

**BEFORE THE HEARINGS PANEL  
AT RANGIORA**

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

**AND**

**IN THE MATTER** of the Resource Management Act 1991  
**AND**

**IN THE MATTER** of the hearing of submissions on The  
Proposed Waimakariri District Plan  
Hearing Stream 8: Subdivision (Rural)

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**STATEMENT OF EVIDENCE BY VANCE ANDREW HODGSON**

**FOR THE NEW ZEALAND PORK INDUSTRY BOARD**

**27 MARCH 2024**

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## SUMMARY STATEMENT

1. This planning evidence addresses the New Zealand Pork Industry Board (“**NZPork**”) submission and the s42A Report response to the submissions on the Proposed Waimakariri District Plan (“**PDP**”), Hearing Stream 8: Rural.
2. The submissions cover the subdivision objective, policy and methods concerning reverse sensitivity. NZPork calls no evidence on the s42A Report response to its submissions on the objectives and policies and accepts the recommendations of the s42A Report writer on these matters.
3. My evidence addresses NZPork submission point 169.18 that sought the rewrite of SUB-S2 (Identified Building Platforms and Disposal Areas in Rural Zones) to require that new allotments should identify a 30 by 30m building platform site for a dwelling, vehicle manoeuvring area and accessory buildings including dwelling setbacks for each zone, and that building platforms should be setback 300m from the boundary of any paddock housing stock and wastewater treatment systems used for intensive primary production.
4. It is my view that the PDP approach to managing reverse sensitivity effects would be more robust if Identified Building Platforms were required to demonstrate compliance with all relevant Built Form Standards relating to setbacks and separation distance requirements.
5. In my opinion this is a preferable planning approach under a subdivision regime that generally looks to use a controlled activity status with a non-notification rule to enable rural subdivision. This approach provides certainty (for future owners/developers and the environment) that the location of future development meets applicable minimum land use standards.
6. The method would further achieve the outcomes sought through the plan for the rural environment and aligns with the proposed objective and policy framework.
7. My suggested amendments to the provisions of the PDP as they relate to this topic are included in Appendix 1.

## **QUALIFICATIONS AND EXPERIENCE**

8. I have set out my experience and qualifications in evidence previously provided to the Hearings Panel at Hearing Steams 1, 2, 5 and 6 and do not repeat that here.
9. I reconfirm that while these are not proceedings in the Environment Court, I consider the Environment Court's Code of Conduct for Expert Witnesses relevant, and I agree to comply with it. My qualifications as an expert have been provided. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## **SCOPE OF EVIDENCE**

10. This planning evidence addresses the NZPork submission and the s42A Report response to the submissions on the PDP, Hearing Stream 8: Subdivision (Rural).
11. The submissions cover the subdivision objective, policy and methods concerning reverse sensitivity. NZPork calls no evidence on the s42A Report response to its submissions on the objectives and policies and accepts the recommendations of the s42A Report writer on these matters<sup>1</sup>.
12. My evidence addresses NZPork submission point 169.18 that sought the rewrite of SUB-S2 (Identified Building Platforms and Disposal Areas in Rural Zones).
13. My suggested amendments to the provisions of the PDP as they relate to this topic are included in Appendix 1.
14. For the submissions of NZPork, I rely on the evidence and information previously provided to the Panel on the various types, scale and extent of pig farms in the Waimakariri district and issues of reverse sensitivity as they affect this primary production activity<sup>2</sup>.

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<sup>1</sup> Sub Ref: 169.14. 169.15. 169.17. 169.20

<sup>2</sup> Statement of Evidence PWDP Hearing 6 - Lynda Murchison for NZPork  
Statement of Evidence PWDP Hearing 6 - Ian Barugh

## **SUB-S2 IDENTIFIED BUILDING PLATFORMS AND DISPOSAL AREAS IN RURAL ZONES**

15. SUB-S2(1) requires:
1. *Any new allotment in the Rural Zones to include one or more identified building platform, and a sewage disposal area, unless it is required to be serviced by a reticulated wastewater system.*
16. An Identified Building Platform is defined in the PDP as:
- means a delineated area on a subdivision plan:*
- a) *outside of which the location of structures on an allotment is not allowed;*
  - b) *which is the subject of a condition of subdivision consent, to be complied with on a continuing basis; and*
  - c) *is recorded and issued in a consent notice in accordance with s221 of the Resource Management Act 1991.*
17. Non-compliance with SUB-S2(1) is a non-complying activity, highlighting the plans reliance on this method to achieve various plan outcomes, including managing reverse sensitivity.
18. This is a key standard for subdivision in the rural zones where boundary adjustments and subdivision creating new allotments of, 4ha and above in the RLZ and 20ha and above in the GRUZ, is a controlled activity (subject to meeting any other relevant subdivision standards and outside of any specific area, such as a flood hazard or SASM).
19. The controlled activity status for SUB-R1 and SUB-R2 is also provisioned with a non-notification rule, whereby an application is precluded from being publicly or limited notified.

