

**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)

STATEMENT OF EVIDENCE BY VANCE ANDREW HODGSON

FOR HORTICULTURE NEW ZEALAND

27 MARCH 2024

CONTENTS

SUMMARY STATEMENT3

QUALIFICATIONS AND EXPERIENCE3

SCOPE OF EVIDENCE.....4

HORTNZ SUBMISSION AND S42A RECOMMENDATION4

CONCLUSION12

**APPENDIX 1 – PROPOSED AMENDMENTS TO PLAN CHANGE
PROVISIONS.....13**

APPENDIX 2 – DISTRICT PLAN EXAMPLES15

SUMMARY STATEMENT

1. This planning evidence addresses the Horticulture New Zealand ("**HortNZ**") submission and the s42A Report response to the submissions on the Proposed Waimakariri District Plan ("**PDP**"), Hearing Stream 8: Subdivision (Rural).
2. My evidence addresses the submissions of HortNZ [295.99 and 295.100] that sought a new subdivision policy, and changes to SUB-MCD10 - *Reverse Sensitivity* matters of control/discretion, to consider the resource management matters associated with highly productive land ("**HPL**") or versatile soils when assessing subdivision.
3. I support the s42A Report writers' recommendation that new policy is proposed in GRUZ-P2 that better links GRUZ and Subdivision. However, because the primary subdivision methods have a controlled activity status (SUB-R1 Boundary Adjustments and SUB-R2 New Allotments) with a non-notification rule, it is my opinion that matters of control/discretion for subdivision should specifically address reverse sensitivity effects and effects on the productive capacity of HPL.
4. The changes I propose would further achieve the outcomes sought through the plan for the rural environment, give effect to the National Policy Statement for Highly Productive Land 2022 ("**NPSHPL**") and aligns with the proposed objective and policy framework.
5. My suggested amendments to the provisions of the PDP as they relate to this topic are included in Appendix 1.

QUALIFICATIONS AND EXPERIENCE

6. 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.
7. 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

8. This planning evidence addresses the HortNZ submission and the s42A Report response to the submissions on the PDP, Hearing Stream 8: Subdivision (Rural).
9. My evidence addresses Hort NZ submission point 295.99 that sought a new subdivision policy to consider highly productive land or versatile soils when assessing subdivision and submission point 295.100 that sought changes to the subdivision matters of control/discretion.
10. My suggested amendments to the provisions of the PDP as they relate to this topic are included in Appendix 1.
11. For the submissions of HortNZ, I rely on the evidence and information previously provided to the panel on the various types, scale and extent of horticulture and the spatial distribution of highly productive land in the Waimakariri district¹.

HORTNZ SUBMISSION AND S42A RECOMMENDATION

12. The HortNZ submission [295.99) sought that a new subdivision policy be included. The submission stating as follows:

There is no policy to consider highly productive land or versatile soils when assessing subdivision. HortNZ seeks recognition of highly productive land and versatile land and that consideration is given at the time of subdivision.

Add a new Policy – SUB-PX as follows:

Within the Rural Zones and in urban areas with an interface with a rural zone ensure that subdivision does not compromise the use of highly productive land and versatile land for rural production.

13. Responding to the submission, the s42A recommendation is not to add a new subdivision policy but to add a new

¹ Statement of Evidence PWDP Hearing 6 – Sarah Cameron for HortNZ

element policy within GRUZ-P2 to better link the GRUZ and Subdivision.

