



PROPOSED FAR NORTH DISTRICT PLAN
RECOMMENDATIONS OF THE INDEPENDENT HEARINGS
PANEL
RECOMMENDATION REPORT 9
Hearing 9: Rural Zones; Horticulture Zone and Horticulture
Processing Facilities Zone

March 2026

RECOMMENDATION REPORT 9

Recommendation Report 9 is to be read in conjunction with the **Preamble Report** and **Recommendation Reports 1, 15C, 15D, 16 and 17**.

Recommendation Report 9 contains the Panel's recommendation on: Part 3 – Area Specific Matters – Rural Zones (Rural Production Zone, Rural Lifestyle Zone, Rural Residential Zone, Settlement Zone); and Part 3 – Area Specific Matters - Special Purpose Zones (Horticulture Processing Facilities Zone and Horticulture Zone). It also contains the Panel's recommendations on a number of consequential rural matters related to the Subdivision chapter.

Recommendation Report 9 also contains the following appendices:

Appendix 1: Schedule of Hearing Attendances

Appendix 2: Hearings Panel Recommended Amendments to the PDP – tracked from the notified version (provisions not subsequently renumbered) including:

Appendix 2.1 Rural Production Zone Chapter

Appendix 2.2 New Horticulture Precinct Provisions

Appendix 2.3 Rural Lifestyle Zone

Appendix 2.4 Rural Residential Zone

Appendix 2.5 Settlement Zone

Appendix 2.6 Horticulture Processing Facilities Zone

Appendix 3: Summary table of the Hearings Panel recommended decisions on each submission point including:

Appendix 3.1 Recommended Decisions on Submissions - Rural – Wide Issues and Rural Production Zone

Appendix 3.2 Recommended Decisions on Submissions - Rural Lifestyle Zone

Appendix 3.3 Recommended Decisions on Submissions - Rural Residential Zone

Appendix 3.4 Recommended Decisions on Submissions - Settlement Zone

Appendix 3.5 Recommended Decisions on Submissions - Horticulture Processing Facilities Zone

Appendix 3.6 Recommended Decisions on Submissions - Horticulture Zone

The Independent Hearings Panel for this hearing comprised Robert Scott – Independent panel member, Steve McNally - Council member, Alan Watson - Independent panel member; and Peter Kensington - Independent panel member.

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RECOMMENDATION REPORT 9

1. Introduction

1.1 Report Structure

This is **Recommendation Report 9** prepared by the Independent Hearings Panel appointed to hear and make recommendations with respect to submissions and further submissions lodged on the Proposed Far North District Plan (**PDP**).

This recommendation report makes findings and recommendations relating to submissions on the provisions in the following parts, sub-parts, chapters and sections of the PDP; and on a number of other general or miscellaneous matters.

PDP Part	PDP Sub-Part	PDP Chapter or Provisions
Part 3 – Area Specific Matters	Zones	
	Rural Zones	Rural Production Zone Rural Lifestyle Zone Rural Residential Zone Settlement Zone
Part 3 – Area Specific Matters	Special Purpose Zones	
		Horticulture zone Horticulture Processing Facilities Zone

1.2 Section 32AA of the RMA

The requirements in clause 10 of the First Schedule of the Act and s32AA RMA are relevant to our considerations of the PDP provisions and the submissions received on those provisions. These are outlined in full in the **Preamble Report**.

We have not produced a separate evaluation report under s32AA. Where we have adopted the recommendations of Council’s hearing report authors, we have adopted their reasoning, unless expressly stated otherwise. This includes the s32AA assessments within or attached to the relevant hearing reports, provided within evidence for Submitters, and/or within the Council’s right of reply reports. Those reports are part of the public record and are available on the Council website.

Where our recommendation differs from the hearing report authors’ recommendations, we have incorporated our own s32AA evaluation into the body of our recommendation report as part of our reasons for recommended amendments, as opposed to including this in a separate table or appendix.

As per Section 4.2 of the **Preamble Report** where we generally agree with the Council recommendations relating to the relief sought by those submitters who did not wish to speak at the hearing, we have concluded that these matters are not in contention. In that regard, we have focussed our discussion in this recommendation report on those submitters who presented evidence to us.

1.3 Consequential Amendments

This recommendation report contains consequential amendments, including to or from other plan chapters. These are discussed further in this report.

2. Procedural Issues

2.1 Defer Hearing 9 and 15A

The Panel received a request from a submitter¹ seeking a deferment of Hearing 9 - Rural, Horticulture and Horticulture Processing (to 2 - 5 December 2024) and Hearing 15A Rezoning General and Kauri Cliffs (to October 2025) on the basis that the Government has committed to a reform of the National Policy Statement on Highly Productive Land (**NPS-HPL**) including (but not necessarily limited to the definition of highly productive land in the NPS-HPL) as part of its Resource Management Act (**RMA**) reforms.

While the Panel had sympathy for the uncertainty raised by this submitter we are of the view that the delivery timeframes for RMA reform are still uncertain and may be subject to change as is often the case with government timetables and competing government reforms. Furthermore, the Council has undertaken considerable effort to align with the NPS-HPL as part of the rural group of chapters in the PDP. Accordingly, as set out in our Minute 12 we have determined that we would hear the Rural chapters in Hearing 9 as scheduled but would review the situation as the reform process progresses and as timelines become more certain.

2.2 Pre-Hearing Meeting

As set out in the hearing report we were advised that the Council officers met with officers from Northland Regional Council (**NRC**) on 7 October 2024 to discuss how NRC is progressing alignment of the Regional Policy Statement (**RPS**) with the NPS-HPL to help inform recommendations relating to the NPS-HPL in the hearing report. We were advised that NRC had confirmed that the regional council passed a resolution in February 2024 that work relating to the identification of highly productive land (**HPL**) and the inclusion of HPL maps in the RPS was to be put on hold for 12 months due to the uncertainty about future changes to the NPS-HPL. The position of the NRC with respect to the NPS-HPL implementation has been reflected in the hearing report and the NRC evidence presented at this hearing.

2.3 Interim Guidance

Following the hearing of evidence and the receipt of the Council right of reply the Panel issued Interim Guidance (Minute 23) relating to the Horticulture zone. That guidance states:

As set out in paragraph 47 of our Minute 1 – Hearing Procedures, the Panel may issue interim guidance on any particular topic if it has implications for the hearing of other topics. We have held interim deliberations on this topic and we consider that there is merit for the Horticulture Zone to be amended to a precinct within the rural chapters sections of the PDP, given

¹ Audrey Campbell-Frear (S209 and FS172)

that the special purpose zone fails to meet the criteria in Section 8.3 of the National Planning Standards.

We wish to inform all parties who are preparing further evidence that relates to land currently zoned Horticulture Zone in the PDP, that they should proceed on the basis that Panel is likely to recommend that this zone be redrafted as a precinct in accordance with the National Planning Standards provisions.

In the interests of efficiency our deliberations, findings and recommendations have been based on the Horticulture zone (as notified) being redrafted as a Horticulture Precinct. We note that we received submissions and evidence on the notified Horticulture zone provisions and we have endeavoured to take these into account in our findings and recommendations as they relate to the new Horticulture Precinct. We have also confirmed with the Council reporting officer that the final recommendations relating to the new Horticulture Precinct have also incorporated the recommendations made in response to submissions and evidence in relation to the Horticulture zone.

In the interests of efficiency and clarity, we refer to the notified Horticulture zone and the proposed Horticulture Precinct as the “Horticulture zone/precinct” throughout this recommendation report.

2.4 Late Submissions

There were no late submissions to be determined.

2.5 National Planning Instruments

As discussed in section 3.2 and 3.3 in the **Preamble Report**, where any national policy or environmental standard was notified prior to the hearing these provisions have been incorporated in the hearing report and addressed at the hearing and in our evaluations and recommendations. With regard to the ten national policy statements and environmental standards that came into effect on 15 January 2026 (i.e. after all hearings had been completed) we have determined (following legal advice) that the Council can only give effect to those documents through a Schedule 1 variation or plan change process. See also Minutes 40-42 which address this matter.

3. Topic 1 – Rural Production Zone

3.1 Relevant Provisions

The relevant provisions we address in the Recommendation Report for this topic relate to:

- Overview
- Objectives RPROZ O1-O4
- Policies RPROZ P1-P7
- Rules RPROZ R1-R37
- Standards RPROZ S1-S7

As set out in the section 32 report and Overview statement, the Rural Production zone is the largest zone in the District and accounts for approximately 65% of all land. The stated purpose of this zone is to provide for primary production activities, including farming (which covers both horticulture and apiculture as well as pastoral farming), intensive indoor primary production, non-commercial farm quarrying and plantation forestry activities. It also provides for rural industry activities that support primary production and have a functional need to be in the rural environment. Additionally, it also supports other activities such as rural tourism, subject to the activity being complementary to the function, character, and amenity values of the rural environment.

3.2 Overview of Submissions Received

There were 572 original submission points on the Rural Production zone (**RPROZ**) chapter and associated subdivision minimum lot sizes, including 148 submission points in support, 110 supporting in part, none with a neutral position and 218 submissions in opposition. There were 825 further submission points received on the RPROZ chapter and associated subdivision minimum lot sizes (as set out the Subdivision Chapter (SUB-S1).

As set out in the hearing report the main submissions on the Rural Production zone topic came from:

- Central and local government, namely FNDC (S359), NRC (S359) and MoE (S331).
- Non-governmental organisations, such as Forest and Bird (S511), Kapiro Conservation Trust (S442) and Carbon Neutral NZ Trust (S529).
- Iwi groups, such as Wai 2003 and Wai 250 Claimant Groups Te Wahapu and Hokianga (S60) and Te Waka Pupuri Putea Trust (S477).
- Infrastructure providers such as Transpower (S454), Twin Coast Cycle Trail (S425) and RNZ (S489).
- The primary production sector, such as Federated Farmers (S421), Horticulture NZ (S159) and Summit Forests (S148).
- A group of large landowners in the RPROZ with some common interests, being Bentzen Farm Limited (S167), P S Yates Family Trust (S333), Setar Thirty Six Ltd (S168), The Shooting Box Ltd (S187), Wendover Two Limited (S222) and Matauri Trustee Limited (S243).
- Other individual submitters, such as Trent Simpkin (S24), John Andrew Riddell (S431) and Sarah Ballantyne and Dean Agnew (S386).

The hearing report set out 30 Key Issues based primarily on each objective, policy, rule and standard and the submissions associated with these key issues have been extensively covered in the hearing report. As a result, many of the issues addressed in the hearing report were not contested in evidence put to us at the hearing.

As we are focussed on those matters in contention we have condensed the key issues into the following:

3.3 Key Issues

The key issues identified in the hearing report and in evidence are set out below:

- Key Issue 1: Naming of the RPROZ
- Key Issue 2: Lot Size/Density within the RPROZ
- Key Issue 3 Giving effect to the NPS-HPL
- Key Issue 4 RPROZ Objectives
- Key Issue 5: RPROZ Policies
- Key Issue 6: RPROZ Rules
- Key Issue 7: RPROZ Standards
- Key Issue 8: RPROZ Panel Questions
- Key Issue 9 Definitions.

3.4 Key Issue 1 - Naming of the RPROZ

3.4.1 Matters Raised in Submissions and Evidence

There were a number of submissions that questioned the name chosen for this rural zone. The naming of zones in the PDP has generally followed the Zone Framework Standard as set out in Part 8 of the National Planning Standards 2019. The question arose as to whether this zone should be a “General Rural zone ” or a “Rural Production zone ”.

The descriptions of each zone in the National Planning Standards are as follows:

General rural zone

Areas used predominantly for primary production activities, including intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.

Rural production zone

*Areas used predominantly for primary production activities that rely on the productive nature of the land and intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.*²

Mr Peter Hall on behalf of Bentzen Farm Limited (S167.089), Setar Thirty Six Limited (S168.087) and others presented evidence in favour of having the zone name changed from a Rural Production zone to a General Rural zone. The thrust of Mr Hall’s evidence was that much of the Rural Production zone in the Far North District is not as productive

² National Planning Standards (2019) – Table 13

in nature as land defined as ‘highly productive land’ under the NPS-HPL nor is it currently used for primary production activities. Mr Hall still supported a General Rural zone name on the basis that this zone provided for a wide range of activities appropriate for a rural environment but not based on rural production.

In the end, Mr Hall, while still retaining his view that the name of this rural zone should reflect the types of land uses that might be anticipated in that rural zone, considered that the actual name of the zone was less important provided the objectives, policies and rules enabled and provided for the range of activities in addition to rural production.

In response, the Council reporting officer, Ms Pearson, acknowledged that the zone descriptions are almost identical, except for the focus on “*relying on the productive nature of the land*” in the Rural Production zone description. She also acknowledged that the rural land in the Far North caters for a range of other activities appropriate for a rural environment that are not strictly production based. However, she considered that the naming of the zone should reference “rural production” for the following reasons:

- a) The Rural Production zone description in the Standards refers to ‘*areas used predominantly*’ for primary production – it does not require that all land in the zone be used for primary production.
- b) The term ‘*relying on the productive nature of the land*’ does not equate to the definition of ‘highly productive land’ in the NPS-HPL. Accordingly, there is no requirement that all land in the RPROZ be HPL and HPL can be located in either Rural Production or General Rural zones.
- c) Both the Rural Production and General Rural zone descriptions provide for a range of other activities that either support primary production or require a rural location and the wording is identical in this respect. Changing the zone name from one name to the other will not necessarily better reflect the range of activities that occur in the rural environment.
- d) The key changes to the RPROZ between the ODP and PDP were focussed on providing stronger protection for primary production activities compared to the ODP, which aligns well with the Rural Production zone description that focuses more on the productive aspect of the zone.
- e) The ODP name of the zone (that pre-dates the introduction of the Standards) is the “Rural Production zone”. The benefits of retaining the same name for the largest zone in the Far North District were discussed internally with Council staff prior to notification of the PDP, including that the zone name will be familiar to landowners and the general public.
- f) There were multiple other changes made to ODP zone names within the rural environment for the PDP (e.g. inclusion of General Coastal and Waimate North into the RPROZ; Coastal Living, Point Veronica and South Kerikeri Inlet into Rural Lifestyle etc). Having one consistent zone name for the majority of the rural environment provides continuity and better understanding for landowners, compared to being allocated a ‘new zoning’ under the PDP.³

³ Council hearing report Paragraph 65

3.4.2 Hearings Panel Evaluation

We agree with the Council officer on this matter and while this became a rather moot point in the end, we still consider that specific reference to rural production is important for this zone due to the importance of rural production to the Far North economy and in particular the recognition that rural production offers the Far North a competitive advantage to other rural production areas in New Zealand. We have more to say about this in our discussion below, in particular with regard to horticulture production.

3.4.3 Hearings Panel Recommendations

We recommend that the Rural Production zone (**RPROZ**) retain its current name and that those submissions from Bentzen Farm Limited (S167.089), Setar Thirty Six Limited (S168.087) seeking it be renamed to General Rural zone be rejected for the reasons above as set out in **Appendix 3.1**

3.5 Key Issue 2 - Lot Size/Density within the RPROZ

3.5.1 Matters Raised in Submissions and Evidence

While this hearing topic is focussed on the rural zones and their respective objectives, policies, rules and standards in the PDP, the Council received many submissions relating to minimum lot sizes in rural zones. While this standard is strictly part of the subdivision chapter (heard as part of Hearing 16), the Council reporting team considered it relevant to include submissions relating to lot size (being Rule SUB-S1 in the Subdivision Chapter) as part of this topic. In this case, we agree with the reporting officers that a departure from the otherwise sequential/ chapter by chapter approach to the hearing structure is appropriate. In that regard this recommendation report should also be read in conjunction with **Recommendation Report 16-Subdivision**.

We received evidence seeking that the RPROZ allow more flexibility on lot sizes so that more lifestyle subdivision could be undertaken within the zone. To summarise, the relevant minimum lots sizes under Rule SUB-S1 provides for the following in the RPROZ:

- Controlled activity 40ha
- Discretionary activity 8ha.

The policy framework for the RPROZ (Policy RPROZ-P7) provides criteria for the assessment of a discretionary activity under SUB-S1 including consideration of the effect on production potential, the extent the activity relies on the productive nature of the soil, the potential loss of highly productive land and reverse sensitivity.

Mr Peter Malcolm (S414) presented evidence seeking the ability to undertake rural lifestyle subdivision within the RPROZ as an important component of rural business. He stated that this would:

- a) Allow older farmers and their families, wider family working on farms and rural workers to live and work near the farms that they are involved with;
- b) Provide people with financial security and independence (not able to be provided without subdivision, simply providing a house does not achieve this) and supporting work flexibility and connection to an area;

- c) Help to reverse depopulation trends in the rural environment and address rural labour shortages;
- d) Support greater investment in rural areas; and
- e) Enhance rural productivity (if lots are able to be rearranged to provide for larger balance lots).

Mr Malcolm sought additional subdivision provisions to allow for a 2ha lot around an existing family home and a cluster of up to two 1ha lots provided that a balance lot of at least 40ha was maintained.

Mr Malcolm also sought more flexibility for boundary adjustments and in particular that the minimum lot size be decreased from 8ha to 1ha.

Mr Malcolm reasoned that this was necessary to allow older farmers to remain in the rural environment, provide housing for rural workers and to assist in the trend of rural depopulation being experienced.

