45m ² site would provide 450m ³ of earthworks.
FS1387.357	Mercury NZ Limited	Oppose submission 695.204
695.205	Sharp Planning Solutions Ltd	Retain the maximum area of earthworks in Rule 22.2.3.1 P1, P2 and P3 Earthworks - General.
FS1387.358	Mercury NZ Limited	Oppose submission 695.205
697.764	Waikato District Council	Amend Rule 22.2.3(1) Earthworks, as follows: (1)Rule 22.2.3.1 - Earthworks General, provides the permitted rules for earthworks activities for the Rural Zone. <u>This rule does not apply in those areas specified in Rules 22.2.3.1A, 22.2.3.2, 22.2.3.3 and 22.2.3.4.</u>
697.765	Waikato District Council	Amend Rule 22.2.3(2) Earthworks, as follows: There are specific standards for earthworks within rules: (a) Rule 22.2.3.1A - Earthworks - within the National Grid Yard (a-b) Rule 22.2.3.2 - Maori Sites and Maori Areas of Significance; (b c) Rule 22.2.3.3 - Significant Natural Areas; (c-d) Rule 22.2.3.4 - Landscape and Natural Character Areas. AND Add new rule after Rule 22.2.3.1 Earthworks - General, as follows: <u>22.2.3.1A Earthworks within the National Grid Yard</u> <u>P1</u> <u>(a) The following earthworks within the National Grid Yard:</u> <u>(i)Earthworks undertaken as part of domestic cultivation; or repair, sealing or resealing of a road, footpath or driveway;</u> <u>(ii)Vertical holes not exceeding 500mm in diameter that are more than 1.5m from the outer edge of the pole support structure or stay wire.</u> <u>(iii) Earthworks for which a dispensation has been granted by Transpower under New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663.</u> <u>P2</u> <u>(a) Earthworks activities within the National Grid Yard near National Grid support poles or any stay wires must comply with the following conditions:</u> <u>(i)Do not exceed a depth of 300mm within 2.2m of the</u>

		<p><u>pole or stay wire; and</u></p> <p><u>(ii) Do not exceed a depth of 750mm between 2.2m and 5m of the pole or stay wire.</u></p> <p><u>P3 (a) Earthworks within the National Grid Yard near National Grid support towers (including any tubular steel tower that replaces a steel lattice tower) must comply with all of the following conditions:</u></p> <p><u>(i) Do not exceed 300m depth within 6m of the outer edge of the visible foundation of the tower;</u></p> <p><u>(ii) Do not exceed 3m between 6m and 12m of the outer edge of the visible foundation of the tower;</u></p> <p><u>(iii) Do not compromise the stability of a National Grid support structure;</u></p> <p><u>(iv) Do not result in the loss of access to any National Grid support structure; and</u></p> <p><u>(v) Must be less than the minimum ground to conductor clearance distances in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663.</u></p> <p><u>RD1</u></p> <p><u>(a) Earthworks within the National Grid Yard that do not comply with one or more of the conditions of Rules 22.2.3.1A P1, P2 or P3.</u></p> <p><u>(b) Discretion is restricted to:</u></p> <p><u>(i) Impacts on the operation, maintenance, upgrading and development of the National Grid;</u></p> <p><u>(ii) The risk to the structural integrity of the affected National Grid support structure(s);</u></p> <p><u>(iii) Any impact on the ability of the National Grid owner (Transpower) to access the National Grid;</u></p> <p><u>(iv) The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</u></p>
FS1350.99	Transpower New Zealand Limited	Oppose submission 697.765
FS1342.191	Federated Farmers	Support submission 697.765
697.766	Waikato District Council	Delete Rule 22.2.3.1 P1 (a)(iii) Earthworks - General.
FS1387.684	Mercury NZ Limited	Oppose submission 697.766
FS1315.7	Lochiel Farmlands Limited	Support submission 697.766
697.767	Waikato District Council	Amend Rule 22.2.3.1 P1(a)(iv) Earthworks - General, as follows: (iv) A building platform for a residential activity, including accessory buildings. <u>carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development.</u>
FS1387.685	Mercury NZ Limited	Oppose submission 697.767
697.768	Waikato District Council	Amend Rule 22.2.3.1 P2(a)(iii) Earthworks - General, as follows: (iii) Earthworks are setback <u>at least 1.5m</u> from all boundaries;
FS1387.686	Mercury NZ Limited	Oppose submission 697.768
697.769	Waikato District Council	Delete Rule 22.2.3.1 P3 Earthworks - General; AND Amend Rule 22.2.3.1 RD1(a) Earthworks - General, as follows: (a) Earthworks that do not comply with Rule 22.2.3.1 P1, P2, P3 or P4.

FS1387.687	Mercury NZ Limited	Oppose submission 697.769
697.770	Waikato District Council	Amend Rule 22.2.3.1 P4(a)(iv) Earthworks - General, as follows: (iv) Fill material is setback <u>at least</u> 1.5m from all boundaries;
697.862	Waikato District Council	Amend Rule 22.2.3.1 P1(a)(iii) Earthworks - General, as follows: (iii) A building platform for a residential activity, including an accessory building, <u>carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development.</u>
986.104	KiwiRail Holdings Limited (KiwiRail)	Add a new clause (vii) to Rule 22.2.3.1 P2(a) Earthworks - General as follows (or similar amendments to achieve the requested relief): <u>(vii) Be located more than 1.5 m horizontally from any infrastructure, including a waterway, open drain or overland flow path;</u> AND Any consequential amendments to link and/or accommodate the requested changes.
FS1171.108	T&G Global	Oppose submission 986.104
FS1176.317	Watercare Services Ltd	Support submission 986.104
471.2	CKL	Amend Rule 22.2.3.1 P1 (a)(iv) Earthworks - General, as follows: (iv) A building platform for a residential activity, including accessory buildings <u>and access.</u> AND Any consequential amendments necessary.
FS1287.19	Blue Wallace Surveyors Ltd	Support submission 471.2
FS1308.64	The Surveying Company	Support submission 471.2
FS1388.438	Mercury NZ Limited	Oppose submission 471.2
471.3	CKL	Delete Rule 22.2.3.1 P2 (a)(iii) Earthworks - General. AND Any consequential amendments necessary.
FS1302.9	Mercer Airport	Support submission 471.3
FS1388.439	Mercury NZ Limited	Oppose submission 471.3
986.112	KiwiRail Holdings Limited (KiwiRail)	Amend Rule 22.2.3.1 P2(a)(iv) Earthworks general as follows (or similar amendments to achieve the requested relief): (iv) Areas exposed by the earthworks are <u>stabilized to avoid runoff within 1 month of the cessation re-vegetated to achieve 80% ground cover 6 months of the commencement of the earthworks</u> AND Any consequential amendments to link and/or accommodate the requested changes.
552.1	Stephanie Henderson	Add a rule to Chapter 22 Rural Zone to ensure wetlands do not become a dam, stopping the flow of water and flooding neighbouring properties.
FS1388.783	Mercury NZ Limited	Oppose submission 552.1
330.80	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.3 Earthworks.
433.65	Auckland Waikato Fish and Game Council	Amend the Proposed District Plan to provide that where earthworks are specifically for small dams and damming water and the maintenance and enhancement of existing lawfully established damming of perennial water bodies, as allowed by rules 3.6.4.4 and 3.6.4.5 of the Waikato Regional Plan, then restrictions as to volume, area and depth do not apply.

433.66	Auckland Waikato Fish and Game Council	Amend the rules that duplicated a regional planning function such as to do with waterways, natural water flows and established drainage paths.
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Analysis

253. Lochiel Farmlands Ltd [349.8], KCH Trust [437.5], NZ Pork [197.21], Balle Bros Group Ltd [466.14], Livestock Improvement Corporation [637.13], NZ Pork [197.22], Dairy NZ Incorporated [639.13], The Surveying Company [746.78], L Shaw & B Hall [877.15] seek to retain Rule 22.2.3.1 as notified. Federated Farmers [680.202] seeks to retain Rule 22.2.3.1 RDI Restricted Discretionary Activities Earthworks - General, as notified.
254. The Proposed Plan earthworks rules are intended to cascade from those that are permitted (largely without exception), through to activities permitted only where a number of performance conditions can be met. There are also separate rules that apply to any earthworks within certain sensitive sites and/or areas, as set out in Rules 22.2.3.2, 22.2.3.3 and 22.2.3.4. As it stands, the Proposed Plan does not explicitly state this and it is therefore unclear whether any activity meeting the criteria set out in Rule 22.2.3.1 P1 are also subject to having to meet the volumes and conditions set out in rules P2, P3 and P4 in order to be permitted. The Waikato District Council submission [697.764] seeks to add a note to Rule 22.2.3.1 that this rule does not apply in those areas specified in the subsequent rules. It is recommended that this submission point be accepted in part as slightly different wording is preferred to that set out in the submission. Similarly the submissions by Dairy NZ [639.7], Livestock Improvement Corporation [637.7] and Federated Farmers of NZ [680.200] seek to amend Rule 22.2.3.1 P2 to make it clear that these rules only apply to activities not otherwise permitted under Rule P1. These submissions clarify the cascading approach of the earthworks rules so that activities described in Rule P1 are not otherwise subject to the other standards set out in P2, P3 and P4 that follow. It is recommended that these submissions are accepted and it is noted that changes will be needed to clarify the relationship between each of the permitted activity rules within Rule 22.2.3.1 to make clear the Proposed Plan structure.
255. Another aspect of the Waikato District Council's submission [697.768 & 697.770] relates to clarifying that the boundary setbacks stated in Rules 22.2.3.1 P2(a)(iii) and P4(a)(iv) are in fact minimums, as opposed to requiring earthworks to be located 1.5m from all boundaries. The submissions by NZ Pork [197.22] and CKL [471.3] seek that this 1.5m boundary setback be deleted. Earthworks undertaken up to a boundary with an adjoining site can cause amenity issues as well as potentially impacting on the long term stability of the land. It is not unusual for other district plans that I am familiar with to include a setback for earthworks, and in many cases this is set at a distance greater than 1.5m, particularly in rural areas. It is recommended that the 1.5m setback be retained, but with the amendment put forward by the Waikato District Council.
256. The submissions from the Waikato District Council [697.766], Balle Bros Group [466.15] and McCracken Surveys [943.24] seek to delete Rule 22.2.3.1 P1(a)(iii), which refers to "*construction and/or maintenance of tracks, fences and drains*". These activities fall within the definition of ancillary rural earthworks and are therefore permitted under Rule 22.2.3.1 P1(a)(i). On that basis it is considered appropriate to grant the relief sought and accept these submissions.
257. The Proposed Plan as notified set out that earthworks for a building platform for a residential activity, including accessory buildings, were permitted under Rule 22.2.3.1 P1(a)(iv). Furthermore, P3 under the same rule set a performance standard that any imported fill in relation to such activity be carried out in accordance with the NZS Code of Practice for Earth Fill for Residential Development. The Waikato District Council submission

- [697.767 & 697.862] seeks to simplify the Proposed Plan by inserting the requirement to be in accordance with the Code of Practice into Rule 22.2.3.1 P1(a)(iv). This aids in the interpretation and usability of the Proposed Plan and therefore it is recommended that this submission be accepted, along with the consequential deletion of Rule 22.2.3.1 P3 and renumbering within the Rule (submission point 697.769).
258. Horticulture New Zealand [419.20] seek to have the rule amended so that it refers to earthworks being permitted to form the platform for a “permitted” residential activity only. The reference to being permitted is considered unnecessary, as if not permitted that residential activity would require consent in any case, under which the associated earthworks required to construct the residential building would be assessed.
259. Lochiel Farmlands Ltd [349.9] requests that earthworks to construct a farm building is also added to the list of permitted activities under Rule 22.2.3.1 P1(a)(iv). As notified the Proposed Plan included only permitted earthworks to construct a building platform for residential and accessory buildings. It is noted that typically district plans include an exemption that earthworks that will be subject to a building consent do not require resource consent. The submissions by Livestock Improvement Corporation [637.6] and Dairy NZ [639.6] seek to update this provision to provide for all earthworks “*identified on a building consent, or required outside the building platform to maintain slopes for the authorised construction work*”. This is considered a more appropriate outcome than the more restrictive relief sought by Lochiel Farmlands Ltd. A similar submission was lodged by Aztech Buildings [281.13]. This submitter sought to add a new clause “*for building works authorised by a building consent, and the area of earthworks is no more than 150% of the area of those building works and occurs on land with an average gradient no steeper than 1:8*”.
260. A difficulty can arise when a plan rule refers to “authorised by building consent”, the matter becomes one of a ‘chicken and egg’ as typically a building consent has not been issued when an applicant applies for a PIM, or a resource consent if required for other matters. Rather than the extent of earthworks and the steepness of the slope, it is considered that the key matter is whether or not the earthworks required to form the building platform are covered by the Building Consent process. On that basis the permitted activity can simply be described as providing for any *earthworks required to form a building platform that will be subject to a building consent*. For very small buildings that are exempt from the need to obtain a building consent, the volumes of earthworks associate with their foundations are very likely to fall within the volumes permitted under P2. On that basis it is recommended that the submissions by Lochiel Farmlands Ltd [349.9], Livestock Improvement Corporation [637.6], Dairy NZ Incorporated [639.6] and Aztech Buildings [281.13] are all accepted in part.
261. Submissions by McCracken Surveys [943.23], CKL [471.2] and Wallace Surveyors [662.13], seek to make the reference to permitted earthworks for building platforms also extend to include the access tracks/ driveways. It is considered that such an amendment is unnecessary given that the definition of ancillary rural earthworks include *farm tracks, roads and landings*. Therefore, any rural access falling under those descriptions is otherwise permitted in any case.
262. Stevenson Waikato Ltd [591.1] raise the relationship between earthworks and extractive industry. The submission seeks a new permitted activity rule providing for extractive industry within the Aggregate Extraction Areas and Aggregate Resource Areas shown on the planning maps, provided that sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls. The submission also makes it clear that any such earthworks should not otherwise be subject to the standards for general earthworks set out in P2. This submission is supported by various further submissions from McPherson Resources Limited [FS1292.75], New Zealand Steel Holdings Limited [FS1319.15], Gleeson Quarries Huntly Limited [FS1146.14], Fulton Hogan

Limited [FS1334.78], Havelock Village Limited [FS1377.172] and Fonterra [FS1333.15]. The primary issue in relation to the consideration of this submission is that extractive industry, of which earthworks is only one element, is separately defined in the Proposed Plan and a listed discretionary activity under Rule 22.1.5. On that basis even if the relief sought in the Stevenson Waikato Ltd submission were granted, consent would still be required for the balance of the activities undertaken that form part of the definition of extractive industry. Whilst there are no specific rules relating to the identification of Aggregate Extraction Areas and Aggregate Resource Areas as shown on the planning maps, their identification does provide a degree of policy support for consent applications made in those areas (see Policy 5.4.2). Mineral extraction industry results in environmental effects that go beyond basic earthworks activity in terms of stockpiling and processing of material and the various noise, dust and vehicle movements that occur as a result. On that basis I do not support a provision making earthworks permitted in the identified aggregate areas.

263. Similarly, submissions by McPherson Resources Limited [691.8] and Fulton Hogan [575.19] seek to amend Rule PI(a)(i) so that it include reference to ancillary rural and mineral/aggregate extraction earthworks. The key difference is that ancillary rural earthworks is a defined term in the Proposed Plan. Just exactly what scale and extent of earthworks would be considered ‘ancillary’ to mineral/aggregate extraction is unclear and potentially of a volume far in excess of what would be typically undertaken in a rural environment as defined by ancillary rural earthworks. For the reasons already discussed above it is recommended that these submissions, and the further submissions in support are all rejected on the basis that the Proposed Plan contains other specific rules relating to extractive industries.
264. Rule 22.2.3.1 PI(a)(ii) permits earthworks associated with a ‘Farm Quarry’ where the volume of aggregate (extracted) does not exceed 1000m³ “*per single consecutive 12 month period*”. The submission by Karen White [757.8] seeks to add the text “*over any consecutive 12 month time period.*” It is not clear whether this is to replace the term used in the Proposed Plan or apply to all activities under Rule 22.2.3.1 PI. I agree that the intent of the rule is that the permitted volume works on a rolling 12 month basis, rather than being limited to a single calendar year/ one-off extractive period after which no further extraction is permitted. The appropriate wording recommended to be used in the rule applying to farm quarry is “*in any consecutive 12 month period*”.
265. The submission by S & T Stark [701.3] has sought that the farm quarry volume threshold be retained for properties less than 40ha, but increased to 3,000m³ a year for properties in excess of 40ha. The submission by Lochiel Farmlands [349.10] seeks that the volume for farm quarries be increased from 1000m³ to 2500m³, and this is supported by Federated Farmers [FS1342.62]. A key aspect of the definition of farm quarry is that the aggregate extracted is only to be used within the property from which it is extracted. With that restriction in place (and not challenged through submissions), then the issue is whether 1000m³ per year is sufficient to undertake typical track construction and maintenance on a rural property in the Waikato District. Assuming a conversion rate of 1m³ equating to 2T of aggregate, then the permitted threshold as notified provides for some 70 truck and trailer loads of aggregate material per year. This is considered sufficient to cater for most properties and is an appropriate threshold above which resource consent should be required in order to consider and effectively manage adverse effects of the extraction activity. On that basis it is recommended that the above submissions seeking an increase in the permitted farm quarry volume threshold are rejected.
266. Horticulture NZ [419.22] seek to add a new permitted activity within Rule 22.2.3.1 being “*Earthworks for purposes associated with horticultural activities using imported fill material or cleanfill must meet all of the following conditions: (i) sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls; and (ii) does*

not divert or change the nature of water bodies". This change is not considered necessary given that typical earthworks associated with the planting and harvesting of horticultural crops will be permitted under the definition of ancillary rural earthworks. Beyond that, any filling activity is subject to Rule P4 (as notified), which sets out that any such filling is subject to conditions including:

- a. *sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls;*
- b. *does not divert or change the nature of natural water flows, water bodies or established drainage paths.*

267. The submissions by Fish & Game [433.31 and 433.64] seek to add "*Ecosystem protection, restoration or enhancement (e.g. conservation covenants, works involved with wetland enhancement)*" to the list of permitted earthworks under Rule 22.2.3.1 PI(a). This is supported by further submissions by The Department of Conservation [FS1293.28], TaTa Valley [FS1340.63 and 1340.73], Havelock Village Ltd [FS1377.97] and Federated Farmers [FS1342.123]. As discussed above, the Proposed Plan as notified includes a definition of conservation activity. It is considered appropriate that earthworks ancillary to conservation activity are provided for as permitted given the social and environmental benefits that arise from such activity, although given that such activities often occur close to waterbodies it is recommended that they be subject to having an erosion and sediment control plan in place. On that basis it is recommended that these submissions are accepted in part. It should be noted that the change being recommended only applies to the general Rural Zone, the Panel will have to consider as part of other topics whether or not it is appropriate to also provide for such earthworks for conservation purposes being permitted within the 'sensitive' areas covered by Rules 22.2.3.2, 22.2.3.3 and 22.2.3.4. It is also noted that earthworks in close proximity to waterways is separately regulated under the Waikato Regional Plan.
268. The submission by Federated Farmers [680.199] seeks that a number of additional matters are included under the list of permitted activities set out in PI, being:
- (v) *A building platform for farm buildings and sheds*
 - (vi) *Land cultivation and pasture maintenance, including horticultural root ripping and shelterbelt maintenance*
 - (vii) *Water supply lines, troughs, water tanks, off-stream dams*
 - (viii) *Constructed wetlands, effluent ponds, stormwater detention ponds, and stormwater bunds*
 - (ix) *Rural firebreaks*
 - (x) *Airstrips, helipads, fertiliser storage areas*
 - (xi) *Silage pits, and fodder storage hard-stand areas*
 - (xii) *Offal pits, burying dead stock and plant waste.*
 - (xiii) *For the purpose of pest and weed control or stock exclusion. This includes maintaining or constructing perimeter fencing and tracks for safe and efficient trap setting and earthworks for culvert crossings and stock bridges*
269. The inclusion of these additional permitted earthwork activities is supported in further submissions by Aztech Buildings [FS1275.16], Fire and Emergency New Zealand [FS1114.22] and T&G Global [FS1171.87].
270. These submissions are more appropriately considered in the context of what activities fall within the definition of 'ancillary rural earthworks' and are therefore permitted under Rule PI. The definition, as already considered above, lists activities that are considered to be ancillary rural earthworks, but is clear that this list is not exhaustive, using the term "*including, but not limited to...*". It is acknowledged that the choice to structure the earthworks rules in this way creates the potential for subjective argument as to what constitutes an "ancillary rural earthwork". This exposes the Proposed Plan as notified to criticism that it does not provide sufficient certainty for plan users as to whether or not

their proposed earthwork activity requires consent or not. A more defined list of activities has the potential to alleviate such potential criticism, whilst still retaining the same structure as the notified plan.

271. Of the activities listed above, construction of a building platform has been considered above and is recommended to be permitted. Cultivation and pasture maintenance is already listed in the ancillary rural earthworks definition, as is water supply lines and water tanks, effluent ponds and silage pits. Pest and weed control would fall under the definition of conservation activities which is also recommended to be permitted. Shelterbelt maintenance would only require earthworks where being removed, it is unlikely this activity would ever exceed the 1,000m³ permitted threshold, and where it does, effects should be managed through a consent process. Similarly, and as already described above, off stream dams, stormwater detention ponds, stormwater bunds and the burying of animal or plant waste of a scale larger than 1,000m³ should be required to obtain consent. On that basis these submissions are all accepted in part given the changes made to the definition of ancillary rural earthworks already recommended above.
272. The final aspect of the Waikato District Council submission [697.765] relates to the appropriate location within the Proposed Plan of the earthworks rules in relation to the National Power Grid. As notified those provisions were contained in a separate Chapter 14: Infrastructure and Energy. The submission made by the Waikato District Council sought to have those provisions introduced into specific zone chapters. This submission was opposed by the further submission lodged by the network utility operator Transpower [FS1350.99] and supported by Federated Farmers [FS1342.191]. The key resource management issue is that such provisions are contained within the Proposed Plan. Transpower make the point that a standalone set of provisions avoids duplication and is consistent with the National Planning Standards. I agree with the Transpower further submission that whilst the Proposed Plan may not have been drafted to align to the National Planning Standards, it is another matter to amend the layout of the Proposed Plan to move further from the outcome sought by the Standards. Ultimately the appropriate location for these provisions is a zone structure matter for the Panel, the outcome of which cuts across various topics, not just this Rural Chapter. I agree that the rule framework (whether ultimately through Chapter 14 or Chapter 22) needs to adequately control earthworks in close proximity to the national grid.
273. Earthworks that do not meet the activity described in P1 are subject to the performance conditions set out in Rule P2. There are numerous submitters seeking a variety of different outcomes when it comes to the appropriate maximum permitted activity threshold for earthworks. Madsen Lawrie Consultants [838.7] seek to retain the earthworks general threshold of 1,000m³ on a site. The submission by S & T Stark [701.3] has sought that this threshold be retained for properties less than 40ha, but increased to 3,000m³ and an area of 6,000m² over any single year on properties in excess of 40ha. The submission by Lochiel Farmlands Limited [349.11] seeks to increase the volume to 2,500m³, the area to 1ha (10,000m²) and the depth of any cut/fill to 5m. Fonterra [797.25] seeks to delete the volume limit and manage earthworks through an area limit only. This is opposed by further submissions from Turangawaewae Trust Board [FS1139.30] and Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) [FS1108.31]. Sharp Planning Solutions [695.204] seek to have the volume limit expressed as a ratio depending on site size. A 1:1 ratio is sought based on the m². This submission also seeks to retain the maximum area as set out in Rule 22.2.3.1 P1, P2 and P3 as notified [695.205].
274. The submission from Lochiel Farmlands Ltd refers to the standards set out in the Thames Coromandel District Council's Proposed District Plan's Rural Zone as justification for the increase in the extent of earthworks provided for. Those limits are considered generous and if not undertaken appropriately could result in significant adverse amenity and physical

effects on the land resource. Similarly, the proposed 1:1 ratio put forward by Sharp Planning Solutions would result in a significantly excessive volume of earthworks to be undertaken on large rural properties as a permitted activity. In relation to the submission by S & T Stark, a larger property does not necessarily mean that adverse effects of earthworks activity will be avoided, remedied or mitigated. It is likewise important to emphasise that most earthworks ancillary to normal farming practice are permitted under P1, so P2 is focussed on earthworks over and above those permitted by P1. In my view when earthworks occur that are over and above what is permitted in P1, and the additional volumes permitted under P2, it is appropriate that the potential effects of such are considered through the consent process where earthworks exceed the permitted activity threshold. On that basis it is recommended that these submissions are rejected and no changes are made to the volume and area limits set out in the Proposed Plan as notified.

275. It is acknowledged that limits expressed as a volume are difficult to interpret, and this provides some attractiveness to the proposition put forward by Fonterra that earthworks are dealt with on an area and depth basis. However, from a permitted baseline consideration, this provides for some 6,000m³ of earthworks to take place (2,000m² x 3m depth). On that basis it is considered appropriate to retain the volume limit to provide an effective maximum threshold beyond which the effects of earthworks activity can be considered through a resource consent process.
276. KiwiRail [986.112] wish to amend Rule 22.2.3.1 P2(a)(iv) to refer to areas exposed by earthworks are “*stabilised to avoid run-off within 1 month of cessation*”. It is considered that the earthworks would be stabilised on completion of the earthwork and then revegetation commence. To address the concern raised in the submission it is recommended that the requirement to stabilise the earthworks is added to the permitted activity conditions. On that basis this submission should be accepted in part.
277. KiwiRail [986.104] also seeks a new clause (vii) to the effect that earthworks be setback more than 1.5 m horizontally from any infrastructure, including a waterway, open drain or overland flow path. There is a further submission both supporting (Watercare Services Ltd (FS1176.317)) and opposing (T & G Global (FS1171.108)). It is considered that the majority of this relief is not required given that condition (v) requires the implementation of an erosion and sediment control plan and condition (vi) requires that earthworks :
- (vi) *Do not divert or change the nature of natural water flows, water bodies or established drainage paths.*
278. Compliance with this condition will ensure that earthworks will not impact on any waterway, open drain or overland flow path. I also note that ‘infrastructure’ often includes underground piped networks, where it would be inefficient and ineffective to require earthworks undertaken by the utility operator to access their pipes to require a consent. Earthworks associated with infrastructure operation are considered more fully in the separate infrastructure chapter. I do however agree that potential effects on infrastructure from earthworks that otherwise trigger the need for consent is a valid matter of discretion to consider as part of the consent process and therefore have recommended an addition assessment matter be added to Rule RD1.
279. First Gas Ltd [945.1] seek that a new clause be added to Rule 22.2.3.1 P2 (a) to the effect that earthworks greater than 200mm in depth are to be located 12m from the centreline of a gas pipeline. I understand from the First Gas Ltd submission that the reticulated gas network they operate within the Waikato District is already protected by way of a designation ranging in width from 6m to 25m. Section 176 RMA sets out the effects of a designation. Clause (1)(b) states that:

(1)(b) no person may, without the prior written consent of the requiring authority, do anything in relation to the land that is subject to the designation that would prevent or hinder a public work or project or work to which the designation relates, including –

- (i) undertaking any use of the land*
- (ii) subdividing the land; and*
- (iii) changing the character, intensity, or scale of the use of the land.*

(2) The provisions of a district plan shall apply in relation to any land that is subject to a designation only to the extent that the land is used for a purpose other than the designated purpose.

280. District Plan rules do not therefore apply to the designated activity, however they can apply to activities that have a different purpose to the designation i.e. gas pipeline works are not subject to the District Plan rules, but farming on the land overlying the pipeline is subject to the rules. In my view undertaking earthworks within the designated corridor would constitute ‘undertaking any use of the land’ and depending on the nature of the earthworks proposed could also meet the matters in Clause 1(b)(iii). As such, earthworks within the designation can only be undertaken with First Gas’ written consent.
281. The gas pipeline itself is some 400mm in width. It is acknowledged that the reticulated gas network is regionally significant infrastructure recognised under the operative Regional Policy Statement. This provides a statutory requirement for the Waikato District Council to recognise and protect the value and long term benefits of the gas infrastructure (Objective 3.12 of the WRPS). The proposed 12m setback affects a 24m wide corridor of land following the pipeline alignment, which is in excess of some parts of the existing designation. Overall, it is considered that the existing designation in place and sought to be rolled over into the Proposed Plan is sufficient to ensure that the Proposed Plan gives effect to Objective 3.12 and related policies contained in the WRPS. On that basis it is recommended that this part of the submission by First Gas Ltd is rejected. Rather than seek earthworks rules requiring 12m setback, it is considered that the submitter, in the capacity of requiring authority, would be better served seeking an increase in the existing designation width where it is less than 24m.
282. The activity of filling/clean filling is permitted through Rule 22.2.3.1 P4 (as notified recommended to be renumbered P3 as a consequence of deleting Rule P3 as notified). This limits the permitted volume of filling to 200m³. The submissions by McCracken Surveys Ltd [943.25] and CKL [471.4] seek to increase this limit to 1000m³. A volume limit of 1,000³ would provide that the maximum earthworks standard (which includes cutting and filling), could be made up entirely of fill within a site, subject to compliance with the 1m depth condition. As notified, the Proposed Plan sets out that 20% of the earthworks provided for under Rule 22.2.3.1 PI can be made up of filling (not being for the purpose of forming a building platform). It is acknowledged that filling involves bringing material onto a site and therefore raises other impacts such as traffic generation. However, there are other rules in the Proposed Plan that deal with the effects of increased traffic generation within the Rural Zones. The volume and depth limits work in tandem to determine the maximum scale of the filling permitted by the Proposed Plan. On the basis that the 1m depth condition is retained, it is recommended that this limit be increased to 500m³, which represents 50% of the earthworks standard. Therefore, it is recommended that the submissions by McCracken Surveys Ltd [943.25] and CKL [471.4], supported by the further submission from Te Kowhai Community Group [FSI 169.1] and Mercer Airport [FSI 302.10] are accepted in part.
283. Rule 22.2.3.1 (a) (iii) P4 Earthworks provides a maximum slope of 1:2. The submission by Karen White [757.7] requests that this maximum slope be amended to 1:2.5. It is considered that the difference between 1:2 and 1:2.5 is not material. Furthermore, retaining

the 1:2 slope maintains consistency with the 1:2 slope included within Rule P2. On that basis it is recommended that this submission be rejected.

284. Earthworks that do not comply with the permitted activity rules are a restricted discretionary activity pursuant to Rule 22.2.3.1 RD1. The second part of this rule lists the matters to which the Council's discretion is restricted. First Gas Ltd [945.20] seeks a new matter of discretion to Rule 22.2.3.1 RD1 (b) Earthworks - General as follows:

(xii) Effects on the safe, effective and efficient operation, maintenance and upgrade of infrastructure, including access.

285. Including this matter is considered to be consistent with the other relief recommended in terms of the earthworks policy.

286. A matter raised by multiple submitters is the reference within the earthworks rules to matters relating to sediment control and diverting/changing natural water flows, water bodies or established drainage paths. The submission by Fish & Game [433.50, 433.65, and 433.66] seeks to delete conditions (v) and (vi) of Rule 22.2.3.1 P2 so that earthworks undertaken specifically for small dams and damming water as allowed by Rule 3.6.4.4 of the Waikato Regional Plan are not subject to the volume and depth conditions set out then (i) and (ii) respectively. This would enable restoration works to proceed without consent. This submission was supported by both the Department of Conservation [FS1293.29] and Ryburn Lagoon Trust Ltd [FS1083.11]. As discussed above, changes recommended to the Proposed Plan from that notified would grant the relief sought that earthworks ancillary to conservation activity are now permitted and therefore not subject to the conditions set out in P2. Submissions seeking the same relief was also made by Federated Farmers [680.200 and 680.201].

287. Fish & Game [433.51] also sought amendment to Rule 22.2.3.1 RD1 to matters (v) and (ix), which the submitter considers are more appropriately considered by the regional council:

(v) location of the earthworks to ~~waterways~~, significant indigenous vegetation and habitat ...

(x) flood risk, ~~including natural water flows and established drainage paths~~; ...

288. Matters related to erosion and sediment control are considered relevant and within the jurisdiction of the district council. On that basis it is recommended that condition (v) and (vi) of P2 and P3 respectively, being "*sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls*" are retained.

289. Reference to the condition within the Proposed Plan that earthworks "*Do not divert or change the nature of natural water flows, water bodies or established drainage paths*", is considered to be more of an issue in terms of creating cross-jurisdiction duplication. The submission from Fish & Game refers to Rules 3.6.4.4 and 3.6.4.5 of the Waikato Regional Plan providing for small dams and damming water and the maintenance and enhancement of existing lawfully established damming of perennial water bodies. Larger scale earthworks in the bed or a waterbody trigger other regional council rules. Primarily, the nature of the condition is such that it raises matters more appropriately regulated by the regional council. On that basis it is recommended that condition (vi) of Rule 22.2.3.1 P2 is deleted. As a consequential amendment, it is considered that condition (vii) of Rule P3 is similarly removed from the Proposed Plan. Therefore it is recommended that the above submissions are accepted in part.

Recommendations and Amendments

290. The recommendations on Rule 22.2.3.1 as a result of the above assessment of submissions received are set out below.

291. In addition to the changes discussed above, I have recommended some additional minor consequential changes to assist with readability and usability of the Proposed Plan as notified. Primarily these refer to deleting the words “Earthworks for” in Rule P1, adding the word “extraction” and replacing the word “per” with “in any” within Rule P1(a)(ii), adding the word “natural” to P2(a)(ii) and reformatting the conditions in Rules P2 and P3 so that they are consistent.

P1	<p>(a) Except as otherwise specified in Rule 22.2.3.2, Rule 22.2.3.3 or Rule 22.2.3.4 Earthworks for:</p> <ul style="list-style-type: none"> (i) Ancillary rural earthworks; (ii) A Farm quarry where the volume of aggregate <u>extracted</u> does not exceed 1000m³ per in any single consecutive 12 month period; (iii) Construction and/or maintenance of tracks, fences or drains; (iv) <u>Earthworks required to form a</u> A-building platform <u>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</u> <p><u>(b) Earthworks ancillary to a conservation activity must meet the following conditions:</u></p> <ul style="list-style-type: none"> <u>(i) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls.</u>
P2	<p><u>With the exception of earthworks for the activities listed in Rule 22.2.3.1 P1</u></p> <p>(a) Earthworks within a site must meet all of the following conditions:</p> <ul style="list-style-type: none"> (i) Do not exceed a volume of more than 1000m³ and an area of more than 2000m² over in any single consecutive 12 month period; (ii) The total <u>combined</u> depth of any excavation (<u>excluding drilling</u>) or filling does not exceed 3m above or below <u>natural</u> ground level; (iii) <u>Take place on land</u> with a maximum slope of 1:2 (1 vertical to 2 horizontal); (iv) Earthworks are setback a <u>minimum of</u> 1.5m from all boundaries; (v) Areas exposed by earthworks are <u>stabilised on completion and</u> re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks; (vi) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; (vii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.
P3	<p>(a) Earthworks for the purpose of creating a building platform for residential purposes within a site, using imported fill material must meet the following condition:</p> <ul style="list-style-type: none"> (i) Be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development.
P4 P3	<p><u>With the exception of earthworks for the activities listed in Rule 22.2.3.1 P1</u></p> <p>(a) Earthworks for purposes other than creating a building platform for residential purposes within a site, using imported fill material or cleanfill must meet all of the following conditions:</p> <ul style="list-style-type: none"> (i) <u>Do</u> not exceed a total volume of <u>200 500</u>m³ <u>in any single consecutive 12 month period</u>; (ii) <u>Do</u> not exceed a depth of 1m <u>above natural ground level</u>; (iii) <u>The</u> slope of the resulting filled area in stable ground <u>must does</u> not exceed a maximum slope of 1:2 (1 vertical to 2 horizontal); (iv) <u>Fill</u> material is setback <u>a minimum of</u> 1.5m from all boundaries;

	<ul style="list-style-type: none"> (v) A areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the <u>filling earthworks</u>; (vi) <u>S</u>ediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls; (vii) does not divert or change the nature of natural water flows, water bodies or established drainage paths.
RDI	<ul style="list-style-type: none"> (a) Earthworks that do not comply with Rule 22.2.3.1 P1, P2, <u>or P3 or P4</u>. (b) Council's discretion shall be limited to the following matters: <ul style="list-style-type: none"> (i) amenity values and landscape effects; (ii) volume, extent and depth of earthworks; (iii) nature of fill material; (iv) contamination of fill material or cleanfill; (v) location of the earthworks to waterways, significant indigenous vegetation and habitat; (vi) compaction of the fill material; (vii) volume and depth of fill material; (viii) protection of the Hauraki Gulf Catchment Area; (ix) geotechnical stability; (x) flood risk, including natural water flows and established drainage paths; (xi) land instability, erosion and sedimentation (xii) <u>effects on the safe, effective and efficient operation, maintenance and upgrade of infrastructure, including access.</u>
<p><i>Drafting note: Rules relating to earthworks in proximity to Transpower's transmission network are to be included. It is recommended that these are located in the Infrastructure chapter as a single cross-zone rule package.</i></p>	

Rural – Minerals and extractive industries - Definitions

Introduction

292. As with the assessment of submissions on earthworks, given that definitions of key terms are integral to informing the subsequent consideration of policies and rules, I have started this topic by assessing submissions on the definitions. The Proposed Plan as notified contains specific definitions relating to the mineral extraction industry. The mineral extraction industry includes the aggregate (or mineral) extractive component, as well as the other processing activities that are often undertaken in conjunction with the extractive activity.

293. The definitions for 'aggregate extraction activities' and 'mineral extraction and processing' were recommended to be deleted by the s42A report for Hearing 5. This same s42A report recommended some amendments to the definition of 'extractive industry' and 'mineral'. Except where discussed below, I have relied on the recommended terms from Hearing 5, rather than the notified terms.

Aggregate extraction activities	<p>Means those activities associated with aggregate extraction, including:</p> <ul style="list-style-type: none"> (a) aggregate excavation, blasting, processing (crushing, screening, washing and blending); (b) the storage, distribution and sale of aggregates by wholesale to industry or by retail; (c) ancillary earthworks; (d) the removal and deposition of overburden; (e) treatment of stormwater and wastewater; (f) landscaping and rehabilitation works including cleanfilling;
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	<p>(g) ancillary buildings and structures; and</p> <p>(h) residential accommodation necessary for security purposes.</p>
Extractive activity Industry	<p>Means taking, winning or extracting by whatever means, the naturally occurring minerals (including but not limited to coal, rock, sand, and gravel) and peat from under or on the land surface. <u>This may include one or more of the following:</u></p> <p><u>(a) excavation, blasting, processing (crushing, screening, washing, chemical separation and blending);</u></p> <p><u>(b) the storage, distribution and sale of aggregates and mineral products;</u></p> <p><u>(c) the removal, stockpiling and deposition of overburden;</u></p> <p><u>(d) treatment of stormwater and wastewater;</u></p> <p><u>(e) landscaping and rehabilitation works including cleanfilling;</u></p> <p><u>(f) ancillary earthworks;</u></p> <p><u>(g) ancillary buildings and structures, such as weighbridges, laboratories and site offices;</u></p> <p><u>(h) internal roads and access tracks; and</u></p> <p><u>(i) quarrying activities.</u></p> <p>The term includes the processing by such means as screening, crushing, or chemical separation of minerals at or near the site, where the minerals have been taken, won or excavated.</p> <p>The term also includes the removal, stockpiling and filling of overburden sourced from the same site.</p> <p>It includes all activities and structures associated with underground coal gasification, including pilot and commercial plants and the distribution of gas. It excludes prospecting and exploration activities.</p> <p><u>It does not include a farm quarry or ancillary rural earthworks.</u></p>
Mineral	<p><u>Has the same meaning as in section 2 of the Crown Minerals Act 1991.</u></p> <p>Means a naturally-occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals —including coal, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945.</p>
Mineral extraction and processing	<p>Means the excavation, blasting, processing (crushing, screening, washing and blending), storage, distribution and sale of mineral products and includes ancillary activities such as earthworks, landscaping and rehabilitation works (including cleanfill) and treatment of stormwater and wastewater, together with ancillary buildings and structures (including caretaker's accommodation).</p>

Submissions

294. Six submissions were received seeking amendments to the notified definitions of 'extractive industry', 'aggregate extraction activities' and/or 'mineral extraction and processing' included in the proposed Plan as notified.

Extractive Industry/Aggregate Extraction Activities		
723.7	Winstone Aggregates	<p>Amend the definition of "Extractive Industry" in Chapter 13 Definitions, as follows: Means taking, winning or extracting by whatever means, the naturally-occurring minerals (including but not limited to coal, rock, sand, and gravel) and peat from under or on the land surface. The term includes the processing by such means as minerals at or near the site, where the minerals have been taken, won or excavated. The term also includes the removal, stockpiling and filling of overburden sourced from the same site and the following activities: <u>Blasting; Storing, distributing and selling mineral products; Accessory earthworks; Treating stormwater and waste water; Landscaping and rehabilitation of quarries; Clean fills and managed fills; Recycling or reusing aggregate from demolition waste such as concrete, masonry, or asphalt;</u> <u>Accessory activities and accessory buildings and structures such as weighbridges, laboratories and site offices.</u> It includes all activities and structures associated with underground coal gasification, including pilot and commercial plants and distribution of gas. It excludes prospecting and exploration activities.</p> <p>AND</p> <p>Amend the definition of "Aggregate Extraction Activities" and "Mineral Extraction and Processing" in Chapter 13 Definitions to mean the same as "Extractive Industry."</p>
<i>FSI 377.232</i>	<i>Havelock Village Limited</i>	<i>Support submission 723.7</i>
<i>FSI 292.15</i>	<i>McPherson Resources Limited</i>	<i>Support submission 723.7</i>
<i>FSI 319.34</i>	<i>New Zealand Steel Holdings Limited</i>	<i>Support submission 723.7</i>
<i>FSI 387.799</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 723.7</i>
<i>FSI 334.15</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 723.7</i>
827.28	New Zealand Steel Holdings Ltd	<p>Delete the definition of "Aggregate Extraction Activities" in Chapter 13 Definitions</p> <p>AND</p> <p>Amend the Proposed District Plan to replace references to "Aggregate Extraction Activities" with "Extractive Activities."</p> <p>AND</p> <p>Any other further or consequential amendments required.</p>
<i>FSI 198.41</i>	<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>Support submission 827.28</i>
<i>FSI 292.16</i>	<i>McPherson Resources Limited</i>	<i>Support submission 827.28</i>
<i>FSI 334.16</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 827.28</i>

827.29	New Zealand Steel Holdings Ltd	Delete the definition of "Mineral extraction and processing" in Chapter 13 Definitions AND Amend the Proposed District Plan to replace references of "Mineral extraction and processing" with "Extractive Activity." AND Any other further or consequential amendments required.
FSI 292.17	McPherson Resources Limited	Support submission 827.29
FSI 334.17	Fulton Hogan Limited	Support submission 827.29
575.1	Fulton Hogan Limited	Delete the definitions for 'Aggregate extraction activities', 'Extractive industry' and 'Mineral extraction and processing' in Chapter 13: Definitions; AND Add a new definition for 'Mineral and aggregate extraction activities' to Chapter 13 Definitions as follows (or words to similar effect): <u>Mineral and aggregate extraction activities mean those activities associated with mineral and aggregate extraction, including: a) excavation, blasting, processing (crushing, screening, washing and blending); b) the storage, distribution and sale of minerals or aggregates by wholesale to industry or by retail; c) ancillary earthworks; d) the removal and deposition of overburden; e) treatment of stormwater and wastewater; f) landscaping and rehabilitation work, including cleanfilling; g) ancillary buildings and structures; and h) residential accommodation necessary for security purposes.</u> AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
FSI 319.3	New Zealand Steel Holdings	Support submission 575.1
FSI 198.38	Bathurst Resources	Support submission 575.1
FSI 292.11	McPherson Resources	Support submission 575.1
FSI 332.22	Winstone Aggregates	Support submission 575.1
FSI 377.141	Havelock Village Limited	Support submission 575.1
697.400	Waikato District Council	Delete from Chapter 13: Definitions the definition for "Mineral extraction and processing" AND Replace the term "Mineral extraction and processing" in all chapters with "Extractive industry" where appropriate.
FSI 292.13	McPherson Resources Limited	Support submission 697.400
FSI 319.31	New Zealand Steel Holdings Limited	Support submission 697.400

FS1334.13	Fulton Hogan Limited	Support submission 697.400
FS1377.221	Havelock Village Limited	Support submission 697.400
697.485	Waikato District Council	Delete from Chapter 13: Definitions the definition for "Aggregate extraction activities".
FS1291.22	Havelock Village Limited	Support submission 697.485
FS1292.14	McPherson Resources Limited	Support submission 697.485
FS1319.32	New Zealand Steel Holdings Limited	Support submission 697.485
FS1334.14	Fulton Hogan Limited	Support submission 697.485
FS1340.128	TaTa Valley Limited	Support submission 697.485
FS1377.223	Havelock Village Limited	Support submission 697.485

Analysis

295. Each of the submissions received seeks to consolidate the definitions that apply to the management of mineral and extractive industry.
296. The Waikato District Council submissions [697.400 and 697.485] seek the deletion of the term 'Mineral extraction and processing' and 'Aggregate extraction activities' and the replacement of those terms in the Proposed Plan with "Extractive industry". The same relief is sought in the submissions from NZ Steel Holdings Ltd [827.28 and 827.29]. Various further submitters all support these submissions, as listed above.
297. There are only two variations to this relief sought. Winstone Aggregates [723.7] seek amendment to the definition of extractive industry by adding the following activities to the list included in the definition as notified:
- Blasting; Storing, distributing and selling mineral products; Accessory earthworks; Treating stormwater and waste water; Landscaping and rehabilitation of quarries; Clean fills and managed fills; Recycling or reusing aggregate from demolition waste such as concrete, masonry, or asphalt; Accessory activities and accessory buildings and structures such as weighbridges, laboratories and site offices.
298. Fulton Hogan [575.1] seeks to delete the definitions of 'Aggregate extraction activities', 'Extractive industry' and 'Mineral extraction and processing' and replace these terms within the Proposed Plan with a new reference to 'Mineral and aggregate extraction activities', defined as follows:
- Mineral and aggregate extraction activities mean those activities associated with mineral and aggregate extraction, including:*
- a) excavation, blasting, processing (crushing, screening, washing and blending);
 - b) the storage, distribution and sale of minerals or aggregates by wholesale to industry or by retail;
 - c) ancillary earthworks;
 - d) the removal and deposition of overburden;
 - e) treatment of stormwater and wastewater;
 - f) landscaping and rehabilitation work, including cleanfilling;
 - g) ancillary buildings and structures; and

h) residential accommodation necessary for security purposes.

299. In terms of the assessment to be made in terms of section 32 and 32AA, it is clear that the Proposed Plan as notified included the use of multiple terms and definitions that created an overlap in meaning and potential confusion for the plan user. A consolidation of those terms is therefore considered to be in keeping with the requirements of the RMA. Most of the submitters favour the retention of the term 'extractive industry', whilst Fulton Hogan seek a new term to be used in the Proposed Plan, being 'Mineral and aggregate extraction activities'. The Proposed Plan framework controls activities, as opposed to industries, and on that basis I favour the use of the term 'activities' over 'industry', as currently used in the Plan. The Proposed Plan refers to minerals, aggregate and coal as the materials that are mined/quarried within the Waikato District. Strictly speaking, the term 'minerals' does not cover coal or aggregate. Therefore it is recommended that the Proposed Plan use the more generic term of 'Extractive Activity' to cover all mining and quarrying activity and processing.
300. On that basis it is recommended that the submissions from Waikato District Council [697.400 and 697.485], NZ Steel Holdings Ltd [827.28 and 827.29], Winstone Aggregates [723.7], Fulton Hogan [575.1] and the various further submissions supporting those submissions all be accepted in part.
301. The issue then becomes one of how much detail/description to include in the definition itself. Noting that as a listed Discretionary activity under Rule 22.1.5, resource consent will be required in any case (in terms of the Proposed Plan as notified).
302. The relief sought by Fulton Hogan Ltd [575.1] includes that the retail sale of minerals/aggregate be included in the definition. It is considered that wholesale sales are appropriate (and indeed are permitted in clause (b) of the definition), but retail sales are not a key component of most mineral/aggregate quarries I am familiar with. Where retail sales are proposed, it is considered that these should be described in the application and assessed as an activity that does not form part of the typical mine/quarry operation. Retail sales to the general public have quite different traffic generation patterns and levels of activity compared to truck-based wholesale operations. On that basis it is recommended that the definition of extractive activity not include retail sales. It is recommended that the submission by Fulton Hogan (575.1) be rejected.
303. It is also noted that the Proposed Plan definition of 'extractive industry' included in the notified plan made reference to processing of "minerals at or near the site". It is considered that the processing described under the standard definition should be assumed to be undertaken on the site where the mineral/aggregate extraction takes place. On that basis, the recommended text for the new definition does not include "near the site". If it is proposed that processing takes place on another site, that should be fully described in the application, as opposed to simply being included within the Proposed Plan definition.
304. It is noted that in order to align the definition of 'Mineral' contained in the Proposed Plan with that contained in the Crown Minerals Act 1991, it was recommended in the Hearing 5 42A Report that reference to coal be removed. This creates an issue with the terminology used in the Proposed Plan where it refers to 'minerals' and 'mineral resources', as this is intended to include both aggregate and coal. To overcome this issue, either the definition of mineral needs to include coal, or alternatively every time the term 'mineral' and 'mineral and aggregates' is used, the phrasing in the policy or rule should be expanded to read 'mineral, aggregate and coal'. For usability and simplicity of the Proposed Plan I recommend that the definition of 'Mineral' used in the Proposed Plan explicitly include the statement that it includes both aggregate and coal, for the purposes of the Proposed Plan. In terms of the definition of extractive activity, I recommend that coal be added to the list of materials included in (b).

305. It is noted that the definition of extractive activity recommended in Hearing 5 includes reference to “ancillary earthworks”. This term is taken from the notified definition of “aggregate extraction activities”, which, along with the definition of “mineral extraction and processing”, is recommended to be consolidated into a single definition. I am concerned that the inclusion of earthworks within the definition could create confusion as to whether extractive activity is also subject to the earthworks rules contained in the Proposed Plan. It could be argued that this is of little consequence, given that extractive activity is a listed discretionary activity and would, unless of a very small scale, breach the earthworks permitted activity standards in any case. However, I am aware there are submissions seeking a permissive activity status for extraction activity within the Aggregate Extraction Areas, Coal Mining Areas and Aggregate Resource Areas identified on the planning maps. To overcome any potential interpretive issues, I recommend that an explanatory note be added to the commencement of Rule 22.2.3 stating that these rules do not apply to Mineral Extraction Activity.
306. The notified definition of aggregate extraction activity also included reference to “*residential accommodation necessary for security and custodial purposes*”. This has been omitted from the recommended amended definition of ‘extractive activity’ included in Hearing 5. The nature of mines and quarries is such that often residential accommodation is provided on-site for security reasons. In my view, the inclusion of residential accommodation for this specific purpose does not compromise the integrity of the rural density standards, as such sites are often large and would comply with the site size requirements in any case. In the situation where the mine/quarry is so small that the minimum site size would not be met, it is unlikely that the scale of the activity could meet the test as being “*necessary for security and custodial purposes*”. As the residential unit is integral to the extractive industry occurring on the same site, the potential for reverse sensitivity effects does not arise.
307. On that basis it is recommended that “*residential accommodation necessary for security and custodial purposes*” be added to the list of ‘ancillary buildings and structures’ included in the definition of extractive activity. These changes to the recommended definition of ‘mineral activity’ included in the Hearing 5 – Definitions: Section 42A Report have been included below.
308. It should be noted that the definition of ‘Rural industry’ in the Proposed Plan as notified specifically excluded extractive industries. The National Planning Standards definition of ‘rural industry’ recommended to be adopted for use in the Proposed Plan in Hearing 5 includes reference to ‘primary production’. The term ‘primary production’ is an NPS definition that likewise formed part of the Hearing 5 recommendations. The NPS definition of primary production includes farming, forestry, mining and quarrying.
309. The definitions therefore present some significant challenges to rule drafting. The Proposed Plan was notified prior to the NPS being gazetted, and as such, the notified rules were not based on NPS definitions. The NPS definitions combine very different activities, e.g. farming, forestry, and mining within the one term, which presents real issues when the management of effects requires different rule frameworks for these different activities, yet the activities are all captured within the one term. Either the definitions will not match the NPS terms, or every time the term ‘primary production’ is used in the policies and rules, there will need to be a lengthy set of exclusions.
310. I have focused on having clear definitions for these different activities, and have then used these different terms in the policies and rules. There will need to be some careful alignment in drafting the decisions and ultimate plan text where the definition of the same term has been considered across several hearings.
311. The changes recommended in Hearing 5 are shown black underlined, with the additional changes recommended for the Rural Hearing shown in red underlined.

Recommendations and amendments

312. As described above, it is recommended that the definitions relevant to earthworks subject to submissions be amended as follows:

<p>Aggregate extraction activities</p>	<p>Means those activities associated with aggregate extraction, including:</p> <ul style="list-style-type: none"> (a) aggregate excavation, blasting, processing (crushing, screening, washing and blending); (b) the storage, distribution and sale of aggregates by wholesale to industry or by retail; (c) ancillary earthworks; (d) the removal and deposition of overburden; (e) treatment of stormwater and wastewater; (f) landscaping and rehabilitation works including cleanfilling; (g) ancillary buildings and structures; and (h) residential accommodation necessary for security purposes.
<p>Extractive Activity Industry</p>	<p>Means taking, winning or extracting by whatever means, the naturally occurring minerals (including but not limited to coal, rock, sand, and gravel) and peat from under or on the land surface. This may include one or more of the following:</p> <ul style="list-style-type: none"> a) <u>excavation, blasting, processing (crushing, screening, washing, chemical separation and blending);</u> b) <u>the storage, distribution and wholesale sale of minerals, coal or aggregates to industry;</u> d) <u>the removal, stockpiling and deposition of overburden;</u> e) <u>treatment of stormwater and wastewater;</u> f) <u>ancillary earthworks;</u> f) <u>landscaping and rehabilitation work, including clean filling;</u> g) <u>ancillary buildings and structures (such as weighbridges, laboratories, site offices and residential accommodation necessary for security and custodial purposes;</u> h) <u>internal roads and access tracks; and</u> i) <u>quarrying activities.</u> <p>The term includes the processing by such means as screening, crushing, or chemical separation of minerals at or near the site, where the minerals have been taken, won or excavated.</p> <p>The term also includes the removal, stockpiling and filling of overburden sourced from the same site.</p> <p>It includes all activities and structures associated with underground coal gasification, including pilot and commercial plants and the distribution of gas. It excludes prospecting and exploration activities.</p> <p><u>It does not include a farm quarry or ancillary rural earthworks.</u></p>
<p>Mineral</p>	<p><u>Has the same meaning as in section 2 of the Crown Minerals Act 1991.</u></p> <p>Means a naturally-occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals—including coal, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945.</p>

	<u>For clarity, mineral for the purpose of the Plan includes coal and aggregate.</u>
Mineral extraction and processing	Means the excavation, blasting, processing (crushing, screening, washing and blending), storage, distribution and sale of mineral products and includes ancillary activities such as earthworks, landscaping and rehabilitation works (including cleanfill) and treatment of stormwater and wastewater, together with ancillary buildings and structures (including caretaker's accommodation).

313. As a consequential amendment it is recommended that throughout the Proposed Plan all references to the following terms should be deleted and replaced with 'extractive activity':

- ~~Aggregate extraction activities~~
- ~~Extractive Industry and Extractive Industries~~
- ~~Mineral extraction and processing~~

And replace with extractive activity.

314. Amend the introduction to Rule 22.2.3 Earthworks, as follows:

- (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.

Rural - Objective 5.4.1 and Policy 5.4.2 Minerals and extractive industries

Introduction

315. The Proposed Plan includes a separate policy framework directly related to 'Minerals and Extractive Industries' (term used in Proposed Plan as notified). This framework has a stand-alone Objective 5.4.1 and a supporting Policy 5.4.2. Whilst the policies for extractive activities are stand-alone, reference to such activities is also made in the more general policies under the rural character Objective 5.3.1, with quarry rehabilitation also referenced within Policy 5.3.13 on waste management activities. This has led to some confusion as to the extent to which the stand-alone extraction policies can be relied upon to provide a complete policy framework for extractive activities, or whether the wider policy framework is also relevant.

316. The extraction policies recognise the economic, social and environmental benefits of mineral and aggregate extraction to the district. The policy is made up of various aspects, enabling extractive activities provided that adverse effects are avoided, remedied or mitigated, identifying lawfully-established extraction activity on the planning maps and protection of such areas from reverse sensitivity.

Submissions

317. Four submissions were received in support of Objective 5.4.1 and sought its retention. A further four submissions sought amendments to the objective to clarify the direction. Five submissions were received in support of Policy 5.4.2, with eight submissions seeking amendments to the policy to generally improve the enablement of extractive activities.

Submission point	Submitter	Summary of submission
Objective 5.4.1 – Minerals and extractive industries		
395.2	Ministry of Business, Innovation and Employment for New Zealand Petroleum and Minerals	Retain Objective 5.4.1 Minerals and extractive industries, as notified.
575.5	Fulton Hogan Limited	Retain Objective 5.4.1 - Minerals and extractive industries, except for the amendments sought below AND Amend Objective 5.4.1 - Minerals and extractive industries, as follows (or words to similar effect): Mineral resource use <u>and mineral and aggregate extraction activities provides economic, social and environmental benefits to the district and these activities are protected.</u> AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
<i>FS1292.55</i>	<i>McPherson Resources Limited</i>	<i>Support submission 575.5</i>
<i>FS1332.25</i>	<i>Winstone Aggregates</i>	<i>Support submission 575.5</i>
<i>FS1319.4</i>	<i>New Zealand Steel Holdings Limited</i>	<i>Support submission 575.5</i>
<i>FS1377.142</i>	<i>Havelock Village Limited</i>	<i>Support submission 575.5</i>
723.5	Winstone Aggregates	Amend Objective 5.4.1: Minerals and Extractive Industries, as follows: (a) Mineral resource use and extractive industries provides economic, social and environmental benefits to the district.
<i>FS1334.56</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 723.5</i>
<i>FS1319.33</i>	<i>New Zealand Steel Holdings Limited</i>	<i>Support submission 723.5</i>
<i>FS1292.56</i>	<i>McPherson Resources Limited</i>	<i>Support submission 723.5</i>
860.9	Aggregate and Quarry Association (AQA) and Straterra	Retain Objective 5.4.1 (a) Minerals and extractive industries.
<i>FS1292.58</i>	<i>McPherson Resources Limited</i>	<i>Support submission 860.9</i>
<i>FS1334.58</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 860.9</i>
<i>FS1285.16</i>	<i>Terra Firma Mining Limited</i>	<i>Support submission 860.9</i>
<i>FS1332.9</i>	<i>Winstone Aggregates</i>	<i>Support submission 860.9</i>
680.73	Federated Farmers of New Zealand	Retain Objective 5.4.1 Minerals and extractive industries, as notified.
797.15	Fonterra Limited	Retain Objective 5.4.1 Minerals and extractive industries as notified.
827.48	New Zealand Steel Holdings Ltd	Amend Objective 5.4.1 Minerals and extractive industries as follows (or words to similar effect): (a) Mineral resource use provides economic <u>and social</u> and

		environmental benefits to the district. AND Any other further or consequential amendments required.
FSI292.57	McPherson Resources Limited	Oppose submission 827.48
FSI334.57	Fulton Hogan Limited	Support submission 827.48
691.2	McPherson Resources Limited	Retain Objective 5.4.1 Mineral and extractive industries, except for the amendments sought below AND Amend Objective 5.4.1 Mineral and extractive industries as follows (or words to similar effect): Mineral resource use <u>and mineral and aggregate extraction activities</u> provides economic, social and environmental benefits to the district <u>and are protected</u> . AND Any consequential amendments or alternative relief to give effect to the matters raised in the submission.
FSI313.23	New Zealand Steel Holdings Limited	Support submission 691.2
FSI334.55	Fulton Hogan Limited	Support submission 691.2
Policy 5.4.2 – Access to mineral and extractive industries		
591.6	Stevenson Waikato Ltd	Amend Policy 5.4.2 Access to minerals and extractive industries as follows: (a) Enable extractive industries, provided that adverse effects are avoided, remedied or mitigated. (b) Protect access to, and <u>enable the</u> extraction of, mineral resources by: (i) Identifying lawfully established extractive industries in Aggregate Extraction Areas and Coal Mining Areas on planning maps <u>and enabling extractive industry within those areas</u> ; (ii) Identifying the site of a potential extractive industry within an Aggregate Resource Areas on planning maps <u>and enabling the expansion of extractive industry from within adjacent Aggregate Extraction Areas</u> ; (c) Ensure that lawfully established extractive industries <u>within Aggregate Extraction Areas and Aggregate Resource Areas</u> are not compromised by new subdivision, use or development; (d) Avoid the location of any sensitive land use within <u>500 metres of Aggregate Extraction Areas and Aggregate Resource Areas</u> in the case of a rock resource and <u>200 metres</u> in the case of a sand resource specified buffer areas otherwise risk the effective operation of a lawfully established extractive industry.
FSI334.60	Fulton Hogan Limited	Support submission 591.6
FSI319.19	New Zealand Steel Holdings Limited	Support submission 591.6
FSI292.60	McPherson Resources Limited	Support submission 591.6
FSI146.6	Gleeson Quarries Huntly Limited	Support submission 591.6
395.3	Ministry of Business,	Retain Policy 5.4.2 Access to minerals and extractive

	Innovation and Employment for New Zealand Petroleum and Minerals	<p>industries, which enables mineral use and extractive industries, except for the amendment sought below.</p> <p>AND</p> <p>Amend Policy 5.4.2- Access to minerals and extractive industries as follows (or similar wording): <u>Protecting and enabling Access to minerals use</u> and extractive industries</p> <p>(a) Enable extractive industries provided that adverse effects are <u>appropriately</u> avoided, remedied, or mitigated, <u>offset or compensated</u>.</p> <p>(b) Protect access to, and extraction of, mineral resources by:</p> <p>(i) Identifying lawfully established existing extractive industries in Aggregate Extraction Areas and Coal mining Areas on planning maps;</p> <p>(ii) Identifying the site of a potential extractive industry within an Aggregate Resource Area on planning maps;</p> <p>(c) Ensure that lawfully established extractive industries are not compromised by new subdivision, use or development;</p> <p>(d) Avoid the location of any sensitive land use within specified buffer areas which otherwise risks the effective operation of <u>an existing lawfully established</u> extractive industry.</p> <p>AND</p> <p>Amend the Proposed District Plan to make consequential or similar amendments as necessary to address the matters raised in submission.</p>
FS1319.1	New Zealand Steel Holdings Limited	Support submission 395.3
FS1292.59	McPherson Resources Limited	Support submission 395.3
FS1334.59	Fulton Hogan Limited	Support submission 395.3
FS1198.32	Bathurst Resources Limited and BT Mining Limited	Support submission 395.3
691.7	McPherson Resources Limited	<p>Retain the intent of Policy 5.4.2 Access to minerals and extractive industries, except for the amendments sought below.</p> <p>AND</p> <p>Amend 5.4.2 - Access to minerals and extractive and industries as follows (or words to similar effect):</p> <p>(a) Enable extractive industries provided that adverse effects are avoided, remedied or mitigated <u>insofar as it is reasonable and practicable while still ensuring that the industry remains viable</u>;</p> <p>(b) Protect access to, and extraction of, mineral resources by:</p> <p>(i) Identifying lawfully established extractive industries in <u>or outside of</u> Aggregate Extraction Areas and Coal Mining Areas on planning maps;</p> <p>(ii) Identifying the site of a potential extractive industry within <u>or outside of</u> an Aggregate Resource Area on planning maps;</p>

		(c).... AND Any consequential amendments or alternative relief to address the matters raised in the submission.
FS1334.61	Fulton Hogan Limited	Support submission 691.7
FS1377.198	Havelock Village Limited	Support submission 691.7
FS1319.24	New Zealand Steel Holdings Limited	Support submission 691.7
723.6	Winstone Aggregates	Amend Policy 5.4.2 (d) Access to minerals and extractive industries, as follows: (d) Avoid the location of any sensitive land use within the specified buffer areas which otherwise risks the effective operation of a lawfully established extractive industry <u>or a site identified as an Aggregate Resource Area.</u>
FS1334.62	Fulton Hogan Limited	Support submission 723.6
FS1292.62	McPherson Resources Limited	Support submission 723.6
575.14	Fulton Hogan Limited	Retain Policy 5.4.2 Access to minerals and extractive industries, except for the amendments sought below AND Amend Policy 5.4.2 (a) and (b) Access to minerals and extractive industries, as follows (or words to similar effect): Enable extractive industries provided that adverse effects are avoided, remedied or mitigated <u>insofar as it is reasonable and practicable while still ensuring that the industry remains viable.</u> Protect access to, and extraction of, mineral resources by: Identifying lawfully established extractive industries in <u>or outside of</u> Aggregate Extraction Areas and Coal Mining Areas on planning maps; Identifying the site of a potential extractive industry within <u>or outside of</u> an Aggregate Resource Area on planning maps; AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
FS1377.144	Havelock Village Limited	Support submission 575.14
FS1332.29	Winstone Aggregates	Support submission 575.14
FS1319.7	New Zealand Steel Holdings Limited	Support submission 575.14
FS1292.61	McPherson Resources Limited	Support submission 575.14
680.74	Federated Farmers of New Zealand	Retain Policy 5.4.2 Access to minerals and extractive industries, as notified.
771.11	Alison Brown for Bathurst Resources Ltd and BT Mining Ltd	Add a new clause (iii) to Policy 5.4.2(b) Access to minerals and extractive industries as follows: (b) Protect access to, and extraction of, mineral resources by: ... (iii) <u>Identifying the site of a potential coal extractive industry within the Coal Mining Resource Area on the</u>

		<p><u>planning maps.</u></p> <p>AND</p> <p>Add a definition for "Coal Mining Resource Area" to Chapter 13: Definitions as follows: <u>Coal Mining Resource Area means an area identified on the planning maps.</u></p> <p>AND</p> <p>Add a Coal Mining Resource Area Overlay to the Planning Maps to areas subject to significant coal deposits in the Waikato District and as a minimum this should cover the indicative Rotowaro Coalfield as attached in the original submission.</p> <p>AND</p> <p>Any consequential amendments necessary to give effect to Coal Mining Resource Areas.</p>
<i>FSI 285.9</i>	<i>Terra Firma Mining Limited</i>	<i>Support submission 771.11</i>
797.16	Fonterra Limited	<p>Retain Policy 5.4.2 Access to minerals and extractive industries except for the amendments sought below.</p> <p>AND</p> <p>Amend Policy 5.4.2 (a) Access to minerals and extractive industries as follows (or words to similar effect): Enable <u>the continued operation and development of extractive industries</u> provided that adverse effects are avoided, remedied or mitigated. AND</p> <p>Any consequential amendments or further relief to give effect to the concerns raised in the submission.</p>
<i>FSI 198.33</i>	<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>Support submission 797.16</i>
<i>FSI 345.33</i>	<i>Genesis Energy Limited</i>	<i>Support submission 797.16</i>
827.49	New Zealand Steel Holdings Ltd	<p>Amend Policy 5.4.2 Access to minerals and extractive industries as follows (or words to similar effect): <u>(aa) Provide for existing extractive industries.</u></p> <p>(a) Enable <u>new</u> extractive industries provided that</p> <p>(d) Avoid the location of any sensitive land use within specified buffer areas <u>adjoining existing extractive industries</u>, which otherwise risks the effective operation of a lawfully established extractive industry.</p> <p>AND</p> <p>Any other further or consequential amendments required.</p>
<i>FSI 334.63</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 827.49</i>
<i>FSI 292.63</i>	<i>McPherson Resources Limited</i>	<i>Support submission 827.49</i>
860.11	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.4.2 (b) (i) and (ii) Access to minerals and extractive industries.
<i>FSI 292.64</i>	<i>McPherson Resources Limited</i>	<i>Support submission 860.11</i>
<i>FSI 332.11</i>	<i>Winstone Aggregates</i>	<i>Support submission 860.11</i>
<i>FSI 334.64</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 860.11</i>
860.12	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.4.2 (c) Access to Minerals and extractive industries.

