



SECTION 42A REPORT

Horticulture Zone

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Appendix 2: Recommended decisions on submissions to the Horticulture Zone chapter

List of Abbreviations

Table 1: List of Submitters and Abbreviations of Submitters' Names

Submitter Number	Abbreviation	Full Name of Submitter
S364	DOC	Director-General of Conservation (Department of Conservation)
S368	FNDC	Far North District Council
S512	FENZ	Fire and Emergency New Zealand
S159	Horticulture NZ	Horticulture New Zealand
S482	Heavy Haulage Assoc Inc	House Movers Section of New Zealand Heavy Haulage Association Inc
S421	Federated Farmers	Northland Federated Farmers of New Zealand
S359	NRC	Northland Regional Council
S425	Twin Coast Cycle Trail	Pou Herenga Tai Twin Coast Cycle Trail Charitable Trust
S338	Our Kerikeri	Our Kerikeri Community Charitable Trust

Note: This table contains a list of submitters relevant to this topic which are abbreviated, and does not include all submitters relevant to this topic. For a summary of all submitters please refer to Section 5.1 of this report (overview of submitters). Appendix 2 to this Report also contains a table with all submission points relevant to this topic.



Table 2: Other abbreviations

Abbreviation	Full Term
FNDC	Far North District Council
PDP	Proposed District Plan
RMA	Resource Management Act
RPS	Regional Policy Statement
NPS-HPL	National Policy Statement for Highly Productive Land
NPS-IB	National Policy Statement for Indigenous Biodiversity
NES-CF	Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017
HPL	Highly Productive Land
RPROZ	Rural Production Zone
RLZ	Rural Lifestyle Zone
RRZ	Rural Residential Zone
RSZ	Settlement Zone
HZ	Horticulture Zone
HPFZ	Horticulture Processing Facilities Zone



1 Executive summary

1. The Far North Proposed District Plan ("PDP") was publicly notified in July 2022. The Horticulture Zone ("HZ") chapter is located under Special Purpose Zones, in Part 3 – Area-Specific Matters of the PDP.
2. There are 214 original submission points on the HZ chapter, including 104 submissions in support, 37 supporting in part, none with a neutral position and 59 in opposition.¹
3. There are also 680 further submission points on those original submissions. The submissions cover a wide range of issues and viewpoints, with the majority of submissions requesting a range of amendments to specific HZ provisions. While there appears to be a general level of support for managing horticultural areas and productive land across the Far North District, submitters often differ in how this should best be achieved.
4. This report focuses on submissions that have requested amendments to the provisions in the HZ chapter. Submissions that are requesting deletion of the HZ and that is it replaced with another rural zone have been addressed in Key Issue 1 of the Rural Wide Issues and RPROZ section 42A report, which addresses the selection of rural zones used to manage the Far North rural environment.
5. The submissions can largely be categorised into several key themes:
 - a. Submissions on the overview, objectives and policies of the HZ requesting a range of outcomes, including support for retention of the provisions, requests to make provisions more enabling and deletion of the HZ entirely.
 - b. Requests to amend HZ rules and standards to reflect various outcomes sought by submitters.
 - c. Amendments to SUB-S1 as it applies to the HZ.
6. This report has been prepared in accordance with section 42A of the Resource Management Act 1991 (RMA) and outlines recommendations in response to the issues raised in submissions. This report is intended to both assist the Hearings Panel to make decisions on the submissions and further submissions on the PDP and also provide submitters with an opportunity to see how their submissions have been evaluated, and to see the recommendations made by officers prior to the hearing.
7. The key changes recommended in this report relate to:

¹ 14 submissions were recorded as not stating a position.



- a. Amendments to the overview, objectives, policies and rules of the HZ to give effect to the National Policy Statement for Highly Productive Land 2022 (NPS-HPL).
- b. Amendments to objectives, policies, rules and standards to align with recommendations made in the Rural Wide Issues and Rural Production Zone (RPROZ) section 42A report.
- c. Amendments to SUB-S1 as it relates to the HZ to give effect to the NPS-HPL and further restrict potential opportunities for rural lifestyle sized development within the HZ.

2 Introduction

2.1 Author and qualifications

8. My full name is Melissa Leanne Pearson, and I am a Principal Planning and Policy Consultant at SLR Consulting New Zealand Limited, based in Auckland.
9. I hold a Bachelor of Planning (Hons) at the University of Auckland and am a Full Member of the New Zealand Planning Institute.
10. I have 16 years' experience as a resource management practitioner in New Zealand, which has included working for both the private sector and for central and local government on a range of resource consent and policy projects. My private sector planning experience ranges from obtaining resource consents for small and large scale residential and subdivision developments in the Auckland Region, development of private plan changes in both Auckland and Waikato for residential and commercial developments and consenting and policy development experience for clients in the telecommunication, intensive farming, and community facility sectors.
11. My public sector planning experience involves a significant amount of central government policy research and development relating to telecommunications, forestry, climate change, highly productive land, and infrastructure. My local government policy experience involves drafting of district plan provisions in the Far North, Kaipara, Waikato, Hamilton, and Queenstown Lakes districts for local authorities.
12. These projects have given me significant experience with all parts of the Schedule 1 process from both the public and private sector perspectives, including provision research and development, provision drafting, the preparation of section 32 and 42A reports, preparation of submissions and further submissions, presentation of evidence at council hearings, preparation and resolution of appeals and Environment Court mediation.
13. I have been closely involved in the development and implementation of numerous national direction instruments under the RMA (national policy statements and national environmental standards), from the policy scoping stage through to policy decisions and drafting, the preparation of section 32 evaluation reports and implementation guidance. This includes close



involvement in national direction instruments relating to highly productive land.

14. I have been working with the Far North District Council (FNDC) on the PDP since 2021. My involvement in the PDP initially involved refining certain chapters in response to submissions on the draft district plan and preparing the associated section 32 evaluation reports, specifically on rural topics. Since mid-2023, I have been working with the FNDC PDP team analysing submissions.
15. I was involved in the development of the Horticulture Zone chapter (as part of review work for all of the rural zone chapters) prior to notification, including peer reviewing the chapter and inputting into the section 32 report. I was engaged by FNDC to be the reporting officer for this topic in early 2024.

2.2 Code of Conduct

16. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
17. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners ("Hearings Panel").

3 Scope/Purpose of Report

18. This report has been prepared in accordance with Section 42A of the Resource Management Act to:
 - a. assist the Hearings Panel in making their decisions on the submissions and further submissions on the Proposed District Plan; and
 - d. provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
19. This report responds to submissions on general horticultural issues and provisions of the HZ.
20. I am aware that there are numerous requests for either the application of a new zone, or the rezoning of land to an alternative zone, which apply to land that is currently zoned HZ in the PDP. These rezoning requests will not be addressed in this report. Rather, each is to be considered via Hearing Streams 15A to 15D to enable a full consideration of the zone change requests and relevant submitter evidence, against an agreed set of criteria, alongside other zone request changes and taking into consideration the recommended provisions for the zone chapters.



21. Wherever possible, I have provided a recommendation to assist the Hearings Panel.
22. Separate to the Section 42A report recommendations in response to submissions, Council has made a number of Clause 16(2) amendments to the PDP to achieve consistent formatting of rules and standards, including inserting semi colons between each standard, followed by “and” after the second to last standard (where all of the standards must be met to comply) or “or” after the second to last standard (when only one of the standards must be met to comply). These changes are neutral and do not alter the effect of the rules or standards, they simply clarify the intent. The Clause 16 corrections are reflected in **Appendix 1.1** to this Report (Officer’s Recommended Provisions for the HZ in response to Submissions).

4 Statutory Requirements

4.1 Statutory documents

23. I note that the Rural Section 32 report provides detail of the relevant statutory considerations applicable to the rural zone chapters, including the HZ.
24. It is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here. Consequently, no further assessment of these documents has been undertaken for the purposes of this report.
25. However, it is important to highlight the higher order documents which have been subject to change or introduced since notification of the Proposed Plan which must be given effect to. Those that are relevant to the HZ chapter are discussed in Section 4.1.2.1 below.

4.1.1 Resource Management Act

26. The Government elected in October 2023, has repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 on the 22nd of December 2023 and has reinstated the RMA as Zealand’s primary resource management policy and plan making legislation. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation to begin in 2024. The government has indicated that this replacement legislation will be introduced to parliament this term of government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until when and if this new replacement legislation is passed.

4.1.2 National Policy Statements

4.1.2.1 National Policy Statements Gazetted since Notification of the PDP

27. The PDP was prepared to give effect to the National Policy Statements that were in effect at the time of notification (27 July 2022). This section provides



a summary of the National Policy Statements, relevant to Strategic Direction that have been gazetted since notification of the PDP. As District Plans must be “prepared in accordance with” and “give effect to” a National Policy Statement, the implications of the relevant National Policy Statements on the PDP must be considered.