Ms Fiona King (on behalf of LJ King Limited (S543 and S547)) also presented evidence in support for smaller minimum lots sizes. She stated that the Far North has many diverse townships, communities and housing in rural locations and that there is a need to allow flexibility to meet financial needs. She referred to the higher cost of building in the Far North and in rural areas in particular. In her view, smaller lots were needed to support the viability of rural communities and sought a minimum lots size down to 2,000m² - 4,000m² as per the ODP rule framework. Ms King also sought a new provision to allow multiple houses on existing lots at a ratio of one dwelling for every 4ha.

Ms King gave us numerous examples of rural production activities that would benefit from allowing smaller minimum lots sizes and/or additional dwellings and she described some of the financial pressures facing productive farming activities in the Far North. This included rising building and compliance costs, costs of running farms (maintenance, farm plans, weed control etc). In her view, a 40ha farm was not viable as a farming activity without a supplementary income stream due to the expenses and compliance costs associated with maintaining a block that size.

In a similar vein to the evidence of Mr Malcolm, Ms King stated that rural lifestyle blocks support rural communities and the social and cultural wellbeing of the rural people. She stated that *“there is a need to encourage people to come and support these communities, not scare them away with large sized lots that are difficult to maintain”*.

Mr Peter Hall, on behalf of Bentzen Farm Ltd (and others), sought a minimum lot size of 20ha subject to resource consent for a restricted discretionary activity on the basis that this lot size would still be large enough to retain the rural productivity and rural character of land in the RPROZ. He also opined that the ability to subdivide to 20ha would provide for retirement income, enable people to continue to live on the land and in doing so support populations in rural communities. Finally, Mr Hall also supported a minimum lot size based on average lot size rather than an absolute minimum for each lot. In Mr Hall’s view, that would allow for a range of lots sizes to follow natural boundaries, topography or other constraints or features.

Ms Lynley Newport (S112.001) presented evidence seeking a minimum lot size of 12ha with the ability to create smaller lots ranging in size from 4,000m² to 8,000m² with a 12ha balance lot provided. She also sought the lot size enabled through a discretionary activity consent be reduced from 8ha to 4ha on the basis that 4ha lots were still productive.

She stated that the proposed rules relating to lot sizes were too rigid and that farming needed provisions that were more responsive to the range of productive activities that occur in rural areas from dry stock farming to dairy farming and horticulture.

Mr Denis Thomson on behalf of Thomson Survey (S197.001) presented evidence seeking the ODP minimum lot sizes which provided a pathway for a 4,000m² lot to be subdivided from titles issued prior to 28 April 2000 or a return to the district plan prior to the ODP that allowed for a retirement lot to be subdivided from a title more than 5 years old.

His reasoning mirrored the reasoning of other submitters seeking more subdivision flexibility including encouraging people to remain in rural environments and the positive benefits this would bring to rural communities and businesses.

Ms Cook Munro (S421.177) presented evidence on behalf of Northland Federated Farmers and stated that Northland Federated Farmers supported a reduction of the minimum lot size from 40ha to 20ha as a controlled activity.

Northland Regional Council (S359) lodged submissions and presented evidence in support of the notified 40ha controlled activity minimum lot size and 8ha discretionary lot size and indicated support for the reporting officer's proposed amendments to give effect to the requirements of the NPS-HPL. The evidence confirmed that NRC has not completed the mapping process as the current government has signalled significant changes to the NPS-HPL. This includes the potential to remove Land Use Capability (LUC) 3 from the definition which would have a significant impact on the mapping for Northland. In February 2024, NRC passed a resolution that work would be paused for 12 months to allow for clarity on the amendments to the NPS. These proposed amendments were released in late December 2025 and became operative in early 2026 (see Section 2.5 Procedural. In that regard we note that the NPS-HPL has been amended to exclude consideration of Clauses 3.6(1), 3.6(2), 3.6(3) and 3.6(4) when evaluating any urban rezoning of LUC 3 land. We have factored this recent change into our evaluation.

The evidence expressed support for the use of a horticulture zone as the primary method of zoning for protecting highly productive land.

We also received other submissions from a number of submitters supporting the minimum lot size of 40ha and discretionary activity status to allow for a 8ha lot.

3.5.2 Hearings Panel Evaluation

The section 32 report for rural areas (Report No. 3)⁴ sets out the zoning strategy for the rural zones. It states that the purpose of the RPROZ is to provide for primary production activities, including farming (which covers both horticulture and apiculture as well as pastoral farming), intensive indoor primary production, non-commercial farm quarrying and plantation forestry activities. It also recognises that the RPROZ needs to provide for

⁴ <https://www.fndc.govt.nz/Your-council/district-plan/proposed-district-plan/related-documents/section-32-reports>

rural industry activities that support primary production and have a functional need to be in the rural environment. Additionally, it recognises that other activities such as rural tourism, subject to the activity being complementary to the function, character, and amenity values of the rural environment are an important component of rural character and the rural economy.

The importance of rural production is highlighted in the section 32 analysis reports, stating that primary production activities made up 21% of total businesses in the District and accounted for 13% of employment. It acknowledges that these figures could now be higher, due to the important role the primary production sector has had since the global Covid19 pandemic, as the primary production sector was able to continue to operate while other sectors were heavily impacted, such as tourism.⁵

The section 32 report recognises that those provisions in the ODP that have enabled further subdivision have resulted in fragmentation of rural land and recommends that further fragmentation is prevented to ensure it is available for primary production activities for current and future generations. The section 32 report highlights that there has been a noticeable change in some parts of the district due to population growth in the eastern coastal areas and in urban centres such as Kerikeri/Waipapa and that there has also been high demand for rural residential and rural lifestyle development in these areas.

The section 32 report refers to the Rural Environment Economic Analysis Report (updated August 2020)⁶. This report highlighted a growing demand for further rural subdivision, which has resulted in the creation of rural residential and rural lifestyle properties, in areas potentially better suited for use by primary production activities, particularly horticulture. The report concludes that better management of where and how rural residential and rural lifestyle development occurs in the future is needed to avoid a situation where growth of housing in the rural environment is at the expense of the productive capacity of the rural land resource.

The section 32 report considers that:

The policy and rule framework of the ODP that manages the rural environment does not recognise the value of protecting highly productive land or versatile soils for primary production activities, does not allow for consideration of whether an activity needs to be established in the Rural Production zone or whether an activity would be more appropriate in a settlement or urban centre.

(...)

The Rural Environment Economic Analysis Report has identified the importance of the primary production sector to the District and illustrates how highly productive land (with access to water) provides for the highest economic return as a range of primary production activities can be supported. The primary production activity with the highest economic

⁵ Rural section 32 report page 18

⁶ https://www.fndc.govt.nz/_data/assets/pdf_file/0018/18072/Section-32-Rural-Environment-Appendix-2.pdf

*return is horticulture. Horticulture also generates the highest levels of employment compared to other farming activities such as beef farming where few or no staff may be required.*⁷

In a broad context across all rural zones the section 32 report set out the following key principles for determining the minimum lot sizes (as notified in the PDP) as follows:

- a) The need to prevent further fragmentation of land in the Rural Production zone unless it is to support a primary production activity. This being the only zone in the district where pastoral farming can be undertaken and typically farming activities (other than horticulture) need larger land parcels to be economically viable.
- b) The need to direct the demand for rural lifestyle and rural residential development away from the most productive land in the district, towards locations that are close to urban centres/settlements and have good access to transport routes.
- c) Smaller lot sizes in the Horticulture zone to recognise that smaller land parcels with good access to water can be more productive if they are in horticultural use.
- d) Only consider allowing rural lifestyle sized lots in the Rural Production zone where there is an identified biodiversity benefit.

The rationale in the section 32 report for the minimum lot sizes for the RPROZ is set out below:

*Rural Production zone: 40ha was adopted as the minimum controlled lot size in the Rural Production zone as per the Rural report. However, it was considered important to put a lower cap on the minimum lot size that could be applied for as a discretionary activity. 8ha was adopted as the discretionary minimum lot size to recognise that sites with good access to water can still be productive at this scale. The full discretionary activity status will allow Council to consider things like access to water when considering if the subdivision should be granted. It also means that subdivision of lots down to 8ha in the Rural Production zone will still be possible through the resource consent process should more irrigation and water storage schemes be developed over the life of the PDP.*⁸

The hearing report acknowledges the submissions seeking the retention of the more enabling ODP provisions and the genuine desire to provide an income stream to those engaged in rural production via the subdivision process and the benefits that this has for the rural population and the rural community wellbeing generally. The hearing report also recognises the obligations that Council has under section 31(aa) of the RMA to provide sufficient development capacity in respect of housing and business land to meet the expected demands of the district. This also needs to be balanced against the need to protect highly productive land (as required by the NPS-HPL) and the need for supporting infrastructure to support residential growth.

The hearing report relies on the general thrust of the section 32 report and states that:

⁷ Section 32 report page 18.

⁸ Rural section 32 report page 19

... the ODP approach to managing rural subdivision in the Rural Production zone is fairly enabling and prioritises shorter term landowner choice over the long-term viability and protection of the productive rural environment. As set out in the Rural section 32 evaluation report, allowing ad-hoc rural lifestyle sized lots anywhere in the Rural Production Zone has resulted in pressures on transport infrastructure and, in some places, pressure for other services, increased instances of reverse sensitivity effects, sterilisation of productive land by non-productive activities and increasing fragmentation of land.⁹

The hearing report goes on to recommend that the RPROZ retain its rural production focus with limited options for residential living and focus these opportunities into specific rural zones (e.g. Residential Lifestyle zone , Rural Residential zone and Rural Settlement zone) and also the additional range of residential typologies provided for in the General Residential zone , as opposed to enabling rural lifestyle subdivision opportunities across the RPROZ.

Another reason set out in the hearing report for the minimum lot size provisions is to ensure that lots remain large enough to support at least one form of primary production activity. If there was a need for a smaller lot size (to accommodate a horticultural activity on a smaller piece of highly productive land for example), the ability of that lot to support that proposed land use would be assessed through a discretionary activity consent process if the lot was between 8ha and 40ha. Support for this change from the ODP regime comes from the gazetting of the NPS-HPL which requires that subdivision of HPL is avoided unless the applicant can demonstrate that the proposed lots containing HPL will retain the overall productive capacity of the subject land over the long-term. The NPS-HPL sets a strict requirement for territorial authorities to ensure that any subdivision of HPL:

- a) avoids if possible, or otherwise mitigates, any potential cumulative loss of the availability and productive capacity of highly productive land in their district; and
- b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on surrounding land-based primary production activities.¹⁰

The hearing report concludes that the need to protect the productive capacity of rural areas coupled with the direction of the NPS-HPL necessitates a different approach to the subdivision of lots than that adopted by the ODP.

The Council right of reply acknowledged all the evidence presented to us and the general thrust of seeking more enabling rural subdivision provisions or least retaining the current approach under the ODP. In response to questions from the Panel, the right of reply acknowledged that there is a nationwide trend toward increasing minimum lot sizes in rural areas and Ms Pearson cited the examples of minimum lot size increases in Auckland (40ha to 100ha), Western Bay of Plenty (40ha), Timaru (40ha) and Waipa (40ha) with the majority of these district plans only having provisions to reduce the minimum lots size via

⁹ Rural Production Zone Hearing Report – paragraph 754

¹⁰ Clause 3.8(2) of the NPS-HPL.

a restricted discretionary consent process and some being a non-complying activity (e.g. New Plymouth District and Waikato District).

We have considered the submissions, evidence and the Council hearing reports very carefully, and we acknowledge that the matters raised resulted in some robust debate regarding the issue of minimum lot sizes in the RPROZ. We want to acknowledge the quality of evidence and reporting put to us and that all parties are genuinely motivated by a sincere desire to achieve the best outcomes in the rural environment and the RPROZ in particular, being the largest rural zone by area in the Far North. We wish to acknowledge that all the evidence and reporting put before us was well thought-out, reasoned and articulated, whether it be from recognised experts or members of the rural community giving up their time to present evidence before us.

We understand that there are very real pressures on farmers and others engaged in rural production and that these range from economic pressures and regulatory pressures to the uncertainty and anxiety resulting from a changing climate. We also understand the social pressures faced by rural communities including a declining rural population, declining number of young people living or working in the rural environment as well as the cost of living and levels of community support in rural areas. These are real effects on those who live and work in rural areas and while some of these effects stem from national or international drivers, we accept that they are experienced at the local level.

We understand that allowing smaller minimum lots to establish rural-residential living in the RPROZ provides a much needed source of revenue for those engaged in rural production and that this can be used for necessary investment in rural production. We also understand that additional rural-residential lots provide positive social outcomes including the ability for farmers to retire within the rural environment and opportunities for workers and their families to live within the rural environment.

We also understand that the rural environment has changed since the ODP was made operative and that these changes are principally driven by the national direction to protect highly productive land through the NPS-HPL and the effects that previous fragmentation of rural land has had on the viability and continuity of rural land holdings. This analysis is supported by the Rural Environmental Economic Analysis Report which has assessed the impact of rural residential subdivisions in the Rural Production zone and considered the viability of various lot sizes and recommended the minimum lot sizes as notified in the current provisions.

With regard to supporting the rural environment and encouraging people to work and live in rural environments we are satisfied that the emphasis should be on those rural zones where residential activity is specifically provided for and enabled being: the Rural Residential zone , Rural Lifestyle zone and the Rural Settlement zone . Each of these zones clearly enable residential subdivision and development and a range of densities which, in our view offer genuine choice and flexibility to potential residents. We also acknowledge that limited subdivision potential still exists in the RPROZ under an environmental benefit subdivision under SUB-R6 or a management plan subdivision under SUB-R7.

We agree with the Council's section 32 report (including the underlying assessment and conclusions of the Rural Environmental Economic Analysis Report) and the evaluation in

the hearing report and right of reply that the primary purpose of the RPROZ must be to maintain its viability for rural production and to direct most rural residential subdivision and development to the other rural zones that have a more enabling residential focus.

In making this finding, we acknowledge the lost opportunity cost of not allowing rural residential subdivision and development as an alternative financial source for those engaged in rural production. In that regard we are of the view that while this may provide a short-term financial benefit, it results in the long-term alienation of land from future production potential and the fragmentation of rural land. Coupled with this is also the cumulative effect of reverse sensitivity conflicts and expectations of levels of residential amenity that are often at odds with the effects of rural production. In taking this longer term view, we are of the view that this is consistent with the purpose of the RMA and in particular section 5(a) which, in achieving the sustainable management purpose requires:

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations;*

Further, we are conscious that we must be focussed on the productive potential of the rural land resource and not just the economic viability of that resource at any one time. We are mindful that the rural economy is cyclical and is subject to a range of demand and supply influences ranging from international, national and regional factors and other factors such as weather and climate. While these factors may favour a planning approach that allows more rural residential subdivision and development under current economic circumstances, we are also conscious that these circumstances may change and land that was once productive may be lost indefinitely due to it being developed for a residential activity. In making this conclusion, we accept that re-amalgamation of rural residential sites into rural production sites is also a possibility but given the disparities in economic values in favour of rural residential sites, we consider that this is unlikely to occur.

Finally, we acknowledge that the Council's rationale for the proposed minimum lot sizes in the RPROZ is supported by a comprehensive rural environmental economic analysis by 4Sight Consulting (now SLR Consulting) in conjunction with M.E. Consulting (Market Economics) using available economic, population cadastral and spatial data. While we received evidence in support of more liberal minimum lot sizes, these were not supported by any expert evidence that challenged the rural environmental economic analysis. While we are not bound by expert evidence, we are obliged to have regard to the detailed rigour and methodology followed in this assessment.

3.5.3 Hearings Panel Recommendations

The Hearings Panel recommend that there are no amendments to the minimum lot sizes as set out in SUB-S1 and that all submissions seeking amendments are rejected and all submissions seeking the provisions be retained are accepted as set out in **Appendix 3.1**.

Our reasons for this recommendation are set out above but are summarised as follows:

- a) The notified minimum lot sizes are necessary to maintain the viability of a range of rural production activities.

- b) The current minimum lots sizes in the ODP while enabling a short-term financial benefit to assist in rural production activity have resulted in the fragmentation of the rural land resource and the long-term rural production potential of that land.
- c) The PDP provides for sufficient opportunities for residents to live in the rural environment, at a range of densities in the Rural Residential zone, Rural Lifestyle zone and the Rural Settlement zone.
- d) Limited opportunities still exist for rural residential subdivision and development via the environmental benefit subdivision rule (Rule SUB-R6) and the management plan subdivision rule (Rule SUB-R7).

3.6 Key Issue 3 - Giving Effect to the NPS-HPL

3.6.1 Matters Raised in Submissions and Evidence

Overview

We received evidence that related to the NPS-HPL and how much this national policy statement should be given effect to in the PDP. We acknowledge that this has had to be a retrospective approach as the NPS-HPL was not in force at the time the PDP was notified and it was only gazetted part of the way through the PDP submission period on 19 September 2022. The NPS-HPL came into force on 17 October 2022 noting that submissions on the PDP closed on 21 October 2022. The hearing report states that the provisions of the six rural zones as notified were intended to align with what was known about the anticipated NPS-HPL at the time, while also giving effect to the relevant provisions relating to protection of “versatile soils” in the RPS.

Prior to the hearing for the rural chapters’ topic (held in November 2024) the most recent version was gazetted on 16 August 2024 and took effect on 14 September 2024. This version includes the recent amendments with respect to enabling specified infrastructure, intensive indoor primary production and greenhouses on highly productive land.