FS1292.65	McPherson Resources Limited	Support submission 860.12
FS1334.65	Fulton Hogan Limited	Support submission 860.12
FS1332.12	Winstone Aggregates	Support submission 860.12
860.13	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.4.2 (d) Access to minerals and extractive industries.
FS1334.66	Fulton Hogan Limited	Support submission 860.13
FS1332.13	Winstone Aggregates	Support submission 860.13
FS1292.66	McPherson Resources Limited	Support submission 860.13
860.17	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.4.2 (a) Access to minerals and extractive industries.
FS1334.67	Fulton Hogan Limited	Support submission 860.17
FS1332.17	Winstone Aggregates	Support submission 860.17
FS1292.67	McPherson Resources Limited	Support submission 860.17

Analysis – Objective 5.4.1 – Minerals and extractive industries

318. The wording of Objective 5.4.1 as notified is “*Mineral resource use provides economic, social and environmental benefits to the district*”.
319. Four submissions from MBIE [395.2], Aggregate and Quarry Association [860.9], Federated Farmers [680.75], and Fonterra [797.15] support the objective.
320. Four submissions seek amendment to this objective. The submissions from Fulton Hogan [575.5] and McPherson Resources Ltd [691.2] seek amendments to recognise that it is also the mineral extraction activity, not just mineral use that creates the social, economic and environmental benefits. The submissions also seek that these benefits be protected. Five separate further submissions supported these changes. The protection of access to mineral, aggregate and coal resources is covered in the corresponding policy, so it is considered that this ‘protection’ aspect does not necessarily have to be reflected in the objective itself.
321. In my view this ‘objective’ is actually a statement and does not provide an appropriate objective for the management of mineral and aggregate extraction activity within Waikato District. The key aspect of the objective is that it recognises the contribution of mineral and aggregate extraction activity to the economic and social well-being of Waikato District. Not all submitters agree that there are environmental benefits derived from mineral use. New Zealand Steel Holdings Ltd [827.48] request deletion of the reference to environmental benefits arising from mineral resource use. This relief was opposed by McPherson Resources Ltd [FS1292.57] and supported by Fulton Hogan Ltd [FS1334.57]. Alternatively, it is recommended that the objective make reference to the ‘economic and social wellbeing of the Waikato District’, as opposed to ‘environmental benefits’. It is noted that the WRPS Objective 3.2 and Policy 6.8 seek to ‘recognise and provide for’ the economic, social and cultural benefits arising from access to the mineral resources of the region.
322. This matter arises partly due to the notified objective referring to ‘mineral resource use’. In my view, this particular part of the Proposed Plan is primarily concerned with mineral and aggregate extraction activity, as opposed to the subsequent end use of minerals and other resources, which is regulated under other legislation. The submission by Winstone Aggregates [723.5] requests deleting reference to resource use within the objective. This is supported by further submissions from Fulton Hogan Ltd [FS1334.56], New Zealand Steel

Holdings Ltd [FS/1319.33] and McPherson Resources Ltd [FS/1292.56]. It is considered appropriate to remove this reference so that the objective focus only on extraction and processing activity, as per the amended definition already discussed above.

Recommendations and amendments

323. It is recommended that Objective 5.4.1 be deleted and replaced as follows:

~~5.4.1 Objective – minerals and extractive industries~~

~~(a) Mineral resource use provides economic, social, and environmental benefits to the district.~~

5.4.1 Objective – Extractive activities

(a) Recognise that extractive activity contributes to the economic and social well-being of the Waikato District.

Analysis – Policy 5.4.2 – Access to minerals and extractive industries

324. The wording of 5.4.2 Policy – Access to minerals and extractive industries, as notified, is as follows:

- (a) *Enable extractive industries provided that adverse effects are avoided, remedied or mitigated.*
- (b) *Protect access to, and extraction of, mineral resources by:*
 - (i) *Identifying lawfully established extractive industries in Aggregate Extraction Areas and Coal Mining Areas on planning maps;*
 - (ii) *Identifying the site of a potential extractive industry within an Aggregate Resource Area on planning maps;*
- (c) *Ensure that lawfully established extractive industries are not compromised by new subdivision, use or development;*
- (d) *Avoid the location of any sensitive land use within specified buffer areas which otherwise risks the effective operation of a lawfully established extractive industry.*

325. The submission by the Ministry of Business, Innovation and Employment for New Zealand Petroleum and Minerals [395.3] seeks amendments to “protect and enable” mineral use and extractive industry; and to include that any adverse effects be also able to be offset or compensated via a consent process, as options in addition to being avoided, remedied or mitigated. This latter aspect of the submission is recommended to be accepted, as offsetting and compensation are valid methods of achieving the overall sustainable management purpose of Part 2 RMA. This submission also seeks the deletion of the requirement that only existing “lawfully established” extractive industries be identified on the planning maps and protected from reverse sensitivity effects.

326. In considering the degree to which the policy should enable extractive activities, or differentiate between ‘enablement’ within identified extraction areas and ‘management’ outside of these areas, it is first necessary to understand the proposed rule framework.

327. The Proposed Plan approach to providing for extractive industry is threefold. Firstly, existing lawfully-established extractive industries are identified in ‘Aggregate Extraction Areas’ and ‘Coal Mining Areas’. Secondly, potential future areas where extractive activity is anticipated are identified as an ‘Aggregate Resource Area’. Thirdly, outside of such areas extractive activity is contemplated as potentially being appropriate in the rural area, subject to a fully discretionary resource consent process.

328. It is clear that the Council has assessed the appropriateness of both the lawful establishment of the areas identified as ‘Aggregate Extraction Areas’ and ‘Coal Mining Areas’, as well as the

suitability of areas identified as 'Aggregate Resource Areas' already included on the planning maps in the notified Proposed Plan.

329. Various submitters seek that the identification of these areas be better reflected in more enabling policies and rules relating to extraction activity. The differentiation between the two different areas identified on the planning maps is not carried through into the applicable rules. Extractive industry (the term used in the Proposed Plan as notified) is a listed discretionary activity, regardless of whether located in an 'Aggregate Extraction Area'/'Coal Mining Area' or not. Furthermore, there are no rules within Chapter 22 that relate to the Aggregate Resource Area at all. The only rules contained in the Proposed Plan that provide any benefit from being identified in either the extraction area or coal mining area is the setback required for any sensitive land use in Rule 22.3.7.2, i.e. rather than enable extractive activity, the rules simply limit the proximity of new sensitive activities close to the external boundary of these areas. Extractive industry is a fully discretionary activity under Rule 22.1.5 (D8), regardless of location in the Rural Zone in general, and non-complying under Rule 22.1.5 (NC2) where located in an area of identified high landscape or ecological value.
330. For that reason the submissions received generally seek a more permissive approach to the management of mineral extraction activity, particularly where located within one of the extraction or resource areas. In terms of the protection of the access to minerals/aggregate, the submission by Stevenson Waikato Ltd [591.6] seeks a more enabling and prescriptive policy to include appropriate separation distances, effectively replicating the requirements set out in Rule 22.3.7.2.
331. It is acknowledged that the term 'enable' within Policy 5.4.2 creates the expectation that something more permissive than a fully discretionary activity status would apply. Whilst the rules are considered further below, any permitted or controlled activity status is not considered appropriate for mineral and aggregate extraction activity. In my experience, such activity is typically regulated in district plans through either restricted discretionary or fully discretionary activity status to enable site-specific assessment and mitigation to be appropriately tailored to the site context. On that basis, it is considered that the use of the term 'enable' should be replaced with 'provide for' within the Policy to better describe the planning approach to the management of these activities.
332. The submission by Winstone Aggregates [723.6] seeks that Policy 5.4.2 (d) be expanded to also refer to protection of sites identified as an Aggregate Resource Area. This is supported by Fulton Hogan Ltd [FS1334.62] and McPherson Resources Ltd [FS1292.62]. I agree with the submitters that there is little point in identifying an area as being suitable for extraction, which presumably includes the appropriate separation distances to existing adjoining sensitive land uses as part of the mapping process, if in the future various other new sensitive land uses are able to establish in close proximity without any ability to consider the potential future impacts on the extractive resource. On that basis, there is potential that by the time a resource area comes to be used, its suitability may have been undermined by incompatible land uses that have established over the intervening period. On that basis it is considered appropriate to grant the relief sought and include a policy reference to a setback from Extractive Resource Areas identified on the planning maps, with a consequential amendment to Rule 22.3.7.2(v). Therefore, these submission points are recommended to be accepted.
333. It is noted that Policy 5.4.2(d) currently uses the term 'avoid' when describing any sensitive land use within specified buffer areas. The specified buffer areas are those set out in Rule 22.3.7.2. Whilst no submitters have sought changes to the use of the term 'avoid', I have some reservations as to whether this is the appropriate policy threshold to use. Given my understanding of recent RMA case law and the subsequent manner in which this term is now interpreted and applied, this could have significant consenting implications for any landowner

seeking consent to build within the specified buffers, especially where the activity status for such applications is discretionary rather than non-complying, which implies that building within the setback may be acceptable on a case-by-case basis. It is acknowledged that the use of the term ‘avoid’ in this instance is qualified by reference to sensitive land uses that “*otherwise risk the effective operation of a site*”. On that basis the use of ‘avoid’ in this context is considered appropriate. However, it is recommended that the use of the term “otherwise” be deleted as being superfluous to the intent of the policy.

334. The submissions by McPherson Resources Ltd [691.7] and Fulton Hogan Ltd [575.14] seek to add a qualification to the avoid, remedy or mitigate aspect of Policy 5.4.2 (a) “*insofar as it is reasonable and practicable while still ensuring that the industry remains viable*”. These submissions also request that the “protection” provided by way of (b) also applies to extractive activities *outside* of ‘Aggregate Extraction Areas and Coal Mining Areas’ and ‘Aggregate Resource Areas’, as shown on planning maps. These submissions are supported by various further submissions from Winstone Aggregates [FS1332.19], NZ Steel Holdings Ltd [FS1319.7 and FS1319.24], Havelock Village [FS1377.144 and FS1377.198], McPherson Resources Ltd [FS1292.61] and Fulton Hogan Ltd [FS1334.61]. The submission by NZ Steel Holdings Ltd also seeks buffer areas adjoining existing extractive industries. It is not considered appropriate to qualify the policy intent to avoid, remedy or mitigate adverse effects based on the economic viability of the industry. All industry must adhere to certain environmental standards in order to operate, regardless of economic viability. In terms of regulating activities outside of defined areas, it is considered impossible within a policy context to provide protection for activities that might occur outside such defined areas. To allow for this would effectively undermine the policy and regulatory framework. On that basis, it is recommended that these particular submission points all be rejected.
335. Fonterra Ltd [797.16] seek that it is the “*continued operation and development*” of extractive industries that are enabled through (a). This is supported by Bathurst/BT Mining [FS1198.33] and Genesis Energy Ltd [FS1345.33]. This proposed wording adds some degree of clarification, but could otherwise limit the interpretation of the policy as only applying to existing extractive activity sites. As notified, the Proposed Plan “enables” extractive industry/activity generally (whether existing or not). In my view, the proposed relief sought could have unintended consequences, and for that reason it is recommended that the wording remain as notified and these submissions be accepted in part only.
336. Bathurst Resources Ltd/BT Mining Ltd [771.11], supported by Terra Firma Mining Ltd [FS1285.9], refer to proposed amendments relating specifically to the coal mining aspects of the Policy. The submission seeks that potential coal mining areas be identified on the planning maps. The submitter is correct, in that the policy framework does not provide for the identification of any future coal mining areas to be identified beyond those lawfully established and currently existing. The appropriate way to provide for this option into the future would be to include suitable future coal mine areas within the scope of what is currently the Aggregate Resource Area. Whilst future aggregate resource areas are reasonably simple to identify, it is considered that the nature of coal mining is such that far greater preliminary investigation work is required to identify whether a site is suitable. Notwithstanding, should a landowner/applicant seek to do such work and satisfy the Council that an area should be included on the planning maps, then that opportunity should be provided for. Therefore, this submission is recommended to be accepted and the Aggregate Resource Area redefined as an *Extractive Resource Area*, so that it generically includes potential suitable areas for the extraction of all minerals, and in particular for the purpose of the Proposed Plan coal and aggregate.
337. The second aspect of the submission requests that a definition of ‘Coal Mining Resource Area’ be added to Chapter 13 of the Proposed Plan. A definition of that term is already included in Chapter 13 of the Proposed Plan, as follows:

Means land identified as a Coal Mining Area on the planning maps.

338. On that basis, there is no need to grant the relief sought.
339. The submissions by Ministry of Business, Innovation and Employment for New Zealand Petroleum and Minerals [395.2], Aggregate and Quarry Association (AQA) and Straterra [860.9, 860.11, 860.12, 860.13 and 860.17], Federated Farmers of New Zealand [680.73 and 680.74] and Fonterra [797.15] all seek to retain Objective 5.4.1 and/or Policy 5.4.2 'Minerals and extractive industries' in the Proposed Plan as notified. On the basis of the suggested amendments and based on the discussion of submissions above, it is recommended that all these submissions and related further submissions in support be accepted in part.

Recommendations and amendments

340. As a result of the above discussion, it is recommended that the following changes be made to Policy 5.4.2, as follows:

~~**Policy 5.4.2 – Access to minerals and extractive industries**~~

Policy 5.4.2 – Management of extractive activities

- (a) ~~Provide for extractive activity only where Enable extractive industries provided that~~ adverse effects are appropriately avoided, remedied or mitigated; ~~and where this is not possible off-set or compensated.~~
- (b) Protect access to, and extraction of, mineral, aggregate and coal resources by:
- (i) Identifying lawfully established extractive activity industries in Aggregate Extraction Areas and Coal Mining Areas on planning maps;
 - (ii) Identifying the site of a potential extractive activity industry within an Aggregate Extractive Resource Area on planning maps;
- (c) Ensure that lawfully established extractive activity industries are not compromised by new subdivision, use or development;
- (d) Avoid the location of any sensitive land use within specified building setbacks buffer areas which ~~otherwise~~ risks the effective operation of a site within an Aggregate Extraction Area, Coal Mining Area, or Extractive Resource Area lawfully established extractive industry.

Replace all references to 'Aggregate Resource Area' in the Proposed Plan with Extractive Resource Area.

Rural – Policy 5.3.7 Reverse Sensitivity effects – extractive activities

Introduction

341. The Policy on reverse sensitivity is discussed at length in the above section on intensive farming. The notified Policy 5.3.7 also includes reference to reverse sensitivity in relation to extractive activities (and therefore to a certain extent duplicates Clause (d) in Policy 5.4.2 discussed above). Whilst it is somewhat awkward to split assessment of submissions on the one policy across two report sections, this is inevitable where the one policy relates to three themes, namely reverse sensitivity (in general), intensive farming, and extractive activities.

Submissions

342. The majority of submissions that either sought the retention of Policy 5.3.7 or that sought amendments that were focused on intensive farming or non-extraction matters, have been assessed in the above section on intensive farming. Only those submissions that were specific to extractive activities are assessed here. Five submissions supported Policy 5.3.7,

and six sought amendment either on extraction-related matters or on matters that would impact on how extractive activities are managed.

Submission point	Submitter	Summary of submission
723.4	Winstone Aggregates	Retain Policy 5.3.7 Reverse Sensitivity Effects.
860.5	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.3.7 (a) (ii) and (iii) Reverse Sensitivity Effects.
<i>FS1334.41</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 860.5</i>
<i>FS1332.5</i>	<i>Winstone Aggregates</i>	<i>Support submission 860.5</i>
<i>FS1292.41</i>	<i>McPherson Resources Limited</i>	<i>Support submission 860.5</i>
394.28	Gwenith Sophie Francis	Amend Policy 5.3.7 Reverse sensitivity effects, to recognise the appropriateness of reverse sensitivity covenants AND/OR Amend other plan provisions as consequential or additional amendments as necessary to give effect to the relief sought. AND Amend the Proposed District Plan to make consequential or further additional relief, as is appropriate to give effect to the intent of the submission.
<i>FS1334.36</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 394.28</i>
<i>FS1375.8</i>	<i>Radio New Zealand</i>	<i>Oppose submission 394.28</i>
<i>FS1292.36</i>	<i>McPherson Resources Limited</i>	<i>Support submission 394.28</i>
<i>FS1265.21</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 394.28</i>
<i>FS1316.23</i>	<i>Alstra (2012) Limited</i>	<i>Support submission 394.28</i>
575.29	Fulton Hogan Limited	Retain Policy 5.3.7 (h) Reverse sensitivity effects, except for the amendments sought below; AND Amend Policy 5.3.7 (h) Reverse sensitivity effects, as follows (or words to similar effect): (h) Provide for intensive farming activities <u>and mineral and aggregate extraction activities</u> , recognising the potential adverse effects that need to be managed, including noise, visual amenity, rural character or landscape effects, and odour. AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
<i>FS1292.37</i>	<i>McPherson Resources Limited</i>	<i>Support submission 575.29</i>
<i>FS1332.38</i>	<i>Winstone Aggregates</i>	<i>Support submission 575.29</i>
<i>FS1319.13</i>	<i>New Zealand Steel Holdings Limited</i>	<i>Support submission 575.29</i>
<i>FS1198.29</i>	<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>Support submission 575.29</i>
<i>FS1377.148</i>	<i>Havelock Village Limited</i>	<i>Support submission 575.29</i>

680.66	Federated Farmers of New Zealand	<p>Amend Policy 5.3.7 (a) and (b) and (c) Reverse sensitivity effects, as follows: (a) Recognise the following features are typical of the rural environment and the effects are accepted and able to be managed: (i) Large numbers of animals being farmed, extensive areas of plants, vines or fruit crops, plantation forests and farm forests; (ii) Noise, odour, dust, traffic and visual effects <u>including buildings and structures</u> associated with the use of land for farming, horticulture, forestry, farm quarries; (iii) Existing mineral extraction and processing activities; (iv) Minor dwellings; (v) Papakaainga housing developments within Maaori Freehold land. (b) <u>Manage activities to ensure that adverse effects (other than minor effects) are avoided, remedied or mitigated. Avoid adverse effects outside the site and where those effects cannot be avoided, they are to be mitigated.</u> (c) Mitigate the adverse effects of reverse sensitivity through the use of setbacks and the design of subdivisions and development <u>where appropriate. ...</u></p> <p>AND</p> <p>Add to Policy 5.3.7 Reverse sensitivity effects a new clause (i) as follows: <u>(i) Ensure that land use activities that are sensitive to the effects of rural activities do not constrain the operation of rural activities.</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p>
FS1338.3	Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd	Support submission 680.66
FS1375.10	Radio New Zealand	Support submission 680.66
FS1275.7	Zeala Limited trading as Aztech Buildings	Support submission 680.66
FS1292.38	McPherson Resources Limited	Support submission 680.66
FS1334.37	Fulton Hogan Limited	Support submission 680.66
FS1139.49	Turangawaewae Trust Board	Support submission 680.66
FS1171.76	T&G Global	Support submission 680.66
FS1108.58	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Support submission 680.66
691.11	McPherson Resources Limited	Retain Policy 5.3.7(a)(iii) Reverse sensitivity effects, as notified. This relief is sought in the event that any part of the submission from point 691.1 to 691.15 is not accepted by WDC.
FS1334.38	Fulton Hogan Limited	Support submission 691.11
771.10	Bathurst Resources Ltd and BT Mining Ltd	Amend Policy 5.3.7(a)(iii) Reverse sensitivity effects as follows: (a) Recognise the following features are typical of the rural environment and the effects are accepted and able to be managed: (iii) Existing mineral extraction and processing activities <u>and future extraction and processing activities within Coal Mining Resource Areas;</u>

		AND Any consequential amendments necessary to address the matters raised in the submission.
FSI285.8	Terra Firma Mining Limited	Support submission 771.10
FSI334.39	Fulton Hogan Limited	Support submission 771.10
FSI292.39	McPherson Resources Limited	Support submission 771.10
797.44	Fonterra Limited	Retain Policy 5.3.7 Reverse sensitivity effects except for the amendments sought below. AND Amend Policy 5.3.7(c) Reverse sensitivity effects to read (or words to similar effect): Mitigate the adverse effects of reverse sensitivity through the use of setbacks <u>for sensitive activities</u> and the design of subdivisions and development. AND Delete Policy 5.3.7 (d) Reverse sensitivity effects AND Any consequential amendments or further relief to give effect to the concerns raised in the submission.
FSI171.103	T&G Global	Support submission 797.44
FSI375.11	Radio New Zealand	Support submission 797.44
FSI265.18	Mainland Poultry Limited	Support submission 797.44
FSI313.26	Perry Group Limited	Support submission 797.44
FSI316.24	Alstra (2012) Limited	Oppose submission 797.44
FSI345.35	Genesis Energy Limited	Support submission 797.44
827.35	New Zealand Steel Holdings Ltd	Amend Policy 5.3.7 Reverse sensitivity effects as follows (or words to similar effect): (a) Recognise the following features are typical of the rural environment and the effects are accepted and able to be managed: ... (iii) Existing m Mineral extraction and processing activities; ... (c) Mitigate the adverse effects of reverse sensitivity through the use of setbacks and design of subdivisions and development. <u>(cc) Avoid locating sensitive activities in a buffer area adjoining an Aggregate Extraction Area, unless those sensitive activities can avoid compromising existing and future mineral extraction....</u> ... OR Add a comparable policy regarding reverse sensitivity in the event that a specific Maoro Mining Zone is introduced. AND Any other further or consequential amendments required.
FSI334.40	Fulton Hogan Limited	Support submission 827.35
FSI198.30	Bathurst Resources Limited and BT Mining Limited	Not stated
FSI292.40	McPherson Resources Limited	Support submission 827.35
860.20	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.3.7 (b) Reverse sensitivities effects.

FSI334.42	Fulton Hogan Limited	Support submission 860.20
FSI285.18	Terra Firma Mining Limited	Support submission 860.20
FSI292.42	McPherson Resources Limited	Support submission 860.20
FSI332.20	Winstone Aggregates	Support submission 860.20
860.21	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.3.7 (c) Reverse sensitivity effects.
FSI285.19	Terra Firma Mining Limited	Support submission 860.21
FSI332.21	Winstone Aggregates	Support submission 860.21
FSI292.43	McPherson Resources Limited	Support submission 860.21
FSI334.43	Fulton Hogan Limited	Support submission 860.21
827.34	New Zealand Steel Holdings Ltd	<p>Add provisions within Chapter 5: Rural Environment as follows (or words to similar effect), if the Waikato North Head mine sites retains a Rural Zone Objective (1) <u>The iron sand resource at Waikato North Head is effectively and efficiently utilised. Policies (1) Provide for ironsand mining and associated activities at the Aggregate Extraction Area identified at Waikato North Head. (2) Avoid, remedy or mitigate any significant adverse effects associated with activities at the Aggregate Extraction Area identified at Waikato North Head that require resource consent under the Waikato District Plan.</u></p> <p>AND</p> <p>Add rules to Chapter 22 Rural Zone to enable specified activities within the Aggregate Extraction Area at Waikato North Head to be a permitted activity (see submission for specific details).</p> <p>AND</p> <p>Any other further or consequential amendments required.</p>

Analysis

343. The amendments recommended to Policy 5.3.7 are already discussed extensively above in relation to the reverse sensitivity matters in respect of intensive farming. Much of the discussion set out there is equally applicable here in relation to the assessment of submissions directly related to mineral extraction activities in this part of the report. Notwithstanding this, the submitters should acquaint themselves with the assessment above in relation to Policy 5.3.7 to gain a fuller understanding of the background to the recommended amendments to the Policy.
344. The submission by Gwenith Francis [394.28] seeks greater recognition of the role of covenants (presumably no complaint covenants) to address reverse sensitivity effects. This is supported by further submissions from Fulton Hogan Ltd [FSI334.36], Radio New Zealand [FSI375.8], McPherson Resources Ltd [FSI292.36], Mainland Poultry Ltd [FSI265.21] and Alstra (2012) Ltd [FSI316.23].
345. Policy 5.3.7 recognises the various types of activities that take place in the rural area that can cause adverse effects. It then goes on to state that adverse effects be “avoided”, and where this is not possible, “mitigated”. In my view, no-complaint covenants are one of many various mechanisms by which to achieve these policy outcomes. These mechanisms do not need to be referred to in the policy itself in order to form part of the suite of matters considered

through a resource consent process. There has been various conjecture over the efficacy of no-complaint covenants previously, and typically these are best used as a civil side agreement between parties and would not involve Council or form part of a resource consent process. From an enforcement perspective, in my experience Councils have little appetite to get involved in such covenants. Recognition of no complaint covenants at a policy level would no doubt lead to an expectation from parties that the Council will utilise and be involved in facilitating this process. On that basis, I recommend that no reference be made to no-complaint covenants in the policy, and that these submissions be rejected.

346. The submission by Fulton Hogan [575.29] requests that mineral and aggregate extraction activity be given specific mention in clause (h), noting that such activities are “provided for”. Similarly, the submission from Bathurst Resources/BT Mining Ltd [771.10] seeks recognition of Coal Mining Resource Areas within Policy 5.3.7(a)(iii). These submissions were supported by various other further submitters with interests in mineral extraction.
347. “Provided for” is the specific terminology recommended to be used in the amended wording of Policy 5.4.2(a). In terms of specific recognition of coal mining, the recommended inclusion of coal in the definition of ‘mineral’ and ‘extractive activity’ is considered the most effective way to provide the relief sought. The recommended wording of Policy 5.3.7(a) makes reference to all extractive activities, and this is considered the most effective way to provide the relief sought. On the basis that those changes proceed, then much of Policy 5.3.7 as notified becomes unnecessary duplication. Therefore, it is recommended that these submissions be accepted in part, given the recommended alternative relief to address the submitters’ concerns.
348. The submission by Fonterra Ltd [797.44], seeks that Policy 5.3.7(c) refer to setbacks for sensitive activities and the deletion of (d). This relief was supported by five further submitters and opposed by Alstra (2012) Ltd [FS1316.24]. NZ Steel Holdings Ltd [827.35] seeks a new clause (cc) to avoid locating sensitive activities within the buffer areas, unless those activities can avoid compromising existing and future mineral extraction. The submission by Federated Farmers [680.66] requests that clause (b) referring to avoiding adverse effects be deleted and replaced with “manage” effects. This relief was supported by eight further submissions. As discussed above, it is recommended that clauses (c) and (d) be deleted and replaced with a new Policy 5.3.7. The recommended wording of Policy 5.3.7 (a) refers to containing effects within the site where they are generated “as far as practicable”. Recommended Clause (b) makes specific reference to separation distances between existing extractive activities and new sensitive land uses. Beyond that, Policy 5.4.2 sets out the specific policy outcomes relating to extractive activities, which includes the direction that adverse effects are “appropriately” avoided, remedied or mitigated, and where this is not possible, offset or compensated. Therefore, it is recommended that these submissions all be accepted in part, given the recommended alternative relief to address the submitters’ concerns.

Recommendations and amendments

349. Based on the above discussion, it is recommended that Policy 5.3.7 as notified be deleted and retitled and reworded as follows:

5.3.7 Policy – Separation 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 new intensive farming or extractive activities and site boundaries.
- (b) Ensure that the design and location of new sensitive land uses achieves adequate separation distances to mitigate potential reverse sensitivity effects on lawfully-

established productive rural activities, intensive farming, rural industry, strategic infrastructure, extractive activities, or **Extraction Resource Areas.**

Rural – Land Use – Activities Rule 22.1 Minerals and extractive industries

Introduction

350. As notified, the Proposed Plan lists ‘an extractive industry’ as a discretionary activity. Various submissions seek a more permissive activity status for extractive activities based on the ‘enabling’ policy framework set out in Objective 5.4.1 and Policy 5.4.2. Those submissions are summarised below.

Submissions

351. Ten submissions and eighteen further submissions were received, seeking amendments to Activity Rule 22.1, insofar as it relates to mineral and aggregate extractive activities.

Rule 22.1.2 – Permitted Activities		
680.185	Federated Farmers of New Zealand	Add to Rule 22.1.2 a new permitted activity rule for farm quarries, as follows: <u>PXX Farm quarrying including aggregate excavation and ancillary earthworks</u> Activity specific conditions: Nil AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FSI 306.42</i>	<i>Hynds Foundation</i>	<i>Support submission 680.185</i>
771.13	Alison Brown for Bathurst Resources Ltd and BT Mining Ltd	Add provisions enabling exploration and prospecting in the Rural Zone as a permitted activity where effects are minor and restricted discretionary activity otherwise. AND Any consequential amendments necessary.

591.9	Stevenson Waikato Ltd	<p>Add a new permitted rule within Rule 22.1.2 Permitted Activities, as follows: <u>PI3 Extractive Industry within the Aggregate Extraction Areas and Aggregate Resource Areas shown on the planning maps.</u></p> <p>AND</p> <p>Amend Rule 22.1.5 D8 Discretionary Activities, as follows: <u>An extractive industry outside the Aggregate Extraction Areas and Aggregate Resource Areas shown on the planning maps.</u></p> <p>AND</p> <p>Add new rules for noise and vibration specifically in relation to extractive industry activities (see the submission for specific amendments sought).</p> <p>AND</p> <p>Add a new provision within Rule 22.2.1 Noise to specifically address noise standards within the Aggregate Extraction Areas and Aggregate Resource Areas, as follows:</p> <p><u>22.2.1.4 Noise and Vibration - Extraction Industry within the Aggregate Extraction Areas and Aggregate Resource Areas shown on the planning map</u></p> <p><u>PI Noise from extractive industry must not exceed the noise levels in Table I below at a notional boundary from any dwelling outside the Aggregate Extraction Areas and Aggregate Resource Areas and not in the ownership of the operator of the extractive industry. Noise must be measured and assessed in accordance with New Zealand Standard on Acoustics - Measurement of Environmental Sound (NZS 6801:2008) and New Zealand Standard on Acoustics - Environmental Noise (NZS 6802:2008).</u></p> <p><u>Table I Noise levels Times 7am-10pm, Monday to Saturday LAeq 55dB All other times and on public holidays LAeq 45dB LAFmax 75dB</u></p> <p><u>P2 Noise created from the use of explosives must not exceed a peak overall sound pressure of 128dB Lzpeak. P3 The measurement of blast noise (air blast) and ground vibration from blasting must be measured at the notional boundary of a dwelling outside the Aggregate Extraction Areas and Aggregate Resource Areas and not in the ownership of the operator of the extraction industry.</u></p> <p><u>P3 Vibration generated by blasting shall be measured within a building in accordance with Appendix J of Part 2 of Australian Standard AS 2187 2006.</u></p>
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		<p><u>P4 All blasting is restricted to: (a) 9am-5pm, Monday to Saturday; (b) an average of two occasions per day over a calendar fortnight except where necessary because of safety reasons.</u></p> <p><u>P5 Blasting activities must be controlled to ensure any resulting ground vibration does not exceed the limits set out in German standard DIN 1503 1999: Structural vibration - Part 3 Effects of vibration on structures when measured on the foundation in the horizontal axis on the highest floor of an affected building.</u></p> <p><u>RDI Noise or vibration that does not comply with the above standards. Council's discretion is restricted to the following matters: (i) effects on amenity values; (ii) hours and days of operation; (iii) noise levels, location of noise source, frequency, duration or other special characteristics of noise; (iv) benefits derived from extracting the resource; and (v) mitigation measures.</u></p>
<i>FS1146.10</i>	<i>Gleeson Quarries Huntly Limited</i>	<i>Support submission 591.9</i>
<i>FS1319.20</i>	<i>New Zealand Steel Holdings Limited</i>	<i>Support submission 591.9</i>
<i>FS1377.171</i>	<i>Havelock Village Limited</i>	<i>Support submission 591.9</i>
<i>FS1292.68</i>	<i>McPherson Resources Limited</i>	<i>Support submission 591.9</i>
<i>FS1334.68</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 591.9</i>
Rule 22.1.3 – Restricted Discretionary Activities		
746.77	The Surveying Company	<p>Add a new restricted discretionary activity (RD3) to Rule 22.1.3 Restricted Discretionary Activities for clean fill outside of an Outstanding Natural Landscapes, Outstanding Natural Feature, Outstanding Natural Character Area and a High Natural Character Area, with matters of discretion including:</p> <ul style="list-style-type: none"> Waste acceptance Design and construction Site operation procedures Response to natural hazards Management of non-complying material Landscape Dust Noise Biodiversity Water quality Traffic effects Monitoring.
<i>FS1306.53</i>	<i>Hynds Foundation</i>	<i>Support submission 746.77</i>
395.4	Ministry of Business, Innovation and Employment for New Zealand Petroleum and Minerals	<p>Amend Rule 22.1.5(l) (D8) (a) - Extractive activities within Rural Zones so that prospecting and exploration activities are classed as a more lenient activity status, for example Restricted Discretionary.</p> <p>AND</p> <p>Amend the Proposed District Plan to make consequential or similar amendments as necessary to address the matters raised in submission.</p>

<i>FSI 198.46</i>	<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>Support submission 395.4</i>
Rule 22.1.5 – Non-complying Activities		
575.15	Fulton Hogan Limited	Amend Rule 22.1.5 NC2 Non-Complying Activities, as follows (or words to similar effect): (a) <u>A new or not yet lawfully existing (as at the date this plan became operative) extractive industry proposed to be located within all or part of any of the following...</u> (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) High Natural Character Area; (iv) Outstanding Natural Character Area. AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
<i>FSI 146.13</i>	<i>Gleeson Quarries Huntly Limited</i>	<i>Support submission 575.15</i>
<i>FSI 027.7</i>	<i>Ngaruawahia Action Group Incorporated</i>	<i>Oppose submission 575.15</i>
<i>FSI 027.2</i>	<i>Ngaruawahia Action Group Incorporated</i>	<i>Oppose submission 575.15</i>
771.12	Bathurst Resources Ltd and BT Mining Ltd	Delete Rule 22.1.5 NC2 Non-Complying Activities, thus making all extractive industries in the Rural Zone a discretionary activity (Rule 22.1.5 D8 Discretionary Activities). AND Any consequential amendments necessary to address the matters raised in the submission.
<i>FSI 334.70</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 771.12</i>
680.192	Federated Farmers of New Zealand	Delete Rule 22.1.5 NC2 Non-Complying Activities. AND Add to Rule 22.1.5 Discretionary Activity a new rule as follows: <u>Dxx (a) A new extractive industry excluding farm quarries which are permitted under 22.1.2 PXX., located within all or part of any of the following: (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) High Natural Character Area (iv) Outstanding Natural Character Area</u> AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FSI 334.72</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 680.192</i>

697.758	Waikato District Council	Amend Rule 22.1.5 NC2 Non-Complying Activities, as follows: (a) An extractive industry located within all or part of any of the following <u>landscape and natural character areas</u> : (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) High natural character area; (iv) Outstanding Natural Character area.
FS1334.73	Fulton Hogan Limited	Oppose submission 697.758
FS1377.229	Havelock Village Limited	Oppose submission 697.758
548.15	Murray & Cathy McWatt for Grander Investments Limited	Delete Rule 22.1.5 D4 Waste Management facilities as a Discretionary Activity; AND Add a new Restricted Discretionary activity for Cleanfill outside of an Outstanding Natural Landscape; an Outstanding Natural Feature, an Outstanding Natural Character Area; and a High Natural Character Area in Rule 22.1.5 Discretionary Activities; AND Add the following matters of discretion: <u>Waste acceptance</u> <u>Design and construction</u> <u>Site operation procedures</u> <u>Response to natural hazards</u> <u>Management of non-complying material</u> <u>Landscape</u> <u>Dust</u> <u>Noise</u> <u>Biodiversity</u> <u>Water quality</u> <u>Traffic effects</u> <u>Monitoring</u>
FS1146.12	Gleeson Quarries Huntly Limited	Support submission 548.15
FS1308.76	The Surveying Company	Support submission 548.15
FS1049.5	Craig Hall	Oppose submission 548.15

Analysis

352. Submissions by Federated Farmers of NZ [680.185] and Bathurst/BT Mining Ltd [771.13] variously seek that farm quarrying, extractive activities and exploration and prospecting be permitted in the Rural Zone. The submission by Stevenson Waikato Ltd [591.9] seeks that extractive industry within the areas identified on the planning maps be a permitted activity. The nature of extractive activities means that there is the potential for adverse effects to arise if not undertaken in an appropriate location and in accordance with best industry practice or appropriate consent conditions. In my experience it is therefore unusual for district plans to enable aggregate extraction or exploration and prospecting as a permitted activity. In terms of the Federated Farmers submission [680.185], farm quarrying, the definition of which includes the extraction of minerals, is a permitted activity up to 1000m³ in any consecutive 12 month period pursuant to Rule 22.2.3.1 PI. On that basis there is no need to grant the relief sought. In my view, permitted activity status for any element of extractive activity beyond farm quarrying is not appropriate, and these submissions should be rejected.

353. The Surveying Company [746.77] and Grander Investments Ltd [548.15] seek a new restricted discretionary activity status for clean fill located outside an ONL, ONF, ONCA or HNCA, with Council's discretion restricted to the various effects that can arise from such activity, as listed in the submissions. The Proposed Plan as notified provides for up to 200m³ of clean filling. As discussed above in the context of Earthworks Rule 22.2.3.1, it is recommended that this be increased to 500m³ in any single 12 month period. As it stands, any clean filling within the general rural area beyond the final figure included in that Proposed Plan standard is a restricted discretionary activity under RDI. On that basis, there is no need to grant the specific relief sought in this submission, as it is already reflected in the notified Proposed Plan. Therefore these submissions are recommended to be accepted in part.
354. The submission from the Ministry of Business, Innovation and Employment for New Zealand Petroleum and Minerals [395.4] requests that extractive activity be given a more lenient activity status (restricted discretionary activity). In my view, a Restricted Discretionary activity status generally throughout the Rural Zone is not appropriate, given that it signals that extractive industry is appropriate throughout the zone. In my view, it is an instance where extractive activity is acknowledged to occur within the Rural Zone, but is only appropriate within specific areas therein, or in circumstances where all potential effects have been assessed and found to be acceptable. Exploration and prospecting activities are provided for through the general earthworks rules, where total volume of earth moved is less than 2,000m² in any 12 month period. A consequential amendment is recommended to the earthworks rules to exclude 'drilling' from the limitation of 3m depth for earthworks, as the focus of the control on depth is primarily to do with permanent changes to ground levels rather than discrete shafts that can readily be back-filled or capped. The ability to undertake drilling in the earthworks rules will facilitate some forms of exploration, noting that most drilling occurs as part of infrastructure works, which are separately provided for through their own chapter.
355. The Proposed Plan identifies Aggregate Extraction Areas and Coal Mining Areas on the planning maps. These are described as being existing lawfully-established locations containing extractive activities. At present the only regulatory benefit for an extractive activity of being located in such areas is the protection from potential adverse reverse sensitivity effects through the building setbacks for sensitive activities set out in Rule 22.3.7.2.
356. It is understood that the identification of Aggregate Extraction Areas and Coal Mining Areas has been through a process of establishing whether they were lawfully-established, whether this be by way of existing use rights and/or subject to a valid resource consent. The Proposed Plan also identifies potential extractive sites as Aggregate Resource Areas (recommended to be renamed Extractive Resource Areas). Therefore the suitability of those identified areas has already been established. On that basis, I recommend that the identification of those areas be reflected in a more permissive activity status than otherwise applies to the establishment of new sites within the rural zone generally. This would provide a less restrictive consent pathway for future applications to increase production of sites already established within those areas, to extend within those areas (if provided for), or establish new sites in Extractive Resource Areas. It is recommended that the submission from the Ministry of Business, Innovation and Employment for New Zealand Petroleum and Minerals [395.4] and the supporting further submission from Bathurst/BT Mining [FS1198.46] be accepted, and that extractive activities within those identified areas be made a restricted discretionary activity.
357. Stevenson Waikato Ltd [591.9] seek discretionary activity status for an extractive activity outside the existing and potential areas identified on the planning maps, as well as specific effects-based provisions for noise and vibration from extractive activities, in order to be permitted. There is no need to grant this relief, given the recommendation that extractive

activities outside Aggregate Extraction Areas, Coal Mining Areas and Extractive Resource Areas would remain a listed discretionary activity in terms of Rule 22.1.5 D8.

358. Rule 22.1.5 NC2 specifically lists an extractive industry located within any of the following 'sensitive' areas as a non-complying activity:
- (i) Outstanding Natural Feature;
 - (ii) Outstanding Natural Landscape;
 - (iii) High natural character area;
 - (iv) Outstanding Natural Character area.
359. Bathurst/BT Mining [771.12] and Federated Farmers [680.192] request the deletion of Rule 22.1.5 NC2 so that extractive activity within these sensitive areas becomes discretionary. This request is made in the context that these submitters are otherwise seeking permitted activity status, as discussed above. The sensitive areas include areas that meet the status of national importance in terms of section 6 of the RMA, and are also subject to strong policy direction as to their protection in the WRPS. On that basis, I consider it appropriate that there is both a high policy threshold, and that the section 104D test for a non-complying activity be applied to any applications to undertake an extractive activity in these areas. That is not to say that there could not be circumstances where a small quarry/mine in such areas would be appropriate, but it is important that any such application face a significant degree of rigour and assessment before proceeding. In my view, a non-complying activity status sends the correct signal to potential applicants of the nature of the activity for which they are applying, and that they must be able to demonstrate circumstances out of the ordinary in order to proceed. On that basis, it is recommended that each of these submissions be rejected.
360. Fulton Hogan Ltd [575.15] seeks amendment to Rule 22.1.5 NC2 so that it applies only to new or not yet lawfully-established extractive activities. A lawfully-established existing extractive activity currently located within any of these sensitive areas would enjoy existing use rights under section 10 of the RMA (or would be operating under an existing resource consent), therefore would not require a new resource consent to continue to operate. It is acknowledged that any proposal to increase the scale of production or the area subject to the activity beyond that existing, would trigger the need for a non-complying activity under the notified Rule. As discussed above, such an application would be assessed on its merits, and the existence of the activity within a sensitive area would be a factor to be considered in the application's favour. However, not all existing activity might be appropriately-located, and there will be circumstances where an increase in the scale or nature of the existing activity does not meet the purpose of the RMA. In that context, I support the retention of non-complying activity status for all extractive activity applications, whether they relate to an existing activity or not. On that basis, the submission of Fulton Hogan Ltd [575.15] and supporting further submissions are recommended to be rejected, and the Rule remain as notified in this regard.
361. Waikato District Council [697.758] submission addresses an administrative oversight in requesting additional explanatory text so that (a) reads "*An extractive industry located within all or part of any of the following landscape and natural character areas:...*". It is considered that this text better assists with the readability and usability of the Proposed Plan compared with the notified, and otherwise makes no substantive change to the meaning and intent of the Rule. On that basis, this submission and the relief sought are recommended to be accepted.
362. As noted above, the adoption of the National Planning Standards definition of 'Rural industry' does create some potential interpretive issues with the structure of Rule 22.1. The definition of Rural industry contained in the Planning Standards adopted in Hearing 5 – Definitions: Section 42A Report is as follows:

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

363. Primary production is specifically defined in the Planning Standards as:
- a. *any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and*
 - b. *includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a);*
 - c. *includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but*
 - d. *excludes further processing of those commodities into a different product.*
364. On that basis, mining and quarrying fall within the definition of primary production, and as a result are referenced in the definition of 'Rural industry'. If the NPS definitions are used, there will be an issue with 'rural industry' listed as a restricted discretionary activity under Rule 22.1.4, whilst 'extractive activities' are a listed discretionary activity under Rule 22.1.5. In my view, the National Planning Standards definitions have too much overlap, therefore are not particularly helpful in this regard. I question whether mining and quarrying are appropriately included within a definition of 'primary production'. I have therefore recommended alternative definitions for 'rural industry,' and have used the word (and definition) for 'farming' rather than primary production to avoid confusion in the scope of the rule.
365. If alternatively the NPS definitions are ultimately adopted, then in order to overcome any interpretive arguments around whether a mine or quarry falls under rural industry (restricted discretionary), or extractive activity (discretionary), it would be necessary to include an explanatory note to Rule 22.1.4 RD2 that 'Rural industry of the purpose of that rule excludes extractive activities.

Recommendations and amendments

366. Based on the discussion above, it is recommended that the following amendments be made to Rule 22.1.

22.1.3 Restricted Discretionary Activities

- (1) The activities listed below are restricted discretionary activities.

Activity		Matters of Discretion
RD2	Rural Industry <i>(but excluding any extractive activity)</i>	(a) Council's discretion is restricted to the following matters: (i) effects on rural character and amenity, (ii) location, type and scale of development; (iii) waste disposal; (iv) nuisance effects including: light spill and glare, odour, dust, noise; (v) traffic effects.

RD3	An extractive activity located within an <u>Aggregate Extraction Area, Coal Mining Area or Extractive Resource Area.</u>	<p>(a) <u>Council's discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none"> (i) <u>effects on rural character and amenity;</u> (ii) <u>location, type and scale of development;</u> (iii) <u>nuisance effects including: dust, noise, vibration, odour and light spill;</u> (iv) <u>industry best practice and use of management plans;</u> (v) <u>traffic effects;</u> (vi) <u>erosion and sediment control; and</u> (vii) <u>rehabilitation and end use including back filling.</u>
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22.1.5 Discretionary Activities

D8	An extractive industry <u>activity located outside an Aggregate Extraction Area, Coal Mining Area or Extractive Resource Area.</u>
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22.1.5 Non-Complying Activities

(I) The activities listed below are non-complying activities.

NC2	<p>(a) An extractive industry <u>activity</u> located within all or part of any of the following <u>landscape and natural character areas:</u></p> <ul style="list-style-type: none"> (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) High natural character area; (iv) Outstanding Natural Character area.
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Rural – Building setback - sensitive land uses – Rule 22.3.7.2 - extractive activities

Introduction

367. In order to give effect to the policy framework set out in Objective 5.4.1 and Policy 5.4.2, the Proposed Plan includes two setbacks for sensitive land use from Aggregate Extraction Areas. The extent of the setbacks depends on whether the material being extracted consists of sand (200m) or rock (500m). In the event that a sensitive activity does not comply with the setback, then a resource consent is required as a discretionary activity under Rule 22.3.7.2 (D1). The balance of submissions on Rule 22.3.7.2 are discussed separately where they relate to setbacks from infrastructure and intensive farming – this is another example of rules addressing a number of themes which presents challenges for report structuring.

368. It is noted that the recommendations made in the Hearing 5 – Definitions: Section 42A Report include changes to the definition of sensitive activity so that it means:

- (a) an education facility, including a childcare facility, waananga and koohanga reo;;
- (b) a residential activity, including papakainga building, ~~rest home~~, retirement village, visitor travellers' accommodation, student accommodation, home stay;
- (c) health facility or hospital;
- (d) place of assembly.

Submissions

369. One submission was received in support of the extraction-related elements of the rule, with six submissions seeking amendments to better define the point at which the setback is measured from and whether such requirements should also apply to the Aggregate Resource Area.

Submission point	Submitter	Summary of submission
Rule 22.3.7.2 – Building setback sensitive land uses		
489.15	Ann-Maree Gladding	Amend Rule 22.3.7.2 PI (iv) and (v) Building setback sensitive land use, to add text to clarify that the setback distances are taken from the actual extraction area only and not from the legal boundaries of the title that contains the extraction area; OR Amend the definition of "Aggregate Extraction Area" in Chapter 13 Definitions, to clarify that the setback distances are taken from the actual extraction area only and not from the legal boundaries of the title, that contains the extraction area.
<i>FS1292.77</i>	<i>McPherson Resources Limited</i>	<i>Support submission 489.15</i>
<i>FS1334.80</i>	<i>Fulton Hogan Limited</i>	<i>Oppose submission 489.15</i>
<i>FS1319.2</i>	<i>New Zealand Steel Holdings Limited</i>	<i>Oppose submission 489.15</i>
575.21	Fulton Hogan Limited	Retain Rule 22.3.7.2 (a) Building setback sensitive land use except for the amendments sought below AND Amend Rule 22.3.7.2 (a) Building setbacks sensitive land use, as follows (or word to similar effect): (a) Any building for a sensitive land use must be set back a minimum of... (iv) 200m from an Aggregate Extraction Area, <u>mineral or aggregate extraction activities</u> containing a sand resource; (v) 500m from an Aggregate Extraction Area, <u>mineral or aggregate extraction activities</u> containing a rock resource;... AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
<i>FS1292.79</i>	<i>McPherson Resources Limited</i>	<i>Support submission 575.21</i>
<i>FS1332.35</i>	<i>Winstone Aggregates</i>	<i>Support submission 575.21</i>
591.11	Stevenson Waikato Ltd	Amend Rule 22.3.7.2 PI Building setback sensitive land use, as follows: (a) Any building for a sensitive land use must be set back a

		<p>minimum of:</p> <ul style="list-style-type: none"> (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 Aggregate Extraction Area <u>or Aggregate Resource Area</u> containing a sand resource; (v) 500m from an Aggregate Extraction Area <u>or Aggregate Resource Area</u> containing a rock resource; (vi) 100m from a site in the...
<i>FSI 292.78</i>	<i>McPherson Resources Limited</i>	<i>Support submission 591.11</i>
<i>FSI 334.81</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 591.11</i>
<i>FSI 146.19</i>	<i>Gleeson Quarries Huntly Limited</i>	<i>Support submission 591.11</i>
691.20	McPherson Resources Limited	<p>Amend Rule 22.3.7.2 PI (a) Building setback sensitive land use as follows (or words to similar effect):</p> <p>(a) Any building for a sensitive land use must be set back a minimum of:</p> <p>.. (iv) 200m from an Aggregate Extraction Area, <u>mineral or aggregate extraction activities</u> containing a sand resource;</p> <p>(v) 500m from an Aggregate Extraction Area, <u>mineral or aggregate extraction activities</u> containing a rock resource;</p> <p>AND</p> <p>Any consequential amendments or alternative relief to address the matters raised in the submission.</p>
<i>FSI 334.82</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 691.20</i>
782.15	Jack Macdonald	<p>Amend Rule 22.3.7.2 Building setback - sensitive land use, by adding text to PI (a) (iv) and (v) to confirm that the specified separation distances are measured from the identified Aggregate Extraction Area rather than the title boundaries that contain this extraction area</p> <p>OR</p> <p>Amend the definition of 'Aggregate Extraction Area' in Chapter 13: Definitions so that it refers to the consented extraction area, rather than the title boundary of the subject site.</p>
<i>FSI 292.80</i>	<i>McPherson Resources Limited</i>	<i>Support submission 782.15</i>
<i>FSI 1319.35</i>	<i>New Zealand Steel Holdings Limited</i>	<i>Oppose submission 782.15</i>
<i>FSI 334.83</i>	<i>Fulton Hogan Limited</i>	<i>Oppose submission 782.15</i>

797.33	Fonterra Limited	<p>Retain Rule 22.3.7.2 Building setbacks sensitive land use, except for the amendments sought below</p> <p>AND</p> <p>Amend Rule 22.3.7.2 Building setbacks sensitive land uses to include the additional locations as follows (or words to similar effect): <u>200m from an identified Coal Mining Area, 300m from the boundary of another site containing a Factory Wastewater Irrigation Farm.</u></p> <p>AND</p> <p>Any consequential amendments or further relief to give effect to the concerns raised in the submission.</p>
827.37	New Zealand Steel Holdings Ltd	Retain Rule 22.3.7.2(iv) and (v) Building setback sensitive land use

Analysis

370. The submissions by Ann-Maree Gladding [489.15] and Jack Macdonald [782.15] request clarification that the setback distances are taken from the actual extraction area and not the property boundary. These submissions were supported by McPherson Resources Ltd [FS1292.77 & FS1292.80] and opposed by Fulton Hogan Ltd [FS1334.80 & FS133.84] and NZ Steel Holdings Ltd [FS1319.2 & FS1319.35]. The potential nuisance effects resulting from extractive activities arise from the area used for that purpose, not necessarily the property boundary. In some cases there may be a large separation distance between the site boundary and the area where the extractive activity is occurring as operators seek to responsibly internalise their adverse effects. A similar issue arose with intensive farming regarding where the point of measurement for the setback should be taken from. With intensive farming, the extent of existing buildings and intensive outdoor runs is readily identifiable, and does not tend to vary over time. Extractive industries can likewise have well-defined boundaries to where the working quarry activity is occurring, however they can also conversely have an expanding outer edge of the worked area, such that a point-in-time measurement is not adequate for mitigating long-term sensitive effects. The other key difference between intensive farming and extractive activities is that in the coal mining and aggregate extraction areas are mapped in the district plan in order to identify known operations, whereas intensive farms are not mapped. Whilst I have some sympathy for the submitters' relief where extractive activities are located in an internalised area that forms a small part of a much larger site, identifying the point of measurement in the context of an expanding operation is difficult. It is therefore recommended that the edge of the mapped area be the point of measurement, and in the event that an existing operation is located well within this boundary, then that is a matter that can be considered as part of any application to locate a sensitive activity within the boundary setback. On that basis, it is recommended that these submissions be rejected.
371. As discussed in the above assessment of the policy regarding the role of the Aggregate Resource Areas to signal where such activities are anticipated and to maintain the potential of the resource to be extracted, it is also recommended that the 500m setback apply to the boundary of any (renamed) Extractive Resource Area shown on the planning maps. This effectively grants the relief sought in the submissions from Stevenson Waikato Ltd [591.11] and the supporting further submissions from McPherson Resources Ltd [FS1292.78], Fulton Hogan Ltd [FS1334.81] and Glesson Quarries Huntly Ltd [FS1146.19]. It is recommended that these submission be accepted.
372. The submissions by Fulton Hogan Ltd [575.21] and McPherson Resources Ltd [691.20] affect the setbacks applying to existing extractive activities, not only those identified on the

planning maps. Related to this matter is the term used to describe an “Aggregate Extraction Area”. As already discussed above in reference to the definitions, it is recommended that the various terminology/definitions contained in the Proposed Plan as notified be consolidated into a single term - “extractive activity”. This consolidation effectively grants some of the relief sought. It is recommended that the sensitive activity setbacks apply from all Aggregate Extraction Areas, Coal Mining Areas or Extractive Resource Areas. Consideration was given to whether it is appropriate that the scope of the rule be expanded so that it applies not only to those areas identified on the planning maps, but also any lawfully-established (whether by way of existing use rights or a resource consent) extractive activity. On the basis that the planning maps represent an accurate assessment of all lawfully-established existing and consented extractive activities, this should not be required. Therefore it is recommended that these submissions be accepted in part only.

373. As already discussed above in the context of the policy framework, it is considered appropriate that the setback also apply to Coal Mining Areas and to Extractive Resource Areas (which would apply to all future areas identified as being suitable as either a mine, coal mine or aggregate quarry). The submission by Fonterra [797.33] seeks a 200m setback for a sensitive activity from an identified coal mining area. This is the same setback that would apply to an aggregate extraction area containing a sand resource. Whilst I am not an expert on aggregate quarries, it would appear that coal mining would have more attributes in common with rock quarries as opposed to sand quarries. On that basis, a 500m setback is recommended for ‘Coal Mining Areas’. This change can be made as a consequential amendment to the submissions lodged in relation to the policy framework discussed above. On that basis, the Fonterra submission [797.33] is recommended to be accepted in part.

Recommendations and amendments

374. Based on the discussion above, the following amendments are recommended to the building setbacks for sensitive activities in relation to extractive activities.

22.3.7.2 Building setback - sensitive land use

PI	<p>(b) Any building for a sensitive land use must be set back a minimum of:</p> <ul style="list-style-type: none"> (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 <u>or Extractive Resource Area</u> containing a sand resource; (v) 500m from an Aggregate Extraction Area <u>or Extractive Resource Area</u> containing a rock resource, <u>or a Coal Mining Area</u>; (vi) 100m from a site in the Tamahere Commercial Areas A and C; (vii) 300m from the boundary of another site containing an 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.
DI	Any building for a sensitive land use that does not comply with Rule 22.3.7.2 PI.
<i>Drafting note: update Planning Map key to identify ‘Extractive Resource Areas’</i>	

Rural – Policy 5.3.13- Waste management activities, Rules 22.1.4 (D4) and 22.1.5 (NC3), and definition

Introduction

375. The Proposed Plan provides for waste management activities through a specific policy. The policy has three clauses which seek to (a) provide for the rehabilitation of quarry sites through landfill and cleanfill activities, where there is environmental gain; (b) appropriately locate waste management facilities to ensure compatibility with the rural environment; and (c) undertake waste management facilities in a manner that protects the values of identified high and outstanding landscape areas.
376. The waste management policy is then implemented through Rule 22.1.5 (D4), which makes waste management facilities a fully discretionary activity. Rule NC3 controls waste management facilities where they are located in areas with identified high or outstanding landscape values.

Submissions

377. Four submissions were received in general support of the policy, with a further five submissions seeking that the policy be amended. Those seeking amendments were either to strengthen its direction and protection of sensitive environments, or to make the policy more enabling, especially for cleanfill activities.

Submission point	Submitter	Summary of submission
367.7	Mercer Residents and Ratepayers Committee	Add a point to Policy 5.3.13 Waste management activities, to ensure no leeching into nearby waterways.
585.6	Department of Conservation	Delete Policy 5.3.13(c) Waste management activities.
<i>FS1045.11</i>	<i>Auckland/Waikato Fish and Game Council</i>	<i>Support submission 585.6</i>
746.4	The Surveying Company	Amend Policy 5.3.13 (a) - Waste management activities as follows: (a) Provide for the rehabilitation of existing quarry sites, including landfill and cleanfill activities, <u>where siting is appropriate, environmental effects are managed</u> and there is environmental gain. AND Amend Policy 5.3.13- Waste management activities to provide for landfills - Classes 1-5 in the Rural Zone, subject to appropriate siting.
<i>FS1334.52</i>	<i>Fulton Hogan Limited</i>	<i>Oppose submission 764.4</i>
<i>FS1377.245</i>	<i>Havelock Village Limited</i>	<i>Support submission 764.4</i>
<i>FS1292.52</i>	<i>McPherson Resources Limited</i>	<i>Oppose submission 764.4</i>
860.6	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.3.13 (a) Waste management activities AND Add a similar policy for mining sites.
<i>FS1334.53</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 860.6</i>
<i>FS1292.53</i>	<i>McPherson Resources Limited</i>	<i>Support submission 860.6</i>
<i>FS1332.6</i>	<i>Winstone Aggregates</i>	<i>Support submission 860.6</i>

<i>FS1285.15</i>	<i>Terra Firma Mining Limited</i>	<i>Support submission 860.6</i>
302.45	Jeremy Talbot for Barker & Associates Limited on behalf of EnviroWaste New Zealand Limited	Amend Policy 5.3.13(b) Waste management activities to provide for waste management facilities that may not be completely compatible with the rural environment. AND Amend the Proposed District Plan to make consequential amendments or additional amendments to address the matters raised in the submission.
575.31	Fulton Hogan Limited	Retain Policy 5.3.13 Waste management activities, except for the amendments sought below AND Amend Policy 5.3.13 (a) Waste management activities, as follows (or words to similar effect): Provide for the rehabilitation of existing quarry sites <u>upon decommission</u> , including landfill and cleanfill activities, where there is an environmental gain. AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
<i>FS1292.50</i>	<i>McPherson Resources Limited</i>	<i>Support submission 575.31</i>
<i>FS1332.39</i>	<i>Winstone Aggregates</i>	<i>Support submission 575.31</i>
<i>FS1027.5</i>	<i>Peter Ayson on behalf of Ngaruawahia Action Group Incorporated</i>	<i>Oppose submission 575.31</i>
680.70	Federated Farmers of New Zealand	Retain Policy 5.3.13 Waste management activities, as notified.
691.13	McPherson Resources Limited	Amend Policy 5.3.13 (a) Waste management activities, as follows (or words to similar effect): (a) Provide for the rehabilitation of existing quarry sites <u>upon decommission</u> , including land and cleanfill activities, where there is an environmental gain. This relief is sought in the event that any part of the submission from point 691.1 to 691.16 is not accepted by WDC. AND Any consequential amendments or additional relief to address the matters raised in the submission.
<i>FS1334.50</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 691.13</i>
723.11	Winstone Aggregates	Retain Policy 5.3.13 Waste Management Activities.
<i>FS1292.51</i>	<i>McPherson Resources Limited</i>	<i>Support submission 723.11</i>
<i>FS1334.51</i>	<i>Fulton Hogan Limited</i>	<i>Support submission 723.11</i>

Analysis

378. The policy has three clauses. The first seeks to provide for waste management activities as a tool for quarry site rehabilitation. The second clause addresses waste management activities located outside of old quarries, and the third clause addresses such activities in areas with high landscape or ecological value.

