

Hearing Stream 6: RURZ – Whaitua Taiwhenua – Rural Zones and OSRZ – Whaitua Tākaro – Open Space and Recreation Zones

Questions from the Hearing Panel

Having read the Section 42A Reports, the Hearing Panel has questions that they would appreciate being answered by the Section 42A Report author(s) at the hearing, both verbally and written.

This is in the interests of running an efficient hearing.

Please note this list of questions is not exhaustive. The Panel members may well ask Section 42A Report authors additional questions during the course of the hearing.

OVERARCHING

1. You have both recommended a new Rail Corridor setback. Please explain what effect this setback is seeking to manage. If it is to allow maintenance of a building without encroaching on the rail corridor, please explain how this is any different a situation to allowing maintenance of a building from any other property boundary without encroaching on the adjoining property. Please also address exactly what the safety effects are that are sought to be addressed through this recommended setback, and how this is different to setbacks from any other boundaries, including road boundaries. Has a section 32 evaluation of the costs/benefits of a building set back from Rail corridors been undertaken by any of the reporting officers, or provided by the submitter?

OSRZ – Whaitua Tākaro – Open Space and Recreation Zones

Paragraph or Plan reference	Question
Section 3.2.4	<p>You recommend an amendment to the definition of public amenities in response to the Federated Farmers submission. This is inconsistent with Mr Wilson’s s42A coastal environment report, where he does not recommend an amendment, also in response to the same Federated Farmers submission point. Can you please address why we should prefer your recommendation to Mr Wilson’s, on the same submission point?</p> <p>Your recommendation seems to be that this amendment ‘may clarify’ the definition, but given that Mr Wilson has not seen fit to make the same recommendation do you still consider this is necessary?</p>
Para 79	<p>What value is added by including the phrase <i>“and whether a charge is made for admission or participation or not”</i>. Does that not cover all bases, and therefore is unnecessary wording?</p>
Para 146	<p>Please explain how your recommendation in respect to relocatable buildings is consistent with the recommendations in the s42A RURZ report.</p>
Para 164	<p>Please explain how there is a duplication between NOSZ-R11(2) and NOSZ-BFS1. On the face of it, it appears that NOSZ-R11 is about an activity (i.e. ancillary offices), and it is not subject to NOSZ-BFS1. However, NOSZ-R2 manages buildings, and it is subject to BFS-1.</p>

Paragraph or Plan reference	Question
Para 186	Please set out which regulation in the NESPF allows a council to make plantation forestry a discretionary activity in an open space zone.
Para 245	Given the range of site sizes in the NOSZ, did you consider an approach of limiting the GFA as a percentage of the site area, or a combination of both?
Para 254	Our reading of the Hort NZ submission is that they are concerned about potential reverse sensitivity effects arising from buildings in the SARZ on adjoining Rural Zoned sites. Did you consider reverse sensitivity effects in your assessment of their submission point?
NOSZ-R14, OSZ-R14	Does this limitation to District Council land mean that grazing on non-Council land is a discretionary activity? If so, what is the implication of this?

RURZ – Whaitua Taiwhenua – Rural Zones

Overarching:

- In several sections of your report, the number and types of submission points (support, oppose, amend) you say are being addressed in the section under “matters raised by submitters” do not correspond to what you then address in the “assessment” and make recommendations in the “summary of recommendations”. For example:
 - o in para 542, you refer to one submission in support, one submission in opposition and five submissions wanting amendment (seven)
 - o in paras 545 and 546 you address three submissions (three)
 - o in para 547 you recommend one submission be accepted and three rejected (four)
 - o in para 550, you refer to one submission in opposition and four submissions wanting amendment (five)
 - o in para 552 you address one submission (one)
 - o in para 553, you recommend one submission be rejected (one)

Please explain exactly why there is this discrepancy and the approach you have taken to the consideration and assessment of submissions. If there is an issue, please set out how you intend to resolve it.

- In some of your recommendations, you have rejected submissions that seek that a provision be retained, on the basis of amendments recommended in response to other submissions. Should your recommendation rather be “accept in part”, given the provision itself is remaining?