GRUZ-P2 Limiting fragmentation of land

Maintain opportunities for land to be used for primary production activities within the zone by limiting further fragmentation of land in a manner that avoids sites being created, or residential units being erected, on sites that are less than 20ha, unless:

- 1. associated with the development of infrastructure which reduces the size of the balance lot or sites to below 20ha;*
- 2. associated with the establishment of a bonus residential unit or creation of a bonus allotment;*
- 3. the erection of a residential unit is protected by a legacy provision in this District Plan; and*
- 4. it is for the establishment of a minor residential unit, where the site containing a residential unit is 20ha or greater, or is protected by a legacy provision in this District Plan;*
- 5. it is for the establishment of a minor residential unit, where the site containing a residential unit is 20ha or greater, or is protected by a legacy provision in this District Plan; and*
- 6. it does not result in the loss of productive capacity of any versatile soils and highly productive land.*

14. In the context of the proposed plan's structure, I support the recommendation. As I understand that structure, (as proposed and as recommended through s42A changes to respond to the NPSHPL), it relies on a 20ha minimum lot size (and compliance with identified standards) in the GRUZ as a primary subdivision method.
15. This is expressed through SUB-R2 for creating new allotments which links to the minimum lot sizes expressed in SUB-S1.
16. This is less clear through SUB-R1 which provides for boundary adjustments but does not link to the minimum lot sizes expressed in SUB-S1, despite that appearing to be the PDP's

intent². This issue is covered in section 3.16 of the Officer's Report: Wāwāhia whenua / Subdivision – Urban, with a recommendation to make this link.

17. HortNZ submission [295.100) addressed the subdivision matters of control/discretion and in particular SUB-MCD10-Reverse Sensitivity. The submission stating as follows:

There are no specific matters of control and discretion for the Rural Zones. Consideration of highly productive land and the potential for reverse sensitivity effects from location of incompatible activities should be included.

Subdivisions in Residential zone adjacent to the rural boundary should also be required to consider how the rural – urban interface will be managed.

Amend SUB-MCD10 as follows:

Reverse sensitivity

...

2. Potential reverse sensitivity effects with rural production on surrounding land.

3. Loss of highly productive land or versatile soils from rural production.

Or alternative relief to address the identified issue.

18. Policy 9 of The National Policy Statement for Highly Productive Land 2022 addresses reverse sensitivity as follows:

Policy 9: Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.

19. The implementation section of the NPSHPL is as follows:

3.13 Managing reverse sensitivity and cumulative effects

(1) Territorial authorities must include objectives, policies, and rules in their district plans that:

² Officer's Report: Waitua Taiwhenua – Rural Zones (9 Oct 2023). Paragraph 898.

(a) identify typical activities and effects associated with land-based primary production on highly productive land that should be anticipated and tolerated in a productive rural environment; and

(b) require the avoidance if possible, or otherwise the mitigation, of any potential reverse sensitivity effects from urban rezoning or rural lifestyle development that could affect land-based primary production on highly productive land (where mitigation might involve, for instance, the use of setbacks and buffers); and

(c) require consideration of the cumulative effects of any subdivision, use, or development on the availability and productive capacity of highly productive land in their district.

20. The s42A Report writers³ response to the HortNZ submission is that:

the existing wording in UFD-P10 and SUB-MCD10 already addresses Hort NZ wording around reverse sensitivity effects from “lawfully established rural activities, including but not limited to intensive farming” The matter of control or discretion does not however address the effects on HPL and versatile soils. Residential development on HPL and versatile soils are not reverse sensitivity effects but are direct effects of the activity. A discussion on the application of HPL and versatile soils is in section 3.20 of the s42A Rural Zones officer report. I agree in part with the submission.

21. Agreeing in part with the HortNZ submission and in responding to the submission of Waka Kotahi [275.38], the s42A Report writer recommends an additional matter of control/discretion to MCD10-Reverse Sensitivity as follows:

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.

^{3 3} Officer's Report: Waitua Taiwhenua – Rural Zones (9 Oct 2023). Paragraph 373

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.