379. Winstone Aggregates [723.11], Federated Farmers [680.70], Fulton Hogan [575.31], and the Aggregate and Quarry Association [860.6] all submitted in support of the policy.
380. In considering the rehabilitation of quarries, and whether cleanfill should be treated differently to waste management, it is first necessary to consider a series of interconnected and somewhat circular definitions. As recommended in the s42A report on Hearing 5, in summary:
- ‘Waste management’ includes landfills and excludes cleanfill;
 - ‘Cleanfill’ only includes ‘virgin excavated natural materials including clay, gravel, sand, soil and rock’. In my view this differs to how this term is commonly understood, which usually also includes inert building rubble such as uncontaminated bricks and concrete;
 - ‘Extractive activity’ includes amongst other matters ‘landscaping and rehabilitation works including cleanfilling’;
 - ‘Earthworks’ includes filling using soil, clay, sand, and rock’.
 - ‘Landfill’ includes the disposal of solid waste and excludes cleanfill.
381. So where does that leave us? In short, cleanfill comprised of virgin, naturally occurring materials, is simply fill, and as such is permitted under the general earthworks rules up to the point that the volume limits in those rules are met, and thereafter is subject to a Restricted Discretionary consent under Rule 22.2.3.1 (RD1). Where cleanfilling is located within an identified Coal Mining Area, Aggregate Extraction Area, or Aggregate Resource Area and forms part of a quarry rehabilitation process, then it is captured within the definition of ‘extractive activities’. It is recommended in the section on extractive activities that the activity status for such activities in these areas be Restricted Discretionary (rather than fully discretionary as notified). Where cleanfill forms part of an extractive activity located outside of these mapped areas then it simply forms part of the overall Discretionary consent required for extractive activities.
382. Rehabilitation of old quarries for waste management purposes is a fully discretionary activity (Rule 22.1.5 (D4)), with that activity status no different for waste management facilities that are not located in quarries i.e. they are fully discretionary wherever they locate, with the only difference being a more enabling policy preference when they are part of quarry rehabilitation. Filling using building rubble would fall within ‘waste management’ as under the recommended definitions it is ‘landfill’ which is a subset of ‘waste management’ and is explicitly not cleanfill.
383. The Surveying Company [746.4] seeks to amend Policy 5.3.13 (a) - Waste management activities as follows: *(a) Provide for ~~the rehabilitation of existing quarry sites, including landfill and cleanfill activities, where siting is appropriate, environmental effects are managed and there is environmental gain.~~ AND Amend Policy 5.3.13- Waste management activities to provide for landfills - Classes 1-5 in the Rural Zone, subject to appropriate siting.*
384. The proposed wording conflates the two separate outcomes sought in clause (a) – the use of waste management as a tool for quarry rehabilitation, and clause (b) – the management of waste management facilities elsewhere. It is recommended that the clear separation in direction between the two clauses be maintained.
385. The Surveying Company [746.77] and Grander Investments [548.15] have more broadly sought amendments to differentiate cleanfill activities from waste management activities, with a more enabling set of policies and rules for the former. I agree that reference to cleanfill

should be deleted from the policy on waste management so that the policy better aligns with the recommended definitions. Where cleanfill is associated with quarry rehabilitation then it simply comes under the separate policies that provide for extractive activities.

386. These submitters have sought a new restricted discretionary rule be added for cleanfill where located outside of areas with high landscape value. The submission includes a suite of assessment matters which include consideration of a wide range of potential effects. The substantial list of necessary matters of discretion put forward by the submitters rightly identifies the wide range of potential effects. Given that the notified rule has a fully discretionary status, the proposed additional rule for clean fill with a long list of assessment matters would result in additional complexity to the District Plan without making a material difference to the consenting pathway. As such it is recommended that the Proposed Plan approach of such activities having a fully discretionary status (as part of 'waste management') be retained where the material includes building rubble. Where it is virgin natural material then as set out above it is permitted in small volumes under the earthworks rules, or becomes a restricted discretionary activity as sought by the submitters when these volumes are exceeded. For completeness it is noted that no other submissions were received seeking to alter the discretionary activity status of the activity or the non-complying status where such facilities are located in areas with high landscaper values.
387. The Mercer Residents and Ratepayers Association [367.7] sought that an additional clause be added to the policy to emphasise the need to manage leachate into nearby waterways. The management of leachate and the potential for the contamination of either waterways or groundwater is a key consideration when waste management facilities are designed and operated. Protection of water quality is however a responsibility that sits with the Waikato Regional Council and is managed through the Waikato Regional Plan. It is common for new waste management facilities to require a suite of resource consents from both District and Regional Councils to address both land use and water quality matters. Given that the management of water quality sits with the Regional Council it is recommended that the policy not be expanded to include reference to water quality as that would result in a duplication and confusion of statutory responsibilities between the two councils.
388. Fulton Hogan [575.31] and McPherson Resources [691.13] sought that clause (a) be amended to clarify that the rehabilitation of existing quarry sites occur 'upon decommission' i.e. waste management activities are not to occur at the same time as active quarry operations. The purpose of clause (a) is to provide policy direction that the back-filling of quarries with waste material in a carefully managed way is anticipated by the Plan as being appropriate, subject to such rehabilitation resulting in environmental gains. The backfilling of quarries is a relatively common solution to the concurrent needs to rehabilitate quarries and to manage waste. Whilst such rehabilitation typically occurs once active quarry operations have concluded, as identified by submitters, it is likewise not uncommon for worked out parts of a quarry to be backfilled at the same time as other parts of the wider site continue to be worked for aggregate. The key outcome the policy is indicating is that quarry sites can be used for waste management activities. As such the additional wording sought by the submitters is not considered necessary.
389. Where waste management facilities are not located in a quarry, clause (b) of the policy applies. This clause directs that such facilities be appropriately located to ensure compatibility with the surrounding rural environment. Envirowaste [302.45] seeks that clause (b) be amended so that facilities 'may not be completely compatible with the rural environment'. I agree that waste management facilities may differ from the rural environment if that environment is taken to be limited to mean just a pastoral farming landscape. The above discussion on proposed new Policy 5.3.1 on rural character seeks to make clear that the rural environment is broader than just farming-derived character and includes a wide range of activities that are not always pastoral in appearance or effect, but

that nonetheless form part of the rural environment. Waste management facilities are similar in that they are facilities that are typically located in rural areas, that differ from pastoral farming, but that nonetheless can be designed and located such that they are compatible with an outcome where the rural environment includes occasional non-agricultural facilities that are located within a spacious, landscaped setting. Given the recommended addition of the new policy on rural character, the amendments sought by the submitter are not considered to be necessary.

390. The Department of Conservation [585.6] seeks that clause (c) of the policy be deleted. Clause (c) states that waste management facilities within the listed high and outstanding landscape areas be undertaken in a manner that protects natural values. The Policy is then implemented through Rule 22.1.5 (NC3) which makes any waste management facility in these outstanding landscape areas a non-complying activity. I take it that the submitter is opposed to clause (c) because they see it as being inappropriately enabling, in that as written it can be interpreted as anticipating waste management facilities in such areas subject to them being appropriately managed. The non-complying rule would however indicate that the intent of the policy is to direct that such areas be protected from the effects of waste management facilities, and would align with the WRPS direction on how areas with high landscape and ecological values are to be managed. Rather than delete clause (c) it is recommended that the clause be reframed such that waste management facilities are to avoid locating in such areas in order to protect these values.

Recommendations and Amendments

391. The various amendments to definitions recommended in the s42A report to Hearing 5 are relied upon and no further changes to these terms is recommended. No amendments are recommended to the existing fully discretionary activity status for waste management facilities (22.1.5 (D4)), and non-complying status where located in areas with high landscape and ecological values (22.1.5 (NC3)).
392. It is recommended that Policy 5.3.13 be amended as follows:

5.3.13 Policy – Waste management activities

- (a) Provide for the rehabilitation of existing quarry sites; ~~including~~ through waste management and landfill and cleanfill activities, where there is an environmental gain.
- (b) Waste management facilities are appropriately located to ensure compatibility with the surrounding rural environment.
- (c) Avoid ~~Waste management facilities within the following areas are undertaken in a manner that protects the natural values of:~~
- (i) An Outstanding Natural Landscape;
 - (ii) An Outstanding Natural Feature;
 - (iii) An Outstanding Natural Character Area;
 - (iv) A High Natural Character Area.

Rural – Policy 5.3.12 – Meremere Dragway, Definition, and Rule 22.1.2 (P5)

Introduction

393. The Proposed Plan seeks to recognise Meremere Dragway as a long-established facility that is located within the Rural Zone. The Proposed Plan includes a specific policy 5.3.12 that seeks to “support the ongoing operation and activities at the Meremere Dragway”. The policy is then implemented through Rule 22.1.2(P5) which permits “Meremere Dragway Activity”, subject to those activities complying with the land use effects rules under 22.2 and the land use building rules under 22.3.
394. No submissions were received on either Policy 5.3.12 or rule P5, however the below submission was received on the definition.

791.4	Andrew Michael Basford Green for Meremere Dragway Inc	<p>Amend the definition of "Meremere Dragway activity" in Chapter 13 Definitions to read as "Drag Way Park Specific Activity".</p> <p>AND</p> <p>Amend the definition of "Meremere Dragway activity" in Chapter 13 Definitions to provide for the addition of non-motorised activities as follows (or a similar variation): Meremere Dragway activity <u>Drag Way Park Specific Activity</u> Means an activity at <u>Meremere Dragway activity</u> Drag Way Park Specific Area as shown on the planning maps that involves motor propulsion to provide entertainment, education or training for the general public or to an individual participating in the activity; and includes but is not limited to driver training or education, police or security training, and vehicle testing <u>motorised recreational activity, non-motorised recreational activity, static-automotive activity and a film and advertising production activity.</u></p> <p>AND</p> <p>Any consequential amendments to the Proposed District Plan to give effect to the relief sought in this submission.</p>
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Analysis

395. As noted towards the start of this report in the overview of ‘out of zone’ facilities, Meremere Dragway is a scheduled activity in the Operative District Plan, with an associated set of provisions that recognise and provide for the long-established facility. The Proposed Plan does not use scheduling as a tool, and therefore existing facilities are either provided for as part of the underlying zone rule package (as proposed here for the Dragway), as a ‘specific area’ with an associated bespoke set of rules (as proposed for Agricultural Research Centres), or through a stand-alone zone (as proposed for Hampton Downs racetrack).
396. The submitter has not focussed their submission on the proposed policy and associated rule as their primary relief sought is to reinstate the scheduled activity approach in the Operative Plan (or potentially to adapt that approach to be a new ‘specific area’ with associated bespoke rule package). I understand that this primary relief is to be considered as part of the upcoming Hearing on rezoning requests that will be held towards the end of the Plan Review process. It may therefore be that the Panel wish to defer finalising their decision on the definition until wider decisions have been made regarding how Meremere Dragway is to be provided for in terms of the District Plan structure.

397. That said, in the event that the preferred approach remains as notified, I have considered the relief sought insofar as it relates to the definition and its application in associated Rule 22.1.2 (P5) which permits ‘Meremere Dragway Activity’.
398. ‘Meremere Dragway Activity’ is a term used in both Policy 5.3.12 and the associated rule P5. It is defined as meaning “*an activity at Meremere Dragway as shown on the planning maps that involves motor propulsion to provide entertainment, education or training for the general public or to an individual participating in the activity; and includes but is not limited to driver training or education, police or security training, and vehicle testing*”.
399. Meremere Dragway [791.4] seek that the name of the facility be changed to ‘Drag Way Park’ and that the definition be broadened to permit both non-motorised recreation and film activities. The facility is commonly known as the Meremere Dragway, therefore this terminology is recommended to be retained in the policy and rule so that it is clear to plan users what the facility is that these provisions are referring to.
400. I agree that the rule should be sufficiently broad to encompass ancillary non-motorised recreation and commercial activities such as on-site cafés or food and beverage sales, or recreation that is focused on non-moving vehicles, e.g. vehicle displays. I am cautious that simply enabling non-motorised recreation would broaden the scale and nature of activities that could occur beyond what is anticipated for a long-established motor sports facility. Film and advertising production could occur as a temporary event under the temporary event rules where it meets the conditions for such events. Alternatively, use of the facility for filming car-oriented activities would be an ancillary commercial activity. It is noted that the motorised sport definition that applies to Hampton Downs includes a much longer list of activities, albeit that these reflect the much larger scale of that facility.

Recommendations and Amendments

401. It is recommended that the definition be amended as follows:

Meremere drag way activity	Means an activity at Meremere Dragway as shown on the planning maps that involves motor propulsion to provide entertainment, education or training for the general public or to an individual participating in the activity; it and includes but is not limited to <u>ancillary non-motorised recreation and commercial activities</u> , driver training or education, police or security training, and vehicle testing
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Rural – Policy 5.3.16 – Specific area – Agricultural Research Centres, Rule 22.5 and Definitions

Introduction

402. The Proposed Plan seeks to recognise and provide for two existing agricultural research centres through a bespoke Policy 5.3.16 and set of both activity and building rules as a ‘Specific Area’ under section 22.5, i.e. the policy and rules relate to existing research campuses that are specifically identified on the planning maps. These centres are identified through a schedule and associated rules in the Operative Plan, with the Proposed Plan seeking to retain the site-specific rule framework, whilst aligning that framework with the structure and content of the Rural Zone provisions, where appropriate.

Submissions

403. Three submissions and one further submission were received either in support of the policy or seeking amendments to further strengthen the policy framework. Twenty five submissions were received on the proposed rule framework, with these submissions either in support, seeking the addition of further activities that are in general ancillary to the activities occurring in the campuses, or seeking further clarification and streamlining of the provisions.
404. Six submissions were received in support of the definition for 'agricultural and horticultural research activities', with one submission seeking an amendment, and two submissions were received in support of the term 'agricultural research centres'. Two submissions were received in support of the definition of 'campus', with one submission seeking its deletion.

Submission point	Submitter	Summary of submission
Policy 5.3.16 – Specific area – Agricultural research centres		
680.72	Federated Farmers of New Zealand	Retain Policy 5.3.16 Specific area - Agricultural research centres, as notified.
637.1	Livestock Improvement Corporation	<p>Delete Policy 5.3.16 Specific Area- Agricultural Research Centres</p> <p>AND</p> <p>Add the following new Objectives and Policies:</p> <p><u>5.7 Specific Area – Agricultural Research Centres 5.7.1 Objective – Specific Area – Agricultural Research Centres</u></p> <p><u>To recognise, provide for and protect the continued operation and development of Agricultural Research Centres that are an integral part of the agricultural sector.</u></p> <p><u>5.7.1.1 Policy – Operation and Development of Agricultural Research Centres Enable the continued operation and development of the Livestock Improvement Corporation and DairyNZ Agricultural Research Centres by providing for a wide range of agricultural research activities and rural activities that complement each other.</u></p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>

639.1	Dairy NZ Incorporated	<p>Delete Policy 5.3.16 Specific Area- Agricultural Research Centres</p> <p>AND</p> <p>Add the following new Objectives and Policies:</p> <p><u>5.7 Specific Area – Agricultural Research Centres 5.7.1 Objective – Specific Area – Agricultural Research Centres</u></p> <p><u>To recognise, provide for and protect the continued operation and development of Agricultural Research Centres that are an integral part of the agricultural sector.</u></p> <p><u>5.7.1.1 Policy – Operation and Development of Agricultural Research Centres Enable the continued operation and development of the Livestock Improvement Corporation and DairyNZ Agricultural Research Centres by providing for a wide range of agricultural research activities and rural activities that complement each other. Amend Rule 22.5.2 Permitted Activities – Agricultural and Horticultural Research as follows:</u></p> <p><u>P76 A staff facility that is incidental to agricultural or horticultural research that includes:</u></p> <p><u>A dwelling located at least 200m from the site containing Inghams Feed Mill in Hamilton City Council’s jurisdiction;</u></p> <p><u>A recreational facility;</u></p> <p><u>Social club;</u></p> <p><u>Cafeteria or café.</u></p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
FS1168.64	Horticulture New Zealand	Support submission 639.1
Rule 22.5 – Specific Area – Agriculture Research Centres		
637.8	Livestock Improvement Corporation	<p>Amend Rule 22.5.2 Permitted Activities - Agricultural and Horticultural Research, as follows: (a) The rules that apply to a permitted activity within the Agricultural Research Centres Specific Area as identified on the planning maps are as follows:</p> <p>(i) Rule 22.2 Land use - Effects;</p> <p>(ii) Rule 22.3 Land Use - Building; except for building within a Campus.</p> <p>A. Rule 22.3.4.1 Height - Building general will not apply and Rule 22.5.34 will apply instead; and Rule 22.5.34 will apply instead; and</p> <p>B. Rule 22.3.6 Building coverage will not apply and Rule 22.5.45 will apply instead.</p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>

639.8	Dairy NZ Incorporated	<p>Amend Rule 22.5.2 Permitted Activities - Agricultural and Horticultural Research as follows: (a) The rules that apply to a permitted activity within the Agricultural Research Centres Specific Area as identified on the planning maps are as follows:</p> <p>(i) Rule 22.2 Land use - Effects;</p> <p>(ii) Rule 22.3 Land Use - Building; except for building within a Campus</p> <p>A. Rule 22.3.4.1 Height - Building general will not apply and Rule 22.5.34 will apply instead; and Rule 22.5.34 will apply instead; and</p> <p>B. Rule 22.3.6 Building coverage will not apply and Rule 22.5.45 will apply instead.</p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
637.15	Livestock Improvement Corporation	<p>Amend Rule 22.5.2 Permitted Activities - Agricultural and Horticultural Research as follows: P6 Disposal or storage of solid organic waste or cleanfill that is incidental to agricultural or horticultural research where the extracted material is used on the Agricultural Research Centre site.</p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
637.16	Livestock Improvement Corporation	<p>Amend Rule 22.5.2 Permitted Activities - Agricultural and Horticultural Research as follows: P76 A staff facility that is incidental to agricultural or horticultural research that includes:</p> <p>A dwelling located at least 200m from the site containing Inghams Feed Mill in Hamilton City Council's jurisdiction;</p> <p>A recreational facility;</p> <p><u>Social club;</u></p> <p><u>Cafeteria or café.</u></p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>

637.17	Livestock Improvement Corporation	<p>Add the following activities to Rule 22.5.2 Permitted Activities - Agricultural and Horticultural Research as follows:</p> <p><u>P7 A Commercial activity that is incidental to agricultural or horticultural research.</u></p> <p><u>P8 Offices that are incidental to agricultural or horticultural research.</u></p> <p><u>P9 Laboratories that are incidental to agricultural or horticultural research.</u></p> <p><u>P10 Warehouse or storage facilities that are incidental to agricultural or horticultural research. P11 Conference facilities that are incidental to agricultural or horticultural research.</u></p> <p>AND</p> <p>Amend Rule 22.5.2 Permitted Activities - Agricultural and Horticultural Research as follows: P7 A staff facility that is incidental to agricultural or horticultural research that includes:</p> <p>A dwelling located at least 200m from the site containing Inghams Feed Mill in Hamilton City Council's jurisdiction;</p> <p>A recreational facility;</p> <p><u>Social club;</u></p> <p><u>Cafeteria or café.</u></p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
637.18	Livestock Improvement Corporation	Retain Chapter 22.5 Specific Area - Agricultural Research Centres, with amendments sought in the submission.
639.15	Dairy NZ Incorporated	<p>Amend Rule 22.5.2 Permitted Activities - Agricultural and Horticultural Research as follows: P6 Disposal or storage of solid organic waste or cleanfill that is incidental to agricultural or horticultural research where the extracted material is used on the Agricultural Research Centre site.</p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
639.16	Dairy NZ Incorporated	<p>Amend Rule 22.5.2 Permitted Activities - Agricultural and Horticultural Research as follows: P7 A staff facility that is incidental to agricultural or horticultural research that includes:</p> <p>A dwelling located at least 200m from the site containing Inghams Feed Mill in Hamilton City Council's jurisdiction;</p> <p>A recreational facility;</p> <p><u>Social club;</u></p> <p><u>Cafeteria or café.</u></p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>

639.17	Dairy NZ Incorporated	<p>Add the following activities to Rule 22.5.2 Permitted Activities - Agricultural and Horticultural Research as follows:</p> <p><u>P7 A Commercial activity that is incidental to agricultural or horticultural research.</u></p> <p><u>P8 Offices that are incidental to agricultural or horticultural research.</u></p> <p><u>P9 Laboratories that are incidental to agricultural or horticultural research.</u></p> <p><u>P10 Warehouse or storage facilities that are incidental to agricultural or horticultural research. P11 Conference facilities that are incidental to agricultural or horticultural research.</u></p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
639.18	Dairy NZ Incorporated	Retain Chapter 22.5 Specific Area - Agricultural Research Centres, with amendments sought in the submission.
781.28	Ministry of Education	<p>Amend Rule 22.5.2 P2 Permitted Activities - Agricultural and Horticultural Research as follows: P2 An education facilities that is incidental to agricultural or horticultural research. <u>Any education facilities which are not incidental to agricultural or horticultural research is a restricted discretionary activity.</u></p> <p>AND</p> <p>Add a new Rule 22.5.3 Restricted Discretionary Activities as follows:</p> <p><u>22.5.3 Restricted Discretionary Activities</u></p> <p><u>(1) The activities listed below are restricted discretionary activities</u></p> <p>Activity <u>RD3 Education facilities</u> Council's discretion shall be restricted to the following matters:</p> <p><u>The extent to which it is necessary to locate the activity within the Rural Zone.</u></p> <p><u>Reverse sensitivity effects of adjacent activities.</u></p> <p><u>The extent to which the activity may adversely impact on the transport network.</u></p> <p><u>The extent to which the activity may adversely impact on the streetscape.</u></p> <p><u>The extent to which the activity may adversely impact on the noise environment.</u></p>
<i>FS1345.133</i>	<i>Genesis Energy Limited</i>	<i>Oppose submission 781.28</i>
637.10	Livestock Improvement Corporation	Amend the Proposed District Plan to include the provisions from the Operative District Plan in Schedule 25C for Agricultural Research Centres as they were originally intended.
637.11	Livestock Improvement Corporation	Amend the Proposed District Plan to recognise and provide for all key existing and future activities in the Agricultural Research Centres.
637.12	Livestock Improvement Corporation	Delete any site-specific conditions relating to Agricultural Research Centres that are sufficiently covered by District-wide provisions.

639.10	Dairy NZ Incorporated	Amend the Proposed District Plan to include the provisions from the Operative District Plan in Schedule 25C for Agricultural Research Centres as they were originally intended. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
639.11	Dairy NZ Incorporated	Amend the Proposed District Plan to recognise and provide for all key existing and future activities in the Agricultural Research Centres. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
639.12	Dairy NZ Incorporated	Delete any site-specific conditions relating to Agricultural Research Centres that are sufficiently covered by District-wide provisions. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
639.16	Dairy NZ Incorporated	Amend P7 to delete reference to dwelling setbacks from Inghams feed mill.
637.16	Livestock Improvement Corporation	Amend P7 to delete reference to dwelling setbacks from Inghams feed mill.
330.171	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.5 Specific Area- Agriculture Research Centres.
330.172	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.5.1 Application of Rules.
330.173	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.5.2 Permitted Activities - Agricultural and Horticultural Research.
330.174	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.5.3 Discretionary Activities - Agricultural and Horticultural Research.
330.175	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.5.4 Building Height - within a Campus.
330.176	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.5.5 Building Coverage - within a Campus.
680.248	Federated Farmers of New Zealand	Retain Section 22.5 Specific Area - Agriculture Research Centres, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
697.842	Waikato District Council	Amend Rule 22.5.2 Specific Area - Agricultural Research Centre heading, as follows: Permitted activities — Agricultural and horticultural research activities

Definitions		
637.2	Livestock Improvement Corporation	Retain the definition of "Agricultural and horticultural research activities" in Chapter 13 Definitions as notified.
637.3	Livestock Improvement Corporation	Retain the definition of "Agricultural Research Centres" in Chapter 13 Definitions, as notified.
637.4	Livestock Improvement Corporation	Retain the definition of "Campus" in Chapter 13 Definitions, as notified.
639.2	Dairy NZ Incorporated	Retain the definition of "Agricultural and horticultural research activities" in Chapter 13 Definitions as notified.
639.3	Dairy NZ Incorporated	Retain the definition of "Agricultural Research Centres" in Chapter 13 Definitions as notified.
639.4	Dairy NZ Incorporated	Retain the definition of "Campus" in Chapter 13 Definitions as notified.
707.4	Soil & Health Association of New Zealand (S&H) on behalf of	Amend the definition of Agricultural and Horticulture Research Facilities, in Chapter 13-Definitions, to include the following: <u>...Commercial application of such activities For the avoidance of doubt, this definition does not include veterinary vaccines that use Genetically Modified Organisms, or any activities that involve Field Trials, or Release of Genetically Modified Organisms.</u>
<i>FSI 387.789</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 707.4</i>
<i>FSI 342.194</i>	<i>Federated Farmers</i>	<i>Oppose submission 707.4</i>
466.52	Brendan Balle for Balle Bros Group Limited	Retain the definition for "Agricultural and horticultural research activities" in Chapter 13 Definitions as notified.
695.56	Sharp Planning Solutions Ltd	Retain the definition for "Agricultural and horticultural research activities" in Chapter 13 Definitions which no longer contains references to "Genetic Engineering".
<i>FSI 342.259</i>	<i>Federated Farmers</i>	<i>Support submission 695.56</i>
<i>FSI 343.3</i>	<i>Bruce Cameron</i>	<i>Support submission 695.56</i>
<i>FSI 295.1</i>	<i>Life Sciences Network Incorporated</i>	<i>Support submission 695.56</i>
<i>FSI 212.1</i>	<i>David Stewart Bull</i>	<i>Support submission 695.56</i>
<i>FSI 192.1</i>	<i>J H & R Cotman</i>	<i>Support submission 695.56</i>
<i>FSI 276.74</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Oppose submission 695.56</i>
<i>FSI 225.1</i>	<i>BIOTech New Zealand</i>	<i>Support submission 695.56</i>
<i>FSI 214.1</i>	<i>Forest Owners Association</i>	<i>Support submission 695.56</i>
<i>FSI 320.1</i>	<i>Livestock Improvement Corporation</i>	<i>Support submission 695.56</i>

419.11	Horticulture New Zealand	Retain the definition of "Agricultural and horticultural research activities" in Chapter 13: Definitions, as notified.
680.126	Federated Farmers of New Zealand	Retain the definition of "Agricultural and horticultural research activities" in Chapter 13: Definitions.
697.371	Waikato District Council	Delete from Chapter 13: Definitions the definition for "Campus".

Analysis – Policy 5.3.16

405. Federated Farmers [680.72] support the retention of the proposed policy, while the Livestock Improvement Corporation [637.1] and Dairy NZ [639.1] seek that the policy be split, with the first clause (a) becoming an objective (with amendments) and the second clause (b) becoming an amended policy that includes specific reference to their existing campuses. No submissions challenge the need to provide for agricultural research centres or seek the deletion of the policy.
406. I do not consider that a separate objective is necessary. The policy framework includes a series of policies that address specifically-identified areas including Meremere Dragway, Huntly Power Station, and the Whaanga Coast Development Areas. These policies sit under the broader objectives regarding rural character and amenity, and the range of activities and facilities that occur and are anticipated in the rural environment.
407. The submitters have likewise sought that the policy include explicit reference to their corporate names. The term 'Agricultural Research Centres' is defined in the Proposed Plan as meaning "*the sites shown on the planning maps as the Livestock Improvement Corporation (LIC) Agricultural Research Centre and the Dairy NZ Agricultural Research Centre, which are subject to the Rural Zone rules in Specific Area 22.5*". Explicit reference to corporate names in the policy is not therefore necessary, as the facilities to which the policy applies are clearly identified through the use of a defined term and through the identification on the planning maps as an 'Agricultural Research Centre Specific Area'.
408. I note that the policy has an explicit focus on these specifically-identified existing facilities. As such, the policy does not provide direction to agricultural research activities generally. Future agricultural research activities undertaken elsewhere in the district are considered to find implicit policy support through Policy 5.3.2(a)(ii), that seeks to ensure that "productive rural activities are supported by appropriate rural industries and services", with research falling within the scope of 'services'. It is recommended as a consequential amendment that the definition of 'farming' be broadened to include reference to on-farm research activities to make such provision explicit. It is also recommended that a new restricted discretionary activity be added for agricultural and horticultural research facilities to enable their development, subject to a case-by-case assessment of their potential effects and as an anticipated activity in rural environments. Specific wording is set out in the section below that assesses submissions on the Rural Zone activity rules and the scope of activities permitted under 'farming'.
409. I agree that the policy wording could be strengthened so that it also provides for enablement and the ongoing development of these existing sites, given their importance to supporting productive rural activities.

Analysis - Definitions

410. There are three definitions that are relevant to this policy. 'Agricultural Research Centres' refer to the two existing facilities set out above. The 'Campus' definition directly refers to the use of that term in relation to these two existing facilities. 'Agricultural and horticultural

research activities' is a broader term that includes research activities more generally, as well as the activities that can take place within the identified centres.

411. Two submissions were received in support of the definition of 'Agricultural Research Centres', two submissions were received in support of the definition of 'campus', and six submissions were received in support of the definition of 'Agricultural and horticultural research activities'. The Soil and Health Association [707.4] seek that this latter definition be amended to make it explicit that it does not extend to the use of Genetically Modified Organisms. The management of GMOs is the subject of a separate hearing, and it is recommended that this separate hearing process determine where and how GMOs are to be used. It is therefore recommended that the definition of 'Agricultural and Horticultural Research Activities' not be amended as sought by the submitter.
412. The Livestock Improvement Corporation [637.4] and Dairy NZ [639.4] both submitted in support of the definition of 'campus', while Waikato District Council sought that the definition be deleted. 'Campus' is defined as meaning "*an area identified as a campus within an Agricultural Research Centre and shown on the planning maps*". The key implication of the defined term is that it defines the geographic area where the bespoke height and building coverage rules apply under Rules 22.5.4 and 55.5.5 respectively. These bespoke rules recognise that existing research facilities will have a different built form to the rural zone in general, therefore seeks to provide a 15m height limit and 70% site coverage 'within the campus identified on the planning maps'. The campus is identified to differentiate between the parts of the sites that have a concentration of buildings and the larger pastoral landholdings where field-based trials are undertaken.
413. I agree that whilst the term 'campus' at a generic level does not require definition, because it has a specific meaning regarding how the bespoke rule package works, there is merit in it remaining a defined term in the district plan. It is therefore recommended that the definition of campus be retained.

Analysis – Rules 22.5

414. The Proposed Plan provides a bespoke list of permitted activities that can occur within the Agricultural Research Centres identified on the planning maps. In effect, the rules operate as a stand-alone sub-zone. Seven activities are explicitly permitted in the centres, and are listed in Rules P1-P7. For activities that are not one of these seven, the general zone rules set out in section 22.1 apply.
415. The research centre rule framework is a little ambiguous in that it also includes DI for 'any activity that does not comply with P1-P7'. Rules P1-P7 are not structured to have activity-specific conditions, therefore it is unclear how an activity would not comply with P1-P7, given that if it was not one of these listed activities it would simply be subject to the generic Rural Zone rules. It is recommended that the rule table be restructured so that it has an activity-specific conditions format, which then makes it clear when Rule DI comes into play. The restructured rule is set out at the end of this section and also shows other amendments in response to submissions.
416. For activities permitted in P1-P7, the land use effects and land use building rules that apply to the Rural Zone in general also apply, with the exception of the height and site coverage rules, which are specific to these permitted activities.
417. Federated Farmers [680.248] seek that the rule package be retained, while A & C Gore [330.171-176] mention the rule package in their submission but do not seek any changes. Waikato District Council [697.842] seeks that the heading of clause 22.5.2 permitted activities be amended by deleting the reference to "Agricultural and Horticultural Research". I consider that this sub-heading serves a useful purpose as it helps to clarify that the following permitted rules are when the site is being used for agricultural research, as opposed to non-research activities which are instead subject to the generic zone rules. I

note that this approach to sub-headings is consistent with the Huntly Specific Area format. It is therefore recommended that the sub-heading be retained.

418. The Livestock Improvement Centre [637.8] and DairyNZ [639.8] seek a minor correction to the introduction to the rules under 22.5.2(a)(ii)(A) so that the correct building height rule number is referenced as being 22.5.34. I agree with this correction to numbering.
419. The Livestock Improvement Centre [637.15] and Dairy NZ [639.15] seek that Rule P6 be amended as follows: Disposal or storage of solid organic waste or cleanfill that is incidental to agricultural or horticultural research ~~where the extracted material is used on the Agricultural Research Centre site~~. I agree that the qualifying phrase is somewhat ambiguous. I consider that the key outcome the rule is seeking to permit is that the disposal or storage of waste is only permitted where the material has both originated on the site and is incidental to research activities, i.e. these centres are not to be used as waste processing sites where the waste is generated elsewhere in the district. In order to make this intent clear, it is recommended that P6 be amended as follows:

P6	<u>The on-site</u> disposal or storage of solid organic waste or cleanfill <u>where the material is generated on the site and is</u> incidental to agricultural or horticultural research where the extracted material is used on the Agricultural Research Centre site
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420. The Livestock Improvement Centre [637.16 and .17] and Dairy NZ [639.16 and .17] seek that the range of activities permitted be expanded to include commercial, laboratories, warehouse and storage, conference, social clubs, and cafés, where these are incidental to agricultural and horticultural research. Rule PI permits agricultural and horticultural research, with the definition of this term including ‘all activities associated with agricultural and horticultural research and innovation including, but not limited to:...’. I therefore consider that activities such as laboratories and ancillary staff support facilities are included within the primary definition. Activities such as warehousing and storage would likewise come within the scope of ‘industrial’, which is permitted under rule P3, and cafés, conference, and social clubs within ‘staff facilities’, which are permitted under P7. That said, clearly the two parties that operate the centres are seeking certainty that the range of facilities and activities that routinely form part of a research campus are permitted. It is therefore recommended that the permitted activity rules be expanded to provide greater direction regarding the range of activities anticipated.
421. The Ministry of Education [781.28] seeks that education activities that are not incidental to Rule P2 be a restricted discretionary activity rather than defaulting to fully discretionary under D1. The management of education activities in the Rural Zone more generally is considered later in this report, where I have recommended that primary and secondary schools be a restricted discretionary activity, and other types of education facility be fully discretionary. Given that the prospects of a primary or secondary school being established within the existing research campuses are remote, it is recommended that the notified rule framework be retained, with an associated discretionary activity status for education activities that are not related to agricultural research.
422. DairyNZ [639.16] and the Livestock Improvement Centre [637.16] have sought that P7 be amended to delete reference to requiring dwellings for staff purposes to be setback from the existing Inghams feed mill that is located adjacent to the campus (and is located within Hamilton City Council’s territorial boundary). The Ingham feed mill is a long-established facility, and the associated residential unit setback requirement likewise formed part of the Operative Plan rules for the campus (Clause 25C.4.1). Given the size of the campus which provides locational choice for future dwellings, combined with the provision of staff housing not being a core function of agricultural research i.e. a residential subdivision is not anticipated, it is recommended that the setback requirement be retained.

Recommendations and amendments

423. It is recommended that Policy 5.3.16 be amended as follows:

5.3.16 Policy – Specific Area – Agricultural research centres

- (a) ~~Recognise~~ **Enable** and protect the continued operation **and development** of **specifically identified** Agricultural Research Centres that are an integral part of the agricultural sector.
- (b) Provide for a range of rural activities and agricultural research activities that complement each other.

424. It is recommended that the definition of ‘Agricultural and Horticultural Research Activities’ be retained as notified.

425. It is recommended that the activity rules be amended as follows:

22.5.1 Application of Rules

- (a) The rules that apply to a permitted activity are set out in Rule 22.5.2.
- (b) For any other activity not provided in Rule 22.5.2, the following rules in the Rural Zone apply:
 - (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

22.5.2 Permitted Activities – Agricultural and Horticultural Research

- (a) The rules that apply to a permitted activity within the Agricultural Research Centres 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 for building within a campus:
 - A. Rule 22.3.4.1 Height – Building general will not apply and Rule 22.5.34 will apply instead; and
 - B. Rule 22.3.6 Building coverage will not apply and Rule 22.5.4 will apply instead.

Activity		Activity specific conditions
P1	An agricultural or horticultural research activity, including laboratories and administrative facilities	<u>Nil</u>
P2	An education facility, including conference and teaching facilities that is incidental to agricultural or horticultural research	(a) <u>that is incidental to agricultural or horticultural research</u>
P3	An industrial activity that is incidental to agricultural or horticultural research	(a) <u>that is incidental to agricultural or horticultural research</u>
P4	A trade or engineering workshop that is incidental to agricultural or horticultural research	(a) <u>that is incidental to agricultural or horticultural research</u>

P5	Intensive farming that is incidental to agricultural or horticultural research where an associated building and animal feedlot are located at least 200m inside any boundary of an Agricultural Research Centre site.	(a) <u>that is incidental to agricultural or horticultural research</u> (b) <u>where an associated building and animal feedlot are located at least 200m inside any boundary of an Agricultural Research Centre site.</u>
P6	The on-site disposal or storage of solid organic waste or cleanfill that is incidental to agricultural or horticultural research where the extracted material is used on the Agricultural Research Centre site.	(a) <u>that is incidental to agricultural or horticultural research</u> (b) <u>where the solid organic waste or cleanfill is generated on the site</u>
P7	A staff facility, including: that is incidental to agricultural or horticultural research that includes: (1) a dwelling located at least 200m from the site containing Inghams Feed Mill in Hamilton City Council's jurisdiction; (1) a recreational facility (2) <u>Staff dwellings</u> (3) <u>Cafeterias and cafés</u> (4) <u>Social clubs</u>	(a) <u>that is incidental to agricultural or horticultural research</u> (b) <u>Any dwelling is located at least 200m from the site containing Inghams Feed Mill under Hamilton City Council's jurisdiction</u>

Rural – Policy 5.3.17 – Specific area – Huntly Power station – coal and ash water – and associated Rule 22.6

Introduction

426. The Proposed Plan seeks to recognise the long-established Huntly Power Station and its associated facilities, that include a coal and ash water management area (and that is located in the Rural Zone). A bespoke policy and associated rule package is proposed so that the coal and ash water area in effect functions as a sub-zone that is tailored to the specific function and effects of this existing use.

Submissions

427. One submission and three further submissions were received in support of the policy. One submission was received seeking minor amendments. One submission was received seeking amendments to the rules, with nine submission points received from the same submitter that do not seek any specific changes.

Submission point	Submitter	Summary of submission
860.8	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.3.17 (b) Specific area - Huntly Power Station - Coal and ash water.
FS1334.5	Fulton Hogan Limited	Support submission 860.8
FS1292.5	McPherson Resources Limited	Support submission 860.8
FS1332.8	Winstone Aggregates	Support submission 860.8

924.15	Genesis Energy Limited	Amend Policy 5.3.17 (b)- Specific Area- Huntly Power Station- Coal and ash water as follows: (b) Provide for specific facilities that include the handling, <u>stockpiling</u> and haulage of coal and the disposal <u>management</u> of coal ash and associated water within identified areas in close proximity to Huntly Power Station.
Rule 22.6 – Specific Area – Huntly Power Station – Coal and Ash Water		
924.38	Genesis Energy Limited	Amend Section 22.6 Specific Area-Huntly Power Station-Coal and Ash Water to create a stand alone set of rules for the Huntly Power Station as set out in the submission.
330.177	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.6 Specific Area - Huntly Power Station- Coal and Ash Water.
330.178	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.6.1 Application of Rules.
330.179	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.6.2 Permitted Activities - Huntly Power Station.
330.180	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.6.3 Discretionary Activities - Huntly Power Station.
330.181	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.6.4 Building Setback and Location - Huntly Power Station.
330.182	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.6.5 Building Height.
330.183	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.6.6 Coal stockpile height, setback and coverage.
330.184	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.6.7 Ash disposal and transport of coal ash water.
330.185	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.6.8 Energy corridor - transportation of minerals and substances.

Analysis – Policy 5.3.17

428. Huntly Power Station is a long-established, large-scale piece of infrastructure that plays an important role in maintaining a consistent supply of electricity to New Zealand. Given that it is a coal-powered station, Huntly has a specific role in the electricity generation network of being able to contribute to baseload and ease spot-pricing peaks when alternative power generation sources are limited, for instance in dry years when there are constraints on the southern hydro lakes. Integral to the operation of the power station is the need for coal storage and handling areas, and ash water settling areas. Whilst the power station itself is not in the Rural Zone, the adjacent and integral coal handling and ash water facilities are within the Rural Zone.
429. The Proposed Plan seeks to recognise, protect, and provide for these power station-related functions through Policy 5.3.17. Only one submission was received seeking an amendment to this policy, from Genesis Energy [924.15] who are the power station operators. The submitter is generally supportive of the policy, but seeks that the policy be expanded to include reference to the stockpiling of coal, and the management (as opposed to just disposal) of ash water. The submitter notes that “*The ash ponds are not the final location for disposal of the ash. It is an ash management facility whereby the suspended solids (i.e. ash) are*

separated from the ash water. The ash water is returned to the Huntly Power Station and discharged via the cooling water outfall. The solid ash is reclaimed from the ponds, stockpiled (for drying) and then transported to an appropriate offsite disposal facility". In short, the treatment of ash water goes much further than simply 'disposal'. The amended wording sought by the submitter better communicates the range of activities that occur in these areas and that are integral to the ongoing operation of the power station. As such, it is recommended that the policy be amended in accordance with wording sought by the submitter, and as set out in the recommendations section below.

Analysis – Rule 22.6

430. As with the other specific area policies, the policy is given effect to through a bespoke set of rules that function as a sub-zone. Genesis Energy [924.38] have sought that the specific area be renamed as the 'Huntly Power Station: Coal and Ash Management Specific Area'. The key point being that the management of ash involves more than just ash water. It is recommended that the title be amended to reflect 'management', whilst keeping within the same naming format as the other specific areas.
431. Genesis Energy have sought that the rule package be restructured such that no cross-referencing is required. I agree that the introduction to the rules seems unduly repetitive and could be streamlined. It also includes some inaccurate number cross-referencing which adds to the apparent complexity. As such, it is recommended that cross-referencing be retained, albeit in a manner that is more streamlined and that more consistently aligns with the formatting used in the rule packages applying to other specific areas. Cross-referencing is however valuable in clearly setting out the rule framework that applies to this area should any activities other than coal and ash management occur. It likewise enables the Plan to be more succinct by including cross-reference to, rather than repetition of, the generic zone rules that continue to apply to the coal and ash-related permitted activities.
432. The Genesis submission likewise seeks that the range of activities associated with the management of ash water be explicitly included as a permitted activity. To this end, it is recommended that the rule package be restricted so that Rule 22.6.7 is relocated to sit at the start as part of the permitted activity table, and that the scope of the rule be expanded to incorporate the range of activities associated with ash water management. Given that Genesis did not seek any specific alternative wording, I am happy to consider any revised rule wording that might be provided in the submitter's evidence if the recommended changes do not properly capture the range of activities that are integral to ash water management.

Recommendations and amendments

433. Amend Policy 5.3.17 as follows:
- 5.3.17 Policy – Specific area – Huntly Power Station – Coal and ash management water**
- (a) Recognise and protect facilities that are integral to energy production at Huntly Power Station.
 - (b) Provide for specific facilities that include the handling stockpiling, and haulage of coal and the management disposal of coal ash water within identified areas in close proximity to Huntly Power Station.
434. Amend Rule 22.6 as follows:
- 22.6 Specific Area - Huntly Power Station - Coal and Ash Management Water**

22.6.1 Application of Rules

- (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 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

- (a) The rules that apply to a specific permitted activity within the Huntly Power Station: Coal and Ash ~~Water~~ Management 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.~~34~~ applies instead; and
 - B. Rule 22.3.4 Height does not apply and Rule 22.6.~~45~~ 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.~~87~~ Energy corridor – transportation of minerals and substances

PI	<p>(a) Coal related activities involving:</p> <ul style="list-style-type: none"> (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	<p>(a) <u>The management, stockpiling, and disposal of coal ash and the transport of coal ash water where:</u></p> <ul style="list-style-type: none"> (i) <u>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</u> (ii) <u>they involve the operation and maintenance of the ash disposal ponds located adjacent to Te Ohaaki Road within Specific Area 22.6.</u>

22.6.3 Restricted Discretionary Activities – Huntly Power Station

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

<u>RDI</u>	<p>(a) <u>The management, stockpiling, and disposal of coal ash and the transport of coal ash water that does not comply with Rule 22.6.7 PI.</u></p> <p>(b) <u>Council’s discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none"> (i) <u>visual amenity; and</u> (ii) <u>traffic effects.</u>
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22.6.3 Discretionary Activities – Huntly Power Station

(a) The activities listed below are discretionary activities.

DI	Any <u>coal-related</u> activity that does not comply with Rule 22.6.2 PI.
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22.6.4 Building Setback and Location – Huntly Power Station

PI	<p>(a) A building must be:</p> <ul style="list-style-type: none"> (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.
DI	A building that does not comply with Rule 22.6.4 PI.

22.6.5 Building height

PI	<p>(a) A building must not exceed a height of:</p> <ul style="list-style-type: none"> (i) 30m within an area of up to 1500m²; and (ii) 20m for the balance of Specific Area 22.6.
DI	A building that does not comply with Rule 22.6.5 PI.

22.6.6 Coal stockpile height, setback and coverage

PI	<p>(a) Coal stockpiles must:</p> <ul style="list-style-type: none"> (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.
RDI	<p>(a) Coal stockpiles that do not comply with Rule 22.6.6 PI.</p> <p>(b) Council’s discretion is restricted to the following matter:</p> <ul style="list-style-type: none"> (i) visual amenity

Ash disposal and transport of coal ash water

PI	(b) The disposal of coal ash and the transport of coal ash water where: (iii) 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 (iv) they involve the operation and maintenance of the ash disposal ponds located adjacent to Te Ohaaki Road within Specific Area 22.6.
RDI	(a) The disposal of coal ash and the transport of coal ash water that does not comply with Rule 22.6.7 PI. (b) Council's discretion is restricted to the following matters: (i) visual amenity; and (ii) traffic effects.

22.6.78 Energy corridor - transportation of minerals and substances

PI	(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.
RDI	(a) Any activity that does not comply with Rule 22.6.8 PI. (b) Council's discretion is restricted to the following matter: (i) adverse amenity effects.

Rules 22.1.1 – 22.1.6 – Permitted to Prohibited Activities

Introduction

314. The Proposed Plan rule frameworks are 'activities-based', and as such are structured with lists of activities that are commonly found in Rural Zones, with an activity status allocated to each activity. This way of structuring a district plan is also in accordance with the activities-based direction contained in the National Planning Standards. Activities that are anticipated within the zone are typically permitted, either without conditions, or alternatively subject to meeting various 'activity-specific conditions' which limit the scale and intensity of the activities. Where an activity-specific condition is not met, the activity generally moves to become a restricted discretionary activity, which means that a resource consent is required, where the effects can be assessed. Some activities are not permitted at any scale, but instead will always require a resource consent to enable their effects to be assessed. Such activities typically have a discretionary activity status. Activities that are not contemplated in the Rural Zone have a non-complying status.

Submissions

315. A significant number of submissions were received on the activity tables. In general, these submissions sought either that additional activities be added to the lists so that their consent status is clear, or that the activity-specific conditions be amended, or that the activity status of an activity be changed. In general submitters sought that the rules become more enabling/less restrictive, however there are a number of submissions that also seek that the rules be made less enabling, especially where the activities either pose a reverse sensitivity threat to

existing industries, or where the activity would threaten the strategic objectives of managing urban growth through consolidation around existing townships.

316. As the Proposed Plan has an activities-based structure, the definitions of various activities become critical to determining whether or not any given proposal requires consent. There are therefore a number of submissions on the definitions of various activities, with submitters seeking to clarify the terms (or add new terms) to ensure that the activity status, and whether or not a consent is required, is clear.
317. The below analysis of the activities rules is structured such that I first consider generic submissions for each activity status, e.g. permitted or discretionary rules. I then consider each activity in turn, in the order in which they appear in the Proposed Plan. I conclude by considering submissions seeking the inclusion of new activities that were not listed in the Proposed Plan. The exception to this structuring is for site-specific activities such as Meremere Dragway, Huntly Power Station coal and ash management facilities, and agricultural research facilities, which are discussed separately in this report and where the provisions for these specific sites are assessed as a package.
318. Because the definition of an activity is integral to understanding what may or may not be permitted, I also consider submissions on the definitions. It is noted that one of the first hearings held was on definitions, with a particular focus on terms that occur across zones. The definitions of a number of terms for generic matters such as 'site' or 'heritage item' have therefore already been considered. Where a term was mostly or only used in a single zone, consideration of the definition of that term was deferred to the relevant zone hearing. The Rural Zone has a wide range of activities that generally only occur in rural areas, as such there are a number of activity-based definitions that need to be considered as part of the Rural Zone rule framework.

Overview

319. The Proposed Plan is structured as an 'activities-based' format, whereby various activities are listed, and their status stated (either permitted (often subject to meeting conditions), or allocated to one of the various statutory consent activity categories). The policy approach to how various activities are managed has an important bearing on the activity status rules, as these are a key method by which the policies are implemented. Before assessing the wide range of submissions on the activity tables, it is worth summarising the various statutory activity categories, as this sets the scene for the subsequent assessment.
320. **Permitted Activity** – where a building and/or activity meets all of the relevant plan provisions for a site, no resource consent is required. Such activities are often subject to 'activity-specific conditions', which limit their scale and intensity to levels where permitted activity status is appropriate and no site-specific assessment through a resource consent process is necessary. At a policy level, such activities are generally anticipated or 'enabled'.
321. **Controlled Activity** – generally where an activity is appropriate but requires assessment of a specified matter, e.g. building colour or the provision of erosion and sediment control during earthworks. Controlled activities cannot be declined, although conditions can be imposed on any consent. It is noted that the proposed Rural Zone activity rules do not contain any controlled activities.
322. **Restricted Discretionary Activity** – As with controlled activities, restricted discretionary activities are generally anticipated as being appropriate in the zone, subject to site-specific assessment of the matters to which Council has restricted its discretion. This activity status also generally applies to permitted activities that exceed an activity-specific condition and where that condition has a narrow focus. At a policy level such activities are typically sought to be 'managed'. Applications for restricted discretionary activities are able to be declined, and can be subject to conditions if granted, e.g. a requirement to limit the hours of operation of a rural commercial activity to manage neighbour amenity.

323. **Discretionary Activity** – This activity status is typically applied to activities where there is a wide range of potential effects. It is common for zone rule frameworks to have a discretionary status for any activity that is not otherwise specified, i.e. if you wish to undertake an activity that is not specifically listed, then discretionary is the default consent status. As the name suggests, the Council has the discretion to consider all aspects of a proposal. Discretionary status typically applies to activities that at a policy level are to be ‘managed’, and where there is a wide spectrum in the scale or nature of the activity and its associated effects. The Proposed Plan sets a discretionary activity status for any activities that would otherwise be permitted but do not meet the associated activity-specific conditions.
324. **Non-complying Activity** – This activity status is typically applied to activities that the Plan’s policy framework seeks to avoid or limit, for instance industrial activities in residential zones. Council is able to consider all potential environmental effects, and there are also likely to be significant policy hurdles to overcome in order for a consent application to be successful.
325. **Prohibited Activity** – It is unusual for activities to be prohibited, with many district plans not having any, or very few, prohibited activities. Prohibited activity status means that you cannot apply for a resource consent, so there is no pathway for demonstrating that the site-specific effects are able to be managed. Prohibited status is therefore used sparingly, for example in situations where there is a significant and proven natural hazard risk, risk to the safe functioning of critical infrastructure, or nationally-significant heritage or cultural values that need to be protected.

Prohibited Activities – 22.1.1

326. The proposed plan only has a single prohibited activity in the Rural Zone land use rules, which is buildings that obstruct the line of sight to the Raglan harbour navigation beacons. The related rural subdivision rule prohibits any subdivision that creates an additional lot (Rule 22.4.1.1 (PRI)). Two submissions were received on the prohibited activity rule, from the Future Proof Implementation Committee [606.16], and Hamilton City Council [535.70] seeking that non-rural activities located within the Hamilton Urban Expansion Area (‘UEA’) be prohibited.

Rule 22.1.1 – Prohibited Activities		
330.63	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.1.1 Prohibited Activities.
<i>FS1386.440</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 330.63</i>
606.16	Future Proof Implementation Committee	Amend Rule 22.1 Land Use - Activities, by changing the activity status for non-rural activities in the Urban Expansion Area to prohibited.
<i>FS1131.6</i>	<i>The Village Church Trust</i>	<i>Oppose submission 606.16</i>
<i>FS1157.11</i>	<i>Gordon Downey</i>	<i>Support submission 606.16</i>
<i>FS1223.122</i>	<i>Mercury NZ Limited</i>	<i>Support submission 606.16</i>
<i>FS1171.106</i>	<i>T&G Global</i>	<i>Oppose submission 606.16</i>
535.70	Hamilton City Council	Amend Rule 22.1 Land Use - Activities, by changing the activity status for non-rural activities in the Urban Expansion Area to prohibited.

746.79	The Surveying Company	Amend Section 22.3 Land use - Building to clarify what buildings are permitted and how this relates to the activities in Rule 22.1- Land Use- Activities. This is to avoid any confusion, particularly in regards to Section 9 of the Resource Management Act.
FS1387.952	Mercury NZ Limited for Mercury D	Oppose submission 746.79

Analysis

327. Objective 5.5.1 and associated Policy 5.5.2 relating to Hamilton's UEA were considered in the s42A report on Strategic Directions. No changes were recommended to the objective which seeks to 'protect land within Hamilton's Urban Expansion Area for future urban development'. It was however recommended that Policy 5.5.2 be amended as follows: '~~manage~~ avoid subdivision, use and development within Hamilton's Urban Expansion Area to ensure future urban development is not compromised'. The change in emphasis from being one of management to one of avoiding development was recommended so that the policy might better implement the objective of 'protecting' land for future urban development. The use of the term 'avoid' at a policy level likewise provides a framework for the rules that then implement the policy, such that activities that are to be avoided would generally have a non-complying activity status, and in extreme cases a prohibited status. The recommended policy wording certainly aligns with the subdivision Rule 22.4.1.1 (PR1) as notified, which prohibits any subdivision within the UEA involving the creation of any additional lots. Submissions on the subdivision rule are assessed in the related s42A report by Ms Overwater.
328. Whilst decisions are yet to be released, I agree with the recommendation set out in the Strategic Directions report that an 'avoid' policy better achieves the intent of the UEA than a 'manage' policy. The below consideration of the land use rules is made on the basis that an 'avoid' approach is supported by the Panel.
329. As well as being considered in the Strategic Directions hearing, the role of the UEA and associated rules was also considered in the Country Living Zone hearing, as a small area of Country Living Zone is located within the UEA. The s42A closing statement (the officer response following the hearing) contains a helpful comparison between the Operative Plan provisions relating to the UEA and the provisions recommended for the Country Living Zone. The Country Living recommendations included a shift from prohibited to non-complying for subdivision. Ms Overwater addresses subdivision in the Rural Zone, and has likewise recommended a non-complying activity status based on the limited number of additional lots that could be created under the recommended subdivision rules and associated minimum site size requirements.
330. The key outcome sought in the UEA is to ensure that the orderly expansion of Hamilton is not frustrated or prevented by ad hoc development, or by the fragmentation of larger blocks into multiple lots with different ownership. This purpose is clearly signalled at a policy level, with the objective being to 'protect' this potential. The policy, as recommended by the Strategic Directions report, is to achieve this protection through avoiding subdivision and development in order to ensure that future urban development is not compromised. The rules are tools to implement this policy direction. As a framework, activities within the UEA that have no or limited potential to compromise urban development are therefore able to be permitted (or restricted discretionary where they may have localised effects), and conversely activities that threaten orderly urban growth should be non-complying (or prohibited, as sought by the submitters).
331. The rule framework recommended below permits rural activities and activities that would not prejudice urban growth within the UEA. There is a series of non-agricultural activities that are still anticipated in the rural environment, but that would also have the potential to frustrate orderly urban growth. These activities are recommended to be generally restricted

discretionary in the rural area, and are recommended to be non-complying where they locate within the UEA. Commercial and Industrial activities that have no functional need to locate in the Rural Zone are likewise non-complying across the zone as a whole (including within the UEA). An exception is community facilities and schools, which are recommended to be discretionary where they locate within the UEA. Such activities are normal, anticipated elements in residential suburban environments, therefore do not frustrate or prevent urban growth or the future development of housing in close proximity. The siting of buildings can limit the alignment options for future roads or pipelines, however the scale of community facilities tends to be modest, and combined with the prevention of further subdivision, means that they are located on reasonably large blocks of land where there should be options for locating future infrastructure clear of buildings.

332. Non-complying activity status carries with it the need for resource consents to be assessed under s104D RMA. This section provides a two-step test, whereby a consent needs to either have adverse effects that are 'no more than minor', OR the proposal needs to 'not be contrary to' the plan policies. A resource consent must pass one of these two tests in order to then be considered further, and likewise if neither test is passed, then the application must be declined. The proposed policy wording presents a high threshold, whereby any application must be able to demonstrate that it will both protect future development potential and will avoid that potential being compromised. If it cannot demonstrate such an outcome, then the policy test will not be met. It is likewise likely in such a circumstance that the effects of the activity would be 'more than minor', which is a low threshold. Non-complying activity status is not therefore an easy pathway for applicants. It does, however, provide the option of applying for a consent where site-specific matters are able to be considered, and provides the applicant with the ability to design their activity in such a way that it does not prejudice orderly urban growth. Prohibited activity status means that the pathway simply does not exist, and no applications are possible to demonstrate site-specific acceptability.
333. On balance, I consider that non-complying activity status for the majority of non-rural activities is appropriate, especially when combined with clear policy direction and the limited number of additional lots that could be created through further subdivision under the subdivision rules recommended by Ms Overwater.

Recommendations and amendments

334. The relevant non-complying rules are set out below in the assessment of the non-complying rule table, and are also discussed with individual activities. It is recommended that no new prohibited activities be added to the district plan, therefore no amendments are proposed to Rule 22.1.1.

Permitted Activities – 22.1.2 – General submissions

335. Eight submissions were received on the permitted activity table as a whole. Two were in support, one did not seek any changes, three sought clarification regarding ancillary activities, and two sought minor corrections to the introduction to the permitted rule table.

Rule 22.1.2 – Permitted Activities		
452.1	R Mitchell	No specific decision sought, but the submitter opposes Rule 22.1.2 Permitted Activities, and any change or restriction for their old historic title.
FS1388.322	Mercury NZ Limited	Oppose submission 452.1

780.43	John Lawson (Whaingaroa Environmental Defence Incorporation on behalf of Whaingaroa Environmental Defence Incorporated Society)	Retain Rule 22.1.2 Permitted Activities as notified.
<i>FS1387.1206</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 780.43</i>
825.43	John Lawson	Retain Rule 22.1.2 Permitted Activities
<i>FS1387.1328</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 825.43</i>
697.742	Waikato District Council	Amend Rule 22.1.2 Permitted Activities, as follows: (a) <u>Activity-specific conditions;</u> (a)(b) Land Use – Effects rules in Rule 22.2 (unless the activity rule and/or activity-specific conditions identify a condition(s) that does not apply); (b)(c) Land Use – Building rules in Rule 22.3 (unless the activity rule and/or activity-specific conditions identify a condition(s) that does not apply); (c) <u>Activity-specific conditions.</u>
<i>FS1387.665</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 697.742</i>
676.15	T&G Global Limited	Amend Chapter 22 Rural Zone to clarify that the activities listed as Permitted Activities within Rule 22.1.2 Permitted Activities include activities ancillary to those specifically provided for. AND Any further or consequential amendments necessary to address the concerns raised in the submission.
<i>FS1387.147</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 676.15</i>
877.16	Leigh Michael Shaw & Bradley John Hall	Amend Rule 22.3 Land Use - Building to provide clarification around what buildings are permitted and how this relates to the activities in Rule 22.1 Land Use - Activities.
<i>FS1387.1460</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 877.16</i>
697.741	Waikato District Council	Amend Rule 22(2) Rural Zone, as follows: The rules that apply to subdivision in the Rural Zone are contained in Rule 22.4 <u>and the relevant rules in 14 Infrastructure and Energy and 15 Natural Hazards and Climate Change (Placeholder).</u>
<i>FS1387.664</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 697.741</i>

Analysis

336. T&G Global [676.15], The Surveying Company [746.79], and L Shaw and B Hall [877.16] have sought clarification that the permitted activities also include activities that are ancillary, and the building used by the activity. A typical example might be an on-site office, workshop, or staffroom that is ancillary to the farming business. This submission is related to the overall structure of the Proposed Plan. The rules (across all zones) are structured as lists of activities. It is implicit that the permitted status of the activity also extends to include the building that activity is located within, and ancillary activities that are an incidental element in the wider activity. In my experience, most activities-based district plans include a statement either in a 'how to use the Plan' section at the start of the Plan, or as an introduction to the definitions list, that clarifies that activities listed in the rules and definitions include the

buildings they are located within and incidental ancillary activities. This is a cross-chapter issue, as it will be common to the interpretation of the activities lists in all zones. It is assumed that such clarification will be provided and applied to the plan as a whole, as the alternative is to have to include a repetitive ‘including buildings containing the activity and ancillary activities’ clause with every definition or permitted activity rule.

337. In the absence of any such direction in the Proposed Plan as notified I have recommended some possible wording be added to the start of the definitions chapter, being mindful that the final phrasing will need to be tested across the various chapters to ensure it is suitable as a ‘whole of Plan’ direction
338. Waikato District Council [697.742 and 697.741] sought some minor changes to the introductory statement at the start of both the Chapter as a whole and the permitted activity rule to better clarify how the permitted rules work and to increase the emphasis on the need to meet the Activity-Specific Conditions in order to be permitted. I do not agree with the amendments to the start of the Chapter as the direction as notified seems quite clear to me. I do agree with the proposed text amendments to the start of the permitted activity rule as they improve understanding of how the rule is intended to work.

Recommendation

339. It is recommended that the following statement be included at the start of the Definitions Chapter, subject to further testing and consideration as to its appropriateness as a ‘whole of Plan’ direction:

Where a word or phrase is defined in this chapter, its definition includes any variations of the word or phrase that are plural or vice versa.

Where the defined word is an activity, unless otherwise stated in the rules, the activity includes the building the activity occurs within and any ancillary activities that are integral to the day-to-day operation of the defined term.

340. It is recommended that the introduction to Rule 22.1.2 be amended as follows:

Rule 22.1.2 Permitted Activities

(I) The following activities are permitted activities if they meet all of the following:

(a) Activity-specific conditions;

~~(a)(b)~~ Land Use – Effects rules in Rule 22.2 (unless the activity rule and/or ~~activity-specific~~ conditions identify a condition(s) that does not apply);

~~(b)(c)~~ Land Use – Building rules in Rule 22.3 (unless the activity rule and/or ~~activity-specific~~ conditions identify a condition(s) that does not apply);

~~(c) Activity-specific conditions.~~

Rule P1 – Marae and Papakainga Housing and P3 Cultural events on Marae

341. Submissions on P1 and P3 were considered in the separate hearing on Tangata Whenua matters.

Temporary events - Policy 5.3.10 and Rule P2

Introduction

342. The Proposed Plan seeks to enable temporary events in the rural area, subject to limitations on their timing, duration, and noise.

Submissions

343. One submission was received seeking that the policy be retained. One submission was in support of the permitted rule for temporary activities, and two sought amendments to the conditions.

Submission point	Submitter	Summary of submission
367.6	Liam McGrath for Mercer Residents and Ratepayers Committee	Retain Policy 5.3.10 Temporary events.
Rule 22.1.2 – Permitted activities		
877.12	Leigh Michael Shaw & Bradley John Hall	Amend Rule 22.1.2 P2 (a) Permitted Activities to increase temporary event occurrences from three to six times per year.
<i>FSI 306.62</i>	<i>Hynds Foundation</i>	<i>Support submission 877.12</i>
<i>FSI 308.158</i>	<i>The Surveying Company</i>	<i>Support submission 877.12</i>
<i>FSI 168.67</i>	<i>Horticulture New Zealand</i>	<i>Support submission 877.12</i>
<i>FSI 387.1456</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 877.12</i>
746.66	The Surveying Company	Amend Rule 22.1.2 P2 - Permitted Activities to increase event occurrences to 6 times per year.
<i>FSI 387.940</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 746.66</i>
<i>FSI 306.45</i>	<i>Hynds Foundation</i>	<i>Support submission 746.66</i>
<i>FSI 168.66</i>	<i>Horticulture New Zealand</i>	<i>Support submission 746.66</i>
742.222	Mike Wood for New Zealand Transport Agency	Retain Rule 22.1.2 P2 Permitted Activities as notified.
<i>FSI 387.895</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 742.222</i>

Analysis – Policy 5.3.10

344. The proposed policy on temporary events attracted very little interest from submitters, with no amendments or opposition to the policy being sought. The Policy is therefore recommended to be retained as notified:

5.3.10 Policy – Temporary events

- (a) Enable temporary events and associated structures, provided any adverse effects on the rural environment are managed by:
 - (i) limiting the timing, and duration of any temporary event;
 - (ii) ensuring noise generated by the temporary events meets the permitted noise limits for the zone.