Paragraph or Plan reference	Question
3.2.3	There is no recommendation on the Federated Farmers submission point.
Para 84	The wording you recommend at the end of the paragraph starting “The Rural Lifestyle Zone” appears very definitive. Is there evidence that all sites in the RLZ are productive, or are some or many? And, are all the sites in the RLZ smaller than in the GRUZ, or is it that sites are generally smaller, or that the minimum lot size is smaller?
Para 122	Is there a typo in the recommended amendment to RURZ-P2(1)?

Paragraph or Plan reference	Question
Para 179	<p>You state:</p> <p><i>Given the establishment of a new sports shooting facility and recreation facilities are discretionary activities, and that all four rules have submissions in support, the amendment to the policy would be inconsistent with the intent of the rules.</i></p> <p>Is the correct approach to not amend a policy because it would be inconsistent with an activity status of a rule; or is it to consider the policy, and then consider what activity status a rule should have to implement that policy? Irrespective that a sport shooting facility is listed as a discretionary activity; is the requested amendment by the NCCTA appropriate to achieve the objective(s) in the first instance? If the policy was amended as sought by the NCCTA, would a change in activity status to the rule be a consequential amendment to implement the policy?</p>
Para 180	<p>Please reconsider your assessment based on the s42A Noise report and responses to preliminary questions. In particular, Ms Manhire advised the Panel that the reference to identified existing activities in NOISE-P1(3) is to the specified listed activities in the NOISE rules, rather than to any noise generating activity such as the NCCTA facility. The Panel’s understanding is that the NCCTA facility is not a specified listed activity in the NOISE rules, and therefore your assessment in the first sentence of this paragraph is not accurate.</p>
Paras 182 and 183	<p>As set out above, the Panel’s understanding is that “identified existing activities” identified through the Noise Chapter rules” refers to specific activities that generate noise and have specific noise provisions relating to them. RURZ-P6 refers to industrial activities occurring in Rural Zones. The activities listed in RURZ-P8(1) are all activities undertaken in Rural Zones and addresses reverse sensitivity effects on them.</p> <p>Is it appropriate that the amendment you recommend to refer to heavy industrial zones or should it rather be to industrial activities, or should it be to both? If the policy is amended as you recommend, then please advise how it would be implemented through the rules and standards in the chapter.</p>
Para 186	<p>See question above as to whether it is appropriate to not amend a policy because it would be inconsistent with an activity status. Please reconsider your assessment in sentence three.</p>
Para 187	<p>You state:</p> <p><i>Accordingly, all sensitive activities would need to be established by resource consent, which would place responsibility on the Council instead of the land owner with the primary production activity.</i></p> <p>Please explain how requiring a resource consent for new sensitive activities places a responsibility on the Council??</p>

Paragraph or Plan reference	Question
Para 198	<p>You recommend the following new policy:</p> <p><i>RURZ-P9 Spread of wilding trees</i></p> <p><i>The spread of wilding trees is minimised and where established they are removed.</i></p> <p>In terms of this recommended policy:</p> <ol style="list-style-type: none"> 1. How is the second part of the policy (the removal of trees) implemented through the PDP provisions? 2. How is the first part of the policy implemented through your recommended changes to GRUZ-R2? Elsewhere in your s42A report, you attribute these amendments to addressing shading and ice-risk to roads from trees. How do setbacks of trees from residential units minimise the spread of wilding trees? <p>The Panel also cannot make sense of the amendments made to GRUZ-R2 and how the clauses flow from the chapeau. Please provide an updated recommended provision for consideration.</p>
Para 200	<p>RURZ-MD4, would you support widening the ambit of new clause 5 to include the potential for the spread of wilding trees onto <u>all</u> land, i.e. not just conservation land, SNAs etc? (which would seem to be within the scope of ECan’s submission).</p>
Para 201	<p>What is the statutory status of the New Zealand Wilding Conifer Management Strategy?</p>
Para 289	<p>Please address paragraph 26 of the NZHHA submission which seeks that additional standards be included in GRUZ-R1 and RLZ-1 where a building is moved onto a site. Please also set out how the relocation of a building onto a site falls within the definition of “construction or alteration of or addition to any building or other structure”, given the definition of “construction work” included in the PDP.</p> <p>Please also explain how your response to this submission point relates and differs to the recommendation in the s42A OSRZ report.</p>
Para 303	<p>You state:</p> <p><i>Planation [sp] forestry forms part of the ‘primary production’ definition and is therefore a permitted activity.</i></p> <p>Please explain your understanding of the relationship between the NESPF (and in particular regulation 9) and a district plan, and the wider relationship of a NES with district plan rules.</p>
Para 316	<p>It seems the submitters have made their applications for subdivision in order to take advantage of the more lenient provisions under the Operative District Plan. Please confirm what the legal position is around this for the Panel to be aware of.</p>

