Before the Hearings Panel
At Waimakariri District Council

Under	Schedule 1 of the Resource Management Act 1991
In the matter of	the Proposed Waimakariri District Plan
Between	**Various**
	Submitters
And	**Waimakariri District Council**
	Respondent

Council Officer's Preliminary Response to Written Questions on Whatitua Taiwhenua - Rural Zones on behalf of Waimakariri District Council

Date: 31 October 2023

Revision Number 2

INTRODUCTION:

1 My full name is Mark Thomas Buckley. I am employed as a Principal Policy Planner for Waimakariri District Council. I am the Reporting Officer for the Rural Zones topic and prepared the s42A Report.

2 The purpose of this document is to respond to the list of questions from the Hearings Panel in response to the Section 42A Report – Rural Zones. Specifically, this document provides a preliminary response to the pre-hearing panel questions that were not answered prior to Hearing Stream 6. I have not amended the answers to the preliminary questions that was previously provided; however, I will consider these questions in addition to evidence presented at the hearing and questions put to me as part of the formal right of reply.

3 In preparing these preliminary question responses, I note that I have not considered any of the hearing evidence presented to the panel at the hearing.

4 I am authorised to provide this evidence on behalf of the District Council.

ANSWERS TO QUESTIONS POSED BY THE PANEL

General	*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?*

	The original intent of the 3m for accessory buildings in the rural environment was for character purposes. The amendment to the setback width along the rail corridor to 4m enables building maintenance and is sufficient for a cherry picker (3.5m operating width) without further encroaching on the area of productive land. KiwiRail has provided no evidence on why 5m is a justifiable setback for building maintenance purposes in their submission. They state that the 5m setback would be sufficient for scaffolding and a cherry picker to operate. Given the physical constraints associated with being able of cantilever a cherry picker platform over the guard rail of scaffolding, and the safety issues associated with the use of mobile plant in and around scaffolding would potentially damage the footings. Raker or outriggers protrude a minimum of 0.9m, dependent upon the height of the scaffolding, from outer edge of the scaffolding. The scaffolding, outrigger/raker and the operational width of a cherry picker is 5.9m minimum for less than 5m height. More than the 5m requested by KiwiRail. The submission [373.91] from KiwiRail stated that they wanted the setback in the rural zones to be the same as the residential, commercial and industrial zones. All of these zones have a 4m setback within the Proposed Plan, which for consistency purposes has been proposed for the rural zones. I note that KiwiRail is scheduled to appear at this Hearing (online). The Panel may wish to invite KiwiRail to clarify the matters I highlight above.
	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".

	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.
	The submissions summary listed on the Council website shows the number of submissions per provision, which is where the base number was taken. Some of the submissions have been reallocated to other hearings (CIAL and Rezoning), other S42A topics and some are addressed in other parts of the S42A report. As shown in Table 3, some submissions with common themes/outcomes have also been grouped together. This has led to a disjoin in the number of submissions actually assessed for each provision.
3.2.3	*There is no recommendation on the Federated Farmers submission point.*
	Para [68] details the general approach to the amendments sought by Federated Farmers to numerous provisions in the Rural Zones through the inclusion of "new" in front of various activities. Para [69] notes that I disagree with the proposed amendments requested by Federated Farmers. I proposed the following recommendation under section 3.2.3 of the Rural Zones S42A report: I recommend that the submissions from Federated Farmers [414.193], [414.194], [414.196], [414.203], [414.204], [414.205], and [414.46] be **rejected**.
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?*