Analysis – Rule P2

345. NZTA [742.22] supported the rule and sought its retention. It is noted that clause (f) of the activity-specific conditions requires that temporary events do not have any direct site access from a national route or regional arterial road.
346. The Surveying Company [746.67] and LM Shaw & BJ Hall [877.12] both sought that clause (a) of the activity-specific conditions be amended to increase from 3 to 6 the number of times an event can occur in a consecutive 12 month period. No other amendments were sought to the activity-specific conditions.
347. As noted above, the related policy on temporary events received few submissions, with no concerns being raised regarding the Proposed Plan direction to enable temporary events as part of the suite of activities anticipated in rural environments. The related P2 rule permits temporary events, subject to the event meeting six activity-specific conditions. These conditions limit the number of events per year, the duration of the events (72 hours), the opening hours (daytime), the number of days that temporary structures can be in place, a requirement for site rehabilitation, and site access not being from arterial roads. The suite of conditions seek to balance the desire to enable events against the need to set appropriate thresholds above which potential effects need to be assessed through a consent process.
348. Given the suite of conditions that in particular limit event duration and opening hours to daytime only, plus events needing to still comply with other rules controlling matters such as noise and light spill, I consider that increasing the number of permitted events from 3 to 6 in any 12 month period is not unreasonable, and does not pose an unacceptable risk to the amenity of neighbouring properties, whilst concurrently providing more flexibility to event organisers to stage a small increased number of events. The recommended limit of 6 events per year still means that there will be long periods of time between events and that as such the disturbance generated by such events will remain infrequent.

Recommendations and amendments

349. It is recommended that Policy 5.3.10 be accepted without amendment:
350. It is therefore recommended that P2, Clause (a) be amended as follows:
- (a) The event occurs no more than ~~3~~ **6** times per consecutive 12 month period;

Home occupations - Policy 5.3.11 and Rule P4

Introduction

351. The Proposed Plan seeks to support home occupations in the Rural Zone, provided such activities are at a scale that is in keeping with the anticipated rural character and amenity. The proposed zone provisions provide for home occupations under Rule 22.1.2 (P4), subject to five activity-specific conditions that limit the scale and nature of the activity. In the event that any of these triggers are exceeded, a resource consent is then required as a discretionary activity under Rule 22.1.5 (D1). Only a handful of submissions were received on the related rule, and these are discussed below as part of the wider assessment of the activity-based rule framework.

Submissions

352. Two submissions were received seeking minor amendment amendments to the policy. One submission was received in support of the rule and four submissions seek minor amendments.

Submission point	Submitter	Summary of submission
499.4	Adrian Morton	Amend Policy 5.3.11 to include "promote". AND Amend the Proposed District Plan to remove the requirement for resource consent for home occupations; OR Amend the Proposed District Plan to make it easier and cheaper to obtain permission for a home office.
<i>FSI388.504</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 499.4</i>
757.4	Karen White	Amend Policy 5.3.11 (a) Home occupations to include "promote" and make it easier for people working from home.
Rule 22.1.2 – Permitted Activities		
680.177	Federated Farmers of New Zealand	Retain Rule 22.1.2 P4 A home occupation, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FSI387.193</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 680.177</i>
988.1	Graham McBride	Amend Rule 22.1.2 P4 Permitted Activities - A home occupation, by adding a rigid maximum coverage limitation for home occupation structures.
<i>FSI387.1634</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 988.1</i>
697.743	Waikato District Council	Amend Rule 22.1.2 P4 A home occupation, as follows: ... (d) Unloading and loading of vehicles and/or the receiving of customers or of deliveries only occur after 7:30am and before 7:00pm on any day; (e) Machinery may can only be operated after 7:30am and up to 9 7pm on any day.
<i>FSI387.666</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 697.743</i>
746.67	The Surveying Company	Amend Rule 22.1.2 P4 (b)- Permitted Activities to allow for the storage of materials and machinery outside provided that they are fully screened (not visible) from places off site, including roads and highways.
<i>FSI387.941</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 746.67</i>
<i>FSI306.46</i>	<i>Hynds Foundation</i>	<i>Support submission 746.67</i>
877.13	Leigh Michael Shaw & Bradley John Hall	Amend Rule 22.1.2 P4 (b) Permitted Activities to allow for the storage of materials and machinery outside provided that they are fully screened (not visible) from places off site (including roads and highways).
<i>FSI387.1457</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 877.13</i>
<i>FSI306.63</i>	<i>Hynds Foundation</i>	<i>Support submission 877.13</i>
<i>FSI308.159</i>	<i>The Surveying Company</i>	<i>Support submission 877.13</i>

Analysis – Policy 5.3.11

353. As with the policy on temporary events, the policy on home occupations attracted few submissions. Farming itself is in some respects a ‘home occupation’, in the sense that many farmers and their workers live on the property where they are employed. The policy and associated rules are focused more on non-rural occupations or small businesses that are run from home. The policy and rule approach seeks to balance the wider urban growth direction of the Proposed Plan, whereby non-rural industrial or commercial activities are located within urban zones, and the need to appropriately recognise that very small-scale activities can be run from home without threatening rural character, amenity, or these wider growth management objectives. The rule package therefore provides for home occupations, subject to limits on matters such as floor area and the number of employees who live off-site. The rule thresholds are discussed in more detail below as to exactly where these limits appropriately sit, however the broad direction of the Proposed Plan is to enable such activities, provided their scale and intensity is low.
354. The policy currently seeks to ‘support’ home occupations, whilst the two submissions seek that it be to ‘promote’. It is recommended that it be ‘enabled’, which is a more consistent terminology used across the Proposed Plan policy framework for activities that the Proposed Plan anticipates as being appropriate in any given zone.
355. The policy direction discussed above for home occupations (Policy 5.3.11) is to provide for people to work from their homes, provided the scale of the non-residential activity is consistent with maintaining rural character and amenity values. The policy likewise sits within a wider strategic framework of directing activities with an urban scale and nature into the district’s townships.

Analysis – Rule P4

356. Submissions on this term were considered as part of Hearing 5. The recommendation from this earlier hearing was that the NPS term of ‘home business’ be adopted as follows:
- Means a commercial activity that is:*
- (a) *undertake or operated by at least one resident of the site; and*
- (b) *Incidental to the use of the site for a residential activity.*
357. This is a cross-chapter issue, as home occupations (or businesses) are provided for in a number of other zones. The final wording (and definition) used in the Plan will therefore need to match the outcomes anticipated in a number of zones, for instance by including the ban on car wrecking and panel beating that is currently in the definition as an activity specific condition. I have used the NPS term in the recommended wording below.
358. The proposed Rule P4 enables home occupations as a permitted activity, provided the activity meets five activity-specific conditions that require it to occur wholly within a building, no more than two non-resident employees are on-site at any one time, and limits the timing of vehicle visits and machinery operation.
359. Five submissions were received on Rule P4. Federated Farmers [680.177] supported the rule and sought its retention. Graham McBride [988.1] sought that a site coverage limit be added to the activity-specific conditions to better control the scale of home businesses, while The Surveying Company [746.67] and L Shaw & B Hall [877.13] sought that clause (b) be amended to allow for the outdoor storage of material and machinery, provided such storage areas are screened from neighbours and roads. Waikato District Council [697.743] sought some minor amendments to the hours of operation under clause (d) to 7am-7pm.

360. There are no submissions opposing the rule or seeking that home businesses have a more restrictive activity status.
361. Many home businesses, especially in rural environments, have the potential to involve the need to store equipment or machinery. The scale and nature of such storage does, however, need to be managed to ensure that rural character and amenity are able to be maintained, and to ensure that the wider strategic objectives regarding urban growth management are not undermined. It is recommended that outdoor storage be permitted up to 100m² in area, and where not visible from neighbouring properties or roads.
362. I note that there is no overall limit on the area of the site (within buildings) that can be used for the home occupation. The lack of such limits does have the potential to enable quite large non-rural businesses to operate in the rural area, provided they have relatively few employees. Whilst there are no submissions directly seeking such a limit, the absence of a limit does have the potential to undermine the strategic urban growth management direction of the plan and the outcome sought by submitters seeking a consolidated urban form. If the Panel is comfortable that sufficient submission scope exists, it is also recommended that an overall limit of no more than 200m² of the site be used by the home occupation (within buildings and outdoor storage) to ensure that in accordance with the definition the home business is 'incidental' in the context of the use of the wider site for residential or farming activities. Whilst there is an element of arbitrariness about the recommended number, it is considered reasonable for sufficiently enabling the use of a large room within the house, a modest covered workshop or storage building and an outdoor yard area. Where any of the activity-specific conditions are exceeded, the potential effects can be considered through a resource consent process as a discretionary activity under Rule 22.1.5 (DI).
363. Waikato District Council's submission sought to enable visits and deliveries, and the operation of machinery, to occur a little earlier in the day (7am rather than 7:30), and that conversely the hours when machinery can be operated reduces from 9pm to 7pm. It is important to emphasise that these operating hours are for non-rural businesses and do not relate to farming activities or machinery being operated as a normal part of rural activities. It is recommended that the amendments be accepted as better achieving the balance between enabling home occupations and maintaining rural character and amenity, as well as providing a reasonable limit on the scale of the non-rural activities by limiting noise-generating activities and associated vehicle disturbance it to occurring during normal day-time operating hours.

Recommendations and amendments

364. It is recommended that Policy 5.3.11 be amended as follows:

5.3.11 Policy – Home ~~occupations~~ businesses

(a) ~~support enable any~~ home ~~occupation~~ businesses to ~~enable provide~~ flexibility for people to work from their homes, provided that it is of a scale that is consistent with the character and amenity of the rural environment.

365. It is recommended that P4, activity-specific conditions, be amended as follows:

P4	<p>A home occupation</p> <p><u>Home business</u></p>	<p>(a) It is wholly contained within a building;</p> <p>(b) The storage of materials or machinery associated with the home occupation is <u>either wholly contained within a building, or where outside occupies no more than 100m² of site area and is located where it is not visible from other sites or public roads;</u></p>
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		<p>(c) No more than 2 people who are not permanent residents of the site are employed at any one time;</p> <p>(d) Unloading and loading of vehicles or the receiving of customers or deliveries only occur after 7:30am and before 7:00pm on any day;</p> <p>(e) Machinery may <u>can</u> be operated after 7:30am and up to 9pm <u>7:00pm</u> on any day;</p> <p>(f) <u>The home occupation shall not occupy more than 200m² in total within buildings and outdoor storage areas.</u></p>
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P6 Afforestation and P8 Forestry

366. Two submissions are in support of the permitted activity rule for forestry, and five seek amendments. Three submissions seek amendments to the related fully discretionary rule.

Rule 22.1.2 – Permitted Activities		
341.3	Tainui Group Holdings Limited	Retain Rule 22.1.2 P6 Permitted Activities for Afforestation not in an Outstanding Landscape Area.
341.15	Tainui Group Holdings Limited	Retain Rule 22.1.2 P8 Permitted activities for Forestry.
680.178	Federated Farmers of New Zealand	<p>Amend the activity specific conditions for Rule 22.1.2 P6 Afforestation not in an Outstanding Landscape Area, as follows:</p> <p>Activity specific conditions: Nil <u>(a) In accordance with Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
<i>FSI 387.194</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 680.178I</i>
680.180	Federated Farmers of New Zealand	<p>Amend the activity specific conditions for Rule 22.1.2 P8 Forestry, as follows:</p> <p>Activity-specific conditions:</p> <p>Nil <u>(a) In accordance with Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>

986.125	KiwiRail Holdings Limited (KiwiRail)	<p>Amend Rule 22.1.2 P6 Permitted activities as follows (or similar amendments to achieve the requested relief):</p> <p>P6 Afforestation not in an Outstanding Landscape Area Activity specific conditions:</p> <p>Nil <u>Forestry replanting is setback a minimum of 10m from the rail corridor boundary if it occurs within 5 years after harvesting.</u></p> <p>AND</p> <p>Amend Rule 22.1.2 P8 Permitted activities as follows (or similar amendments to achieve the requested relief):</p> <p>P8 Forestry Activity specific conditions:</p> <p>Nil <u>All planting is set back a minimum of 10m from any railway corridor</u></p> <p>AND</p> <p>Add a new restricted discretionary activity to Rule 22.1.3 Restricted Discretionary activities as follows (or similar amendments to achieve the requested relief):</p> <p><u>Afforestation or forestry not meeting permitted activity criteria</u></p> <p>Council's discretion is restricted to:</p> <p><u>Effects on the health, safety and efficiency of the railway corridor</u></p> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>
697.744	Waikato District Council	<p>Amend Rule 22.1.2 P6 Afforestation not in an Outstanding Landscape, as follows:</p> <p>Afforestation not in an Outstanding Landscape Area <u>Natural Landscape</u></p> <p>AND</p> <p>Amend table as follows:</p> <p>Nil <u>(a) For areas less than 1ha.</u></p>
FS1387.667	Mercury NZ Limited	Oppose submission 697.744
697.745	Waikato District Council	<p>Amend Rule 22.1.2 P8 Forestry, as follows:</p> <p>Nil <u>(a) For areas less than 1ha.</u></p>
FS1387.668	Mercury NZ Limited for Mercury D	Oppose submission 697.745

Rule 22.1.4 – Discretionary activities		
680.190	Federated Farmers of New Zealand	Amend Rule 22.1.5 D15 Discretionary Activities as follows: 22.1.4.5 D15 Afforestation of any part of an Outstanding or Natural Character Area or High Natural Character Area. AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
81.160	Waikato Regional Council	Amend Rule 22.1.5 D15 Discretionary Activities to include afforestation of significant natural areas as a discretionary activity.
341.5	Tainui Group Holdings Limited	Add to Rule 22.1.5 Discretionary Activities "Permanent Sawmills and Timber Processing Facilities" as a discretionary activity. AND Amend the Proposed District Plan to make consequential amendments as necessary to give effect to the matters raised in the submission.
FS1379.90	Hamilton City Council	Oppose submission 341.5

Analysis

367. The proposed rule framework has separate rules for ‘afforestation’ and ‘forestry’. Both are permitted with no activity-specific conditions. Two submissions were received from Tainui Group [341.3 and .15) supporting each of the rules and seeking their retention. Two submissions were received from Federated Farmers [680.178 and .180] supporting each of the rules and seeking that a condition be added such that afforestation and forestry be “In accordance with Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017”. Two submissions were received from Waikato District Council [699.744 and .745] seeking to add a condition that the permitted activity status only applies to areas less than 1ha in area.
368. The Proposed Plan defines ‘afforestation’ as having the same meaning as “*in the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017*”. The NES-PF in turn defines afforestation as:
- (a) *Means planting and growing plantation forestry on land where there is no plantation forestry and where plantation forestry harvesting has not occurred within the last 5 years; but*
- (b) *Does not include vegetation clearance from the land before planting.*
369. The Proposed Plan defines ‘forestry’ as meaning:
- The planting and growing of trees and is an integrated land use including land preparation, roading, tree planting and maintenance (i.e. thinning, pruning, noxious weeds and animal control) and harvesting of trees and includes the use of accessory buildings, but not the establishment and/or use of permanent sawmills or other methods of timber processing.*
370. Clearly, the two terms are closely linked. In essence, ‘afforestation’ relates to the planting out of land that has not recently been used for production forestry, i.e. is focused on land use change, typically from pasture-based farming to forest, whereas ‘forestry’ also covers replanting post-harvest and extends to include a wider range of ancillary activities associated

with forest establishment, maintenance and harvest. The key regulatory difference between the terms in the Proposed Plan is that afforestation is only permitted where it is not on land that is identified as an Outstanding Landscape Area, whereas forestry is not subject to that limitation, on the basis that it is acceptable to replant existing plantation forests in Outstanding Landscape Areas.

371. The NES-PF seeks to provide a single coherent suite of provisions that control the establishment, maintenance, and harvesting of plantation forests. Like all NES, the NES-PF provisions sit outside of the district plan, but are administered by the Council in much the same way, as if they were district plan provisions.
372. The regulatory framework provided by the NES-PF establishes a consistent means of managing the effects of both afforestation and forestry. Rather than be determined by the district plan rules, it is recommended that these two closely-related activities be permitted, subject to compliance with the NES-PF provisions, in line with the outcome sought in the submission by Federated Farmers. It is recommended that these submissions be accepted, with an advice note that any activity that does not meet the NES-PF regulations for permitted activities is subject to the activity status set out in the regulations. This is necessary to make clear that, whereas the district plan defaults to fully discretionary status where activity-specific conditions are not met, in many instances the NES-PF permitted rules default to controlled or restricted discretionary status.
373. It is recommended that the WDC submission seeking afforestation and forestry to only be permitted where they involve less than 1ha in land area, be rejected. The reduction in permitted activity status down to only 1ha of planting is a significant change to the notified rules and importantly adds a significantly more restrictive approach than that provided for under the NES-PF, which would conflict with s6 of the NES-PF that limits the situations where district plan rules can be more restrictive than the NES.
374. Whilst district plan provisions cannot be more stringent than the NES-PF, there is an exception to this general hierarchy, as set out in s6 of the NES, which clarifies that rules in a plan may be more stringent than the NES regulations if the rule recognises and provides for the protection of:
- (a) *outstanding natural features and landscapes from inappropriate use and development; or*
 (b) *significant natural areas.*”
375. In addition to these two circumstances, district plan rules may also be more stringent if the rule manages any of the unique or sensitive environments listed in s6(3) of the NES. There is therefore statutory scope for the Proposed Plan to take a more stringent approach to afforestation under these limited circumstances. The default control provided through the NES-PF is that afforestation is not permitted within Outstanding Natural Landscapes, Features, or Significant Natural Areas under s12, with any such proposal requiring consent as a restricted discretionary activity under s16.
376. The Proposed Plan seeks to only permit afforestation where it is not located within an Outstanding Landscape Area, with a fully discretionary activity status for afforestation proposals in areas with high landscape value under Rule D15. The Waikato District Council submission has sought an amendment to the terminology in Rule P6 to refer to ‘Outstanding Natural Landscapes’ rather than ‘Outstanding Landscape Areas’ to better align with the use of that terminology in the Proposed Plan. It is recommended that this amendment be accepted.
377. Rule 22.1.5 (D15) controls ‘*afforestation of any part of an Outstanding or Natural Character Area or High Natural Character Area*’. I note that the areas subject to D15 are broader than just the Outstanding Natural Landscapes that are referred to in P6. Federated Farmers [680.190]

have sought to correct this through D15 being amended so that it refers to the same landscape category as P6. Waikato Regional Council [81.160 and .161] have conversely sought that D15 be amended so that it includes control of afforestation of Outstanding Natural Features, Outstanding Natural Landscapes, and Significant Natural Areas as a discretionary activity.

378. The Proposed Plan identifies five different categories of landscape, namely:
- Outstanding Natural Landscapes;
 - Outstanding Natural Features;
 - Significant Amenity Landscapes;
 - Outstanding Natural Character Areas;
 - High Natural Character Areas.
379. Significant Natural Areas ('SNAs') are separately identified in the Proposed Plan, and are based on ecological rather than landscape values.
380. As set out above, the NES-PF provides for plans to have more stringent rules than those in the NES in a very limited set of circumstances. These include afforestation of Outstanding Natural Landscapes and Outstanding Natural Features. It does not extend to natural character areas that do not meet the s6RMA thresholds. It is therefore recommended that D15 be amended so that it refers to Outstanding Natural Landscapes in line with P6. It is also recommended that P6 and D15 be expanded to include controls on afforestation within Outstanding Natural Features to ensure that these significant features are adequately protected and all potential effects of afforestation proposals can be properly assessed. It is conversely recommended that reference to character areas be deleted from D15, as to include such would be contrary to the statutory direction in the NES.
381. SNAs are addressed in a separate section of the Rural Chapter, with associated rules controlling earthworks (Rule 22.2.3.3) and indigenous vegetation clearance (22.2.7). The rule package controlling such works within SNAs is to be considered through a separate hearing. In terms of afforestation, it is the preliminary earthworks, vegetation clearance and ground preparation works prior to planting that have the potential to generate adverse effects on ecological values. These potential effects are subject to the separate SNA rules. As such, reference to SNAs is not considered necessary in P6 or D15, and would result in duplication of the more focused controls provided through the SNA rules. It is noted that afforestation is not permitted in SNAs under s12 of the NES, and is subject to consent as a restricted discretionary activity under s16 NES.
382. KiwiRail [986.125] have sought that P6 and P8 be amended to require planting to be set back a minimum of 10m from the rail corridor. Setbacks from adjoining properties that are not owned by the owner of the plantation forest are controlled through s14(1)(a) NES-PF, which requires a 10m setback from such boundaries. A restricted discretionary consent is needed under s16(1) NES for planting within the setback, with effects on adjacent landowners one of the matters of discretion under s17(2)(a). The recommended requirement that P6 and P8 be subject to the NES-PF therefore addresses the concerns raised by KiwiRail, and as such no further specific amendments are recommended.
383. Tainui Group Holdings [341.5] seek that permanent sawmills and timber processing facilities be specifically listed as a discretionary activity (rather than being subject to the default rule NC5 as a non-complying activity). The NES-PF sets a rule framework for the acts of harvesting and transporting cut logs, but does not cover the milling of timber. As such, timber mills and timber processing activities fall outside of the scope of the NES-PF and are instead simply subject to district plan provisions.

384. Sawmills and timber are not considered to fall within the definition (and rule) of 'forestry' (which explicitly excludes sawmills and timber processing), but do fall within 'rural industry' (discussed below), as this definition means 'an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production', with the NPS definition of 'primary production' in turn including forestry. I recommend below that rural industry be provided for as restricted discretionary activity.
385. Sawmills and timber processing facilities can range in size from small mobile plants to large industrial complexes such as those found at Kinleith. Their potential effects therefore also have a commensurate range in scale. Sawmills are typically located in rural areas where they are located in reasonable proximity to the pine plantation resource. As such, I agree that non-complying status is not appropriate, given that their presence in a rural area is contemplated at a policy level. I do not consider that a restricted discretionary pathway is appropriate, given the range of potential effects that might need to be considered, where sawmills and timber processing plants can be much larger than typical 'rural industry', which is provided for as a restricted discretionary activity.

Recommendations and amendments

386. It is recommended that P8 be renumbered as P7 so the two rules relating to forestry occur sequentially in the rule table. The above recommendation results in changes to P6, P8, and D15 as follows:

P6	Afforestation not in an Outstanding <u>Natural Landscape Area or Outstanding Natural Feature</u>	(a) <u>Be undertaken in accordance with Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017. Where compliance is not achieved with the permitted activity standards in the NES, then the activity is subject to the activity status as set out in the NES.</u>
P8 P7	Farming	Nil
P8 P7	Forestry	(a) <u>Be undertaken in accordance with Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017. Where compliance is not achieved with the permitted activity standards in the NES, then the activity is subject to the activity status as set out in the NES.</u>
D15	Afforestation of any part of an Outstanding <u>Natural Landscape or Outstanding Natural Feature.</u> or Natural Character Area or High Natural Character Area.	

P7 – Farming and Agricultural and horticultural research

387. Seven submissions were received in support of P7, with no submissions received in opposition or seeking amendment. One submission was received in support of the definition of 'farming', with eleven submissions seeking amendments to that definition, or related terms such as horticulture or packhouses.

Rule 22.1.2 – Permitted Activities		
419.8	Horticulture New Zealand	Retain Rule 22.1.2 P7 Farming, as notified.
<i>FSI388.177</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 419.8</i>
<i>FSI306.6</i>	<i>Hynds Foundation</i>	<i>Support submission 419.8</i>
<i>FSI171.11</i>	<i>T&G Global</i>	<i>Support submission 419.8</i>
341.14	Tainui Group Holdings Limited	Retain Rule 22.1.2 P7 Permitted Activities for Farming.
466.10	Balle Bros Group Limited	Retain Rule 22.1.2 P7 Farming as notified.
746.68	The Surveying Company	Retain farming as a permitted activity in Rule 22.1.2 P7 Permitted Activities; note that amendments to the definition of "farming" are sought elsewhere in the submission.
<i>FSI387.942</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 746.68</i>
877.25	Leigh Michael Shaw & Bradley John Hall	Retain Farming as a permitted activity in Rule 22.1.2 P7 Permitted Activities.
<i>FSI387.1465</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 877.25</i>
<i>FSI306.64</i>	<i>Hynds Foundation</i>	<i>Support submission 877.25</i>
<i>FSI308.160</i>	<i>The Surveying Company</i>	<i>Support submission 877.25</i>
680.179	Federated Farmers of New Zealand	Retain Rule 22.1.2 P7 Farming, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FSI387.195</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 680.179</i>
197.17	NZ Pork	Retain Rule 22.1.2 P7 Permitted Activities, as notified.
<i>FSI386.200</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 197.17</i>
30.2	Henk Ensing	Amend the permitted activity provisions to enable exotic vegetation to be cleared at 383 Kakarariki Road, Hamilton
<i>FSI386.25</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 30.2</i>

Definitions – Farming		
676.5	T&G Global Limited	<p>Retain the definition of "Farming" in Chapter 13 Definitions in terms of providing for horticultural activities as well as the processing of produce grown on the land, except for the amendments sought below</p> <p>AND</p> <p>Amend the definition of "Farming" in Chapter 13 Definitions to allow for the processing of produce grown on other sites owned or leased by the same owners, and the submitter cites the definition of "On-site Primary Produce Manufacturing" in the Operative Waikato District Plan (Franklin Section) as better reflecting the needs of growers</p> <p>AND</p> <p>Amend the definition of "farming" in Chapter 13 Definitions to ensure that horticultural activities undertaken within greenhouses and shade houses, including hydroponics, are included in the definition.</p> <p>AND</p> <p>Any further or consequential amendments necessary to address the concerns raised in the submission.</p>
<i>FSI 168.95</i>	<i>Horticulture New Zealand</i>	<i>Support submission 676.5</i>
<i>FSI 387.141</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 676.5</i>
433.49	Auckland Waikato Fish and Game Council	<p>Add a new definition to Chapter 13: Definitions for "productive rural activities".</p> <p>AND/OR</p> <p>Any alternative relief to address the issues and concerns raised in the submission.</p>
<i>FSI 168.86</i>	<i>Horticulture New Zealand</i>	<i>Support submission 433.49</i>
<i>FSI 168.82</i>	<i>Horticulture New Zealand</i>	<i>Oppose submission 433.49</i>
<i>FSI 223.89</i>	<i>Mercury NZ Limited</i>	<i>Support submission 433.49</i>
833.1	Mainland Poultry Limited	<p>Amend the definition of "Farming" in Chapter 13 Definitions, as follows: Means an agricultural, horticultural or apicultural activity having as its primary purpose the production of any livestock (including poultry or eggs) or crop using the in situ soil, water and air as the medium for production. It includes...</p>
<i>FSI 387.1353</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 833.1</i>
<i>FSI 338.5</i>	<i>Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd</i>	<i>Support submission 833.1</i>

877.8	Leigh Michael Shaw & Bradley John Hall	Amend the definition for "Farming" in Chapter 13: Definitions to include free-range poultry farming.
<i>FS1265.29</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 877.8</i>
<i>FS1387.1454</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 877.8</i>
197.32	NZ Pork	Retain the definition of "Farming" in Chapter 13 Definitions as notified.
<i>FS1386.208</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 197.32</i>
<i>FS1171.1</i>	<i>T&G Global</i>	<i>Oppose submission 197.32</i>
341.11	Tainui Group Holdings Limited	Amend the definition of "Farming" in Chapter 13 Definitions as follows: Means an agricultural, horticultural or apicultural activity having as its primary purpose the production of any livestock or crop using the in-situ soil, water and air as the medium for production. It includes: <u>Ancillary buildings and structures such as barns and dairy sheds;</u> Ancillary produce stalls; Processing of farm produce grown on the land, such as cutting, cleaning, grading, chilling, freezing, packaging and storage AND Amend the Proposed District Plan to make consequential amendments as necessary to give effect to the matters raised in the submission.
<i>FS1171.4</i>	<i>T&G Global</i>	<i>Support submission 341.11</i>
<i>FS1340.44</i>	<i>TaTa Valley Limited</i>	<i>Support submission 341.11</i>
<i>FS1342.61</i>	<i>Federated Farmers</i>	<i>Support submission 341.11</i>

419.120	Horticulture New Zealand	<p>Delete the term "Farming" in Chapter 13 Definitions, and replace with the term "Primary production" as follows: <u>Primary production Means (a) any agricultural, pastoral, horticultural, forestry or aquaculture activities for the purpose of commercial gain or exchange; and (b) includes any land and auxiliary buildings used for the production of the products, including storing, washing and packing of product for market, that result from the listed activities; but (c) does not include processing of those products into a different product.</u></p> <p>AND</p> <p>Amend the Proposed District Plan by replacing all uses of the term "farming" with "primary production"</p> <p>OR</p> <p>Amend the definition of "Farming" in Chapter 13 Definitions, as follows: Means an agricultural, horticultural or apicultural activity having as its primary purpose the production of any livestock or crop using the in-situ soil, water and air as the medium for production, <u>or the indoor production of plants.</u> It includes: (a) Ancillary produce stalls; (b) Processing of farm produce grown on the land, such as cutting, cleaning, grading, chilling, freezing, packaging and storage. <u>(c) Greenhouses</u></p> <p>AND</p> <p>Any consequential or additional amendments as a result of changes sought in the submission.</p>
<i>FS1171.55</i>	<i>T&G Global</i>	<i>Support submission 419.120</i>
<i>FS1340.55</i>	<i>TaTa Valley Limited</i>	<i>Support submission 419.120</i>
680.134	Federated Farmers of New Zealand	<p>Add to the definition of "Farming" in Chapter 13 Definitions, a new clause (c) as follows: <u>(c) Ancillary Rural Earthworks</u></p> <p>AND</p> <p>Any consequential amendments needed to give effect to this relief.</p>
<i>FS1168.96</i>	<i>Horticulture New Zealand</i>	<i>Support submission 680.134</i>
<i>FS1275.10</i>	<i>Zeala Limited trading as Aztech Buildings</i>	<i>Not Stated.</i>
<i>FS1387.188</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 680.134</i>
697.385	Waikato District Council	<p>Amend the definition of "Farming" as follows: Means an agricultural, horticultural or apicultural activity having as its primary purpose the production of any livestock or crop using the in-situ soil, water and <u>or</u> air as the medium for production. It includes: (a) Ancillary produce stalls; (b) Processing of farm produce grown on the land, such as cutting, cleaning, grading, chilling, freezing, packaging and storage. <u>(c) loading areas for helicopters and airstrips for top dressing and spraying.</u> <u>It excludes intensive farming.</u></p>

FSI338.4	Combined Poultry Industry on behalf of The Poultry Industry Association of NZ; Inghams Enterprises (NZ) Ltd; Brinks NZ Chicken; The Egg Producers Federation of NZ; and Tegel Foods Ltd	Support submission 697.385
FSI374.3	Zeala Limited trading as Aztech Buildings	Oppose submission 697.385
FSI265.26	Mainland Poultry Limited	Oppose submission 697.385
FSI168.117	Horticulture New Zealand	Support submission 697.385
FSI171100	T&G Global	Support submission 697.385
FSI340.126	TaTa Valley Limited	Oppose submission 697.385
FSI342.180	Federated Farmers	Support submission 697.385
FSI387.554	Mercury NZ Limited	Oppose submission 697.385
821.1	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	Amend the definition of "Farming" in Chapter 13 Definitions, as follows: Means an agricultural, horticultural or apicultural activity having as its primary purpose the production of any livestock, (<u>including ranging poultry</u>) or crop using the in-situ soil , water and air as the medium for production...
FSI317.7	Quinn Haven Investments Limited and M & S Draper	Oppose submission 821.1
FSI265.28	Mainland Poultry Limited	Support submission 821.1
Definition – Horticultural Activity		
695.66	Sharp Planning Solutions Ltd	Add a definition for "Horticultural Activity" to Chapter 13 Definitions.
FSI387.320	Mercury NZ Limited	Null
FSI342.176	Federated Farmers	Disallow submission point 695.66.
FSI168.98	Horticulture New Zealand	Allow the submission.
Definition - Greenhouse		
419.122	Horticulture New Zealand	Add a definition for "Greenhouse" to Chapter 13 Definitions, as follows: <u>Greenhouses are a totally enclosed structure where plants are grown in a controlled environment.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
FSI388.228	Mercury NZ Limited	Oppose submission 419.122

Definitions – Packhouse		
746.16	The Surveying Company	Add a new definition for "Packhouse" in Chapter 13: Definitions as per the Operative Franklin Section of the Operative District Plan.
877.5	Leigh Michael Shaw & Bradley John Hall	Add to Chapter 13: Definitions a separate definition for "Packhouse" as per the Franklin Section of the Operative District Plan.
FS1387.1451	Mercury NZ Limited	Oppose submission 877.5

Analysis

388. The Proposed Plan seeks to permit 'farming', with no activity-specific conditions. Farming is defined as meaning:

an agricultural, horticultural or apicultural activity having as its primary purpose the production of any livestock or crop using the in-situ soil, water and air as the medium for production. It includes:

- (a) *Ancillary produce stalls;*
- (b) *Processing of farm produce grown on the land, such as cutting, cleaning, grading, chilling, freezing, packaging and storage.*

389. Seven submissions were received in support of P7, with no submissions received in opposition or seeking amendment. As such, it is recommended that the rule be retained. Given that farming is the predominant activity within the Rural Zone, there may be merit in a consequential amendment so that P7 is shifted in the rule table so that it is located at the start as P1.

390. A number of submissions were received on the definition of 'farming'. In general these submissions sought that the definition be amended to provide greater clarity for poultry (especially free-range), horticulture, and ancillary activities such as pack houses, greenhouses, and farm buildings. Horticulture NZ [419.120] sought that the definition of 'farming' be replaced with 'primary production' and this alternative terminology used throughout the policy and rule framework. The National Planning Standards do not include a definition for 'farming', but do include one for 'primary production' as follows:

Primary production means:

- (a) *any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and*
- (b) *includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a);*
- (c) *includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but*
- (d) *excludes further processing of those commodities into a different product.*

391. The s42A report for Hearing 5 recommended that the above NPS definition be included in the district plan. The NPS definition is, however, especially challenging when it comes to rule drafting because it includes mining, quarrying, and forestry, which are distinct activities that are addressed in the Proposed Plan through separate policies and rules. Combining these very different activities means that it becomes difficult to draft tailored rules with differing activity status for activities that fall within the same definition. Such restructuring may be possible where Proposed Plans are developed afresh. The timing of the Waikato District Plan process, where the Proposed Plan was developed and notified prior to the NPS being gazetted, makes such reordering difficult to achieve.

392. It is recommended that the terms used in the policies and rules remain as 'farming', as this term is commonly understood as being an activity that is distinct from forestry or mining/

quarrying. It is, however, recommended that the definition of farming be amended to better align with the NPS definition of primary production where appropriate, noting that additional clauses are recommended to provide further clarity to the overall rule framework for various activities and in response to concerns raised by submitters.

393. L Shaw and B Hall [877.8], the Poultry Industry Association [821.1], and Mainland Poultry [833.1] sought inclusion of poultry. The definition for ‘farming’ is closely related to the separate definition for ‘intensive farming’, which is discussed separately in this report. The recommended definition of intensive farming hopefully separates out when free-range poultry operations transition from ‘farming’ to ‘intensive farming’. Waikato District Council [697.385] sought that the farming definition include a specific reference that it does not include ‘intensive farming’ to further clarify that such activities are treated differently for the purposes of the district plan framework. I do agree with the submitters that reference to ‘poultry’ should be made in the opening sentence to include extensive free-range operations that are not intensive.
394. T&G Global [676.5] have sought that the reference to the activity including the processing of primary produce be expanded to include the processing of produce ‘grown on other sites owned or leased by the same owners’. I recognise that some large horticultural operations include growing activities across a number of detached blocks of land, that also have the packing and processing facilities consolidated in one location. The intent of the definition is to provide for ancillary processing operations as a permitted activity, with the NPS definition explicitly referring to processing where ‘ancillary’. In order to differentiate between what is ancillary, and what is something larger, and to differentiate between the permitted pathway for ‘farming’ and the restricted discretionary pathway for ‘rural industry’ discussed below, it is recommended that such processing only be permitted where it is directly related to the site where the produce is grown (and therefore the scale of the processing facility is inherently limited). The separate pathway for rural industry is intended to capture larger processing operations that take produce from a range of sites, and therefore tend to be at a scale, and have an associated envelope of effects, that makes it appropriate for them to be assessed on a case-by-case basis through a resource consent process, rather than being permitted without any limits or conditions.
395. T&G Global [676.5] and Horticulture NZ [419.120] have sought that greenhouses and the indoor production of plants be explicitly provided for in the definition. I agree that the definition should also capture indoor horticultural activity, as such activity (apart from mushroom growing) is not considered to be ‘intensive farming’.
396. Tainui Group Holdings [341.11] have sought that the definition include ‘ancillary buildings and structures such as barns and dairy sheds’. This submission is related to the overall structure of the Proposed Plan. The rules are structured as lists of activities. As discussed at the start of this section, it is implicit that the permitted status of the activity also extends to include the building that the activity is located within. I have recommended above a clarifying statement be added to the start of the definitions chapter to address the issue raised by the submitter.
397. Federated Farmers [680.134] have sought that the definition include reference to ‘ancillary rural earthworks’. Earthworks are subject to their own definition and set of rules, which address where they are ancillary to farming activity (such as ploughing and cultivation). The treatment of earthworks, and whether or not they are permitted, is addressed separately, therefore should not be blended into the farming definition.
398. Submitters seek specific definitions for ‘horticulture’ (Sharp Planning Solutions [695.66]), ‘greenhouse’ (Horticulture NZ [419.122]), and ‘packhouse’ (The Surveying Company [746.16]). These terms are considered to be commonly understood, and as such, adding in definitions is not considered to provide any additional value.

399. Waikato District Council [697.385] sought that ‘ancillary produce stalls’ be deleted from the definition of farming, as this term is separately defined, and is subject to its own rule (P9). I agree that this separation of terms more efficiently aligns with having these activities subject to separate rules. The Council also sought the inclusion of an additional clause to provide for ‘loading areas for helicopters and airstrips for top dressing and spraying’. I agree that such activities are ancillary and a common part of farming activities, but would caveat the addition that such air activity is limited to the same site, i.e. it is an airstrip to enable occasional flights to service the farm on which the strip is located, rather than being a commercial strip that is much more intensively used to service a wider area.
400. As a consequential amendment to the above discussion on Policy 5.3.16 regarding agricultural research, it is recommended that an additional clause (c) be added to the definition of ‘farming’ to make clear that farming includes agricultural and horticultural research activities where such activities are undertaken as part of farming activities, i.e. on-farm research rather than the development of permanent research facilities. It is recommended that provision be made for the development and operation of agricultural and horticultural research facilities as a restricted discretionary activity, given their importance in supporting productive farming activities and their need to locate in rural areas as an anticipated element in rural environments. The matters of discretion align with those proposed for rural commercial activities.
401. As another consequential amendment it is recommended that farming be the first permitted activity in the table, given that it is the predominant activity that is anticipated in the Rural Zone.

Recommendations and amendments

402. It is recommended that Rule P7 for farming be retained without amendment, that a new restricted discretionary activity be added for agricultural research facilities, and that the definition for ‘farming’ be amended as follows:

<u>P7-P1</u>	Farming	Nil
<u>RDX</u>	<p><u>Agricultural and horticultural research facilities not in an Urban Expansion Area.</u></p> <p><u>Note: for research activities undertaken within an Agriculture Research Centre Specific Area, Section 22.5 applies.</u></p>	<p>(a) <u>Council’s discretion is restricted to the following matters:</u></p> <p>(i) <u>Effects on rural character and amenity;</u></p> <p>(ii) <u>Nuisance effects including light spill and glare, odour, dust, and noise;</u></p> <p>(iii) <u>Traffic effects;</u></p> <p>(iv) <u>Reverse sensitivity effects on existing farming, intensive farming, rural industry, or mineral extraction activities;</u></p> <p>(v) <u>Whether the scale and nature of the activity is consistent with managing urban growth through the consolidation of townships.</u></p>

Definitions	
Farming	<p>Means</p> <p>(a) Any agricultural, <u>pastoral</u>, horticultural, <u>aquacultural</u>, or apicultural activity having as its primary purpose the production of any livestock, <u>fish</u>, <u>poultry</u>, or crop using the in-situ soil, water and air as the medium for production; <u>and it includes:</u></p> <p>(b) Ancillary produce stalls;</p> <p>(b) <u>Includes initial pProcessing, as an ancillary activity</u> of farm produce grown on the <u>same site land</u>, such as cutting, cleaning, grading, chilling, freezing, packaging and storage;</p> <p>(c) <u>Includes any land and buildings used for the production of commodities from (a) and used for the initial processing of commodities in (b) and includes greenhouses, indoor hydroponics, pack houses and coolstores; but</u></p> <p>(d) <u>Excludes further processing of those commodities into a different product;</u></p> <p>(e) <u>Includes loading areas for helicopters and airstrips for top dressing and spraying the same site;</u></p> <p>(f) <u>Includes on-farm agricultural and horticultural research activities;</u></p> <p>(g) <u>Excludes intensive farming.</u></p>

P9 – Produce Stall

403. Three submissions were received in support of P9, with two submissions seeking minor amendments to the definition of 'produce stall'.

Rule 22.1.2 – Permitted Activities		
746.72	The Surveying Company	Retain produce stalls as a permitted activity in Rule 22.1.2 P9 Permitted Activities as notified; note that amendments to the definition of "Produce Stall" are sought elsewhere in the submission.
<i>FSI 387.945</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 746.72</i>
877.28	Leigh Michael Shaw & Bradley John Hall	Retain Rule 22.1.2 P9 Permitted Activities to enable Produce Stalls as a Permitted Activity.
<i>FSI 308.163</i>	<i>The Surveying Company</i>	<i>Support submission 877.28</i>
<i>FSI 306.67</i>	<i>Hynds Foundation</i>	<i>Support submission 877.28</i>
<i>FSI 387.1468</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 877.28</i>
680.181	Federated Farmers of New Zealand	Retain Rule 22.1.2 P9 Produce stall, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FSI 387.196</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 680.181</i>

Definitions – Produce stall		
746.21	The Surveying Company	Amend the definition of "Produce stall" in Chapter 13: Definitions to include the sale of farm and garden produce grown or produced on a site owned by the same landholder.
877.11	Leigh Michael Shaw & Bradley John Hall	Amend the definition for "Produce Stall" in Chapter 13: Definitions to include the sale of farm and garden produce grown or produced on a site owned by the same landowner.

Analysis

404. The Proposed Plan seeks to permit 'produce stalls', with no activity-specific conditions. Produce Stall is defined as meaning:

any land, building or part of any building that is used for the sale of farm and garden produce grown or produced on the site on which the produce stall is sited. It includes the use of a trailer, handcart, barrow or similar structure, whether temporary or permanent. Weighing and packaging is part of the activity of a produce stall.

405. No changes to this definition were proposed through Hearing 5. Three submissions were received in support of P9, with no submissions received in opposition or seeking amendment. As such, it is recommended that the rule be retained. The Surveying Company [746.21] and L Shaw and B Hall [877.11] have both sought an amendment to the definition of 'produce stall' to broaden the scope of the produce that can be sold from just what is grown on the site, to produce that is grown on a site 'owned by the same landowner'. This amendment enables a single stall to be used to sell produce that is grown across a number of separate blocks of land, but where these blocks are owned and run as a single operation. I agree that the amendment enables produce stalls to be run more efficiently, whilst the limit to produce grown by the same landowner limits the scale of such facilities.

Recommendations and amendments

406. It is recommended that the definition of 'produce stall' be amended as follows:

Produce stall	Means any land, building or part of any building that is used for the sale of farm and garden produce grown or produced on the site on which the produce stall is sited, <u>or grown or produced on a site owned or leased by the same landowner</u> . It includes the use of a trailer, handcart, barrow or similar structure, whether temporary or permanent. Weighing and packaging is part of the activity of a produce stall.
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PI0 – Home Stay and D10 - Travellers Accommodation

407. One submission was received in support and ten submissions were received seeking amendments to the provision of home stay and travellers' accommodation activities.

Rule 22.1.2 – Permitted activities		
680.182	Federated Farmers of New Zealand	Retain Rule 22.1.2 PI0 Home stay, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.

FSI387.197	Mercury NZ Limited	Oppose submission 680.182
780.23	Whaingaroa Environmental Defence Incorporated Society	Amend Rule 22.1.2 P10 Permitted Activities to provide for the registration of Homestay or Visitor accommodation.
FSI387.1199	Mercury NZ Limited	Oppose submission 780.23
435.14	Jade Hyslop	Amend Home stay provisions in Rule 22.1.2 Permitted Activities, to provide for registration of Homestay or Visitor accommodation.
FSI388.259	Mercury NZ Limited	Oppose submission 435.14
825.23	John Lawson	Amend Rule 22.1.2 P10 Permitted Activities to provide for the registration of Homestay or Visitor accommodation.
FSI387.1322	Mercury NZ Limited	Oppose submission 825.23
831.81	Raglan Naturally	Amend Rule 22.1.2 D10 Discretionary Activities, to require registration of homestay or visitor accommodation.
FSI276.254	Whaingaroa Environmental Defence Inc. Society	Support submission 831.81
788.4	Susan Hall	Amend Rule 22.1.2 P10 Permitted Activities for homestays to be more regulated in Raglan, all homestays and holiday house accommodation to be registered with Council, to prohibit new owners of existing houses or newly built houses from offering homestay accommodation or holiday rentals, unless they live onsite at the time of guests staying, and a maximum of 4 temporary residents.
FSI276.249	Whaingaroa Environmental Defence Inc. Society	Support submission 788.4
697.746	Waikato District Council	Amend Rule 22.1.2 P10 Homestay, as follows: (a) Home stay for up to 4 people
FSI387.669	Mercury NZ Limited	Oppose submission 697.746
697.747	Waikato District Council	Add to Rule 22.1.2 P13 Travellers Accommodation as follows: <u>Travellers Accommodation for up to 5 people "Nil" Conditions</u>
FSI302.5	Mercer Airport	Support submission 697.747
FSI308.111	The Surveying Company	Support submission 697.747
FSI340.132	TaTa Valley Limited	Support submission 697.747
FSI387.670	Mercury NZ Limited	Oppose submission 697.747
788.4	Susan Hall	Amend Rule 22.1.2 P10 Permitted Activities for homestays to be more regulated in Raglan, all homestays and holiday house accommodation to be registered with Council, to prohibit new owners of existing houses or newly built houses from offering homestay accommodation or holiday rentals, unless they live onsite at the time of guests staying, and a maximum of 4 temporary residents.
FSI276.249	Whaingaroa Environmental Defence Inc. Society	Support submission 788.4
471.49	CKL	Add "travellers' accommodation for less than 5 people" as a permitted activity to Rule 22.1.2 Permitted Activities. AND Any consequential amendments necessary.

FS1388.466	Mercury NZ Limited	Oppose submission 471.49
FS1306.9	Hynds Foundation	Support submission 471.49
FS1302.8	Mercer Airport	Support submission 471.49
Rule 22.1.4 – Discretionary Activities		
697.756	Waikato District Council	Add to Rule 22.1.5 new D17 Discretionary Activities, as follows: <u>Homestay for 4 or more people.</u>
FS1387.679	Mercury NZ Limited	Oppose submission 697.756

Analysis

408. The Proposed Plan seeks to permit 'Home stay', with no activity-specific conditions and no limit on the number of guests. No changes to the definition were proposed in Hearing 5. Home stay is defined as meaning:
- accommodation provided to guests who pay a daily tariff to stay in a home with the permanent occupants of the household.*
409. There is no permitted activity rule for travellers' accommodation, although Rule D11 controls travellers' accommodation for more than 5 people. Travellers' accommodation is defined in the Proposed Plan as:
- land and buildings for transient residential accommodation for a person, family or group of persons, which is offered at a daily tariff, where the occupiers will not generally refer to it as their home or permanent address. It may include some centralised services or facilities such as food preparation, dining and sanitary facilities and conference and recreation facilities for the use of the guests staying at the site. It includes hotels, motels, camping grounds and tourist cabins, studios and apartments, but excludes the accommodation used by the permanent resident.*
410. The s42A report for Hearing 5 recommended that the above definition and term be deleted and replaced with 'visitor accommodation', which 'means land and/or buildings used for accommodating visitors, subject to a tariff being paid, and includes any ancillary activities'. The recommended term 'visitor accommodation' has been used in the below amendments.
411. One submission was received from Federated Farmers [680.182] in support of P10 and seeking its retention. Five submissions were received from J Hyslop [435.14], Whaingaroa Environmental Defence Incorporated Society [780.23], J Lawson [825.23], Raglan Naturally [831.81] and S Hall [788.4] seeking that home stays and travellers' accommodation be 'registered' with Council. Several of these submissions have a particular focus on the Raglan area, and in particular raise concerns around a perceived proliferation of Air B&B and similar booking platforms and the associated conversion of permanent homes and use of new homes for travellers' accommodation.
412. Waikato District Council seeks that P10 be amended to clarify that permitted status is only for home stays of up to 4 people [697.746], with a related new discretionary rule for home stays of more than 4 people [697.746]. The Council also seeks to add a new permitted activity rule for travellers' accommodation for up to 5 people [697.747]. The provision for travellers' accommodation for up to five guests as a permitted activity is also sought by CKL [471.44].
413. Home stays are a long-established activity in rural areas, where accommodation is provided on a short-term basis for guests to stay on the property along with the permanently resident occupants. Home stays provide the opportunity for farm diversification and an additional income stream for the property owners, and also provide an on-farm accommodation experience for guests that can be valued in terms of amenity and the opportunity to gain an insight into farm life. The notified rule is open-ended in terms of scale and intensity of the

activity, and taken to an extreme could arguably enable a hotel, provided the managers lived on-site. I therefore agree with the Waikato District Council submission that there should be an activity-specific condition limiting the number of guests, and likewise a discretionary activity rule for when this limit is exceeded. I recommend that the limit be increased to 5 guests to align with the proposed approach for travellers' accommodation and to enable slightly larger families to be able to use this form of accommodation without unduly increasing the scale and character of the use. Discretionary activity is considered to be an appropriate status, given the range in scale and intensity of home stay proposals, and will enable all effects to be assessed. Likewise, home stays (even large ones) are not necessarily contrary to the outcomes sought in the Rural Zone, therefore non-complying status would be unnecessarily onerous.

414. Travellers' Accommodation is a related, but separate activity, therefore is appropriately addressed under a separate rule. Camping grounds, and small-scale tourist accommodation are potentially appropriate in rural areas on a case-by-case basis. The submissions seek differing outcomes, with some submitters seeking that small-scale travellers' accommodation be registered and limited, whilst Waikato District Council and CKL seek to provide for such small-scale accommodation for up to 5 guests. It is unclear exactly what the submitters mean in seeking 'registration', however the general concerns expressed make it clear that the submitters wish to see a limit on existing and new dwellings being used solely for travellers' accommodation rather than permanent homes. Whilst this may not be much of an issue to date across the district as a whole, I understand that popular visitor locations such as Raglan may have experienced more such activities than rural areas in general. The emergence of Air B&B and similar on-line booking platforms, and whether they should be subject to nationally-consistent regulation, is a matter that is being considered by Central Government. As such, registration is a matter that best forms part of a nationally-consistent response.
415. In terms of the zone outcomes, accommodation for up to five travellers will take the form of a building and facilities that are the same or similar to a dwelling. The proposed permitted activity rule therefore has the potential to enable an additional building on each property that has the form and function of a dwelling, but where its use is permitted (and not subject to density rule limits), provided it is expressly available for rent on a short-term basis by tourists. Were such an outcome to occur incrementally, it has the potential over time to have an adverse cumulative effect on the strategic directions for the district in terms of how urban growth is to be managed. It also has the potential to conflict with the character and amenity outcomes sought in the Rural Zone in terms of the density of dwellings. As such, it is recommended that no permitted pathway be available for travellers' accommodation in new dwellings.
416. My concern with the proposed permitted activity rule is primarily regarding its potential to undermine the dwelling density outcomes sought in the Rural Zone through enabling new buildings for guest use. I am less concerned with the conversion of existing dwellings for travellers' accommodation, as the appearance and visual character of the Rural Zone will not change, and demand is such that it will not undermine accommodation options for farm workers throughout the district in general. It is therefore recommended that the permitted activity rule for travellers' accommodation be limited to no more than 5 people, and be in a building that was existing in December 2020. Larger traveller's accommodation proposals will be able to be considered on a case-by-case basis as a discretionary activity under rule D11, where the scale, intensity, design, and effects can be considered. This activity status is considered to be appropriate (rather than non-complying status), as the effects of travellers' accommodation may be acceptable in the rural area on a site-specific basis, especially if linked to a rural setting such as camping grounds, hunting and fishing lodges, wineries, or adventure tourism businesses.

Recommendations and amendments

417. It is recommended that P10 and D11 be amended, and that a new permitted and discretionary rule be included that addresses small-scale travellers' accommodation and large home stays.

P10	Home stay	(a) <u>Have no more than 5 guests.</u>
<u>P13</u>	<u>Visitors' Accommodation</u>	(a) <u>Have no more than 5 guests; and</u> (b) <u>Be within a building that was existing as at date of decisions.</u>
D11	Travellers' Visitors' Accommodation for 6 or more than 5 people <u>or that is within a building that was constructed after date of decisions.</u>	
<u>D17</u>	<u>Home stay for 6 or more guests.</u>	

P11 - Equestrian Centres and P12 - Horse Training Centres

418. Two submissions were received in support of P11 (equestrian centres) and two submissions were received in support of P12 (horse training centres). One submission was received seeking to amend the definition of 'horse training centre'.

Rule 22.1.2 – Permitted Activities		
696.4	Brenda and Gavin Butcher for Parkmere Farms	Retain Rule 22.1.2 P11 Permitted Activities (Equestrian Centre).
<i>FSI387.381</i>	<i>Mercury NZ Limited</i>	<i>Null</i>
696.11	Brenda and Gavin Butcher for Parkmere Farms	Retain Rule 22.1.2 P12 Permitted Activities (Horse Training Centre)
680.183	Federated Farmers of New Zealand	Retain Rule 22.1.2 P11 Equestrian centre, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FSI308.94</i>	<i>The Surveying Company</i>	<i>Support submission 680.183</i>
<i>FSI387.198</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 680.183</i>
680.184	Federated Farmers of New Zealand	Retain Rule 22.1.2 P12 Horse training centre, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FSI308.95</i>	<i>The Surveying Company</i>	<i>Support submission 680.184</i>
<i>FSI387.199</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 680.184</i>

Definitions – Horse training centre		
697.393	Waikato District Council	Amend the definition of "Horse training centre" as follows: Means facilities for the housing and training of thoroughbred and Standardbred horses, and usually involves some form of <u>includes</u> training tracks <u>and arenas (both indoor and outdoor)</u> , but does not...

Analysis

419. The Proposed Plan permits both equestrian centres and horse training centres. Equestrian centres are defined as:

land or buildings where:

(a) people are trained to ride, or can ride horses, for a fee; or

(b) horses are raced or showed competitively (including trotting, galloping, show-jumping, cross-country and dressage).

420. Horse training centres are defined as:

facilities for the housing and training of thoroughbred and standard- bred horses, and usually involves some form of training track, but does not include any form of racing or show jumping or other activity to which the general public is permitted, whether or not an entrance fee is paid.

421. No submissions on these terms were considered as part of Hearing 5. Submissions were received from Parkmere Farms [696.4 & 11] and Federated Farmers [680.183 and .184] in support of P11 and P12 and seeking the retention of both these rules. No submissions were received in opposition to the rules or seeking amendment. Equestrian and horse training centres are inherently located within rural environments, and as such are anticipated elements in such areas. It is therefore recommended that both rules be retained without amendment.
422. Waikato District Council sought several amendments to the definition of 'horse training centre' to remove the reference to specific horse breeds and to clarify that the activity also includes indoor and outdoor arenas as an anticipated element of the activity. I agree that the amendments sought by the Council improve the effectiveness and efficiency of the definition and should be accepted.

Recommendations and amendments

423. It is recommended that the definition for 'horse training centre' be amended as follows:

Horse training centre	Means facilities for the housing and training of thoroughbred and Standardbred horses, and usually involves some form of <u>includes</u> training tracks <u>and arenas (both indoor and outdoor)</u> , but does not include any form of racing or show jumping or other activity to which the general public is permitted, whether or not an entrance fee is paid.
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New Permitted Activities

424. A number of submissions were received seeking that the rules provide for a variety of activities as being permitted in the Rural Zone. Each of these new activities is assessed below, noting that for some activities submissions were also received seeking that they be provided for as restricted discretionary activities. Where this occurs, i.e. submissions on the same activity but seeking alternative activity status, the submissions are discussed in one place as part of the analysis of activity. Submissions on definitions of the activity are likewise considered.

Residential Activities

425. Three submissions were received seeking that 'residential activity' be listed as being permitted.

Rule 22.1.2 – Permitted Activities		
697.748	Waikato District Council	Add to Rule 22.1.2 Permitted Activities P14, as follows: <u>Residential Activity Nil (Conditions)</u>
<i>FSI 345.85</i>	<i>Genesis Energy Limited</i>	<i>Not stated</i>
<i>FSI 379.273</i>	<i>Hamilton City Council</i>	<i>Oppose submission 697.748</i>
<i>FSI 387.671</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 697.748</i>
943.21	McCracken Surveys Limited	Add "Residential activity" as a Permitted activity to Rule 22.1.2 Permitted Activities.
<i>FSI 387.1571</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 943.21</i>
471.48	CKL	Add "residential activity" as a permitted activity to Rule 22.1.2 Permitted Activities. AND Any consequential amendments necessary.
<i>FSI 388.465</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 471.48</i>

426. As residential activities occur in a number of zones, submissions on how this term is defined are considered in other hearings. Waikato District Council [697.748], McCracken Surveys [943.21] and CKL [471.48] have sought that 'residential activities' be listed as being permitted. Whilst a dwelling is anticipated as being an integral element of a farm or 'farming', the proposed density rules also make limited provision for smaller lifestyle lots where a dwelling would be permitted that was not integral to a farming activity.

427. The introduction to the permitted rules clarifies that in order to be permitted, an activity must be both listed in the permitted activity table, *and* comply with the applicable land use effects rules in 22.2 and land use building rules in 22.3, which include minimum site size requirements. I agree that explicit reference to residential activities being permitted is necessary to provide clear direction on this activity, with new dwellings only being permitted where they also comply with the relevant land use rule controlling site size.

Recommendations and amendments

428. It is recommended that a new permitted rule be added for residential activities.

<u>P13</u>	<u>Residential</u>	<u>Nil</u>
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Child care, education, health, spiritual, and conservation activities

429. Eight submissions were received seeking to enable community activities (especially child care).

Rule 22.1.2 – Permitted Activities		
259.2	Wendy Rowell for Pokeno Playcentre	Amend Rule 22.1.2 Permitted Activities by adding childcare facility as a permitted activity.
<i>FSI 386.260</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 259.2</i>
596.2	Raewyn Detmar on behalf of Pokeno Playcentre	Amend Rule 22.1.2 Permitted Activities, to add a Child Care facility as a permitted activity.
<i>FSI 388.1004</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 596.2</i>
<i>FSI 379.201</i>	<i>Hamilton City Council</i>	<i>Oppose submission 596.2</i>
617.2	Nicole Falkner for Pokeno Playcentre	Amend Rule 22.1.2 Permitted Activities, by adding childcare facility as a permitted activity.
<i>FSI 379.214</i>	<i>Hamilton City Council</i>	<i>Oppose submission 617.2</i>
<i>FSI 387.12</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 617.2</i>
607.2	Stephanie Hooper	Amend Rule 22.1.2 Permitted Activities by adding childcare facility as a permitted activity.
<i>FSI 379.211</i>	<i>Hamilton City Council</i>	<i>Oppose submission 607.2</i>
<i>FSI 387.2</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 607.2</i>
696.3	Brenda and Gavin Butcher for Parkmere Farms	Amend Rule 22.1.2 Permitted Activities, to include small scale childcare as a permitted activity.
<i>FSI 387.380</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 696.3</i>
654.1	Ngaakau Tapatahi Trust	Amend Rule 22.1.2 Permitted Activities to enable "health facilities" as a Permitted Activity on land legally described as Lot 1 DPS 13189 (104A Duncan Road, Tamahere); OR Amend the zoning of Lot 1 DPS 13189 (104A Duncan Road, Tamahere) from the Rural Zone to Business Zone and any other amendments to provide relief sought in submission.
<i>FSI 277.139</i>	<i>Waikato Regional Council</i>	<i>Oppose submission 654.1</i>
<i>FSI 379.220</i>	<i>Hamilton City Council</i>	<i>Oppose submission 654.1</i>
373.1	The Church in Hamilton	Amend Rule 22.1.2 Permitted Activities, to include religious gatherings under 150 people with a maximum vehicle movement condition of 200 vehicles per day.
<i>FSI 388.9</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 373.1</i>

Rule 22.1.3 - Restricted Discretionary Activities		
781.27	Ministry of Education	<p>Delete Rule 22.1.5 D6 Discretionary Activities relating to an education facility.</p> <p>AND</p> <p>Amend Rule 22.1.3 Restricted Discretionary Activities as follows:</p> <p>Rule 22.1.3 Restricted Discretionary Activities</p> <p>(1) The activities listed below are restricted discretionary activities</p> <p>(2) <u>Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in the following table:</u></p> <p>Activity <u>RD3 Education facilities</u></p> <p>Council's discretion shall be restricted to the following matters:</p> <p><u>The extent to which it is necessary to locate the activity within the Rural Zone.</u></p> <p><u>Reverse sensitivity effects of adjacent activities.</u></p> <p><u>The extent to which the activity may adversely impact on the transport network.</u></p> <p><u>The extent to which the activity may adversely impact on the streetscape.</u></p> <p><u>The extent to which the activity may adversely impact on the noise environment.</u></p>
FS1387.1225	Mercury NZ Limited	Oppose submission 781.27
FS1379.320	Hamilton City Council	Oppose submission 781.27
FS1345.132	Genesis Energy Limited	Oppose submission 781.27
FS1202.86	New Zealand Transport Agency	Support submission 781.27

Analysis

430. Submitters have sought to enable a range of community-related activities in the Rural Zone, including childcare (Pokeno Playcentre [259.2, 596.2, 617.2], S Hooper [607.2], Parkmere Farms [696.3], education (Ministry of Education [781.27], health (Ngaakau Tapatahi Trust [654.1]), and spiritual activities (Andrew Hutchinson [373.1]). A number of these submissions have been opposed by Hamilton City Council [FS1379.320] due to concerns about their possible impact on the management of urban growth. Some of these submissions are for activities of an unlimited scale, whereas others seek permitted activity status only for smaller-scale activities, albeit without generally specifying where the limits might be set.
431. Childcare, education, and health are all defined terms in the Proposed Plan. There is no definition for 'spiritual' or 'churches', although such activities are arguably covered by the 'place of assembly' definition. The place of assembly definition includes private entertainment facilities which have the potential for more commercial rather than community use as their core function. The recommended rule below only extends to community centres and halls that are publicly owned to avoid creating a loophole that enables large-scale private entertainment activities to be established under a framework that is focused on smaller-scale facilities and those that address a local community need.
432. The Proposed Plan likewise included a definition for 'community activity' as "the construction and use of public land and buildings which provides for individual or community health, welfare, care, safety, recreation, cultural, ceremonial, spiritual, art and craft purposes and includes

cemeteries”. The key qualifier with the definition is that the land and buildings be publicly held. The majority of churches are not public buildings (in the sense of being owned by either local or central government), and likewise many preschool and health facilities are not publicly held, yet still provide a long-established and valued role in meeting the needs of rural communities. The s42A report on definitions recommended that the above definition of community activity be deleted and replaced with the following definition for a ‘community facility’ - meaning *‘land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare, or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility’*.