28. The National Policy Statement for Indigenous Biodiversity (NPS-IB) took effect on 4 August 2023. This was after the PDP was notified (27 July 2022), but while it was open for submissions. The objective of the NPS-IB is to maintain indigenous biodiversity so there is at least no overall loss in indigenous biodiversity. The objective is supported by 17 policies. These include Policy 1 and Policy 2 relating to the principles of the Treaty of Waitangi and the exercise of kaitiakitanga by tangata whenua in their rohe. The approach to give effect to the NPS-IB was considered in detail through the Ecosystem and Indigenous Biodiversity in Hearing 4.
29. The NPS-HPL took effect on 17 October 2022, The NPS-HPL has a single objective: “*Highly productive land is protected for use in land-based primary production, both now and for future generations*”. The objective is supported by nine policies and a set of implementation requirements setting out what local authorities must do to give effect to the objective and policies of the NPS-HPL, including restrictions on the urban rezoning, rural lifestyle rezoning, and subdivision of highly productive land and requirements to protect HPL from inappropriate use and development.
30. The NPS-HPL has recently been amended, with changes gazetted on 16 August 2024, resulting in the removal of consenting barriers for new infrastructure, including renewable energy projects, indoor primary production and greenhouses. Driving amendments, was the agriculture, horticulture and renewable energy sectors’ concerns surrounding the NPS restricting activities needing to be located on highly productive land. These amendments came into effect on 14 September 2024. The extent to which the HZ requires amendment to give effect to the NPS-HPL is considered in Key Issue 2 of the Rural Wide Issues and RPROZ section 42A report, which should be read in conjunction with this report.

4.1.2.2 National Policy Statements – Announced Future Changes

31. In October 2023 there was a change in government and several announcements have been made regarding work being done to amend various national direction instruments.
32. Of relevance to the rural chapters of the PDP, further amendments to the NPS-HPL have been signalled for 2025 but have not yet been actioned, including the need to enable housing growth and remove associated consenting barriers. The Government has signalled these amendments will be consulted on in early 2025 as part of a wider national direction programme. This work may include changes to the definition of ‘Highly Productive Land’ to enable more flexibility for urban development.



4.1.3 National Environmental Standards

33. The National Environment Standards for Commercial Forestry 2017 (NES-CF), which amend the NES-PF, came into effect on 3 November 2023. In addition to regulating the effects of plantation forestry, the NES-CF now regulates “exotic continuous-cover forestry”, which is commercial forestry not intended to be harvested (i.e. carbon forestry). As such, the NES-CF now applies to all types of forestry deliberately established for commercial purposes (permanent indigenous forestry is not regulated under the NES-CF). In addition to bringing exotic continuous-cover forestry within scope, the changes in the NES-CF:
- a. Allow plan rules to be more stringent or lenient to manage afforestation relating to both types of forestry.²
 - b. Introduce a range of operational changes, including a new permitted activity standard for managing forestry slash at harvest and new requirements around management of wilding trees.

4.1.4 National Planning Standards

34. The National Planning Standards determine the sections that should be included in a District Plan, including the Strategic Direction chapters, and how the District Plan should be ordered. The HZ provisions proposed and recommended in this report follow this guidance. Specifically:
- a. Assessment of the selection of zones and the need for the Horticulture special purpose zone is discussed in Key Issue 1 of the Rural Wide Issues and RPROZ section 42A report; and
 - b. Definitions as each relates to the HZ are discussed in Key Issue 5 of the Rural Wide Issues and RPROZ section 42A report.

4.1.5 Treaty Settlements

35. There have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Far North District, since the notification of the PDP.

4.1.6 Iwi Management Plans

36. Section 74 of the RMA requires that a local authority must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority.
37. When the PDP was notified in July 2022, Council had 14 hapū/iwi management planning documents which had been formally lodged with Council, as listed in the PDP section 32 overview report. Council took these

² Regulation 6(4A) of the NES-CF.



management plans, including the broader outcomes sought, into account in developing the PDP. Of the 14 hapū/iwi management planning documents, only two have been revised since notification of the PDP –

- a. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan
 - b. Ahipara Takiwā Environmental Management Plan
38. A summary of the key issues that are relevant to the rural environment covered in these two hapū/iwi management planning documents is contained in Section 4.1.6 of the Rural Wide Issues and RPROZ section 42A report and is not repeated here.

4.2 Section 32AA evaluation

39. This report uses 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where changes to the provisions of the PDP are recommended, these have been evaluated in accordance with Section 32AA of the RMA.
40. The s32AA further evaluation for each key issue considers:
- a. Whether the amended objectives are the best way to achieve the purpose of the RMA.
 - b. The reasonably practicable options for achieving those objectives.
 - c. The environmental, social, economic and cultural benefits and costs of the amended provisions.
 - d. The efficiency and effectiveness of the provisions for achieving the objectives.
 - e. The risk of acting or not acting where there is uncertain or insufficient information about the provisions.
41. The section 32AA further evaluation for recommended amendments to the PDP also contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor and consequential changes that do not change the policy intent are not evaluated under section 32AA of the RMA in this report.

4.3 Procedural matters

4.3.1 Pre-hearing meetings

42. Due to the clarity of submissions, no correspondence or meetings with the majority of submitters needed to be undertaken. The exception was Northland Regional Council (NRC), who was contacted on 25 September



2024 and an informal pre-hearing meeting held on 7 October 2024. The purpose of this meeting was to understand how NRC is progressing alignment of the RPS with the NPS-HPL to help inform recommendations relating to the NPS-HPL in this report. NRC confirmed at this meeting that the regional council passed a resolution in February 2024 that work relating to the identification of 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 Key Issue 2 of the Rural Wide Issues and RPROZ section 42A report.

4.3.2 Proposed Plan Variation 1

43. FNDC notified Proposed Plan Variation 1 (Minor Corrections and Other Matters) for public submissions on 14 October 2024. The submission period closes on 14 November 2023. Proposed Plan Variation 1 makes minor amendments to correct minor errors, amend provisions that are having unintended consequences, remove ambiguity and improve clarity and workability of provisions. This includes amendments to the zoning of some properties, and the Coastal flood hazard areas.
44. Plan Variation 1 proposes an amendment to HZ-R1 to require buildings and structures to comply with the airport protection surface area in APP4 Airport protection surfaces. There are no other amendments to the HZ chapter resulting from Variation 1. However, as the submission period has not yet closed at the time of writing this report, any submissions received on Plan Variation 1 in relation to HZ-R1 will be evaluated as part of Hearing 17 - General / Miscellaneous / Sweep Up.

5 Consideration of submissions received

5.1 Overview of submissions received

45. There are 214 original submission points on the HZ chapter, including 104 submissions in support, 37 supporting in part, none with a neutral position and 59 in opposition.³ There were also 680 further submission points received on those original submissions.
46. The main submissions on the HZ chapter are from:
 - a. Central and local government, namely FNDC (S368), NRC (S359) and MOE (S331).
 - b. Non-governmental organisations, such as Kapiro Residents Association (S427) and Carbon Neutral NZ Trust (S529).
 - c. Iwi groups, such as Te Rūnanga o Ngāti Rēhia (S559)

³ 14 submissions were recorded as not stating a position.



- d. Infrastructure providers, such as Transpower (S454) and Twin Coast Cycle Trail (S425).
 - e. The primary production sector, such as Federated Farmers (S421), Horticulture NZ (S159) and Summit Forests (S148).
 - f. Individual submitters, such as Roger Atkinson (S534), John and Rose Whitehead (S535) and Elaine Collinson (S35).
47. The key issues identified in this report are set out below:
- a. Key Issue 1: Overview, Objectives and Policies
 - b. Key Issue 2: Rules - General Comments
 - c. Key Issue 3: Rule HZ-R1
 - d. Key Issue 4: Rule HZ-R2
 - e. Key Issue 5: Rules HZ-R3, HZ-R4, HZ-R7, HZ-R11, HZ-R13 and HZ-R14
 - f. Key Issue 6: Standards - General Comments
 - g. Key Issue 7: Standards HZ-S1, S2, S3 and S5
 - h. Key Issue 8: Subdivision SUB-S1 and the Horticulture Zone
48. Section 5.2 constitutes the main body of the report 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.
49. Key Issues 1-5 of the Rural Wide Issues and RPROZ section 42A report respond to submissions that have implications for the HZ e.g. deciding on the suite of rural zones for the Far North District (including the validity of retaining the HZ), giving effect to the NPS-HPL, plan wide submissions impacting the HZ and definitions. The analysis in Key Issues 1-5 of the Rural Wide Issues and RPROZ section 42A report should be read alongside this report and is not repeated here for efficiency and to reduce replication across these reports.