Paragraph or Plan reference	Question
Para 334 (and Para 592)	<p>Do you consider the restriction on the size of a farm worker’s dwelling to 90m² is justifiable solely on the grounds that a larger dwelling (i.e. 120m² as requested by the submitter) will increase the pressure for rural subdivision?</p> <p>Regardless, can an application for rural subdivision not be assessed on its merits for its effects on rural fragmentation, regardless of the size of the minor dwelling, without the need for say a farm worker’s family to be required to make an application for resource consent just to live in a reasonable sized dwelling (when the only effect of any concern that has been identified is a possible future subdivision of the site?).</p>
Para 343	<p>Your concern about ‘storage’ of multiple vehicles seems reasonable, however can you please comment on whether the rule regarding ownership of vehicles is practicable and enforceable. Can you please describe how the examples in Figure 5 been addressed/are being addressed by Council in terms of any relevant provisions in the Operative Plan.</p>
Para 368	<p>Please clearly set out your rationale for your recommendation to increase the maximum staffing level from 5 to 10 and remove the maximum building limit, and why this is appropriate.</p>
Para 370	<p>You state that you agree with a proposed amendment, but that amendment is not shown in GRUS-R10. Please provide an updated recommendation.</p>
Para 387	<p>Please review your recommended amendments to GRUZ-R12 as the Panel cannot understand how they flow from the chapeau of the rule, including where the restriction on the area of a farm quarry has been derived from.</p>
Para 406	<p>Please explain what the situation would be where a new tourism activity establishes within an existing building and, as the Panel understands the rules, GRUZ-BFS5 would not apply under GRUZ-R16.</p>
Para 421	<p>Please set out your understanding of whether the RMA and the requirement that a district plan must not be inconsistent with a regional plan precludes a rule in a district plan having a different activity status to a rule in a regional plan, where both rules manage the same activity, but potentially different effects. In replying, please also set out your understanding of the effects that the regional plan rule is managing, compared to that of the PDP.</p>
Para 426	<p>Please review your recommended amendments to GRUZ-R18. In particular, the two clauses do not flow from the chapeau which simply states “where”. Also, please explain how you would measure where the sensitive activity is in determining compliance with this rule, particularly as a sensitive activity may be occurring outside of a building.</p>
Para 446	<p>You state:</p> <p><i>The Proposed Plan does not have any noise or vibration constraint associated with quarrying operations.</i></p>