22. The suggested amendment extends the reverse sensitivity assessment further than a consideration of effects relative to residential units or minor residential units (as per as SUB-MCD10(1)), to any measures required to minimise potential reverse sensitivity effects,
23. While I support the amendment, I believe there are still issues with SUB-MCD10 *Reverse Sensitivity*.
24. Firstly, while an assessment under SUB-MCD10(2) might(?) extend to consider the particular attributes of HPL or versatile soils and reverse sensitivity, e.g. through subdivision design, it is not explicit. Unlike reverse sensitivity effects on infrastructure for example, which is now covered generally by the s42A recommended for a new MCD10(2) *Reverse Sensitivity* clause and specifically by MCD2(4) *Subdivision Design*.
 4. *Design of the subdivision and any mitigation of reverse sensitivity effects on infrastructure.*
25. MCD10-*Reverse Sensitivity* should be directive to clearly achieve Policy 9 of the NPSHPL and implement clause 3.13 and I have set out changes in Appendix 1 to achieve this.
26. Secondly, in my opinion the effects of land use resulting from subdivision cannot be separated and there is a risk that the introduction of sensitive activities as a result of subdivision in the GRUZ, on or near HPL;
 - a) could have a cumulative effect from a reverse sensitivity perspective, and
 - b) affect HPL productive capacity.
27. SUB-MCD1 *Allotment Area and Dimensions* and SUB-MCD2 *Subdivision Design*, provide no direct matters of control or discretion on how a subdivision proposal might consider HPL in the construct of the subdivision area, dimensions or design. For example, how lot boundaries respect the spatial arrangement of HPL on a site, ensure productive capacity is not compromised, a consideration of access and the

position of infrastructure and buildings relative to the HPL resource. There is therefore a disjoint with RURZ-P2.

28. In my experience it is common for district plans to include subdivision standards and/or assessment criteria to consider the spatial arrangement of HPL (or as otherwise defined land), and existing and likely future activities in a subdivision process. I include examples in Appendix 2.
29. In my opinion, effects on the productive capacity of HPL should be a specific matter of control/discretion to consider at the time of subdivision. Reliance only on a minimum lot size does not provide for the nuanced assessment required. I see this as critical in a plan that proposes a controlled activity status (SUB-R1 and SUB-R2) for subdivision applications which must be granted consent (subject to meeting all other relevant standards) on a non-notified basis.
30. I have set out changes to achieve address this in Appendix 1. In my opinion the proposed changes track sufficiently through the 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

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

- **RURZ-O1 Rural Environment**

An environment with a predominant land use character comprising primary production activities and natural environment values, where rural openness dominates over built form, while recognising:

3. the importance of the soils that form part of the highly productive land in the District are recognised⁴.

- **RURZ-P2 Rural Land**

Maintain the availability and life supporting capacity of land in recognition of its importance for undertaking primary production, and to maintain or enhance natural environment values in Rural Zones, including by:

1. ~~providing~~ enabling for primary production activities;

2. ~~providing~~ enabling for those activities that directly support primary production, or those activities with a functional need to be located within Rural Zones, where:

a. adverse effects on versatile soils⁵ and highly productive land are minimised;

b. the amenity values and character of Rural Zones are maintained; and

c. to the extent practicable, adverse effects are internalised within the site where an activity is being undertaken.

⁴ Officer's Report: Whaitua Taiwhenua – Rural Zones (9 Oct 2023)

⁵ Officer's Report: Whaitua Taiwhenua – Rural Zones (9 Oct 2023)

3. ensuring subdivision and subsequent development is managed so that it does not foreclose the ability for rural land to be utilised for primary production activities including not diminishing the potential for rural land to meet the reasonably foreseeable needs of future generations.

- **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-P2 Limiting fragmentation of land**

Maintain opportunities for land to be used for primary production activities within the zone by limiting further fragmentation of land in a manner that avoids sites being created, or residential units being erected, on sites that are less than 20ha, unless:

6. it does not result in the loss of productive capacity of any versatile soils and highly productive land⁶.