	The proposed wording put in the recommended amendment is the exact wording suggested by Hort NZ. In their submission they noted that there are approximately 26 growing operations in the district (pg. 6) and the majority of which are in the RLZ zone (pg. 47). The hearing evidence of Ms Cameron (Hort NZ) speculates on the types of fruit and vegetables that could be grown in the district given a changing climate. The amendment requested by Hort NZ does not state that all of the smaller RLZ blocks are viable standalone economic units, but that they are productive, whether this is in the form of hay, leased grazing, horses (breeding and recreational), nurseries and grain crops. There are also a number of businesses that have become established within the zone given the land requirement for the business (rural businesses, housing construction, kennels, trucking companies etc). Section 3.22.2 of the S42A discusses the economic viability of 4ha blocks in the district. I have noted that Hort NZ have been promoting artificial crop protection structure (cloth covering), which in my analysis in section 3.6.9 are permitted activities where they don't encroach on the side boundaries. Greenhouses would require a restricted discretionary consent under RLZ-BFS1, RLZ-BFS2 and RLZ-BFS6. Given that they would create stormwater runoff and character issues, which are not necessarily any different to other large buildings in the rural zone, the built form standards are considered appropriate. Table 13 of the S42A Rural Zone (page 130) shows a breakdown of property size distribution between the proposed two rural zones.
Para 122	*Is there a typo in the recommended amendment to RURZ-P2(1)?*
	The proposed wording put in the recommended amendment is the exact wording suggested by Hort NZ. A more grammatically correct wording would be: 1. ~~providing~~*Enable primary production activities*
Para 179	You state: *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. *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?*
	The objectives and policies set the direction for land use activities within the district and therefore the activity status for the rules. In this case, Objective RURZ-O1 and RURZ-O2 are most relevant, and the policy change requested by NCCTA would be inconsistent with these objectives because it is not a primary production activity or contributes towards the natural environment values of the zones. The policy change requested by the NCCTA will not change the activity status of establishing a new sports shooting facility. The policy amendment is intended to recognise the effects of reverse sensitivity on the facility.
Para 180	*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.*
	Policy NOISE-P1(3) states 'requiring sound insulation, or limiting the location of noise sensitive activities where they may be exposed to

	noise from existing activities. This limb of the policy will only be triggered where a rule relates to noise sensitive activities that are either inside a noise contour or within a certain distance of the noise generating activity. Those other activities that are for specific noise generating activities NOISE-R2 to R11, and R19 do not have a mechanism to trigger an assessment of noise sensitive activities using NOISE-P(1)(3). Given that policy NOISE-P1(3) states: *'requiring sound insulation, or limiting the location of noise sensitive activities where they may be exposed to noise from existing activities'* A more accurate assessment would be that it is only those activities that have rules specifically relating to residential units/noise sensitive activities where the policy would apply and not a non-specific "*noise from existing activities*".
Paras 182 and 183	*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. 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.*
	RURZ-P6 limits the establishment of new industrial activities within the rural zones given certain considerations. While it is recognised that heavy industrial industry has the potential to generate more adverse effects on neighbouring sensitive activities, they are greatly limited on where they can establish. The two existing heavy industrial activities within the district were both established within the rural environment

	in order to minimise reverse sensitivity issues, which is why heavy industry is recognised in RURZ-P8 and not just industry. While the activity status of the industrial activities (non-rural) is not inconsistent with RURZ-P8. Any sensitive activity setback is therefore dependent upon those activities listed in the Noise chapter and unless a change in zoning is established through a plan change and subsequent amendment to the Noise chapter, it will not have any protection other than those setbacks in GRUZ-BFS5 and RLZ-BFS5. The interface between industrial zones and sensitive activities is not adequately controlled to avoid reverse sensitivity effects within the Proposed Plan, outside the noise contour for Daiken. Within the industrial zones, buildings, as against outdoor activities, are required to have a 10m setback where they adjoin other zones. Residential units are required to have a 1m setback from internal boundaries irrespective of adjoining zoning, giving a combined minimum setback of 11m from activities. Residential units within the rural environment are required to be setback 20m from an internal boundary, giving a combined minimum setback of 30m from activities. Where the activity generates adverse noise effects on sensitive activities, then the noise chapter is the best location to address any reverse sensitivity effects. For other adverse effects on sensitive activities, then the Rural Zones are the best location to address any reverse sensitivity issues. Given that GRUZ-BFS5 and RLZ-BFS5 provide setbacks for a range of rural activities where there is a certain understanding on what the effects are likely to be, provisions of a set of standard setbacks for industrial activities where we don't understand the type or intensity of any adverse effects may not be appropriate.