As with the NPS-IB, the change of government in 2023 also signalled changes to a number of national policy instruments and during the course of these hearings the Government has signalled significant changes to the NPS-HPL. Perhaps most notable is the proposed removal of Land Use Classification (**LUC**) Class 3 soils from the definition of “highly productive land”.

These changes came into effect on 16 January 2026 and involved the following:

- exemptions for urban development and urban rezoning on Land Use Capability (LUC) 3 land from NPS-HPL restrictions.
- improvements to the New Zealand Land Resource Inventory undertaken after 2022 to be used to assess what land the NPS-HPL.
- suspension of the requirement to map highly productive land in regional policy statements until 31 December 2027, aligning with the “Plan Stop” timeframe.
- amendments to quarrying and mining provisions to align definitions and consenting processes.

The hearing report responded to the submissions seeking better alignment between the NPS-HPL and the rural chapters of the PDP at a strategic level, including submissions on NPS-HPL related definitions. Specific amendments to provisions to give effect to the NPS-HPL have focussed on NPS-HPL definitions. Changes to other provisions to give effect to the NPS-HPL have been addressed both in the hearing report with respect to RPROZ provisions and in the other five rural zone hearing reports. However, it is noted that the NPS-HPL provisions are particularly relevant to the two rural production zones being the RPROZ and the new Horticulture Precinct (**PREC1**).

Matters Raised in Submissions and Evidence

The Northland Regional Council (S359) submissions requesting that areas containing highly productive land be zoned for rural production and that other less productive rural land/poorer soils be mainly used for rural lifestyle uses. We heard evidence from NRC (Ms Ingrid Kuindersma) generally supporting the approach taken by the reporting officer in the hearing report.

The evidence of Northland Federated Farmers (S421.006) (Jo-Anne Cook-Munro) sought the recognition of the NPS-HPL in the PDP definitions and also recognition of private property rights and sought amendments to the RPROZ Policies to achieve this.

Kapiro Residents Association (S427.011), Carbon Neutral NZ Trust (S529.019, S529.151), Vision Kerikeri (S522.011) and Kapiro Conservation Trust (S449.020) consider that the PDP should have 'firm' policies to protect productive land indefinitely. The submitters request that relevant PDP policies and rules are amended to prevent fragmentation and loss of productive land, especially LUC 1-3 land and productive soils suitable for horticulture. Carbon Neutral NZ Trust does not consider it necessary to wait for the NRC to implement the NPS-HPL before amending the PDP to give effect to this higher order direction. These submitters also expressed general support for the PDP in relation to the protection of highly productive land. We note that we did not receive any evidence relating to highly productive land, further to their submissions, from these submitters (also noting that these submitters have presented evidence at a number of hearings which we have taken into account in all our considerations) and we have assumed that the recommendations made in the hearing report regarding highly productive land are not in contention.

Ms McGrath presented planning evidence on behalf of Audrey Campbell-Frear (S209.001) recommending a number of further changes to the objectives, policies and rules of the RPROZ to better align with the NPS-HP. Ms McGrath does not support any reference to LUC 4 as being highly productive land, at least in advance of the NRC completing their mapping for the NPS-HPL.

3.6.2 Hearings Panel Evaluation

The hearing report discusses the submissions received and has recommended some changes to the RPROZ objectives and policies to make them more directive. These are set out in the hearing report and in the right of reply report. We note that where these changes were not contested in evidence before us, we have no further amendments.

Regarding the NRC's request to have highly productive land (LUC 1-3) restricted to the RPROZ and Horticulture zone with other soil classes allocated to rural lifestyle zones, we

agree with the approach as a general principle but note that this approach also needs to be cognisant that there are already existing urban areas and other non-productive zones (e.g. open space) that cover LUC 1-3 land. The hearing report states:

For example, approximately 14.17 % of LUC 1-3 land (9217.11 ha) are located outside of a rural zone and have already been used or set aside for urban development or open space/conservation purposes, which makes it impractical to ensure all LUC 1-3 soils are located in a productive rural zone.¹¹

With regard to existing rural lifestyle/rural residential development on LUC 1, 2 and 3 land there is approximately 33% of all land notified as Rural Residential zone as LUC 2 or 3 land, most of which has already been subdivided into rural residential scale lot sizes. That said, the hearing report confirms that the Rural Lifestyle zone has largely been directed away from LUC 1-3 land, as only 9% of the zone consists of land classified as LUC 2 or 3 (and no LUC-1 land).¹²

The hearing report confirms that the highest portion of productive LUC 2 and 3 land in the Far North district is in the Horticulture zone /Precinct, as 65% of the zone is LUC 2 or 3 land. The hearing report adds that across the entire Far North District, 77.48% of all LUC 1-3 land (50,413.98 ha) is located in either the Rural Production zone, Horticulture zone/precinct or Horticulture Processing zone. We agree that this demonstrates that the majority of LUC 1-3 land that is available for productive use and that has not already been developed for an urban or rural lifestyle/rural residential purpose is located in either the RPROZ, Horticulture zone /Precinct or Horticulture Processing zone . We therefore find that this approach is broadly consistent with the relief sought by NRC to ensure LUC 1-3 land is located in productive rural zones.

Regarding the inclusion of LUC 4 in the definition of highly productive land, the hearing report recommends that all references in the RPROZ chapter to LUC 4 are deleted and that the definition of “highly productive land” in the PDP be replaced with the definition from the NPS-HPL. The rationale for this is set out the Council right of reply which states:

With respect to the RPROZ, I accept the arguments put forward by submitters and associated planning and soil experts that there is no clear rationale for all LUC 4 land to be protected in the same way as the RPROZ protects LUC 1-3 land. Although I maintain that some LUC 4 land has the potential to be highly productive, I appreciate that the sub-classification of LUC 4 land heavily influences whether there are options for improving its productive potential. As the current central government signals that the NPS-HPL is likely to become more permissive in the future as opposed to more restrictive (plus no certainty as to whether regional councils will retain their discretion to map LUC 4 land as HPL), I consider that the argument for specifically referring to LUC 4 land in the RPROZ provisions has weakened since I prepared my section 42A report. As such, I

¹¹ Paragraph 107 of the Hearing Report

¹² Paragraph 108 of the RPROZ Rural Hearing Report

*recommend that all references in the RPROZ chapter to LUC 4 are deleted.*¹³

3.6.3 Hearings Panel Recommendations

For the reasons set out above, we agree with the hearing report and recommend that the definition of “highly productive land” in the notified PDP is deleted and replaced with the following wording:

Highly productive land – means:

- a. If there are no highly productive land maps included in the operative Northland Regional Policy Statement, land that is treated as highly productive land under clause 3.5(7) of the National Policy Statement for Highly Productive Land; or*
- b. If highly productive land maps have been included in the operative Northland Regional Policy Statement, land shown as highly productive land on those maps, or any consistent maps in this plan, excluding land that has ceased to be highly productive land under clause 3.5(6) of the National Policy Statement for Highly Productive Land.*

We recommend deletion of the “versatile soils” definition and its replacement with the term “highly productive land” where it is used across the rural chapters in the PDP.

We recommend that all references to LUC 4 in the RPROZ chapter and the redrafted Horticulture zone/precinct chapter are deleted.

The recommended changes to the RPROZ chapter are set out in **Appendix 2.1** and the recommended changes to the definitions chapter are set out in **Appendix 2.1 of Recommendation Report 17**.

We recommend that all submissions on this topic are accepted, accepted in part or rejected as set out in **Appendix 3.1**

3.7 Key Issue 4 – RPROZ Objectives and Policies

3.7.1 Matters Raised in Submissions and Evidence

While there were numerous submissions concerning the RPROZ objectives and policies and equally numerous recommended amendments in the RPROZ hearing report, the evidence presented at the hearing demonstrated that many of these issues had largely been resolved.

We received evidence from Northland Federated Farmers (S421.215) supporting the objectives and policies in principle but seeking specific reference and acknowledgement of private property rights.

Mr Hall, on behalf of Bentzen Farm Limited and others Bentzen Farm Limited (S167) presented evidence that RPROZ-O2 and RPROZ-P5 should not impose a “functional

¹³ Rural Zones hearing report paragraph 34

need” test on non-productive activities seeking to locate in the RPROZ. His reasons included that:

- a) “Functional need” is the wrong test for activities that either support productive activities or are at least compatible with them. It was not a suitable test for rural environments.
- b) A number of activities enabled in the RPROZ would not meet the “functional need” test (including rural lifestyle subdivision with environmental benefits) and not providing for these activities would have adverse social costs on the rural environment.

Mr Hall’s recommended amendments to address this issue were to delete references to the functional need test from both RPROZ-O2 and RPROZ-P4.

Mr Hall also provided evidence concerning the use of the terms “amenity” and “rural character” in RPROZ-O4 and how it relates to RPROZ-P4. Mr Hall opined that in terms of RPROZ-O4: *“it is amenity associated with a rural working environment that is maintained (ie there cannot be a higher expectation of amenity), with rural character in general otherwise maintained, and not being limited to a rural working environment.”* He recommended changes that in his view would recognise that *“there are a diverse range of rural environments, rural character and amenity values throughout the district, albeit with a predominance of primary production activities.”*

His recommended amendments are:

RPROZ-O4 ~~The r~~Rural character and ~~the~~ amenity associated with a rural working environment is maintained.

Mr Vance Hodgson on behalf of both Horticulture NZ and NZ Pork does not agree that referring to visitor accommodation and small-scale educational facilities in a list of ‘compatible activities that support primary production activities’ is appropriate in RPROZ-P2(b).

We received evidence from Mr Hall on RPROZ policies 6 and 7 opposing any reference to LUC 4 land including its ability to be upgraded to LUC 3 (via irrigation). Mr Hall also suggested some drafting amendments to achieve his stated relief.

Ms Newport submitted that the RPROZ chapter should not contain any policies relating to subdivision and that the appropriate location for subdivision policies is the subdivision chapter to avoid unnecessary duplication and repetition.

3.7.2 Hearings Panel Evaluation

Functional Need (RPROZ P2)

The questions of functional need as an RMA test is a contentious matter. The Panel is aware that the term originated as a test for the appropriateness of activities within the coastal marine area (**CMA**) and has since been adopted as an appropriateness test for infrastructure and activities within freshwater environments. We are aware that this principle was adopted in the New Zealand Coastal Policy Statement (2010) (**NZCPS**), and it has since been used in national policy direction on freshwater and biodiversity.

Regional and district councils have also picked up the concepts in their planning documents.

We also note that “functional need” is defined in the National Planning Standards and that this definition has been adopted in the PDP and:

means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.

In this regard the functionality test has been employed as an RMA test in areas where the qualities of that environment require protection from a range of activities that desire to be located there and could undermine those qualities if permitted to do so. In this case the qualities in question are the maintenance of the rural environment within the RPROZ for rural production activities.

In his evidence, Mr Hall sets out a number of non-productive activities that might fail a functional need test being: Residential Activity, Visitor Accommodation, Home Business, Educational facility, Recreational activity, Catteries and dog boarding kennels, Cemeteries / Urupā (all permitted), Papakāinga Housing (RDA), and Community facilities (DA).¹⁴ Mr Hall opined that the application of a functional need test to the rural environment would be problematic as the evaluation of functional need would become a “case-by-case” process. He cited the hypothetical example of rural lifestyle subdivision with environmental benefit as is provided for in the Rural Production zone in the subdivision chapter, and opined that this clearly enabled activity may fail a functional need test as it does not need to be in a rural environment when there is land in the Rural Lifestyle zone and the Rural Residential zone .

In his view, a better test would be whether an activity would be “complementary” to the function, character and amenity values of the surrounding environment. Mr Hall stated that the functional need tests should be removed so that the activities listed above can be established as necessary and complementary activities in the rural environment. He stated:

Not providing for these activities would come at significant cost to rural communities (travel time to towns, costs to community life without social infrastructure in rural areas, income through the provision of visitor accommodation) and would potentially forgo the benefits of environmental enhancements were rural lifestyle subdivisions with environmental benefits not provided for in the rural environment because they did not have a functional need.¹⁵

In response to this, Ms Pearson (in the hearing report and the right of reply report) maintains her view that a functional need test is appropriate for the rural environment. In her view, the activities cited by Mr Hall would all pass a functional need evaluation as they would be assessed as ancillary activities (in the case of residential activity), functional (in the case of rural based accommodation), support based (in the case of childcare, education, home business), or otherwise appropriate within a rural zone (in the case of

¹⁴ Peter Hall evidence paragraph 9.6

¹⁵ Peter Hall evidence paragraph 9.17

catteries and dog boarding, recreational activities, papakainga and other community or social based infrastructure.

As set out in the hearing report, the case for a functional need test in the RPROZ provisions is based on the risk that if there is no functional need test for non-productive activities (just a ‘compatibility’ test), meaning then that conceivably any non-productive rural activity could establish in the RPROZ, provided it could internalise effects, be serviced and meet relevant standards. In Ms Pearson’s opinion, it is important that activities that are better suited to urban zones are directed away from the RPROZ. In her view, this is essential for the future viability of the RPROZ as a suitable location for primary production activities and a core strategy for achieving RPROZ-O1, i.e. the long-term protection of the productive land resource.¹⁶

We have carefully evaluated these matters and acknowledge that both expert planning opinions have been well formulated, reasoned and articulated. We recognise that there are genuine concerns with implementing a functional need test or evaluation in the real world and that this poses a challenge to planners interpreting and implementing this approach at the resource consent/plan implementation level. We have also had regard to how a “compatibility” test/evaluation might be implemented and the potential challenges that it would face at the resource consent/plan implementation phase.

In our view, there needs to be some form of test or evaluation to ensure that the purpose of the zone is maintained and that primary production activities are the focus and that a proliferation of non-rural activities outside of urban zones is avoided.

Having considered both approaches we prefer the Council’s position to retain references to “functional need” in RPROZ-O2 and RPROZ-P5(b). Given the importance of maintaining the productive potential for rural production activities enshrined in the purpose of the zone and supported by the section 32 analysis (referred to above in Key Issue 3) we find that a functional need test or evaluation should be retained. We also find that while there are some challenges with the implementation this of a functional need approach, an evaluation based on “compatibility” is more problematic and could pose more risk to undermining the purpose of the RPROZ and its focus on primary production.

We have also had regard to Ms Newport’s suggestions that RPROZ-O2 include the word “primarily” to read “*The Rural Production zone is primarily used for...*”. We do not agree with this approach as it would weaken the focus of the zone and introduce an unacceptable level of subjectivity that would make implementation more difficult.

Accommodation and Educational Facilities (RPROZ P2)

The evidence of Horticulture NZ (S159.099) NZ Pork (S55.027) delivered by Mr Hodgson contended that visitor accommodation and educational facilities are not compatible with, and do not support, primary production activities. We note that the provisions, as notified, provide for these activities with scale limits (10 guests per visitor accommodation activity and 4 students per educational facility) and require that they be accommodated within a residential unit, accessory building or minor residential unit. In his evidence Mr Hodgson opined that:

¹⁶ RROZ hearing report paragraph 405

The control applying a maximum guest *occupancy is a useful method but still brings a gathering of people into an area that might be adjacent an existing farm and create new or compound existing conflict and complaints.*¹⁷

Mr Hodgson recommended the removal of references to visitor accommodation and small-scale educational facilities in RPROZ-P2(b). Having considered this evidence, we prefer the retention of activities in the policy on the basis that these activities are provided for at an appropriate small scale and are also required to be accommodated within a residential unit, accessory building or minor residential unit. We are also cognisant that these small-scale activities also allow farmers the opportunity for supplementary sources of income and in that regard, we find these activities (at the scale enabled) both compatible with primary production activities and also a potential supporting activity. Accordingly, we find that the reference to visitor accommodation and small-scale educational facilities in RPROZ-P2(b) be retained .

Rural character and amenity (RPROZ O4 and RPROZ-P4)

The evidence of Mr Hall for Bentzen Farm Limited and Others raised issues with regard to use of the terms “rural character and amenity” as far as it relates to a working rural environment. The notified wording of RPROZ-O4 and RPROZ-P4 is:

RPROZ-O4 The rural character and amenity associated with a rural working environment is maintained.

AND

*RPROZ-P4 Land use and subdivision activities are undertaken in a manner that maintains or enhances the **rural character and amenity** of the Rural Production zone, which includes:*

- a. a predominance of primary production activities;*
- b. low density development with generally low site coverage of buildings or structures;*
- c. typical adverse effects such as odour, noise and dust associated with a rural working environment; and*
- d. a diverse range of rural environments, rural character and amenity values throughout the district ...*

Mr Hall opined that this policy, and in conjunction with RPROZ-O4, is that “amenity” associated with rural working environment is maintained (i.e. there cannot be a higher expectation of amenity), with rural character in general otherwise maintained, and not being limited to a rural working environment. His suggested wording is to make an amendment to RPROZ-O4 as follows:

RPROZ-O4 ~~The r~~Rural character and the amenity associated with a rural working environment is maintained ...