20. This approach requires confidence in the standards that support the activity status and the specified matters of control. A controlled activity can of course not be declined (except if s106 of the RMA applies), and conditions can only be imposed in relation to the matters the plan reserves control over.

21. The Quality Planning Resource<sup>3</sup> provides useful good practice tips for writing controlled activity rules:

*Councils need to consider whether effects of a development up to the maximum permissible under the proposed activity could be adequately managed through the matters of control and resource conditions proposed. There are two reasons for this requirement:*

*a) to identify the total cumulative effects that may occur from resource use and development occurring as controlled activities.*

*b) more importantly, it also refers to a need to consider whether the matters of control can be effectively addressed through resource consent conditions.*

22. In terms of reverse sensitivity, the specific matter of control and discretion is as follows (included here as per the s42A recommendations version):

*SUB-MCD10 Reverse Sensitivity.*

*1. Any need to provide a separation distance for any residential unit or minor residential unit from existing activities, and any need to ensure that subsequent owners are aware of potential reverse sensitivity issues from locating near lawfully established rural activities, including but not limited to intensive farming.*

*2. Any measures required to minimise potential reverse sensitivity effects, such as noise and vibration, through subdivision design, provision of screening, structures or other mitigation methods.*

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<sup>3</sup> [Writing Effective and Enforceable Rules | Quality Planning](#)

23. I note that SUB-MCD1 *Allotment Area and Dimensions* provides some control that would respond to reverse sensitivity matters but is less directive than SUB-MCD10 *Reverse Sensitivity*.

24. SUB-MCD10 *Reverse Sensitivity* tracks up through policies and specifically to:

*SUB-P4 Integration and Connectivity*

*Achieve integration and connectivity by ensuring:*

*(2) subdivision on the boundaries between new and existing development is managed to:...*

*(a) avoid or mitigate significant adverse effects, including reverse sensitivity effects, through the use of setbacks, landscaping to achieve screening, and other methods; and*

#### **NZPORK SUBMISSION AND S42A RECOMMENDATION**

25. The NZPork submission sought to delete and replace SUB-S2 as follows:

1. For each new allotment capable of containing a residential dwelling, at least one stable building platform of 30 metres by 30 metres must be identified which is capable of (but is not limited to) containing a dwelling, a vehicle manoeuvring area and any accessory buildings, in compliance with the performance standards and performance criteria for the zone where it is located (including dwelling setbacks applicable to that zone)

2. The building platform shall be setback 300m from the closest outer edge of any paddocks, hard stand areas, structures, or buildings used to hold or house stock, and wastewater treatment systems used for intensive primary production.

The establishment of a building platform on the same site as the intensive primary production are exempt from this rule requirement."

26. The s42A Report recommendation is as follows:

294. SUB-S2 applies to Rural Zones only and is not applicable to other zones in the district. The proposed amendments suggested by the submitter relates to separation distances from sensitive activities and intensive primary production. The proposed wording from the submitter lists a range of criteria upon which the setback should be calculated, this is likely to result in confusion as some of the setbacks could be significantly more than 300m from an intensive primary production activities. This issue is already addressed in GRUZ-BFS5 and RLZ-S5, and does not need to be repeated in the subdivision chapter. I recommend the submission is rejected.