Para 186	*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.*
	As discussed above, without an understanding of the type and intensity of adverse effects of an activity, it is difficult to determine any response to that activity. An example is the location of the Rangiora wastewater treatment ponds to the south east reduces the potential for odour complaints compared with it being located to the north west of the town, where warmer stronger winds could potentially result in more odour complaints. Should the policy be amended to "*Avoid the potential for reverse sensitivity effects by:*" consideration would need to be given to implementation through either an amendment to the rules associated with residential units and a range of sensitive activities, or through a new built form standard.
Para 187	*You state: 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.* *Please explain how requiring a resource consent for new sensitive activities places a responsibility on the Council?*
	Monitoring and enforcement of resource consents and consent notices is a function of the District Council. It is assumed that in order for such a process to work something formal would be required to be in place, either through a consent or a consent notice. A situation could occur where a primary production activity, could established on a boundary near a residential unit that results in an adverse effect that was not existing, without any potential recourse to address the effects. All responsibility in dealing with the issue would be

	on the council rather than any consideration given to the location of the particular primary production activity.
Para 198	*You recommend the following new policy:* *RURZ-P9 Spread of wilding trees The spread of wilding trees is minimised and where established they are removed.* *In terms of this recommended policy:* *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?* *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.*
	The proposed amendments to GRUZ-R2 incorporate the amendments requested by K A Houghton Cawte [259.1] to RLZ-R2 in section 3.17.6 of the S42A for consistency purposes. It was not the sole intention for the amendments to be only in response to the ECan submission. Given that district councils do not have any control on where afforestation can occur within the NESPF, there is limited scope for control through the district plan. The application of more stringent control over afforestation for those forests not covered by the NESPF would unfairly penalise activities that can be considered as smaller in scale, more so now that the NESPF has been amended to include carbon forests. Given the proposed NESPF amendment and the inclusion of carbon forests, and recognising that the proposed amendment to RURZ-MD4

	may not be as effective in managing wilding trees as intended, the following changes to GRUZ-R2 are proposed: Where: 1. any forestry less than 1ha, ~~carbon forest or~~ woodlot shall be set back a minimum of: a. the greater of either: i. 40m; or ii. A distance where the forest species when fully grown would shade a residential unit or minor residential unit between 10am and 2pm on the shortest day of the year; b. from any residential unit or minor residential unit on a site under different ownership, except where topography already causes shading; or c. 10m from any site boundary of a site under different ownership; ~~and~~ d. 10m from any road boundary of a paved public road~~.~~; and e. any afforestation should only occur where the wilding tree risk calculated score is less than 12. Advice Note: Wilding tree risk calculation should be undertaken in accordance with the Guidelines for the use of the Decision Support System "Calculating Wilding Spread Risk From New Plantings (Scion, 2015).
Para 200	*RURZ-MD4, would you support widening the ambit of new clause 5 to include the potential for the spread of wilding trees onto all land, i.e. not just conservation land, SNAs etc? (which would seem to be within the scope of ECan's submission).*
	I would consider that ECan's submission [316.167] does have scope to include all land under RURZ-MD4 and would support widening the ambit of clause 5 in line with the recommended changes above.
Para 201	*What is the statutory status of the New Zealand Wilding Conifer Management Strategy?*
	The New Zealand Wilding Conifer Management Strategy is developed under the Biosecurity Act (1993) and implemented by the Regional Council through the Regional Pest Management Plan (2018) and the RPS. The Proposed Plan must give effect to those provisions in the RPS.

Para 289	*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.* *Please also explain how your response to this submission point relates and differs to the recommendation in the s42A OSRZ report.*
	Para 289 spells out why the NZHHA submission is recommended to not be accepted. The activity is covered under temporary activities TEMP-R6. The purpose of GRUZ-R1 is to apply the built form standards across all of the activities that involve buildings to the rules. It is not a rule that addresses the construction or alteration of, or addition to, any building or other structure by itself.
Para 303	*You state:* *Planation [sp] forestry forms part of the 'primary production' definition and is therefore a permitted activity.* *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.*
	Rules GRUZ-R2 and RLZ-R2 permits Planation Forestry as a permitted land use in the Rural Zones. This is independent of any potential resource consent requirements in natural features and landscapes (NRL-R13) or coastal environment overlay (CE-R4). It is my understanding that the NESPF sets the rule criteria for plantation forestry and that where compliance is not achieved with the permitted activity status of the rules, that a resource consent would be required in line with the process laid out in the NESPF.