5.2 Officer Recommendations

50. A copy of the recommended plan provisions for the Horticulture Zone Chapter is provided in **Appendix 1.1 – Recommended amendments to**



the Horticulture Zone chapter. Recommend amendments to SUB-S1 as it applies to the Horticulture Zone are provided in **Appendix 1.2 – Recommended amendments to SUB-S1 as it relates to the Horticulture Zone.**

51. A full list of submissions and further submissions on the Horticulture Zone Chapter is contained in **Appendix 2 – Recommended Decisions on Submissions to this report.**

5.2.1 Key Issue 1: Overview, Objectives and Policies

Overview

Provision(s)	Officer Recommendation(s)
HZ Overview and HZ-O3	Minor amendments to give effect to the NPS-HPL
HZ-O1 and HZ-O2	Retain as notified
HZ-P1, HZ-P2, HZ-P5 and HZ-P7	Minor amendments to give effect to the NPS-HPL and ensure consistency with the wording of RPROZ policies
HZ-P3, HZ-P6	Retain as notified
HZ-P4	Amendment to broaden the scope of the policy to sensitive activities

Analysis of Submissions on Key Issue 1: Overview, Objectives and Policies

Matters raised in submissions

General Submissions on Overview, Objectives and Policies

52. Horticulture NZ (S159.134) supports the overview for the HZ and requests that it is retained as notified. All other submissions on the overview (e.g. Hall Nominees Ltd (S252.002)) request that it is deleted as part of broader submissions to delete the HZ in its entirety (which are considered in Key Issue 1 of the Rural Wide Issues and RPROZ section 42A report).
53. Horticulture NZ (S159.135-137) supports all HZ objectives and request they are retained as notified.
54. Antony Egerton and Stefanie Egerton (S506) support the HZ objectives and policies and request that they be retained as notified. In particular they support the Council protecting high quality soils necessary for the continuation of orchards in Kerikeri. The submitter considers that the intent of the HZ is consistent with the RPS and NPS-HPL.
55. Rosemorn Industries Limited (S340.005, S340.006) opposes the HZ objectives and policies and requests that they are updated to provide clear direction on when it is appropriate to extend existing commercial and/or industrial activities. Rosemorn Industries Limited is requesting this additional



clarity given the significant investment associated with purchasing and establishing existing activities and so they can have more certain direction for future planning.

56. Yvonne Steinemann (S455.002-003) does not support chemical horticulture being given precedence over homeowners' right to fresh air. Yvonne Steinemann considers FNDC should ensure there is no conflict between neighbouring zones and that organic, non-polluting methods should be incentivised. Yvonne Steinemann requests amendments are made to HZ objectives and policies so clear parameters of operation are laid out which prioritise rural residents.

General submissions on policies

57. Horticulture NZ supports HZ-P1, P3, P5 and P7 and request that each of these policies is retained as notified. Horticulture NZ supports all remaining policies in part but request amendments as detailed below.
58. Kapiro Conservation Trust (S449.067), Vision Kerikeri (S522.049) and Kapiro Residents Association (427.035) request amendments to HZ policies to prevent fragmentation and loss of land in rural and horticulture zones.

Policy HZ-P2

59. Horticulture NZ (S159.139) supports HZ-P2 in part, but consider the potential for reverse sensitivity effects should be included by amending the policy to insert another reason to avoid land use as follows:

e. has the potential to create reverse sensitivity effect

60. Carbon Neutral NZ (S529.153) and Vision Kerikeri (S527.028) support HZ-P2 insofar as it directs plan users to avoid land use where it has no functional need to be in the HZ and could result in the loss of productive capacity of land. However, these submitters request that the scope of the policy is extended to include subdivision as well as land use.

Policy HZ-P3

61. NZ Agricultural Aviation Association (S182.037) support HZ-P3 in part but consider that ancillary activities for horticulture should include agricultural aviation. This submitter requests that HZ-P3 is amended as follows:

Enable horticulture and associated ancillary activities, including agricultural aviation, that support the function of the Horticulture zone, where: [...]

Policy HZ-P4

62. Horticulture NZ (S159.141) considers that, while HZ-P4 provides for residential activities, it should also provide for "habitable buildings". Horticulture NZ request HZ-P4 is amended as follows:



Ensure residential activities and habitable buildings are designed and located to avoid, or otherwise mitigate, reverse sensitivity effects on horticulture activities, including adverse effects associated with dust, noise, spray drift and potable water collection.

Policy HZ-P5

63. Carbon Neutral NZ (S529.154) and Vision Kerikeri (S527.029) request the following amendment to HZ-P5:

Manage Avoid the subdivision of land in the Horticulture zone to: [...]

Analysis

Overview

64. I consider that the Overview of the HZ is generally fit for purpose, and I agree with submitters that support its retention. I do not agree that the Overview should be deleted as part of broader submissions to delete the entire HZ, for the reasons I have set out in Key Issue 1 of the Rural Wide Issues and RPROZ section 42A report. However, I have identified some minor amendments that are necessary to align terminology with the NPS-HPL, for the reasons set out in Key Issue 2 of the Rural Wide Issues and RPROZ section 42A report, e.g. replacing the term versatile soils with a reference to HPL and LUC 4. LUC 4 land with access to a good water supply has the potential to be highly productive in the Far North District⁴ and, in my view, is worthy of protection in the context of a zone designed to protect horticulture activities, particularly when just under 30% of the HZ is LUC 4 land. My recommendations to this effect are set out in the recommendation section below.

General comments on objectives and policies

65. There were limited submissions on the objectives of the HZ, and of those, approximately half were in support of retaining the objectives as notified.
66. With respect to the submission from Rosemorn Industries Limited requesting amendments to both objectives and policies to direct when existing commercial and/or industrial activities can be extended, I acknowledge that some landowners have invested significantly in businesses that are unrelated to horticulture but are now located in the Horticulture Zone. The intention of the Horticulture Zone is to prioritise horticulture and other compatible primary production activities and ancillary activities going forward as opposed to other types of commercial or industrial activities that,

⁴ As per paragraph 4, page xi of the Rural Environmental Economic Analysis Report (Appendix 1 of the Rural section 32 evaluation report), which notes that LUC 1-4 land is suitable for a range of primary production activities e.g. arable and vegetable cropping, horticulture (Including vineyards and berry fields), pastoral grazing, tree crop or production forestry use.



if setting up as a new activity, are more appropriately located in a different zone.

67. However, I note that Clause 3.11 of the NPS-HPL requires that district plans include provisions that enable the maintenance, operation, or upgrade of any existing activities on HPL and ensure that any loss of HPL from those activities is minimised. Given that 95% of the HZ is either HPL or LUC 4 land with the potential to be highly productive, I consider it appropriate to recognise the direction of the NPS-HPL in the HZ objectives and policies. This policy direction will also provide support for the new rules that I am recommending in Key Issue 2 below for extensions to existing commercial and industrial activities. I consider that the most efficient way to provide this policy direction is to add new clauses into HZ-O3 and HZ-P2, as set out in my recommendations below.
68. With respect to Yvonne Steinemann's submission about prioritising the needs of residents over horticulture activities in the HZ, I acknowledge that the extent of the HZ includes some areas of rural lifestyle or rural residential sized lots that are predominantly used for residential activities rather than horticulture. However, as explained in Key Issue 1 of the Rural Wide and RPROZ section 42A report, I consider it necessary that the extent of the HZ is wider than just land used currently for horticulture activities because:
- a. A piecemeal, 'cookie cutter' zone that only covered land currently in use for horticulture would struggle to manage the interface between adjacent residential activities and horticulture activities;
 - b. The requested relief would not protect highly productive land with good access to water than had the potential to be used for horticulture, which would not be making the most efficient use of the existing water supply and horticulture industry supporting infrastructure around Kerikeri and Waipapa; and
 - c. Capturing the areas of adjacent residential activity as well as horticultural land ensures that sensitive activities in these areas are strongly controlled, thereby decreasing the threat of reverse sensitivity effects for horticultural activities and other primary production activities in the HZ.
69. The HZ has been deliberately drafted to prioritise the horticultural industry over the amenity of rural residents, which has been confirmed through my discussions with Council staff and my involvement in the PDP prior to notification. The types of substances used by the horticultural industry (chemical, organic, non-polluting or otherwise) is not, in my view, a resource management issue that a territorial authority has the jurisdiction to control. The setbacks required by HZ-S3 (being at least 10m from site boundaries) ensure separation of buildings and structures on adjoining sites, which may assist with separating some horticultural practices from neighbouring residents. However, in my view, dust, sprays and odours associated with



normal horticultural practices should be both anticipated and tolerated in a working rural environment such as the HZ. As such, I do not recommend any amendments to objectives or policies in response to this submission.