27. GRUZ-BFS5 and RLZ-BFS5 are Built Form Standards that prescribe the separation distances between intensive primary production or quarries, to and from residential activities. The s42 Report recommendation (that I supported) for Hearing Stram 6 Rural Zones<sup>4</sup>, was that this should be extended to all 'sensitive activities'.
28. GRUZ-BFS5 and RLZ-BFS5 are Built Form Standards applied at the time land use activities are considered. In the context of assessing a subdivision application, these standards might guide an assessment of a subdivision proposal (particularly in terms of SUB-MCD10 and any conditions that might be imposed, but these are not standards that must be met.
29. SUB-S2 requires the inclusion of an Identified Building Platform, but this does not need to demonstrate compliance with setbacks - GRUZ-BFS5/RLZ-BFS5 or any other setback.
30. In my experience it is common for district plans to include a standard requiring an identified building area. More so in recent plans as rural environments have become increasingly fragmented via legacy subdivision rules, demands for rural lifestyle living and responding to sensitive activities. I include examples in Appendix 2.
31. In the examples I include, I have highlighted the links to setback standards from intensive primary production activities. However, it should be noted that the examples require demonstration of a building platform at time of

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<sup>4</sup> Officer's Report: Whaitua Taiwhenua – Rural Zones (9 Oct 2023). Paragraphs 499 and 749



subdivision clear of all setbacks e.g. rural side, rear, front yard setbacks or setbacks from freshwater bodies.

32. This approach provides certainty (for future owners/developers and the environment that the location of future development meets applicable minimum land use standards.
33. I accept that the matters of control in the SUB-MCD of the proposed plan enable a site-specific subdivision design response to be considered. However, I reiterate an application for a controlled activity must be granted consent, and in this plan, this is processed on a non-notified basis such that an adjacent affected party (e.g. a pig farmer) is not part of the process.
34. I understand that the Waimakariri rural environment has a fragmented allotment structure. Some subdivision opportunity exists under the proposed plan. The evidence of NZPork and others have highlighted the conflicts that exist and can occur between sensitive activities and primary production.
35. In my opinion a preferable planning approach would be to be precautionary and require an Identified Building Platform to demonstrate compliance with all relevant setbacks at the time of subdivision.
36. I agree with the s42A Report writer that the wording proposed by NZPork to achieve this is confusing. I am also aware that there has been discussion in previous hearings about where setback measurement points are to be measured from. To simplify, I propose the standard in SUB-S2 is amended to reflect the style used in other plans and reference to compliance with all setbacks. The detail being specified in the relevant Built Form Standards themselves. Refer Appendix 1.
37. In my opinion this method tracks sufficiently through the existing subdivision policy framework. I refer to:

- ***SUB-O1 Subdivision Design***

*Subdivision design achieves an integrated pattern of land use, development, and urban form, that:*

1. provides for anticipated land use and density that achieve the identified future character, form or function of zones;

- **SUB-P1 Design and Amenity**

Enable subdivision that:

S5. Supports the character, amenity values, form and function for the relevant zone.

- **SUB-P2 Allotment Layout, Size and Dimension**

Ensure that allotment layout, size and dimensions:

2. in Rural Zones:

- a. retains the ability for rural land to be used for primary production activities; and

- **SUB-P4(2) Integration and Connectivity**

- a. avoid or mitigate significant adverse effects, including reverse sensitivity effects, through the use of setbacks, landscaping to achieve screening, and other methods; and

38. This method also tracks sufficiently through the wider policy framework. I refer to:

- **RURZ-P1 Amenity Values and Character**

Recognise the contribution of amenity values to maintaining the character of the zones, and maintain amenity values in Rural Zones by:

1. requiring separation between buildings on adjoining properties to maintain privacy and a sense of openness;

- **RURZ-P8 Reverse Sensitivity**

Minimise the potential for reverse sensitivity effects by:

1. avoiding the establishment of any new sensitive activity near existing intensive indoor primary production activities, intensive outdoor primary production activities, waste management

facilities, quarrying activities, mining activities, heavy industrial zones and rural industry in circumstances where the new sensitive activity may compromise the operation of the existing activities;

2. managing the establishment of new sensitive activities near other primary production activities;

- **GRUZ-P1 Character of the General Rural Zone**

Maintain the character in the General Rural Zone which comprises:

4. separation between residential units and farm buildings on adjoining sites, with an overall low density of residential units and buildings; and

- **RLZ-P1 Character of the Rural Lifestyle Zone**

Maintain the character in the Rural Lifestyle Zone which comprises:

1. a highly modified landscape strongly influenced by fine grained patterns and processes of human induced activity, including a predominance of small rural lots with a resulting pattern of residential units, buildings, fencing, amenity and domestic planting mixed with smaller scale primary production activities;

2. a dominance of human modified open space and vegetation, including paddocks and trees over buildings; and

3. a zone supporting activities reliant on the natural and physical resources of the Rural Lifestyle Zone.