Paragraph or Plan reference	Question
	Is the Panel’s understanding correct that the NOISE chapter contains rules and standards that would manage noise from quarry operations?
Para 484	You recommend amending GRUZ—BFS3 to include a maximum height for frost fans and wind turbines. How does the inclusion of “wind turbines” relate to EI-R41 in respect of new small scale wind turbines? And, how does your assessment in respect to the height of frost fans relate to the height of wind turbines, which you have not addressed in paragraph 481.
Para 495	<p>You state:</p> <p><i>I consider that the DoC submission [419.132] wanting a setback from water bodies is outside the scope of the built form standard as it addresses setbacks from sensitive activities.</i></p> <p>The Panel’s reading of the DoC submission is that they are also seeking setbacks from SNAs, reserves and QEII covenant areas. Please complete your assessment in respect of these matters.</p>
Para 499	Linking back to an earlier question, please explain how reference to a sensitive activity is relevant if this is a built form standard. How would the measurement from a sensitive activity occur?
Para 520	Please advise which submission point this paragraph is referring to.
Para 522	<p>Please explain the relationship between your assessment, the RPS, and the National Planning Standards definition of the Rural Lifestyle Zone, which is:</p> <p><i>Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur.</i></p> <p>Which definition should have primacy? That of the RPS or the National Planning Standards?</p>
Para 557	<p>NZHHA seek inclusion of a permitted rule relating to moveable buildings, and amend the relevant rule in all zones.</p> <p>You state:</p> <p><i>The approach within the NZHHA [221.10] submission was covered in section 3.11.2 of this report and was rejected on the basis that the activity was covered under temporary activities and the security of the building was a building consent issue. I recommend that the same approach is adopted for this submission.</i></p> <p>3.11.2 states:</p> <p><i>Rule GRUZ-R1 is intended to link the built form standards back into the rule framework. The basis of the requested amendments by NZHHA [221.9]</i></p>

Paragraph or Plan reference	Question
	<p><i>relate to the use of “construction or alteration of or addition” and the perception that it does not include the relocation of buildings onto a property. The intent of the rule was not to exclude the relocation of buildings onto a property, as pointed out by the wider submission the effects are not dissimilar to that by the construction of a new house. As a result, I consider the proposed amendments are not necessary.</i></p> <p>Please explain how what is stated in 3.11.2 is the same approach in respect of this submission point.</p>
Para 581	<p>In assessing this submission point, did you consider the provisions in the NOISE chapter relating to sensitive activities in the Timber Processing Noise Contour?</p> <p>Your rationale for rejecting a 200m setback is based on it placing a large development constraint on activities in the setback area, and the neighbouring properties needing to then “mitigate an effect that is beyond their control”. But is there then an inconsistency with the TRANSPORT s42A recommendations to impose an 80m setback area from sensitive activities from arterial roads, with no requirement for the noise generator to mitigate its own noise.</p> <p>Can you please liaise with the author of the NOISE s42A Report and provide an updated response to the Daiken NZ Ltd submission point taking account of that, and any relevant recommendations arising from the Reply Report.</p>
Para 587	Is the inclusion of (6) and (7) under RLZ-R3-1 an error?
Para 630	Do you consider it is appropriate for a rural selling place accessed directly off a 100km/h section of State Highway to be a permitted activity (even if the access is designed to the relevant standard)? Is this not an example of where a resource consent assessment process is necessary on traffic safety grounds?
Para 641	Please consider how you have recommended to insert clauses 5 and 6, and how they flow from the chapeau of RLZ-R12.
Para 647	Is the reference to conservation activities in this paragraph meant to be retail sales area associated with conservation activities ?
Para 653	Please advise of the location of the activities that you are referring to, and their respective zonings.
Para 662	You have recommended deletion of the condition relating to motorised recreation activity. Does this raise an issue of inconsistency and appropriateness where non-motorised recreation activity is a discretionary activity in the GRUZ and a permitted activity in the RLZ (noting the RLZ is likely to have a greater concentration of noise sensitive activities)? Is there