433. The recommended definition adequately captures the majority of the activities sought to be provided for as necessary components in sustainable rural communities and I have used this term in my recommended text. If the Panel decide to not adopt the recommended Hearing 5 definition, then health, spiritual, cultural, and recreational activities will need to be separately listed in the rule. The proposed policy framework assessed above recognised that community activities are a long-established element in rural areas, and important elements in contributing to socially-sustainable rural communities. The expansion or establishment of such activities does however need to be compatible with rural character and amenity values, both for neighbours and wider streetscape/area character, the safe and efficient functioning of the road network, and will not result in reverse sensitivity effects on established productive rural activities. It is also important that such activities are not of a scale or function that would threaten the wider strategic growth management direction for the district.
434. It is noted that very small-scale activities that are undertaken by a person residing on the property will fall within the ‘home occupation’ permitted framework. Common examples of such activities include childcare for four or fewer children through agencies such as Porse, or after school tuition such as music lessons or tutoring. Whilst such activity in my view falls within the ‘home occupation’ definition, because ‘childcare’ is separately defined I have recommended that it be specifically identified as permitted for four or less non-resident children.
435. I am cautious about establishing a permitted activity framework whereby such activities could establish without assessment through a consent process. Once the scale of activities goes beyond those permitted as a home occupation, it is recommended that a new restricted discretionary activity provide for a case-by-case assessment. The recommended framework is therefore one in which community activities in rural areas are recognised as forming an anticipated part of rural areas (especially at a policy level), and where new or expanded facilities are able to have their effects (and mitigation) considered through a consent process.
436. The concerns raised by Hamilton City Council in their further submission are noted, in particular the potential for such activities to threaten the wider urban consolidation direction of the plan if such activities occur at scale. Consideration of urban growth outcomes is therefore included as a matter of discretion. The rule is likewise framed as only applying to community activities where they are not located within the Urban Expansion Area, given the very directive outcomes sought in the Proposed Plan for these rural areas adjacent to Hamilton City.
437. The Ministry of Education (‘MoE’) is seeking that proposed rule D6, which makes education a fully discretionary activity’ be deleted, and replaced by a new restricted discretionary rule for education. The Dilworth Trust Board [577.1] seek that the existing Dilworth boarding school activities be provided for. The definition of ‘education facility’ includes tertiary and specialised training facilities, therefore includes the potential for large public or private facilities that are not necessarily serving the needs of their immediate catchment/community.

It is recommended that restricted discretionary status be applied to primary and secondary schools (including Dilworth), with the existing D6 rule applying to other types of education facility that potentially have a different scale and range of effects and differing purpose or need to locate in a rural area. It is noted that agricultural research facilities (which may include teaching and training elements) are addressed under a separate bespoke policy and rule framework. I note that the specific relief sought by Dilworth Trust Board is to be considered further as part of the alter hearings on rezoning and turns on whether or not scheduling as tool is inserted back into the Plan as part of wider cross-chapter decisions.

438. The MoE submission proposed that the matters to which Council's discretion is to be limited are as follows:

- The extent to which it is necessary to locate the activity within the Rural Zone:
- Reverse sensitivity effects of adjacent activities:
- The extent to which the activity may adversely impact on the transport network:
- The extent to which the activity may adversely impact on the streetscape:
- The extent to which the activity may adversely impact on the noise environment.

439. These provide a useful starting point for the matters of assessment, as do the similar matters of discretion that formed part of the s42A recommendations on education facilities in the Country Living Zone. The assessment matters in the Proposed Plan for rural industry (RD2) likewise provide helpful direction, albeit that rural industry has the potential for different effects from community facilities. A matter of discretion relating to facility design meeting Crime Prevention Through Environmental Design ('CPTED') is recommended in response to such outcomes being sought by Counties Manukau Police [297.34] for non-rural activities in the Rural Zone.

440. Finally, as a consequential amendment to the submissions discussed elsewhere by the Auckland Waikato Fish and Game Council [433] it is recommended that 'conservation activities' be included as a permitted activity to enable such works that have a clear community benefit and low risk of adverse effects (noting that earthworks associated with such activities are controlled through other rules).

Recommendations and amendments

441. It is recommended that a new restricted discretionary rule provides for community facilities, and a consequential amendment made to rule D6 as follows:

<u>Px</u>	<u>Conservation activity</u>	<u>Nil</u>
<u>Px</u>	<u>Childcare</u>	<u>(a) Have no more than four non-resident children</u>
<u>RD3</u>	<u>(i) Child care facility for 5 or more non-resident children</u> <u>(ii) Education facilities that are state or state integrated primary and secondary schools</u> <u>(iii) Community facility</u> <u>Where (i)-(iii) are not in an Urban Expansion Area</u>	<u>(a) Council's discretion is restricted to the following matters:</u> <u>(i) Whether the scale and nature of the activity is consistent with managing urban growth through the consolidation of townships and the extent to which it is necessary to locate in the Rural Zone;</u> <u>(ii) Effects on rural character and amenity of both the streetscape and neighbours with particular regard to the bulk and</u>

		<p><u>location of buildings;</u></p> <p>(iii) <u>Nuisance effects including light spill and glare, odour, dust, and noise;</u></p> <p>(iv) <u>Traffic effects;</u></p> <p>(v) <u>Reverse sensitivity effects on existing farming, intensive farming, rural industry, or mineral extraction activities;</u></p> <p>(vi) <u>Whether the facilities are designed to meet Crime Prevention Through Environmental Design outcomes;</u></p>
D6	<p>(a) <u>An education facility that is not a primary or secondary school.</u></p> <p>(b) <u>Education, child care or community facilities located in an Urban Expansion Area.</u></p>	

Rural commercial

442. Four submissions were received seeking provision for a range of commercial activities that typically locate in rural areas. Two submissions seek the inclusion of a definition for 'farm visits'. A proposed definition for 'rural commercial activities' is discussed above in the policy section.

Rule 22.1.2 – Permitted Activities		
330.145	Andrew and Christine Gore	Amend Rule 22.1.2 Permitted Activities, to include agribusiness activities.
FSI 306.3	Hynds Foundation	Support submission 330.145
FSI 379.84	Hamilton City Council	Oppose submission 330.145
FSI 386.410	Mercury NZ Limited	Oppose submission 330.145
746.76	The Surveying Company	<p>Add new Restricted Discretionary Activities to Rule 22.1.3 Restricted Discretionary Activities for small-scale commercial/retail activities that may be ancillary to rural activities occurring on the site e.g. Rural commercial services that support rural production activities;</p> <p>Small scale commercial activities ancillary to a primary rural activity, such as cafes on berry picking farms;</p> <p>Tourism activities and ancillary commercial or food and beverage activities;</p> <p>Small wedding venues;</p> <p>Veterinary Clinics;</p> <p>Boarding Kennels and Catteries;</p> <p>Care Centres (less than 10 people);</p>
FSI 379.293	Hamilton City Council	Oppose submission 746.76
FSI 348.24	Perry International Trading Group Limited	Support submission 746.76
FSI 306.52	Hynds Foundation	Support submission 746.76
FSI 387.949	Mercury NZ Limited	Oppose submission 746.76
330.144	Andrew and Christine Gore	Amend Rule 22.1.2 Permitted Activities, to include veterinary activities.

FS1306.2	Hynds Foundation	Support submission 330.144
FS1379.83	Hamilton City Council	Oppose submission 330.144
FS1386.409	Mercury NZ Limited	Oppose submission 330.144
Rule 22.1.3 – Restricted Discretionary Activities		
877.14	Leigh Michael Shaw & Bradley John Hall	Add small scale commercial/retail activities that may be ancillary to rural activities occurring on the site to Rule 22.1.3 Restricted Discretionary Activities. The submission refers to the Auckland Unitary Plan which has further definition and provision for similar activities. Examples include the following: Rural commercial services that support rural production activities; Small scale commercial activities ancillary to a primary rural activity, such as cafes on berry picking farms. Tourism activities and ancillary commercial or food and beverage activities, Small wedding venues Veterinary Clinics Boarding Kennels and Catteries Care Centres (less than ten people).
FS1348.28	Perry International Trading Group Limited	Support submission 877.14
FS1308.164	The Surveying Company	Support submission 877.14
FS1379.359	Hamilton City Council	Oppose submission 877.14
FS1340.190	TaTa Valley Limited	Support submission 877.14
FS1387.1458	Mercury NZ Limited for Mercury D	Oppose submission 877.14
Definitions – Farm Visiting		
746.15	The Surveying Company	Add a new definition for "Farming Visit" to Chapter 13: Definitions as per the Operative Franklin Section of the Operative District Plan.
FS1387.914	Mercury NZ Limited	Oppose submission 746.15
877.4	Leigh Michael Shaw & Bradley John Hall	Add to Chapter 13: Definitions a separate definition for "Farming Visit" as per the Franklin Section of the Operative District Plan.
FS1387.1450	Mercury NZ Limited	Oppose submission 877.4

Analysis

443. Submitters have sought to enable a range of rural-related commercial activities, either as permitted or as restricted discretionary activities. Some of these submissions are for activities of an unlimited scale, whereas others seek permitted activity status only for smaller-scale activities, albeit without generally specifying where the limits might be set. A&C Gore [330.145] seek that veterinary practices be permitted, The Surveying Company [746.76] and L Shaw & B Hall [877.14] seek that small-scale commercial/retail activities

ancillary to rural activities be restricted discretionary, including rural tourism, wedding venues, and veterinary clinics. These same submitters also seek the inclusion of a new rule and definition to permit ‘farm visits’.

444. Under the Proposed Plan there are no permitted commercial activities in the Rural Zone beyond small site-related produce stalls or home occupations. All commercial activities (whether rural-related or not) are subject to Rule D9 as a fully discretionary activity. The policy analysis set out above proposes a policy approach that recognises that there is a range of rural-related commercial activities that are often located in rural areas and form an anticipated part of the rural environment. Such activities can range in scale and the nature of their effects, therefore rather than a permitted activity pathway (with low thresholds), it is recommended that ‘rural commercial’ activities require a restricted discretionary consent so that their effects can be assessed on a case-by-case basis. As with community activities, it is recommended that a restricted discretionary status only apply where such activities are located outside of the Urban Expansion Area adjacent to Hamilton City.
445. Whilst rural-related commercial activities are contemplated at a policy level, non-rural commercial activities that have no functional or operational need to locate in rural areas are not anticipated in the proposed policy framework of both the Rural Zone and in the wider strategic directions concerning how growth is to be managed. Given that non-rural commercial activities are not anticipated in the Rural Zones, a non-complying activity status is considered to be more appropriate. I note that there are no submissions seeking the deletion of D9 or its alteration to non-complying status. As such, the scope to make such a change is limited to that provided through more general submissions that address strategic objectives and wider growth management outcomes. If the Panel is satisfied that sufficient scope is available, I have shown the recommended changes below.
446. As part of the above policy discussion it was recommended the following new definition be added: “Rural Commercial means commercial activities that have a direct functional dependence on the rural environment or that service productive rural activities. It includes veterinary practices, wineries and wedding venues, adventure tourism, farm tourism, and includes ancillary retail and office activities”.
447. In terms of matters of discretion, the matters identified as being appropriate for community activities are likewise considered to be appropriate for rural commercial activities. It is therefore recommended that a new rule RD4 be added to provide a more enabling pathway for rural commercial activities, and conversely the discretionary rule D9 for general commercial activities be deleted and replaced with a non-complying rule to more clearly signal that commercial activities with no functional need to locate in rural areas should instead be located in urban environments.

Recommendations and amendments

448. Include a new restricted discretionary rule for rural commercial, delete Rule D9, and include a new non-complying rule for commercial activities that are not rural-related.

RD4	<u>Rural Commercial not in an Urban Expansion Area</u>	(a) <u>Council’s discretion is restricted to the following matters:</u> (i) <u>Whether the scale and nature of the activity is consistent with managing urban growth through the consolidation of townships and the extent to which it is necessary to locate in the Rural Zone;</u> (ii) <u>Effects on rural character and amenity of both the streetscape and neighbours</u>
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		<p><u>with particular regard to the bulk and location of buildings;</u></p> <p>(iii) <u>Nuisance effects including light spill and glare, odour, dust, and noise;</u></p> <p>(iv) <u>Traffic effects;</u></p> <p>(v) <u>Reverse sensitivity effects on existing farming, intensive farming, rural industry, or mineral extraction activities;</u></p>
D9	A commercial activity, excluding a produce stall	
<u>NCX</u>	<u>A commercial activity, excluding a produce stall or rural commercial activity</u>	

Rural Industry

449. Four submissions sought that a range of rural industry activities be permitted. Three submissions were received in support of the Restricted Discretionary Rule RD2 on rural industry, with a further four submissions seeking amendments to either include further specific types of rural industry, or to amend the matters of discretion. Six submissions were received seeking amendments to the definition of 'rural industry' or the inclusion of a new definition for 'on-site primary produce manufacturing'.

Rule 22.1.2 – Permitted Activities		
746.70	The Surveying Company	Add five new permitted activities to Rule 22.1.2 Permitted Activities consistent with the Franklin Section of the Operative District Plan as follows: <u>On Site Primary Produce Manufacturing</u> <u>Farming Visit</u> <u>Public Garden</u> <u>Packhouse and coolstore</u> <u>Farmers' market (meeting certain performance standards).</u>
<i>FS1306.48</i>	<i>Hynds Foundation</i>	<i>Support submission 746.70</i>
877.27	Leigh Michael Shaw & Bradley John Hall	Add the following activities to Rule 22.1.2 Permitted Activities: <u>On Site Primary Produce Manufacturing</u> <u>Farming Visit</u> <u>Public Garden</u> <u>Packhouse and coolstore</u> <u>Farmers' market (meeting certain performance standards).</u>
<i>FS1387.1467</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 877.27</i>
<i>FS1308.162</i>	<i>The Surveying Company</i>	<i>Support submission 877.27</i>
<i>FS1306.66</i>	<i>Hynds Foundation</i>	<i>Support submission 877.27</i>

680.186	Federated Farmers of New Zealand	Add to Rule 22.1.2 a new permitted activity rule for rural contractors' depot, as follows: <u>PXX Rural contractors' depot Activity specific conditions: Nil</u> AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FS1275.14</i>	<i>Zeala Limited trading as Aztech Buildings</i>	<i>Support submission 680.186</i>
<i>FS1306.43</i>	<i>Hynds Foundation</i>	<i>Support submission 680.186</i>
<i>FS1379.234</i>	<i>Hamilton City Council</i>	<i>Oppose submission 680.186</i>
<i>FS1387.201</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose submission 680.186</i>
Rule 22.1.3 – Restricted discretionary		
402.8	Tuakau Proteins Limited	Delete Rural Industry from Rule 22.1.3 RD2 Restricted Discretionary activities AND Add Rural Industry to Rule 22.1.2 Permitted Activities. AND Any consequential amendments and/or additional relief to give effect to the concerns raised in the submission.
<i>FS1388.141</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 402.8</i>
<i>FS1379.119</i>	<i>Hamilton City Council</i>	<i>Oppose submission 402.8</i>
691.15	McPherson Resources Limited	Amend Rule 22.1.3 RDI (a) Restricted Discretionary Activities, as follows (or words to similar effect): (a) Intensive farming <u>and mineral or aggregate extractive industries</u> that meet all of the following conditions: (i) Land Use - Effects in Rule 22.2; [subject to proposed amendments] (ii) Land Use - Building ion Rule 22.3; [subject to proposed amendments] (iii) ... AND Delete Rule 22.1.5 D8 Discretionary Activities. This relief is sought in the event that any part of the submission from point 691.1 to 691.15 is not accepted by WDC. AND Any consequential amendments or additional relief to address the matters raised in the submission.
<i>FS1198.45</i>	<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>Support submission 691.15</i>
798.31	Ngati Te Ata	Add a new matter of discretion to Rule 22.1.3 RD2 Matters of discretion for Rural Industry as follows: <u>(vi) environmental effects.</u>
<i>FS1387.1290</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 798.31</i>

419.11	Horticulture New Zealand	Retain the restricted discretionary activity status for Rule 22.1.3 RD2 Rural Industry AND Delete matter of discretion (a)(iii) waste disposal in Rule 22.1.3 RD2 Rural Industry OR Amend matter of discretion (a)(iii) waste disposal in Rule 22.1.3 RD2 Rural Industry to provide more clarity around what waste disposal effects Council is attempting to manage. AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1388.180</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 419.11</i>
697.750	Waikato District Council	Amend Rule 22.1.3 RD2 Rural Industry, as follows: Rural Industry <u>not</u> in an Urban Expansion Area.
<i>FS1171.105</i>	<i>T&G Global</i>	<i>Oppose submission 697.750</i>
<i>FS1387.673</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 697.750</i>
341.10	Tainui Group Holdings Limited	Retain Rule 22.1.3 RD2 Restricted Discretionary Activities for Rural Industry.
466.11	Balle Bros Group Limited	Retain Rule 22.1.3 RD2 Rural Industry as notified.
<i>FS1388.404</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 466.11</i>
<i>FS1308.54</i>	<i>The Surveying Company</i>	<i>Support submission 466.11</i>
680.188	Federated Farmers of New Zealand	Amend Rule 22.1.3 RD2 Restricted Discretionary Activities, as follows: RD2 Rural Industry <u>Depot</u> AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FS1387.203</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 680.188</i>
Definitions – Rural Industry		
197.15	NZ Pork	Retain the definition for "Rural Industry" in Chapter 13 Definitions subject to clarifying that rurally located feedmills and feed manufacturing activities are included in this definition.
<i>FS1386.198</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 197.15</i>
402.11	Tuakau Proteins Limited	Confirm the inclusion of rendering in the definition of "Rural Industry" in Chapter 13 Definitions. OR Amend the definition of "Rural Industry" in Chapter 13 Definitions to provide more clarity or examples of what rural industry activities would be. AND Any consequential amendments and/or additional relief to give effect to the concerns raised in the submission.

FS1388.143	Mercury NZ Limited	Oppose submission 402.11
419.135	Horticulture New Zealand	Delete the definition of "Rural Industry" from Chapter 13 Definitions AND Add a new definition for "Rural Industry and Services" to Chapter 13 Definitions, as follows: <u>Rural industry and services means an activity undertaken within a rural area where the activity is directly related to rural production activities and includes: facilities for processing, packing and storing primary products and activities which service rural production rural contractors depots post-harvest facilities research facilities</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
FS1340.57	TaTa Valley	Support submission 419.135
FS1388.232	Mercury NZ Limited	Oppose submission 419.135
680.265	Federated Farmers of New Zealand	Retain the definition of "Rural industry" in Chapter 13 Definitions as notified.
FS1387.232	Mercury NZ Limited	Oppose submission 680.265
697.506	Waikato District Council	Amend the definition for "Rural industry" as follows: Means an industry that involves the direct handling or processing to the first stage of manufacture of any raw produce harvested from farming, rural contractors' depots, or any other land related agricultural activity, but excludes waste disposal, extractive industries and electricity generation. Within the Rural Zone, activities that directly support farming through supplying a product or service to farms, such as rural contractors. It excludes transport depots and retail services.
FS1168.131	Horticulture New Zealand	Support submission 697.506
FS1340.129	TaTa Valley Limited	Oppose submission 697.506
FS1379.270	Hamilton City Council	Support submission 697.506
FS1387.588	Mercury NZ Limited for Mercury D	Oppose submission 697.506
Definitions – On-site Primary Produce Manufacturing		
746.14	The Surveying Company	Add a new definition for "On Site Primary Produce Manufacturing" to Chapter 13: Definitions as per the Operative Franklin Section of the Operative District Plan.
FS1387.913	Mercury NZ Limited	Oppose submission 746.14
FS1171.119	T&G Global	Support submission 746.14
877.7	Leigh Michael Shaw & Bradley John Hall	Add to Chapter 13: Definitions a separate definition for "On Site Primary Produce Manufacturing" as per the Franklin Section of the Operative District Plan.
FS1387.1453	Mercury NZ Limited	Oppose submission 877.7

FS1168.88	Horticulture New Zealand	Support submission 877.7
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Analysis

450. A number of submissions were received seeking to add rural industries to the list of permitted activities, as follows:
- The Surveying Company [746.70] and L Shaw & B Hall [877.27] seek to add five new permitted activities, namely on-site primary produce manufacturing, farming visits, public gardens, packhouse and coolstores, and farmers' markets (meeting certain performance standards);
 - A & C Gore [330.65 and .145] seek that agribusiness activities be permitted;
 - Federated Farmers [680.186] seek that rural contractors' depots be permitted;
 - Tuakau Proteins [402.8] seek that rural industry be a permitted activity and consequently be deleted from rule RD2.
451. Submissions in support of Rule RD2 and seeking its retention were received from Tainui Group holdings [341.1], Balle Bros Group [466.11], Horticulture NZ [419.11]. The Ngati Tamaoho Trust [567.35] and Ngati Te Ata [798.31] seek that an additional matter of discretion be added to RD2 as "environmental effects". Horticulture NZ seek that matter (iii) referring to 'waste management' either be deleted or clarified. Federated Farmers [680.188] seek that RD2 be limited to 'rural industry depots', noting their above submission seeking that rural industry be permitted. Waikato District Council [697.750] seek that RD2 be amended to clarify that it only applies to 'rural industry not in an Urban Expansion Area'.
452. As with the above analysis of community activities and rural commercial activities, there is a range of rural industrial activities that have a functional need to be located in rural environments and as a consequence form part of the anticipated character of rural areas. It is noted that the definition of 'farming' (and therefore the associated permitted activity pathway) includes the 'processing of farm produce grown on the land, such as cutting, cleaning, grading, chilling, freezing, packaging, and storage'. Home occupations that include small-scale contractors' yards and workshops are likewise permitted. More commercially-focused activities such as garden tours, farm visits, and veterinary practices are to be managed under the rural commercial activity pathway discussed above. Farmers' markets are likewise permitted where they meet the temporary activity limits (recommended to be increased to 6 per year), and are subject to consent where they are to occur on a more regular basis.
453. When such activities increase in scale beyond that typically encountered on farms, they do have the potential to be of a character and intensity that can generate unacceptable adverse effects, depending on their location and the effectiveness of mitigation measures. Given the scale of buildings and traffic potentially generated by larger-scale contractor yards, and pack houses and cool stores that process produce from the wider area, it is recommended that the expansion or establishment of rural industrial activities proceed through a resource consent process to enable their potential adverse effects to be properly assessed.
454. In terms of the definition, the changes sought by Waikato District Council are in part due to the lack of a definition and rule pathway for rural commercial activities. With the addition of a pathway for rural commercial, the changes sought by Council are not as necessary. The link or nexus in the notified definition with agricultural produce or other land-related agricultural activity is important to distinguish between industry that has a strong functional need to locate in rural areas and general industry that should more appropriately be located within urban industrial zones. It is considered that the NPS definition adequately captures 'on-site primary produce manufacturing'. Given that 'rural industry' is an NPS definition,

rather than amend the definition it is recommended that the rule itself explicitly include packhouses and coolstores where produce is sourced off-site (to differentiate from the permitted pathway for such facilities where they are only used for on-site produce in clause (b) of the farming definition recommended above). On-farm agricultural research is likewise recommended to be included within the farming definition. It is recommended that feed mills and feed manufacturing be included in the restricted discretionary rule for rural industry, noting that such activities will need to be assessed through a resource consent process, where potential amenity effects on neighbours is one of the matters of discretion.

455. It is recommended that the 'waste disposal' assessment matter be deleted, noting that matter (i) enables consideration of effects on rural character and amenity and matter (iv) enables consideration of odour and dust, which are the key issues generated by the management of waste materials. It is considered that 'environmental effects' is too generic and non-specific to provide helpful direction to applicants and consent assessors, and would result in the activity essentially becoming fully discretionary in nature. If the submitters can provide evidence as to which effects they are specifically concerned with in relation to rural industry, then the addition of more focused matters of discretion may be appropriate. It is recommended that the restricted discretionary pathway only apply to activities located outside of Hamilton's 'Urban Expansion Area'.
456. As with the above discussion on rural commercial activities, whilst rural-related industrial activities are contemplated at a policy level, non-rural industrial activities that have no functional or operational need to locate in rural areas are not anticipated in the proposed policy framework of both the Rural Zone and in the wider strategic directions concerning how growth is to be managed. Given that non-rural industrial activities are not anticipated in the Rural Zones, a non-complying activity status is considered to be more appropriate than the discretionary status in Rule D10 in the Proposed Plan. As with commercial activities, there are again no submissions seeking the deletion of D10 or its alteration to non-complying status. As such, the scope to make such a change is limited to that provided through more general submissions that address strategic objectives and wider growth management outcomes. If the Panel is satisfied that sufficient scope is available, I have shown the recommended changes below.

Recommendations and amendments

457. It is recommended that Rule RD2 be retained with amendments. It is recommended that Rule D10 be deleted and a new non-complying rule be added for general industrial activities.

RD2	<p>(a) Rural Industry <u>including packhouses and coolstores that handle produce sourced from other sites, feed mills and animal feed production, and rural contractors' depots; that meet the following condition:</u></p> <p>(i) <u>not in an Urban Expansion Area</u></p>	<p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) <u>Whether the scale and nature of the activity is consistent with managing urban growth through the consolidation of townships and the extent to which it is necessary to locate in the Rural Zone;</u></p> <p>(ii) <u>effects on rural character and amenity of both the streetscape and neighbours with particular regard to the bulk and location of buildings,</u></p> <p>(iii) location, type and scale of development;</p> <p>(iv) waste disposal;</p> <p>(v) nuisance effects including: light spill and</p>
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		glare, odour, dust, noise; (vi) traffic effects.
D10	An industrial activity	
NCX	An industrial activity, excluding a rural industrial activity	

Emergency Facilities

458. Two submissions were received seeking the provision of a permitted activity rule for emergency training and management and a restricted discretionary rule for emergency facilities.

Rule 22.1.2 – Permitted Activities		
378.114	Fire and Emergency New Zealand	Add a new activity to Rule 22.1.2 Permitted Activities, as follows: (x) Emergency services training and management activities. AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
<i>FSI306.4</i>	<i>Hynds Foundation</i>	<i>Support submission 378.114</i>
<i>FSI388.75</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 378.114</i>
<i>FSI035.221</i>	<i>Pareoranga Te Kata</i>	<i>Support submission 378.114</i>
Rule 22.1.3 – Restricted Discretionary Activities		
378.115	Fire and Emergency New Zealand	Add a new activity to Rule 22.1.3 Restricted Discretionary Activities, as follows: (x) Emergency service facilities AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
<i>FSI388.76</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 378.115</i>
<i>FSI035.222</i>	<i>Pareoranga Te Kata</i>	<i>Support submission 378.115</i>

Analysis

459. Fire and Emergency NZ [378.114 and .115] seek that emergency services training and management *activities* be permitted, and that emergency service *facilities* be a restricted discretionary activity. I agree that FENZ facilities need to be located in reasonable proximity to various parts of the district. There is a long history of rural volunteer fire fighting facilities being located in rural zones, generally on the periphery of small townships and settlements. Such facilities are by nature limited in number and their location in rural zones does not threaten wider urban growth objectives. As such, it is recommended that the submissions be accepted, with a new permitted activity for training and management and a new restricted discretionary rule for facilities.
460. The s42A report on definitions recommended the inclusion of defined terms for ‘emergency services’ and ‘emergency services training and management activities’. These recommended

terms will be applied consistently across various zones where such activities and facilities are located.

461. It is recommended that the matters of discretion be aligned with those recommended in the s42A report for the Residential Zone (Hearing 10).

Recommendations and amendments

462. It is recommended that new permitted and restricted discretionary rules be added as follows:

<u>PI4</u>	<u>Emergency services training and management activities</u>	<u>Nil</u>
<u>RD5</u>	<u>Emergency service facilities</u>	<p><u>Council's discretion shall be restricted to the following matters:</u></p> <p>(a) <u>The extent to which it is necessary to locate the activity in the Rural Zone.</u></p> <p>(b) <u>Reverse sensitivity effects on adjacent activities.</u></p> <p>(c) <u>The extent to which the activity may adversely impact on the transport network.</u></p> <p>(d) <u>The extent to which the activity may adversely impact on rural character and amenity particularly with regard to the scale of buildings.</u></p> <p>(e) <u>The extent to which the activity may adversely impact on the noise environment.</u></p>

Retirement Villages

463. Five submissions were received seeking a more enabling pathway for retirement villages, which currently default to non-complying under Rule NC5.

Rule 22.1.3 – Restricted Discretionary Activities		
761.5	Lyndendale Farms Limited	<p>Amend to Rule 22.1.3 Restricted Discretionary Activities to a new rule RD3 to include specific provisions for a new Retirement Village, or alterations to an existing retirement village as follows:</p> <p><u>RD3- A new retirement village, or alterations to an existing retirement village at 180 Horsham Downs Road (legally described as Lot 5 DP 505127) that meets all of the following conditions:</u></p> <p>(a) <u>Minimum living court or balcony area and dimensions:</u></p> <p>(i) <u>Apartment- 10m² area within minimum dimension horizontal and vertical of 2.5m.</u></p> <p>(ii) <u>Studio unit or 1 bedroom unit- 12.5m² area with minimum dimension horizontal and vertical of 2.5m; or</u></p> <p>(iii) <u>2 or more bedroomed unit- 15m² area with minimum dimension horizontal and vertical of 2.5m;</u></p> <p>(b) <u>Minimum service court is either:</u></p> <p>(i) <u>Apartment- communal outdoor space (i.e. no individual service courts required); or</u></p> <p>(ii) <u>All other units- 10m².</u></p> <p>(c) <u>Building height does not exceed 10m;</u></p> <p>(d) <u>Building setbacks- a 7.5m setback is required from a local road, and a 12m setback is required from all other boundaries; except internal site boundaries where no setback shall apply.</u></p> <p>(e) <u>The following Land Use- Effects rule in Rule 22.2 do not apply:</u></p> <p>(i) <u>Rule 22.2.6.1 (Signs- General).</u></p> <p>(ii) <u>Rule 22.2.6.2 (Signs- Effects on traffic).</u></p> <p>(f) <u>The following Land Use- Building rules in Rule 22.3 do not apply:</u></p> <p>(i) <u>Rule 22.3.1 (No. of Dwellings);</u></p> <p>(ii) <u>22.3.6 Building Coverage</u></p> <p>(iii) <u>Rule 22.3.7.1 Building Setbacks</u></p> <p>(iv) <u>Rule 22.3.7.2 Building Setback- Sensitive Land Use.</u></p> <p>(g) <u>The following Infrastructure and Energy rule in Chapter 4 does not apply: Rule 14.12.1 P4(1.) (d.) Traffic Generation</u></p> <p>AND</p> <p>Amend the Proposed District Plan to make any consequential amendments that are required to give effect to the submission.</p>
FS1387.1114	Mercury NZ Limited	Oppose submission 761.5

FS1379.308	Hamilton City Council	Oppose submission 761.5
697.751	Waikato District Council	<p>Add new Rule 22.1.3 RD3 as follows:</p> <p>RD3</p> <p><u>A new retirement village or alterations to an existing retirement village that meets all of the following conditions:</u></p> <p>(a) <u>The site or combination of sites where the retirement village is proposed to be located has a minimum net site area of 3ha;</u></p> <p>(b) <u>The site is either serviced by or within 400m walking distance of public transport;</u></p> <p>(c) <u>The site is either:</u></p> <p style="padding-left: 20px;">(i) <u>connected to public water and wastewater infrastructure; or</u></p> <p style="padding-left: 20px;">(ii) <u>serviced with on-site water and wastewater infrastructure.</u></p> <p>(d) <u>Minimum living court or balcony area and dimensions:</u></p> <p style="padding-left: 20px;">(i) <u>Apartment – 10m² area with minimum dimension horizontal and vertical of 2.5m;</u></p> <p style="padding-left: 20px;">(ii) <u>Studio unit or 1 bedroom unit – 12.5m² area with minimum dimension horizontal and vertical of 2.5m; or</u></p> <p style="padding-left: 20px;">(iii) <u>2 or more bedroomed unit – 15m² area with minimum dimension horizontal and vertical of 2.5m;</u></p> <p>(e) <u>Minimum service court is either:</u></p> <p style="padding-left: 20px;">(i) <u>Apartment – Communal outdoor space (ie no individual service courts required) of at least 5m² with a minimum dimension of 1.5 metres for each apartment; or</u></p> <p style="padding-left: 20px;">(ii) <u>All other units – 10m² with a minimum dimension of 1.5 metres for each unit;</u></p> <p>(f) <u>Building height does not exceed 8m, except for 15% of the total building coverage, where buildings may be up to 10m high;</u></p> <p>(g) <u>The following Land Use – Effects rule in Rule 22.2 does not apply:</u></p> <p style="padding-left: 20px;">(i) <u>Rule 22.2.7 (Signs);</u></p> <p>(h) <u>The following Land Use – Building rules in Rule 22.3 do not apply:</u></p> <p style="padding-left: 20px;">(i) <u>Rule 22.3.1 (Dwelling);</u></p> <p style="padding-left: 20px;">(ii) <u>Rule 22.3.3 (Building Height);</u></p> <p>(i) <u>The following Infrastructure and Energy rule in Chapter 14 does not apply:</u></p> <p style="padding-left: 20px;">(i) <u>Rule 14.12.1 P4(1)(a) (Traffic generation).</u></p> <p>(a) <u>Council’s discretion is restricted to:</u></p> <p style="padding-left: 20px;">(i) <u>Integration of the retirement village into the rural landscape;</u></p> <p style="padding-left: 20px;">(ii) <u>Adverse effects on rural character and amenity;</u></p> <p style="padding-left: 20px;">(iii) <u>Connectivity to existing towns and villages, including connections to existing walkways.</u></p>

		<p><u>roading infrastructure and public transportation;</u></p> <p>(iv) <u>Connectivity to public reticulated public water supply and wastewater, or provision of services on site;</u></p> <p>(v) <u>Bulk and scale of the retirement village development;</u></p> <p>(vi) <u>Reverse sensitivity effects;</u></p> <p>(vii) <u>Effects on the roading network.</u></p>
FS1004.13	Tamahere Eventide Home Trust - Tamahere Eventide Retirement Village	Oppose submission 697.749
FS1005.17	Tamahere Eventide Home Trust - Atawhai Assisi Retirement Village	Oppose submission 697.749
FS1333.14	Fonterra Limited	Oppose submission 697.749
FS1345.82	Genesis Energy Limited	Oppose submission 697.749
FS1308.112	The Surveying Company	Oppose submission 697.749
FS1379.274	Hamilton City Council	Oppose submission 697.749
FS1387.674	Mercury NZ Limited	Oppose submission 697.749
251.3	John Cunningham for Aparangi Retirement Village Trust	Amend the Proposed District Plan rules to enable retirement villages in the Country Living and Rural Zones.
FS1004.4	Tamahere Eventide Home Trust - Tamahere Eventide Retirement Village	Support submission 251.3
FS1386.256	Mercury NZ Limited	Oppose submission 251.3
FS1202.68	New Zealand Transport Agency	Oppose submission 251.3
FS1005.8	Tamahere Eventide Home Trust - Atawhai Assisi Retirement Village	Support submission 251.3
Rule 22.1.5 NC5		
761.6	Lyndendale Farms Limited	<p>Amend Rule 22.1.5 NC5 non-complying activities so that NC5 does not apply to a retirement village activity (including the proposed retirement village at 180 Horsham Downs Road) in the Rural Zone.</p> <p>AND</p> <p>Amend the Proposed District Plan to make any consequential amendments that are required to give effect to the submission.</p>
FS1387.1115	Mercury NZ Limited	Oppose submission 761.6
FS1379.309	Hamilton City Council	Oppose submission 761.6
775.1	Sanderson Group Limited	<p>Amend the activity status for retirement villages within the Rural Zone to a Discretionary Activity, rather than a Non-Complying Activity as currently provided for under Rule 22.1.5 Non-Complying Activities.</p> <p>AND</p> <p>Any further relief and/or amendments necessary to support the relief as set out in the submission.</p>

FS1387.1172	Mercury NZ Limited	Oppose submission 775.1
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Analysis

464. Under the Proposed Plan, retirement villages are not explicitly listed as a stand-alone activity, and are therefore subject to the ‘catch-all’ Rule NC5, which is the default rule whereby “*any other activity that is not listed as a prohibited, permitted, restricted discretionary, or discretionary activity*” requires a resource consent as a non-complying activity”.
465. As retirement villages and rest homes can locate in a number of zones, the definitions of these terms were considered in the earlier Hearing 5. The s42A report for that earlier hearing recommended that the definition of ‘rest home’ be deleted, and the definition of ‘retirement village’ be amended to match that in the National Planning Standards. The recommendations below for the Rural Zone rules therefore refer to ‘retirement villages’ which means ‘*a managed comprehensive residential complex or facilities used to provide residential accommodation for people who are retired and ay spouse or partners of such people. It may also include any of the following for residents within the complex: recreation, leisure, supported residential care, welfare and medical facilities (inclusive of hospital care) and other non-residential activities*’.
466. Aparangi Retirement Village Trust [251.3] seek a more enabling framework for retirement villages in the Rural and Country Living Zones. Lyndendale Farms [761.5] and Waikato District Council [697.751] seek that new retirement villages and alterations to existing retirement villages be a restricted discretionary activity. The WDC submission proposes a number of conditions requiring a minimum site size of 3ha, connection to either reticulated services or on-site treatment, within 400m of public transport, minimum outdoor living and service courts, and exemption from a number of land use and building rules. The proposed approach of a restricted discretionary status is opposed in further submissions by Tamahere Eventide Home Trust – Eventide Village [FS1004.13] and Atawhai Assisi Village [FS1005.17], Fonterra [FS1333.14], Genesis Energy [FS1345.82], The Surveying Company [FS1308.112], Hamilton City Council [FS1379.274], and Mercury Energy [FS1387.674].
467. Lyndendale Farms [761.6] seek that Rule NC5 not apply to a proposed retirement village at 180 Horsham Downs Rd. Sanderson Group [775.1] seek that the activity status for retirement villages generally be changed from non-complying to discretionary.
468. Tamahere Eventide [765] and Assisi [769] made separate submission points on the regulatory framework concerning retirement villages in the Country Living Zone. The s42a report on the Country Living Zone recommended that the treatment of retirement villages in that zone be considered as part of the Rural Zone hearing. The Panel will therefore need to cross-check the decisions made on retirement villages in this hearing with the rule framework and decisions for the Country Living Zone. It is likewise noted that the s42A report recommended that the Country Living Zone be renamed as the ‘Rural Lifestyle Zone’. For ease of reference and to avoid confusion I have continued to refer to it as the Country Living Zone, and simply note that the reference to this zone in the rules will ultimately need to align with the Panel’s decision on what the Country Living Zone should be called.
469. Retirement Villages provide a range of accommodation that typically extends from independent living units and apartments, through to rest home, hospital, and dementia-level care. Some facilities will include the full range of services, whilst others will only provide a selection of services. Retirement villages are typically set within well-maintained landscaped grounds with on-site parking and ancillary services. They are a necessary form of housing that meets the specific care needs of a part of the community, therefore need to be provided for in the district plan. The key issue for this hearing is whether such provision

should be principally through the more urban zones that provide for residential activity as their core purpose, e.g. the Residential Zone and the Village Zone, or whether provision should also be made in the Rural and Country Living Zones.

470. Whilst retirement villages range in size, most new villages are large complexes that provide a wide range of accommodation options and services. They also tend to have a reasonably dense built form, with numerous independent units through to large multi-storey rest home and hospital wings. Whilst typically set within landscaped grounds, they therefore have a built form, function, and appearance that is more urban than it is rural, as their form and function is urban. Given the size of new villages, it can be challenging to secure sites within existing townships that are large enough to accommodate the range of services required. The need to secure a large landholding, and combined with rural-zoned land generally being cheaper than urban-zoned land, can lead to pressure from retirement village operators to seek to develop rural-zoned sites. Apart from the challenge (and price) of securing sufficiently large sites, I am not aware of any functional or operational needs that would require retirement villages to locate in rural zones, especially as they require urban forms of infrastructure provision.
471. The National Policy Statement – Urban Development (‘NPS-UD’) requires Waikato District Council to undertake an assessment of demand for housing, and whether adequate serviced and zoned capacity is available for meeting that demand. It is anticipated that the adequacy (or not) of urban-zoned land will be a key focus of the upcoming hearings considering the hundreds of submissions seeking rezoning from rural to urban across the district. Ultimately, the district plan process will need to deliver sufficient zoned development capacity to meet anticipated demand, with an appropriate buffer or margin built in. There does not therefore appear to be any sector-specific need to provide a more enabling route for retirement villages (as an urban activity) to locate in rural zones, on the basis that sufficient capacity (and greenfield land availability) has to be provided in and adjacent to townships in order for the district plan to give effect to the NPS-UD.
472. It is therefore recommended that the current Proposed Plan approach of new retirement villages being a non-complying activity in the Rural Zone under rule NC5 be retained, given that they are inherently urban rather than rural activities, and adequate urban-zoned capacity is required to be provided through the district plan process to meet the district’s housing needs.
473. Whilst the Country Living Zone has a different purpose and outcome compared to the Rural Zone, and makes more overt provision for residential activity as the key activity occurring in the zone, such activity is anticipated to occur at very low levels of density, with extensive areas of open space and setbacks between stand-alone dwellings set within landscaped grounds. The very low density spacious character of the Country Living Zone is not considered to be readily compatible with the density or built form commonly experienced with retirement villages. As such, a permitted or restricted discretionary pathway is not considered to be appropriate for new retirement villages. Given that Country Living does have a residential focus, non-complying status may be unduly onerous, especially as retirement villages may be acceptable on a case-by-case basis, and if set within large sites and designed to maintain an overall spacious character. It is therefore recommended that new retirement villages be a fully discretionary activity in the Country Living Zones, which aligns with the outcome sought by the Sanderson Group [775].
474. Whilst I am comfortable with the proposed non-complying status in the Rural Zone for new retirement village proposals that might arise in the future, the Proposed Plan also needs to provide an appropriate framework for existing retirement villages. The majority of the submitters are the developers or operators of existing or proposed retirement villages as follows:

- Tamahere Trust ‘Tamahere Eventide’ village [765]. This site is located at 621 State Highway 1 in Tamahere. The site has a Country Living Zone (in both the Operative and Proposed Plans), therefore submission points and subsequent rules form part of the Country Living rule framework.
- Tamahere Trust ‘Atawhai Assisi’ village [769], located at 158 Matangi Road. This site is located in the Rural Zone (in both the Operative and Proposed Plans) and is the only existing retirement village in the Rural Zone. The primary outcome sought by the submitter is that the site be rezoned to Country Living to match the zoning of the adjacent land to the west and south (and therefore the majority of the submission points will be considered in the upcoming hearing that considers rezoning). As a ‘Plan B’ relief, the submitter seeks changes to the activity status for existing retirement villages in the Rural Zone. At the time of writing it is understood that a resource consent is being prepared to expand the existing facilities on this site.
- Lyndendale Farms [761] are the owners of a site at 180 Horsham Downs Road on the northern outskirts of Hamilton. The site has a rural zoning in both the Operative and Proposed Plans, and there are no submissions seeking a change to this zoning. The submitter has lodged a resource consent (LUC0294/19) to develop a retirement village - ‘Lyndendale Lifestyle Village’ - on this site. At the time of writing, this consent was being processed and had been on hold since March 2020.
- Sanderson Group [775] are the owners of a site at 650 Airport Road and 46 Tamahere Drive in Tamahere. The site has a rural zoning in both the Operative and Proposed Plans. A resource consent to develop a retirement village - ‘Tamahere Country Club’ - has recently been granted (LUC0023/19.01 and LUC0156/20), and construction is understood to be underway.
- Aparangi Retirement Village Trust, who operate an existing retirement village located at 4 Waerenga Road, Te Kauwhata. This site is located in the Residential Zone, however the submitter seeks a more enabling rule framework for the Rural and Country Living Zones to facilitate future expansion without the need for a private plan change.

475. It is acknowledged that existing facilities will need to adapt over time to meet changing needs and accommodation expectations in the aged-care industry. Some district plans include ‘scheduling’ as a tool for providing recognition of existing activities that are not otherwise provided for in the underlying zone provisions. The Operative Plan included the Atawhai Assisi village as a scheduled activity (therefore additions and alterations were permitted subject to meeting various building bulk and location rules). The Proposed Plan does not include a scheduled activities chapter for existing ‘out of zone’ activities. In the absence of a scheduled activity tool, it falls to either the zone rules to provide a suitable framework for existing facilities, or alternatively the facilities are left reliant on any existing resource consents.

476. An alternative is to consider (at a later hearing) whether these existing sites should be rezoned to Country Living or Residential as a better fit with their purpose and built form.

477. In the event that the current zoning is ultimately retained, it is recommended that a new permitted activity rule be added that provides for the operation and alteration of Atawhai Assisi village in the Rural Zone, with a similar permitted activity rule for the Eventide and Tamahere Country Club facilities in the Country Living Zone. Both rules should be subject to a condition that alterations do not increase floor area. Given that the Lyndendale site has yet to obtain resource consent and is located on a very large 52ha site, and therefore

restricted discretionary status would enable substantial urbanisation on the edge of Hamilton, it is recommended that this site not be included in the rules, as the development of this retirement village remains speculative at the time of writing.

478. A restricted discretionary rule is likewise proposed for additions to or expansion of these existing villages, with a relatively discrete set of matters of discretion. The proposed matters of discretion are based on those sought in the Waikato District Council submission. An extensive restricted discretionary rule that includes considerable detail regarding unit sizes, outdoor living areas etc. is not considered necessary, noting that the general structure of the Proposed Plan is to minimise as far as possible lengthy, site-specific rules in the interests of maintaining a concise and easy-to-use plan structure. The generic zone rules relating to the number of dwellings or site coverage do not fit with the nature of retirement villages that are comprised of multiple small units or bedroom-based wings. An exclusion from the zone rules on these matters is therefore recommended, with appropriate outcomes relying on the matters of discretion to ensure an appropriate site-specific design that is compatible with its context. A consequential amendment is recommended for the policies relating to residential density and subdivision to recognise existing retirement village complexes and has been included in the recommended text changes to Policy 5.3.4 above.
479. If Atawhai Assisi is rezoned to Country Living or Residential, obviously the site-specific permitted and restricted discretionary rules in the Rural Zone then become redundant.

Recommendations

480. Add a new permitted activity rule to permit the operation and alteration of Atawhai Assisi retirement village in the Rural Zone, with an associated restricted discretionary activity rule for additions as follows:

PX	<u>Atawhai Assisi Retirement Village (Lot 1 DPS21156) maintenance, operation, and alteration.</u>	<p>(a) <u>The alterations do not increase net floor area.</u></p> <p>(b) <u>Land Use – Effects in Rule 22.2;</u></p> <p>(c) <u>Land Use – Building in Rule 22.3 except:</u></p> <p style="padding-left: 20px;">(i) <u>Rule 22.3.1 (Number of dwellings) does not apply;</u></p> <p style="padding-left: 20px;">(ii) <u>Rule 22.3.2 (Minor Dwellings) does not apply;</u></p> <p style="padding-left: 20px;">(iii) <u>Rule 22.3.6 (Building Coverage) does not apply.</u></p>
RDX	<p><u>Atawhai Assisi Retirement (Lot 1 DPS21156) alterations and additions that increase net floor area and that meet all of the following conditions:</u></p> <p>(a) <u>Land Use – Effects in Rule 22.2;</u></p> <p>(b) <u>Land Use – Building in Rule 22.3 except:</u></p> <p style="padding-left: 20px;">(i) <u>Rule 22.3.1 (Number of dwellings) does not apply;</u></p> <p style="padding-left: 20px;">(ii) <u>Rule 22.3.2 (Minor</u></p>	<p>(a) <u>Council’s discretion is restricted to the following matters:</u></p> <p style="padding-left: 20px;">(i) <u>effects on rural character and amenity;</u></p> <p style="padding-left: 20px;">(ii) <u>The visual and amenity effects of building bulk and scale;</u></p> <p style="padding-left: 20px;">(iii) <u>Connectivity to existing towns and villages, including connections to existing walkways, roads, and public transport;</u></p> <p style="padding-left: 20px;">(iv) <u>Connectivity to public reticulated water supply and wastewater, or the adequacy of services provided on-site;</u></p>

	<p><u>Dwellings) does not apply;</u></p> <p>(iii) <u>Rule 22.3.6 (Building Coverage) does not apply.</u></p>	<p>(v) <u>Reverse sensitivity effects on existing farming, intensive farming, rural industry, or mineral extraction activities;</u></p> <p>(vi) <u>Traffic effects.</u></p>
NC5	Any other activity that is not listed as Prohibited, Permitted, Restricted Discretionary or Discretionary.	

481. It is recommended that a similar rule framework be provided for the Eventide and Tamahere Country Club sites in the Country Living Zone as follows:

PX	<p><u>Tamahere Eventide Retirement Village (Lot 1 & Lot 2 DPS88165 & Pt Lot 2 DPS2182) and Tamahere Country Club Retirement Village (insert CT ref) maintenance, operation, and alteration.</u></p>	<p>(a) <u>The alterations do not increase net floor area.</u></p> <p>(b) <u>Land Use – Effects in Rule 23.2;</u></p> <p>(c) <u>Land Use – Building in Rule 23.3 except:</u></p> <p>(i) <u>Rule 23.3.1 (Number of dwellings) does not apply;</u></p> <p>(ii) <u>Rule 23.3.2 (Minor Dwellings) does not apply;</u></p> <p>(iii) <u>Rule 22.3.6 (Building Coverage) does not apply.</u></p>
RDX	<p><u>Tamahere Eventide Retirement Village (Lot 1 & Lot 2 DPS88165 & Pt Lot 2 DPS2182) and Tamahere Country Club Retirement Village (insert CT ref) alterations and additions that increase net floor area and that meet all of the following conditions:</u></p> <p>(a) <u>Land Use – Effects in Rule 23.2;</u></p> <p>(b) <u>Land Use – Building in Rule 23.3 except:</u></p> <p>(i) <u>Rule 23.3.1 (Number of dwellings) does not apply;</u></p> <p>(ii) <u>Rule 23.3.2 (Minor Dwellings) does not apply;</u></p> <p>(iii) <u>Rule 23.3.6 (Building Coverage) does not apply.</u></p>	<p>(a) <u>Council's discretion is restricted to the following matters:</u></p> <p>(i) <u>effects on rural character and amenity.</u></p> <p>(ii) <u>The visual and amenity effects of building bulk and scale</u></p> <p>(iii) <u>Connectivity to existing towns and villages, including connections to existing walkways, roads, and public transport;</u></p> <p>(iv) <u>Connectivity to public reticulated water supply and wastewater, or the adequacy of services provided on-site;</u></p> <p>(v) <u>Reverse sensitivity effects on existing farming, intensive farming, rural industry, or mineral extraction activities;</u></p> <p>(vi) <u>Traffic effects.</u></p>
DX	<u>Retirement Villages not otherwise provided for in Rule PX or RDX.</u>	

Discretionary Activities - General

482. Three submissions were received seeking a correction to the rule numbering, and four submissions were received seeking amendments to the discretionary rules where the activities are not otherwise assessed in this report.

Rule 22.1.4 – Discretionary Activities		
341.4	Tainui Group Holdings Limited	Amend the numbering of Rule 22.1.5 Discretionary Activities to Rule 22.1.4. AND Amend the Proposed District Plan to make consequential amendments as necessary to give effect to the matters raised in the submission.
466.12	Balle Bros Group Limited	Amend Rule 22.1.5 Discretionary Activities to read as 22.1.4 Discretionary Activities.
<i>FS1388.405</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 466.12</i>
680.251	Federated Farmers of New Zealand	Amend Rule 22.1.5 Discretionary Activities to be Rule 22.1.4. AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FS1387.229</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 680.251</i>
680.189	Federated Farmers of New Zealand	Amend Rule 22.1.5 D5 Discretionary Activities as follows: <u>22.1.45-D5 Hazardous waste storage, processing or disposal excluding chemicals, fuel and other hazardous substances used for farming.</u> AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FS1387.204</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 680.189</i>
697.752	Waikato District Council	Amend D1 to: any permitted activity that does not comply with <u>one or more of the</u> an activity specific conditions in Rule 22.1.2
697.753	Waikato District Council	Delete Rule D2
697.754	Waikato District Council	Amend rule D12 to: motorised <u>sport and recreation activity</u> '

Analysis

483. Tainui Group Holdings [341.4], Balle Bros Group [466.12] and Federated Farmers [680.251] all note that the proposed numbering for Rule 22.1.5 – Discretionary activities should be 22.1.4. It is recommended that this error in rule numbering be corrected.
484. Waikato District Council [697.752] have sought a minor change to Rule D1 to improve the accuracy of the rule so that it reads “any permitted activity that does not comply with one or more of the an activity-specific conditions in Rule 22.1.2”. It is recommended that this change be accepted.
485. Waikato District Council [697.753] have sought that Rule D2 be deleted. I agree with this deletion, as the activity status of breaching the Land use Effects or Land use Building rules are set out in those separate rules. The note at the start of the Permitted Activities table

(22.1.2(1)) likewise clarifies that activities are only permitted, provided they also meet the separate effects and building rules.

486. Federated Farmers [680.189] have sought that Rule D5 be amended to read “hazardous waste storage, processing or disposal excluding chemicals, fuel and other hazardous substances used for farming”. The purpose of Rule D5 is to control the management of hazardous waste, rather than hazardous substances. The use, storage, and management of hazardous substances is a cross-zone thematic topic that is the subject of a separate hearing process. This separate hearing has addressed the rule framework controlling hazardous substances, including those used in normal farming operations.
487. Proposed Rule D5 is instead focused on how hazardous waste is stored and disposed of. Such disposal does not typically occur on farms, with farms now required to appropriately dispose of agrichemical waste in an approved facility through a combination of Waikato Regional Plan rules and Hazardous Substances and New Organisms regulations, rather than the ‘digging a hole’ approach of yesteryear. It is therefore recommended that Rule D5 remain unchanged.
488. Waikato District Council [697.754] have sought to amend Rule D12 to read “motorised sport and recreation activity”. It is recommended that this change in terminology be accepted, with a consequential amendment to the same term where it is used in Rule NC4(vi). It is noted that the definition for ‘motor sport and recreation facilities’ only applies to the Motor Sport and Recreation Zone that covers the Hampton Downs Motorsport Park. Activities occurring at Meremere Dragway are likewise subject to their own definition. The use of this term in the Rural Zone rules therefore needs to rely on a different definition, especially as the Hampton Downs definition enables a wide range of facilities, including hotel accommodation and conference centres, commensurate with the scale and significance of that facility and its bespoke zone framework that it operates under. In short, the district plan will have three motor sport-related definitions – one that applies to Hampton Downs and lists activities appropriate to that site, one that applies to Meremere Dragway, and one that applies to motor sport where it occurs outside of these two existing facilities.
489. An alternative approach would be to delete Rule D12, which would make any new motor sport proposals require consent as a non-complying activity under the ‘catch-all’ Rule NC5, and would avoid the need to use that term at all. Given that such facilities inherently need to locate in rural areas (as their space requirements and noise emissions make securing a large enough urban-zoned site highly unlikely), discretionary activity status is considered to be appropriate. It is further noted that no submissions were received seeking a change in activity status for motor sport facilities.

Recommendations and alterations

490. It is recommended that the numbering for the Discretionary Activity rule be amended as follows:

22.1.45 Discretionary Activities

491. It is recommended that Rule D1 be amended as follows:

D1	Any permitted activity that does not comply with <u>one or more of the an</u> activity specific condition in Rule 22.1.2
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492. It is recommended that Rule D2 be deleted:

D2	Any permitted activity that does not comply with Land Use—Effects Rule 22.2 or
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	Land Use – Building Rule 22.3 unless the activity status is specified as controlled, restricted discretionary or non-complying activity.
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493. It is recommended that the rule D12 be amended and a new definition be included as follows:

D12	motorised <u>sport and</u> recreation <u>activity</u>
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494. It is recommended that a new definition be included as follows:

<u>Motorised sport and recreation</u>	<u>means a recreation facility used for participating in or viewing land-based motor sports. It includes car, truck, go-kart and motorbike racing tracks and accessory facilities such as club rooms/clubhouses, spectator stands, lighting and associated support structures, mechanical workshops and fuel storage and pumps. It excludes activities located within either the Motor Sport and Recreation Zone, or Meremere Dragway activity, which are subject to separate definitions.</u>
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Non-complying activities - general

495. One submission was received in support of Rule NC2, and one submission in support of Rules NC1-NC4. Six submitters sought amendments to improve the clarity of the rules and to capture the range of activities that are not anticipated within the Hamilton Urban Expansion Area, and two sought the deletion of the 'catch-all' default to Rule NC5 for any activities not otherwise listed.

Rule 22.1.5 – Non-complying Activities		
680.193	Federated Farmers of New Zealand	Delete Rule 22.1.5 NC4 (a)(i) and (iv) Non-Complying Activities AND Add a new Discretionary Activities rule as follows: <u>Dxx</u> <u>(a) Within the Urban Expansion Area, the following activities:</u> <u>(i) Intensive farming</u> <u>(ii) Extractive industry</u> AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FS1062.91</i>	<i>Andrew and Christine Gore</i>	<i>Support submission 680.193</i>
<i>FS1379.235</i>	<i>Hamilton City Council</i>	<i>Oppose submission 680.193</i>
<i>FS1387.207</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 680.193</i>

395.5	Ministry of Business, Innovation and Employment for New Zealand Petroleum and Minerals	Retain Rule 22.1.5 (NC2) Non-Complying activities, as notified.
<i>FSI 198.47</i>	<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>Oppose submission 395.5</i>
<i>FSI 334.71</i>	<i>Fulton Hogan Limited</i>	<i>Oppose submission 395.5</i>
466.57	Balle Bros Group Limited	Retain Rule 22.1.5 Non-Complying Activities as notified, except for NC5.
<i>FSI 388.427</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 466.57</i>
<i>FSI 062.46</i>	<i>Andrew and Christine Gore</i>	<i>Oppose submission 466.57</i>
680.194	Federated Farmers of New Zealand	Delete Rule 22.1.5 NC5 Non Complying Activities. AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FSI 379.236</i>	<i>Hamilton City Council</i>	<i>Oppose submission 680.194</i>
<i>FSI 387.208</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 680.194</i>
697.757	Waikato District Council	Amend Rule 22.1.5 Non-complying activities, by renumbering as Rule 22.1.6.
<i>FSI 387.680</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 697.757</i>
697.759	Waikato District Council	Amend Rule NC2(a) to read: “an extractive industry located within all or part of any of the following <u>landscape and natural character areas...</u> ” and “NC3(a) a waste management facility located within all or part of any of the following <u>landscape and natural character areas...</u> ”.
697.760	Waikato District Council	Amend Rule NC4(a) so that it reads: “ <u>The following activities located</u> within the Urban Expansion Area, the following activities: ”.
695.203	Sharp Planning Solutions	Amend Rule NC1 so that construction of a building located on an indicative road no longer applies once the road is vested in Council or constructed in a slightly different location.
471.1	CKL	Amend Rule NC1 so that construction of a building located on an indicative road no longer applies once the road is vested in Council or constructed in a slightly different location.
943.22	McCracken Surveys	Amend Rule NC1 so that construction of a building located on an indicative road no longer applies once the road is vested in Council or constructed in a slightly different location.

Analysis

496. Sharp Planning Solutions [695.203], CKL [471.1] and McCracken Surveys [943.22] have sought related amendments to Rule NC1, which make the construction of a building located on an indicative road a non-complying activity. ‘Indicative roads’ are defined as “a connective

roading route that is identified on the planning maps". These indicative roads are used to guide the location of core network infrastructure and to ensure that blocks of land developed by different landowners are well-integrated and connected. The rule seeks to ensure that the formation of such road links is not frustrated or prevented through the construction of buildings through the middle of the indicative road corridor before the road is developed. The submitters raise concerns that the final location of a road that is ultimately constructed and vested in Council can vary from the indicative location shown on the Planning Maps. In this situation there is no issue with constructing a building on land covered by the indicative road overlay, as the actual road has at that point already been constructed to a somewhat different alignment and integration will not be prejudiced.

497. This issue was considered in Hearing 5, where the s42A report recommended that the definition of 'indicative road' be amended to mean *'a connective roading route that is identified on the planning maps but does not include an indicative road identified on the planning maps where an alternative roading layout authorised by resource consent of designation achieves the road network outcomes and property access that would have been achieved by the indicative road'*.
498. If the amended definition is accepted by the Panel, then the issue identified by submitters is resolved, as the rule by definition would not apply to the scenario put forward by submitters. On this basis, no changes to NC1 are recommended. I agree that the rule should only apply to indicative roads prior to their construction and vesting with Council.
499. Waikato District Council [697.757] have sought that the numbering of Rule 22.1.5 relating to non-complying activities be renumbered to 22.1.6. The notified numbering of 22.1.5 is in fact correct, rather it was the numbering of the proceeding rule for discretionary activities that was wrong and has been recommended above to be renumbered to 22.1.4.
500. Waikato District Council [697.759] have sought to amend Rules NC2(a) and NC3(a) so that the clause refers to "NC2(a) an extractive industry located within all or part of any of the following landscape and natural character areas..." and "NC3(a) a waste management facility located within all or part of any of the following landscape and natural character areas...". The text changes help to clarify the scope of the rule, therefore it is recommended that the changes be accepted.
501. Waikato District Council [697.760] have sought a minor amendment to Rule NC4(a) so that it reads "The following activities located within the Urban Expansion Area, ~~the following activities:~~". This amendment improves the readability of the rule and is recommended to be accepted. It is noted that as a result of a number of new activity definitions and associated rules for community activities, rural commercial, and rural industrial recommended above, there is a need for consequential amendments to Rule NC4 to add in these additional activities so that the purpose and robustness of the Urban Expansion Area is maintained.
502. Federated Farmers [680.194] and Balle Bros Group [466.57] have both sought that Rule NC5 be deleted. This rule is a 'catch-all' rule that means that any activity that is not otherwise explicitly listed as a permitted or discretionary activity falls to be a non-complying activity. Simple deletion of this rule would leave the activity status of non-listed activities unidentified in the district plan, which would mean that they would default to having a permitted activity status under s10 RMA, whereby a land use activity is permitted unless a rule in a plan explicitly prevents it. Given the wide range of possible activities (and associated effects) that could seek to locate in rural areas in the future, such an approach is not recommended. The alternative would be for non-listed activities to default to a fully discretionary activity status, which would enable their effects to be assessed on a case-by-case basis. With an 'activities-based' district plan framework, and the wide range of activities that are listed in the rule tables which cover off the most common activities potentially occurring in a rural area, the rule framework does address most likely scenarios. As such, any unspecified activity is not one that is generally contemplated as being appropriate in a

rural zone. It is therefore recommended that the proposed default status of non-complying be retained.

Recommendations and alterations

503. It is recommended that Rule 22.1.5 be amended as follows:

22.1.5 Non-complying Activities

(1) The activities listed below are non-complying activities

NC1	Construction of a building located on an indicative road.
NC2	(b) An extractive industry located within all or part of any of the following <u>landscape and natural character areas</u> : (v) Outstanding Natural Feature; (vi) Outstanding Natural Landscape; (vii) High natural character area; (viii) Outstanding Natural Character area.
NC3	(a) A waste management facility located within all or part of any of the following <u>landscape and natural character areas</u> : (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) High Natural Character area; or (iv) Outstanding Natural Character Area.
NC4	(a) <u>The following activities located</u> within the Urban Expansion Area, the following activities : (i) intensive farming; (ii) storage, processing or disposal of hazardous waste; (iii) correctional facility; (iv) extractive industry; (v) industrial activity; (v) <u>Rural industry;</u> (vi) <u>Rural commercial;</u> (vii) <u>Agricultural and horticultural research facilities;</u> (vi-viii) motorised sport and recreation activity; (vii ix) transport depot.
NC5	(a) <u>Industrial activity, excluding a rural industrial activity</u> (b) <u>Commercial activity, excluding a rural commercial activity</u>
NC 5 <u>6</u>	Any other activity that is not listed as Prohibited, Permitted, Restricted Discretionary or Discretionary.

22.2 Land Use Effects

Rural – Policy 5.3.15 – Noise and vibration, and associated Rules 22.2.1-3

Introduction

504. The Proposed Plan seeks to manage noise through a combination of policy direction and rules that have the twin aims of first limiting noise generation at source to levels that are appropriate for a rural context, and secondly controlling the establishment of new sensitive activities in close proximity to long-established businesses and facilities that are already generating noise. Specific rules likewise seek to manage the noise generated by frost fans and construction activities.
505. Vibration is a separate issue from noise, however the management of its effects is included in Policy 5.3.15, and the rules controlling vibration-causing activities are likewise located in the same section of the Proposed Plan as the noise rules. In my experience such co-location is relatively common in district plans, as the activities that generate vibration, e.g. construction and earthworks, are also generally noise-generating and the issues regarding amenity are similar.