70. Finally, I do recommend a minor amendment to HZ-O3 to add in a reference to 'LUC 4' land after the reference to HPL, for the same reasons as set out in respect of amendments to the overview above.

General submissions on policies

71. I acknowledge the general support from Horticulture NZ for the policies of the HZ and agree that the majority of the HZ policies are fit for purpose.
72. With respect to the general submissions from Kapiro Conservation Trust and others to include more policies to address fragmentation and loss of land in the HZ, I consider that the policies as notified already address this. Specifically, HZ-P2(b) directing that land use that results in the loss of productive capacity of HPL is to be avoided and HZ-P5(a) directing that fragmentation (i.e. subdivision) of HPL is to be avoided, which is given effect to through my recommended amendments to minimum lot sizes in the HZ under SUB-S1, covered in Key Issue 8 below. As such, I do not consider that any amendments are required to the HZ policies to address these submissions.
73. I note that there is only one submission on HZ-P6 and that submission supports retaining the policy as notified (Antony Egerton and Stefanie Egerton (S506.011)), so I do not recommend any amendments to this policy.

HZ-P1 and HZ-P2

74. These two policies were largely supported by submitters, with no changes requested to HZ-P1 and only minor amendments requested to HZ-P2.
75. Horticulture NZ has requested an additional clause to be inserted into HZ-P2 to address reverse sensitivity effects. I do not consider this necessary as HZ-P4 is a specific policy focused on reverse sensitivity effects. I recommend amendments to HZ-P4 below to expand its scope beyond residential activities, which, in my view, strengthens the reverse sensitivity policy direction in the chapter.
76. Carbon Neutral NZ and others request that the scope of HZ-P2 is expanded to include subdivision as well as land use. I do not consider this necessary as there is already a specific policy (HZ-P5) that is focused on managing subdivision in the HZ.
77. However, I consider that both HZ-P1 and HZ-P2 require minor amendments to wording to align with the NPS-HPL. References to HPL in these two HZ policies also need to refer to LUC 4 land, for the reasons I set out in response to the HZ overview above.



HZ-P3

78. I disagree that there is a need for HZ-P3 to refer specifically to agricultural aviation activities for the reasons set out in Key Issues 5 and 11 of the Rural Wide Issues and RPROZ section 42A report, namely that agricultural aviation activities are now defined in the PDP and are provided for as a permitted activity in the Temporary Activities chapter.

HZ-P4

79. Horticulture NZ are requesting an expansion of the scope of HZ-P4 to include habitable buildings as well as residential activities to recognise that reverse sensitivity effects can occur from a range of buildings used by people, not just residential units. I agree in principle that the scope of HZ-P4 is too narrow and should be broadened to strengthen the reverse sensitivity direction in the HZ. However, rather than refer to residential activities and habitable buildings, I consider that replacing these terms with a reference to 'sensitive activities' is more appropriate and achieves the same intent as the relief sought by Horticulture NZ. The definition of sensitive activities in the PDP includes other activities such as visitor accommodation and educational facilities. While these are discretionary activities in the HZ, I consider that HZ-P4 referring to the broader term 'sensitive activities' makes it clearer that reverse sensitivity effects need to be addressed when a consent application for activities like visitor accommodation is applied for.

HZ-P5

80. I agree with Carbon Neutral NZ and others that HZ-P5 would be stronger and more effective in protecting HPL and LUC 4 land in the Horticulture Zone if it was reframed as an 'avoid' policy. This approach is consistent with the way that RPROZ-P6 (being the equivalent subdivision policy) is framed and is also more consistent with the direction in HZ-O3, which requires that subdivision '*avoids land fragmentation that comprises the use of land for horticultural activities*'. As per my analysis in Key Issue 12 of the Rural Wide Issues and RPROZ section 42A report, an avoid policy sends a strong signal as to the outcomes to be avoided in the zone and allows the Council to decline consent applications for inappropriate subdivision that cannot meet the tests set out in the policy e.g. a proposal that couldn't be serviced or resulted in the loss of productive capacity of HPL. I have recommended amendments to HZ-P5 to this effect in the recommendation section below, including the addition of a clause relating specifically to fragmentation to better align with the RPROZ approach to subdivision and to better give effect to the NPS-HPL with respect to consideration of cumulative effects.

HZ-P7

81. There are two submissions on HZ-P7 and both are in support of retaining the policy as notified (from Horticulture NZ and from Antony Egerton and Stefanie Egerton). However, I recommend amending the chapeau of HZ-P7 to match the recommended format for equivalent 'consideration' policies in



other rural zones for the reasons set out in Key Issue 10 of the Rural Wide Issues and RPROZ section 42A report.

82. I have also identified some consequential wording amendments for HZ-P7 that are necessary to give effect to the NPS-HPL and align terminology with other objectives and policies in the HZ. I have recommended amendments to this effect in the recommendation section below.

Recommendation

83. For the reasons set out above, I recommend that the submissions on the HZ overview, objectives and policies are accepted, accepted in part and rejected as set out in **Appendix 2**.
84. I recommend that the following amendments are made to the HZ overview as follows:
- a. Replace the term 'versatile soils' in the first paragraph and fourth paragraph with 'land that is, or has the potential to be, highly productive';
 - b. Replace the term 'residential activities' with 'sensitive activities' in the second paragraph;
 - c. Insert the phrase '(plus LUC 4 land that has the potential to be productive)' after the words 'highly productive land' in the third paragraph;
 - d. Insert a reference to 'the NPS-HPL' after the term 'RMA' in the fourth paragraph; and
 - e. Replace the term 'versatile soils' with 'highly productive land' in the fourth paragraph.
85. I recommend that the words 'or LUC 4 land' are inserted after the words 'highly productive land' in HZ-O3(a).
86. I recommend that a new clause is added to HZ-O3 as follows: 'Land use and subdivision in the Horticulture Zone: [...] g. only enables the maintenance, operation, or upgrade of existing activities if the loss of highly productive land from those activities is minimised.'
87. I recommend that the words 'or LUC 4 land' are inserted after the words 'highly productive land' in HZ-P1(a), HZ-P2(b) and HZ-P2(c).
88. I recommend that a new clause is added to HZ-P2 as follows: 'Avoid land use that: e. does not minimise the loss of highly productive land or LUC 4 land when maintaining, operating or upgrading an existing activity.'



89. I recommend that the term 'residential activities' in HZ-P4 is replaced with 'sensitive activities'.

90. I recommend that HZ-P5 is amended as follows:

~~'Manage Avoid the subdivision of land in the Horticulture zone that to:~~

- ~~a. cannot demonstrate that the proposed lots will retain the overall productive capacity of highly productive land over the long term;~~
- ~~b. avoid fragmentation that results in any potential cumulative loss of the availability or productive capacity of highly productive land for use by horticulture and other farming activities;~~
- ~~c. fragments land into parcel sizes that are no longer able to support horticulture and other farming activities, taking into account:~~
 - ~~i. the type of horticulture or farming proposed;~~
 - ~~ii. the potential loss of LUC 4 land that is, or has the potential to be, highly productive; and~~
 - ~~iii. whether smaller land parcels can support the proposed horticulture or farming activity due to the presence of highly productive land or LUC 4 land;~~
- ~~d. ensure the long term viability of the highly productive land resource to undertake a range of horticulture uses;~~
- ~~e. does not enable a suitable building platform for a future residential unit; and~~
- ~~f. ensure there is provision of does not provide appropriate onsite infrastructure.'~~

91. I recommend that HZ-P7 is amended as follows:

~~'Manage land use and subdivision to address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application: Consider the following matters where relevant when assessing and managing the effects of land use and subdivision in the Horticulture Zone:~~

- ~~a. whether the proposal will increase production potential in the zone;~~
- ~~b. whether the activity relies on the productive nature of the land soil;~~



- c. *consistency with the scale and character of the rural environment;*
- d. *location, scale and design of buildings or structures;*
- e. *for subdivision or non-primary production activities:*
 - i. *scale and compatibility with rural activities;*
 - ii. *potential reverse sensitivity effects on primary production activities and existing infrastructure;*
 - iii. *the potential for loss of highly productive land or LUC 4 land that is, or has the potential to be productive, land sterilisation or fragmentation;*

[...]