¹⁷ Evidence of Vance Hodgson for NZ Pork Paragraph 31

The Panel has considered this approach and we take a slightly different viewpoint. We are of the view that rural character and amenity are two different components of the rural environment. In our view, “rural character” embraces all elements that make up rural character and in productive rural environments that would include a range of elements including pleasant elements (e.g. open space, grassed areas, a lack of built form) as well as some negative elements associated with rural production (e.g. noise, dust, odours, large utilitarian structures and use of agri-chemicals etc). With regard to amenity, we consider this term to be all those characteristics that make a particular rural environment a pleasant place, this being linked to the definition of amenity values in the RMA which is:

means those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes

In that regard, we favour the objective and policy recognising both elements of rural character and its amenity values. We note that the reporting officer agrees with this approach in the right of reply and we recommend that both the objective and policy be amended by referring to “amenity values” in both as follows:

RPROZ-O4 The rural character and amenity values associated with a rural working environment are ~~is~~ maintained.

RPROZ-P4 Land use and subdivision activities are undertaken in a manner that maintains or enhances the rural character and amenity values of the Rural Production zone ...

LUC 4 land

Numerous submitters sought the deletion of any reference to LUC 4 to be protected in the same way as LUC 1-3 (being highly productive land under the NPS-HPL). In the hearing report it was recognised that the notified version of the PDP (being prior to the gazetting of the NPS-HPL) sought recognition of LUC 4 land as having the potential to become highly productive subject to being connected to a reliable source of irrigation.

In the context of the RPROZ, LUC 4 land is referred to in RPROZ-P6(c)(ii) and RPROZ-P7(e)(iii).

As we have discussed above, the Government has excluded LUC 3 from consideration when rezoning land to an urban zoning but it otherwise is retained in the definition of “highly productive land” in the NPS-HPL. That said, it is our view that the case for including LUC Class 4 land is dubious, at best. Accordingly, we agree with the reporting officer to remove these references and recommend the amendments as set out in **Appendix 2.1**.

3.7.3 Hearings Panel Recommendations

We recommend that the RPROZ objectives and policies be amended as set out in **Appendix 2.1**. As set out in our reasoning above, having considered the detailed evidence we have received on these provisions, we are in agreement with the amendments as set out in the reporting officer’s right of reply, which in many aspects has adopted a number of recommended amendments from the evidence presented by and for submitters, and in response to our questions.

Having considered all the relevant submissions, the hearing report, evidence presented and the Council right of reply, we are satisfied that the final RPROZ objectives and policies set out in **Appendix 2.1** are appropriate and the best way to achieve the purpose of the RMA.

We recommend that all submissions on this topic are accepted, accepted in part or rejected as set out in **Appendix 3.1**.

3.8 Key Issue 5 – RPROZ Rules

3.8.1 Matters Raised in Submissions and Evidence

We note that there was a significant degree of support for the rules and standards in the RPROZ as amended in the hearing report. We acknowledge this support and consider these matters raised in submissions to be no longer in contention. A number of matters still remain in contention and were presented to us in evidence.

A number of these submissions referred to RPROZ-R3 – being the provisions that sets the minimum lot sizes for controlled and discretionary activity subdivision. We heard evidence from Ms King, Mr Hall (Bentzen Farms Limited and Others) and Ms Newport on these matters, all seeking a reduction in the minimum lot size thresholds.

As we have discussed, in Key Issue 2 we have found that the minimum lot sizes should remain as set out in the hearing report.

Mr Hodgson on behalf of both Horticulture NZ and NZ Pork considers that the visitor accommodation rule in the RPROZ needs to be more stringent to ensure reverse sensitivity effects are managed. His recommended approach is a “sensitive activity” setback to the RPROZ-R4 visitor accommodation rule (as opposed to within the RPROZ setback standard) so that any visitor accommodation activity is required to be set back at least 20m from a site under separate ownership.

RPROZ-R19 Minor residential unit

There were numerous submissions seeking that the activity status for a minor residential unit be changed from a controlled activity to a permitted activity and that relief was recommended in the hearing report and not contested in evidence.

We heard evidence from Mr Hall regarding the requirement for a minor residential unit to have a separation from the primary residential unit of no more than 15m (PER 4). Ms Newport shared the same concern and requested the separation distance to be increased to 30m whereas Mr Hall sought the 15m separation rule to be deleted in its entirety.

Ms Newport also gave evidence concerning PER-2 which requires a minimum site area for a minor residential unit to be at least 1ha and sought this to be reduced to 5,000m².

Mr Nathan (S36.001) issued a late statement (following the hearing of evidence) seeking the minimum floor area for a minor household unit (minor residential unit) be increased to 75m² (and garage areas to be increased from 18m² to 24m² to provide for people with mobility issues (i.e. wheelchairs).

The matter of provision for retirement lots was also raised in submissions and we provide our recommendation on the matter as part of our discussion below regarding minor household units.

RPROZ-R22 – Rural Tourism Activity

We heard planning evidence from Ms Ashley Jacobs on behalf of Waitangi Limited (S503.033) on the matter of rural tourism in the context of RPROZ R22 – Rural Tourism Activity. Ms Jacobs advised us that the scope of what constitutes a “rural tourism activity” as described in RPROZ-R22 is too narrow and excludes activities that may not relate to the rural setting of a site but are required to locate on a site in the rural environment because of some other feature such as natural or historic site features. In the Waitangi Estate context, Ms Jacobs was concerned that activities related to the historic features of the site or eco-tourism type activities would not be included as they do not have a focus on, or a link to, the rural environment. She advised if those activities were not captured by RPROZ-R22 the activity status would change from being a restricted discretionary activity to a discretionary activity.

RPROZ-R23 and RPROZ-SX – Intensive indoor and outdoor primary production

Mr Hodgson (for Horticulture NZ and NZ Pork) presented planning evidence regarding these rules stating that there is a disconnect in activity status for infringing setbacks designed to manage reverse sensitivity effects under RPROZ-R23 (intensive indoor and outdoor primary production) and the new reciprocal standard recommended in the hearing report for sensitive activities (RPROZ-SX). As set out in the hearing report a new rule was proposed for setbacks for sensitive activities from intensive indoor and outdoor primary production activities:

RPROZ-SX	<i>Sensitive activities setback from intensive indoor and outdoor primary production activities¹⁸</i>	
<i>Rural Production zone</i>	<i>All buildings and structures used for new sensitive activities will be setback 300m from any hardstand areas, treatment systems, buildings housing animals and any other structures associated with an intensive indoor or outdoor primary production activity located on an adjoining site under separate ownership.</i>	<i>Where the standard is not met, matters of discretion are restricted to:</i> a. <i>Potential reverse sensitivity effects and measures taken to mitigate these effects, such as landscaping or screening</i> b. <i>Whether there are alternative options for the location of the sensitive activity</i>

Mr Hodgson’s concern was that it would be a non-complying activity under RPROZ-R23 for an intensive indoor and outdoor primary production to be located within 300m of a sensitive activity. However, a sensitive activity failing to comply with the same 300m setback under RPROZ-SX would be a restricted discretionary activity. Mr Hodgson opined that both activities’ status should be the same.

RPROZ-RX– Artificial crop protection structures and crop support structures

¹⁸ NZ Pork (S55.031)

A new rule RPROZ-RX - Artificial crop protection structures and crop support structures was recommended in the hearing report to provide for these structures to better provide for horticultural activities, while also placing some limits of the scale and intensity of those structures in the interests of maintaining an acceptable level of rural amenity.

At the hearing Mr Hodgson presented evidence requesting further amendments to be more enabling of artificial crop protection structures and crop support structures, particularly in terms of being exempt from any height in relation to boundary (**HIRB**) standards and creating a more targeted approach to managing potential conflicts with adjacent residential dwellings on properties in a different ownership. He opined that while RPROZ-RX is a drafting improvement on the PDP, it would still result in unnecessary and inefficient sterilisation of productive rural land in favour of the amenity expectations of residential activities as opposed to maintaining the productive rural character of the rural environment.

Mr Hodgson suggested that the recently agreed Waikato District Council PDP model is an appropriate starting point for an amended RPROZ-RX, which includes an increased setback where there is an existing residential unit within 12m of an internal boundary.

We also heard from Vision Kerikeri and others who sought a more restrictive approach in order to maintain the rural visual amenity values within the rural environment. They sought restrictions on the colour of shade cloth (stating it must be black or a very dark colour, not white or green) and a non-complying activity status if this was not achieved. Vision Kerikeri and others also sought restrictions on the height of structures within 30m of a road (reduced from 6m to 5m) and a requirement for tall hedging or other vegetation to be planted between the structures and the road boundary.

We heard evidence from Mr Hodgson on this matter. He opined that varying colours of shade cloth (including white cloth) were required for different horticultural plants, conditions and location and that this was appropriate for a rural environment that focussed on rural production.

RPROZ-RY – Seasonal worker accommodation

Mr Hodgson presented evidence regarding proposed new rule RPROZ-RY relating to seasonal worker accommodation. The proposed rule establishes a permitted activity for seasonal worker accommodation provided it meets the following conditions:

1. The accommodation is associated with a farming or forestry activity and is located on the same land used for that operation;
2. The accommodation comprises of a combination of communal kitchen and eating areas and sleeping and ablution facilities; and
3. The accommodation provides for no more than 10 workers.; and
4. The accommodation is not located on highly productive land.

Mr Hodgson stated that Condition 1 should refer to “landholding” rather than “land” so that it is clear that the rule refers to an entire farming operation that could entail numerous parcels of land. He also objected to Condition 4 stating that the NPS-HPL allowed a pathway for seasonal worker accommodation on highly productive land under clause 3.9(a).

Request for a new setback standard – Waipapa Pine

Mr Andrew McPhee presented tabled planning evidence on behalf of Waipapa Pine Ltd (FS374) relating to a request for a new 100m setback for sensitive activities from the boundary of a Heavy Industrial zone. Mr McPhee confirmed that Waipapa Pine Ltd only seeks this relief in relation to the RPROZ (as opposed to the full suite of rural zones).

Mr McPhee's recommended relief is for the insertion of a new standard into the RPROZ chapter, drafted in a similar manner to RPROZ-S7, and that the new standard be referenced in RPROZ-R1 in the same way as other equivalent setback standards.

RPROZ-R2 and HZ-R2 Impermeable surface coverage

Messrs John Papesch for Haigh Workman (215.054 and 215.055) and Michael Winch (67.010 and 67.012) presented evidence in which they supported submissions seeking a reduction in the existing permitted impermeable surfaces rule, it being 15% in the rural zones. Mr Papesch pointed out that the thresholds should be set at a level that allows for reasonable use while avoiding or minimising off-site effects. The 15% permitted impermeable surfaces threshold in the Rural Production and Horticultural zones may result in significant adverse effects on a cumulative basis if there is no provision for low impact design/water sensitive design. Mr Winch had similar views stating the 15% was too permissive, will result in significant adverse effects and does not provide for any mitigation of increased stormwater up to the permitted threshold.

3.8.2 Hearings Panel Evaluation

Visitor accommodation

As discussed above Mr Hodgson on behalf of Horticulture NZ and NZ Pork recommended a 20m setback to apply within a site containing visitor activity as a reverse sensitivity measure against the adverse permitted or enabled effects of rural production. This relief was subsequently modified to apply only to visitor accommodation activity. He stated:

The expectations of those undertaking or enjoying residential visitor accommodation that might have looked to leverage from a perception of rural character and amenity, might be quite different from the reality of the RPROZ, which has a purpose set out in the chapter overview that aligns with the zone name and description prescribed in the Zone Framework Standards of the National Planning Standards.¹⁹

Mr Hodgson referred to a number of similar rules that have been included in other district plans.

In response to these submissions the hearing report recommended reciprocal setback for primary production activities that involve intensive outdoor primary production or buildings to hold stock (i.e. milk sheds) but not for horticulture, which we noted may include the use of agri-chemical sprays.

¹⁹ Evidence of Vance Hodgson for NZ Pork paragraph 28

In the right of reply, Ms Pearson concedes that there is a “gap” in the provisions and requiring a visitor accommodation activity to be setback 20m from a site under separate ownership will provide additional protection for all types of primary production, not just those involving intensive farming of animals. We consider this to be an appropriate and targeted approach that focuses on the activity of concern (visitor accommodation) and is more appropriate than the original relief requesting an increase in all boundary setbacks from 10m to 20m. We therefore support the Council officer’s recommendation to include a new PER-4 as follows:

PER-4

The visitor accommodation is set back 20m from the boundary of a site under different ownership.

Activity status where compliance not achieved with PER-1, PER-2, or PER-3 or PER-4:

Discretionary

Minor Residential Unit

With regard to the 15m separation distance, Mr Hall submitted that having any maximum separation distance requirement would run contrary to the benefit created by the rule and the provisions for minor residential units should be flexible to allow the wide variety of reasons why these dwellings are created which, in his view providing for family or retired family members or for homestay/farm stay reasons, where separation and privacy may be justifiable. He also opined that locating these units closer to the entranceway has benefits in this regard as well.

The Council right of reply conceded that a 30m separation distance would still achieve the purpose of the rule while allowing for greater flexibility but disagreed with Mr Hall that there be no minimum separation distance.

As we understand it, the primary reasons for having a minimum separation distance are to make it more difficult to subdivide from the principal unit and to have the two forms of residential accommodation clustered in the same location within the site, leaving the remainder for rural production activity. We agree with these reasons and consider that having a minimum separation distance is important to achieving the overall purpose and function of the RPROZ and its primary production focus. In the right of reply report Ms Pearson maintained that a minimum 15m distance should be applied as a method to ensure that subdivision around a minor residential unit is not enabled. Ms Pearson added that she could support an increase to 30m if provisions relating to the subdivision around a minor residential unit discouraged or prevented this to occur.

We agree with Ms Newport that a 30m distance is a more appropriate separation distance while still maintaining the purpose of the rule. We are also able to signal that we are not minded to enable subdivision around minor dwellings on the basis that this would undermine the purpose of the RPROZ and would likely lead to further unwarranted fragmentation of rural land holdings. However, in order to further discourage separation distances being sought we consider that any non-compliance with PER-4 should be elevated from a discretionary activity to a non-complying activity.

We therefore recommend that the minimum distance be increased from 15m to 30m on the basis that we do not consider that this would lead to an increase in subdivisions around principal residential units. We therefore recommend that Rule RPROZ-R19 PER-4 be amended thus:

~~CONPER-4~~

The separation distance between the minor residential unit and the principal residential unit does not exceed ~~15~~30m.

We also recommend that the Activity Status for RPROZ-R19 be amended thus:

Activity status where compliance not achieved with ~~CONPER-3~~ or ~~PER-4~~:

Discretionary

Activity status where compliance not achieved with ~~CONPER-1~~, ~~CONPER-2~~, ~~CONPER-4~~ or ~~CONPER-5~~:

Non complying

Turning to Ms Newport's request to have the minimum lot size for a minor residential unit to be established be decreased from 1ha to 5,000m², we agree with Ms Pearson's initial assessment in the hearing report that a principal residential unit and a minor residential unit on a 5,000m² section would result in an over-domestication of a rural site and result in a reduction in the rural character expected in the RPROZ. On this basis we recommend that this submission relief be rejected.

We have considered the evidence of Mr Nathan. As set out in the Council's right of reply, we see some merit in what Mr Nathan seeks and we, in no way, want to set a minor residential unit standard which ends up being discriminatory. That said, the obvious concern with his approach is that any person can seek a larger dwelling for the purpose of housing a person with accessibility or mobility issues and the unit not being used for this purpose. This could also set up difficult and impractical enforcement processes. Ultimately, we are concerned that allowing for this exception to the maximum floor area rule could end up being a default new standard.

We acknowledge that the Council has researched this issue in the right of reply report and confirmed that 65m² has been tested as being fit for purpose for accessibility and mobility users and that there is still a pathway for a larger minor residential unit (albeit subject to resource consent) should a genuine exception be justified. Accordingly, while acknowledging the need for minor residential units to be accessible, we are satisfied that the maximum floor area of 65m² (or the associated garage area) does not need to be increased to accommodate this.

We find that retirement lots can be accommodated through the minor residential unit provision, or as a second dwelling or an extension to existing dwellings without the need for a specific provision. We find that specific provision would add to land being fragmented in a manner that is not consistent with maintaining rural zoned land for rural purposes.

RPROZ-R22 Rural tourism activity

Ms Jacobs' evidence was that the rural tourism activity provisions needed amendment so that they do not exclude activities that may not relate to the rural setting of a site but are required to locate on a site in the rural environment. She drafted amendment to RPROZ- R22(b) and a new rule (m) to address this.

We note that Ms Pearson acknowledged the issue at the hearing and in the right of reply report she suggested a resolution of the issue by further amending the definition "rural tourism activity" as follows:

Rural tourism activity means the use of land or buildings for tourism activities that enable for people to visit and experience ~~tourism activities~~ within the rural environment.

We agree that the approach taken by Ms Pearson goes some way to clarifying the definition of Rural tourism activity but in the specific context of the Waitangi Estate it is unlikely to resolve their concerns. Ms Jacobs stated in evidence that the problem for tourist activities at Waitangi "is the fact that the existing activities and potential future activities are located on the site because of its historic features, rather than its rural setting". That is to say, the tourism activities at Waitangi are not of a rural nature and are likely to then be considered as discretionary activities, as opposed to being restricted discretionary activities.

We find we cannot entirely address the submitter's specific concerns with amendments to a definition that applies district-wide. Ms Pearson's approach does assist but otherwise, the submitter has proposed their own Special zone for the Waitangi Estate that has been addressed in Hearing 15B and that may well be where their site-specific concerns are better addressed.