Submissions

506. Seven submissions were received in support of the policy on noise, with thirteen seeking amendments to the policy. Eleven submissions were received in support of the general noise rule 22.2.1, with six submissions seeking amendments. One neutral submission and three seeking amendments were received on Rule 22.2.1.2 controlling noise generated by frost fans. Two submissions were received in support or were neutral and one submission sought amendments to Rule 22.2.1.3 controlling construction noise.
507. The definitions associated with noise-related matters have been considered in other hearings, given that they apply across numerous zones. The term ‘farming noise’ is however specific to this hearing. There were two submissions in support and three seeking amendments to the definition of farming noise.
508. The submissions address a range of noise-related issues, which are summarised as follows:
- The need to enable normal rural activities and their associated noise as part of a working rural environment;
 - The need to identify and manage light aircraft flightpaths;
 - The need for appropriate buffer areas/management of sensitive activities in close proximity to established noise-generating activities, with particular submitter reference to quarrying, state highways, and the railway corridor.

Submission point	Submitter	Summary of submission
367.8	Mercer Residents and Ratepayers Committee	Retain Policy 5.3.15 Noise and vibration.
433.7	Auckland Waikato Fish and Game Council	Retain Policy 5.3.15 (v) Noise and Vibration, as notified.

499.5	Adrian Morton	Amend Policy 5.3.15 Noise and vibration to include: Defined flight path corridors for recreational and training light aircraft that avoid rural properties; Fly avoidance/exclusion zones; and Noise control of aircraft engines.
<i>FSI276.39</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support submission 499.5</i>
693.6	Alstra (2012) Limited	Retain Policy 5.3.15 - Noise and vibration as notified.
<i>FSI265.23</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 693.6</i>
757.5	Karen White	Amend Policy 5.3.15 Noise and vibration to include the provision for defined flight path corridors for recreational and schools/training light aircraft that avoid rural properties, fly avoidance/exclusion zones and noise control of aircraft engines. AND Amend Policy 5.3.15 Noise and vibration to include a total ban on engine stall on all rural land/housing and only allowed way offshore.
<i>FSI276.40</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support submission 757.5</i>
777.5	Radio New Zealand Limited	Amend Policy 5.3.15(a)(v) Noise and vibration, as follows: (v) Managing the location of sensitive land uses <u>noise-sensitive activities</u> , particularly in relation to lawfully-established activities:
807.5	Pukekohe Motorcycle Club	Amend Policy 5.3.15 (a)(vi) Noise and vibration to include reference to the Harrisville Motocross Track. AND Any further or consequential relief to give effect to the relief sought in the submission.
<i>FSI200.5</i>	<i>Gerardus Aarts & Yvonne Gemma Aarts</i>	<i>Oppose submission 807.5</i>
860.7	Aggregate and Quarry Association (AQA) and Straterra	Retain Policy 5.3.15 (a)(i) Noise and Vibration.
<i>FSI332.7</i>	<i>Winstone Aggregates</i>	<i>Support submission 860.7</i>
330.59	Andrew and Christine Gore	No specific decision sought, however submission refers to Policy 5.3.15 Noise and vibration.
419.65	Horticulture New Zealand	Retain Policy 5.3.15 Noise and vibration, as notified.
575.32	Fulton Hogan Limited	Retain Policy 5.3.15 Noise and vibration, except for the amendments sought below; AND Amend Policy 5.3.15 (a)(iii) Noise and vibration, as follows (or words to similar effect): (iii) Maintaining appropriate buffers between high noise environments and noise sensitive activities <u>insofar as that is practicable</u> ;... AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.

FSI292.54	McPherson Resources Limited	Support submission 575.32
FSI332.40	Winstone Aggregates	Support submission 575.32
FSI027.6	Peter Ayson on behalf of Ngaruawahia Action Group Incorporated	Support submission 575.32
FSI319.14	New Zealand Steel Holdings Limited	Oppose submission 575.32
680.71	Federated Farmers of New Zealand	Amend Policy 5.3.15 (a) (ii) Noise and vibration, as follows: (ii) Limiting the timing and duration of noise-generating activities which are not anticipated within rural areas; AND Delete Policy 5.3.15 (a) (viii) Noise and vibration. AND Any consequential changes needed to give effect to this relief.
FSI340.108	TaTa Valley Limited	Oppose submission 680.71
FSI168.63	Horticulture New Zealand	Support submission 680.71
FSI171.77	Phoebe Watson for Barker & Associates on behalf of T&G Global	Support submission 680.71
691.14	McPherson Resources Limited	Retain the intent of Policy 5.3.15 Noise and Vibration, except for the amendments sought below; AND Amend Policy 5.3.15 (a)(iii) Noise and vibration, as follows (or words to similar effect): (a) Adverse effects of noise and vibration are minimised by: ... (iii) Maintaining appropriate buffers between high noise environments and noise sensitive activities <u>insofar as that is practicable</u> ; This relief is sought in the event that any part of the submission from point 691.1 to 691.15 is not adopted by WDC. AND Any consequential amendments or additional relief to address the matters raised in the submission.
FSI319.27	New Zealand Steel Holdings Limited	Support submission 691.14
FSI334.54	Fulton Hogan Limited	Support submission 691.14
695.53	Sharp Planning Solutions Ltd	Amend Policy 5.3.15 Noise and vibration to include earthworks within residential setbacks of adjoining property.
723.12	Winstone Aggregates	Retain Policy 5.3.15 Noise and Vibration.

742.40	New Zealand Transport Agency	Retain Policy 5.3.15 Noise and vibrations, except for the amendment sought below AND Amend Policy 5.3.15(a)(vi) Noise and vibrations as follows: Requiring acoustic insulation where sensitive <u>land use</u> activities are located within high noise environments <u>including near existing and designated State Highways</u> , the Airport Noise ... AND Request any consequential changes necessary to give effect to the relief sought in the submission.
<i>FS1062.95</i>	<i>Andrew and Christine Gore</i>	<i>Oppose submission 742.40</i>
797.14	Fonterra Limited	Retain Policy 5.3.15 Noise and vibration, except for the amendments sought below AND Amend Policy 5.3.15 (a) (vi) Noise and vibration to include "the Te Rapa Dairy Manufacturing Facility" (or words to similar effect). AND Any consequential amendments or further relief to give effect to the concerns raised in the submission.
827.47	New Zealand Steel Holdings Ltd	Retain Policy 5.3.15 Noise and vibration as notified.
<i>FS1332.10</i>	<i>Winstone Aggregates</i>	<i>Support submission 827.47</i>
<i>FS1285.17</i>	<i>Terra Firma Mining Limited</i>	<i>Support submission 827.47</i>
330.134	Andrew and Christine Gore	Amend Policy 5.3.15 Noise and vibration to mitigate adverse effects of large-scale roading developed next to urbanisation at the source, and the ecological management area must be considered in the mitigation as future proofing.
330.143	Andrew and Christine Gore	Add a clause to Policy 5.3.15- Noise and Vibration addressing roading project noise.
986.27	KiwiRail Holdings Limited (KiwiRail)	Retain Policy 5.3.15 Noise and vibration except for the amendments sought below AND Amend Policy 5.3.15(a)(vi) as follows (or similar amendments to achieve the requested relief): (vi) Requiring acoustic insulation where sensitive <u>land use</u> activities are located within high noise environments, <u>including near the railway corridor</u> the Airport Noise Outer Control Boundary, Huntly Power Station, the Gun Club Noise Control Boundary. AND Any consequential amendments to link and/or accommodate the requested changes.
Rule 22.2.1.1 – Noise – General		
349.7	Kim Robinson on behalf of Lochiel Farmlands Limited	Retain Rule 22.2.1.1 Noise - General.

939.4	Waipa District Council	Add provisions to Rule 22.2.1.1 Noise - General for the Mystery Creek Event centre, to mirror that contained in the Operative Waipa District Plan Rule 9.4.2.16(c).
197.19	NZ Pork	Retain Rule 22.2.1.1 PI Noise - General, as notified.
302.23	EnviroWaste New Zealand Limited	Retain Rule 22.2.1.1 Noise - General as notified.
330.76	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.1.1 Noise - General.
378.32	Fire and Emergency New Zealand	Retain Rule 22.2.1.1 Noise - General, as notified.
<i>FS1035.18</i>	<i>Pareoranga Te Kata</i>	<i>Support submission 378.18</i>
419.17	Horticulture New Zealand	Retain Rule 22.2.1.1 PI Noise - General, as notified.
433.30	Auckland Waikato Fish and Game Council	Amend Rule 22.2.1.1 PI Noise - General, as follows: Farming noise, and noise generated by <u>recreational hunting</u> , emergency generators and emergency sirens. AND/OR Any alternative relief to address the issues and concerns raised in the submission.
466.13	Balle Bros Group Limited	Retain Rule 22.2.1.1 PI Noise - General as notified
821.10	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	Retain Rule 22.2.1.1 PI Noise General.
680.195	Federated Farmers of New Zealand	Retain Rule 22.2.1.1 PI Noise-General as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FS1315.5</i>	<i>Lochiel Farmlands Limited</i>	<i>Support submission 680.195</i>
680.196	Federated Farmers of New Zealand	Retain Rule 22.2.1.1 P2 Noise - General, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.

680.197	Federated Farmers of New Zealand	<p>Delete Rule 22.2.1.1 P4 Noise - General.</p> <p>AND</p> <p>Add a new advisory note (4) under Rule 22.2.1, Noise-General as follows:</p> <p><u>(4) (a) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 "Acoustics - Measurement of Environmental Sound". (b) Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 "Acoustic Environmental noise".</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
697.762	Waikato District Council	<p>Delete Rule 22.2.1.1 P3 and P4 Noise - General. AND</p> <p>Make consequential amendments as follows: RDI (a) Noise that does not comply with Rule 22.2.1.1 P1 or P2, P3 or P4.</p> <p>AND Amend Rule 22.2.1.1 P2 Noise - General, as follows:</p> <p>(a) Noise measured at the notional boundary on any other site in the Rural Zone must not exceed: (i) 50dB (LAeq), 7am to 7pm every day;</p> <p>(ii) 45dB (LAeq), 7pm to 10pm every day;</p> <p>(iii) 40dB (LAeq) and 65dB (LAmax), 10pm to 7am the following day.</p> <p><u>(b) Noise measured within any site in any other zone, other than the Rural Zone, must meet the permitted noise levels for that other zone.</u></p> <p><u>(c) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 Acoustics Measurement of Environmental Sound.</u></p> <p><u>(d) Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 Acoustic Environmental noise.</u></p>

923.157	Waikato District Health Board	<p>Amend Rule 22.2.1.1 P2, P3, P4 and D1 - Noise General as follows:</p> <p>P2 <u>Sound measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed:</u></p> <p>(a) Noise measured at <u>The following noise limits at any point within a notional boundary on any other site in the Rural Zone must not exceed:</u></p> <p>(i) <u>50dB LAeq(15min) dB (LAeq), 7am to 7pm, everyday;</u></p> <p>(ii) <u>45dB LAeq(15min) dB (LAeq), 7pm to 10pm, every day;</u></p> <p>(iii) <u>40dB LAeq(15min) dB (LAeq), and 65 dB (L_{Amax}), 10pm to 7am the following day;</u></p> <p>(iv) <u>65dB LAFmax, 10pm to 7am the following day;</u></p> <p>(b) <u>The permitted activity noise limits for the zone of any other site where sound is received.</u></p> <p>P3 (a) Noise measured within any site in any zone, other than the Rural Zone, must meet the permitted noise levels for that zone.</p> <p>P4 a.) Noise levels shall be measured in accordance with the requirements of NZS 6801:2008 "Acoustics Measurement of Environmental Sound." (b) Noise levels shall be assessed in accordance with the requirements of NZS 6802:2008 "Acoustic Environmental Noise."</p> <p>D1 (a) Sound that is outside the scope of NZS 6802:2008 or a permitted activity standard; and (b) Sound Noise that does not comply with Rule 22.2.1.1 P1, or P2, P3 or P4.</p>
FS1062.109	Andrew and Christine Gore	Support submission 923.157
280.1	Peter Nation for New Zealand National Fieldays Society Inc	<p>Amend Rule 22.2.1 Noise to align with the Waipa District Plan and implement the Environment Court Consent Order with regards to Mystery Creek Events Centre (see submission for copy of Consent Order).</p> <p>AND</p> <p>Amend the zoning to align with Waipa District Council's Operative District Plan to manage the Mystery Creek Events Centre and noise generation.</p>
330.75	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.1 Noise.
697.761	Waikato District Council	Delete Rule 22.2.1(1) Noise.
FS1387.683	Mercury NZ Limited	Oppose submission 697.761

575.16	Fulton Hogan Limited	<p>Add a new rule to Section 22.2.1 - Noise, (22.2.1.4), as follows (or words to similar effect):</p> <p><u>NOISE - MINERAL AND AGGREGATE EXTRACTION ACTIVITIES</u> 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:</p> <p>55dBA (L10) 7am to 7pm Monday to Friday;</p> <p>55dBA (L10) 7am to 6pm Saturday;</p> <p>50dBA (L10) 7pm to 10pm Monday to Friday;</p> <p>50dBA (L10) 7am to 6pm Sundays and Public Holidays)</p> <p>e. 45dBA (L10) and 70dBA (Lmax) at all other times including Public Holidays.</p> <p>AND</p> <p>Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.</p>
FS1319.8	New Zealand Steel Holdings Limited	Support submission 575.16
FS1292.70	McPherson Resources Limited	Support submission 575.16
FS1377.145	Havelock Village Limited	Support submission 575.16
FS1332.30	Winstone Aggregates	Support submission 575.16
691.21	McPherson Resources Limited	<p>Add a new rule Rule 22.2.1.4 Noise - Mineral and Aggregate Extraction as follows (or words to similar effect):</p> <p><u>22.2.1.4 NOISE – MINERAL AND AGGREGATE EXTRACTION</u> Any noise created by 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:</p> <p>a) 55dBA (L10) 7am to 7pm Monday to Friday;</p> <p>b) 55dBA (L10) 7am to 6pm Saturday;</p> <p>c) 50dBA (L10) 7pm to 10pm Monday to Friday;</p> <p>d) 50dBA (L10) 7am to 6pm Sundays and Public Holidays</p> <p>e) 45dBA (L10) and 70dBA (Lmax) at all other times including Public Holidays.</p> <p>AND</p> <p>Any consequential amendments or alternative relief to address the matters raised in the submission.</p>
FS1334.74	Fulton Hogan Limited	Support submission 691.21
FS1319.28	New Zealand Steel Holdings Limited	Support submission 691.21
Rule 22.2.1.2 – Noise – Frost Fans		
330.77	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.1.2 Noise - Frost Fans.

419.18	Horticulture New Zealand	Amend Rule 22.2.1.2 PI Noise - Frost Fans, as follows: Noise generated by a frost fan must not exceed 55 <u>60</u> dB (LAeq) when measured at the notional boundary on any site in the Rural Zone and within any site in the Country Living Zone, Village Zone or Residential Zone. AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1171.16</i>	<i>T&G Global</i>	<i>Support submission 419.18</i>
419.19	Horticulture New Zealand	Amend Rule 22.2.1.2 DI Noise- Frost Fans to become restricted discretionary activity rather than a discretionary activity AND Add the following matters of discretion to Rule 22.2.1.2 Noise- Frost Fans: <u>Council's discretion is restricted to the following matters: 1. Location of frost fan 2. Noise sound levels at any point within at the notional boundary of any dwelling on another site</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1171.17</i>	<i>T&G Global</i>	<i>Support submission 419.19</i>
923.158	Waikato District Health Board	Amend Rule 22.2.1.2 PI Noise- Frost Fans, as follows: PI (a) <u>Sound Noise</u> generated by a frost fans <u>measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008</u> must not exceed <u>55 dB LAeq(15min) dB (LAeq)</u> when measured at the <u>at any point</u> within a notional boundary on any <u>other site in any zone in the Rural Zone and within any site in the Country Living Zone, Village Zone or Residential Zone.</u> (b) Frost fans must be at least 300m from <u>any notional boundary on any other site.</u> (c) Frost fans must <u>only be operated for: (i) Protection of crops on the site from bud burst to harvest, when wind speeds are not greater than 8 km/h and the local air temperature measured at the lowest height above ground of the buds being protected is less than 1 degree Celsius; (ii) Maintenance and testing during the daytime between 8am and 5pm; (iii) Compliance testing by the Council.</u> (d) <u>A log must be kept of the usage of each frost fan and made available to the Council on request, including dates, times, durations, wind speeds and temperatures.</u>
Rule 22.2.1.3 – Noise - Construction		
302.24	EnviroWaste New Zealand Limited	Retain Rule 22.2.1.3 Noise - Construction as notified.
330.78	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.1.3 Noise - Construction.
697.763	Waikato District Council	Amend Rule 22.2.1.3 PI(a) Noise - Construction, as follows: (a) Construction noise generated from a construction site must meet <u>not exceed</u> the limits in New Zealand Standard NZS 6803:1999 (Acoustics - Construction Noise).

Definitions – Farming Noise		
419.121	Horticulture New Zealand	Amend the definition of "Farming noise" in Chapter 13 Definitions, as follows: Farming-Primary production noise Means noise generated by primary production agricultural vehicles, machinery or equipment , any aircraft used for aerial spraying or fertiliser application, agricultural machinery or equipment and farm animals, including farm dogs. It does not include bird scaring devices and frost fans. AND Any consequential or additional amendments as a result of changes sought in the submission.
FS1342.93	Federated Farmers	Support submission 419.121
697.386	Waikato District Council	Amend the definition of "Farming noise" as follows: Means noise generated by agricultural vehicles, any aircraft used for aerial spraying, agricultural machinery or equipment and farm animals, including farm dogs. It does not <u>This includes</u> bird scaring devices and frost fans.
FS1168.97	Horticulture New Zealand	Support submission 697.386
923.138	Waikato District Health Board	Amend the definition of "Farming Noise" in Chapter 13: Definitions as follows: Means noise generated by agricultural vehicles, any aircraft used for aerial spraying, agricultural machinery or equipment and farm animals, including farm dogs. It does not include <u>fixed equipment or facilities</u> , bird scaring devices and frost fans.
FS1342.248	Federated Farmers	Disallow submission point 923.138.
680.135	Federated Farmers of New Zealand	Retain the definition of "Farming noise" in Chapter 13 Definitions, as notified.
197.33	NZ Pork	Retain the definition of "Farming noise" in Chapter 13 Definitions as notified.

Analysis

509. Policy 5.3.15 is as follows:

5.3.15 Policy – Noise and vibration

- (a) 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 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 activities are located within high noise environments, including the Airport Noise Outer Control Boundary, Huntly Power Station, 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 protect existing adjacent activities sensitive to noise effects.*

Provision for ‘normal’ rural activities

510. As set out above in the discussion on the purpose and the anticipated outcomes of the rural zone, the rural parts of Waikato District are working environments where a wide range of rural activities are to be provided for. The rural environment encompasses a broad spectrum of businesses and activities that range from extensive pastoral farming to cropping, harvesting, horticulture, forestry, and intensive farming. Rural industries, quarries, and noise-generating recreation activities such as recreational hunting and motorsports likewise generally occur within rural areas, and as such are an anticipated component of the rural environment. A number of submitters seek that the policy appropriately recognises that the rural environment is a working environment where noise-generating activities are commonplace. The patterns of noise generation vary depending on the activity, from short-term and seasonal noise associated with harvesting and weaning, through to more consistent noise generated by activities such as quarrying, rural processing industries, or some types of infrastructure. The noise-related policy and associated rules are seeking to strike an appropriate balance between enabling normal rural activities to occur and the noise generated by long-established facilities, whilst concurrently maintaining a reasonable level of amenity for rural residents.
511. The proposed policy has a focus on minimising the adverse effects of noise and vibration. In so doing it does not recognise that noise generation is inherent in many day-to-day farming activities, and as such does not provide realistic direction to the outcomes anticipated in rural environments. A revised clause (a) to the policy is therefore recommended as follows:
- (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:...
512. Policy Clauses (i) and (ii) then proceed to describe how the adverse effects of noise are to be managed for day-to-day activities. Such management is through setting maximum sound levels (Clause (i)), and limiting the time and duration of such noise (Clause (ii)). This policy direction is implemented through the general noise rules which set maximum noise limits, with the limits different for daytime and night-time to reflect the differing amenity expectations for different times of the day.
513. No submitters have sought amendments to Clause (i). Federated Farmers of NZ [680.71] have sought that Clause (ii) be amended to read “limiting the timing and duration of noise-generating activities which are not anticipated within rural areas”. This submission is supported by Horticulture NZ [FS1168.63] and T&G Global [FS1171.77] and opposed by TaTa Valley Ltd [FS1340.108]. The submitter has likewise sought that Clause (viii) be deleted.
514. The substance of the submission is resolved through the above proposed amendment to Clause (a), which provides policy recognition that noise-generating activities are anticipated as an integral component of rural environments, and is implemented through Rule 22.2.1.1 (PI), which permits ‘farming noise’. As such, no changes to clause (ii) are recommended. The degree to which the noise limits in the rules appropriately provide for normal farming activities during night-time is discussed in more detail below, where submissions seeking

amendment to the noise rules are assessed. The submission by Federated Farmers is therefore recommended to be accepted in part, to the extent that recommended amendment to Clause (a) addresses the submitter's concerns.

515. One submission was received supporting Clause (vii) and seeking its retention, from the Aggregate and Quarry Association, supported by Winstone Aggregates [FS1332.1] and Terra Firma Mining Ltd [FS1285.17]. No submissions were received seeking any changes to this clause or opposing the clause. As such it is recommended that the clause be retained unchanged.

Reverse sensitivity and buffers

516. The need to balance the ongoing operation of established businesses, facilities, and infrastructure with reasonable amenity expectations for a rural environment is discussed at length above in the sections on intensive farming, mineral extraction, and reverse sensitivity. The challenges relevant to managing the interface of quarrying, intensive farming, and network infrastructure such as state highways and the rail corridor are repeated in the district plan provisions managing noise, as the generation of noise is one of the key effects that impinges on residential amenity.
517. The policy seeks to manage this tension through Clauses (iii-viii). In summary, these clauses seek to limit the establishment of new sensitive activities near existing noise-generating operations by:
- a. Maintaining appropriate buffer areas (Clause iii), implemented through the setback requirements for specified noise-generating activities in Rule 22.1.3 (RD1);
 - b. Managing the establishment of new sensitive activities near existing operations (Clause v), implemented through setback requirements for new sensitive activities in Rule 22.3.7.2;
 - c. Requiring acoustic insulation for sensitive activities looking to establish near existing operations, including specific reference to three existing high-noise environments (Clause vi), implemented by rules on these specific areas considered through other hearings;
518. On the other side of the coin, the policy also looks to impose obligations on noise-generating activities to responsibly manage the generation of noise and vibration at source by:
- a. Managing the location and operation of frost fans (Clause iv);
 - b. Managing the timing and duration of blasting and requiring aggregate extraction setbacks from dwellings (Clause vii);
 - c. Managing noise to protect existing adjacent noise-sensitive activities (Clause viii).
519. Fulton Hogan Ltd [575.32] and McPherson Resource Ltd [691.14] are both generally supportive of the proposed policy, subject to an amendment to Clause (iii) so that it reads "maintaining appropriate buffers between high noise environments and noise sensitive activities insofar as that is practicable".
520. The submitters note that aggregate extraction inherently involves activities that at times generate noise, therefore compliance with the policy direction may prove challenging. The policy direction is to maintain separation distances. This is caveated by these distances being 'appropriate' which enables specific proposals to be able to demonstrate through the resource consent process that a smaller setback is appropriate. As such no further amendment is considered to be necessary. To improve the accuracy of the policy and to better link it to the implementing rules, it is recommended that the term 'buffer' be replaced with 'separation'.

521. No submissions were received on Clause (iv) relating to frost fans, however this clause is discussed in more detail below in response to the submissions on the frost fan rules.
522. One submission was received on Clause (v) by Radio NZ Ltd [777.5], who sought that the clause be amended as follows “(v) managing the location of ~~sensitive land uses~~ noise-sensitive activities, particularly in relation to lawfully-established activities”. The term ‘sensitive land uses’ is defined in the district plan and is used across a number of chapters and to manage various effects.
523. The submission does not include a proposed definition of ‘noise sensitive activities’, therefore it is unclear whether they wish the policy to capture a different set of activities from those covered in the ‘sensitive’ definition, or alternatively whether their concern is simply limited to the policy wording having a more specific focus on noise. The setback rules that implement the policy are grouped under *Rule 22.3.7.2 – Building setbacks – sensitive land use*. This rule requires setbacks for sensitive land uses from a range of activities such as intensive farming, mineral extraction, arterial transport and rail networks and waste water treatment facilities. The setback rule therefore applies to activities that are sensitive to a wider range of effects than just noise. The definition of sensitive land use is similar (but not identical) to the definition of ‘noise sensitive activity’ recommended in the s42A report for Hearing 5. Because they are differently-defined terms, and to ensure that there is a clear link between the policy, the definition, and the rule that implements the policy, it is recommended that the term ‘sensitive land use’ be used. Alternatively, Rule 22.3.7.2 could be reworked to ensure that it captures both types of activities. It is noted that the s42A report on the Country Living Zone recommended the use of ‘noise sensitive activity’ for a similar Policy 5.6.16 in that zone, therefore there may be merit in ultimately aligning wording across zones to ensure that a consistent approach is taken to similar issues.
524. One submission was received on Clause (vi) from the Pukekohe Motorcycle Club [807.5], who seek that the clause include specific reference to the Harrisville Motocross Track, as follows “Requiring acoustic insulation where sensitive activities are located within high noise environments, including the Airport Noise Outer Control Boundary, Huntly Power Station, the Gun Club Noise Control Boundary, and the Harrisville Motocross Track”. The submission was opposed by Gerardus and Yvonne Aarts [FS1200.5].
525. The requirements for acoustic insulation are a significant imposition on residents, therefore the geographic extent of the policy (and rule) need to be clearly identified in order to be both fair and effective. The three existing facilities specifically referenced in the policy all have a noise control boundary that has been identified by acoustic experts and mapped in the district plan as an overlay.
526. No submitters have challenged the concept of measuring and mapping the noise generated by existing facilities, and then requiring acoustic insulation for new sensitive activities. In my experience, such tools or regulatory approaches are well-established in other district plans as an important method for managing reverse sensitivity effects on existing facilities. Extending the application of this same concept to the established Harrisville Motocross Track is therefore potentially appropriate, however its application would require the measurement and identification of a noise control boundary and an assessment consistent with the requirements of s32 RMA that demonstrate the costs and benefits of requiring acoustic insulation for the specific geographic context of the motocross track and the extent of the noise control boundary. Without the submitter providing such evidence it is recommended that the submission be rejected.
527. KiwiRail [986.27] and NZTA [742.40] seeks that Clause (vi) be amended to include reference in the policy to the state highway and rail networks, as follows: “Requiring acoustic insulation where sensitive land use activities are located within high noise environments, including near existing and designated State Highways, near the railway”

corridor, the Airport Noise Outer Control Boundary, Huntly Power Station, the Gun Club Noise Control Boundary”. The NZTA submission is opposed by Andrew and Christine Gore [FS1062.95], unless infrastructure mitigation is stipulated first. The Gores have also lodged a submission [330.134] seeking greater policy direction regarding the need for roading projects to better mitigate road noise effects.

528. As noted above, the term ‘sensitive land use’ is defined in the Proposed Plan (as opposed to ‘sensitive land use activities’), therefore it is recommended that the reference be changed to ‘sensitive land uses’ in the policy, as it is helpful for the policy wording to align with the applicable definition. The submitters also seek explicit reference to arterial road and rail networks as infrastructure near which new sensitive land uses need to be managed. Setbacks from both rail and arterial roads are required in Rule 22.3.7.2, therefore I agree that explicit policy direction is helpful.
529. Whilst the notified rule requires buildings to be setback, it does not require them to also be acoustically insulated. As set out in the introduction to this report, I am happy to consider submitter evidence that demonstrates the geographic extent of the rules they are seeking, an indication of the number of properties impacted by the proposed rule, the costs of such insulation, and the benefits or need for insulation to be regulated for. In short, a s32 assessment that clearly demonstrates that the benefits of the regulation sought by the submitter outweighs the costs. Without such evidence it is recommended that the notified rules are retained.
530. Fonterra (797.14) have sought to include reference in the policy to a setbacks from the Te Rapa Dairy Manufacturing Facility (located in Hamilton City). This relief has already been addressed in the s42A reports on Strategic Directions and the Country Living Zones⁸. The recommendations in these earlier officer reports was to not include a setback on the basis that the Country Living zoning (and associated housing) already exists within the setback sought by Fonterra and therefore requiring acoustic insulation of future dwellings in the (further away) Rural Zone would achieve little purpose in reducing reverse sensitivity risk, as the nearer Country Living Zone already placed residents in close proximity to the existing factory. Ms Chibnall in her report for Hearing 12 noted that the Operative Plan includes a map of the Fonterra factory noise contour for information purposes only, and that a decision was taken in the structuring of the Proposed Plan to not include information only layers on the Planning Maps to void them becoming visually cluttered. Of course the submitter seeks that a rule be in place and that the overlay should therefore be included. As the noise contour crosses several zones, the Panel will need to make a consistent cross-chapter decision on whether the contour (and potentially rules) be included or not.
531. As I have worked my way through the submissions, I have identified the potential for a conflict of interest to arise on this specific submission point. I am mindful that Planz Consultants Ltd (my employers) have previously provided planning evidence for Fonterra regarding factory noise contours in other districts. Given the potential for a conflict of interest to arise on this specific submission point I note and defer to the evidence on this matter provided by Mr Matheson on Strategic Directions and Ms Chibnall on Country Living topics. If Fonterra wish to provide more detailed evidence on this matter to the hearing then Ms Chibnall rather than myself will provide rebuttal evidence and recommendations to the Panel on this discrete issue.

Control of aircraft flight paths

532. Adrian Morton [499.5], the Whaingaroa Environmental Defence Society [FS1276.39], and Karen White [757.5] seek that the district plan identify defined flight path corridors and conversely identify no fly zones in order to manage aircraft noise. Specific concerns are

⁸ See in particular paras.50-67 of Ms Chibnall’s closing statement on the Country Living Zone (Hearing 12).

raised regarding the increase in such flights associated with pilot training and engine stall and recovery practice, and the adverse effects that such noise is having on rural amenity.

533. District plans can control the location of airports and landing strips, with associated buffer areas around such facilities to manage the encroachment of new noise-sensitive activities. As part of airport management, district plans can likewise include controls on the noise generated by on-ground engine testing and the noise generated by aircraft landing or taking off. Such controls are, however, limited to the immediate flight activity around the airport and do not extend to high-level overflying. Section 9(3) of the RMA sets out the duties and restrictions of the use of land relevant to district plans. Section 9(5) is explicit that s9 applies to overflying by aircraft only to the extent to which noise emission controls for airports have been prescribed by a national environmental standard or set by a territorial authority. The management of aircraft flight paths is overseen by the Civil Aviation Authority ('CAA') under the Civil Aviation Act 1990, and as such is not a matter that is within the jurisdiction of district plans. In a recent case - *Aviation Activities Ltd v Mackenzie DCI* - Judge Jackson made the comment that "the absence from the RMA of such a power to control noise from tourism flights is an issue that, in our view, deserves legislative attention." This highlights the fact that control of nuisance noise from overflying aircraft is seen as a problem. The CAA has authority, through rules made by the Minister of Transport, to control flight paths and designations of airspace. Civil Aviation Rules Part 71 (Designation of Airspace) and Part 73 (Special Use Airspace) provide for the Director of Civil Aviation to designate, among other things, areas of airspace as "restricted areas" within the territorial limits of New Zealand.
534. In short, district plans can control the 'on the ground' location of airports and landing strips (as with any other land use), and can control new sensitive activities locating close to where noise is generated by aircraft taking off or landing, but cannot legally control the routes (and associated noise generation) of in-flight aircraft.

Recommendations and amendments

535. The Policy is recommended to be amended 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 protect existing adjacent activities sensitive to noise effects.

Analysis - Rule 22.2.1.1 – Noise – General

536. Rule 22.2.1.1 controls general noise in the Rural Zone as follows:

P1	Farming noise, and noise generated by emergency generators and emergency sirens.
P2	(a) Noise measured at the notional boundary on any other site in the Rural Zone must not exceed: (i) 50dB (LAeq), 7am to 7pm every day; (ii) 45dB (LAeq), 7pm to 10pm every day; (iii) 40dB (LAeq) and 65dB (LAmax), 10pm to 7am the following day.
P3	(a) Noise measured within any site in any zone, other than the Rural Zone, must meet the permitted noise levels for that zone.
P4	(a) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 “Acoustics - Measurement of Environmental Sound”. (b) 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 22.2.1.1 P1, P2, P3 or P4.

537. Before assessing submissions on the noise rules it is important to note that the management of noise, unlike most other land use effects, is specifically provided for through s16 RMA. This section requires that anyone carrying out a noise-generating activity adopt the ‘best practicable option’ to ensure that the emission of noise does ‘not exceed a reasonable level’.

538. The ‘best practicable option’ is defined in Section 2 RMA and has the same definition as the National Planning Standards, namely:

In relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to –

- (a) *The nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and*
- (b) *The financial implications, and the effects on the environment, of that option when compared with other options; and*
- (c) *The current state of technical knowledge and the likelihood that the option can be successfully applied.*

539. Clearly, whether the measures undertaken are the best practicable option, and whether the resultant noise emissions are unreasonable, will be context- and situation-specific, with any applicable standards, such as district plan rules, referenced to guide ‘reasonableness’. The key point to note when considering the district plan rule package is that the RMA provides a statutory backstop for managing unreasonable noise, regardless of the district plan rules. The backstop differentiates this specific effect from other matters that are typically regulated, such as glare, shading, or traffic.

Definition – Farming noise

540. Rule 22.2.1 (P1) permits ‘farming noise, and noise generated by emergency generators and emergency sirens’. A key term in determining the scope of what is permitted is the definition of ‘farming noise’. Five submissions were received on the definition, with two in support from Federated Farmers [680.135] and NZ Pork [197.33] and three seeking amendments.

541. Farming noise is defined as *'noise generated by agricultural vehicles, any aircraft used for aerial spraying, agricultural machinery or equipment and farm animals, including farm dogs. It does not include bird scaring devices and frost fans'*.
542. Horticulture NZ [419.121] seek that the term 'agricultural' be deleted and replaced with 'primary production', in line with their other submission points that sought to replace the definition of 'farming' with 'primary production'. In part, the drive behind these changes is to ensure that horticultural activities are included within 'farming' or 'agriculture' when those other terms are used in the district plan. Given the above assessment of the definition of farming, where it was recommended that the term be retained, and its scope made clear that it includes horticulture, it is not recommended that 'agricultural' be replaced with primary production. It is, however, recommended that as a consequential amendment to the above recommendation of farming, that the farming noise definition refer to 'farming' machinery rather than agricultural.
543. Horticulture NZ have likewise sought that the exclusion in the definition for aerial spraying be extended to also include fertilise application. I agree with this amendment, as fertiliser application is a common function of light aircraft in rural areas. It is recommended that for clarification, aerodromes be excluded, i.e. the definition is intended to provide for the noise from occasional aircraft landings where these aircraft are working on the same property, rather than using a farm as a permanent airfield base that services a wider area.
544. Waikato District Health Board [923.138] have sought that the reference to noise generated by farm equipment and machinery be limited, so that it excludes fixed equipment or facilities. I agree that the purpose of the permitted rule is to capture mobile equipment and stock noise such as tractors ploughing, rather than permanent noise generated by fixed plant such as air extraction roof plants on milking sheds or intensive farming barns. Where noise-generating equipment is permanently fixed, it is reasonable that the use of that equipment comply with the required noise standards at the site boundary or a resource consent obtained.
545. Waikato District Council [697.386] have sought to delete the exclusion of frost fans and bird scaring devices, which would have the effect of making noise generated by such devices permitted. Given that frost fan noise is controlled through its own specific Rule 22.2.1.2, and that no submitters have sought to delete the frost fan rule, it is recommended that the exclusion of frost fans and bird scaring devices be retained in the farming noise definition to clearly indicate that such noise is not permitted under P1, but is instead controlled through the general noise rule (P2) in the case of bird scaring devices, or Rule 22.2.1.2 in the case of frost fans.
546. Recommendations on the definition are shown with the amendments to the rule.

Analysis - Rule 22.2.1.1 (P1)

547. Four submissions were received in support of the entire rule and accordingly seek its retention. A further five submissions were received specifically supporting Clause P1.
548. The Auckland-Waikato Fish and Game Council [433.30] have sought the inclusion of reference to recreational hunting in P1, on the basis that such activity is a normal and anticipated activity in rural areas and needs to be treated in a consistent manner across the various district council plans in the Waikato. I agree that hunting (and associated firearms noise) is a necessary activity in rural environments, where it is undertaken for pest control and likewise is common for recreation. Such activity can self-evidently not be undertaken in urban environments, therefore only occurs on farmland or within the conservation estate.
549. Whilst Fish and Games' mandate is focused on hunting wildfowl (therefore primarily noise from mai mais during duck shooting season), firearms noise is a relevant issue for pest control and broader recreational hunting of other species such as deer and pigs. As a normal, and transient, activity, I agree that occasional noise from hunting is a common and

anticipated feature of rural environments, therefore should be provided for in the rule. It is noted that night-time hunting is generally limited to pest control activities focusing on the control of nocturnal animals, therefore is both necessary and occasional, such that amenity effects are limited. Safe fire arms practice likewise limits discharges in close proximity to dwellings where such would annoy or endanger occupants (s48 of the Arms Act 1983), which provides further mitigation of such noise. Noise specifically generated from mai mais is mitigated in part through the restricted duck shooting season which limits its duration, in combination with duck shooting being a daytime activity. It is therefore recommended that the submission be accepted as follows “(P1) Farming noise, and noise generated by hunting, emergency generators and emergency sirens”.

550. As a consequential amendment, it is recommended that the introduction to Rule 22.2.1 include a note to clarify that noise that is permitted under P1 is not subject to the limits under P2-P4. It is also recommend that the reference to P1 in Rule D1 be deleted, as activities by definition either fall within P1 (and therefore are permitted), or do not fall within P1, therefore are subject to the general noise limits in P2-P4. As such, there is no pathway by which activities can move from P1 to requiring a resource consent.
551. New Zealand National Fieldays Society (280.1) have sought that the rule be amended to include the relevant provision form the Waipa District plan regarding noise and the Mystery Creek Events Centre. This matter was addressed at length in Ms Chibnall’s closing statement for the Country Living hearing (paras. 50-67). Relying on her assessment of this matter it is recommended that this submission be rejected.
552. Waikato District Council [697.762] seek to improve the functionality of the rule by incorporating the matters addressed in P3 and P4 into P2. I agree that these amendments help to simplify the rule and should be accepted. The Council [697.761] also seeks a minor amendment to improve the introduction to the rule which I agree with.

Extractive activities

553. Fulton Hogan [575.16] and McPherson Resources [691.21] have sought a specific noise rule for extraction activities located within an Aggregate Extraction Area or Extractive Resource Area. The point of measurement is to be the notional boundary of dwellings outside the site.
554. The noise limits proposed by these two submitters are 5dBA higher than the general noise limit for the various time periods. A critical difference is that the general noise limits are LAeq which is an average measurement over the stated time period. The higher limits sought by the submitters is L10, which is the loudest 10% of noise experienced over the time period. By shifting the time period over which the sound is averaged, the rule as sought will enable a somewhat higher average, but lower peaks (as the peak noise is capped at the worst 10%, rather than LAeq which enables high peaks to be averaged down by longer quieter periods.
555. I am cautious that the alternative limits represent a better balance of enablement and effect management than the general noise rules. They will have the result of actually increasing restrictions on peak noise, and will not materially increases the base average. As such the insertion of an additional rule appears to be inefficient and ineffective relative to simply retaining the general noise rule. These submitters are welcome to provide acoustic evidence that demonstrates the need for the proposed alternative limits and that demonstrates these limits to strike a better balance than the general rules.

Recommendations and amendments

556. It is recommended that the definition of farming noise be amended as follows:

Farming noise	Means noise generated by agricultural <u>farming</u> vehicles, any aircraft used for aerial spraying <u>or fertiliser application (excluding aerodromes)</u> , agricultural mobile farming machinery or equipment and farm animals, including farm dogs. It does not include <u>fixed equipment or facilities</u> , bird scaring devices and frost fans.
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557. It is recommended that Rule 22.2.1.1 be amended as follows:

22.2.1 Noise

~~(1) Rules 22.2.1.1 to 22.2.1.3 provide the permitted noise levels for noise generated by land-use activities.~~

~~(1) (2)~~ Rule 22.2.1.1 Noise – general provides permitted noise levels in the Rural Zone.

~~(2) (2)~~ Noise levels for specific activities are provided in Rules 22.2.1.2 Noise – Frost Fans and 22.2.1.3 Noise – Construction.

(3) Noise generated by activities permitted under Rule P1 are not subject to Rules P2-P4.

P1	Farming noise, and noise generated by <u>hunting</u> , emergency generators and emergency sirens.
P2	<p>(a) Noise measured at the notional boundary on any other site in the Rural Zone must not exceed:</p> <p>(i) 50dB (LAeq), 7am to 7pm every day;</p> <p>(ii) 45dB (LAeq), 7pm to 10pm every day;</p> <p>(iii) 40dB (LAeq) and 65dB (LAm_{ax}), 10pm to 7am the following day.</p> <p><u>(b) Noise measured within any site in any zone, other than the Rural Zone, must meet the permitted noise levels for that zone.</u></p> <p><u>(c) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 “Acoustics – Measurement of Environmental Sound”.</u></p> <p><u>(d) Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 “Acoustic – Environmental noise”.</u></p>
P3	(a) Noise measured within any site in any zone, other than the Rural Zone, must meet the permitted noise levels for that zone.
P4	<p>(a) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 “Acoustics – Measurement of Environmental Sound”.</p> <p>(b) Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 “Acoustic – Environmental noise”.</p>
DI	Noise that does not comply with Rule 22.2.1.1 P1, P2, P3 or P4.

Analysis – Rule 22.2.1.2 – Frost Fans

558. Noise from frost fans is controlled by a specific Rule 22.2.1.2, as follows:

PI	Noise generated by a frost fan must not exceed 55dB (L _{Aeq}) when measured at the notional boundary on any site in the Rural Zone and within any site in the Country Living Zone, Village Zone or Residential Zone.
DI	Noise generated by a frost fan that does not comply with Rule 22.2.1.2 PI.

559. Horticulture NZ [419.18 and .19] sought that both PI and DI be amended to increase the permitted sound level, and to reduce the activity status of consents from discretionary to restricted discretionary. Their submission was supported by T&G Global [FS1171.16 and .17]. Waikato District Health Board [923.158] sought that the rule be amended to provide greater control over the use of frost fans.
560. Some horticultural crops (along with viticulture and orchards) are susceptible to damage from frost. Such damage typically occurs in spring when prolonged exposure to frosty conditions can damage bud tips, thereby reducing subsequent plant growth and crop yield. Frost fans disturb the air and help to pull down a warmer layer of air that sits above the inversion layer that is giving rise to frosty conditions. Frosts during the middle of winter are much less of an issue, as bud tips are yet to form, therefore fans are typically used only during spring, and only in the early hours of the morning when frost conditions are forming. Frost fans were traditionally started manually, however modern systems can be pre-programmed to start automatically when low temperatures trigger them.
561. Frost fan noise has the potential to cause amenity issues for nearby properties, due to a combination of horticultural blocks tending to be smaller/more intensive (therefore having less separation between neighbouring properties), the early hours of the morning when the fans operate, and the calm conditions that give rise to frosts also increasing the distance over which sound carries.
562. As identified by the submitter, frost fans are integral to some types of horticulture, and are a commonly used tool for mitigating frost damage. Determining an appropriate noise limit therefore revolves around what is a reasonable balance between having a rule that is workable in terms of the noise generated by such systems, and achieving an acceptable level of amenity for neighbouring properties. The submitter seeks to increase the limit from 55 to 60dB (L_{Aeq}). By comparison, the general night-time noise limit in Rule 22.2.1.1 is 40dB (L_{Aeq}). It is important to note that the proposed rule requires measurement at the ‘notional boundary’ of sites in the Rural Zone. The notional boundary is a point measured 20m away from a dwelling. In my experience, the use of notional boundaries for setting noise standards in rural zones is common in district plans and reflects the need to control amenity-related effects where they are received in farm dwellings, rather than unoccupied paddocks. The rule conversely requires measurement at the *site boundary* with more intensively-subdivided Country Living, Village, and Residential Zones. I support this differentiation in the point at which sound is to be measured from.
563. The New Zealand Standard 6802:2008 Acoustics-Environmental Noise provides a guideline of 45dB LAeq (15min) for the “reasonable protection of health and amenity with the use of land for residential purposes”. The World Health Organisation⁹ likewise recommends a guideline night-time limit of 45 dB LAeq (8 hours) to allow occupants to sleep with the windows open. Given that the use of frost fans only happens in frosty conditions, it is unlikely that nearby residents will be sleeping with their windows open. Standard dwelling construction can provide acoustic attenuation of 10-15dBA, depending on construction materials and single or double glazing. The notified limit of 55dB does not therefore appear

⁹ WHO *Guidelines for community noise*; Berglund et al, 1999

unreasonable, noting that it is 15dB higher than the general night-time standard, therefore already makes a significant compromise on the level of amenity protection afforded by the district plan in recognition of the important role that frost fans play. Accordingly, it is recommended that the submission be rejected, unless the submitter can provide clear evidence that standard frost fans cannot in practice operate and concurrently meet the proposed 55dB standard.

564. In addition to increasing the noise limit, Horticulture NZ also sought that the activity status for resource consents seeking to exceed the permitted limit be restricted rather than fully discretionary, with Council's discretion limited to consideration of the location of the fans and the sound levels received at the notional boundary of any dwellings on another site.
565. I agree that the relevant environmental effects are limited to those related to noise and the associated amenity effects on neighbours. As such, a restricted discretionary status is considered appropriate.
566. The Waikato District Health Board has sought that the use of frost fans be subject to additional controls regarding the distance of fans from boundaries, the time of year and climatic conditions, and data collection of use. The Health Board have also sought several amendments to include reference to NZS6801. As set out above, frost fans are only used in frosty conditions, and for a limited time of the year during bud burst. As such, the additional limitations sought by the Health Board appear to be unnecessary, as the frequency of use is self-limiting by their intended purpose. I agree that the rule functions as a 'stand-alone', therefore would benefit from including reference to NZS6801 in terms of how sound is to be measured, with this amendment being consistent with the formatting and direction contained within the other two noise rules.

Recommendations and amendments

567. It is therefore recommended that Rule 22.2.1.2 be amended as follows:

PI	<p>(a) Noise generated by a frost fan must not exceed 55dB (L_{Aeq}) when measured at the notional boundary on any site in the Rural Zone and within any site in the Country Living Zone, Village Zone or Residential Zone.</p> <p>(b) <u>Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 Acoustics - Measurement of Environmental Sound.</u></p> <p>(c) <u>Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 Acoustic- Environmental noise.</u></p>
RDI	<p>(a) Noise generated by a frost fan that does not comply with Rule 22.2.1.2 PI.</p> <p>(b) <u>Council's discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none"> (i) <u>effects on amenity values;</u> (ii) <u>the location and proximity of the fans to sensitive activities;</u> (iii) <u>noise levels;</u> (iv) <u>the adequacy of any mitigation.</u>

Rural – Rule 22.2.1.3 – Construction Noise

568. EnviroWaste NZ Ltd [302.04] has submitted in support of the construction noise rule, with another submission neutral [330.78]. Waikato District Council [697.763] has sought a minor amendment to improve the rule's accuracy, with this amendment shown below. It is recommended that the amendment be accepted.

PI	<p>(a) Construction noise generated from a construction site must not exceed meet the limits in New Zealand Standard NZS 6803:1999 (Acoustics – Construction Noise).</p> <p>(b) Construction noise must be measured and assessed in accordance with the requirements of New Zealand Standard NZS6803:1999 'Acoustics – Construction Noise'.</p>
RD I	<p>(a) Construction noise that does not comply with Rule 22.2.1.3 PI.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) effects on amenity values; (ii) hours and days of construction; (iii) noise levels; (iv) timing and duration; (v) methods of construction.

Rural – Rules 22.2.2 – Glare and artificial light

Introduction

569. The Proposed Plan does not have a specific rural policy addressing glare and light spill. Policy 5.3.7 relating to managing reverse sensitivity does however include several references to enabling lighting for night-time work and managing effects on road safety and rural amenity. Rule 22.2.2 sets light spill limits and exclusions for farming activities and equipment.

Submissions

570. Two submissions were received in support of the rule - one was neutral, and two sought minor amendments.

Submission point	Submitter	Summary of submission
197.20	NZ Pork	Retain Rule 22.2.2 PI Glare and Artificial Light Spill, as notified.
330.79	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.2 - Glare and Artificial Light Spill.
330.137	Andrew and Christine Gore	Amend Rule 22.2.2 Glare and Artificial Light Spill to specify the type of lighting to comply with low glare and low light spill AND Amend Rule 22.2.2 Glare and Artificial Light Spill to ensure that lighting into an ecological area will meet standards for dark sky. AND Amend Rule 22.2.2 Glare and Artificial Light Spill to lower lux standards.

680.198	Federated Farmers of New Zealand	Retain Rule 22.2.2 PI (b) Glare and Artificial Light Spill AND Delete Rule 22.2.2 PI (c) Glare and Artificial Light Spill. AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
742.223	New Zealand Transport Agency	Retain Rule 22.2.2 PI Glare and Artificial Light Spill as notified. AND Retain Rule 22.2.2 RDI Glare and Artificial Light Spill as notified.

Analysis

571. The Proposed Plan provides direction for lighting outcomes in the rural environment through two clauses within Policy 5.3.7, which addresses reverse sensitivity matters as follows:

(e) *enable the use of artificial outdoor lighting for night time work*

(f) *Ensure glare and light spill from artificial lighting in the rural environment does not:*

(i) *Compromise the safe operation of the road transport network; and*

(ii) *detract from the amenity of other sites within the surrounding environment*

572. As a consequential amendment to the above assessment on reverse sensitivity, it was recommended that these two clauses be separated out to form a stand-alone policy on outdoor lighting. This restructuring will help align the approach taken with lighting with that taken in relation to noise, signs, and earthworks, which all have their own specific policy. The proposed approach of having a stand-alone policy also aligns with the approach taken in the Country Living Zone, where Policy 5.6.15 provides similar stand-alone direction. The relevant rule is set out in the recommendation section below, with the recommended amendments shown in red.

573. New Zealand Pork [197.20] and NZTA [742.223] both support Rule 22.2.2 and seek its retention. Andrew and Christine Gore [330.79 and 330.137] seek that the lux levels be reduced within ecological areas to meet dark sky standards¹⁰. Federated Farmers NZ [680.198] support (PI)(b) and seek the deletion of clause (PI)(c).

574. As with the proposed approach to managing noise, the lighting rule uses the point of measurement as the 'notional boundary' of any adjoining rural-zoned sites, i.e. a point 20m from a dwelling façade. This point of measurement is predicated on amenity outcomes being important adjacent to dwellings, but of less importance in the wider rural environment where there are fewer sensitive receivers. The proposed 10 lux limit also applies on road boundaries and on site boundaries for more intensively developed/urbanised residential zones. The only submission challenging the 10 Lux level is that from the Gores. No specific alternative wording is sought, beyond a desire for a reduction in light spill, with particular reference to ecological areas. In the absence of more specific evidence from the submitters, it is recommended that the rule be retained. It is noted that ecological areas by nature do

¹⁰ 'Dark sky' outcomes are part of a growing movement to limit artificial light spill at night to improve star-gazing and ecology. The International Dark Sky Association hold information on this topic www.darksky.org

not tend to contain high light-emitting activities, such that it is unclear how great an issue light emission is.

575. The rule places the 10 lux limit on all activities, unless they are exempt via clause (b) relating to vehicles used in farming activities or agricultural equipment. Clause (c) then qualifies the exemption in (b) through directing the operation of farm vehicles to not create nuisance to neighbouring sites. Federated Farmers NZ have raised concern with the lack of certainty in the wording of clause (c), especially given its role as a rule threshold. The submitter notes that the use of farm machinery at night-time is invariably temporary and seasonal, such as harvesting and hay making with short weather windows, and that such amenity effects, to the limited extent that they might occur, are not unreasonable in rural environments.
576. I agree with the submitter that the wording of clause (c) is sufficiently uncertain that it is not appropriate as a rule threshold. Because nuisance is inherently subjective and context-specific, it is challenging to develop alternative wording that provides an adequate level of certainty. An advice note stating that machinery operators should seek to minimise nuisance is likewise of little assistance in the context of a district plan. It is therefore recommended that Clause (c) simply be deleted.

Recommendations and amendments

577. Add a new policy on outdoor lighting, using the clauses that were previously located within Policy 5.3.7 on reverse sensitivity, as follows:

Policy – Outdoor lighting

(a) Enable the use of artificial outdoor lighting for night time work

(b) Ensure glare and light spill from permanently fixed artificial lighting in the rural environment does not:

(i) Compromise the safe operation of the road transport network; and

(ii) Detract from the amenity of other sites within the surrounding environment

578. It is recommended that clause (c) be deleted, with the rule otherwise retained as notified.

PI	<p>(a) Illumination from glare and artificial light spill shall not exceed 10 lux measured horizontally and vertically at the notional boundary on any other site in the Rural Zone; at any road boundary or within any other site in the Residential, Village or Country Living Zones;</p> <p>(b) Rule 22.2.2 PI (a) does not apply to vehicles used in farming activities and agricultural equipment.;</p> <p>(c) Any artificial lighting from vehicles used in farming activities and agricultural equipment shall be operated so that direct or indirect illumination does not create a nuisance to occupants of adjoining or nearby sites.</p>
RDI	<p>(a) Illumination from glare and artificial light spill that does not comply with Rule 22.2.2 PI</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) effects on amenity values; (ii) light spill levels on other sites; (iii) road safety; (iv) duration and frequency; (v) location and orientation of the light source; (vi) mitigation measures; (vii) location and orientation of the light source.

Rural – Policy 5.3.14 – Signs, and associated rules 22.2.6

Introduction

579. The Proposed Plan provides for signage in rural environments where it is linked to rural activities or necessary for public information and direction. The associated rules seek to strike a balance between providing reasonable signage and maintaining rural amenity.

Submissions

580. Two submissions were received either in support or neutral regarding the sign policy, with two submissions seeking amendments. Twelve submissions were received seeking amendments to the general signage rule 22.2.6.1, with six submissions seeking amendments to Rule 22.2.6.2 relating to transport safety.

Submission point	Submitter	Summary of submission
450.4	Rushala Farm Ltd	No specific decision sought, but the submitter refers to Policy 5.3.14 (b) Signs.
559.56	Heritage New Zealand Lower Northern Office	Retain Policy 5.3.14 Signs, except for the amendments sought below. AND Amend Policy 5.3.14(e) Signs as follows: (e) Provide for <u>appropriate</u> signage on heritage items, notable trees and Maaori sites of significance for the purpose of identification <u>or</u> and -interpretation.
742.39	New Zealand Transport Agency	Retain Policy 5.3.14 Signs, except for the amendments sought below AND Amend Policy 5.3.14 Signs as follows: (b) Ensure signage The location, colour, content, and appearance of signs directed at <u>or visible to road users</u> traffic is controlled to ensure they do not distract, confuse or obstruct motorist, pedestrians and other road users adversely affect safety of road users..... AND Request any consequential changes necessary to give effect to the relief sought in the submission.
433.6	Auckland Waikato Fish and Game Council	Retain Policy 5.3.14 (d) Signs, as notified.
<i>FSI 223.70</i>	<i>Mercury NZ Limited</i>	<i>Support submission 433.6</i>
986.26	KiwiRail Holdings Limited (KiwiRail)	Retain Policy 5.3.14 Signs except for the amendments sought below AND Amend Policy 5.3.14(b) Signs as follows (or similar amendments to achieve the requested relief): (b) Ensure signage directed at traffic does not distract, confuse or obstruct motorists, pedestrians and other <u>land transport</u> road -users. AND Any consequential amendments to link and/or accommodate the requested changes.

416.2	Barry Green	No specific decision sought, but the submission opposes Policy 5.3.14(b) Signs and mentions signs on Kaiarau Road and Waikato District Council area double yellow lines.
Rule 22.2.6.1 – Signs		
761.7	Lyndendale Farms Limited	<p>Amend Rule 22.2.6 Signs- General so that the signage provisions in Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village (including the proposed retirement village at 180 Horsham Downs Road, Horsham Downs- the Lyndendale Lifestyle Village') by adding the following: 3.) Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village.</p> <p>OR</p> <p>Amend Rule 22.2.6.1 Signs-General and Rule 22.2.6.2 Signs-Effects on Traffic so that signage provisions do not apply to a retirement village.</p> <p>OR</p> <p>Add a new rule to Rule 22.2.6.1 Signs-General as follows:</p> <p>(x) Rules P1, P2, P3 and RDI above do not apply to a retirement village.</p> <p>AND</p> <p>Amend the Proposed District Plan to make any consequential amendments that are required to give effect to the submission.</p>
761.8	Lyndendale Farms Limited	<p>Amend Rule 22.2.6 Signs-effects on traffic so that signage provisions in Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village by including the following:</p> <p><u>(3) Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village.</u></p> <p>OR</p> <p>Amend Rule 22.2.6.1 Signs-General and Rule 22.2.6.2 Signs-Effects on traffic so that the signage provisions do not apply to a retirement village</p> <p>AND</p> <p>Add to Rule 22.2.6.2 Signs - effects on traffic the following:</p> <p><u>(x) Rules P1 and DI above do not apply to a retirement village.</u></p> <p>AND</p> <p>Amend the Proposed District Plan to make any consequential amendments that are required to give effect to the submission.</p>
330.87	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.6 Signs and/or all rules sitting under Rule 22.2.6 Signs.

Rule 22.2.6.1 – Signs – General		
761.7	Lyndendale Farms Limited	<p>Amend Rule 22.2.6 Signs- General so that the signage provisions in Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village (including the proposed retirement village at 180 Horsham Downs Road, Horsham Downs- the Lyndendale Lifestyle Village') by adding the following:</p> <p>(3) Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village.</p> <p>OR</p> <p>Amend Rule 22.2.6.1 Signs-General and Rule 22.2.6.2 Signs-Effects on Traffic so that signage provisions do not apply to a retirement village.</p> <p>OR</p> <p>Add a new rule to Rule 22.2.6.1 Signs-General as follows:</p> <p>(x) Rules P1, P2, P3 and RD1 above do not apply to a retirement village.</p> <p>AND</p> <p>Amend the Proposed District Plan to make any consequential amendments that are required to give effect to the submission.</p>
761.8	Lyndendale Farms Limited	<p>Amend Rule 22.2.6 Signs-effects on traffic so that signage provisions in Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village by including the following:</p> <p><u>(3) Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village.</u></p> <p>OR</p> <p>Amend Rule 22.2.6.1 Signs-General and Rule 22.2.6.2 Signs-Effects on traffic so that the signage provisions do not apply to a retirement village</p> <p>AND</p> <p>Add to Rule 22.2.6.2 Signs - effects on traffic the following:</p> <p><u>(x) Rules P1 and DI above do not apply to a retirement village.</u></p> <p>AND</p> <p>Amend the Proposed District Plan to make any consequential amendments that are required to give effect to the submission.</p>
433.54	Auckland Waikato Fish and Game Council	<p>Amend Rule 22.2.6.1 P1 Signs - General, as follows: A public information sign erected by a government agency and Auckland Waikato Fish and Game Council.</p> <p>AND/OR</p> <p>Any alternative relief to address the issues and concerns raised in the submission.</p>
433.55	Auckland Waikato Fish and Game Council	<p>Delete Rule 22.2.6.1 P2 (a)(i) and (vii) Signs - General.</p> <p>AND/OR</p> <p>Any alternative relief to address the issues and concerns raised in the submission.</p>
FS1323.186	Heritage New Zealand Pouhere Taonga	Oppose submission 433.55

559.85	Heritage New Zealand Lower Northern Office	Amend Rule 22.2.6.1 P2 Signs - general to exclude any type of signage on Heritage Items and Maaori Sites of Significance. AND Amend Rule 22.2.6.1 RDI Signs - general to include signage on Heritage items and Maaori Sites of Significance. AND Add an advice note under this new rule to advise of the other heritage building related rules within the Chapter. AND Provide for any consequential amendments as required.
602.52	Greig Metcalfe	Amend Rule 22.2.6.1. P3 (a) Signs - general as follows: (a) Any real estate 'for sale' sign relating to the site on which it is located must comply with all of the following conditions: (i) There is no more than 1 sign per agency measuring <u>600mm x 900mm per road frontage of the site to which the sign relates;</u> (ii) There is no more than 1 sign measuring 1800mm x 1200mm per site to which the sign relates; (iii) There is no more than 1 real estate header sign measuring 1800mm x 1200mm on one other site; (ii) (iv) The sign is not illuminated; (ii) (v) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials; (iv) (vi) The sign does not project into or over road reserve. (vii) <u>Any real estate sign shall be removed from display within 60 days of sale/lease or upon settlement, whichever is the earliest.</u> AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
680.210	Federated Farmers of New Zealand	Add new clause (b) to Rule 22.2.6.1 PI Signs-General, as follows: <u>(b) Signs required for legislative purposes</u> AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone
FS1345.39	Genesis Energy Limited	Support submission 680.210
697.783	Waikato District Council	Amend Rule 22.2.6.1 P2(a)(x) Signs - General, as follows: (x) The sign is for the purpose of identification and <u>interpretation not attached to</u> of a Maaori site of significance listed in Schedule 30.3 (Maaori Sites of Significance) except for the purpose of identification and interpretation;

697.784	Waikato District Council	<p>Amend Rule 22.2.6.1 P3 Signs - General, as follows: (a) A real estate 'for sale' or 'for rent' sign relating to the site on which it is located must <u>comply with all of the following conditions</u> not:</p> <p>(i) Not have <u>There is no more than + 3 signs per site</u> agency;</p> <p>(ii) Be <u>The sign is not</u> illuminated;</p> <p>(iii) <u>The sign does not</u> Contain any moving parts, fluorescent, flashing or revolving lights or reflective materials;</p> <p>(iv) Project into or over road reserve.</p>
742.224	Mike Wood for New Zealand Transport Agency	<p>Retain Rule 22.2.6.1 P1 Signs - General as notified. AND</p> <p>Retain Rule 22.2.6.1 P2 Signs - General as notified.</p> <p>AND</p> <p>Retain Rule 22.2.6.1 RD1 Signs - General as notified.</p>
Rule 22.2.6.2 – Signs – Effects on Traffic		
761.7	Lyndendale Farms Limited	<p>Amend Rule 22.2.6 Signs- General so that the signage provisions in Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village (including the proposed retirement village at 180 Horsham Downs Road, Horsham Downs- the Lyndendale Lifestyle Village') by adding the following:</p> <p>(3) Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village.</p> <p>OR</p> <p>Amend Rule 22.2.6.1 Signs-General and Rule 22.2.6.2 Signs-Effects on Traffic so that signage provisions do not apply to a retirement village.</p> <p>OR</p> <p>Add a new rule to Rule 22.2.6.1 Signs-General as follows:</p> <p>(x) Rules P1, P2, P3 and RD1 above do not apply to a retirement village.</p> <p>AND</p> <p>Amend the Proposed District Plan to make any consequential amendments that are required to give effect to the submission.</p>
761.8	Lyndendale Farms Limited	<p>Amend Rule 22.2.6 Signs-effects on traffic so that signage provisions in Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village by including the following:</p> <p><u>(3) Rules 22.2.6.1 and 22.2.6.2 do not apply to a retirement village.</u></p> <p>OR</p> <p>Amend Rule 22.2.6.1 Signs-General and Rule 22.2.6.2 Signs-Effects on traffic so that the signage provisions do not apply to a retirement village</p> <p>AND</p> <p>Add to Rule 22.2.6.2 Signs - effects on traffic the following:</p> <p><u>(x) Rules P1 and DI above do not apply to a retirement village.</u></p> <p>AND</p> <p>Amend the Proposed District Plan to make any consequential amendments that are required to give effect to the submission.</p>

695.210	Sharp Planning Solutions Ltd	<p>Amend Rule 22.2.6.2 P1(a)(ii) Signs - Effects on Traffic, to delete the words "and any other sign";</p> <p>OR</p> <p>Amend Rule 22.2.6.2 P1(a)(ii) Signs - Effects on Traffic, as follows: Be located at least 60m from controlled intersections, pedestrian crossings and any other sign <u>on the same site</u>.</p> <p>OR</p> <p>Amend Rule 22.2.6.2 P1(a)(ii) Signs - Effects on Traffic, as follows: Be located at least 60m from controlled intersections, pedestrian crossings and any other sign <u>railway crossings (or roads under Council jurisdiction)</u></p>
697.785	Waikato District Council	<p>Amend Rule 22.2.6.2 P1(a) Signs - effects on traffic, as follows:</p> <p>(a) Any sign directed at road users must <u>meet the following</u> conditions:</p> <p>(i) Not imitate the content, colour or appearance of any traffic control sign;</p> <p>(ii) Be located at least 60m from controlled intersections, pedestrian crossings and any other sign;</p> <p>(iii) Not obstruct sight lines of drivers turning into or out of a site entrance and intersections;</p> <p>(iv) Contain no more than 40 characters and no more than 6 symbols;</p> <p>(v) Have lettering that is at least 200mm high; and (vi) Where the sign directs traffic to a site entrance, it the sign must be at least:</p> <p>A. 175m from the entrance on roads with a speed limit of 80 km/hr or less; or</p> <p>B. 250m from the entrance on roads with a speed limit of more than 80km/hr.</p>
742.225	New Zealand Transport Agency	<p>Retain Rule 22.2.6.2 Signs- effects on traffic, except for the amendments sought below</p> <p>AND</p> <p>Amend Rule 22.2.6.2 P1(iv) Signs - effects on traffic as follows:</p> <p>Contain no more than 40 characters and no more than 6 <u>words, symbols or graphics</u>;</p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>
742.226	New Zealand Transport Agency	Retain Rule 22.2.6.2 D1 Signs - effects on traffic as notified.