Section 32AA evaluation

- 92. I consider that the amendments to the HZ Overview, HZ-O3, HZ-P1 and HZ-P2 are all necessary to give effect to the NPS-HPL, the reasons for which are addressed in Key Issue 2 of the Rural Wide Issues and RPROZ section 42A report. As such I do not repeat that evaluation here.
- 93. I consider that the amendments to HZ-P4 and HZ-P7 are consequential changes necessary to align with the Rural Wide Issues and RPROZ section 42A report and therefore a further section 32AA evaluation is not required.
- 94. I consider that redrafting HZ-P5 as an 'avoid' policy is a more effective way of providing direction on subdivision in the HZ compared to the notified drafting. It more clearly gives effect to the NPS-HPL and is better aligned with my recommendations on subdivision minimum lot sizes in the HZ (addressed in Key Issue 8 below). Overall, I consider that the recommended amendments to HZ-P5 are more appropriate, effective and efficient to achieve the purpose of the HZ zone compared to the notified version of the objective in accordance with section 32AA of the RMA.



5.2.2 Key Issue 2: Rules – General Comments

Overview

Provision(s)	Officer Recommendation(s)
Advice note 2	Minor amendment to correct error and align with Coastal Environment section 42A report
New advice note 3	Consequential amendment to refer to Mineral Extraction Zone objectives and policies
New advice note 4	Consequential amendment to align with the NES-CF
HZ-R6	Consequential amendment to align with equivalent RPROZ provision RPROZ-R10
HZ-R5, HZ-R8 to HZ-R10, HZ-R15 to HZ-R20 and HZ-R22 to HZ-R26	Retain as notified
HZ-R12	Amended via Clause 16
HZ-R21	Consequential amendment to expand scope of activity to include intensive outdoor primary production
New rule HZ-RX	New rule to manage artificial crop protection structures and crop support structures
New rules HZ-RY and HZ-RZ	New rules to provide for extensions to existing commercial and industrial activities

Analysis of Submissions on Key Issue 2: Rules – General Comments

Matters raised in submissions

General Comments

95. Anthony Egerton and Sarah Egerton (S506.004, S506.013-037) and Two M Investments Limited (S317.002-027) support all HZ rules and request each is retained as notified.
96. Carbon Neutral NZ (S529.166), Kapiro Residents' Association (S427.034), Vision Kerikeri (S522.050) and the Kapiro Conservation Trust (S449.068) request amendments to HZ rules generally to protect productive land now and for future generations.
97. Horticulture NZ (S159.144, S159.146, and S159.153-164) support HZ-R1, HZ-R10, HZ-R12, and HZ-R15–R26 and request that they are retained as notified.
98. Horticulture NZ (S159.108) also requests that a new rule to provide a permitted activity pathway for Artificial Crop Protection Structures and Crop Protection Structures is inserted in all rural zones (including the HZ).



99. Rosemorn Industries Limited (S340.004) opposes the HZ in its entirety and request its deletion. In lieu of the HZ being deleted, this submitter requests that amendments are made to provisions so that the extension of existing commercial and/or industrial activities are specifically provided for as discretionary activities. Rosemorn Industries Limited suggests provisions are amended in accordance with the approach adopted under RPROZ-R27 and RPROZ-R28.

Clause 16 amendments

100. FNDC (S368.032) submitted to correct an error in HZ Note 2. This has since been addressed via a Clause 16 amendment and Note 2 now reads as requested by FNDC.
101. Horticulture NZ (S159.148) support a discretionary activity status for visitor accommodation in HZ-R12 and request that the 'PER' conditions are changed to 'DIS' conditions in HZ-R12 as the use of 'PER' conditions appeared to be an error. This matter has since been resolved by way of a Clause 16 amendment and HZ-R12 now has 'DIS' performance standards.

Analysis

102. I acknowledge the general support for a large number of HZ rules and I recommend that a number of the HZ rules be retained as notified, namely HZ-R8 to HZ-R10, HZ-R15 to HZ-R20 and HZ-R22 to HZ-R26. I consider that the HZ rules as notified already protect productive land now and for future generations, as requested by Carbon Neutral NZ and others, so I do not recommend any specific amendments to rules to respond to these submissions.
103. Although no submissions were received on HZ-R21 (intensive indoor primary production), I recommend a consequential amendment to expand the scope of the rule to include 'intensive outdoor primary production' for the reasons set out in Key Issue 25 of the Rural Wide Issues and RPROZ section 42A report.
104. With respect to HZ-R6 – Rural Produce Retail, I note that all submissions request retention of this rule as notified. However, for consistency I recommend consequential amendments to HZ-R6 to align with my recommendations for the equivalent rule RPROZ-R10, for the reasons set out in Key Issue 22 of the Rural Wide Issues and RPROZ section 42A report.
105. With respect to Horticulture NZ's request for a new rule to provide a permitted activity pathway for Artificial Crop Protection Structures and Crop Protection Structures, I have considered this submission and responded to it in Key Issue 14 of the Rural Wide Issues and RPROZ report. For the reasons set out in that report, I recommend that a new rule for artificial crop protection structures and crop support structures is also inserted into the HZ, as well as consequential amendments to HZ-R1, HZ-S1 and HZ-S3 to remove references to artificial crop protection structures and crop support



structure setbacks and clarify that HZ-R1 does not apply to artificial crop protection structures and crop support structures.

106. I note that Rosemorn Industries Ltd has requested amendments to HZ rules to expressly provide for extensions of existing commercial and industrial activities to occur as discretionary activities. I note that Clause 3.11 of the NPS-HPL requires that district plans include provisions that enable the maintenance, operation, or upgrade of any existing activities on HPL and ensure that any loss of HPL from those activities is minimised.
107. In light of this direction from the NPS-HPL, and that 95% of the HZ is either HPL or LUC 4 land with the potential to be highly productive, I consider it appropriate to provide the same pathways for existing commercial and industrial activities to expand as provided for in the RPROZ. This ensures that the HZ provisions give effect to Clause 3.11 of the NPS-HPL, while the discretionary activity status allows Council full discretion to consider the impact of the expansion on HPL and neighbouring primary production activities and decline the application if it is inappropriate. I recommend that two new rules are inserted into the HZ to provide for these existing activities consistent with RPROZ-R27 and RPROZ-R28.
108. As consequential amendments, I also recommend that an amendment is made to Advice Note 2 for integration and consistency with recommendations in the Coastal Environment and Natural Character topics (under clause 10(2)(b) of Schedule 1), for the reasons set out in Key Issue 26 of the Rural Wide and RPROZ section 42A report.
109. Finally, I recommend that two new advice notes are inserted relating to mineral extraction activities and the NES-CF that align with equivalent notes recommended to be inserted into the HZ chapter under clause 10(2)(b) of Schedule 1, for the reasons set out in Key Issues 14 and 23 of the Rural Wide and RPROZ section 42A report.

Recommendation

110. For the reasons set out above, I recommend that the general submissions on the HZ rules are accepted, accepted in part and rejected as set out in **Appendix 2**.
111. I recommend that Advice Note 2 above the Rules table is amended as follows:

This zone chapter does not contain rules relating to setbacks to waterbodies and MHWS for buildings or structures or setbacks to waterbodies and MHWS for earthworks and indigenous vegetation clearance. The Natural Character chapter contains rules for activities within wetland, lake and river margins and the Coastal Environment chapter contains rules for activities within the coastal environment. The Natural Character chapter and the Coastal Environment chapter should be referred to in addition to this zone chapter.



112. I recommend that new Advice Notes 3 and 4 are inserted relating to mineral extraction objectives and policies and the NES-CF to align with equivalent notes in the RPROZ chapter.
113. I recommend that PER-1 of HZ-R6 is amended to state '*The activity does not exceed GBA of 100m² and is set back a minimum of 30m from any internal site boundary other than a road boundary.*'
114. I recommend that title of HZ-R21 is amended to read '*Intensive indoor and outdoor primary production*'.
115. I recommend that a new rule is inserted to manage artificial crop protection structures and crop support structures in the HZ that aligns with the equivalent rule recommended for the RPROZ, as set out in **Appendix 1** of this report.
116. I recommend that two new rules are inserted into the HZ to provide for extensions of existing commercial and industrial activities with equivalent wording to RPROZ-R27 and RPROZ-R28 in the RPROZ.