RPROZ-R23 and RPROZ-SX – Intensive indoor and outdoor primary production

In the right of reply report Ms Pearson agreed with Mr Hodgson that there was a disconnect in activity status for infringing setbacks designed to manage reverse sensitivity effects under RPROZ-R23 (intensive indoor and outdoor primary production) and the reciprocal standard recommended in the hearing report for sensitive activities (RPROZ-SX). She advised us that the setbacks in RPROZ-R23 and RPROZ-SX were intended to be reciprocal, therefore the activity status of infringing these provisions should be the same. Ms Pearson recommended a discretionary activity status is appropriate and we agree.

RPROZ-RX – Artificial crop protection structures and crop support structures

On this matter we heard two differing points of view with regard to managing the rural environment. The views of Mr Hodgson for Horticulture NZ and NZ Pork were geared toward maintaining the productive capacity of the rural environment and allowing a wide range of crop protection structures to achieve this outcome. The other point of view expressed by Vision Kerikeri and others was more focussed on maintaining the positive visual amenity values of the rural environment.

Both are valid views as rural environments need to efficiently provide for rural production activities (being an element of rural character) while also maintaining the amenity values associated with rural environments. However, in this context we have already found that the focus of the RPROZ must be on enabling and supporting primary production activities

and that for this zone at least, this outcome should outweigh any adverse visual amenity and shading effects resulting from the erection of these types of structures, particularly where they adjoin boundaries where they can be viewed by the public or from residential properties.

While the right of reply report has agreed with the suggested relief of Vision Kerikeri and others of requiring shade cloth within 30m of a road boundary to be dark green or black coloured, we are of the view that this goes too far within a zone where rural production is the focus. We prefer the evidence of Mr Hodgson that a variety of shade cloth colour should be enabled as a permitted activity. To verify this the Panel undertook a site visit of various horticultural sites in and around Kerikeri and observed the full range of shade cloth colours (black, dark green, light green and white) and were of the view that all were appropriate in a productive rural environment and that any adverse visual effects were acceptable and at least minor. Accordingly, we accept the recommended drafting by the Council officer but with the deletion of Condition (3) in PER-1 of RPROZ-RX as follows:

Activity Status: Permitted

Where:

PER-1

The establishment of a new, or expansion of an existing, artificial crop protection structure or crop support structure, where:

- 1. The height of the structure does not exceed 6m above ground level;*
- 2. The structure is set back at least 3m from all site boundaries;*
- 3. ~~Dark green or black material is used on any vertical faces within 30m of a site boundary or a boundary with a site under different ownership except that a different colour may be used if written approval of the owner(s) of the immediately adjoining property or the road controlling authority (in the case of a road) is obtained and provided to the Council.~~*

RPROZ-RY – Seasonal worker accommodation

We have considered the evidence of Mr Hodgson and consider that the suggestions he has made are reasonable and would make the new rule more workable. We note that the Council officer also supported Mr Hodgson's suggested amendments in the right of reply report and we recommend the amendments for RPROZ-RY as set out in Appendix 2.1.

Request for a new setback standard – Waipapa Pine

While Mr McPhee did not attend the hearing, we asked the Council officer to advise on the merits of the relief sought as we considered it to have merit.

Ms Pearson advised that further investigation into those parts of the District where the RPROZ adjoining the Heavy Industry zone (**HIZ**) revealed that a total of 14 properties involving a land area of approximately 28ha would be affected by the proposed setback rule.

We agree with Mr McPhee that the potential for reverse sensitivity effects resulting from activities establishing in the RPROZ to impact existing activities in the HIZ is similar to the potential for issues at the interface between the RPROZ and the Mineral Extraction zone . We also agree that the scale of this interface (and therefore the number of impacted properties) is relatively limited when considered in the context of the area of land zoned RPROZ across the Far North district. Ms Pearson also acknowledged this in her right of reply and accordingly has proposed a new rule RPROZ – SZ - Sensitive activities set back from the boundaries of the Heavy Industrial zone as follows:

<i>RPROZ-SZ</i>	<i>Sensitive activities set back from the boundaries of the Heavy Industrial zone</i>	
<i>Rural Production zone</i>	<i>Sensitive activities (excluding non habitable accessory buildings) must be setback at least 100m from the boundary of a Heavy Industrial zone .</i>	<i>Where the standard is not met, matters of discretion are restricted to:</i> <i>a. Potential reverse sensitivity effects and measures taken to mitigate these effects, such as landscaping or screening</i> <i>b. Whether there are alternative options for the location of the sensitive activity</i>

RPROZ-R2 and HZ-R2 - Impermeable surface coverage

The reporting officer recommended no change to the permitted threshold and whilst we agree it may be unlikely that a typical farming activity would ever breach the 15% threshold and there is the ability for RPROZ and HZ sites to naturally absorb stormwater runoff, we acknowledge the evidence of the submitters regarding the potential for adverse effects based on the current threshold and without the consideration of suitable mitigation measures. We acknowledge in this respect, the expertise and experience of the two witnesses.

We note that a 15% impermeable surface rule could amount to a significant impermeable area on a rural landholding. For example, a 10ha site could allow 15,000m² (or 1.5ha) of impermeable surface as a permitted activity. We find from the evidence that the permitted impermeable surface area on a site should be reduced to better provide for consideration of potential effects. We find a reduction to 10% to be an appropriate response to the submissions and to the advice from our reporting officer.

3.8.3 Hearings Panel Recommendations

The Panel are satisfied that the right of reply version of RPROZ provisions on these submissions address all concerns raised in evidence and in response to our questions at the hearing. Accordingly, we recommend these submissions are accepted, accepted in

part or rejected as set out in our recommended decisions in **Appendix 3.1** with the recommended amendment to the RPROZ provisions set out in **Appendix 2.1**.

3.9 Key Issue 6 – Panel Questions

We asked a number of questions of the Council officer during the hearing and, in most part, these have been addressed either directly at the hearing or in the responses in the right of reply report. There is one specific question that warrants specific consideration as part of this key issue.

Need for a Height in Relation to Boundary rule

In Mr Hodgson’s evidence he stated that imposing a height in relation to boundary (**HIRB**) control in addition to maximum height and setback controls to RPROZ-RX - Artificial crop protection structures and crop support structures, is overly onerous and is likely to result in the sterilisation of land along boundaries that could otherwise be used productively. The Council right of reply report agreed with Mr Hodgson and has recommended removed this requirement from the proposed rule. We also agree.

We asked the Council to also respond to the justification for a HIRB standard in rural zones at all, in a similar vein to our concerns with an impermeable surface rule.

Again, we have been advised that there is general support (or at least no opposition) to a HIRB rule in either the RPROZ or Horticulture zone /Precinct. For the same reasons as above however, we accept (albeit reluctantly) that there is no scope for us to remove the HIRB rule in the RPROZ or any other rural zone.

3.9.1 Hearings Panel Recommendations

We are generally supportive of the final version of the RPROZ provisions recommended to us by the reporting officer in the right of reply. We acknowledge that in getting to this point the Council officers have diligently considered all relevant submissions and responded to them in the hearing report and recommended significant changes in response to the relief sought in those submissions.

At the hearing we heard evidence that supported the Council assessment and some sought further changes to the RPROZ provisions. In addition, we asked a number of questions to the witnesses and the Council officers and these were all evaluated in the Council right of reply report where a number of further changes were recommended.

We have adopted the further recommended changes in the right of reply report version of the RPROZ provisions with the additional changes set out below:

1. Recommended amendments to RPROZ – O4

RPROZ-O4

The rural character and amenity values associated with a rural working environment are ~~is~~ maintained.

RPROZ-P4

Land use and subdivision activities are undertaken in a manner that maintains or enhances the rural character and amenity values of the Rural Production zone ...

2. Recommended amendments to RPROZ – R19 PER-4

~~**CONPER-4**~~

The separation distance between the minor residential unit and the principal residential unit does not exceed ~~15~~ 30m.

3. Recommended amendments to RPROZ – R19

Activity status where compliance not achieved with ~~CONPER-3~~ or ~~PER-4~~:

Discretionary

Activity status where compliance not achieved with ~~CONPER-1~~, ~~CONPER-2~~, ~~CONPER-4~~ or ~~CONPER-5~~:

Non complying

4. Recommended amendments to RPROZ-RX PER-1 Condition (3)

Activity Status: Permitted

Where:

PER-1

The establishment of a new, or expansion of an existing, artificial crop protection structure or crop support structure, where:

1. The height of the structure does not exceed 6m above ground level;

2. The structure is set back at least 3m from all site boundaries;

~~3. Dark green or black material is used on any vertical faces within 30m of a site boundary or a boundary with a site under different ownership except that a different colour may be used if written approval of the owner(s) of the immediately adjoining property or the road controlling authority (in the case of a road) is obtained and provided to the Council.~~

3.10 Key Issue 7 – Definitions

3.10.1 Matters Raised in Submissions and Evidence

There were 62 original submissions and 176 further submissions on definitions that have been allocated to the rural zones noting that that submissions on the definitions of ‘highly productive land’, ‘versatile soils’ and ‘land-based primary production’ have been evaluated above in in Key Issue 3.

The submissions seeking changes to definitions are discussed in detail under Key Issue 5 of the hearing report for the Rural Production chapter (noting that this evaluation was

covered all rural zones). The hearing report recommended a number of new definitions including the following activities:

- “crop support structure”
- “greenhouses”
- “intensive outdoor primary production”
- “rural airstrip”
- “seasonal worker accommodation”

The hearing report also recommended amendments to the following definitions:

- “rural tourism activity”
- “rural produce retail”
- “farming”
- “farm quarry” and
- “artificial crop protection”.

We acknowledge that most of the recommended new and amended definitions were supported or not challenged at the hearing. However, we did receive some evidence on a number of definitions as summarised below:

Ms Sarah Cameron on behalf of Horticulture NZ requests that the National Planning Standards definition of ‘primary production’ be used in place of the term ‘farming’ in the PDP (as farming is not defined in the National Planning Standards).

Ms Ritchie on behalf of NZ Pork requests further amendment to the definition of ‘intensive outdoor primary production’ to remove the reference to ‘permanent vegetation’ cover, replace that reference with ‘ground’ cover and insert a reference to that ground cover being maintained ‘in accordance with any relevant industry code of practice’.

3.10.2 Hearings Panel Evaluation

Farming v primary production

We heard evidence from Ms Sarah Cameron who is a Senior Policy Advisor for Horticulture NZ. As stated above, Ms Cameron’s concern is that “farming” is not defined in the National Planning Standards, Horticulture NZ sought the “Primary Production” definition in the National Planning Standards be used for the definition of Farming activity. In her view, this definition provides for processing as an ancillary activity whereas the definition proposed in the hearing report specifically excludes processing.

We asked Ms Pearson to provide further comment on this matter in the Council right of reply report. In response Ms Pearson stated that the PDP intentionally makes a distinction between producing a commodity from the land (i.e. the ‘farming’ component) and initial processing (which would be covered by the broader term ‘primary production’). Ms Pearson states:

The PDP rural chapters have been drafted to recognise that, while farming might be an appropriate activity in a wide range of locations across the Far North district, the initial processing of products may not be appropriate in the same locations. This is particularly important for zones such as the RLZ where farming is still anticipated but the presence of a greater number of dwellings compared to the RPROZ means that initial processing of goods is less appropriate.²⁰

In Ms Pearson's view the term 'farming' has a narrower application than 'primary production' and is intended to be used in situations where only the 'farming' components of the 'primary production' definition are enabled or controlled.

Having considered this matter, we recognise the desire to follow the definitions in the NZ Standards as a general principle but accept the approach recommended by the reporting officer that some flexibility needs to be applied in this situation so that a definition of farming as an activity can be applied across all rural zones. We also note that the existing definition of farming includes "*the use of land for the purpose of agricultural, pastoral, horticultural or apiculture activities, including accessory buildings ...*". On that basis we are confident that this definition includes the matters of concern to Horticulture NZ and we find that no further changes need to be made to the definition of "farming" or that this definition needs to be amended to the definition of "primary production" as in the National Planning Standards.

Intensive outdoor primary production

We received evidence from Hannah Ritchie who is the Environment and Planning Manager at NZ Pork. As discussed above her concern was with the use of the term "*permanent vegetation cover*" in the definition of "*intensive outdoor primary production*". In her view the ability to maintain permanent groundcover, as currently written in the proposed definition, is unrealistic in many instances on any working farm and, depending on how this clause is interpreted, may mean that no farm can meet this definition. Ms Ritchie referred to the NZ Pork Good Management Practices for Outdoor Pigs and advised that it defines levels of groundcover that are appropriate for different types of outdoor pig farming operations to minimise environmental effects.

To resolve this Ms Ritchie sought amendment to part (e) of the definition as follows:

means primary production activities involving the keeping or rearing of livestock, or commercial aquaculture, where the regular feed source for the production of goods is substantially provided other than from the site concerned. The activity may be undertaken entirely outdoors or in a combination of indoors and outdoors, including within an outdoor enclosure. It includes free-range poultry or game bird farming and aquaculture. It excludes the following:

- a. woolsheds;*

²⁰ Hearing 9 Right of reply report paragraph 71

- b. *dairy sheds;*
- c. *calf pens or wintering accommodation for stock;*
- d. *pig production for domestic use which involves no more than 25 weaned pigs or six sows; and*
- e. *extensive pig farming where ~~permanent~~ vegetation cover is maintained in accordance with any relevant industry code of practice.*

Ms Ritchie helpfully provided us with a copy of the Good Management Practices for Outdoor Pigs which included the following definition of “ground cover”

Groundcover

Ground cover is maintained in accordance with the following guidelines:

For all dedicated outdoor pig units, or those in a pastoral rotation, the minimum ground

cover is:

- *For dry sows and free-range growers: 40% cover on 75% of land (< 40 % cover permissible of 25% land).*
- *Each paddock to have on average >10% cover*
- *At least 70% cover for farrowing sows.*

For all outdoor pig units that form part of an arable operation, the minimum ground cover is:

- *For dry sows and free-range growers: 25% cover on average (a gradual decline from 100% to 0% is permissible over the length of the pig phase)*
- *At least 70% for farrowing sows.*

We have considered this matter and it is our view that, as a general principle, definitions should not refer to any industry code of practice as these codes change over time and are not subject to the same rigour as a plan change process. That said we have sympathy with the need for some flexibility with regard to how ground or vegetation cover is reflected in the definition of Intensive outdoor primary production. We note that Ms Pearson has reached a similar conclusion and has recommended that word “permanent” be removed from clause (e) of the definition such that its reads as follows:

- e. *extensive pig farming where ~~permanent~~ vegetation cover is maintained in accordance with any relevant industry code of practice.*

We agree with this approach and recommend that the definition be amended as per Ms Pearson’s wording and to accept the submission in part.

3.10.3 Hearings Panel Recommendations

We recommend that the new and amended definitions be accepted as set out in Appendix 1.2 of the hearing report and further modified and set out in Appendix 6 to the right of reply report. These recommended changes are included in **Appendix 2.1, Definitions to Recommendation Report 17.**

4. Topic 2 – Horticulture Zone

4.1 Relevant Provisions

The relevant provisions we address in the Recommendation Report for this topic relate to:

- Overview
- Objectives HZ O1–O4
- Policies HZ P1-P7
- Rules HZ R1 – R26
- Standards HZ S1-S6.

4.2 Key Issues

The key issues identified in the hearing report and in evidence are set out below:

- Key Issue 1: Whether a Horticulture zone/precinct is consistent with the National Planning Standards?
- Key Issue 2: If a special zone is not appropriate, how should horticulture be provided for in the Rural chapters?
- Key Issue 3: Minimum lots sizes within the Horticulture Precinct
- Key Issue 4: Horticulture Precinct Objectives
- Key issue 5: Horticulture Precinct Policies
- Key Issue 6: Horticulture Precinct Rules and Standards

4.3 Discussion

This section constitutes the main body of this report for this Topic and considers and provides recommendations on the decisions requested in submissions. Due to the large number of submissions received and the repetition of issues, as noted above, it is not efficient to respond to each individual submission point raised in the submissions. Instead, this part of the report groups similar submission points together under key issues. This thematic response assists in providing a concise response to, and recommended decision on, submission points.

Key Issues 1 and 2 address the PDP zoning framework for the Horticulture chapter. These issues discuss the appropriateness of the Horticulture zone being a form of a Special zone under the National Planning Standards framework and other options for horticulture

provisions that are more consistent with that framework. As is revealed in our discussions and findings below, we have agreed with submitters that a Horticulture Special zone is not consistent with the National Planning Standards framework. We have considered a number of options put forward by submitters and Council officers and we have agreed with the officers that the overall essence of the horticulture special zone provisions could be reconstituted as a Horticulture Precinct. In order to give submitters certainty for future hearings we took the step of issuing interim guidance (Minute 23) stating that we consider there is merit for the Horticulture zone to be amended to a precinct within the rural chapters sections of the PDP, given that the special purpose zone fails to meet the criteria in Section 8.3 of the National Planning Standards.²¹

While we had issued this interim guidance in Minute 23 we set out the reasons for making this determination in this recommendation report as well as discussion of the other zoning options identified and presented to us.

Key Issue 3 picks up on the findings on minimum lots sizes for the RPROZ in Topic 1 above and specifically addresses those submissions that sought different (usually smaller) lot sizes within the Horticulture Precinct.

Key Issues 4 – 6 follow our findings for the other provisions in the new Horticulture Precinct while also picking up on similar themes that were relevant to the notified provisions.