Analysis of Policy 5.3.14

581. Five submissions were received on the policy, with one neutral (Rushala Farm Ltd [450.4]), relating to public consultation on changes to road markings, which is not a district plan matter. Auckland-Waikato Fish and Game Council [433.6] submitted in support of clause 5.3.14(d), on the basis that it provides policy support for signage relating to managing game bird shooting and angler access to waterways. NZTA [742.39] and KiwiRail [986.26] have sought minor amendments to clause (b) to improve the policy direction regarding transport

safety, and Heritage New Zealand [559.56] have likewise sought minor amendments to improve the clarity of clause (e).

582. The amendments sought by these three submitters all appear reasonable and improve the accuracy and direction of the policy.

Recommendations and amendments

583. It is recommended that the amendments sought by these three submitters be accepted and the policy amended as follows:

5.3.14 Policy - Signs

- (a) The scale, location, appearance and number of signs are managed to ensure they do not detract from the visual amenity of the rural environment.
- (b) ~~Ensure signage directed at traffic does not distract, confuse or obstruct motorists, pedestrians and other road users. The location, colour, content, and appearance of signs directed at or visible to road or rail users is controlled to ensure that they do not adversely affect the safety of land transport users.~~
- (c) Limit the duration of temporary signage.
- (d) Recognise that public information signs provide value to the wider community.
- (e) Provide for appropriate signage on heritage items, notable trees and Maaori Sites of Significance for the purpose of identification or ~~and~~ interpretation.

Analysis of Rule 22.2.6.1 Signs – General

584. Rule 22.2.6.1 (P1) seeks to permit “a public information sign erected by a government agency”. This clause was supported by NZTA [742.224]. Auckland Waikato Fish and Game [433.54 and 433.55] have sought that the P1 provision be extended to include signs erected by the submitter, given the role that such signage plays in information and safety, with P2 amended to reduce limitations on the size and number of such signs. This submission was opposed by Heritage New Zealand insofar as it applies to heritage items and Maaori sites of significance [FS1323.186]. Federated Farmers NZ [680.210] have submitted on P1, seeking that its scope be extended to cover signs required for legislative purposes.
585. The purpose of P1 is to recognise that signage has broader purposes than just advertising. Signage is commonly used for direction, safety, and public information. It is a core responsibility of both government and public agencies, and businesses that need to comply with statutory requirements. Such statutory obligations are common in working rural environments, especially with regard to HSNO, Worksafe, and biosecurity requirements. The National Planning Standards include a definition for ‘official sign’, which reads ‘*all signs required or provided for under any statute or regulation, or are otherwise related to aspects of public safety*’. It is recommended that P1 be extended to also include ‘official signs’, with the NPS definition included in the district plan. It is noted that the inclusion of a definition for ‘official sign’ did not form part of the s42A recommendations for Hearing 5.
586. It is also recommended that P1 be amended to clarify that such signs are not subject to the size and number limitations imposed through P2, as the nature of such signage is either controlled via the organisation’s public role and responsibilities or through the need to properly meet statutory requirements. Whilst this recommendation is specific to just the Rural Zone, it may be that there is a need for a consistent approach to be taken to signage for official purposes across the various zone chapters.
587. Heritage NZ [559.85] seeks that P2 be amended such that all signage on heritage items, sites, or Maaori sites of significance be a restricted discretionary activity, including signage for the purpose of identification or interpretation. Waikato District Council [697.783] seeks

a minor amendment to the wording of clause P2(a)(x) relating to Maaori sites of significance to improve the workability of the rule. The issue of signage on heritage buildings and significant cultural sites has been addressed across a number of chapters. The consistent recommendation in the s42A reports on the Residential, Village, Country Living, and Industrial Zones for signage on sites of heritage or cultural value has been that such signage should remain as a permitted activity, subject to the rule limits on size and number. Consideration of heritage and cultural values remain matters of discretion to be considered for any signs that exceed the size and number limitations through the associated restricted discretionary rule. It is recommended that a consistent approach be taken to the treatment of heritage signage, therefore that such signage remain permitted.

588. Greig Metcalfe [602.52] seeks a number of amendments to Rule P3 relating to real estate signage. Waikato District Council [697.784] likewise seeks a number of amendments to this rule. The proposed amendments seek to broaden the scope of such signs to include advertising properties for rent/lease, increase the number and size of signs that can be displayed, and add in a requirement that such signage be removed upon completion of a sale/lease.
589. The s42A report on Hearing 5 recommended that a new definition be added to the district plan for '*real estate sign means a real estate sign advertising a property or business for sale, for lease, or for rent*'. If this recommended definition is adopted by the Panel, by definition the rule relating to real estate signs will also include the use of such signs for lease or rent.
590. I agree that rural sites are generally much larger than sites located in urban areas. As such, it is common to have more than one road frontage or site entrance. Given the large size of rural landholdings, larger signs can be absorbed by the receiving environment compared with more suburban contexts. The adjacent road network often has a posted speed limit that is higher than 50kph, therefore larger signs are likewise helpful in being visible to passing traffic and for identifying that a property is for sale. I likewise agree that the duration of the signage should be specified in order to require it to be removed once the sale/lease has been settled. Real estate signage is inherently temporary, being erected only when a property is for sale and then being removed once the sale has been completed, with the temporary purpose of such signage meaning that any associated effects are likewise temporary.
591. One of the amendments sought by Mr Metcalfe is to enable a header sign to be located on a separate site to the one being advertised for sale in order to enable direction/advertising on a higher traffic volume road, where the site itself is located down a quiet side road. I can appreciate the rationale for the relief sought, however am cautious that making such an amendment could lead to a proliferation of real estate signage across the district, if the placement of such signage were to be decoupled from the location of the site that is for sale. In particular, such signage could proliferate along the busier roads or intersections in the district, such that there would be a cumulative adverse effect on rural amenity and character. On balance it is therefore recommended that real estate signs in the rural zone only be located on the property that is being advertised for sale.
592. Rule P3 works as a stand-alone rule that is separate from P2. As such, I agree with the submitters that greater clarity should be provided in the rule to ensure that real estate signage is both functional and its visual effects appropriately managed. It is therefore recommended that the rule be amended to achieve the following outcomes:
- Maximum size of 3m² (consistent with the general signage requirements in P2);
 - Maximum of 3 signs per site;
 - Signs can be for sale or lease/rent;
 - Signs to be removed within 20 working days of the sale/lease being settled;
 - Signs are to be located on the property that is for sale/lease.

593. Lyndendale Farms Ltd [761.7 and 761.8] has sought that the signage rules (both signage general and signage – traffic safety) not apply to retirement villages in general, and specifically do not apply to the proposed retirement village at 180 Horsham Downs Road. The submitter notes that signage is necessary throughout retirement village complexes for the health, safety, and direction of residents and visitors, and that signage on internal driveways can resemble traffic signs, as its purpose is to manage traffic movements within retirement complexes. I agree that signage that is located within buildings or that is internal to sites and not visible from public roads or adjoining sites, is a matter that does not require control by the district plan. The Proposed Plan definition of signage, as recommended in the s42A report for Hearing 5, does not differentiate between signage that is inside sites and not visible to the public (or for that matter signage that is displayed inside buildings), and signage which is located for the express purpose of being visible to the public. Possible solutions are to either amend the definition of ‘sign’ to exclude such matters, or amend PI to exclude them. . Give that amendments to the definition will have implications across all zones, and that where possible the NPS definitions should be adopted without modification, it is recommended that an additional clause be added to rule PI.

Recommendations and amendments

594. It is recommended that Rule 22.2.6.I be amended as follows:

PI	<p>(a) A public information sign erected by a government agency <u>or an official sign.</u> (b) Signs that are located within a building or that are not visible from a road or adjoining site. (c) Signs permitted by (a) or (b) are not subject to P2.</p>
P2	<p>(a) A sign must comply with all of the following conditions:</p> <ul style="list-style-type: none"> (i) It is the only sign on the site; (ii) The sign is wholly contained on the site; (iii) The sign does not exceed 3m²; (iv) The sign height does not exceed 3m; (v) The sign is not illuminated, (vi) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials; (vii) The sign is set back at least 50m from a state highway and the Waikato Expressway; (viii) The sign is not attached to a notable tree identified in Schedule 30.2 (Notable Trees), except for the purpose of identification; (ix) The sign is not attached to a heritage item listed in Schedule 30.1 (Historic Heritage Items) except for the purpose of identification and interpretation; (x) The sign is <u>is for the purpose of identification and interpretation of not attached to</u> a Maaori site of significance listed in Schedule 30.3 (Maaori Sites of Significance) except for the purpose of identification and interpretation; (xi) The sign relates to: <ul style="list-style-type: none"> A. Goods or services available on the site; or B. A property name sign.

P3	<ul style="list-style-type: none"> (i) A real estate 'for sale' sign relating to the site on which it is located must <u>comply with all of the following conditions:</u> not: (ii) Have more than <u>+ 3</u> signs per site <u>agency</u>; (iii) <u>Be The sign is not</u> illuminated; (iv) <u>The sign does not c</u>ontain any moving parts, fluorescent, flashing or revolving lights or reflective materials; (v) <u>The sign does not exceed 3m²</u>; (vi) <u>Any real estate sign shall be removed within 20 working days of the sale or lease being settled</u> (vii) Project into or over road reserve.
RDI	<ul style="list-style-type: none"> (a) Any sign that does not comply with Rule 22.2.6.1 P1, P2 or P3. (b) Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> (i) amenity values; (ii) rural character of the locality; (iii) effects on traffic safety; (iv) effects of glare and artificial light spill; (v) content, colour and location of the sign; (vi) effects on notable trees; (vii) effects on the heritage values of any heritage item due to the size, location, design and appearance of the sign; (viii) effects on cultural values of any Maori site of significance; (ix) effects on notable architectural features of the building.

595. Include a new definition for 'official sign', using the NPS wording for that definition:

<u>Official sign</u>	<u>means all signs required or provided for under any statute or regulation, or are otherwise related to aspects of public safety.</u>
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Analysis of Rule 22.2.6.2 – Effects on traffic

596. 22.2.6.2 (P1) places controls on the design and location of signage where directed at road users. The key purpose of the rule is to minimise the risk of driver distraction, confusion, or visual obstruction/blocking sight lines near intersections. Both P1 and D1 are supported by the NZTA [742.225 and 742.226], subject to an amendment to include a maximum number of words as well as characters/symbols. Sharp Planning Solutions Ltd [695.210] and Waikato District Council [697.785] have sought minor amendments to improve the effectiveness and efficiency of the rule.

597. I agree with Sharp Planning Solutions that the requirement for signs to be more than 60m from any other sign creates potentially-challenging compliance issues and does little to address the purpose of the rule, which is to manage traffic safety, particularly near intersections. Whilst cumulative signage can create visual amenity issues, and potentially be distracting to motorists, I am not aware of any evidence that having several signs in relatively close proximity to each other gives rise to adverse safety effects. The Rural Zone signage provisions limit the number of signs per site, which in combination with the generally large size of sites, means that the prospects of multiple signs being located in close proximity to each other is low.

598. I note that the s42A reports on the equivalent rules in the Residential, Village, Country Living, and Industrial Zones have recommended subtle variations to the reference to railway crossings, and the limit on the number of words, symbols or graphics. Ultimately, the Panel may wish to settle on a single consistent set of wording across the various zones for what is essentially the same rule. I note that the activity status for proposals that do not comply with PI is recommended in the s42A report on the Residential Chapter to be restricted discretionary (with a series of recommended matters of discretion), rather than fully discretionary. Recommendations on the Country Living, Village, and Industrial zones retain a fully discretionary status. No submissions have been received seeking such a change in status for signage in the Rural Zone, therefore no changes to the discretionary status are recommended.

Recommendations and amendments

599. It is recommended that Rule 22.2.6.2 be amended as follows:

PI	<p>(a) Any sign directed at road users must <u>meet the following conditions</u>:</p> <ul style="list-style-type: none"> (i) Not imitate the content, colour or appearance of any traffic control sign; (ii) Be located at least 60m from controlled intersections, pedestrian crossings <u>and railway crossings any other sign</u>; (iii) Not obstruct sight lines of drivers turning into or out of a site entrance and intersections; (iv) Contain no more than 40 characters and no more than 6 <u>words, symbols, or graphics</u>; (v) Have lettering that is at least 200mm high; and (vi) Where the sign directs traffic to a site entrance, it must be at least: <ul style="list-style-type: none"> A. 175m from the entrance on roads with a speed limit of 80 km/hr or less; or B. 250m from the entrance on roads with a speed limit of more than 80km/hr.
DI	Any sign that does not comply with Rule 22.2.6.2 PI.

22.3 Land Use - Building

Rural – Height - Rules 22.3.4.1-4

Introduction

600. The Proposed Plan does not provide any specific policy direction regarding the height of buildings in the Rural Zone, beyond the somewhat generic references to maintain rural character and amenity in Objective 5.3.1 and Policy 5.3.2(a)(i). Controls on the height of buildings are through Rules 22.3.4.1-3, with these rules addressing height in general, frost fans, and buildings and structures within airport approach slopes.

Submissions

601. Three submissions were received in support of the general height rule, with nine seeking amendments (generally to make it more enabling, especially for farming-relating structures). One submission was received in support of the height control for frost fans, with no submissions seeking amendments to this rule. Two submissions were received seeking amendments to the rule controlling building heights within the airport obstacle limitation surface.

Submission point	Submitter	Summary of submission
Rule 22.3.4.1 Height – Building General		
471.8	Andrew Wood for CKL	Amend Rule 22.3.4.1 P2 Height - Building General, as follows: P2 The <u>maximum</u> height of any dwelling or building must not exceed 7.5m in a Significant Amenity Landscape. AND Any consequential amendments necessary.
481.9	Bruce and Kirstie Hill for Culverden Farm	Amend Rule 22.3.4.1 P2 Height - Building General, to increase the maximum height limit to 10 metres for buildings within a Significant Amenity Landscape for permitted farming activities and buildings. OR Delete the Significant Amenity Landscape overlay from the Proposed District Plan, if the amendments sought to Rule 22.3.4.1 P2 Height- Building General above are not accepted.
482.4	Kirstie Hill on behalf of Hill Country Farmers Group	Amend Rule 22.3.4.1 P2 Height - Building General, to increase the maximum height limit to 10 metres for buildings within a Significant Amenity Landscape for permitted farming activities and buildings. OR Delete the Significant Amenity Landscape overlay from the Proposed District Plan if the amendments sought to Rule 22.3.4.1 P2 Height Building General as sought above are not accepted.
<i>FS1377.118</i>	<i>Havelock Village Limited</i>	<i>Support submission 482.4</i>
<i>FS1340.83</i>	<i>TaTa Valley Limited</i>	<i>Support submission 482.4</i>
302.26	EnviroWaste New Zealand Limited	Retain Rule 22.3.4.1 Height - Building General as notified.
378.34	Fire and Emergency New Zealand	Amend Rule 22.3.4.1 Height - Building General, to include the following: 22.3.4.1 Height - Building General The maximum height of any building must not exceed 10m, <u>except hose drying towers up to 15m associated with emergency service facilities.</u> AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
<i>FS1035.140</i>	<i>Pareoranga Te Kata</i>	<i>Support submission 378.34</i>
419.26	Horticulture New Zealand	Amend Rule 22.3.4.1 PI Height - Building General, as follows: " The maximum height of any building must not exceed 10m. <u>The maximum height of any building associated with</u> <u>(a) A residential activity must not exceed 10m</u> <u>(b) A farming or rural industrial or services activity must not exceed 15m.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.

<i>FS1171.21</i>	<i>T&G Global</i>	<i>Support submission 419.26</i>
<i>FS1370.4</i>	<i>Aztech Buildings for Zeala Limited</i>	<i>Support submission 419.26</i>
466.19	Balle Bros Group Limited	Amend Rule 22.3.4.1 Height - Building General so that the height of any building associated with a farming or rural services activity must not exceed 15m.
<i>FS1171.111</i>	<i>T&G Global</i>	<i>Support submission 466.19</i>
<i>FS1308.55</i>	<i>The Surveying Company</i>	<i>Support submission 466.19</i>
<i>FS1168.75</i>	<i>Horticulture New Zealand</i>	<i>Support submission 466.19</i>
761.20	Lyndendale Farms Limited	Retain Rule 22.3.4.1 P2 Height- Building-General insofar as it excludes the property at 180 Horsham Downs Road, Horsham Downs, which is not identified as having a Significant Amenity Landscape. AND Retain the property at 180 Horsham Downs Road, Horsham Downs as not having a Significant Amenity Landscape identified on it.
943.16	McCracken Surveys Limited	Amend Rule 22.3.4.1 P2 Height - Building General, as follows: The height of any dwelling or building must not exceed 7.5m in a Significant Amenity Landscape.
680.222	Federated Farmers of New Zealand	Retain Rule 22.3.4.1 P1 Height - Building General, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FS1387.216</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 680.222</i>
<i>FS1275.17</i>	<i>Zeala Limited trading as Aztech Buildings</i>	<i>Oppose submission 680.222</i>
680.223	Federated Farmers of New Zealand	Delete Rule 22.3.4.1 (P2) Height - Building General. AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
697.800	Waikato District Council	Amend Rule 22.3.4(1) Height, as follows: (1) Rule 22.3.4.1 - Height - Building general provides permitted height levels across the entire Rural Zone for buildings, structures or vegetation. <u>This rule does not apply in those areas specified in Rules 22.3.4.2 - 22.3.4.4.</u> (i) ...
Rule 22.3.4.2 Height – Frost Fans		
419.27	Horticulture New Zealand	Retain Rule 22.3.4.2 Height - Frost Fans, as notified.
<i>FS1171.22</i>	<i>T&G Global</i>	<i>Support submission 419.27</i>
Rule 22.3.4.4 Height - Buildings, structures and vegetation within an airport obstacle limitation surface		
697.453	Waikato District Council	Amend Rule 22.3.4.2 Buildings, structures and vegetation within an airport obstacle limitation surface, to include a calculation to determine the permitted height with the airport obstacle limitation surface.

FS1253.17	Waikato Regional Airport Ltd	Oppose submission 697.453
697.801	Waikato District Council	Amend Rule 22.3.4.2 PI (b) Height Frost Fans, as follows: (b) The fan blades must not rotate higher than 13.5m above ground level.

Analysis - Policy

602. There is no specific policy direction regarding any of the rules controlling building mass, including height, daylight admission and site coverage outcomes. Generic policy guidance is woven through a number of policies regarding the need to maintain rural character and amenity, with this guidance balanced with the concurrent need to provide for typical rural activities and the functional requirements of buildings and structures that support such activities. The latter recognition of farming activities is not open-ended, but instead requires sites to be managed in a way that they are 'good neighbours' and maintain an appropriate level of amenity for neighbours, with what is reasonable revolving around expected outcomes for a rural context. No submitters have sought a specific policy on building height, daylight admission, or site coverage outcomes, and as such there is limited scope to introduce such a policy. The above discussion on Policy 5.3.9 (non-rural activities) noted that clause (b) of that policy sought to 'avoid buildings and structures dominating land on adjoining properties, public reserves, the coast, or waterbodies'. Whilst this policy clause had a focus on managing the effects of non-rural activities, in my view it has wider applicability to the outcomes sought through the rules on building mass. The recommendations on Policy 5.3.9 included separating out the building mass directions in a stand-alone policy that applied to all rural activities, and to reflect that the rules likewise apply to all buildings and structures, whether they are for rural or non-rural uses.
603. If the Panel is satisfied that sufficient scope exists through submissions on rural character and amenity outcomes, and sufficient need to provide policy direction for the rules and to assist applicants and consent processing officers in the future, then specific wording is show below. If, alternatively, the Panel does not consider that sufficient scope exists, then the rules can rely on the generic policy direction concerning the maintenance of rural character and amenity outcomes.

Recommendations and amendments

604. Add a new policy regarding managing the effects of buildings as follows:

5.3.X Policy –Building scale and location

- (a) Provide for buildings in the rural environment as necessary components of farming and rural-related activities including rural industry, rural commercial, and mineral extraction and quarrying.
- (b) Manage the size and location of buildings to:
- (i) maintain adequate levels of outlook, daylight, and privacy for adjoining sensitive land uses and public reserves; and
 - (ii) maintain rural character, amenity, and landscape values, in particular where located in areas with high landscape values, the coastal environment, and adjacent to waterbodies.

Analysis - Rule 22.3.4.1 - Height General – PI

605. The general height limit of 10m in Rule PI was opposed by Horticulture NZ [419.26] and Balle Bothers Group [466.19], who sought that the height limit be increased to 15m to better provide for agricultural buildings. Stevenson Waikato [591.10] sought that it be increased to 20m for extractive activities located within the aggregate extraction and

aggregate resource areas. The relief sought was supported in further submissions by T&G Global [FS1171.21 and .11], Aztech Buildings for Zeala Ltd [FS1370.4], The Surveying Company [FS1308.55], and Gleeson Quarries [FS1146.18]. Federated Farmers NZ [680.222] and Envirowaste NZ [302.26] submitted in support of Rule PI.

606. Those submitters seeking an increase in permitted height in particular noted the move towards larger milking sheds, covered wintering feedpads and loafing barns, and packhouses for horticultural produce that require higher internal stud heights to enable safe pallet stacking and air movement around produce. The ability to increase roof pitch to accommodate solar panels was also noted as a positive environmental outcome that would nonetheless generate taller buildings.
607. The key balance sought by the rule framework is to enable normal farming and horticultural activities whilst concurrently maintaining appropriate levels of rural character and neighbour amenity. The proposed height of 10m is sufficient to provide for dwellings and should likewise be sufficient to accommodate standard farm structures such as implement sheds, shearing sheds, and hay barns. As noted by submitters, farming systems continue to evolve, and increasing water quality standards are in part driving a trend towards the use of covered feedpads for winter dairying, whilst improvements in racking technology is enabling more efficient pack house design for horticultural produce, with increased internal stud height requirements. Such structures can take the form of large clear-span warehouses, which do contrast visually with traditional farm building forms, with 15m providing for a substantial building scale and mass. In seeking to achieve a reasonable balance between neighbour and rural amenity and the functional requirements of rural activities, it is recommended that the height limit be increased to 15m where buildings are set back at least 50m from road and internal boundaries. This enables larger structures to be developed on larger properties to meet functional farming requirements, whilst concurrently providing a reasonable setback from roads and neighbouring sites. Such a setback will not of course screen or hide the building, but it will assist in mitigating the visual effects of the increase in height relative to that generated by a 10m high building located much closer to road or site boundaries.
608. The increase to 15m recommended above will also apply to buildings located within the various aggregate extraction areas. As such the increase from 10m goes some way towards meeting Stevenson Waikato's submission seeking a 20m height limit. I am reluctant to increase the height limit to 20m given the visibility that structures of this height could have. I am also mindful that the majority of aggregate extraction operations do not require structures of this height (equivalent to a six storey building). I therefore consider that the balance between enablement and management of effects is best achieved through a 15m height limit.
609. Fire and Emergency NZ [378.34] have sought that the 10m height limit be increased to 15m for hose drying towers associated with an emergency service facility. The submitter notes that fire stations are typically single storey buildings that are 8 to 9m in height. Some stations also include hose drying towers between 12 and 15m in height. Such structures are clearly linked to the operation of these facilities and are integral to providing for the community's health and safety. Given the visually lightweight nature of such structures, the generally larger landholdings in rural areas (and therefore greater dwelling setbacks from site boundaries), and the important role that such facilities play in community safety, it is recommended that the amendment sought by the submitter be accepted. It is noted that this relief is consistent with that recommended by other officers in relation to the provision for hose drying in other zones, including Residential Zones (Hearing 10), where amenity effects are at their most sensitive.
610. Waikato District Council [697.800] sought a minor amendment to PI to clarify that it does not apply to frost fans and airport approach areas addressed in Rules 22.3.54.2 and 22.3.4.4. I agree that the amendment is helpful in relation to frost fans. In relation to the airport obstacle limitation surfaces, in most cases the limitation surface will be significantly higher

than the height limit in P1. As such, it is considered important that P1 continue to apply to buildings within the limitation area to avoid the somewhat perverse outcome of noticeably taller buildings being permitted in rural areas close to the airport. It is instead recommended that Rule 22.3.4.3 be amended to clarify that where the height limit determined by the airport obstacle limitation surface is lower than that provided in P1, the lower limit applies.

611. As a final point, and noting the NPS definitions of ‘building’ and ‘structure’ which differ from the building definition as originally notified, that as a consequential amendment to the changes in definitions it is recommended that both the height and daylight admission rules be amended to refer to both buildings and structures. This will ensure the rules appropriately capture large structures that fall outside the NPS definition of a building.

Analysis - Rule 22.3.4.1 - Height General – P2

612. Rule P2 provides a 7.5m height limit for sites that are located within a Significant Amenity Landscape (‘SAL’). Culverden Farm [481.9], and the Hill Country Farmers Group [482.4] seek this limit be increased to 10m to better enable typical farm implement buildings to be established, with this amendment supported in further submissions from Havelock Village Ltd [FS/377.118] and TaTa Valley Ltd [FS/340.83]. Federated Farmers NZ [680.223] seek that Rule P2 be deleted, Lyndendale Farms Ltd [761.20] support P2 insofar as their property at 180 Horsham Downs Road is not located within a SAL, whilst CKL [471.8] seek minor amendments to simplify the rule.
613. I am mindful that the geographic extent of SALs and the outcomes sought within them is a topic that is primarily considered in a separate hearing on landscapes. The Panel will need to align their decision on permitted height with the wider outcomes they are seeking in the SALs, having had the benefit of hearing evidence on the land space topic from submitters.
614. Insofar as this matter is relevant for the Rural Zone, and without the benefit of considering wider SAL outcomes and evidence, I agree with the submitters that a 7.5m height limit may be unduly restrictive for a wide range of typical farm structures such as hay barns and implement sheds, especially given the increasing size of modern tractors and harvesting equipment. I am likewise mindful that the SALs tend to be located over hill country landscapes with larger landholdings, although that overlay also includes farmland on either side of the Waikato River. As such, structures tend to be located well within farms and therefore tend to be viewed from a distance, and seen against a backdrop of sloping topography, such that a difference of 2.5m is unlikely to result in materially different visual effects. In my experience, the visibility of structures in hill country farms tends to derive more from the colour of the structure than its height. It is becoming increasingly common for district plans to control building reflectivity as a key method for mitigating the visual appearance of farm buildings in rural locations with high landscape values. Reflectivity of less than 40% is generally required to ensure that structures are in darker tones that are visually far less intrusive. All of the major paint ranges have their reflectivity values identified, as do common cladding products such as Coloursteel, where common colours such as karaka, grey friars, or pioneer red are all well below 40% reflectivity¹¹.
615. As a tool to balance the potential visual effects of taller buildings sought by submitters, whilst still enabling common farm buildings to be erected in more visually-sensitive locations, it is recommended that the height limit be increased to 10m for buildings that have a reflectivity value of less than 40%. In making this recommendation I am mindful that the use of reflectivity values is not a matter raised in submissions or in the Proposed Plan, and as such there may be issues of scope regarding its introduction. In my view it is appropriate as a

¹¹ https://steelandtube.co.nz/sites/default/files/st_file_list/BSS0273-Colorsteel-Reflectivity-Bulletin2.pdf

necessary tool to mitigate the effects of the relief sought by submitters, therefore falls within the ambit of matters which the Panel is able to consider.

616. I agree with the minor amendment sought by CKL of simplifying the rule without affecting its purpose. I do not agree with the deletion of the rule as sought by Federated Farmers, noting that their relief was a consequential outcome of their wider concerns regarding the use and mapping of SAL in the district plan.
617. For completeness it is noted that no submissions were received on Rule 22.3.4.1 (D1).

Analysis - Rule 22.3.4.2 – Height – Frost Fans

618. The Proposed Plan includes a specific rule controlling the height of frost fans, providing for support structures up to 10.5m, and blade tips up to 13.5m above ground. This rule is supported by Horticulture NZ [419.27] and in a further submission by T&G Global [FS1171.22]. Waikato District Council [697.801] have sought a minor amendment to improve rule effectiveness. Given the above recommendations on PI to increase the higher limit to 15m, a separate rule on frost fans is now of more limited use, as it only provides additional height for any fans located within 50m of site or road boundaries (and where compliance with noise standards may limit location close to internal boundaries in any event, depending on the proximity of nearby dwellings). That said, there are no submissions opposing the rule or seeking any substantive change, and the rule does provide specific direction on the design and use of frost fans as part of a bespoke package of rules on these structures. As such, it is recommended that the rule be retained, subject to the minor amendment sought by Council.

Analysis - Rule 22.3.4.4 – Height – Buildings, structures and vegetation within an airport obstacle limitation surface

619. The rule provides specific control of the height of structures in close proximity to the Waikato Regional Airport. The Obstacle Limitation Surface ('OLS') is mapped, with Appendix N providing additional information on the extent of the OLS. Waikato District Council [697.453] has sought that the rule be amended to include a calculation to determine permitted height within the OLS, without specifying the actual wording sought. The amendment is sought in order to provide greater clarity and direction for plan users. This submission is opposed by Waikato Regional Airport Ltd [FS1253.17], on the basis that Appendix N already provides sufficient information for an architect to be able to determine whether any given development extends into the OLS.
620. The use of an OLS in district plans is a common regulatory tool for protecting safe runway approach slopes. The height that structures and trees can be without intruding into the OLS increases the more distant the structure is from the end of the runway. As such, the OLS tool does not lend itself to a single height limit or easy mapping, and does require a more bespoke, project-specific calculation to determine the height limit. I agree with the submitter that as a general principle, district plan rules should be clear and simple, with compliance able to be readily determined by lay-readers. For some matters, such as OLS, there is no easy means of providing simple direction as to compliance, with compliance needing to be determined by an expert (in the same manner as having certainty regarding compliance with, say, noise or light spill rules requires expert input). It is therefore recommended that the rule remain as notified.
621. This is a matter that would in practice benefit from non-regulatory methods or assistance for plan users, such as training a couple of Council staff members in how to calculate the requisite height to assist with enquiries. It may likewise be a service that Waikato Regional Airport could provide as a key tool in maintaining safe approach slopes to their facility. I am aware that Auckland Airport has recently produced an interactive map that enables

landowners within the area covered by the Obstacle Limitation Surface to simply type in their address and the required height is provided¹².

Recommendations and amendments

622. It is recommended that three height rules be amended as follows:

22.3.4.1 Height – General

PI	The maximum height of any building <u>or structure</u> must not exceed <u>150m</u> , except: (i) <u>The maximum height is 10m where located within 50m of a road or internal boundary;</u> (ii) <u>For hose drying towers associated with emergency service facilities the maximum height is 15m.</u> <u>Note: the height of frost fans is subject to Rule 22.3.4.2</u>
P2	<u>In a Significant Amenity Landscape the maximum height of any dwelling or building must not exceed 10m, 7.5m, except where the building has a reflectivity of more than 40% the maximum height must not exceed 7.5m in a Significant Amenity Landscape.</u>
DI	Any building that does not comply with Rule 22.3.4.1 PI or P2.

22.3.4.2 Height – Frost Fans

PI	(a) The height of the support structure for a frost fan must not exceed 10.5m; and (b) The fan blades must not rotate higher than 13.5m <u>above ground level.</u>
DI	Any frost fan that does not comply with Rule 22.3.4.2 PI.

22.3.4.3 Height - Buildings, structures and vegetation within an airport obstacle limitation surface

PI	A building, structure or vegetation must not protrude through any Airport Obstacle Limitation Surface as shown on the planning maps. <u>Where the Airport Obstacle Limitation Surface is lower than the height otherwise permitted in Rule 22.3.4.1 or 22.3.4.2, then the lesser surface height applies.</u> <u>Note: refer Appendix N for determining the permitted height.</u>
NCI	A building, structure or vegetation that does not comply with Rule 22.3.4.3 PI

Artificial crop protection structures

623. The Proposed Plan does not differentiate between general buildings and artificial crop protection structures. Horticulture New Zealand [419.10], supported by the further submission from T&G Global [FS1171.13], have sought a bespoke set of rules and an associated definition for these structures. Rather than include them in the activities-based rule table, it is considered more appropriate to assess them as part of the building controls. The activity is horticulture, which forms part of the 'farming' definition, with the crop

¹² <https://www.arcgis.com/apps/webappviewer/index.html?id=93b2fe41f9254363b50581674b63b5ec>

protection structures simply buildings that are ancillary to the principle activity of farming – in much the same way that hay sheds or sheep yards are ancillary structures to the principle activity, and are not separately listed in the activity rules but are instead controlled through limits on height, setbacks, and site coverage. It is likewise considered more coherent to assess them as a single issue rather than as an ad hoc series of submission points against the various building rules.

Rule 22.1.2 – Permitted Activities		
419.10	Horticulture New Zealand	Add a new permitted activity to Rule 22.1.2 Permitted Activities, as follows: <u>Artificial crop protection structures that meet the following conditions: (a) Green or black cloth shall be used on vertical faces within 30m of the site boundary (b) Green, black or white cloth shall be used on horizontal surfaces.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
FS1306.5	Hynds Foundation	Support submission 419.10
FS1171.13	T&G Global	Support submission 419.10
419.13	Horticulture New Zealand	Add a new restricted discretionary activity to Rule 22.1.3 Restricted Discretionary Activities, as follows: <u>Artificial crop protection structures that do not comply with Rule 22.3.X Council's discretion is restricted to the following matters:</u> i) <u>Amenity values;</u> ii) <u>Effects of glare on traffic</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
FS1171.15	T&G Global	Support submission 419.13
FS1388.182	Mercury NZ Limited	Oppose submission 419.13
419.28	Horticulture New Zealand	Amend the definition of "Building" in Chapter 13: Definitions, in terms of artificial crop protection structures (specific amendments sought are addressed elsewhere in the submission) OR Amend Rule 22.3.5 PI Daylight admission to specifically exclude artificial crop protections structures as follows: <u>A building (excluding artificial crop protection structures) must not protrude through a height control plane rising at an angle of 37 degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary.</u> AND Add a new permitted activity to Rule 22.3.5 Daylight admission, as follows: <u>PX Artificial crop protection structures that comply with Rule 22.1.2 PX Artificial crop protection structures.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
FS1171.23	T&G Global	Support submission 419.28

419.115	Horticulture New Zealand	Add a definition for "Artificial crop protection structures" to Chapter 13 Definitions, as follows: <u>Artificial crop protection structures Means structures with material used to protect crops and/or enhance growth (excluding greenhouses).</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
FS1350.49	Transpower New Zealand Limited	Support submission 419.115
FS1388.226	Mercury New Zealand Limited	Oppose submission 419.115
330.90	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.3 Land Use - Building.
591.10	Stevenson Waikato Ltd	Add a new height rule within Rule 22.3.4 Height, as follows: <u>22.3.4.5 Building Height for extractive industry in industry in the Aggregate Extraction Areas and Aggregate Resource Areas shown on the planning maps P1 Building height must not exceed 20m. RDI Building height that does not comply with above standard. Council's discretion is restricted to the following matters: (i) effects on amenity values; (ii) extent and visibility of non-compliance from adjacent zones; (iii) building form, location, external cladding and colour.</u>
FS1146.18	Gleeson Quarries Huntly Limited	Support submission 591.10
330.150	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.3.4 Height, and/or all other rules sitting under Rule 22.3.4 Height.

Analysis

624. Artificial crop protection structures are large frames upon which both horizontal and vertical netting or shade cloth can be strung to enhance crop growth and/or to keep birds from eating the crop. They are particularly common in orchards, but could in principle be used for a range of crops. Whilst the frames tend to be permanent structures, the netting is often erected over summer and then taken down over winter. The visual bulk of the structure is therefore more seasonal, and has a different visual character to buildings. Such structures can, however, cover large areas/orchard blocks, therefore can be much larger than typical agricultural buildings, and be visible from a wider area, especially where they are red (typically for apple orchards which are not particularly common in Waikato District).
625. The definition of 'building' was considered in Hearing 5. As notified, it mirrored the definition in the Building Act for the same term, and of relevance excludes 'a structure that is permeable and less than 4m in height to protect crops for agricultural use'. Horticulture NZ submitted, seeking that artificial crop protection structures be exempt from the definition of 'building'. It is noted that the s42a report for Hearing 5 recommended replacing the notified definition with the following:

Building means a temporary or permanent, movable or immovable physical construction that is:

- a. partially or fully roofed, and*
- b. is fixed or located on or in land, but*
- c. excludes any motorised vehicle or other mode of transport that could be moved under its own power*

626. The 4m height restriction in the notified definition will be too low for many such structures, especially where they are used in orchards rather than for ground crops, and likewise is removed completely in the s42a recommendation. As it stands, all apart from low crop protection structures will meet the definition of a building where they have a netting roof and therefore are subject to the rules controlling the size and location of buildings.
627. Given the large size of these structures, it is not considered appropriate to exclude them from the rules controlling building size through a blanket tool such as a change to the definition. I have, however, considered whether all of the building rules appropriately manage the effects of this specific type of structure. The increase in the building height rules to 15m should be sufficient to accommodate the majority of crop protection structures. The daylight admission and boundary setback rules are designed to first protect sunlight and outlook from adjoining sensitive land uses, and secondly maintain wider rural character outcomes when viewed from roads or public spaces. Given the potential scale of crop protection structures, it is considered appropriate that they remain subject to the daylight admission and boundary setback rules that generally require 12m setbacks from neighbours and 7.5m setbacks from road boundaries.
628. The site coverage rule limits buildings to the lesser of either 2% of the site or 500m². This control is considered to be unduly onerous for crop protection structures, which will generally be much larger than 500m² in order to fulfil their function, and noting that they are entirely permeable and therefore do not generate stormwater issues. Given that such structures are recommended to remain subject to boundary setback and daylight admission rules, immediate effects on the outlook and visual dominance for neighbours is able to be managed. It is therefore recommended that they be exempt from needing to comply with the site coverage rule, subject to the conditions on colours proposed by the submitter as a tool for reducing the visual effects of such structures. It is likewise recommended that a definition for 'Artificial Crop Protection Structure' be added to the district plan, with the wording as sought by the submitter.
629. The recommended amendment to the site coverage rule and the associated definition of 'Artificial Crop Protection Structure' is included in the wider discussion on the site coverage rule below.

Rural – Height – Buildings, structures and vegetation in a battlefield view shaft – Rule 22.3.4.4

Introduction

287. The Proposed Plan seeks to protect the viewshafts to key battlefields dating from the Waikato land wars of the mid-late 1800s, including a key site located near Rangiriri¹³. The viewshaft protection rule is a roll-over of the equivalent rule in the Operative Plan. It limits the height of new buildings, structures and vegetation within viewshaft area shown on the planning maps to no more than 5m. Resource consents to exceed this height limit are fully discretionary activities.

Submissions

288. Two submissions were received in support of the rules, with one submission seeking amendments to the rule by using setbacks as a tool rather than limits on building height.

Submission point	Submitter	Summary of submission
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¹³ <https://nzhistory.govt.nz/war/war-in-waikato/rangiriri>

559.277	Heritage New Zealand Lower Northern Office	Retain Rule 22.3.4.4 PI Height - Building and vegetation in a battlefield view shaft area.
559.279	Heritage New Zealand Lower Northern Office	Retain Rule 22.3.4.4 DI Height - Building and vegetation in a battlefield view shaft area.
695.213	Sharp Planning Solutions Ltd	Amend Rule 22.3.4.4 Buildings, structures and vegetation in a battlefield view shaft to have greater setbacks rather than the 5m maximum height.

Analysis

289. The sites of major battles from the Waikato land wars have significant heritage and cultural values associated with them. As they are heritage sites that are open spaces rather than buildings, they are not covered by the rules that apply to heritage buildings. Protection of views to these sites is integral to their appreciation and understanding, and the retention of these values. The limits on building height and vegetation are included in the Operative Plan and I understand have not generated high numbers of resource consents given the discrete geographic areas that they cover. The rules enable normal pastoral farming activities to be undertaken, although in practice they limit tree planting without a potentially onerous ongoing trimming and maintenance schedule to limit tree growth to less than 5m. That said, because these areas are predominantly pastoral in land use the rule does not unduly restrict normal farming use of the land within the viewshaft.
290. The rules are long-established and the lack of submissions shows that there is not widespread community concern that the rules are either ineffective at protecting values, or are unduly onerous on landowners. As such it is recommended that the rule be retained as notified.

Recommendations and Amendments

291. It is recommended that Rule 22.3.4.4 be retained as notified.

Rural – Daylight admission – Rule 22.3.5

Introduction

630. The Proposed Plan controls building height in relation to boundary through a height control plane. Such controls manage shading, outlook, and privacy (when the adjoining building has windows/views from upper stories).

Submissions

631. One submission in support and one neutral submission were received on Rule 22.3.5. Four submissions were received seeking amendments.

Submission point	Submitter	Summary of submission
746.82	The Surveying Company	Amend Rule 22.3.5 PI- Daylight admission to allow the rule to be infringed where written consent of the land owners and occupiers of the abutting sites(s) have been obtained.
761.21	Lyndendale Farms Limited	Retain the height to boundary requirement (37 degrees at 2.5m above ground level) in Rule 22.3.5 Daylight admission. AND

		Amend Rule 22.3.5 PI Daylight admissions so the height control plane only applies to the external boundaries of Retirement Villages and not to any internal boundaries for individual certificate of title boundaries. AND Amend the Proposed District Plan to make any consequential amendments that are required to give effect to the submission.
761.22	Lyndendale Farms Limited	Retain Rule 22.3.5 RDI-Daylight admission as notified.
330.151	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.3.5 Daylight admission.
695.214	Sharp Planning Solutions Ltd	Amend Rule 22.3.5 PI Daylight admission as follows: A building must not protrude through a height control plane rising at an angle of 37 <u>45</u> degrees commencing at an elevation of 2.5 <u>3</u> m above ground level at every point of the site boundary.
697.804	Waikato District Council	Amend Rule 22.3.5 RDI (b) Daylight admission, as follows: (b) Council's discretion is restricted to the following matters: (i) Height of <u>the</u> building; (ii) Design and location of the building; (iii) Admission of daylight and sunlight to the site and other site; (iv) Privacy on <u>any</u> other site; (v) Amenity values of the locality.

Analysis

632. As with height controls discussed above, the daylight admission rule does not have any specific policy support, but instead relies on the somewhat more generic policy references for maintaining adequate levels of rural character and amenity. The new policy recommended above seeks to provide more specific guidance.
633. Rule 22.3.5 (PI) controls the height of buildings in relation to both roads and internal boundaries. The rule functions by constructing a plane taken from a point 2.5m above the boundary and then extending into the site at an angle of 37°. In essence, the rule enables lower buildings to be constructed closer to boundaries, with taller buildings set further into the site. The rule's purpose is primarily to manage shading of adjacent properties (especially sensitive land uses), with secondary benefits regarding views/outlook from adjoining sites and privacy (by forcing any upper storey windows to be set further in from site boundaries). The term 'height control plane' is defined in the Proposed Plan, with the Hearing 5 s42a report recommending that the definition be reworded to 'height in relation to boundary' to match the NPS term and its definition replaced with the following:
- Means the height of a structure, building or feature, relative to its distance from either the boundary of a:*
- 2) Site, or
 - 3) Other specified reference point.
634. The use of daylight admission rules is common across the urban residential and commercial zones (where adjacent to residential zones). In rural zones where landholdings are typically large, the need for the rule is somewhat diminished. This is especially so when combined with the building setback rules, which require dwellings and non-habitable buildings to be set

back at least 12m from internal boundaries. Under the proposed daylight admission rule, a building set back 12m from a boundary is able to be some 12m in height before it breaches the height control plane. The daylight admission rule will therefore only be triggered by either a building that is set closer than 12m to the boundary, and therefore is also triggering consent through breaching the setback rules, or a building that is set further away but breaches the height rule.

635. The setback rules are less onerous for road boundaries (generally 7.5m setbacks required), therefore the daylight admission rule could be breached by a building of a compliant 10m height and set back 7.5m from the road boundary.
636. Sharp Planning Solutions [695.214] have sought that both the starting point for measurement be increased to 3m and the angle increased to 45°. These two changes enable a taller building to be located closer to the boundary, for example a 10m high building could be set 6.5m from the boundary rather than being set 10m away. It is noted that the s42A report on the Residential Zone recommended that the equivalent rule retain the 2.3m starting point (eave height for typical single storey domestic accessory buildings such as garages), but increase the angle to 45°. It is recommended that the Rural Zone rule be aligned with that for Residential Zones as a consistent tool for maintaining adequate levels of residential amenity.
637. The Surveying Company [746.82] seek a permitted rule where the written consent from the neighbours has been obtained. The RMA now provides a streamlined consenting pathway for this scenario through s.87BA for a permitted boundary infringement. There is still a process to go through to confirm that the activity can occur, however it does not require a resource consent. As this scenario is already provided for in legislation, it is not recommended that the rule be amended. Lyndendale Farms [761.21] seek a related outcome through clarifying that the rule does not apply to internal boundaries within a wider retirement village complex. Whilst most retirement villages hold individual unit titles as license to occupy rather than fee simple (and therefore the rule would only apply at the boundary of the wider site), in the event that individual units were located on their own Record of Title, the s.87BA pathway would be available, which would enable the Retirement Village operator to in effect give themselves written consent.
638. Waikato District Council [697.804] seek some minor changes to the matters of discretion to improve the accuracy of these matters. It is recommended that these amendments be accepted.

Recommendations and amendments

639. It is recommended that Rule 22.3.5 be amended as follows:

22.3.5 Daylight admission

PI	A building or structure must not protrude through the height in relation to boundary a height control plane rising at an angle of 4537 degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary.
RD1	(a) A building that does not comply with Rule 22.3.5 PI. (b) Council's discretion is restricted to the following matters: (i) Height of the building; (ii) Design and location of the building; (iii) Admission of daylight and sunlight to the site and other site; (iv) Privacy on any other site; (v) Amenity values of the locality.

Rural – Building coverage – Rule 22.3.6

Introduction

640. The Proposed Plan seeks to manage the visual effects of large buildings on rural character and amenity through a package of rules controlling building bulk and location. In addition to height and boundary setback requirements, the Proposed Plan also looks to limit site coverage. Rule 22.3.6 (PI) permits site coverage up to the *larger* of either 2% of the site area or 500m². In the event that the larger of these triggers is exceeded, then a resource consent is required as a discretionary activity under Rule 22.3.6 (DI).

Submissions

641. No submissions were received in support of the rule, with one submission that was neutral. Six submissions sought its deletion, and eighteen submissions sought that the rule be amended. Submissions seeking amendments generally either sought to increase the level of permitted site coverage, or exempt buildings used for farming purposes. No submitters sought to amend the rule to make it more restrictive.

Submission point	Submitter	Summary of submission
252.1	Heather Andrews	Delete Rule 22.3.6 Building coverage. OR Amend Rule 22.3.6 PI (a)(ii) Building coverage from 500m ² to at least 750m ² .
FS1386.257	Mercury NZ Limited for Mercury C	Oppose submission 252.1
FS1171.112	Phoebe Watson for Barker & Associates on behalf of T&G Global	Oppose submission 252.1
418.6	Ethan Findlay	Amend Rule 22.3.6 PI (a)(i) and (ii) - Building coverage, so that the permitted building coverage is increased to 850m ² . AND Amend other parts of the district plan as necessary to give effect to the relief sought.

<i>FS1388.164</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose submission 418.6</i>
654.2	Ngaakau Tapatahi Trust	Amend Rule 22.3.6 Building Coverage, to exempt the Tamahere Hospital and Healing Centre (104A Duncan Road, Tamahere) from this provision; OR Amend Rule 22.3.6 Building Coverage, to allow more permissive building coverage which recognizes the on-site activity and need for development flexibility and any other amendments to provide the relief sought.
676.7	T&G Global Limited	Amend Rule 22.3.6 Building coverage to increase the limit, so that the maximum limit of building coverage within a Rural Zone enables proper establishment of horticulture activities and facilities and related accessory buildings, worker accommodation, etc. AND Any further or consequential amendments necessary to address the concerns raised in the submission.
<i>FS1168.77</i>	<i>Horticulture New Zealand</i>	<i>Support submission 676.7</i>
<i>FS1348.18</i>	<i>Perry International Trading Group Limited</i>	<i>Support submission 676.7</i>
<i>FS1387.142</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 676.7</i>
814.3	Jenny Goodwright for Awaroa Farm Ltd	Amend Rule 22.3.6 Rural Zone - Building Coverage - P1 (a)(ii), as follows: (ii) 5007000 m ² .
<i>FS1387.1301</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 814.3</i>
197.24	NZ Pork	Delete Rule 22.3.6 Building coverage.
<i>FS1386.205</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 197.24</i>
<i>FS1308.6</i>	<i>The Surveying Company</i>	<i>Oppose submission 197.24</i>
<i>FS1168.76</i>	<i>Horticulture New Zealand</i>	<i>Support submission 197.24</i>
197.24	NZ Pork	Delete Rule 22.3.6 Building coverage.
302.27	EnviroWaste New Zealand Limited	Delete Rule 22.3.6 Building coverage. AND Amend the Proposed District Plan to make consequential amendments or additional amendments to address the matters raised in the submission.
<i>FS1386.345</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 302.27</i>
<i>FS1308.10</i>	<i>The Surveying Company</i>	<i>Support submission 302.27</i>
418.11	Ethan Findlay	No specific decision sought, but submission opposes Rule 22.3.6 Building coverage.
<i>FS1171.113</i>	<i>T&G Global</i>	<i>Oppose submission 418.11</i>
<i>FS1388.168</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 418.11</i>

419.29	Horticulture New Zealand	<p>Amend the definition of 'Building' in Chapter 13 Definitions, to exclude artificial crop protection structures (the specific amendments sought are addressed elsewhere in the submission)</p> <p>AND</p> <p>Add a new clause (iii) to Rule 22.3.6 PI Building Coverage, as follows:</p> <p>(a) The total building coverage must not exceed the larger of:</p> <p>...</p> <p><u>(iii) except that this rule shall not apply to buildings associated with rural production activities or rural industries and services and shall not apply to artificial crop protection structures.</u></p> <p>AND</p> <p>Any consequential or additional amendments as a result of changes sought in the submission.</p>
<i>FS1342.113</i>	<i>Federated Farmers</i>	<i>Support submission 419.29</i>
<i>FS1171.24</i>	<i>T&G Global</i>	<i>Support submission 419.29</i>
419.30	Horticulture New Zealand	<p>Amend Rule 22.3.6D1 Building coverage, from a discretionary activity to a restricted discretionary activity</p> <p>AND</p> <p>Add the following matters of discretion to Rule 22.3.6 Building coverage:</p> <p><u>Matters of discretion:</u></p> <p><u>a) Effects on character and amenity</u></p> <p><u>b) Management of effects of stormwater run-off</u></p> <p>AND</p> <p>Any consequential or additional amendments as a result of changes sought in the submission.</p>
<i>FS1388.188</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Support submission 419.30</i>
466.20	Balle Bros Group Limited	Delete reference to 500m2 maximum or 2% of site area from Rule 22.3.6 Building coverage.
<i>FS1388.409</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 466.20</i>
<i>FS1308.56</i>	<i>The Surveying Company</i>	<i>Support submission 466.20</i>
466.21	Balle Bros Group Limited	<p>Amend Rule 22.3.6 D1 Building coverage to be classified as a Restricted Discretionary Activity rather than a Discretionary Activity</p> <p>AND</p> <p>Add new matters of discretion to Rule 22.3.6 Building coverage as follows:</p> <p><u>Effects on character and amenity</u></p> <p><u>Management of effects of stormwater run-off.</u></p>
<i>FS1388.410</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 466.21</i>
466.70	Balle Bros Group Limited	Amend Rule 22.3.6 Building coverage to specify that buildings associated with farming activities are a permitted activity.

696.10	Brenda and Gavin Butcher for Parkmere Farms	Amend Rule 22.3.6 PI Building coverage, by increasing the permitted building coverage limits.
746.83	The Surveying Company	Amend Rule 22.3.6 PI -Building Coverage to exclude buildings associated with permitted and controlled farming activities (including free range poultry farming and poultry hatcheries). AND Amend Rule 22.3.6 PI (a) (i)-Building Coverage to increase the 2% building coverage limit. OR Delete Rule 22.3.6 PI Building Coverage
<i>FSI 168.79</i>	<i>Horticulture New Zealand</i>	<i>Support submission 746.83</i>
<i>FSI 387.955</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 746.83</i>
<i>FSI 265.64</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 746.83</i>
751.26	Chanel Hargrave and Travis Miller	Amend Rule 22.3.6 PI Building coverage to exclude buildings associated with permitted and controlled farming activities (including free range poultry farming and poultry hatcheries). AND Amend Rule 22.3.6 Building coverage after considering whether a building coverage rule in the Rural Zone is necessary given there is no such requirement in the Waikato District Plan - Franklin Section. OR Amend Rule 22.3.6 PI Building coverage to increase the 2% limit.
<i>FSI 387.1080</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 751.26</i>
<i>FSI 265.65</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 751.26</i>
761.23	Lyndendale Farms Limited	Amend Rule 22.3.6- Building coverage so that the building coverage requirements do not apply to a Retirement Village. AND Amend the Proposed District Plan to make any consequential amendments that are required to give effect to the submission.
<i>FSI 387.1123</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 761.23</i>
766.51	Holcim (New Zealand) Limited	Delete Rule 22.3.6 Building Coverage. AND Any additional or consequential relief to give effect to the matters raised in the submission.
<i>FSI 387.1157</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 766.51</i>
<i>FSI 308.126</i>	<i>The Surveying Company</i>	<i>Support submission 766.51</i>
877.17	Leigh Michael Shaw & Bradley John Hall	Amend Rule 22.3.6 PI Building coverage to exclude buildings associated with permitted and controlled farming activities (including free range poultry farming and poultry hatcheries).
<i>FSI 387.1461</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 877.17</i>
<i>FSI 265.66</i>	<i>Mainland Poultry Limited</i>	<i>Support submission 877.17</i>
877.18	Leigh Michael Shaw & Bradley John Hall	Amend Rule 22.3.6 PI Building coverage after considering whether a building coverage rule in the Rural Zone is necessary. OR Amend Rule 22.3.6 PI (a)(i) Building coverage to increase the 2% site area coverage limit.

FSI 387.1462	Mercury NZ Limited	Oppose submission 877.18
330.152	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.3.6 Building coverage.
FSI 386.413	Mercury NZ Limited	Oppose submission 330.152
680.224	Federated Farmers of New Zealand	Amend the title of Rule 22.3.6 Building coverage as follows: 22.3.6 Building coverage (<u>excluding buildings ancillary to farming purposes</u>) AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
FSI 168.78	Horticulture New Zealand	Support submission 680.224
FSI 171.92	T&G Global	Support submission 680.224
FSI 387.217	Mercury NZ Limited	Oppose submission 680.224
697.805	Waikato District Council	Amend Rule 22.3.6 PI (a) Building coverage, as follows: (a) The total building coverage must not exceed the larger of: (i) ...
FSI 387.692	Mercury NZ Limited	Oppose submission 697.805
697.806	Waikato District Council	Amend Rule 22.3.6 DI Building coverage, as follows: A building <u>coverage</u> that does not comply with Rule 22.3.6 PI
FSI 387.693	Mercury NZ Limited for Mercury D	Oppose submission 697.806
302.25	EnviroWaste New Zealand Limited	Amend Section 22.3 Land Use - Building to make non-residential buildings or structures a permitted activity outside Landscape and Natural Character Areas. AND Amend the Proposed District Plan to make consequential amendments or additional amendments to address the matters raised in the submission.
FSI 386.344	Mercury NZ Limited	Oppose submission 302.25

Analysis

642. The s42A report on definitions (Hearing 5) recommends the following relevant definitions from the NPS:
- a. *Building coverage means the percentage of the net site area covered by the building footprint.*
 - b. *Building footprint means, in relation to building coverage, the total area of buildings at ground floor level together with the area of any section of any of those buildings that extends out beyond the ground floor level limits of the building and overhangs the ground.*
643. The Proposed Plan seeks to control site coverage through Rule 22.3.6, which limits coverage to the larger of 2% of site area or 500m².
644. As noted by submitters, this is a change in approach compared with the Operative Plan. The Franklin Section does not control site coverage in the Rural Zone. The Waikato Section controls it through three related rules that are summarised as follows:

- a. Rule 25.51.1 – construction or alteration of a building is permitted if the total building coverage does not exceed 2% of the site area, or 500m², whichever is larger.
 - b. Rule 25.52.1 – non-residential buildings are permitted if Gross Floor Area ('GFA') for each building does not exceed 500m² (or 250m² for non-residential buildings on sites smaller than 2ha);
 - c. Rule 25.52A.1 – Buildings for productive rural activities are permitted if the GFA of each building does not exceed 1,000m².
645. The Proposed Plan rule rolls over the first of the three Operative Plan rules, and leaves out the alternative caps for non-residential or farm buildings, which can be either more restrictive or more generous, depending on the size of the site. Submitters have sought that either the rule be deleted as being unnecessary in the Rural Zone, or if retained, that the limits be increased to more realistically provide for the scale of buildings necessary for farming and rural industry.
646. The rule is a tool for implementing the policies regarding rural character and amenity. Whilst predominantly pastoral, the rural area does include large buildings like milking sheds and pack houses as an anticipated visual element that forms part of that character. There is a wide variety of site sizes, topography, and the size of buildings necessary for supporting rural activities. As such, this makes it challenging to design a 'one size fits all' rule, and likewise makes it challenging to not have any control on site coverage, as fully permitted status would facilitate very large buildings set reasonably close to both site and road boundaries. As such, I consider that there is a role for a site coverage rule in managing the bulk and location of buildings in the rural environment to manage effects that cannot be wholly mitigated by boundary setbacks and height controls alone. The site coverage control also functions as a proxy control on the scale of rural industry or indoor intensive farming, which again goes back to the policy outcomes regarding rural character and amenity.
647. Turning to considering the thresholds in the rule itself, I agree with submitters that the limits are set unnecessarily low for farm buildings on smaller sites such as intensive horticulture (where it is reasonably common for packing sheds, greenhouses, and equipment sheds to be larger than 1,000m² (2% of a 5ha site)), but is also arguably too liberal for large landholdings where a 100ha farm could in theory have a 20,000m² building. It is readily accepted that rural buildings of such magnitude are very unlikely, however the use of large covered winter loafing barns and intensive farming at scale does result in buildings that are much larger than traditional farm buildings and that have the visual appearance of large industrial warehouses. In setting an appropriate limit I am conscious that there is often a degree of arbitrariness wherever rules are set, and site coverage is no different. The rule threshold in my view should be set so as to provide for a reasonable amount of building that is typically found on rural properties, as this kind of building is anticipated in the rural environment. The purpose of the rule in my view is to enable assessment of buildings that are at a scale that is not generally encountered in rural areas, and that may therefore adversely affect the character of the area unless appropriately designed, sited, and potentially mitigated through matters such as colour choice and screening through topography or shelterbelt planting.
648. The rural subdivision rules discussed in Ms Overwater's report retain the ability to create a small 0.8-1.6ha lot for every 40ha of balance area. These small lots have a more residential lifestyle purpose than rural production. Likewise, smaller farms have fewer options as to how large buildings might be located or set back to mitigate the visual effects of very large structures. For sites smaller than 10ha it is recommended that the site coverage limit be doubled to 4%. This equates to 320m² for a 0.8ha site, increasing to 640m² for a 1.6ha site. This limit provides for reasonable lifestyle activities such as a large dwelling with modest equipment sheds. Up to 10ha enables buildings up to a maximum of 4,000m² on a sliding scale where coverage is relative to site size, and which again should be adequate for providing for the needs of most farming activities on blocks of this size.

649. For sites larger than 10ha it is recommended that total building coverage be 5,000m² across the site. This provides for large farming, intensive farming, or rural industry structures, ensures that they are located on sites of sufficient size that their visual bulk can be accommodated, but also enables the siting of very large buildings or building complexes to be assessed on a case-by-case basis.
650. Given that site coverage is a key limit on building mass, that the mass of very large buildings can have a range of effects on character and amenity, and that site coverage is also a proxy control for the intensity and scale of non-farming activities, it is recommended that the activity status remain discretionary rather than shift to restricted discretionary, as sought by some submitters.
651. It is noted that in the above discussion on Artificial Crop Protection Structures it was recommended that such structures be exempt from the site coverage control. The rule therefore only applies to large permanent buildings.

Recommendations and amendments

652. Amend Rule 22.3.6 as follows:

PI	<p>(a) The total building coverage must not exceed the larger of:</p> <p>(i) <u>42%</u> of the site area <u>for sites smaller than 10ha</u>; or</p> <p>(ii) <u>5000m²</u> for sites <u>larger than 10ha</u>.</p> <p>(b) <u>No site coverage limit applies to Artificial Crop Protection Structures that meet the following conditions:</u></p> <p>(i) <u>Green or black cloth shall be used on vertical faces within 30m of the site boundary;</u></p> <p>(ii) <u>Green, black or white cloth shall be used on horizontal surfaces.</u></p>
DI	A building that does not comply with Rule 22.3.6 PI.

653. Add a new definition for Artificial Crop Protection Structure as follows:

<u>Artificial Crop Protection Structure</u>	<u>Means structures with material used to protect crops and/or enhance growth (excluding greenhouses).</u>
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Rural – Building setbacks – all boundaries – Rule 22.3.7.1

Introduction

654. The Proposed Plan seeks to use setbacks from boundaries as a tool for maintaining adequate levels of rural character and amenity. The rule provides different requirements for habitable and non-habitable buildings, with the distances varying, depending on whether the builds are on sites smaller or larger than 1.6ha, and whether the boundary is an internal boundary or a road boundary. In the event that any of these triggers are exceeded, then a resource consent is required as a restricted discretionary activity under Rule 22.3.7.1 (RD1).

Submissions

655. Eleven submissions were received in support of the setback rules and seeking their retention. Forty one submissions were received seeking amendments to the setback rules (generally seeking that the distances be reduced).