	District Council can be more stringent that the NESPF within a Proposed Plan where it meets the criteria in clause 6 of the NESPF. It should be noted that the application of commercial forestry operations will need to be reviewed once the NESCF is released. Any assessment and proposed amendments to the Proposed Plan will need to be completed prior to the completion of Hearing Stream 12.
Para 316	*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.*
	The following information has been supplied by the Planning Implementation Unit Manager: When the Proposed Plan was notified, there were 38 rural subdivision applications in progress. Of those, 1 application creating 2 x 4ha lots has been granted (non-notified), 1 was amended to create complying 20ha lots and was granted (non-notified), 6 have been withdrawn and 30 remain on hold and decisions have not been issued. The subdivision applications ranged from Controlled to Non-complying Activities. Under Section 88A(1A) applications retain the activity status at the time the application was first lodged. So, the subdivision applications retain the activity status under the Operative Plan and do not acquire the non-complying activity status under the Proposed Plan. However, land use consents are now required under the Proposed Plan to construct a dwelling on any under-size lots that receive subdivision consent after notification of the Plan. The land use consent applications are a non-complying activity. Council sought legal advice on bundling and the consequent activity status of subdivision and associated land use consent applications, given that Section 88A(1A) suggests that subdivision applications should retain their original activity status but

	bundling the applications would result in the overall status being non-complying. The legal advice was that there are strong grounds for bundling the subdivision and associated land use consent applications and on that basis, the most restrictive activity status would apply to both consents. The applications should therefore be considered as non-complying activities.
Para 334 (and Para 592)	*Do you consider the restriction on the size of a farm worker's dwelling to 90m^2 is justifiable solely on the grounds that a larger dwelling (i.e. 120m^2 as requested by the submitter) will increase the pressure for rural subdivision?* *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?).*
	While subdivision potential for a larger dwelling is more attractive, the size of the dwelling also impacts upon the character and amenity values of the rural environment. Policy RURZ-P5 notes that while minor residential are provided for, that they should be "*subservient to any residential unit on the site*" It was noted that Hort NZ did not provide any analysis on why the size of the "workers cottages" should be increased or why 120m^2 was the appropriate size, or whether there was any demand for the increase outside of the potential increase in value of the minor residential unit. On the basis of the analysis given in section 3.6.6, I favour my analysis of the need to increase the size of minor residential units.

	It should also be noted that the 90m^2 recommended size is also consistent with the approach in Selwyn District, and greater than the 80m^2 within the Christchurch City Plan and the 75m^2 in Hurunui District.
Para 343	*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.*
	The Operative Plan does not have any rules that control the permanent "storage" of vehicles. Should the vehicle accumulator strip the vehicles and sell the parts, then a resource consent is required. Council only investigates such sites upon the receipt of a complaint.
Para 368	*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.*
	The large availability of smaller rural parcel size will become more attractive for rural industry to establish within the district given the close proximity to city markets and an international freight hub. Being able to have up to ten staff at a rural industry business will enable small packhouse and processing operations to occur that would not otherwise be permitted. The largest plant nursery in the district employs ten people. While North Canterbury Business Services did not have any exact information of employment numbers, they felt that most small rural businesses operated with less than 10 staff. Those businesses with more than 10 staff are likely to have a bigger operational footprint and may have a similar impact upon character and amenity to that generate by a small industry.

	It should be noted that the Selwyn District Plan provides for no more than two full time staff for a Rural Selling Place/Commercial Activity, a Rural Service Activity and Rural Industry. The removal of the building limit was done, as the effects on character and amenity would be no different for a building irrespective of the use inside the building. Other land use effects such as traffic or noise are covered by the relevant chapters.
Para 370	*You state that you agree with a proposed amendment, but that amendment is not shown in GRUS-R10. Please provide an updated recommendation*
	GRUZ-R10 2. the manufacture, processing or production of goods involves ~~initial or~~ further processing of commodities derived from primary production;
Para 387	*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.*
	As stated in paras [382] and [388] the amended farm quarry rules have incorporated the relevant parts of the deleted rule from the Earthworks S42A.
Para 406	*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.*
	On the assumption the panel is referring to GRUZ-R15, new tourism activities similar to the agrodome in Rotorua, farm tours, or horse trekking more than likely would use existing farm buildings as part of their operations.