4.4 Key Issue 1 – Horticulture Zone

4.4.1 Matters Raised in Submissions and Evidence

The legal submissions for Audrey Campbell-Frear (S209) presented by Sarah Shaw address two primary issues: that highly productive land “must and should” be protected and that creation of the proposed Horticulture zone (as a special zone) is not an appropriate planning mechanism to protect highly productive land – whereas the Rural Production zone is.

Ms Shaw specifically directed us to the National Planning Standards and the criteria within it relating the use of special zones as a zone for activities that are predominantly for primary production activities. Ms Shaw quoted the Standards and submitted:

The Standards direct that a special purpose zone must only be created when the proposed land use activities or anticipated outcomes of the additional zone meet all of the following criteria:

- a. are significant to the district, region or country;*
- b. are impractical to be managed through another zone;*
- c. are impractical to be managed through a combination of spatial layers.²²*

²¹ https://www.fndc.govt.nz/_data/assets/pdf_file/0013/40414/Minute-23-Interim-Guidance-of-the-Independent-Hearings-Panel-Horticulture-Zone.pdf

²² Legal submissions of Sarah Shaw – paragraph 1.18

Ms Shaw also referred to the NPS-HPL and the “interim” definition of highly productive land which refers to land zoned General Rural or Rural Production and LUC, 1, 2 and 3. In her submission, any zone based on primary productions must be zoned either “general rural” or “rural production”. She submitted that:

Arguably, if LUC 1, 2 or 3 land is not in the Rural Production Zone, it will be ineligible to be treated as highly productive land under the interim definition and ineligible to be mapped by NRC as highly productive land in regional mapping. The NPS HPL is the highly directive national instrument specifically cast to protect highly productive land for land-based primary production – including horticulture – and it does not anticipate a special purpose zone for horticulture.²³

Her legal submissions also asserted that the proposed Horticulture zone provisions were inefficient and ineffective as they:

- *duplicate the RPROZ provisions;*
- *restrict the zone to the Kerikeri / Waipapa area by a policy, which does not implement the objectives (even of the proposed zone);*
- *apply a Horticulture Zone to a spatial area where 90% of uses are not horticulture;*
- *apply a zone purporting to manage land fragmentation to an area where 93-94% of lots are already of a size below what the s32 and s42A reports say is required to enable horticulture.*

In support of her legal submissions Ms Shaw called three expert witnesses:

Derek Foy – Economics. This evidence opined that the Horticulture zone, from a rural economics perspective, was not materially different from the RPROZ and was unlikely to achieve greater promotion or enhancement of horticulture activity in the than the notified RPROZ.

Ian Hanmore – Soils. This evidence focussed on the potential for LUC 4 land to become highly productive land (LUC 1, 2, or 3) through irrigation. In Mr Hanmore’s view, adding irrigation to the majority of the LUC 4 around Kerikeri - Waipapa would not overcome existing major limitations with that soil type and in many instances would further exacerbate them.

Melissa McGrath – Planning. This evidence focussed on the planning arguments for the provisions for the Horticulture zone to be incorporated within the RPROZ on the basis that it would avoid unnecessary duplication. Ms McGrath also produced supplementary evidence setting out how the Horticulture zone provisions could be incorporated into the RPROZ and achieve the same or similar outcome.

4.4.2 Hearings Panel Evaluation

We spent some time at the hearing and in deliberations considering Ms Shaw’s legal submissions and the expert evidence presented. In particular, we were concerned

²³ Legal submissions of Sarah Shaw – paragraph 1.23

whether the proposed Horticulture zone as a special zone would meet the criteria in the National Planning Standards as set out by Ms Shaw and supported in planning evidence and other witnesses.

We note that the Council has already conceded (via its written right of reply report) that land classified LUC 4 should not be included within any land identified for productive horticultural use as it falls outside the definition of highly productive land in the NPS-HPL.

At the hearing we were taken through the National Planning Standards as it relates to special zones and under section 8 – zone Framework Standard, we were advised that the National Planning Standards set out eight types of special purpose zone, none of which identified horticulture or primary production as being in that list. We were directed to Clause 3 of Section 8 that set out the criteria for additional special zones (other than those listed) and it states:

3. *An additional special purpose zone must only be created when the proposed land use activities or anticipated outcomes of the additional zone meet all of the following criteria:*
 - a. *are significant to the district, region or country*
 - b. *are impractical to be managed through another zone*
 - c. *are impractical to be managed through a combination of spatial layers.*

We accepted that these criteria were mandatory and narrow and that all must be met in order to justify the use of a special zone outside of the identified list of Special zones. On that basis we agree with Ms Shaw that the case for the Horticulture zone as a special zone appears to not meet the strict criteria in Clause 3.

We asked both Ms Shaw and Ms McGrath whether incorporation of the horticulture provisions within the RPROZ was the only alternative or whether there were other options including the conversion of the Horticulture zone to a precinct under the National Planning Standards.

We record that the National Planning Standards provides for Precincts as a Spatial Layer for district plans as follows:

Precincts - *A precinct spatially identifies and manages an area where additional place-based provisions apply to modify or refine aspects of the policy approach or outcomes anticipated in the underlying zone(s).*²⁴

As we understand this standard, a precinct providing for specific-place-based provisions for horticulture within the RPROZ is, in principle, consistent with the National Planning Standards. We put this question directly to Ms McGrath and she responded that it was also an option to consider in addition to her suggested amendments to incorporate the Horticulture provisions within the RPROZ.

²⁴ National Planning Standards 2019 – Table 18

We asked Ms Pearson to consider this issue in the right of reply report and in particular the following matters:

1. Is the notified Horticulture zone consistent with the National Planning Standards as a Special Purpose zone ?
2. Is a Horticulture Precinct within the RPROZ an appropriate alternative or is its deletion and incorporation within RPROZ the most appropriate method?
3. Is there scope within the submissions of Ms Campbell-Frear to redraft the Horticulture zone as a precinct?

We received that response in paragraph's 25-32 of the right of reply report (dated 3 March 2025). We also note that the Council sought legal advice on these matters which was summarised in the right of reply:

1. As notified, the Horticulture zone would likely not meet the Special Purpose zone tests;
2. There is scope within the submission of Audrey Campbell-Frear to redraft the Horticulture zone as a precinct or similar spatial layer, with the RPROZ as the underlying zone; and
3. It is uncertain whether the notified Horticulture zone is excluded from the transitional definition of HPL under clause 3.5(7) of the NPS-HPL and that, as the Horticulture zone was notified prior to the NPS-HPL being gazetted, the NPS-HPL does not apply to the Horticulture zone .

Ms Pearson set out three options for us to consider, and her recommendation having considered the evidence, our questions to the submitter, and the legal advice received. Ms Pearson advised that:

Option 1: Retain the Horticulture zone with some amendments to provisions to address specific issues with provisions that were raised in evidence.

Response - Given the legal issues raised with meeting the tests for a SPZ and the potential for a spatial layer to achieve a similar outcome, she no longer supported Option 1.

Option 2: Redraft the HZ provisions so that, instead of this area being protected by a special purpose zone, it is managed by a precinct (or some other type of spatial layer).

Response: She agreed with the option identified by the Panel that one of the spatial layers in Table 18 of the National Planning Standards is a possible alternative to the Horticulture zone.

Option 3: Delete the Horticulture zone and instead rezone the land RPROZ, with some amendments to provisions to strengthen the protection for land defined as Highly Productive Land under clause 3.5(7) of the NPS-HPL.

Response: Ms Pearson remained of the opinion that, rezoning the Horticulture zone to RPROZ and strengthening the RPROZ provisions relating to HPL will not achieve the same level of protection for the horticultural industry as a specific spatial layer with bespoke provisions for managing land use and subdivision in that location.

In support of this conclusion, Ms Pearson offered three reasons why a Horticulture Precinct was her preferred option as follows:

- i. Zoning the HZ land to RPROZ does not resolve the timing issue of the land being zoned a special purpose zone at the time the NPS-HPL was gazetted. As such, simply relying on HPL provisions in the RPROZ to protect land in the HZ is not sufficient, particularly if the HPL status of land in the HZ is being continually challenged through the resource consent process.*
- ii. The spatial extent of the HZ is not entirely LUC 1-3 land (refer to Figure 1 of the Rural Wide Issues and RPROZ section 42A report that confirms around 35% of the HZ is either LUC 4 land or above). As such, relying on provisions in the RPROZ that protect HPL do not achieve the same spatial protection of land as the HZ.*
- iii. The intention behind introducing the HZ was not just to protect soils, it was also to protect the significant investment in horticultural infrastructure in the Kerikeri/Waipapa area. The NPS-HPL provisions in the RPROZ do not recognise or protect this infrastructure investment.*

We agree with Ms Pearson that a precinct (within the RPROZ) is the preferred alternative for the reasons set out above. We also find that this approach, in our view would also resolve the conflict between the National Planning Standards and its strict criteria for a bespoke special zone and the need to recognise highly productive land in the context of a primary rural zone. In that regard, we find that a horticulture precinct would spatially identify areas within a wider RPROZ primary production zone, where additional place-based provisions are necessary to recognise a different (but not contrary) response is appropriate. This alternative approach would allow for many of the RPROZ provisions to still apply (where relevant and to avoid unnecessary duplication) but with specific provisions related to horticulture activity and its specific needs within identified areas around Kerikeri and Waipapa.

In making this finding we are also acknowledging the evidence of Horticulture NZ where it was stated that the Far North and Kerikeri/Waipapa enjoyed a competitive advantage in horticulture over the rest of New Zealand on the basis that a combination of good soils and a warmer climate, horticulture in these areas is able to:

- Provide the market with new seasonal produce (at a time when the best prices were achieved) earlier than most other horticultural areas;
- Provide a broad base of horticultural products to the market during the production season; and
- Provide products to the market for longer seasonal periods of time.

We agree with Horticulture NZ that this is a significant competitive advantage and worthy of being maintained and further enhanced through provisions that supported horticulture production. In our view, this outcome further supports our conclusion that a horticulture

precinct is the most appropriate way to provide for horticultural production at Kerikeri/Waipapa and achieve the purpose of the RMA.

4.4.3 Hearings Panel Recommendations

We recommend that the submissions from Audrey Campbell-Frear are accepted in part and that the Horticulture Chapter (notified as a special purpose zone) be deleted as it fails to meet the criteria for additional (non-listed) special purpose zones as set out in Part 8 Clause 3 of the National Planning Standards 2019.

We recommend that the most appropriate option to recognise and provide for horticultural activities in the Kerikeri/Waipapa area is for the notified Horticulture zone chapter to be redrafted as a precinct to provide specific place-based provisions for the horticulture industry as a primary production activity within the context of the RPROZ as the underlying zone.

It is recommended those submissions that sought the removal of the Horticulture zone on the basis that it fails to give effect to the National Planning Standards or is not supported by a section 32 analysis are accepted in part as set out in **Appendix 3.6**. Those submissions that sought that the Horticulture zone provisions be incorporated into the RPROZ are also accepted in part as we have recommended that the Horticulture zone be redrafted as a precinct to provide specific place-based provisions for the horticulture industry in the context of the RPROZ as an underlying zone.

The specific wording of the proposed Horticulture precinct is discussed in Key Issue 2 below.

We also note that the boundaries for the new Horticulture precinct are discussed in **Recommendation Report 15C**.

4.5 Key Issue 2 – Proposed Horticulture Precinct

4.5.1 Matters Raised in Submissions and Evidence

As discussed above in Key Issue 1, there were a number of submissions that sought the deletion of the Horticulture zone (as a SPZ) and sought all relevant horticulture provisions be incorporated into the RPRPZ.

Following the Council right of reply report dated 3 March 2025 we received a supplementary right of reply report dated 11 March 2025, also written by Ms Pearson. The purpose of this supplementary report was to provide a commentary on the drafting approach for converting the Horticulture zone (**HZ**) chapter into a Horticulture Precinct (**HP**) chapter.

We note that until this point there were no other precincts in the PDP and the Council has advised that the approach taken has been cognisant that other precincts may be recommended through other hearings and we acknowledge that some further refinement may be needed should other precincts be developed in response to submissions.

In that regard we acknowledge that several new precincts have been recommended as part of the re-zoning hearings for Hearing 15A – 15D.

4.5.2 Hearings Panel Evaluation

In drafting the proposed new Horticulture precinct chapter, Ms Pearson has followed the Format Standard in the National Planning Standards with precincts identified with 'PREC', followed by a sequential number, a space, an en-dash, a space, the precinct's unique name, a space, and 'precinct'. Following this format and this being the first precinct in the PDP, the HP is referenced in full as '**PREC1 – Horticulture precinct**' and all provisions in the HP begin with '**PREC1**'. As per our reasoning in Key Issue 1, the HP only applies to land zoned RPROZ.

Given that the RPROZ chapter applies to the largest area of land in the Far North District and will be used predominantly by landowners that are not located in the HP, Ms Pearson considers it appropriate for plan users for the HP provisions to remain in a separate chapter but located in the same section of the e-plan as the RPROZ chapter to make it easier for plan users to find. In her view, incorporating the HP provisions into the RPROZ chapter (as per Ms McGrath's evidence) would make it too complex and more difficult to navigate for plan users with land outside the HP. While we initially agreed with this approach, we have subsequently added a further six precincts to the PDP with most of these having an underlying zoning of RPROZ. On that basis we recommend that all precinct)including the HP be included a separate section of Part 3 of the PDP.

The proposed HP chapter prepared by the Council and endorsed by us is annexed as **Appendix 2.2**.

As with the findings and recommendations in the RPROZ topic, references to highly productive land and/or LUC 4 land in objectives and policies have been removed and instead the policy refocuses on protecting all land within the HP, regardless of its LUC status. The drafted provisions have also endeavoured to remove unnecessary duplication and provide clearer directions for reverse sensitivity effects.

The rationale for the key changes between a horticulture zone and a horticulture precinct is set out in section 6 to the Council supplementary right of reply report and we note and endorse the following:

- a) Most changes are to the HP objectives and policies, to remove duplication with the RPROZ objectives and policies, provide stronger reverse sensitivity direction and remove content relating to LUC status or NPS-HPL tests.
- b) The intention for the HP provisions is that they protect all land within the HP equally, regardless of LUC status. Whether or not land should or should not be included in the HP is a matter to be determined as part of Hearing 15C when the spatial extent of the HP was considered.
- c) The recommended drafting changes to convert the HZ rules and standards into HP rules and standards are more or less straightforward. All rules and standards that are identical to those in the RPROZ have been recommended to be deleted. All remaining HP rules and standards are either unique to the HP and apply in addition to the RPROZ provisions (e.g. rules for garden centres or plant and food research), or are more enabling or stringent than the equivalent RPROZ provision and apply in place of that provision (e.g. visitor accommodation in the HP is discretionary but it is permitted in the RPROZ, so the HP rule prevails).

4.5.3 Hearings Panel Recommendations

In our view, the proposed provisions have been carefully prepared and are consistent with the formatting standards and drafting directions in the National Planning Standards.

For the reasons set out above and in Key Issue 1 we recommend that the new HP chapter be incorporated into the PDP as PREC1 and as set out in **Appendix 2.2** to this recommendation report.

Furthermore, we recommend that all submissions on this issue be accepted, accepted in part or rejected as set out in **Appendix 3.6**.

4.6 Key Issue 3 - Minimum Lot Sizes within the Horticulture Zone/Precinct

4.6.1 Matters Raised in Submissions and Evidence

There were several submissions in support of the minimum lot size within the Horticulture zone/precinct and several submissions seeking it be more permissive. As notified, the PDP in SUB-S1 provided for a minimum lot size of 10ha as a controlled activity and 4ha as a discretionary activity.

NRC (S359) made two submissions on SUB-S1 as it relates to the HZ. The first (S359.015) requests that SUB-S1 is amended to increase minimum lot sizes and further restrict development in the Horticulture zone/precinct and the second (S359.018) specifically requests amendments to the discretionary activity pathway for subdivision down to 4ha lots. NRC consider that the close proximity of the Horticulture zone/precinct to Kerikeri and Waipapa and the strong demand for rural lifestyle sized lots in these areas means that a 4ha discretionary minimum lot size is potentially not strong enough to discourage rural lifestyle subdivision.

The hearing report, having considered the NPS-HPL came to the conclusion that a controlled activity pathway is no longer appropriate for subdivision in the Horticulture zone and, in recognition of that national direction, recommended that a discretionary activity status for subdivision of land 8ha or greater is the most appropriate way to give effect to the direction in the NPS-HPL.

We heard evidence from Vision Kerikeri and others²⁵ from Two M Investments (S317) who were in support of the hearing report recommendations to increase the minimum lots size from 4ha to 8ha. The evidence presented mirrored the reasoning set out in the hearing report that the increased minimum lot size will better protect against further land fragmentation and loss of productive land that needs to be retained for future generations.

The legal submissions and planning evidence of Audrey Campbell-Frear (S209) were opposed to the increased minimum lot sizes on the basis that the land is already severely fragmented and utilised for a range of land uses that are not land-based primary production. Ms McGrath was of the view that further restriction of subdivision in the HZ will not avoid fragmentation or afford protection from reverse sensitivity effects, both of which are already present in the proposed zone.