Section 32AA evaluation

117. I consider that my recommended amendments to Advice Note 2 are consequential resulting from recommendations in the Coastal Environment section 42A report. Similarly, I consider that my recommended insertion of two new advice notes relating to mineral extraction activities and the NES-CF are consequential resulting from recommendations in the Rural Wide Issues and RPROZ section 42A report. As such, it is my view that no evaluation for these recommended amendments is required under section 32AA of the RMA.
118. I consider that the amendments to HZ-R1 and HZ-R6 are minor amendments to clarify intent and do not require further assessment under section 32AA of the RMA.
119. I consider that the new rule for artificial crop protection structures and crop support structures (and consequential amendments to HZ-R1, HZ-S1 and HZ-S3) is an effective way to clarify and consolidate the rules and standards that apply to these activities without further complicating the drafting of HZ-R1. I consider that the refined drafting has not changed the intent of the notified provisions with respect to artificial crop protection structures and crop support structures, rather it is a structural change to assist with interpretation. On this basis, in my view, no evaluation for this recommended new rule is required under section 32AA of the RMA.
120. The recommended amendment to HZ-R21 relating to intensive outdoor primary production has been assessed under equivalent rules in the Rural Wide Issues and RPROZ section 42A report and the section 32AA evaluation for this rule is not repeated here.



121. I consider that the two new rules inserted into the HZ to provide for extensions of existing commercial and industrial activities are necessary to give effect to the NPS-HPL, the reasons for which have been set out in Key Issue 2 of the Rural Wide Issues and RPROZ section 42A report. I do not repeat the section 32AA evaluation here.

5.2.3 Key Issue 3: Rule HZ-R1

Overview

Provision(s)	Officer Recommendation(s)
HZ-R1	Consequential amendments as a result of recommendations from the Rural Wide Issues and RPROZ section 42A report and Key Issue 2 above.

Analysis of Submissions on Key Issue 3: HZ-R1

Matters raised in submissions

122. FNDC (S368.077) supports HZ-R1 in part but raises concerns with the rule as currently drafted. The submitter considers that, to breach this rule as notified, the activity becomes discretionary which was not the intent if the activity itself is permitted, controlled or restricted discretionary. FNDC request that PER-1 of HZ-R1 is amended to also include buildings or structures that will accommodate controlled and/or restricted discretionary activities in addition to permitted activities.

Analysis

123. I agree with FNDC that HZ-R1 as currently drafted does not account for buildings or structures required for controlled or restricted discretionary activities. I have recommended an amendment to HZ-R1 (and equivalent rules in the other rural zones) to remedy this issue, as set out in the recommendations below.
124. As discussed in Key Issue 2 above, consequential amendments are required to HZ-R1 to clarify that it does not apply to artificial crop protection structures and crop support structures, as these are recommended to be provided under a separate new rule.
125. I note that other submissions on HZ-R1 (John Andrew Riddell (S431.134), FENZ (S512.111) and Heavy Haulage Association (S482.012)) have been addressed in Key Issue 4 of the Rural Wide Issues and RPROZ report and that analysis is not repeated here.

Recommendation

126. For the reasons set out above, I recommend that FNDC's submission on HZ-R1 is accepted as set out in **Appendix 2**.



127. I also recommend consequential amendments to HZ-R1 resulting from recommendations made under Key Issue 4 in the Rural Wide Issues and RPROZ report relating to relocated buildings within rural zones and Key Issue 2 above with respect to an exemption for artificial crop protection structures and crop support structures.
128. I recommend that HZ-R1 is amended as follows:⁵

HZ-R1	New buildings or structures, <u>relocated buildings</u> or extensions or alterations to existing buildings or structures	
Horticulture Zone	<p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p>The new building or structure, <u>relocated building</u> or extension or alteration to an existing building or structure, will accommodate a permitted, <u>controlled or restricted discretionary</u> activity.</p> <p>PER-2:</p> <p>The new building or structure, <u>relocated building</u> or extension or alteration to an existing building or structure complies with standards:</p> <p>HZ-S1 Maximum height;</p> <p>HZ-S2 Height in relation to boundary;</p> <p>HZ-S3 Setback (excluding from MHWS or wetland, lake and river margins);</p> <p>HZ-S4 Setback from MHWS;</p> <p>HZ-S5 Building or structure coverage; and</p> <p>HZ-S6 Buildings or structures used to house, milk or feed stock (excluding buildings or structures used for an</p>	<p>Activity status where compliance not achieved with PER-2: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <p>a. the matters of discretion of any infringed standard.</p> <p>Activity status where compliance not achieved with PER-1: Discretionary</p>

⁵ Note that the recommended the deletion of HZ-S4 and new HZ standards are addressed in Key Issue 6 below.



	<p>intensive indoor primary production activity); <u>HZ-SX Sensitive activities setback from boundaries of the Mineral Extraction Zone;</u> <u>HZ-SY Sensitive activities setback from intensive indoor and outdoor primary production activities; and</u> <u>HZ-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).</u></p> <p>Note: <u>HZ-R1 does not apply to artificial crop protection structures and crop support structures.</u></p>	
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Section 32AA evaluation

129. The recommended amendments to HZ-R1 align with the recommended amendments to RPROZ-R1 in the Rural Wide Issues and RPROZ section 42A report. The section 32AA evaluation for the changes to these rules is not repeated here.

5.2.4 Key Issue 4: Rule HZ-R2

Overview

Provision(s)	Officer Recommendation(s)
HZ-R2	Minor changes to give effect to the NPS-HPL and align with the Rural Wide Issues and RPROZ section 42A report

Analysis of Submissions on Key Issue 4: HZ-R2

Matters raised in submissions

130. Haigh Workman Limited (S215.055) opposes HZ-R2 and considers that the proposed impermeable surface thresholds are excessive and inconsistent with HZ objectives and policies. This submitter expresses concerns that, if development were to occur at these levels, it would result in significant adverse effects, especially when considering the extent of the HZ (and Rural zones) across the District. Haigh Workman Limited note that development up to 15% was not anticipated in any NRC flood hazard mapping and a site



developed to have 15% impermeable surfaces will typically have higher peak stormwater runoff, thus resulting in increased flooding and erosion downstream. Haigh Workman Limited request the maximum impermeable surface permitted activity threshold is reduced to 5%, or 500m² per hectare as this would minimise cumulative adverse effects whilst still permitting rural buildings, yards and races.

131. Brad Hedger (S269.003) considers that it is unclear how climate change effects have been considered when setting impermeable surface coverage thresholds in HZ-R2. Brad Hedger expresses concern over the combination of increased rainfall and impermeable development at 15%, and questions whether adverse effects on overland flow paths to streams and rivers have been adequately considered. Brad Hedger opposes impermeable coverage being linked to site area, and requests that PER-1 of HZ-R2 is amended as follows:

The impermeable surface coverage of any site is no more than 15% or 3000m², whichever is the lesser.

132. Michael John Winch (S67.012) opposes the 15% impermeable surface permitted activity threshold in HZ-R2, stating it is excessive for the HZ and would result in significant adverse effects. Michael John Winch considers the threshold is inconsistent with the NPS-HPL, RPS, all HZ objectives and policies HZ-P2 and HZ-P7. The submitter requests that the permitted activity threshold is reduced to 1%. Michael John Winch (S67.013) also notes that the HZ-R2 matters of discretion do not include the assessment of adverse effects of impermeable surface coverage on the life supporting capacity of soil. To resolve this, the submitter requests that an additional matter of discretion is inserted to HZ-R2 as follows:

g. the adverse effects on the life-supporting capacity of soil and the protection of highly productive land.

Analysis

133. I note that the 15% maximum impermeable surface coverage control has been rolled over from the Operative District Plan⁶ where the HZ is currently zoned Rural Production. While I appreciate that if every single HZ site was developed up to 15% there would be a significant increase in stormwater runoff, in my experience, rural landowners generally do not invest in the construction of impermeable surfaces or buildings that create impermeable surfaces unless it is necessary for their operations due to the large costs associated with these surfaces. Most sites in HZ will have impermeable surface coverage well below 15% - the purpose of the threshold is simply to set the trigger for the point where the mechanism to manage stormwater runoff onsite needs to be considered through the resource consent process. I also note that there is significant variation in site sizes across the HZ and that a smaller threshold, i.e. 1% or 5% could be overly onerous for smaller

⁶ Rule 8.6.5.1.3 – Stormwater Management in the Rural Environment chapter.



sites. I consider that, as the 15% threshold has been working well under the Operative District Plan, there is no clear reason to change the 'rural environment' approach in the HZ. No evidence has been provided by the submitters to justify why 15% is too high or why a 1%-5% threshold, 3,000m² maximum cap or 500m² per hectare is preferable.