	On the basis that any new building is not used for overnight accommodation, then GRUZ-BFS5 does not apply. Where it is used for accommodation, then GRUZ-BFS5 would apply
Para 421	*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.*
	My understanding is that an activity within a District Plan can have a different activity status to a rule in the Regional Plan where the effects being managed are different. However, I consider that the main effects of reverse sensitivity from Free Range Poultry operations being managed by the District Plan are similar to that controlled by the Regional Council in the Regional Air Plan. In my opinion the impacts on character and amenity from a free-range poultry are not more than other farming practices that generate odour and noise.
Para 426	*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.*
	Where: 1. <u>they are located less than</u> 20m from any sensitive activity where it is located on the same site; and 2. <u>they are located less than</u> 300m from any sensitive activity where it is located on a site in different ownership

Para 446	*You state: The Proposed Plan does not have any noise or vibration constraint associated with quarrying operations.* *Is the Panel's understanding correct that the NOISE chapter contains rules and standards that would manage noise from quarry operations?*
	My understanding is that the noise chapter sets generic limits for noise at properties boundaries, but does not have a specific rule for quarrying operations, or any noise standards or methods for the management of noise or vibration from quarrying 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.*
	Micro wind turbines for energy generation use either a 4m diameter rotor for houses (2-4 KW unit) or a 12m diameter rotor for farms (20KW unit) requiring a minimum tower of 12m to operate, which is the same height as a frost fan. Those that meet the height requirement, generally the units for houses would be permitted, those that don't will require a resource consent. Those turbines meet the same requirements as frost fans. Given that the wind turbine for private energy generation for farms have a minimum rotor diameter of 12m and require a 9m separation from any ground-based obstacles, meaning that any farm-based wind turbine masts are between 15 to 50m above ground level (dependent upon turbulence from surrounding area and the length of the rotors) need a resource consent under EI-R41 as well as GRUZ-BFS3. It is noted that smaller units up to 5 KW are permitted in Wellington City, and are also proposed to be permitted under the Proposed Plan.

Para 495	*You state:* *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.* *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.*
	The DoC submission was seeking setbacks because of the increased risk of plant and animal pests. These are controlled by the Regional Council through the Canterbury Regional Pest Management Plan in accordance with Section 77(1) of the Biosecurity Act 1993. There is no evidence to determine the extent of setbacks from water bodies, SNAs and QEII sites, what plant and animal pests the rule is looking at controlling or the range across which these pests would reasonably travel, in order to set effective setbacks.
	Further answers to preliminary questions
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?*
	All of the sensitive activities listed in the definition are associated with buildings. Setbacks would be measured in accordance with GRUZ/RLZ-BFS5(2). Where a sensitive activity includes an area of land associated with a building, then measurements should be taken to the nearest point on the section where the activity would occur.
Para 520	*Please advise which submission point this paragraph is referring to.*
	McAlpines submission [226.4]. While the outcome sought was addressed in the S42A Noise right of reply, the evidence from Mr Walsh

	contained commentary on rural land use where it adjoins industrial zoned land. Para [520] provides some context around the expansion of the McAlpines site into the rural zone as shown in Figure 1 of Mr Reeve's evidence.
Para 522	*Please explain the relationship between your assessment, the RPS, and the National Planning Standards definition of the Rural Lifestyle Zone, which is:* *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.* *Which definition should have primacy? That of the RPS or the National Planning Standards?*
	The RPS does not have a definition for rural lifestyle zone. The rural residential definition in the RPS applies to properties in the Large Lot Residential Zone, that is residential development outside or on the fringes of urban areas.
Para 557	*NZHHA seek inclusion of a permitted rule relating to moveable buildings, and amend the relevant rule in all zones. You state:* *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.* *3.11.2 states:* *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] 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. *Please explain how what is stated in 3.11.2 is the same approach in respect of this submission point.*
	NZHHA in their submission states: *"The Association* ***supports the intent of the PDP for relocated buildings to be classified the same as in situ buildings, with permitted activity status for those activities involving relocated building that meet performance standards and criteria****, but has concerns as to whether the definitions support the policy intent of the PDP. The Association considers that relocatable buildings are already sufficiently provided for in the definition of 'building' in the PDP. This definition, as adopted from the National Planning Standards, includes "moveable or immoveable physical construction", which clearly includes a building prefabricated offsite or a re-sited/relocated building."* (bolding is my emphasis) As stated in 3.11.2 of the Rural Zones report, relocatable buildings where they are placed on a site where they are intended to remain, i.e., the location where they will become fixed to services, are covered by the definition of building within the PDP. Where the buildings are paced on a site awaiting for relocation to another part of the site, then they are covered by TEMP-R6. I consider that a change in the location of a building where it is attached to land (piles or foundations), and to services, is an alteration to that building. GRUZ-R1 includes any alteration to a building or structure. Inclusion of the term "relocation" within the title of GRUZ-R1 could potentially blur the boundary between what is a temporary building and what is not.