- **SD-O4 Rural Environment**

Outside of identified residential development areas and the Special Purpose Zone (Kāinga Nohoanga), rural land is managed to ensure

⁶ Officer's Report: Waitua Taiwhenua – Rural Zones (9 Oct 2023)

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

32. It is my view that the PDP approach to managing reverse sensitivity effects relative to highly productive land would be more robust if the matters of control/discretion in SUB-MCD10-Reverse Sensitivity were explicit on this matter.
33. It is also my view that matters of control/discretion should also enable assessment of how a subdivision proposal might consider HPL in the construct of the subdivision area, dimensions or design.
34. The changes I propose 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 text with amendments as recommended in the S42A Report are shown in [blue](#) text. Amendments recommended in this evidence are shown in [green text](#).

SUB-MCD1 Allotment Area and Dimensions

1. The extent to which allotment area and dimensions enables activities to take place in accordance with the function, role and character of the zone.
2. Area and dimensions of allotments for access, utilities, reserves and roads.
3. Area and dimensions of allotments created for conservation, restoration or enhancement or for any notable tree or historic heritage item with heritage values, and any significant indigenous vegetation or significant habitat of indigenous fauna, or wāhi taonga.
4. Any effect that the balance area of a residential subdivision will have on the achievement of any required minimum net household density.
5. [The extent to which allotment area and dimensions respond to the geographical arrangement of highly productive land and versatile soils within a site and productive capacity.](#)

SUB-MCD2 Subdivision Design

1. The extent to which design and construction of roads, service lanes, and accessways will provide legal and physical access that is safe and efficient.
2. The extent to which the proposal complies with any relevant ODP or concept plan. Where a proposal does not comply with an ODP or concept plan, the extent to which the proposal achieves the same, or better urban design and environmental outcomes, than provided through the ODP or concept plan.
3. The extent to which allotments provide for solar orientation of buildings to achieve passive solar gain.
4. Design of the subdivision and any mitigation of reverse sensitivity effects on infrastructure.
5. The provision and location of walkways and cycleways, the extent to which they are separated from roads and connected to the transport network.
6. The provision and use of open stormwater channels, wetlands and waterbodies, excluding aquifers and pipes and how they are proposed to be maintained.
7. The provision, location, design, protection, management and intended use of reserves and open space.
8. The extent to which areas of significant indigenous vegetation or significant habitats of indigenous fauna, the natural character of freshwater bodies, springs, watercourses, notable trees, historic heritage items, or wāhi taonga are protected and their values

maintained.

9. The extent to which subdivision subject to an ODP:
 - a. provides for the protection of routes for future roads, and other public features of the subdivision, from being built on; and
 - b. will not undermine or inhibit the future development of identified new development areas.
10. The extent to which elements of subdivision design and anticipated future use and development respond to the geographical arrangement of highly productive land and versatile soils within a site and productive capacity.

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.
3. The extent to which allotment area, dimensions and subdivision design ensure reverse sensitivity effects are managed as to not constrain land-based primary production activities on highly productive land and versatile soils.

APPENDIX 2 – DISTRICT PLAN EXAMPLES

Auckland Unitary Plan (Operative in Part) E39 Subdivision - Rural.pdf (aucklandcouncil.govt.nz)	
E39 Subdivision - Rural	<p>E39.6.4.5 In-situ subdivision creating additional sites through establishing indigenous revegetation planting</p> <p>(1) Any established revegetation planting must meet all of the following: (a) not be located on land containing elite soil or prime soil;</p>
	<p>E39.6.4.7 Transferable rural site subdivision through the amalgamation of donor sites, including sites identified in Appendix 14 Land amalgamation incentivised area</p> <p>(1) Prior to amalgamation of donor sites, all applications for amalgamation of donor sites must meet the following: (a) donor sites must be abutting; (b) one of the two donor sites must not contain a dwelling unless the resulting amalgamated site is permitted by this Plan to have more than one dwelling; (c) donor sites must be zoned either Rural – Rural Production Zone, Rural – Mixed Rural Zone, Rural – Rural Coastal Zone or Rural - Rural Conservation Zone; (d) the land must contain at least 90 per cent elite soil or prime soil. The applicant must provide a detailed Land Use Capability (LUC) soil assessment confirming that donor sites contain at least 90 per cent elite land or prime land. The assessment must be prepared by a suitably qualified and experienced person;</p>
	<p>E39.8.1 Matters of Discretion</p> <p>The Council will restrict its discretion to the following matters when assessing a restricted discretionary resource consent application: ... (8) transferable rural site subdivision through the amalgamation of donor sites, including those sites identified in Appendix 14 Land amalgamation incentivised area: (a) effects associated with the below matters, having regard to the need to ensure the long term protection of elite soils and their availability for rural production purposes, without compromising other elements of rural character and amenity, or rural resources: (i) the matters listed in E39.8.1 (6) (a) (i) to (x); (ii) the location and the soil qualities of the donor sites; (iii) the degree to which new sites created from receiver sites comply with the Auckland-wide rules; (iv) the suitability of the transferred sites for rural residential purposes having regard to the objectives, policies and rules for the Rural – Countryside Living Zone.</p>