- **SD-O4 Rural Environment**

Outside of identified residential development areas and the Special Purpose Zone (Kāinga Nohoanga), rural land is managed to ensure that it remains available for productive rural activities by:

*2. ensuring that within rural areas the establishment and operation of primary production activities are not limited by new incompatible sensitive activities.*

## **CONCLUSION**

39. It is my view that the PDP approach to managing reverse sensitivity effects would be more robust if Identified Building Platforms were required to demonstrate compliance with all relevant Built Form Standards relating to setbacks and separation distance requirements.
40. In my opinion this is a preferable planning approach under a subdivision regime that generally looks to use a controlled activity status with a non-notification rule to enable rural subdivision. This approach provides certainty for future owners/developers and the environment that the location of future development meets applicable minimum land use standards.
41. The method would further achieve the outcomes sought through the plan for the rural environment and aligns with the proposed objective and policy framework.

## APPENDIX 1 – PROPOSED AMENDMENTS TO PLAN CHANGE PROVISIONS

The provisions in the Proposed Waimakariri District Plan are shown in black and blue (a definition) text with amendments as recommended in this evidence shown with deleted text as ~~strikeout~~ in green and new text as underlined in green.

<b>SUB-S2</b>	<b>Identified <u>building</u> platforms and disposal areas in <u>Rural Zones</u></b>  <ol style="list-style-type: none"><li>1. Any new <u>allotment</u> in the <u>Rural Zones</u> shall include one or more <u>identified building platform</u>, and a <u>sewage</u> disposal area, unless it is required to be serviced by a reticulated <u>wastewater system</u>.</li><li>2. <u>An identified building platform must be located outside of all Built Form Standards specifying a setback or separation distance requirement.</u></li></ol>	<b>Activity status when compliance not achieved: NC</b>
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## APPENDIX 2 – DISTRICT PLAN EXAMPLES

Partially Operative Selwyn District Plan (Appeals Version) <a href="#">District Plan - Partially Operative Selwyn District Plan (Appeals Version)</a>		
<b>SUB-REQ2</b>	<p><b>Building Square</b> 1. Every site created shall contain a building square not less than set out in Table SUB-4 – Minimum building square dimensions. This requirement shall not apply to any site created solely for access, reserves, or network utility operations.</p>	<p>Activity status when compliance not achieved:</p> <p>2. When compliance with any of SUB-REQ2.1 is not achieved: NC</p>
<b>Definitions</b>	<p><b>Building Square</b> means a nominated area for the erection of a residential unit or principal building, clear of any:</p> <ul style="list-style-type: none"> <li>• setback relevant to the site;</li> <li>• easement; or</li> <li>• surface water body</li> </ul>	
	<p><b>Setback</b> means a distance measured horizontally from a boundary, feature or item as specified in a rule</p>	
<b>GRUZ-REQ8</b>	<p><b>Intensive Primary Production Setback</b> 1. All paddocks, structures, buildings and areas of paved or otherwise impervious material used to house stock, and any wastewater treatment systems associated with intensive primary production, shall be located a minimum distance of 300m from the notional boundary of any lawfully established existing sensitive activity on another site, and 1km from any residential zone.</p>	

Proposed Waikato District Plan (Appeals Version) <a href="#">Proposed Waikato District Plan - Appeals Version</a>		
<b>SUB-R56</b>	<p><b>Subdivision - Building Platform</b> (1) Activity status: RDIS</p> <p>Activity specific standards:</p> <p>(a) Subdivision, other than an access or utility allotment, must provide a building platform on every proposed allotment that meets all of the following standards:</p> <p>(i) A shape factor being either:</p> <p>(1) An area of 1,000m<sup>2</sup> exclusive of boundary setbacks; or</p> <p>(2) A circle with a diameter of at least 30m, exclusive of boundary setbacks; and</p> <p>(3) Containing a building platform being a circle with a diameter of at least 18m.</p> <p>(ii) Has an average gradient not steeper than 1:8;</p>	<p>2) Activity status where compliance not achieved: DIS</p>