Para 581	*In assessing this submission point, did you consider the provisions in the NOISE chapter relating to sensitive activities in the Timber Processing Noise Contour?* *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.* *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.*
	• I don't agree that transport setbacks contain no noise mitigation measures. The use of porous asphalt, hot mix (lower friction coefficient) are the preferred noise mitigation measures employed by Waka Kotahi[1]. These form the most common noise mitigation measure employed by Waka Kotahi within urban environments. • The evidence presented by Dr Childs on behalf of KiwiRail and Waka Kotahi at Hearing Stream 5 stated that "*I have been involved in different activities undertaken by KiwiRail and Waka Kotahi to manage and reduce sound and vibration where practicable. These include development of quieter road surfaces, installation of ballast mat, installation of noise barriers,…*" implying that Waka Kotahi have use a number of noise measures ahead of requesting setbacks.

[1] Dravitzki, V., Kvatch, I. 2007. Road surface effects on traffic noise: stage 3 – selected bituminous mixes. Land Transport New Zealand Research Report 326. 40 pp.

	• The proposed setback area (green rectangle)[2] from the Daiken Plant is based partly on acoustic modelling to achieve a night time 45 dB L_{Aeq} but is aligned with fence lines for ease of use. The acoustic setback is based upon a radius of 460m and extends 305m into the neighbouring property. • The Marshall Day memo noted that *"…acknowledging that some noise control treatment needs to be implemented for the Daiken plant to fully comply with this contour*". It is unclear as to what level of noise control treatment is required, or whether it meets industry best practice. • The noise control boundary has been accepted by the author of the NOISE s42A report. The author has amended NOISE-R21 to reflect the HIZ Processing Noise Contour, that controls noise sensitive activities within the noise contour as a restricted discretionary activity. • No evidence has been provided that supports a 200m setback for sensitive activities from the boundary of the Daiken Plant. It is not based on the noise contour and would be inconsistent with the approach taken in NOISE-R21.
Para 587	*Is the inclusion of (6) and (7) under RLZ-R3-1 an error?*
	Yes it is.
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?*
	All issues associated with traffic safety concerns are addressed in the Transport chapter rules. The Rural chapters do not contain objectives

[2] Marshall Day Acoustics memo to Council dated 9 March 2020.

	and policies around traffic safety, the Proposed Plan is to be read as a whole and where relevant provisions sit within other chapters, then they should be considered as part of any land use activity.
Para 641	*Please consider how you have recommended to insert clauses 5 and 6, and how they flow from the chapeau of RLZ-R12.*
	As discussed during the hearing in relation to para [387], points (e) and (f) should be renumbered to (2) and (3).
Para 647	*Is the reference to conservation activities in this paragraph meant to be retail sales area associated with conservation activities ?*
	The submission does identify 1(a) retail sales as the main concern around conservation activities. RLZ-R13(1)(a) specifies a 10m setback for retail sales from the site boundaries.
Para 653	*Please advise of the location of the activities that you are referring to, and their respective zonings.*
	The three private airfields are located at: • No's 6, 7, 8, and 9 Aviation Avenue (Fernside) - RLZ • 747 Downs Road (Eyrewell) - GRUZ • 1199 Tram Road (Mandeville) - RLZ
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 any scope to change the activity status in the GRUZ, and if so, do you consider that such a change would be appropriate?*

	The submission [22.1] only identifies the rural lifestyle zone rule RLZ-R14. There were three submissions on GRUZ-R14 (Recreation Activities), two in opposition based on perceived reverse sensitivity effects and one in support. The two submissions in opposition wanted the rule either deleted or the activity status changed.
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.*
	The use of mobile trading vendors that operate during specific events, such as Muscle Car Madness, will be required to meet the permitted requirements of TEMP-R2, otherwise a resource consent is required. Where an activity that is proposed for the Northern A & P Showgrounds that is not listed in RLZ-R16, then they will either have to meet the permitted criteria in TEMP-R9 or get a restricted discretionary resource consent.
Para 735	*Taking into account our overarching question regarding KiwiRail's requested 5m setback, please explain why you have recommended a 4m setback*
	Please see the explanation under General at the beginning of the reply.
Para 797	*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?*