Proposed Waikato District Plan (Appeals Version) Proposed Waikato District Plan - Appeals Version		
SUB-R43	(1) Activity status: RDIS Activity specific standards:	2) Activity status where compliance not achieved: NC

<p>General subdivision</p> <p>GRUZ</p>	<p>(a) Subdivision must comply with all of the following standards:</p> <p>...</p> <p>(v) Where the land to be subdivided contains high class soil (as determined by a property scale site specific assessment Land Use Capability Classification prepared by a suitably qualified person), the additional allotment created by the subdivision, exclusive of the balance area, must not contain more than 15% of its total land area as high class soils within the allotment.</p> <p>Council's discretion is restricted to the following matters:</p> <p>...</p> <p>(f) Effects on rural productivity and the availability of high class soils;</p>	
<p>SUB-R46</p> <p>Boundary relocation</p> <p>GRUZ</p>	<p>(1) Activity status: RDIS Activity specific standards:</p> <p>(a) Subdivision must comply with all of the following standards:</p> <p>...</p> <p>(v) Where the land to be subdivided contains high class soil (as determined by a property scale site specific assessment Land Use Capability Classification prepared by a suitably qualified person), the additional allotment created by the subdivision, exclusive of the balance area, must not contain more than 15% of its total land area as high class soils within the allotment.</p> <p>Council's discretion is restricted to the following matters:</p> <p>...</p> <p>(f) Effects on rural productivity and the availability of high class soils;</p> <p>(g) Effects on high class soils, farm management and productivity;</p>	<p>2) Activity status where compliance not achieved: DIS</p>

<p>Partially Operative Selwyn District Plan (Appeals Version) District Plan - Partially Operative Selwyn District Plan (Appeals Version)</p>	
<p>SUB-Matters for Control or</p>	<p>1.Where any site contains highly productive land and is not for the provision of important infrastructure or natural hazard mitigation works, how any potential cumulative loss within the District of the:</p>

<p>Discretion</p> <p>GRUZ</p>	<p>a. availability of highly productive land for rural production activities will be avoided if possible, or otherwise mitigated; and</p> <p>b. productive capacity of highly productive land will be avoided if possible, or otherwise mitigated.</p> <p>2. Where any site contains highly productive land and is for the provision of important infrastructure or natural hazard mitigation works, the functional need or operational need for that site.</p>
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<p>Proposed New Plymouth District Plan (Appeals Version) Proposed District Plan - Appeals Version - Proposed District Plan - Appeals Version (npdc.govt.nz)</p>	
<p>SUB-R4</p> <p>RPROZ</p>	<p>Subdivision of land to create allotment(s) within the Rural Production Zone</p> <p>Activity status: CON</p> <p>Matters over which control is reserved:</p> <p>...</p> <p>Management of potential reverse sensitivity effects on existing land uses, including network utilities, rural activities, significant hazardous facilities or highly productive land.</p>