134. I do, however, agree with Michael Winch that there is an opportunity to consider where impermeable coverage is placed relative to the location of HPL. For sites that wholly consist of LUC 1-3 land, there will be no opportunity to place impermeable surfaces in locations that avoid HPL, so it would not be appropriate to prevent impermeable surfaces from being constructed on HPL, nor is this a requirement of the NPS-HPL. However, there may be opportunities to minimise the amount of impermeable surfaces needed and keep the maximum amount of HPL available for farming activities, which is a matter that could be considered as part of a resource consent application for infringing the 15% maximum threshold. For other properties, there may be parts of the site that are less productive than others and opportunities for impermeable surfaces to be directed away from HPL. As such, I agree that adding a matter of discretion relating to the minimisation of impermeable surface coverage on HPL is appropriate and recommend this amendment below. I also consider that this matter of discretion should consider the impact on life supporting capacity of soils as this is the material issue to be considered when effectively sealing HPL and preventing it from being used for land-based primary production activities.
135. I note that other submissions on HZ-R2 (Puketotara Lodge Ltd (S481.012) and Trent Simpkin (S283.022)) have been addressed in Key Issue 4 of the Rural Wide Issues and RPROZ report and the analysis is not repeated here. However, recommendations made on HZ-R2 in the Rural Wide Issues and RPROZ report have been adopted into my recommendations on HZ-R2 below.

Recommendation

136. For the reasons set out above, I recommend that submissions on HZ-R2 are accepted, accepted in part and rejected as set out in **Appendix 2**.
137. I recommend that an additional matter of discretion is added to HZ-R2 as follows:

"The extent to which impermeable surfaces are able to be avoided, or otherwise minimised, on highly productive land and the potential impact on the life-supporting capacity of soils."

138. I recommend that matter of discretion c) in HZ-R2 relating to impermeable site coverage is amended as follows:

"c. the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites or downstream sites"



Section 32AA evaluation

139. The rationale for the amended matters of discretion in HZ-R2 with respect to section 32AA is set out in Key Issues 2 and 4 of the Rural Wide Issues and RPROZ section 42A report and is not repeated here.

5.2.5 Key Issue 5: Rules HZ-R3, HZ-R4, HZ-R7, HZ-R11, HZ-R13 and HZ-R14

Overview

Provision(s)	Officer Recommendation(s)
HZ-R3, HZ-R7 and HZ-R14	Retain as notified
HZ-R4	Minor amendment for clarification
HZ-R11	Amend for consistency with Rural Wide Issues and RPROZ section 42A report
HZ-R13	Amended via Clause 16 but also consequential amendment from 'education' to 'educational'

Analysis of Submissions on Key Issue 5: Rules HZ-R3, HZ-R4, HZ-R7, HZ-R11, HZ-R13 and HZ-R14

Matters raised in submissions

140. These rules have been assessed as a group as they attracted few submissions relative to other rules in the HZ.
141. Horticulture NZ (S159) request a range of amendments to various HZ rules as follows:
- Horticulture NZ (S159.145) support residential activity rule HZ-R3 in part but request that the rule is amended so that the standards relating to buildings and structures apply. As such, Horticulture NZ requests that a PER-2 condition is added to HZ-R3 to mirror that of HZ-R1 PER-2.
 - Horticulture NZ (S159.147) request that the terminology used in HZ-R11 is updated to replace "*versatile soils*" with "*highly productive land*".
 - Horticulture NZ (S159.148) support a discretionary activity status for educational facilities under HZ-R13 and requests that the 'PER' conditions are changed to 'DIS' conditions in HZ-R13 as the use of 'PER' conditions appeared to be an error. Horticulture NZ (S159.150) also considers that a setback should apply to educational facilities and request that a new "*DIS-4*" condition is inserted to HZ-R13 requiring a 20m setback.
 - Horticulture NZ requests that HZ-R14 is deleted (S159.151) on the basis that rural industry activities support horticulture production and a discretionary activity status may prevent these supporting rural



industries from establishing in the HZ. Subsequently, Horticulture NZ (S159.152) requests that HZ-R7 is amended to apply to all rural industry rather than just rural produce manufacturing.

142. John Andrew Riddell (S431.144) requests that PER-4 of HZ-R4 is amended so that the hours of operation apply to when the business is open to the public.
143. PF Olsen Limited (S91.023) and Summit Forests NZ (S148.051) oppose HZ-R11 as there are no provisions within the NES-PF which allow councils to apply such a stringent rule as HZ-R11 PER-1. These submitters draw particular attention to Regulation 6 of the NES-PF, which establishes where councils may have more stringent rules than the NES-PF regulations and note that protection of HPL is not listed in Regulation 6. PF Olsen Limited express concern regarding the perverse outcomes stemming from primary production activities being segmented by LUC classes and request that all primary production activities can establish on land in the HZ regardless of LUC class. PF Olsen and Summit Forests NZ seek the deletion of HZ-R11 PER-1. Summit Forests also requests that activity status where compliance not achieved is amended to "*not applicable*".

Analysis

HZ-R3

144. As discussed in Key Issue 17 of the Rural Wide Issues and RPROZ section 42A report, the structure of zone rules across the PDP is that R1 rules manage buildings and structures (and therefore list applicable standards), while the subsequent rules control the land-use activity. As such, the residential activity rule (and all other land-use 'activity' rules in the HZ) do not require the applicable standards to be repeated for each rule, as the standards will all apply to buildings and structures under HZ-R1. I do not recommend any references to standards being inserted into HZ-R3.

HZ-R4

145. John Andrew Riddell requests amendments to PER-4 of HZ-R4 with respect to the hours of operation of home businesses. I agree that not all home businesses will be 'open to the public' and therefore limiting operation hours for small, work from home businesses with no face-to-face customers is likely to be overly restrictive. However, I have concerns with an open-ended condition, as suggested by John Andrew Riddell, that states that the hours of operation should match when the business is open to the public without any indication of suitable opening hours for a public facing business. For a permitted activity condition to be effective, it needs to be measurable against a specific limit. As such, I recommend retaining the operating hours in PER-4 of HZ-R4 but clarifying that these hours only restrict when a business can be open to the public, not the hours a business can operate.



HZ-R11

146. I address similar submissions from PF Olsen and Summit Forests NZ raising concerns with the rules for plantation forestry in the Rural Production Zone in Key Issue 23 of the Rural Wide Issues and RPROZ section 42A report. In that report, I note that there is no clear statutory direction or locally specific factors that justify a more stringent approach for plantation forestry on versatile soils (or HPL) which must meet the tests in Regulation 6 of the NES-CF and section 32(4) of the RMA and I consider that the same reasoning applies to the HZ. I therefore recommend amendments to the HZ in relation to forestry that mirror those in the RPROZ being:
- a. An advice note above the rule table clarifying that the HZ rules do not apply to commercial forestry activities regulated under the NES-CF (as recommended in Key Issue 4 above).
 - b. Amendments to HZ-R11 so that this only applies to forestry activities not regulated under the NES-CF (e.g. permanent indigenous forestry) and the deletion of PER-1.
 - c. A new definition of 'forestry activities' that includes all types of forestry consistent with the NPS-HPL (as recommended in Key Issue 5 of the Rural Wide Issues and RPROZ section 42A report).

HZ-R13

147. I note that the MOE submission on HZ-R13 (S331.102) has been addressed in Key Issue 4 of the Rural Wide Issues and RPROZ section 42A report and my analysis is not repeated here. I do not agree with MOE's request to make HZ-R13 more permissive and I recommend retaining the discretionary activity status as well as the student limit in DIS-3.
148. With respect to Horticulture NZ requesting that all PER conditions are changed to DIS conditions in HZ-R13, this has been resolved by way of a Clause 16 amendment and HZ-R13 now has 'DIS' conditions. I also consider that the reference to 'education' rather than 'educational' in HZ-R13 is an error and I recommend an amendment to 'educational' to match the definition of educational facility in the PDP.
149. It is not clear from the Horticulture NZ submission on HZ-R13 as to what type of setback is being requested or where that setback should be measured from. I assume that Horticulture NZ is requesting that all educational facilities are setback 20m from either an internal site boundary or some other reference point but the submitter has not sufficiently explained the relief sought. Any buildings used for educational facilities need to comply with the standards referred to in HZ-R1, including HZ-S3 which requires a 10m setback from all site boundaries. I consider that the standard setbacks in HZ-S3 are sufficient for education facilities without further evidence from the submitter to the contrary. I also consider that, given an educational activity is unlikely to establish in the HZ given the purpose of



the zone and the discretionary activity status, any application for an educational facility would be required to consider any adjacent horticultural activities and propose mitigation measures as appropriate.