	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?
	My understanding of the submission is that both NZPork [169.92] and Hort NZ [295.193] are seeking to differentiate permitted activities from lawfully established activities. As stated in para [797], lawfully established activities under Section 10(1)(a)(i) and (ii) RMA do not require a resource consent where the effects of the activity are the same or similar in character, intensity and scale. If the effects of the activity change and are greater in character, intensity and scale, then a resource consent is required, and they lose their existing use rights. As spelt out above, I did not state that reverse sensitivity effects on existing lawfully established activities was not relevant. If an activity is not lawfully established, then it does not have any protection from reverse sensitivity effects. Permitted activities are not required to consider alternative locations. Consideration of alternative locations are required for activities that need a resource consent and where the activity will result in significant adverse effects on the environment. And even then if an applicant identifies alternative locations were considered, they do not have to prove the chosen location is the best, they just have to describe whether alternatives were considered and what they were (although it follows some justification for why alternatives were rejected should be provided even if not required).
Para 807	*Please table a larger and more legible copy of Figure 9 at the hearing and make this available to submitters*
	Available to panel as a pdf.
Para 819	*You state:*

	The protection of versatile soils are not relevant inside of the GCP boundary. *Are they not relevant, or just not a requirement of the RPS?* *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?*
	While versatile soils exist inside the GCP area, there are no objectives or policies within Chapter 6 of the RPS, Recovery and Rebuilding of Greater Christchurch, that afford them any protection or recognition. The Waimakariri RRS states that new rural residential areas considered versatile soils (pg. 9). The proposed growth direction for Swannanoa states that it excluded the areas to the south and south east because of versatile soils (LUC 1 and 2), yet for Oxford it identified the presence of versatile soils, but excluded it from the consideration of growth areas. For Ashley/Loburn and Gressons Road while acknowledging the importance of versatile soils should be protected for productive rural activities, it did not exclude the areas for proposed development. Overall, the only consideration of versatile soils in decision making was for Swannanoa, which includes LUC class 3 soils to the north. The Introduction to the RRS states that rural residential development is clustered around existing locations to help manage the balance of rural and for primary production and rural character purposes.
Para 829	*You state:* *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.*

	How does your recommended wording do this, and how does your recommended wording give effect to the NPS-HPL and the RPS?
	Objective RURZ-O1 recognises the importance of HPL and versatile soils within the district along with the east/west divide in property sizes as an important characteristic of the district. The proposed wording has been included as RURZ-O1(3) and not RURZ-O1(2) as stated in the paragraph. The proposed objective RURZ-O1(3) is then reflected in changes in RURZ-P2(2)(a) and GRUZ-P2(5). This should form part of and subdivision consideration in conjunction with SUB-O1 and SUB-P1.
Paras 830, 832 and Section 3.30.4	*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 NPSHPL?*
	The proposed wording in RURZ-O1 and GRUZ-P2 reflects the protection-based approach for land based primary production in NPS-HPL Objective 1. Policy 6 states "rezoning and development of HPL is avoided…". The avoid approach is reflected in RURZ-P2(2)(a) which enables primary production and those activities that have a functional need to be in the rural zone while "avoiding" adverse effects on versatile soils (RPS) and HPL (NPS-HPL). Policy 7 states that "subdivision of HPL is avoided…". This is reflected in GRUZ-P2 where the productive capacity of HPL and versatile soils is not lost. Policy RUR-P2(3) links in with RURZ-P2(2) by ensuring subdivision does not foreclose the ability of rural land to be used for primary production. Policy 8 states that "HPL is protected from inappropriate use and development. This is reflected in enabling activities that have a functional need to be in the rural zone in policy RURZ-P2 while ensuring

	that subdivision and subsequent land use does not foreclose the ability of the land to be used for primary production. Clause 3.9(1) states that "Territorial authorities must include objectives, policies, and rules in their district plans to give effect to this clause". This is reflected in the amendments to RURZ-O1, RURZ-P2 an dGRUZ-P2.
Para 838	*Please ensure all the recommended amendments are shown in Appendix A*
	Yes
Paras 853, 855 and 856	*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.* *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).* *What are the respective roles and responsibilities of the regional and district councils with respect to managing the effects of odour?* *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?*
	Effluent disposal to land is a Regional Council function and is controlled through a farm management plan. Reverse sensitivity effects associated with neighbouring land is a function of the of district council