	<p>(iii) Is certified by a geotechnical engineer as geotechnically stable and suitable for a building platform;</p> <p>(iv) Has vehicular access in accordance with Rule TRPT-R1 (Transportation)</p> <p>(v) Is not subject to inundation in a 2% AEP storm or flood event;</p> <p>(vi) A residential unit could be built on as a permitted activity in accordance with Land use – building standards in the GRUZ – General rural zone.</p> <p>Council’s discretion is restricted to the following matters:</p> <p>(b) Earthworks and fill material required for building platforms and access;</p> <p>(c) Geotechnical suitability for building;</p> <p>(d) <b>The relationship of the building platform and future residential activities with surrounding rural activities to ensure reverse sensitivity effects are avoided or mitigated;</b></p> <p>(e) Avoidance of natural hazards;</p> <p>(f) Effects on landscape and amenity; and</p> <p>(g) Measures to avoid storm or flood events.</p>	
<b>Definitions</b>	<p><b>Building Platform</b> Means land that can accommodate building developments, having regard to all of the following: (a) Soil conditions, (b) Geotechnical stability, (c) Gradient, (d) Access, and (e) Natural hazards.</p>	
<b>GRUZ-S13</b>	<p><b>Building setbacks – sensitive land use</b> (1) Activity status: PER Where: Any building for a <b>sensitive land use</b> must be set back a minimum of:...</p> <p>(vii) 300m from the boundary of buildings or outdoor enclosures used for an intensive farming activity. This setback does not apply to sensitive activities located on the same site as the intensive farming activity;</p>	
<b>RLZ-S11</b>	<p><b>Building setbacks – sensitive land use</b> (1) Activity status: PER Where: Any building for a <b>sensitive land use</b> must be set back a minimum of:...</p> <p>(v) 300m from the boundary of buildings or outdoor enclosures used for an intensive</p>	

<p><b>Proposed New Plymouth District Plan (Appeals Version)</b> <a href="#">Proposed District Plan - Appeals Version - Proposed District Plan - Appeals Version (npdc.govt.nz)</a></p>	
<b>SUB-S2</b>	<p><b>Requirements for building platform(s) for each allotment</b> 1. Each allotment must provide a stable, flood free building area suitable for building foundations in accordance with the requirements of the New Zealand Building Code.</p>

	<p>2. An area available for use as a building platform on each allotment must be identified in subdivision applications and:</p> <ul style="list-style-type: none"> <li>a) <b>must allow the buildings to comply with the standards for a permitted activity under this District Plan;</b></li> <li>b) must not include any area of land to be used for access or for the disposal of wastewater or stormwater; and</li> <li>c) must be suitable with regard to soil conditions, gradient and natural hazards.</li> </ul>
<b>RPROZ-S2</b>	<p><b>Minimum structure setbacks</b></p> <p>3. From established intensive indoor primary production structures:</p> <ul style="list-style-type: none"> <li>a. <b>sensitive activities</b> on any other site: 400m.</li> </ul>

<p><b>Proposed Central Hawke's Bay District Plan (Appeals Version)</b> <a href="#">Proposed District Plan - Appeals Version - Central Hawke's Bay Proposed District Plan - Appeals Version (chbdc.govt.nz)</a></p>	
<b>SUB-S4</b>	<p><b>Building Platform</b></p> <p>For each lot capable of containing a residential dwelling, at least one stable building platform of 30 metres by 30 metres must be identified which is capable of (but is not limited to) containing a dwelling, a vehicle manoeuvring area and any accessory buildings, in compliance with the performance standards and performance criteria for the zone where it is located (including dwelling setbacks applicable to that zone).</p>
<b>Definitions</b>	<p><b>Building Platform</b></p> <p>means land that is suitable and practical for accommodating a residential unit, or other intended building, and vehicle manoeuvring, having regard to soil conditions, gradient, access, natural hazards, indigenous vegetation and habitat, amenity, health and safety.</p>
<b>GRUZ-S11</b>	<p><b>Setback from Existing Intensive Primary Production Activities Sensitive Activities</b></p> <p>Minimum setback of buildings from any buildings or enclosure housing animals reared intensively, or from organic matter and effluent storage, treatment and utilisation associated with intensive primary production activities, is 200 metres.</p>
<b>RLZ-S6</b>	<p><b>Setback from Existing Intensive Primary Production Activities Sensitive Activities</b></p> <p>Minimum setback of buildings from any buildings or enclosure housing animals reared intensively, or from organic matter and effluent storage, treatment and utilisation associated with intensive primary production activities, is 200 metres.</p>
<b>RPROZ-S12</b>	<p><b>Setback from Existing Intensive Primary Production Activities Sensitive Activities</b></p> <p>Minimum setback of buildings from any buildings or enclosure housing animals reared intensively, or from organic matter and effluent storage, treatment and utilisation associated with intensive primary production activities, is 200 metres.</p>