²⁵ Vision Kerikeri (S521), Carbon Neutral Trust (S529), and Kapiro Conservation Trust (S442), collectively referred to as "Vision Kerikeri and others"

4.6.2 Hearings Panel Evaluation

We have covered the issues relating to minimum lot size in detail in Key Issue 2 for the RPROZ topic above and much of that analysis relating to the need to protect the productive capacity of rural land applies to the Horticulture zone/precinct. With regard to highly productive land located within the Horticulture zone/precinct we are of the view that this land is a finite resource and an important element of the rural economy of the Far North (and the economy generally). We are of the view that any reduction in the availability of the land for primary/horticulture production by non-rural activities will limit food production opportunities for future generations, who may rely more on this land due to changes in climate and loss of highly productive land in other locations such as Auckland which are under intense pressure to develop housing.

In coming to this conclusion, we have had regard to the section 32 Rural Environment Report which states:

The Horticulture zone is a special zone that has been created to address specific issues affecting the Kerikeri and Waipapa area. The purpose of this zone is to protect and support the existing significant horticulture sector located in this area and to provide for its expansion. A special zone has been used for this area because:

- *The ODP enabled fragmentation of this highly productive land, which supports a significant horticulture industry for the district. To ensure this highly productive land remains in productive use, it needs to be more specifically protected from sterilisation compared to the Rural Production Zone.*
- *Horticultural activities are more susceptible to reverse sensitivity issues given the small size of the lots and the use of chemicals, which means the range of activities (particularly the level of residential activity in the zone) needs to be more limited than in other parts of the rural environment.*
- *This area is unique to the district due to the irrigation infrastructure investment, established horticulture sector and ancillary horticulture activities such as the large-scale horticulture processing facilities.*
- *This area is also being affected by high growth, with a demand for rural residential, rural lifestyle development and commercial / industrial development in the locations where the highly productive land is located.²⁶*

As discussed above, we heard evidence at the hearing from Horticulture NZ (S159) that highly productive land, especially at Kerikeri-Waipapa, allowed primary producers a competitive advantage over other horticultural areas in New Zealand in terms of the ability to:

²⁶ Section 32 Rural Environment Report Page 4

- Provide the market with new seasonal produce (when the best prices were achieved) earlier than other horticulture growing areas ;
- Provide a broad base of horticultural products to the market during the production season; and
- Provide products to the market for longer seasonal periods of time.

With regard to the extent of fragmentation already in the Horticulture zone/precinct we acknowledge that this has occurred and that it has had an impact on the quantum of land available for horticultural production. However, given the direction of the NPS-HPL and importance of the horticulture industry at Kerikeri-Waipapa to the Far North rural and wider economy we have concluded that these positive benefits far outweigh the negative effects of fragmentation.

For the reasons set out above, our finding is that the minimum lots sizes under SUB-01 within the Horticulture zone/precinct should be increased as recommended in the hearing report as follows:

SUB-S1 Minimum allotment sizes

<i>Zone</i>	<i>Controlled Activity</i>	<i>Discretionary Activity</i>
<i>Horticulture</i>	10ha <u>NA</u>	4ha <u>8ha</u>

4.6.3 Hearings Panel Recommendations

In line with our evaluation and findings for the minimum lots sizes for the RPROZ we recommend that the minimum lot size for the Horticulture zone/precinct be increased in recognition of the national direction to avoid the loss of highly productive land under the NPS-HPL and the importance of horticulture land in this location to the Far North economy. As set out above we recommend that SUB-01 be amended as follows:

SUB-S1 Minimum allotment sizes

<i>Zone</i>	<i>Controlled Activity</i>	<i>Discretionary Activity</i>
<i>Horticulture</i>	10ha <u>NA</u>	4ha <u>8ha</u>

Accordingly, we recommend that submissions on this issue are accepted, accepted in part or rejected as set out in **Appendix 3.6**.

4.7 Key Issue 4 – Horticulture Zone/Precinct Objectives and Policies

4.7.1 Matters Raised in Submissions and Evidence

We heard extensive evidence from Ms McGrath for Audrey Campbell-Frear (S209) and she addressed the objectives for the Horticulture zone/precinct. She stated that objectives (especially HZ-O1 and O3) were too focussed on horticulture as opposed to other rural production activities. She also opined that the zone objectives were not aligned with the Strategic Direction objectives in relation to the rural environment. Ms McGrath, in support of her position that the Horticulture zone (as notified) was not enabled as a special zone under the National Planning Standards, set out a number of

instances where she considered there to be unnecessary duplication of objectives and policies between the Horticulture zone and the RPROZ.

4.7.2 Hearings Panel Evaluation

As discussed in Key Issue 3 we have recommended that the Horticulture zone provisions be redrafted as a precinct (PREC1). We have evaluated the revised Horticulture Precinct provisions drafted by the Council and we are of the view that the drafted precinct provisions, being a placed-based chapter within the RPROZ have reduced the duplication of objectives and policies and are overall better integrated with the RPROZ.

Having regard to the evidence received we are satisfied that the redrafted provisions address the concerns with objectives and policies presented in evidence to us.

4.7.3 Hearings Panel Recommendations

For the reasons set out above we recommend that those submissions seeking changes to the objectives and policies of the Horticulture zone (as notified) be accepted in part on the basis that they have been addressed through the redrafting of the zone to a horticulture precinct as set out in **Appendix 3.6**. The recommended objectives and policies for the Horticulture precinct are set out in **Appendix 2.2**.

4.8 Key Issue 5 - Horticulture Zone/Precinct Rules

4.8.1 Matters Raised in Submissions and Evidence

Artificial crop protection structures and crop support structures

As discussed in Key Issue 5 for the RPROZ topic, Mr Hodgson on behalf of Horticulture NZ recommends the same amendments to the Horticulture zone/precinct Artificial crop protection structures and crop support structures (drafted in the hearing report as HZ-RX) as for RPROZ-RX. The only difference Mr Hodgson recommends in the proposed wording is that the setback from all site boundaries in PER-1(2) is reduced from 3m to 1m to reflect the primacy that should be given to horticultural activities over amenity expectations of residents in the Horticulture zone/precinct.

4.8.2 Hearings Panel Evaluation

Artificial crop protection structure

As per our findings relating to artificial cloth colour in the RPROZ-RX (i.e. no limitations on shade cloth colour) we are also of the view that in order to maximise the potential of highly productive land that the structure only needs to be set back 1m from all site boundaries. We therefore agree with Mr Hodgson's evidence for Horticulture NZ.

Extension of existing commercial and industrial activities

The evidence of Ms McGrath raised the concern regarding the discretionary activity status for existing commercial and industrial activities. Her view was that the Horticulture zone/precinct is comprised of a range of existing land uses that are primary production or horticultural activities and these proposed rules further restrict future development, increasing consenting and development cost.

We understand Ms McGrath’s concern regarding the activity status of these activities. However, as expressed throughout the assessment and evaluation of the RPROZ and this chapter we have found that the priority of these zones is to maintain the productive potential of rural land for primary productive activities. For the Horticulture zone/precinct we are of the view that the national direction to avoid the loss of highly productive land under the NPS-HPL supports enabling the extension of existing commercial and industrial activities as a discretionary activity. We note that these provisions have been drafted into the Council recommended rules in the RPROZ such that these provisions do not need to be repeated in the new Horticulture Precinct as the default RPROZ rules would apply.

4.8.3 Hearings Panel Recommendations

- a) We recommend submissions from Horticulture NZ be accepted in part and the following amendments (redrafted as precinct rule PREC1-R5):

PER-1

The establishment of a new, or expansion of an existing, artificial crop protection structure or crop support structure, where:

- a. The height of the structure does not exceed 6m above ground level;
 - b. The structure is set back at least 13m from all site boundaries;
 - c. Dark green or black material is used on any vertical faces within 30m of a road site boundary except that a different colour may be used if written approval of the owner(s) of the immediately adjoining property or the road controlling authority (in the case of a road) is obtained and provided to the Council.
- b) For these reasons set out above, we do not recommend any changes to the activity status for the extension of existing commercial and industrial activities in the new Horticulture Precinct and that this submission point from Audrey Campbell-Frear is rejected.

5. Topic 3 – Rural Lifestyle Zone

5.1 Relevant Provisions

The relevant provisions we address in the Recommendation Report for this topic relate to:

- Overview
- RLZ-O1-04 Objectives
- RLZ-P1-P4 Policies
- RLZ-R1 – R28 Rules
- RLZ-S1 – S6 Standards

The Overview statement for this zone refers to the role of the Rural Lifestyle zone to provide an area specifically for rural lifestyle living. It aims to accommodate the demand for rural lifestyle living in appropriate areas of the district, close to transport routes with good access to services in urban areas and settlements. It is also intended to reduce ad-hoc or sporadic rural lifestyle development throughout the Rural Production zone that adversely impacts on primary production activities.

There are 163 original submissions points on the RLZ chapter, including 92 submissions in support, 39 supporting in part and 15 in opposition. There are also 185 further submission points received on those original submissions.

5.2 Key Issues

There were eight Key Issues set out in the hearing report which generally followed the structure of the provisions in the zone but also recognised issues associated with Subdivision rule SUB-S1 as it applies to minimum lot sizes.

The hearing report recommended a number of amendments to the objectives and policies of the Residential Lifestyle zone (**RLZ**). A number of minor amendments were recommended to the RLZ rules as well as a number of new and amended advice notes. With regard to the RLZ standards, the hearing report recommended new standards (similar to standards proposed in the RPROZ) regarding the following:

- RLZ-SX sensitive activity setback from the boundary of a Mineral Extraction zone.
- RLZ-SY Sensitive activities setback from intensive indoor and outdoor primary production activities.
- RLZ-SZ Sensitive activities setback from buildings or structures used to house, milk or feed stock (excluding buildings or structures used for an intensive indoor or outdoor primary production activity).

We note that most of the matters raised in submissions were not contested in evidence at the hearing and are therefore not in contention. At the hearing we received evidence on the RLZ concerning the following issues:

Willowridge Developments Ltd

We received a tabled letter from David Badham who is the planner representing Willowridge Developments Ltd (**Willowridge**). The letter stated that Willowridge are land owners in Orongo Bay, a coastal settlement south east of Russell township in the Bay of Islands and they were currently preparing a resource consent application for development on their landholdings, and more specifically looking to apply for a “management plan subdivision” under the operative Far North District Plan provisions. In addition to this Willowridge lodged submissions on the PDP as it relates to the proposed rural provisions, and in particular the provisions relating to the Rural Lifestyle zone which is proposed for its site.

The Willowridge letter stated that it supported most of the recommended changes set out in the hearing report but sought an amendment to RLZ-R3 to allow a density of one residential unit per 5,000m² as a permitted activity, as provided in the ODP Coastal Living zone.

5.2.1 Hearings Panel Evaluation

The hearing report recommended that residential density be the same as the minimum lot size in the subdivision zone (SUB-S1). Mr Badham disagrees with the reporting officer as the Willowridge letter stated that RLZ-R3 is too restrictive and did not reflect the range of allotment sizes that are in the ODP.

Willowridge also seeks one setback standard in RLZ-S3 as opposed to the nuanced approach in the notified PDP that applied a different setback depended on lot size.

We have considered these matters and we prefer the evidence of Ms Pearson that density and minimum lot sizes should be the same and we agree with the setback standards as notified (and in addition with the other changes recommended as part of that rule).

5.2.2 Hearings Panel Recommendations

For the reasons set out in the hearing report and in the right of reply report we do not recommend any further changes to the provisions than those recommended by the Council reporting officer and as set out in **Appendix 2.3**. Our recommendations on all other submission points relating to the RLZ are set out in **Appendix 3.2**.

6. Topic 4 – Rural Residential Zone

6.1 Relevant Provisions

The relevant provisions for the Rural Residential zone (**RRZ**) we address in the Recommendation Report for this topic relate to:

- Overview
- RRZ-O1 - O4 Objectives and Policies
- RRZ-P1 – P5 Policies
- RRZ-R1 – R23 Rules
- RRZ-S1 – S5 Standards.

The Overview statement for the RRZ zone states that the role of the Rural Residential zone is to provide an opportunity for people to enjoy a spacious, peri-urban living environment located close to a settlement. The Rural Residential zone is located on the fringe of the district's settlements and provides a transition to the surrounding Rural Production and/or Rural Lifestyle zones and the Horticulture Precinct. The Rural Residential zone provides for smaller lot sizes of approximately 2,000-4,000m² that are capable of providing for on-site infrastructure servicing, as distinct from the Rural Lifestyle zone that has a larger minimum lot size and greater expectations of maintaining rural character and amenity values.

6.2 Key Issues

Eight key issues were identified in the hearing report and these generally related to the objectives, policies, rules and standards set out in the RRZ as well as specific matters relating to impermeable surface coverage, residential activity within the RRZ, home businesses and the minimum lots sizes in SUB-S1 as it relates to the RRZ.

A number of amendments were made in response to submissions and we received no evidence from submitters on the matters raised in submissions or the proposed amendments set out in the hearing report. On that basis, we have concluded that the submissions are not in contention and have accepted and recommend all those changes as set out in the hearing report.

The Right of Reply report sets out a number of consequential amendments that flow from recommended changes following the hearing and from ourselves, including the following:

- References to “character and amenity” are now “character and amenity values”;
- All references to the “Horticulture zone” are now “Horticulture precinct”;
- The changes sought by KiwiRail and approved by us have been added.

6.2.1 Hearings Panel Evaluation

As there are no additional matters in contention relating to this zone, we have concluded that the provisions recommended by the Council officer in the hearing report and updated in the right of reply report have addressed all matters in submissions are appropriate.

6.2.2 Hearings Panel Recommendations

We recommend the changes as set out in the Council right of reply report and annexed as **Attachment 2.4**. Our recommendations on all other submission points relating to the RLZ are set out in **Appendix 3.3**.

7. Topic 5 – Settlement Zone

7.1 Relevant provisions

The relevant provisions for the Settlement zone (**SZ**) we address in the Recommendation Report for this topic relate to:

- Overview
- RSZ-O1 – O4 Objectives
- RSZ-P1 – P5 Policies
- RSZ-R1 – R16 Rules
- RSZ-S1 – S7 Standards

We note that whilst the zone title is Settlement zone (**SZ**) the zone provisions are all prefaced with RSZ.

The Settlement zone Overview states that this zone caters for range of existing rural and coastal settlements which are neither supported, nor plan to be supported, by a Council reticulated wastewater and stormwater networks and only some have reticulated water supply.

It is noted that the larger settlements in the SZ provide commercial, community and industrial services for the surrounding rural community and the travelling public. These non-residential activities are usually small scale such as schools, medical centres, halls, marae, food outlets and service stations. The Overview states that they play a major role in the community such as providing a source of employment, education healthcare and as social meeting places.

7.2 Key Issues

There were five key issues addressed in the hearing report following the structure of the provisions and including Subdivision SUB-S1 as it relates to lot sizes in the Settlement zone.

As with the RRZ and SZ the hearing report recommended amendments to rules and standards to align with recommendations made in the Rural Wide Issues and Rural Production zone (RPROZ) and amendments to standards to better manage reverse sensitivity effects with adjoining RPROZ land and to achieve consistency with other zone standards.

7.2.1 Matters Raised in Submissions and Evidence

We heard evidence from Ms Cook-Munro on behalf of Federated Farmers (S421) and she expressed support for the recommended amendments to the SZ chapter, as set out in the hearing report.

We heard planning evidence from Mr Badham on behalf of Foodstuffs North Limited (S363) (**Foodstuffs**) with regard to the establishment and operation of supermarkets (primarily Four Square stores).

Mr Badham took issue with PER-1 of RSZ-R1 (New buildings or structures, relocated buildings or extensions or alterations to existing buildings or structures) and stated that the current drafting confuses effects associated with building bulk and scale with the scale and intensity of activities, being a matter that is managed (in the case of supermarkets) under RSZ-R8 – Commercial activities. He added that the structure of having one rule for buildings and structures linked to compliance with the standards combined with a second rule for the activity itself results in unnecessary complexity and duplication and recommends changes to this approach to improve the efficiency of the PDP. He also acknowledges that this structure is used consistently across all zone chapters in the PDP and if a change to the chapter structure was made in the RSZ, changes to all other zone chapters would be required for consistency.

Mr Badham stated that RSZ-R8 (Commercial Activity) does not make sufficient provision for supermarkets in settlements. He makes the point that supermarkets are an important service/activity for the economic and social wellbeing of people in the rural and coastal communities that the SZ covers. Mr Badham set out a number of reasons for this in his evidence and we summarise as follows:

- a) There are no definitions for either “retail activity” or “supermarket”, which makes the application of RSZ-R8 unclear;

- b) Supermarkets are distinguished from other types of retail activities by the diverse range of retail offerings, which necessitate a separate rule for greater clarity and certainty to plan users;
- c) The scale and intensity of supermarket activities, and their potential effects on rural and coastal character and amenity values, can be efficiently and effectively managed through a permitted activity rule framework;
- d) The costs and benefits of a 300m² GFA restriction on the footprint of supermarkets (outside of Moerewa) have not been comprehensively assessed in the Section 32 Report, including the impact that imposing a consenting barrier could have on deterring supermarkets from establishing in settlements.

To resolve Foodstuffs' concerns Mr Badham sought an increase in the maximum GFA for supermarkets from 300m² to 400m² in all settlements.

At the hearing we asked Mr Badham to provide additional information relating to:

- the typical Four Square stores in the Far North; and
- The expected operational requirements for new Four Square stores.