	and is controlled through land use controls, such as those proposed in GRUZ-BFS5 and RLZ-BFS5. The reference to the effects being internalised where practicable reflects the wording in the Regional Air Plans approach to odour control associated with intensive land use activities. The setback distances for new sensitive activities is a function of the district council. The Regional Council does not control land use on adjoining properties associated with intensive primary production activities. The approach in the district plan is not inconsistent with the Regional Air Plan as the district council is controlling reverse sensitivity effects associated with sensitive activities establishing near intensive primary production.
Para 918	*Has there been any analysis of the social effects on rural communities of large scale farm conversions to carbon forestry?*
	No, not within the Waimakariri District. Beef and Lamb did commission a report that assessed the socio-economic impacts on rural communities, which used Wairoa for its assessment.
Para 921, 958, 984	*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? 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.*
	Given that the new National Environmental Standard for Commercial Forestry has been released that incorporates carbon forestry, it would be appropriate to rename all references to the NESPF with NESCF, replace "plantation" with "commercial" and remove references to carbon forestry given that it is now covered by the NESCF.

Para 963	*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.*
	The definition is for a **farm** quarry, and does not include land use activities other than farming and horticulture. Quarrying associated with other land use activities is covered by their respective definitions, plantation forestry and quarry. While I can understand the confusion with the inclusion of forestry tracks in the definition, the intent of the rule is to enable small scale quarries associated with on farm use, and not large-scale operations where gravel is extracted for kilometres of roading[3] and landing sites. I am proposing to delete the reference to forestry to avoid any confusion. The replacement of "*or*" with "*for*" in the definition will improve the understanding of the intent. The definition should now read: *means the extraction of minerals taken for use ancillary to farming and horticulture, and only used within the property of extraction. It includes the extraction of material for farm ~~and forestry~~ tracks, accessways and hardstand areas on the property of origin. It does not include the exportation or removal of extracted material (including any aggregate) from the property of origin ~~or~~<u>for</u> retail or other sales of such material.*
Para 970	*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.*

[3] It is estimated that 1,300km of new forestry roads are constructed each year (Brown K and Visser R, 2018. Adoption of emergent technology for forestry road management in New Zealand. *NZ Journal of Forestry*, Vol. 63, No. 3, pp 23-29).

	Game bird operations involve the breeding of specific birds' species (pheasant, partridge and mallards) for recreational hunting. The breeding part of the operations involves the incubation of chicks and the rearing of birds typically up to a year old. During rearing of the birds, they are kept within outdoor netted enclosures, which can have the general appearance similar to some horticultural operations. The main differences between game bird and free-range poultry operations is the sheer number of birds, the size of the operation, which mean the scale of environmental effects are less for game bird operations. Free range poultry farming is proposed to be covered by a new definition and is also proposed to be covered by a separate rule to that of primary production. While there are no game bird operations in the district at present, it does not mean that such operations could not establish in the future.
Para 981	1. *In respect of sensitive activities, you state:* *The activities listed in the definition are all temporary activities which may have permanent occupation over 24 hours, or involve children.* *How are educational facilities, community facilities, healthcare facilities, offices and hospitals temporary activities?* *Also, the Panel notes that community facility is mentioned twice in the definition. Should this be corrected under clause 16?* 2. *You also state:* *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.* *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.
	1. The reference to temporary activities in para [981] is a reference to the list that NZPork wanted included as sensitive activities, these included: conservation activities, recreational activities, rural tourism, equestrian activities and farmers markets. I referred to the fact that the existing list of sensitive activities in the definition include 24-hour occupation or children. In reflecting the structure of the sentence, I can understand the potential confusion. The sentence should read: *The activities listed in the definition in the submission are all temporary activities, ~~which may have~~while the sensitive activity definition covers activities that are permanent occupation over 24 hours, or involve children.* 2. As explained above the reference to temporary activities was not in relation to their activity status within the plan, but due to the fact that they do not involve human occupation for 24 hours or involve substantial time associated with child care. Those activities occur over short periods of time, such as a couple of hours, and may occur only once or twice a week.

Date: 31/10/2023

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