Submission point	Submitter	Summary of submission
171.2	Louis (Luke) Faesenkloet	Amend Rule 22.3.7.1 Building setbacks -all boundaries to reduce the setbacks from the road which apply to the submitter's three titles at McWatt Road, Pokeno, that have frontages to paper roads. OR Amend Rule 22.3.7.1 Building setbacks -all boundaries so that the building setbacks only apply to one of the road boundaries for the submitter's three titles on McWatt Road, Pokeno.
177.2	Nick Hill	Amend Rule 22.3.7.1 P1 (a) (iii) Building Setbacks - all boundaries, from 25m to 12m.
261.4	Rita Carey	Amend Rule 22.3.7.1 Building Setbacks - All boundaries, to reduce the setback for a habitable building to 10m.
<i>FS1353.25</i>	<i>Tuakau Proteins Limited</i>	<i>Oppose submission 261.4</i>
276.7	Ted and Kathryn Letford	Retain 22.3.7.1 Building Setbacks - All boundaries, as notified. AND Retain Rule 22.3.7.1 P2 (a) Building Setbacks - all boundaries, which sets out non-habitable building setbacks on a title less than 1.6ha. AND Retain Rule 22.3.7.1 P4 (a) Building Setbacks - All boundaries, which sets out non-habitable building setbacks on a title greater than 1.6ha.
418.7	Ethan Findlay	Amend Rule 22.3.7.1 Building Setbacks - All boundaries, so that the setbacks of the 1.6ha or smaller neighbouring lots apply to both sides of a boundary to optimise land use where the larger neighbouring lot is 4ha or less. AND Amend other parts of the district plan as necessary to give effect to the relief sought.
471.9	Andrew Wood for CKL	Amend Rule 22.3.7.1 Building Setbacks - All boundaries, by deleting the term "Record of Title" and replacing with "site". AND Any consequential amendments necessary.
489.7	Ann-Maree Gladding	Delete Rule 22.3.7.1 P1 (iii) Boundary Setbacks - All boundaries; AND Amend Rule 22.3.7.1 P1 (iv) Boundary Setbacks - All boundaries, as follows: (iv)(iii) 12m from the boundary of an adjoining site. that is less than 6ha
489.8	Ann-Maree Gladding	Amend Rule 22.3.7.1 P2 (iii) Boundary Setbacks - All boundaries, as follows: 12m 5m from every boundary other than a road boundary.
489.9	Ann-Maree Gladding	Amend Rule 22.3.7.1 P3 (iii) Boundary Setbacks - All boundaries, as follows: 25m 12m from every boundary other than a road boundary.

683.4	Carolyn Watson	Amend Rule 22.3.7.1 Building Setbacks - All boundaries, by allowing a reduced boundary setback if the written consent has been obtained from the affected neighbour.
782.7	Jack Macdonald	Amend Rule 22.3.7.1 Building Setbacks - All boundaries, by deleting P1 (a)(iii) and amending P1 (a)(iv) as shown below: P1 (a) A habitable building located on a site less than 1.6ha must be set back a minimum of: ... (iii) 25m from the boundary of an adjoining site that is 6ha or more; (iv) 12m from the boundary of an adjoining site, that is less than 6ha.
782.8	Jack Macdonald	Amend Rule 22.3.7.1 P2 (a)(iii) Building Setbacks - All boundaries, as follows: P2 (a) A non-habitable building located on a Record of Title less than 1.6ha must be set back a minimum of: ... (iii) 12m 5m from every boundary other than a road boundary.
782.9	Jack Macdonald	Amend Rule 22.3.7.1 P3 (a)(iii) Building Setbacks - All boundaries, as follows: P3 (a) A habitable building located on a Record of Title 1.6ha or more must be set back a minimum of: ... (iii) 25m <u>12m</u> from every boundary other than a road boundary.
838.8	Madsen Lawrie Consultants	Amend Rule 22.3.7.1(a)(iii) Building setbacks - all boundaries to reduce the required boundary setback from adjoining sites over 6ha.
922.7	John Rowe	Amend Rule 22.3.7.1 Building Setbacks - All boundaries, by deleting P1 (a)(iii) and amending P1 (a)(iv) as shown below: P1 (a) A habitable building located on a site less than 1.6ha must be set back a minimum of: ... (iii) 25m from the boundary of an adjoining site that is 6ha or more; (iv) 12m from the boundary of an adjoining site. that is less than 6ha.
922.8	John Rowe	Amend Rule 22.3.7.1 P2 (a)(iii) Building Setbacks - All boundaries, as follows: P2 (a) A non-habitable building located on a Record of Title less than 1.6ha must be set back a minimum of: ... (iii) 12m 5m from every boundary other than a road boundary.
922.9	John Rowe	Amend Rule 22.3.7.1 P3 (a)(iii) Building Setbacks - All boundaries, as follows: P3 (a) A habitable building located on a Record of Title 1.6ha or more must be set back a minimum of: ... (iii) 25m <u>12m</u> from every boundary other than a road boundary.

197.25	NZ Pork	Retain Rule 22.3.7.1 P1 Building setbacks - All boundaries, as notified.
<i>FSI 353.23</i>	<i>Tuakau Proteins Limited</i>	<i>Support submission 197.25</i>
197.26	NZ Pork	Retain Rule 22.3.7.1 P2 Building setbacks - All boundaries, as notified.
<i>FSI 353.24</i>	<i>Tuakau Proteins Limited</i>	<i>Support submission 197.26</i>
197.27	NZ Pork	Retain Rule 22.3.7.1 P3 Building setbacks - All boundaries, as notified.
197.28	NZ Pork	Retain Rule 22.3.7.1 P4 Building setbacks - All boundaries, as notified.
372.17	Steve van Kampen for Auckland Council	Retain Rule 22.3.7.1. Building setbacks - All boundaries.
<i>FSI 308.24</i>	<i>The Surveying Company</i>	<i>Oppose submission 372.17</i>
418.12	Ethan Findlay	No specific decision sought, but submission opposes Rule 22.3.7.1 Building Setbacks- All boundaries.
418.14	Ethan Findlay	Amend Rule 22.3.7.1 Building setbacks, to promote a more efficient use of land and not prejudice future (more intensive) subdivision of non-productive rural land, including setbacks of 12m for lot sizes 4ha or smaller with boundaries that neighbour 1.6ha or smaller lots.
471.10	CKL	Amend Rule 22.3.7.1 P1, P2, P3 and P4 Building Setbacks - All boundaries, as follows: P1 (a)(ii) 17.5m from the centre line of an indicative road <u>that has not yet been vested</u> ; P2 (a)(ii) 17.5m from the centre line of an indicative road <u>that has not yet been vested</u> ; P3 (a)(ii) 22m from the centre line of an indicative road <u>that has not yet been vested</u> ; P4 (a)(ii) 22m from the centre line of an indicative road <u>that has not yet been vested</u> ; AND Any consequential amendments necessary.
471.11	CKL	Amend Rule 22.3.7.1 Building Setbacks - All boundaries to rationalise building setbacks in the Rural Zone. All sites less than 1.6 ha shall have side and rear boundary setbacks of 12m and a road setback of 7.5m. AND Any consequential amendments necessary.
489.14	Ann-Maree Gladding	Amend Rule 22.3.7.1 P4 (iii) Boundary Setbacks - All boundaries, as follows: 12m <u>5m</u> from every boundary other than a road boundary.
695.91	Sharp Planning Solutions Ltd	Amend Rule 22.3.7.1 P3(a)(ii) Building setbacks - All boundaries, to be 12m rather than 25m.
746.84	The Surveying Company	Amend Rule 22.3.7.1 Building setbacks - All boundaries to have a 12m setback from the boundary of an adjoining site. AND Amend Rule 22.3.7.1 Building setbacks - All boundaries to allow the setback to be reduced where written neighbours' consent has been obtained.
<i>FSI 342.204</i>	<i>Federated Farmers</i>	<i>Support submission 746.84</i>

751.27	Chanel Hargrave and Travis Miller	Amend Rule 22.3.7.1 Building Setbacks - All boundaries to have a 10m setback from the boundary of an adjoining site (or this may be reduced where written consent is obtained from an affected neighbour).
761.24	Lyndendale Farms Limited	Amend Rule 22.3.7.1 Building setbacks- All boundaries as follows: Rules P1, P2, P3, P4 and RDI do not apply to the proposed Retirement Village at 180 Horsham Downs Road; and Building setback requirements only apply to the external boundaries of a Retirement Village and there are no internal setback requirements; and there are no internal setback requirements; and The different rules for "habitable and non-habitable" buildings do not apply to a Retirement Village; and Site specific building setbacks are included for a Retirement Village. AND Amend the Proposed District Plan to make any consequential amendments that are required to give effect to the submission.
782.14	Jack Macdonald	Amend Rule 22.3.7.1 Building Setbacks - All boundaries, so that P4 (a)(iii) reads as follows: P4 (a) A non-habitable building located on a Record of Title 1.6ha or more must be set back a minimum of: ... (iii) 12m <u>5m</u> from every boundary other than a road boundary.
797.32	Fonterra Limited	Retain Rule 22.3.7.1 Building setbacks- All boundaries, except for the amendments sought below AND Amend Rule 22.3.7.1 P1, P2, P3 and P4 Building setbacks - All boundaries to include (or words to similar effect): <u>Providing that the setback requirements shall not apply to any boundary with land held in common ownership.</u> AND Any consequential amendments or further relief to give effect to the concerns raised in the submission.
<i>FSI 168.80</i>	<i>Horticulture New Zealand</i>	<i>Support submission 797.32</i>
<i>FSI 342.225</i>	<i>Federated Farmers</i>	<i>Support submission 797.32</i>
922.15	John Rowe	Amend Rule 22.3.7.1 Building Setbacks - All boundaries, so that P4 (a)(iii) reads as follows: P4 (a) A non-habitable building located on a Record of Title 1.6ha or more must be set back a minimum of: ... (iii) 12m <u>5m</u> from every boundary other than a road boundary.

943.17	McCracken Surveys Limited	<p>Amend Rule 22.3.7.1 P2 (a) - Building Setbacks - All boundaries, as follows; (a) A non-habitable building located on a Record of Title <u>site</u> less than 1.6ha must be set back a minimum of:</p> <p>AND</p> <p>Amend Rule 22.3.7.1 P3 (a) - Building Setbacks - All boundaries, as follows;</p> <p>(a) A habitable building located on a Record of Title <u>site</u> 1.6ha or more must be set back a minimum of:</p> <p>AND</p> <p>Amend Rule 22.3.7.1 P4 (a) - Building Setbacks - All boundaries, as follows;</p> <p>(a) A non-habitable building located on a Record of Title <u>site</u> 1.6ha or more must be set back a minimum of:</p>
943.18	McCracken Surveys Limited	<p>Amend Rule 22.3.7.1 P1 (a) (ii) Building Setbacks - All boundaries, as follows;</p> <p>(ii) 17.5m from the centre line of an indicative road <u>that has not yet been vested</u>;</p> <p>AND</p> <p>Amend Rule 22.3.7.1 P2 (a) (ii) Building Setbacks - All boundaries as follows;</p> <p>(ii) 17.5m from the centre line of an indicative road <u>that has not yet been vested</u>;</p> <p>AND</p> <p>Amend Rule 22.3.7.1 P3 (a) (ii) Building Setbacks - All boundaries, as follows;</p> <p>(ii) 22m from the centre line of an indicative road; <u>that has not yet been vested</u>; AND</p> <p>Amend Rule 22.3.7.1 P4 (a) (ii) Building Setbacks - All boundaries, as follows;</p> <p>(ii) 22m from the centre line of an indicative road; <u>that has not yet been vested</u>;</p>
680.225	Federated Farmers of New Zealand	<p>Retain Rule 22.3.7.1 P1 Building Setbacks - All boundaries, as notified.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
<i>FSI308.97</i>	<i>The Surveying Company</i>	<i>Oppose submission 680.225</i>
680.226	Federated Farmers of New Zealand	<p>Retain Rule 22.3.7.1 P2 Building Setbacks - All boundaries, as notified.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
680.227	Federated Farmers of New Zealand	<p>Retain Rule 22.3.7.1 P3 Building Setbacks - All boundaries, as notified.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>

FS1308.98	The Surveying Company	Oppose submission 680.227
680.228	Federated Farmers of New Zealand	Retain Rule 22.3.7.1 P4 Building Setbacks - All boundaries, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
680.229	Federated Farmers of New Zealand	Retain Rule 22.3.7.1 RD1 Building Setbacks - All boundaries, as notified. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
695.147	Sharp Planning Solutions Ltd	Add to Rule 22.3.7.1 Building Setbacks - All boundaries a statement to say that where an indicative road is no longer relevant, or constructed and in use, the rule is no longer applicable.
695.215	Sharp Planning Solutions Ltd	Amend Rule 22.3.7.1 P1(a)(ii), P2(a)(ii), P3(a)(ii) and P4(a)(ii) Building setbacks - All boundaries, to include an exemption clause in the situation where an indicative road remains on the Planning Map but has been constructed and is open to the public, either in the same location or very near.
695.216	Sharp Planning Solutions Ltd	Amend Rule 22.3.7.1 P1(a)(iii) to change the setback requirement from 25m to 12m and remove the adjoining property size as follows: 125m from the boundary of an adjoining site that is less than 6ha.
697.809	Waikato District Council	Amend Rule 22.3.7.1 P1(a) Building Setbacks - all boundaries, as follows: (a) A habitable building located on a site <u>Record of Title</u> less than 1.6ha must be set back a minimum of:...
697.810	Waikato District Council	Add a new clause (iii) to Rule 22.3.7.1 RD1(b) Building Setbacks - all boundaries, as follows: (iii) <u>reverse sensitivity.</u>
742.227	Mike Wood for New Zealand Transport Agency	Amend Rule 22.3.7.1 P1-P4 Building setbacks - All boundaries to require 35m setbacks from the Waikato expressway designation boundary and 15m setbacks from all other state highways. AND Request any consequential changes necessary to give effect to the relief sought in the submission.
FS1283.3	Parkmere Farms	Oppose submission 742.227
FS1221.3	Cindy and Tony Young	Oppose submission 742.227
742.228	Mike Wood for New Zealand Transport Agency	Retain Rule 22.3.7.1 RD1 Building Setbacks- All boundaries, except for the amendments sought below AND Amend Rule 22.3.7.1 RD1 matter of discretion (b)(ii) Building Setbacks - All boundaries as follows: effects on traffic-transport network safety and efficiency; AND Request any consequential changes necessary to give effect to

		the relief sought in the submission.
742.239	Mike Wood for New Zealand Transport Agency	Retain Rule 22.3.7.1 Building Setbacks- All boundaries, except for the amendments sought below AND Amend matter of discretion (b)(ii) in Rule 22.3.7.1 RDI Building Setbacks - All boundaries, as follows: Effects on traffic <u>Transport network safety and efficiency</u> ; AND Request any consequential changes necessary to give effect to the relief sought in the submission.
302.28	EnviroWaste New Zealand Limited	Amend Rule 22.3.7 Building setbacks to reduce the yard separation between sites (other than a road) to 12m or less in all instances. AND Amend the Proposed District Plan to make consequential amendments or additional amendments to address the matters raised in the submission.
766.52	Holcim (New Zealand) Limited	Amend Rule 22.3.7 Building setbacks by reducing the yard separation between sites (other than a road) to 12m or less in all instances. AND Any additional or consequential relief to give effect to the matters raised in the submission.
<i>FS1308.127</i>	<i>The Surveying Company</i>	<i>Support submission 766.52</i>
986.67	KiwiRail Holdings Limited (KiwiRail)	Add new matters of discretion relating to non-compliance with the 5m Building setback - railway corridor (sought elsewhere in other submission points) in Rule 22.1 Land Use Activities as follows (or similar amendments to achieve the requested relief): <u>1. The size, nature and location of the buildings on the site.</u> <u>2. The extent to which the safety and efficiency of rail and road operations will be adversely affected.</u> <u>3. The outcome of any consultation with KiwiRail.</u> <u>4. Any characteristics of the proposed use that will make compliance unnecessary.</u> AND Any consequential amendments to link and/or accommodate the requested changes.
330.153	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.3.7 Building setbacks, and/or all other rules siting under Rule 22.3.7 Building setbacks.

697.807	Waikato District Council	<p>Add a new clause (f) into Rule 22.3.7 Land use - Building, as follows: <u>(f) Rule 22.3.7.7 Building setback - National Grid Yard</u></p> <p>AND</p> <p>Add a new rule into Chapter 22, after Rule 22.3.7.7, as follows: <u>22.3.7.7 Buildings and structures within the National Grid Yard</u></p> <p><u>P1 (a) Within the National Grid yard, building alterations and additions to an existing building or structure must comply with the following conditions:</u></p> <p><u>(i) Not involve an increase in the building height or footprint; and</u></p> <p><u>(ii) Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions.</u></p> <p><u>P2 (a) Within the National Grid yard, the maximum height of fences are 2.5m within 5m from the nearest National Grid Pole or 6m from the nearest National Grid tower.</u></p> <p><u>P3 Within the National Grid yard, new buildings and structures that are not for a sensitive land use must comply with the following conditions:</u></p> <p><u>(i) Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions; and</u></p> <p><u>(ii) Locate a minimum 12m from the outer visible foundation of any National Grid tower and locate a minimum 12m from any pole and associated stay wire, unless it is:</u></p> <p><u>A. A building or structure where Transpower has given written approval in accordance with clause 2.4.1 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663.</u></p> <p><u>P4 Within the National Grid yard, non-habitable buildings or structures for farming activities must comply with the following conditions:</u></p> <p><u>(i) Not include buildings for intensive farming buildings, commercial greenhouses or milking / dairy sheds;</u></p> <p><u>(ii) Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions; and</u></p> <p><u>(ii) Locate a minimum 12m from the outer visible foundation of any National Grid tower and locate a minimum 12m from any pole and associated stay wire, unless it is:</u></p> <p><u>A. A building or structure where Transpower has given written approval in accordance with clause 2.4.1 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663.</u></p> <p><u>P5 Within the National Grid yard, yards for milking / dairy sheds must comply with the following conditions:</u></p>
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		<p><u>(i) Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions; and</u></p> <p><u>(ii) Locate a minimum 12m from the outer visible foundation of any National Grid tower and locate a minimum 12m from any pole and associated stay wire, unless it is:</u></p> <p><u>A. A building or structure where Transpower has given written approval in accordance with clause 2.4.1 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663.</u></p> <p><u>P6 Within the National Grid yard, artificial crop protection and support structures must comply with the following conditions:</u></p> <p><u>(i) Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions; and</u></p> <p><u>(ii) Locate a minimum 12m from the outer visible foundation of any National Grid tower and locate a minimum 12m from any pole and associated stay wire, unless it is:</u></p> <p><u>A. A building or structure where Transpower has given written approval in accordance with clause 2.4.1 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663;</u></p> <p><u>(iii) Artificial crop protection and support structures between 8m and 12m from a single pole support structure and any associated guy wire (but not tower) must also:</u></p> <p><u>A. Be maximum 2.5m high;</u></p> <p><u>B. Be removable or temporary, to allow a clear working space of at least 12 metres from the pole when necessary for maintenance and emergency repair purposes;</u></p> <p><u>C. Allow all-weather access to the pole and a sufficient area for maintenance equipment, including a crane. NC1 Any building alterations or additions within the National Grid Yard that does not comply with Rule 22.3.7.7 P1.</u></p> <p><u>NC2 Any new buildings or structures within the National Grid Yard that does not comply with Rule 22.3.7.7 P2, P3, P4, P5, or P6.</u></p> <p><u>NC3 Intensive farming buildings within the National Grid Yard.</u></p> <p><u>NC4 Commercial greenhouses within the National Grid Yard.</u></p> <p><u>NC5 Milking and dairy sheds within the National Grid Yard.</u></p>
FS1342.192	Federated Farmers	Oppose submission 697.807
FS1350.115	Transpower New Zealand Limited	Oppose submission 697.807

Analysis

656. The Proposed Plan rule package controlling building setbacks from roads and internal boundaries is largely a roll-over of the setback rules applying in the Waikato Section of the Operative Plan. The purpose of the rule is two-fold. Setbacks are first used as a tool for maintaining rural character and amenity values, which include a generally open landscape with open space visually dominating over buildings. Having buildings set back from roads and internal boundaries assists in reducing the visual dominance of buildings and provides the space for intervening trees and shelterbelts to become established. Such setbacks help manage visual effects for both neighbours and general road users.
657. The second purpose of the setback rules is to manage reverse sensitivity effects. Much larger setbacks are required for sensitive land uses that are looking to locate near established intensive farms, network infrastructure, or extractive activities and are set out in a separate Rule 22.3.7.2. The general setback requirements are intended to ensure a degree of separation between habitable buildings and neighbouring properties as a means of managing amenity effects generated by normal farming activity such as occasional dust, noise, and odour associated with activities like stock grazing or harvesting.
658. The rules dovetail with the subdivision rules, which enable a smaller 0.8-1.6ha lot to be created where the balance lot is larger than 40ha. The setback requirements are reduced for buildings (both habitable and non-habitable) where they are located on sites smaller than 1.6ha, in recognition of the smaller size of these sites and the need to use them more efficiently. The reduced setbacks also reflect the lifestyle purposes of such sites that typically contain a dwelling, rather than large farm buildings, therefore the buildings are generally smaller and have less potential for creating visual dominance issues for neighbours.
659. For small sites of less than 1.6ha, the setback requirements for *habitable* buildings are:
- 7.5m from road boundaries (compared with 12m for sites larger than 1.6ha);
 - 12m from an internal boundary with a neighbouring site that is less than 6ha (on the basis that smaller neighbouring blocks generally generate fewer farm-related amenity effects); and
 - 25m from neighbouring sites where the neighbours' properties are larger than 6ha (on the basis that larger neighbouring sites can sustain a wider range of farm types and associated effects).
660. For small sites of less than 1.6ha, the setback requirements for *non-habitable* buildings are:
- 7.5m from roads;
 - 12m from other internal boundaries (on the basis that non-habitable buildings are less likely to generate reverse sensitivity effects).
661. For sites that are larger than 1.6ha, the setbacks for habitable buildings increase to 12m from road boundaries and 25m from other boundaries. For non-habitable buildings the road setback is 12m, and is also 12m from internal boundaries (there is therefore no difference for internal boundaries relative to site size for non-habitable buildings).
662. All of the rules also contain setback requirements from the centre line of indicative roads (only of relevance in areas that are currently rural but where urbanisation is anticipated).
663. NZ Pork [197.25-28], Auckland Council [372.17] and Federated Farmers [680.226 to .229] supported the various setback rules and sought their retention. Numerous submitters have sought that the setback distances be reduced, especially the 25m setback for habitable dwellings from larger neighbouring lots (Rules P1(a)(iii) and P3(a)(iii)).

664. The enablement of productive rural activity is the key purpose of the Rural Zone. Residential lifestyle activities and the ability to create further small lots is discussed at length in Ms Overwater's report. The ability to create such lots has been a feature of the Operative Plan for a number of years, and as such there are numerous small lots scattered across the rural area. Such lots provide lifestyle choice, and have an economic benefit to the subdivider, however they are not a core purpose or outcome sought in the Rural Zone relative to enabling farming activities. An important method for enabling productive rural activities is the management of reverse sensitivity effects. The use of boundary setbacks is the primary tool by which this is achieved. The key test in reducing setbacks is not therefore whether such reduction would increase efficient use of smaller sites for residential lifestyle purposes, but rather whether a reduction would be consistent with an approach of reducing or managing reverse sensitivity risks. I am not convinced that the benefits accruing to lifestyle block owners and developers of a reduced internal boundary setback outweigh the potential costs to established farming activities that are generating amenity effects commensurate with those reasonably anticipated in rural environments. I therefore consider that the long-established setbacks in the plan should be maintained, and that they strike an appropriate balance between management of visual effects, management of reverse sensitivity risks, efficient utilisation of smaller sites, and enablement of larger farming operations.
665. Sharp Planning Solutions [695.147 and .215], McCracken Surveys [943.18] and CKL [471.10] have sought that the setbacks to 'indicative roads' be amended so that such requirements no longer apply once a road is vested in Council or has been formed to a slightly different alignment. As discussed above, when the matter of indicative roads was considered, the changes to the definition recommended in the s42A report as part of Hearing 5 addressed the submitter concerns.
666. Louis Faesenkloet [172.2] raises a related concern regarding road setbacks applying to unformed paper roads. His submission is specific to implications for his property, however the issue is of wider relevance, especially in rural zones where historical unformed roads are common through larger farm holdings. I have some sympathy, in that requiring setbacks from unformed roads where there is little prospect of them ever being formed and made readily accessible to the wider public, is inefficient. The challenge in shifting to a rule exemption and enabling construction right up to the boundary of unformed roads as a permitted activity is that some new ones may be formed in the future, or utilised as public cycling and walking tracks. Rather than making them permitted, it is recommended that an additional assessment matter be added to Rule RDI to enable consideration of whether a road is an unformed paper road, and the likelihood of it being formed or utilised in the future.
667. Carolyn Watson [683.4], The Surveying Company [746.84], and L Hargrave & T Miller [751.27] all seek that the rule enable the internal boundary setbacks to be reduced where written consent has been obtained from the neighbour. This outcome reflects wording in the boundary setback rules in the Franklin Section of the Operative Plan. Fonterra [797.32] have likewise sought that the setbacks not apply to title boundaries under the same ownership. As discussed above, when a similar matter was raised with reference to the daylight admission rule, the RMA has been amended to provide an easy pathway in situations where a boundary intrusion rule is triggered and the written consent of the neighbour has been obtained. There is still a process to go through for Council to confirm that neighbours' consent has been received, however this is a streamlined process that is quicker and easier than a normal resource consent. The statutory framework therefore addresses this matter and there is no need to amend the provisions.
668. Waikato District Council [697.809] seek to delete the reference to 'site' at the start of rule P1(a) and replace it with 'record of title' to bring the wording into line with the same terminology used in Rules P2 – P4. McCracken Surveys [943.17] conversely seek that the term 'site' be used to replace 'record of title' in P2-P4. Given that the definition of 'site' was recommended to be amended in Hearing 5 such that it refers to an area of land held in a

single record of title, there is little meaningful difference regarding which term is used. In other district plans the term 'site' is often defined such that the applicant can in effect nominate the site boundary and thereby include numerous individual titles within the one 'site', with the perimeter rules on boundary setbacks only applying at the site edge. Conversely, use of 'record of title' means that the rule applies at the edge of every title.

669. It is recommended that the term 'record of title' be adopted, noting that building near title boundaries within the applicant's site can be readily approved through the above statutory process, where the applicant can in effect give themselves neighbours' consent.
670. NZTA [742.227] have sought that P1-P4 require a 35m setback for all buildings from the Waikato expressway designation boundary, and 15m from all other State Highways. Sensitive land uses are required to meet the setbacks sought by the submitter through the separate Rule 22.3.7.2 (P1)(a)(ii) and (iii). The changes sought by the submitter will therefore only apply to non-sensitive habitable buildings, and non-habitable buildings. It is my understanding that the primary purpose of the sensitive activity setbacks is to manage noise effects generated by busy high speed roads. The sensitive land use rule therefore achieves these outcomes. It is therefore recommended that Rules P1-P4 remain unchanged.
671. For activities that do not comply with P1-P4, they fall to be assessed as a restricted discretionary activity under RDI. NZTA [742.228 and .239] have sought that the matter of discretion relating to traffic effects be reworded as 'transport network safety and efficiency'. I agree with the submitter that their proposed wording better articulates the matter of discretion.
672. Waikato District Council [697.810] have sought that 'reverse sensitivity' be added as an additional matter of discretion. I agree with the submitter that consideration of reverse sensitivity effects is a key purpose of the rule and therefore should form part of the scope when assessing resource consent applications. The Council [697.807] have also sought to include setbacks from Transpower's national grid network. As set out above, I agree with the need for such setbacks, but recommended that they sit within the Infrastructure Chapter.

Recommendations and amendments

673. It is recommended that Rule 22.3.7.1 be amended as follows:

P1	(a) A habitable building located on a site Record of Title less than 1.6ha must be set back a minimum of: <ul style="list-style-type: none"> (i) 7.5m from the road boundary; (ii) 17.5m from the centre line of an indicative road; (iii) 25m from the boundary of an adjoining site that is 6ha or more; (iv) 12m from the boundary of an adjoining site that is less than 6ha.
P2	(a) A non-habitable building located on a Record of Title less than 1.6ha must be set back a minimum of: <ul style="list-style-type: none"> (i) 7.5m from the road boundary; (ii) 17.5m from the centre line of an indicative road; (iii) 12m from every boundary other than a road boundary.
P3	(a) A habitable building located on a Record of Title 1.6ha or more must be set back a minimum of: <ul style="list-style-type: none"> (i) 12m from the road boundary; (ii) 22m from the centre line of an indicative road; (iii) 25m from every boundary other than a road boundary.

P4	(a) A non-habitable building located on a Record of Title 1.6ha or more must be set back a minimum of: (i) 12m from the road boundary; (ii) 22m from the centre line of an indicative road; (iii) 12m from every boundary other than a road boundary.
RDI	(a) A building that does not comply with Rule 22.3.7.1 P1, P2, P3 or P4. (b) Council's discretion is restricted to the following matters: (i) amenity values; (ii) effects on traffic, transport network safety and efficiency; (iii) <u>reverse sensitivity;</u> (iv) <u>where the road boundary is with an unformed paper road the likelihood of the road being formed or readily utilised by the public.</u>
Drafting note: include setbacks as sought by WDC [697.807] from the Transpower National Grid in the Infrastructure Chapter	

Rural – Building – Noise sensitive activities – Rule 22.3.7.4

Introduction

674. The Proposed Plan seeks to manage reverse sensitivity issues for three existing facilities through requiring new noises sensitive activities to be acoustically insulated (rather than set back). The three facilities covered by the rule are the airport, Huntly power station, and the Waikato gun club. The acoustic insulation requirements are all roll-over provisions from the Operative Plan.

Submissions

675. Four submissions were received seeking amendments to the rule to include acoustic insulation requirements near other specified infrastructure or facilities.

Submission point	Submitter	Summary of submission
580.11	Meridian Energy Limited	Add to Rule 22.3.7.4 P1 Building - Noise Sensitive Activities a new clause (b), as follows: <u>(b) Construction of, or addition, or alteration to a building containing a noise-sensitive activity is permitted provided the building is set back from any authorised or lawfully established large-scale wind farm by a distance necessary to ensure wind turbine noise does not exceed 40 dBA measured at the noise-sensitive activity in accordance with NZS6808:2010.</u> AND Amend the Proposed District Plan as necessary to address the matters raised in the submission.
581.33	Synlait Milk Ltd	Amend Rule 22.3.7.4 Building setback - Noise sensitive areas to include a requirement for noise sensitive activities to be setback from a Heavy Industrial Zone boundary.
FS1345.148	Genesis Energy Limited	Support submission 581.33
FS1377.156	Havelock Village Limited	Oppose submission 581.33
FS1341.50	Hynds Pipe Systems Limited	Support submission 581.33

797.34	Fonterra Limited	Retain Rule 22.3.7.4 Building Noise sensitive activities except for the amendments sought below. AND Amend Rule 22.3.7.4 Building setbacks - Noise Sensitive Activities to include (or words to similar effect): <u>The Te Rapa Dairy Manufacturing Facility Noise Control Boundary.</u> AND Any consequential amendments or further relief to give effect to the concerns raised in the submission.
742.230	New Zealand Transport Agency	Retain Rule 22.3.7.4 Building- Noise Sensitive Activities, except for the amendments sought below AND Add to Rule 22.3.7.4 P1(a) Building - Noise sensitive activities a new clause as follows: <u>(iv) 100m of a state highway</u> AND Request any consequential changes necessary to give effect to the relief sought in the submission.
FS1221.5	Cindy and Tony Young	Oppose submission 742.230
FS1283.5	Parkmere Farms	Oppose submission 742.230
797.22	Fonterra Limited	Add a definition of "factory wastewater irrigation farm" to Chapter 13 Definitions as follows (or words to similar effect): <u>The operation of wastewater irrigation on land at Bruntwood Road comprising Lots 2-4 DPS 14934.</u> AND Any consequential amendments or further relief to give effect to the concerns raised in the submission.
FS1387.1267	Mercury NZ Limited	Oppose submission 797.22

Analysis

676. Four submissions were received seeking that the acoustic insulation requirement be extended to include:

- Near existing wind farms – Meridian Energy [580.11];
- Near Heavy Industrial Zones – Synlait Milk [581.33];
- Near the Te Rapa Dairy Factory – Fonterra [797.34];
- Near State Highways – NZTA [742.230]

677. I have addressed these submissions at a general level in the overview section towards the start of this report. I have also commented on the relief sought by these submitters where related submission points have arisen with the associated policies. In summary, I accept the principle of setbacks as a tool to protect existing infrastructure (or large facilities) from reverse sensitivity effects, and an acoustic insulation requirement is a different tool to achieve similar outcomes. The submitters are welcome to present evidence that clearly establish that benefits of such regulation outweigh the costs and that the proposed regulation is justifiable in terms of s32 RMA.

678. Based on the limited evidence put forward in submissions to date, it is recommended that the rule be retained as notified.

Recommendations and amendments

679. No amendments are recommended to Rule 22.3.7.4.

Rural – Building setback – water bodies – Rule 22.3.7.5

Introduction

680. The Proposed Plan seeks to retain rural character and amenity values by requiring buildings to be set back from site boundaries, specified land use activities (including noise buffers), specified environmental features and waterbodies. This part of the report deals specifically with the building setbacks from waterbodies set out in Rule 22.3.7.5.

681. The setbacks therein are in general terms considered to be larger than other district plans I am familiar with. The setbacks differ depending on the type and size of the waterbody. Two permitted activities are provided for, namely buildings that meet the stipulated setbacks (P1); and small public amenity buildings (up to 25m²) and pump sheds within the setbacks (P2). A public amenity is a defined term in the Proposed Plan, meaning:

Means facilities continuously offered to the general public for their use with or without charge, including restrooms, information displays, shelters, drinking fountains, outdoor seating and viewing platforms.

682. Any activity that does not meet either of those permitted activity rules is a fully discretionary activity.

Submissions

683. Sixteen individual submission points and thirty -five further submissions were received seeking amendments to the setbacks contained in the Rule or a change in the activity status of applications that do not meet the setbacks set out therein, as summarised below.

Submission point	Submitter	Summary of submission
747.6	Ryburn Lagoon Trust Limited	Amend Rule 22.3.7.5 Building setback - water bodies to exclude from the setback requirements for lakes and wetlands, buildings and structures with a recreation or functional need to be in close proximity to these water body, and specifically exclude maimai. AND Amend the Proposed District Plan to provide other such relief and consequential amendments as to give effect to the relief sought in the submissions.
FS1045.16	Auckland/Waikato Fish and Game Council	Support submission 747.6
FS1387.986	Mercury NZ Limited for Mercury D	Oppose submission 747.6
FS1340.141	TaTa Valley Limited	Support submission 747.6
349.19	Lochiel Farmlands Limited	Delete Rule 22.3.7.5 P1 Building setback - water bodies. OR Delete Rule 22.3.7.5 P1 (a)(ii) Building setback - water bodies.
FS1386.500	Mercury NZ Limited for Mercury C	Oppose submission 349.19
349.21	Lochiel Farmlands Limited	Amend Rule 22.3.7.5DI Building setback - water bodies, to be considered a restricted discretionary activity rather than

		discretionary activity and to read: D+RDI
FS1386.501	Mercury NZ Limited for Mercury C	Oppose submission 349.21
378.35	Fire and Emergency New Zealand	Retain Rule 22.3.7.5 Building setback - Waterbodies.
FS1388.36	Mercury NZ Limited for Mercury E	Oppose submission 378.35
FS1035.141	Pareoranga Te Kata	Support submission 378.35
419.33	Horticulture New Zealand	Amend Rule 22.3.7.5 PI (a) Building setback - water bodies, as follows: (a) Any building must be set back a minimum of: (i) 32 <u>30m</u> from the margin of any: A. Lake; and B. Wetland (ii) 23 <u>20m</u> from the bank of any river (other than the Waikato River and Waipa River); (iii) 28 <u>20m</u> from the banks of the Waikato River and Waipa River; and ... AND Any consequential or additional amendments as a result of changes sought in the submission.
FS1388.190	Mercury NZ Limited for Mercury E	Oppose submission 419.33
FS1340.51	TaTa Valley Limited	Support submission 419.33
419.34	Horticulture New Zealand	Amend Rule 22.3.7.5P2 Building setback - water bodies as follows: <u>(a) A public amenity of up to 25m², and a pump shed within any building setback identified in Rule 22.3.7.5PI and (b) a pump shed must be setback a minimum of 5m from any waterbody.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
FS1388.191	Mercury NZ Limited for Mercury E	Oppose submission 419.34
FS1171.27	Phoebe Watson for Barker & Associates on behalf of T&G Global	Support submission 419.34
433.59	Auckland Waikato Fish and Game Council	Amend Rule 22.3.7.5 PI Building setback - water bodies, as follows: (a) Any building <u>that is not a maimai</u> must be set back a minimum of: ... AND/OR Any alternative relief to address the issues and concerns raised in the submission.
466.22	Balle Bros Group Limited	Amend Rule 22.3.7.5 PI Building setback to change the setback to 30m from a lake and 20m from a watercourse.
FS1388.411	Mercury NZ Limited for Mercury E	Oppose submission 466.22
FS1168.81	Horticulture New Zealand	Support submission 466.22
FS1340.78	TaTa Valley Limited	Support submission 466.22
471.12	CKL	Amend Rule 22.3.7.5 PI Building setback - water bodies, as follows: PI (a) Any building must be set back a minimum of <u>32m</u> : (i) 32m from the margin of any: A. <u>Lake; with a bed area of 8ha or more or</u> and B. Wetland <u>with an area greater than 1ha; and (ii) 23m from the C. river bank of any river (other than the Waikato River and Waipa River whose bed has an average width 3m or more.); and</u> AND Any consequential amendments necessary.

FS1388.443	Mercury NZ Limited for Mercury E	Oppose submission 471.12
FS1340.79	TaTa Valley Limited	Oppose submission 471.12
662.14	Blue Wallace Surveyors Ltd	Amend Rule 22.3.7.5 PI Building setback - waterbodies as follows: (a) Any building must be set back a minimum of: (i) 32m from the margin of any; A. Lake <u>over 4ha</u> ; and B. Wetland; ... (v) <u>10m from a managed wetland</u>
FS1340.104	TaTa Valley Limited	Support submission 662.14
FS1387.103	Mercury NZ Limited for Mercury D	Oppose submission 662.14
794.18	Middlemiss Farm Holdings Limited	Delete Rule 22.3.7.5 Building setback - water bodies; AND Amend rules to relax the setback distances. AND Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.
FS1387.1248	Mercury NZ Limited for Mercury D	Oppose submission 794.18
943.19	McCracken Surveys Limited	Amend Rule 22.3.7.5 PI - Building Setbacks - water bodies, as follows; (a) Any building must be set back a minimum of: (i) 32m from the margin of any; A. Lake <u>with a bed area of 8ha or more or; and</u> B. Wetland <u>with an area greater than 1ha</u> ; (ii) 23m from the bank of any river (other than the Waikato River and Waipa River) <u>whose bed has an average width 3m or more;...</u>
FS1387.1570	Mercury NZ Limited for Mercury D	Oppose submission 943.19
680.231	Federated Farmers of New Zealand	Amend Rule 22.3.7.5 PI (a) Building setback - water bodies, as follows: (a) Any building (<u>unless there is a functional or operational need to be closer</u>) must be set back a minimum of.. AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
FS1387.218	Mercury NZ Limited for Mercury D	Oppose submission 680.231
FS1342.170	Federated Farmers	Support submission 680.231
FS1340.112	TaTa Valley Limited	Support submission 680.231
FS1198.49	Bathurst Resources Limited and BT Mining Limited	Support submission 680.231
FS1171.94	Phoebe Watson for Barker & Associates on behalf of T&G Global	Support submission 680.231
697.467	Waikato District Council	Amend Rule 22.3.7.5 Building setback - Waterbodies, to be consistent in terms of the terminology of structures across all zone chapters.
FS1387.572	Mercury NZ Limited for Mercury D	Oppose submission 697.467
FS1139.15	Turangawaewae Trust Board	Oppose submission 697.467
FS1108.16	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose submission 697.467

697.812	Waikato District Council	Amend Rule 22.3.7.5 P2 Building setback - waterbodies, as follows: A public amenity of up to 25m ² , and <u>or</u> a pump shed (<u>public or private</u>) within any building setback identified in Rule 22.3.7.5 P1.
FS1387.694	Mercury NZ Limited for Mercury D	Oppose submission 697.812
697.813	Waikato District Council	Amend Rule 22.3.7.5 Building setback - waterbodies, as follows: P1 (a) Any building must be set back a minimum of: (i) 32m from the margin of any; A. Lake; and B. Wetland; (ii) 23 <u>32</u> m from the bank of any river (other than the Waikato River and Waipa River); (iii) 28 <u>37</u> m from the banks of the Waikato River and Waipa River; and (iv) 23 <u>32</u> m from mean high water springs.
FS1387.695	Mercury NZ Limited for Mercury D	Oppose submission 697.813
FS1377.231	Havelock Village Limited	Oppose submission 697.813
FS1340.136	TaTa Valley Limited	Oppose submission 697.813
FS1291.30	Havelock Village Limited	Oppose submission 697.813
FS1139.26	Turangawaewae Trust Board	Oppose submission 697.813
FS1108.27	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose submission 697.813

Analysis

685. The submissions received range from retaining the rules as notified (Fire & Emergency [378.35]), to deleting the setbacks altogether (Lochiel Farms Ltd [349.19]) and Middlemiss Farm Holdings [794.18]). It is considered that waterway setbacks are an appropriate mechanism by which to control the amenity values of waterbodies as well as preserve their natural character. On that basis the submissions of Lochiel Farms [349.19] and Middlemiss Farm Holdings Ltd [794.18] are recommended to be rejected.
686. As discussed below, there are submitters that have raised valid issues with the rules, and there are recommended changes as a result. On that basis it is recommended that the submission of Fire & Emergency [378.35] is accepted only in part.
687. A number of submissions seek that the setbacks not apply to buildings required for recreational purposes, namely maimai used for water fowl hunting. Submissions seeking this relief were received from Ryburn Lagoon Trust Limited [747.6] and the Auckland Waikato Fish and Game Council [433.59]. This matter turns on whether a maimai is defined as a 'building', which in terms of the Proposed Plan (NPS) definition means:
- a temporary or permanent, movable or immovable physical construction that is:*
- a. partially or fully roofed, and*
- b. is fixed or located on or in land, but*
- excludes any motorised vehicle or other mode of transport that could be moved under its own power.*
688. On that basis a maimai located on land adjacent to a waterbody falls within the scope of the Proposed Plan building setback rules. It should be noted that a maimai located within the waterway itself falls outside the jurisdiction of the district council and is regulated by the regional council. A maimai is effectively a temporary structure to provide a platform (and shelter) from which to undertake waterfowl hunting activity. Any proposal to provide an exception for maimai must be clear that it does not provide an opportunity for other buildings to take advantage of that dispensation. In my view the concept of a maimai is well

understood and any building that provides residential accommodation falls beyond what could be described as a maimai.

689. Rule P2 provides for public amenity buildings up to 25m² to be constructed within the setbacks. It is considered appropriate to include any provision for maimai into that rule and place a size limit in order to ensure that the provision is not taken advantage of. On that basis it is recommended that the submissions from Ryburn Lagoon Trust Limited [747.6] and the Auckland Waikato Fish and Game Council [433.59] be accepted in part.
690. Two submissions seek that the setback distances be reduced, including Horticulture NZ [419.33] and Balle Bros [466.22], which both request the setback be reduced to 30m from any lake or wetland, 20m from the bank of all rivers (including the Waikato and Waipa Rivers). These submissions are supported by TaTa Valley Ltd [FS1340.51 & FS1340.78] and Horticulture NZ [1168.81].
691. Submissions by CKL [471.12], Blue Wallace Surveys [662.14] and McCracken Surveys [943.1] seek that the setbacks only apply once the waterbody is over a certain size. CKL and McCracken Surveys Ltd seek that the rules only apply to lakes of 8ha or more in size, wetlands over 1ha and rivers over 3m in width. Blue Wallace Surveys seeks that the rules apply to a lake over 4ha and a standard setback of 10m applies to “managed” wetlands only. The sizes referred to in the submissions of CKL and McCracken Surveys Ltd are the same sizes referred to in subdivision Rule 22.4.7 relating to the provision of esplanade reserves for sites less than 4ha. Under that Rule no esplanade is necessary for sites along the bank of a river less than 3m in width and adjacent to a lake whose bed is 8ha or less.
692. In contrast, the submission of the Waikato District Council [697.813] requests that the setbacks are increased to 32m from the bank of a river and mean high water springs, with the exception of the Waikato and Waipa Rivers where the setback is sought to be 37m. This submission is opposed by six further submissions as listed in the table above. It is understood that the rationale for the increase in setback sought in the Council submission is the 20m esplanade reserve required at the time of subdivision (in accordance with Rule 22.4.7), with an additional 12m being the required setback from an internal property boundary. Rule 22.3.7.1 (Building setbacks all boundaries) provides for a 12m setback for either a habitable building on a site less than 1.6ha or any non-habitable building.
693. In the absence of the future potential for a 20m esplanade reserve, the setback distances in the notified plan and increased setbacks sought in the Council submission appear to be on the large side for those smaller waterbodies that would not otherwise be required to provide an esplanade upon further subdivision. It should be noted that the setbacks set out in Rule 22.3.7.5 only apply to the waterways not otherwise identified as being of particular conservation or landscape value in terms of Significant Natural Areas, Maaori Sites and Maaori Areas of Significance or Landscape and Natural Character Areas, which are subject to additional standards in relation to buildings and associated earthworks.
694. On that basis it is recommended that the waterbody setbacks are adjusted to accord with the esplanade provisions located elsewhere in the rule framework. This would allow the environmental outcomes sought by the Proposed Plan to be achieved in the future should esplanade reserves be provided as a result of future subdivision activity adjacent to a river with a bed of an average width greater than 3m and lake over 8ha. To address sites adjacent to waterbodies below these thresholds, it is recommended that the waterbody setback be the same as that for an accessory building from an internal boundary (12m), which will apply in any case if the waterbody forms the site boundary.
695. Therefore, it is recommended that the submissions by CKL [471.12], Blue Wallace Surveys Ltd [662.14], McCracken Surveys Ltd [943.1], Waikato District Council [697.813], Horticulture NZ [419.33] and Balle Bros Ltd [466.22] are all accepted in part.

696. The balance of the matters raised in the Council submission [697.467 and 697.812] relate to amending Rule 22.3.7.5 to be consistent in terms of the terminology of structures across all zone chapters; and making it clear that the reference to pump sheds in in Rule P2 applies to both public and private structures respectively. The submission does not provide any detail in relation to the inconsistency in terminology present in the waterway setback rules as notified. Otherwise this is a matter for integration once other decisions have been made. The second point regarding pump sheds seeks to aid in the interpretation and usability of the plan. On that basis these submission points are recommended to be accepted in part and accepted respectively.
697. Horticulture NZ [419.34] seek that a pump shed be 5m from a waterway. At present Rule P2 allows the buildings listed therein to be built up to the waterbody boundary. This relief sought is supported by the further submission from T & G Global [FS1171.27]. It is considered that retaining a nominal 5m setback for pump stations is beneficial, which otherwise have no operational need to be located on the waterline. It is noted that maimai and some of the structures falling within the definition of public amenity (such as viewing platforms) will in some cases wish to be constructed immediately adjacent to a waterway, so pump sheds can be differentiated from those structures. It is recommended that the Horticulture NZ submission [419.34] and supporting further submission from T & G Global are accepted.
698. Federated Farmers of NZ [680.231] wishes to add a clause to Rule P1 that provides a general exception to all buildings/structures to the effect that “*unless there is a functional or operational need to be closer*”. It is considered that to grant this relief sought in the submission would effectively undermine the intended outcomes sought by the rule. Such a general dispensation, and the subjectivity of it, means that the integrity of the provision could be undermined. The *functional or operational need for any building to be located closer* to a waterbody will be assessed as part of any resulting resource consent process, and this is considered to be the appropriate step in the process in order to undertake such an assessment. On that basis it is recommended that the submission, and the five supporting further submissions as listed above all be rejected.
699. The submission by Lochiel Farmlands Ltd [349.21] seeks that any application that does not comply with either of Rules P1 or P2 be considered as a restricted discretionary activity as opposed to a discretionary activity. Given that the matters in relation to a waterway setback non-compliance are reasonably contained, it is considered that a restricted discretionary activity status is appropriate. Restricted discretionary ensures that the relevant matters are able to be considered by Council and still retain the discretion to decline consent if the proposed building is considered too close to the waterbody.

Recommendations and Amendments

700. Based on the discussion above, the following amendments to Rule 22.3.7.5 are recommended as a result if the submissions received.

22.3.7.5 Building setback – water bodies

P1	<p>(a) Any building <u>other than provided for under Rules P2 or P3</u> must be set back a minimum of:</p> <p>(i) 32m from the margin of any;</p> <p style="padding-left: 20px;">A. Lake <u>with a size of 8ha or more</u>; and</p> <p style="padding-left: 20px;">B. Wetland;</p> <p>(ii) <u>32m 23m</u> from the bank of any river <u>with an average width of 3m or more</u> (other than the Waikato River and Waipa River);</p> <p>(iii) <u>37m 28m</u> from the banks of the Waikato River and Waipa River; <u>and</u></p> <p>(iv) <u>12m from the bank of any river with an average width of 3m or less</u>;</p> <p>(v) <u>12m from the margin of any lake with a size of less than 8ha; and</u></p> <p>(vi) <u>32m 23m</u> from mean high water springs.</p>
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P2	A public amenity <u>building, or maimai used for temporary waterfowl hunting purposes</u> , of up to 25m ² <u>in size, and a pump shed within any building setback identified in Rule 22.3.7.5 P1.</u>
P3	<u>A pump shed (public or private) set back a minimum of 5m from any waterbody.</u>
RD1 D+	(a) Any building that does not comply with Rule 22.3.7.5 <u>P1, P2 or P3.</u> (b) <u>Council's discretion is restricted to the following matters:</u> (i) <u>The size of the adjacent waterbody and the landscape, ecological, cultural and recreational values associated with it;</u> (ii) <u>Erosion and sediment control measures;</u> (iii) <u>The functional or operational need for the building to be located close to the waterbody;</u> (iv) <u>Effects on public access to the waterbody;</u> (v) <u>The ability to retain an open and spacious rural character and amenity;</u>

Rural – Building setback- Environmental Protection Area – Rule 22.3.7.6

Introduction

701. In addition to the identification of Significant Natural Areas, Outstanding Natural Features, Outstanding Natural Landscapes, Natural Character areas and the like, the Proposed Plan planning maps identify “Environmental Protection Areas”.
702. It is understood that the identification of Environmental Protection Areas and the 3m setback arose from a similar rule contained in the Operative Plan originating from a geographically limited plan change process. The plan change related to a lakeside development at Te Kauwhata. On that basis the application of the rule is very discreet and localised.

Submissions

703. Five submissions and nine further submission were received seeking either deletion or amendments to the Rules.

Submission point	Submitter	Summary of submission
349.22	Lochiel Farmlands Limited	Delete references to Environmental Protection Area/EPA in Rule 22.3.7.6 Building setback - water bodies.
FS1386.502	Mercury NZ Limited	Oppose submission 349.22
419.35	Horticulture New Zealand	No specific decision sought, but submission seeks clarification on how Rule 22.3.7.6 Building setback- Environmental Protection Area applies to the Environmental Protection Areas and the Hamilton Basin Ecological Management Area. If the Hamilton Basin Ecological Area is an Environmental Protection Area, then the submitter opposes this rule.
FS1388.192	Mercury NZ Limited	Oppose submission 419.35
680.232	Federated Farmers of New Zealand	Delete Rule 22.3.7.6 P1 Building setback - Environmental Protection Area. AND Delete Environmental Protection Areas from the planning maps, as a consequential amendment. AND Any consequential changes needed to give effect to this relief. AND

		Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
FSI1315.17	Lochiel Farmlands Limited	Support submission 680.232
FSI108.76	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose submission 680.232
FSI198.50	Bathurst Resources Limited and BT Mining Limited	Support submission 680.232
FSI139.67	Turangawaewae Trust Board	Oppose submission 680.232
FSI387.219	Mercury NZ Limited	Oppose submission 680.232
680.233	Federated Farmers of New Zealand	Delete Rule 22.3.7.6 (D1) Building setback - Environmental Protection Area. AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
FSI1315.18	Lochiel Farmlands Limited	Support submission 680.233
FSI387.220	Mercury NZ Limited	Oppose submission 680.233
433.60	Auckland Waikato Fish and Game Council	Amend Rule 22.2.7.6 PI Building setback - Environmental Protection Area, as follows: Any building <u>that is not a maimai</u> must be set back a minimum of 3m from an Environmental Protection Area identified on the planning maps. AND/OR Any alternative relief to address the issues and concerns raised in the submission.

Analysis

704. Submissions from Lochiel Farms Ltd [349.22] and Federated Farmers [680.232 & 680233] seek that the rules for setbacks from Environmental Protection Areas ('EPA') be deleted. Horticulture NZ [419.35] seek specific clarification around the Hamilton Basin Ecological Area and, if it is included as an Environmental Protection Area, that the rule is opposed in its entirety.
705. The submitters raise some valid concerns around how the identification and setback from Environmental Protection Areas fits within the Proposed Plan framework, and the confusion that arises with the setback terminology compared with Significant Natural Areas which have a much wider geographic application. The only other rules that relate to Environmental Protection Areas relate to subdivision (Rule 22.4.6). There appears to be no reference to Environmental Protection Areas within the policy framework.
706. The submission by Fish & Game [433.60] also raises a valid matter regarding the interaction between the setback rules for waterbodies (Rule 22.3.7) and Environmental Protection Areas. The submission seeks specific exemption for maimai within 3m of Environmental Protection Areas. My understanding of the rules is that the recommended waterbody setback rules would provide for maimai, but not within Environmental Protection Areas where Rule 22.3.7.6 would over-ride compliance with Rule 22.3.7.
707. The typical boundary setbacks found in Rule 22.3.7.1 are significantly greater than 3m, so the setbacks for Environmental Protection Areas will only apply when such areas are identified

within a site rather than following property boundaries (as otherwise the generic zone rules that require 12m minimum boundary setbacks will override the EPA setback). On that basis it is considered that the implications of this rule do not extend beyond those parties that are already subject a similar rule in the Operative Plan. Therefore it is recommended that the rule remain as notified and the submissions from Lochiel Farms Ltd [349.22], Farmers [680.232 & 680233], Horticulture NZ [419.35] and Fish & Game [433.60] are rejected.

Recommendations and Amendments

708. No amendments to Rule 22.3.7.6 from that notified.

Conclusion and Section 32AA evaluation

680. The above assessment of submissions addresses the notified provisions and the need (or not) for them to be amended to improve their effectiveness and efficiency, along with the costs and benefits of the recommended changes. The below evaluation is therefore a summary and should be read together with the substantive discussion set out above, which together form the s32AA evaluation.
681. The large number of submissions, combined with the breadth and depth of the matters that they raise, creates considerable scope for ensuring the Rural Zone provisions are fit for purpose and provide a clear direction for how the district's rural areas are to be managed over the life of the District Plan. Submissions on this specific topic are complemented by submissions on a range of related topics including strategic directions, definitions, Country Living, Tangata Whenua, landscape and ecology chapters.
682. In making recommendations, I have been mindful of the scope provided by submissions, both those seeking specific relief and those addressing themes more broadly such as urban growth management or rural character outcomes. I have likewise made a number of recommendations based on consequential amendments that result from the matters addressed in the notified policies being better implemented through restructuring and reordering of these policies. Whilst the recommended text changes therefore show a lot of 'red', a reasonable proportion of this is as a result of reordering/ restructuring provisions, rather than making any substantive change to the outcomes sought in the notified Plan.
683. In summary, the key outcomes recommended are:
- Alignment with the strategic directions on urban growth, with growth to be primarily provided for by consolidation in and around existing townships. Improved direction in density and subdivision policies in particular respond to this theme, as does the recommendation that industrial and commercial activities that have no connection to rural activity have a non-complying activity status;
 - Recognition that the productive potential of the rural area is underpinned by soil health, and in particular the value of versatile soils. There was strong submitter support for such recognition;
 - The need to maintain rural character and amenity that is valued by the community. This character is not uniform, and likewise is not solely pastoral. One of the key recommendations in response to submissions was to better articulate the elements that make up rural character, including recognition that the rural area contains a range of non-pastoral activities that nonetheless are anticipated in rural areas and themselves contribute to that character;
 - Recognition that the predominant activity being undertaken in the rural area is primary production. This key activity is therefore provided for, both through policy support, and

through designing a rule package that enables 'normal' farming activities to take place without unnecessary restriction;

- Recognition that such enablement is likewise not open ended, with the rules providing a back-stop to ensure activities remain good neighbours. Striking an appropriate balance between enablement, and retaining a backstop, has led to a number of recommended amendments to the rules controlling earthworks and the land use effects and landuse building rules controlling matters such as noise, lighting, signage, building height, and site coverage. In general the recommended changes have been to make these provisions more enabling;
- Improved recognition for a range of non-farming activities that are long-standing and valued elements in sustainable rural communities. The notified Plan was relatively silent on community facilities, conservation and outdoor recreation activities, emergency facilities, and a range of commercial activities that have a clear nexus and dependence upon a rural location such as farm and adventure tourism. The need to better provide for these activities was a strong theme in submissions. I have recommended a strengthened policy framework for community, rural commercial, and rural industrial activities, and have included a wider range of activities within the activity rule tables so that there are far fewer common activities defaulting to non-complying status. Because the scale and nature of such activities varies, as does the site-specific context where they might be located, in general such activities will require a resource consent to ensure that their effects are appropriately managed, thereby striking a balance between enablement and management;
- Intensive farming is a specific type of farming activity that is long-established in rural areas (and indeed is seldom found outside of rural zones). Such farming systems carry with them the potential for adverse effects due to the high concentration of livestock and poultry. Submitters generally acknowledged the need for intensive farming to be properly located, managed, and assessed through a resource consent process. A common theme in submissions was however the need to better define activities that are intensive, and to conversely provide a more enabling pathway for farming systems that are extensive or free-range. Acknowledging both the diversity of farming systems, and the spectrum from extensive to intensive that is found in the district, I have endeavoured through the polices, definition, and rules to provide a clearer framework by which intensive farming is managed;
- Similar issues were raised by submitters in relation to mining and aggregate extraction. As with intensive farming such activities are a common element in rural areas, and again are seldom if ever located outside of rural zones. They therefore need to be provided for as an inherent element in rural character. They likewise need to be appropriately managed to ensure potential effects such as noise, dust, heavy vehicle movements, and visual effects are mitigated as far as practicable. The broad direction of the notified Plan is retained, with direction improved through revised definitions and a more enabling rule framework where activities are located within areas that have been identified and mapped for extractive activity;
- Reverse sensitivity issues were a common theme raised by submitters representing intensive farming, extractive industries, and infrastructure providers. The notified policy framework was quite complex regarding this theme, with direction scattered cross a number of polices which made discerning a coherent direction challenging. In response to submissions I have recommended a more streamlined and focussed policy approach, where the notified policy is restructured, dedicated policies provided for outdoor lighting and building scale, and a focussed policy on reverse sensitivity and the separation of incompatible activities. A number of submitters sought greater use of setback requirements and/or acoustic insulation as a tool for managing reverse sensitivity. I have not recommended accepting such submissions at this stage of the

hearing process, given the potentially significant costs that such rules can impose on neighbouring landowners and the lack of detail in submissions regarding both the geographic extent and the justification for the specific setbacks sought. It may be that submitters in evidence are able to provide a more detailed assessment on this topic that satisfies s32 RMA requirements;

- The Proposed Plan as notified has moved away from the use of scheduling as a tool for providing for 'out of zone' activities. It has instead sought to provide for them through either specific rules located within the generic rural zone rule framework, or through the use of 'specific areas' that have their own bespoke rule package. Submitters representing these activities sought some form of bespoke recognition in the district plan to enable the ongoing operation and adaption of their existing facilities. I agree that such recognition is necessary and represents an effective and efficient tool for providing for significant facilities that are located within rural environments but that do not neatly fit within the range of activities typically provided for. Ultimately making a determination as to whether such provision is most effectively made via zoning, specific area overlays, or specific rules within the zone framework will only be able to be made towards the conclusion of the hearing process and after rezoning requests have been considered. As an interim position I have recommended retaining the approach to these facilities as notified, subject to amendments to improve the effectiveness of the rule package.

Effectiveness and efficiency

684. The recommended amendments to the objectives and policies improve the direction provided at a policy level as to the outcomes anticipated for the Rural Zone. As such they are considered to be more effective than the status quo notified wording. It is important to emphasise that despite the amount of text changes recommended, I have in general sought to retain the key outcomes or direction sought in the notified Plan, and as determined in the original s32 assessment. The recommended amendments are designed to more effectively achieve the outcomes, rather than constituting any significant changes in direction. The rationale for the recommended changes, and the reasons as to why they are more effective than the notified wording, is set out in the body of this report.
685. The amendments recommended to the rules are to make the rules more effective at implementing the policy direction. In general the recommendations are more enabling, and/or provide improved certainty by specifically identifying activities that commonly occur in rural areas. It would be fair to say that the majority of submissions sought that the rule framework be made more enabling. I have agreed with many of the points identified by submitters, and therefore the general tone or direction of change is towards enablement. This direction is to more efficiently provide for farming activities as the core activity undertaken in the rural area and the activity from which the rural area draws much of its character. Where necessary, I have also looked to improve the accuracy of the rules to make them more effective at managing potential effects and to ensure that they remain effective at providing a backstop to ensure rural character and amenity is maintained.

Costs and benefits

686. Better articulation of the zone purpose and outcomes is considered to provide benefit to Plan users with few if any associated costs. As noted, the direction of change in the amendments has been toward enablement. As such the changes reduce costs to the community by reducing the number of consents. By improving the accuracy of the policy direction and the associated rule framework the benefits of the rules and the effective regulation that they provide is improved.
687. Whilst the direction is towards enablement, this has not come at the cost of opening the door to unacceptable environmental effects. Where otherwise unlisted activities are now provided for, this is generally as a restricted discretionary activity, with the relevant matters

for consideration stated to guide both plan users and decision makers as to whether any given application appropriately mitigates its effects. In this way potential costs to the environment and the community it supports are managed.

688. In general the key ‘numbers’ in the rules have been retained. Examples include minimum density requirements, boundary setbacks, noise limits, and the majority of signage and earthworks dimensions. The setbacks for intensive farming and extractive industries are unchanged, and reflect the long-established distances in the Operative Plan. I note that there were few submissions seeking changes to these dimensions which reflect that they appear to be striking an appropriate balance and that the community is generally comfortable with the costs and benefits that these rules impose.
689. A key change to the notified rule (and the Operative Plan rules) is the increase the minimum subdivision size from 20ha to 40ha before a ‘child lot’ can be created, as recommended by Ms Overwater. The policy on subdivision forms part of this report, however I rely on the s32 assessment and rationale in Ms Overwaters’ report as to the costs and benefits of this specific matter.
690. A key change, albeit one that is geographically limited, is the shift from prohibited to non-complying activity status for the majority of activities that might locate within Hamilton’s UEA. This shift to non-complying is a change from the Operative Plan approach, but is consistent with the notified Plan and associated s32 justification. In my view the clear policy direction recommended as part of the strategic directions hearing, combined with the s104D statutory test for non-complying activities, provides an effective regulatory hurdle that is capable of preventing new development that would unduly prejudice orderly urban expansion of Hamilton in the future. Non-complying status does open a consenting pathway by which individual proposals can be assessed on their merits. If such a proposal can demonstrate that it avoids adversely affecting Hamilton’s growth then consent can be granted, and rightly so as the key outcome of orderly future expansion is preserved. As such I consider that non-complying status achieves a better balance between the costs and benefits of regulation than prohibited status.

Risk of acting or not acting

691. The rural area, and activities occurring within the rural area, are well known and generally well understood. The question is not one of having no regulation, but rather is about striking an appropriate balance between enabling the outcomes the community want to see, and conversely managing (or avoiding) the outcomes that the community do not desire. As such, the topics and themes addressed in this report do not represent risks associated with acting or not acting. In general I have recommended that the regulation proposed in the notified plan (and often rolled over from the Operative Plan) be retained, subject to the amendments discussed above to improve its effectiveness. The recommended suite of provisions therefore constitute ‘acting’ and do not leave the rural zone open to the risks associated with a plethora of unanticipated activities occurring.

Decision about most appropriate option

692. On balance, the proposed amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version. The high level of interest shown by submitters on this topic, combined with the wide range of perspectives contributed through submissions, has enabled the notified rural zone framework to be tested and refined. This refining process will continue through evidence from submitters to further assist the Panel in ultimately making decisions as to the most appropriate framework for guiding the enjoyment, use, and development of Waikato District’s rural area over the coming decade.

Appendix I: Table of submission points

Appendix 2: Recommended amendments

Appendix 3: Pre-hearing meeting minutes 8th August 2020