Paragraph or Plan reference	Question
	any scope to change the activity status in the GRUZ, and if so, do you consider that such a change would be appropriate?
Paras 681 and 682	Please explain how the temporary activity chapter would apply to the Rangiora A&P Showgrounds. From reading the rule, it appears that this is a specific Rule that permits activities occurring on the showground and there is no rule or standard that states that these activities are temporary activities and must comply with the temporary activities chapter.
Para 735	Taking into account our overarching question regarding KiwiRail's requested 5m setback, please explain why you have recommended a 4m setback.
Para 797	<p>The Panel's understanding is that the submitters are seeking that the matters of discretion include consideration of conflicts and / or reverse sensitivity effects with lawfully established activities occurring on adjacent rural properties, which may not be permitted activities. Are you saying that they having existing use rights means effects on them from activities that do not comply with the setbacks are not relevant?</p> <p>Regardless of the above, if an activity has not been lawfully established why should Council protect such activities from reverse sensitivity effects, and should it not be taking some sort of enforcement action?</p>
Para 807	Please table a larger and more legible copy of Figure 9 at the hearing and make this available to submitters.
Para 819	<p>You state:</p> <p><i>The protection of versatile soils are not relevant inside of the GCP boundary.</i></p> <p>Are they not relevant, or just not a requirement of the RPS?</p> <p>Policy 6.3.9 of the RPS requires that rural residential development can only be provided in accordance with an adopted rural residential development strategy - does the Waimakariri RRDS address versatile soils or the fragmentation of land for primary production? If so, what does it state?</p>
Para 829	<p>You state:</p> <p><i>This will require RURZ-O1(2) include wording that provides a higher level of consideration for any activity that does not utilise the natural and physical resources of the zone.</i></p> <p>How does your recommended wording do this, and how does your recommended wording give effect to the NPS-HPL and the RPS?</p>
Paras 8.30, 832 and section 3.20.4	How does this wording give effect to the NPS-HPL and the RPS? Particularly the wording of Obj 1 and policies 6, 7 and 8 and clause 3.9(1) of the NPS-HPL?
Para 838	Please ensure all the recommended amendments are shown in Appendix A.

Paragraph or Plan reference	Question
Para 853, 855 and 856	<p>How do the provisions in the Proposed Plan address where effluent is disposed of and the effects that may arise, noting that only new intensive primary production activities require consent and that the setbacks that apply for new sensitive activities are from buildings, compost areas or quarrying activities.</p> <p>How does the separation distance in BFS5 (which apply only to siting of dwellings) manage odour effects from effluent spreading, and how does this require that the “effects of such activities are internalised to the extent practicable”? (ref your para 853).</p> <p>What are the respective roles and responsibilities of the regional and district councils with respect to managing the effects of odour?</p> <p>Does the Regional Plan include any rules or standards requiring setbacks of dwellings or other sensitive activities from animal effluent irrigation? If not, does this make the District Plan inconsistent with the Regional Plan?</p>
Para 918	<p>Has there been any analysis of the social effects on rural communities of large scale farm conversions to carbon forestry?</p>
Paras 921, 958, 984	<p>Based on the memorandum in Appendix G, and taking into account the advice we have received from reporting officers on carbon forests, is there any need for the term/activity carbon forest to be included, or could it be subsumed into woodlot instead?</p> <p>We note that your interpretation of a carbon sink is different to that of Mr Wilson in respect to questions the Panel asked him on the CE and NATC chapters.</p>
Para 963	<p>Please explain why you disagree with the inclusion of forestry in the first sentence of the definition when it is specifically used in the second sentence? You also have not addressed the amendment sought by HORT to replace "or" by "for" in the third sentence.</p>
Para 970	<p>For the Panel’s information can you please provide some information/reasons on why the definition of “primary production activities” includes “game bird farming” and what the effects of this activity are compared to, for example, “free range poultry farming”, which has been recommended to be excluded from the definition.</p>
Para 981	<p>1. In respect of sensitive activities, you state:</p> <p><i>The activities listed in the definition are all temporary activities which may have permanent occupation over 24 hours, or involve children.</i></p> <p>How are educational facilities, community facilities, healthcare facilities, offices and hospitals temporary activities?</p> <p>Also, the Panel notes that community facility is mentioned twice in the definition. Should this be corrected under clause 16?</p>

Paragraph or Plan reference	Question
	<p data-bbox="520 273 746 300">2. You also state:</p> <p data-bbox="472 344 1382 448"><i>Those activities listed in the submission from NZPork [169.9] generally occur intermittently for short periods on any one day, as against being permanent or occurring on every day across a week.</i></p> <p data-bbox="472 490 1369 616">Please expand on your argument here and consider that the GRUZ and RLZ rules provide for recreation, rural tourism, and conservation activities in their own rights, rather than relying on the temporary activity rules in the TEMP chapter.</p>