We received this response and he advised that the typical store was between 450m² to 1,200m² and new stores necessitated a minimum floor area of 500m². We were advised by Mr Badham that this GFA includes retail space and back of house storage areas only (and not truck turning spaces, secure external back yards to store heating ventilation and air-condition units, and mechanical plants and pallet storage). Mr Badham states:

Foodstuffs approach to the design of current Four Squares shows that they ideally need a minimum GFA of 500m² in order to provide the services and storage space expected to serve a regional community. 3.5. As a result, it is my opinion that a minimum GFA of 500m² would be more appropriate in the RSZ than 300m².²⁷

7.2.2 Hearings Panel Evaluation

In response to this evidence Ms Pearson, in the right of reply report, reiterated her planning opinion regarding any confusion RSZ-R1 as set out in the hearing report and she stated:

I reiterate my position, as set out in paragraph 65 of the Settlement section 42A report, that the relationship between the RSZ-R1 building and structure rules, and the other land use rules and the standards, has been mirrored across all of the rural zones (as well as other zones across the PDP). In my view there is a distinct difference in the purpose of the R1 rules (that manage the physical effects of buildings and structures by requiring compliance with the relevant zone standards) and the balance of the RSZ activity rules (which manage effects associated with that particular activity occurring as opposed to the building or structure it is housed in). I do not consider this to be confusing or duplicating, as suggested by Mr Badham, particularly now the Settlement section 42A report recommends

²⁷ Additional statement by David Badham on behalf of Foodstuffs North Island Ltd.

that the wording of RSZ-R1 is amended to fix a drafting error identified post notification by the Council²⁸. I also disagree that RSZ-S1 could result in an unnecessary resource consent for a discretionary activity as this would only occur if the activity status of the proposal itself was already a discretionary activity under another land use rule in the chapter.²⁹

In relation to minimum floor area for a supermarket (Four Square), Ms Pearson retained her view that any supermarket larger 300m² (as notified) would likely be out of character for the majority, if not all, of the Far North settlements in terms of the potential impact on the character and amenity values of the settlement and the impacts on neighbouring sites.

We considered this issue carefully and consider that there needs to be recognition that small supermarkets (i.e. Four Square stores or similar) play a vital role in the various settlements in the Far North. We acknowledge that establishing these stores in existing settlements is a commercial decision and we accept that some regard needs to be had to economies of scale in determining the viability of these stores.

We are assisted by the further information provided by Mr Badham and consider that supermarkets within the SZ should have a higher minimum floor area threshold than other retail activities, given the important community and economic role that these stores perform in the Far North settlements. The standard recommended by Mr Badham is as follows:

Activity status: Permitted

Where:

PER-1

Any retail activity (including supermarkets) does not exceed:

- 1. GFA of 400m² if the site is located in the settlement of Moerewa; or*
- 2. GFA of 300m² in all other settlements.*

PER-1A

Any supermarkets does not exceed a GFA of 500m² in all settlements.

Activity status where compliance not achieved with PER-1A:

Restricted Discretionary

Matters of discretion are restricted to:

²⁸ The error in the notified version of all the rural R1 rules was that buildings containing controlled or restricted discretionary activities arbitrarily defaulted to a discretionary activity. The revised drafting in the rural section 42A reports ensures that all buildings containing a permitted, controlled or restricted discretionary activity are also permitted, provided that they comply with the standards.

²⁹ Hearing 9 right of reply report paragraph 185

a. the location and design of buildings, outdoor areas, parking and loading areas and access;

b. hours of operation;

c. screening and landscaping;

d. wastewater treatment and disposal;

e. water supply for drinking and firefighting; and

f. stormwater disposal.

While we understand the caution adopted by Ms Pearson, we are of the view that the risk of adverse effects on the character and amenity created by supermarkets up to 500m² as a permitted activity are not significant and are otherwise outweighed by the positive socio-economic benefits they provide to these settlements. In that regard we recommend that RSZ-R8 be amended to provide for supermarkets up to 500m² as a permitted activity. We have therefore adopted the new RSZ-R8 (Commercial Activity) PER-1A standard as recommended by Mr Badham.

7.2.3 Hearings Panel Recommendations

For the reasons set out above we recommend that the provisions as recommended by the Council officer in the right of reply be adopted (as set out in **Appendix 2.5**) except for the amendment to RSZ-R8 as follows:

Activity status: Permitted

Where:

PER-1

Any retail activity (including supermarkets) does not exceed:

- 3. GFA of 400m² if the site is located in the settlement of Moerewa; or*
- 4. GFA of 300m² in all other settlements.*

PER-1A

Any supermarkets does not exceed a GFA of 500m² in all settlements.

Activity status where compliance not achieved with PER-1A:

Restricted Discretionary

Matters of discretion are restricted to:

a. the location and design of buildings, outdoor areas, parking and loading areas and access;

b. hours of operation;

c. screening and landscaping;

d. wastewater treatment and disposal;

e. water supply for drinking and firefighting; and

f. stormwater disposal.

Our recommendations on all other submission points relating to the SZ are set out in **Appendix 3.4**.

8. Topic 6 – Horticultural Processing Facilities Zone

8.1 Relevant Provisions

The relevant provisions for the Horticulture Processing Facilities zone (**HPFZ**) we address in this Recommendation Report topic are:

Overview

HPFZ-O1 - - O4 Objectives

HPFZ-P1 – P4 Policies

HPFZ- R1 – R8 Rules

HPFZ-S1 – S6 Standards

The HPFZ is a special zone which the Overview states is to recognise and provide for the operation of large-scale horticulture processing and storage facilities within the district. These large-scale horticulture processing and storage facilities along with the horticulture growing sector have been recognised as playing an important role and making a significant contribution to the economic and social wellbeing of the Far North District.

The Horticulture Processing Facilities zone provides for existing horticulture processing and storage facilities that are of a scale that support a range of growers, are within an established network of horticulture growers and are in close proximity to strategic and significant transport infrastructure.

8.2 Key Issues

The hearing report identified four key issues associated with the Overview, objectives and policies, the rules and standards that apply to the zone. The hearing report, in response to submissions made a number of amendments to the provisions to align with the rural wide recommendations discussed above as well as changes to HPFZ-P3 so that it functions as an ‘avoid’ policy (with regard to the purpose and function of the zone) and an increase of the maximum impermeable surface limit in HPFZ-R2 from 30% to 50%. The right of reply included some minor consequential amendments that have been made across all rural zoned and discussed above.

We received no evidence at the hearing relating to the submissions made or recommended amendments set out in the hearing report.

8.2.1 Hearings Panel Evaluation

We do not recommend any changes to the HPFZ as set out in the right of reply report and set out in **Appendix 2.6** to the Recommendation Report.

8.2.2 Hearings Panel Recommendations

We do not recommend any changes to the HPFZ as set out in the right of reply report and set out in **Appendix 2.6** to the Recommendation Report.

Our recommendations on all other submission points relating to the RLZ are set out in **Appendix 3.5**.

9. Topic 7 – Rural wide Matters and Definitions

9.1 Key Issues

- Key Issue 1 – Railway line setbacks
- Key Issue 2 - Relocated buildings
- Key Issue 3 – FENZ

9.2 Key Issue 1 – Railway Line Setback

9.2.1 Matters Raised in Submissions and Evidence

We heard planning evidence from Ms Cath Heppelthwaite on behalf of KiwiRail (S416) that a 3m setback from a rail corridor was insufficient to manage the safety risks associated with activities undertaken on adjoining sites. The amendments sought a tiered approach which retained a 3m setback for buildings up to 3m in height and a 4m setback for buildings 4m and taller.

The evidence also sought the inclusion of the words “and the rail designation boundary” to all references to rules concerning activities “at the zone interface”. There are multiple policies and rules in the rural zone chapters that make reference to this.

Ms Heppelthwaite’s evidence also sought an additional matter of discretion in RPROZ-S3, RLZ-S3, RRZ-S3 and RSZ-S3 referring to: “*the outcome of consultation with KiwiRail*”.

We also heard corporate evidence from Matthew Paetz which summarised KiwiRail’s infrastructure and activities within the Far North and need for safety setbacks from the rail corridor. Mr Paetz confirmed that while a rail corridor still exists in the Far North, rail movements ceased in the 1980s. He added that KiwiRail was keeping its options open for a renewal of rail operations in the Far North and advised that there was a current Fast Track project to improve the freight rail link from Auckland to the port at Marsden Point (within the Whangarei District).

9.2.2 Hearings Panel Evaluation

With regard to the amendments to RSZ-P5, RPROZ-P7, RRZ-P5 and RLZ-P4 seeking specific reference to *the rail designation boundary* we appreciate that many plan users will not read the rail corridor designation boundary as a “zone interface” and the addition of the words, as recommended by Ms Heppelthwaite and supported by Ms Pearson, provide clearer and more specific support for the rail boundary setbacks.

With regard to the proposed tiered setback from the rail corridor, we are mindful that the rail corridor has not operated since the 1980s and also, the need for 3m or 4m tall buildings in the rural zones is limited, if any. That said, the higher density and more

residential focussed rural zones are possibly more likely to result in buildings potentially being located closer to the rail corridor.

We find that provisions of this nature are more relevant to an urban setting where there is greater pressure to create smaller lots sizes and use all available land within an allotment to locate a building. Urban settings are also more likely to have buildings over 4m in height. For that reason we do not recommend adopting a tiered setback for any rural zones.

Finally, the additional matter of discretion (being the outcome of consultation with KiwiRail) we are of the view that it is not necessary to add such a matter when the rail corridor is not in operation (since the 1980s) and there is no current plan to make it operational. We are also advised by Ms Pearson that this relief was not requested in KiwiRail's original submission and as such we do not consider that there is scope to introduce another matter of discretion relating to the outcome of consultation.

9.2.3 Hearings Panel Recommendations

We agree with the additional amendments to the rural chapters as recommended by the Council officer in the right of reply report and set out in the various rules in **Appendices 2.1 - 2.4**. We recommend that the other changes sought by KiwiRail be rejected for the reasons above.

9.3 Key Issue 2 - Relocated Buildings

9.3.1 Matters Raised in Submissions and Evidence

We heard evidence from Mr Bhana-Thompson of the Heavy Haulage Association (S482). He told us that the Association was established in 1965 as the national trade association for member companies that transport overweight or over dimension loads. He also advised us that the Association has an advocacy role with central and local government agencies.

Mr Bhana-Thompson told us that the Association's primary concern is the provision for relocated buildings as a permitted activity in the PDP. The PDP currently contains no separate activity status rule for relocated buildings (which are not heritage resources) in any zones (apart from the Carrington Estate).

Mr Bhana-Thompson stated:

The activity of "new buildings or structures, or extensions or alterations to existing buildings or structures" is a permitted activity in the Rural Production (RPROZ-R1), Rural Lifestyle (RLZ-R1), and Rural Residential zones (RRZ- R1). However, this rule does not clearly apply to relocated buildings which are not "new". Relocated buildings are defined as in the PDP as a "used building more than 2 years old [...]".¹ There is a risk that relocated buildings will fall under default rules as a discretionary activity, which would be contrary to the decision of the Environment Court in New Zealand Heavy Haulage Association Inc v The Central Otago District Council (C45/2004, Thompson EJ).

The relief sought was threefold:

- a) Modification of the definition of “building” to include relocated buildings to add clarity that relocated buildings are covered by the definition of building, particularly where there is a separate definition of relocated building indicating a distinction between building and relocated building.
- b) Modification of the definition of “relocated building” to delete the words “more than 2 years old”, as part of further relief to provisions of the district plan to give effect to the provision for relocated buildings as a permitted activity.
- c) The inclusion of permitted activity rules for relocated buildings.

9.3.2 Hearings Panel Evaluation

We have considered the proposed wording included in Mr Bhana Thompson’s evidence and while we appreciate the desire to have standardised approach to relocated buildings nationwide we do not consider the proposed provisions would add much benefit and in fact be more onerous.

As we see it, the current definition of “building” in the PDP is broad enough to include relocated buildings. We are not minded to recommend the removal of the reference to “buildings being less than 2 years old” from the definition of “relocated building”, there being insufficient reasons for doing so. However, we agree with Mr Bhana-Thomson that R1 rules (across all rural zones) could benefit from the specific reference to “relocated buildings” and find this would assist in meeting the concerns of this submitter. We note that these references were included in the recommended amendments in the hearing report and also as consequential amendments across multiple zones as a result of plan-wide amendments in **Hearing 17**.

9.3.3 Hearings Panel Recommendations

For the reasons set out above (and in the Council right of reply report) we recommend that the submission by Heavy Haulage Association Inc (S482) is accepted in part and that amendments be made to the R1 rule framework to specifically refer to “relocated buildings” as sought by the submitter and as recommended by the Council officer but reject the other relief sought by the submitter on the basis that the rural provisions, as amended, adequately provide for “related buildings” and/or do not warrant being amended.

9.4 Key Issue 3 – Fire and Emergency New Zealand (FENZ)

9.4.1 Matters Raised in Submissions and Evidence

We received a tabled hearing statement from Ms Nola Smart who is a planner for Fire and Emergency NZ (**FENZ**) (S512). The statement confirmed that FENZ supported a number of recommended amendments made in the hearing report but it disagreed with the hearing report on other matters. Specifically, FENZ stated that as developments progress in the region, FENZ maintain there is a need to construct and operate fire stations and other emergency response facilities in locations which will enable reasonable response times to fire and other emergencies. The statement added that FENZ is not anticipating a significant increase in facilities needed but new emergency service facilities may have a functional need in any zone across the district to continue to achieve emergency response time commitments. On this basis FENZ sought more permissive rules for their

facilities i.e. that emergency service facilities be permitted across all rural zones and not just the RPROZ.

The second matter raised by FENZ in their hearing statement was the inclusion of an advice note to advise that *granting of resource consent does not imply waivers of Building Code requirements* is still considered by FENZ to be an important lever to ensure coordination of agencies across project processes. The statement specifically refers to examples where this has been adopted in the Auckland Unitary Plan.

Finally, FENZ sought the inclusion of a matter of discretion for restricted discretionary activities in rural zones relating to the provision of water supply for fire-fighting purposes.

9.4.2 Hearings Panel Evaluation

Activity Status

On the matter of activity status, we asked the reporting officer to respond to this statement at the hearing and in their right of reply report. In the right of reply report Ms Pearson stated:

I maintain that a permitted activity status for these facilities in the RPROZ provides sufficient opportunities for locating close to rural settlements or communities in a zone with sufficient space to manage some of the immediate amenity issues resulting from the operation of an emergency service facility, namely noise and traffic associated with emergency vehicles being alerted to an emergency and leaving the site at high speed.

Ms Pearson advised that emergency service facilities are also a discretionary activity in the General Residential zone, which, in her view, reflects the potential conflict between the facility and amenity expectations of a residential area.

We have considered both planning arguments carefully and are of the view that the current recommended provisions are the most appropriate. That is, that emergency service facilities should be permitted in the RPROZ but subject to discretionary activity resource consent assessment in other rural zones. The reasons for this are that the RPROZ is a rural production focussed zone, as opposed to other rural zones which enable varying degrees of residential and lifestyle development. We accept that the Horticulture Precinct is also a rural production focussed zone but note that the minimum lots sizes in existence and enabled in the PDP are much smaller so we have discounted this precinct for similar reasons to the other rural zones.

Advice Note

With respect to this matter we note the assessment provided in the hearing report where it was stated:

With respect to the FENZ request for an advice note relating to the Building Code, I acknowledge that it is important for plan users to be aware of and refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. However, I am not aware of any specific examples of resource consents that have been issued for building setback infringements, that lead to non-compliance

*with building code requirements for firefighter access to buildings and egress from buildings.*³⁰

The reasons for recommending this submission point be rejected in hearing report are:

- a) There are a number of different pieces of legislation and standards outside of the PDP that apply to a range of activities and the PDP does not include advice notes for all of these different pieces of legislation. To do so would be inefficient and cumbersome.
- b) The Plan format, which complies with the National Planning Standards 2019, seeks to avoid the use of advice notes within rules or standards wherever possible.
- c) There are other, more efficient methods to advise applicants of the Building Code requirements during resource consent application preparation (for example, pre-application advice).

We agree with the reporting officer and consider that the requested advice note is not necessary.

Additional matter of discretion

With regard to this matter, again we are minded to support the reasoning set out in the hearing report where the reporting officer noted that the majority of activities referred to are either already fully discretionary or non-complying, or they are permitted at a small scale but default to discretionary or non-complying when permitted conditions are infringed. On that basis there would be no matters of discretion as they only apply to restricted discretionary activities. We also note however, that as discretionary activities Council has full discretion to consider the need for sufficient water supply for firefighting and a specific matter of discretion is therefore, not required.

9.4.3 Hearings Panel Recommendations

For the reasons set out above and set out in the hearing report we do not recommend any further amendments to the rural provisions as requested by FENZ. We therefore recommend that this submissions point from FENZ be rejected.

10. Conclusion

For the reasons set out in this recommendation report, we recommend the adoption of a set of changes to the PDP provisions relating to all rural zones. Our recommended amendments are shown in **Appendices 2.1 – 2.6**.

Our recommended decisions on all rural submissions points are shown in in **Appendices 3.1 – 3.6**.

Overall, we find that these changes will ensure the PDP better achieves the statutory requirements, national policy directions, and our recommended amendments, based on our consideration of the submissions, will serve to better meet the purpose and principles of the RMA.

³⁰ Hearing 9 hearing report paragraph 237