HZ-R14

150. I do not recommend that HZ-R14 – Rural Industry is deleted, nor do I recommend any amendments are made to combine the rules for rural produce manufacturing and rural industry under HZ-R7, as sought by Horticulture NZ. The National Planning Standards definition of 'Rural Industry' is very broad as follows:

"means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production"

151. This is in contrast to the definition of 'Rural Produce Manufacturing' in the PDP as follows:

"means the use of land and/or buildings for the manufacturing of products from rural produce grown on the same site"

152. The intent of these definitions and associated different rules is to make a distinction between the types of rural industry that should be enabled as a permitted activity in the HZ because of the clear links to processing rural produce, and those that need to go through the resource consent process due to potential off-site effects associated with the scale of buildings and/or the nature of the operation. There are a range of activities that, in my opinion, could establish under the broad definition of rural industry that I do not consider should be provided for as a permitted activity in the HZ, e.g. stock and sale yards, depots or businesses that service or repair rural farming equipment. As such, I consider requiring a discretionary activity consent under HZ-R14 for rural industry and maintaining a distinction between rural industry and rural produce manufacturing is appropriate.

Recommendation

153. For the reasons set out above, I recommend that submissions on HZ-R3, HZ-R4, HZ-R11, HZ-R13 and HZ-R14 are accepted, accepted in part and rejected as set out in **Appendix 2**.
154. I recommend that the wording of PER-4 in HZ-R4 is amended to clarify that the permitted condition relating to operating hours only applies to the hours that a business is open to the public.
155. I recommend HZ-R11 is amended to only apply to forestry activities not regulated under the NES-CF.
156. I recommend that the word 'education' as used in HZ-R13 is amended to read 'educational'.



Section 32AA evaluation

- 157. I consider that the amendment to PER-4 in HZ-R4 is a minor change to clarify how the rule should be applied and that it does not change the intent of the rule. As such, no further evaluation is required under section 32AA of the RMA in my view.
- 158. I consider that the rationale for amending HZ-R11 to align with the NES-CF has been sufficiently addressed in response to aligning other RPROZ provisions with the NES-CF in Rural Wide Issues and RPROZ section 42A report. As such, I do not repeat the section 32AA evaluation here.
- 159. I consider that the amendment to HZ-R13 is to fix an error and does not require further assessment under section 32AA of the RMA.

5.2.6 Key Issue 6: Standards – General Comments

Overview

Provision(s)	Officer Recommendation(s)
HZ-S6	Minor amendment to better address potential reverse sensitivity effects
New standard HZ-SX	Insert sensitive activity setback from the boundary of a Mineral Extraction Zone
New standard HZ-SY	Insert setback standard for sensitive activities from existing intensive indoor and outdoor primary production activities
New standard HZ-SZ	Insert setback standard for sensitive activities from buildings for housing, milking or feeding stock

Analysis of Submissions on Key Issue 6: Standards – General Comments

Matters raised in submissions

- 160. Two M Investments Limited (S317.028-030, S317.032-033) support the HZ standards and request these be retained as notified. Two M Investments Limited considers the standards provide for horticulture activities without potential new activities disrupting or hindering existing or future horticultural operations.
- 161. Imerys Performance Minerals (S65.015) and Ventia Ltd (S424.011) raise the need for new sensitive activities to have sufficient protection from quarrying and mining activities. These submitters request that a new "*Sensitive*



activities setback from boundaries of a Mineral Extraction overlay” standard (like that of RPROZ-S7) is inserted into the HZ.⁷

Analysis

162. Regarding the request from Imery Performance Minerals for a Mineral Extraction Zone setback standard to align with RPROZ-R7, I note that the closest land to the HZ that is in the Mineral Extraction overlay (located on Mangakateru Road) is over 400m away from the boundary with the HZ, with a buffer of RPROZ land in between. However, for consistency with other zone chapters, I recommend the insertion of a new setback from the boundary of a Mineral Extraction Zone.⁸
163. HZ-S4 is already recommended to be deleted, as per Key Issue 20 of the Coastal Environment section 42A report. I have recommended a consequential amendment to Advice Note 2 in Key Issue 2 above to explain the relationship between the HZ chapter and the Coastal Environment chapter with respect to MHWS setbacks.
164. I note that there are no specific submissions in opposition to HZ-S6, however I consider that the scope of HZ-S6(2) should be broadened to protect primary production activities from reverse sensitivity effects created from all sensitive activities, not just residential units. This is a consequential amendment to align with my recommendations for RPROZ-S6(2), as set out in Key Issues 14 and 26 in the Rural Wide Issues and RPROZ section 42A report and ensures that there is consistent wording across both chapters. I also consider that there is scope within other submissions to strengthen provisions in the rural zone chapters to better manage reverse sensitivity effects⁹.
165. I note that there are no specific submissions seeking reciprocal setback rules to protect primary production activities involving animals from sensitive activities in the HZ, however there are general submissions seeking stronger reverse sensitivity provisions to protect primary production activities and productive land generally in the HZ.¹⁰ I consider these submissions provide scope to recommend two new standards to protect existing intensive indoor and outdoor primary production activities as well as other primary production activities involving buildings housing animals. These standards

⁷ Note that, in the Rural Wide Issues and RPROZ section 42A report, I have recommended amending the reference to Mineral Extraction ‘overlay’ to Mineral Extraction ‘Zone’ based on the recommendations of Ms Lynette Morgan as the reporting officer for the Mineral Extraction topic. Refer to Key Issue 1 of the Mineral Extraction section 42A report, dated 18 October 2024.

⁸ Ibid.

⁹ For example, (NRC S359.019) request that there are stronger reverse sensitivity provisions within production zones, including potentially up to 100m for habitable buildings within production zones, appropriate visual and physical screening and limitations on intensity of noise sensitive activities.

¹⁰ For example, Kapiro Residents Association (S427.034-035), Vision Kerikeri (S522.049-050) and Kapiro Conservation Trust (S449.067-068) support HZ rules and policies in part but seek to further protect highly productive land as a strictly finite resource. The insertion of specific policies and rules across rural and horticulture zones are requested to prevent reverse sensitivity effects on productive land.



match the two standards that I recommend adding into the RPROZ, for the reasons set out in Key Issue 26 of the Rural Wide Issues and RPROZ section 42A report. The recommended wording for these new setback standards is included in the recommendations below. I also note that consequential amendments are required to HZ-R1 to ensure that these new setback standards are applied to buildings/structures containing sensitive activities.

Recommendation

166. For the reasons set out above, I recommend that the general submissions on the HZ standards are accepted, accepted in part and rejected as set out in **Appendix 2**.

167. I recommend that HZ-S6(2) is amended as follows:

"At least 100m from sensitive activities residential units on an adjoining site under separate ownership."

168. I recommend that an equivalent standard to RPROZ-S7 relating to setbacks from a Mineral Extraction Zone (including recommended amendments to RPROZ-S7 as set out in the Rural Wide Issues and RPROZ section 42A report) is included in the HZ chapter.

169. I recommend that a new standard is inserted for a reciprocal setback that protects existing intensive indoor and outdoor primary production activities from new sensitive activities as follows:

<u>HZ-SY</u>	<u>Sensitive activities setback from intensive indoor and outdoor primary production activities</u>	
<u>Horticulture zone</u>	All buildings and structures used for <u>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.</u>	<u>Where the standard is not met, matters of discretion are restricted to:</u> a. <u>Potential reverse sensitivity effects and measures taken to mitigate these effects, such as landscaping or screening</u> b. <u>Whether there are alternative options for the location of the sensitive activity</u>

170. I recommend that a new standard is inserted for a reciprocal setback that protects existing primary production activities involving buildings or



structures that are used to house, milk or feed stock from new sensitive activities as follows:

<u>HZ-SZ</u>	<u>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)</u>	
<u>Horticulture Zone</u>	All buildings and structures used for new sensitive activities will be setback <u>100m from any buildings or structures used to house, milk or feed stock (excluding buildings or structures used for an intensive indoor or outdoor primary production activity) located on an adjoining site under separate ownership.</u>	<u>Where the standard is not met, matters of discretion are restricted to:</u> a. <u>Potential reverse sensitivity effects and measures taken to mitigate these effects, such as landscaping or screening</u> b. <u>Whether there are alternative options for the location of the sensitive activity</u>

Section 32AA evaluation

171. The recommended insertion of three new HZ standards is to align with recommendations made to insert equivalent standards in the Rural Wide Issues and RPROZ section 42A report. As such, the section 32AA evaluation for these new standards is not repeated here.
172. I consider that the amendment to HZ-S6 is a minor change to better manage potential reverse sensitivity effects within the HZ but does not change the general intent of the standard. As such, I do not consider that a further evaluation under section 32AA is required.

5.2.7 Key Issue 7: Standards HZ-S1, S2, S3 and S5

Overview

Provision(s)	Officer Recommendation(s)
HZ-S1	Consequential amendment to remove references to artificial crop protection and support structures
HZ-S2	Retain as notified
HZ-S3	Minor amendments to align with equivalent RPROZ standard and several consequential amendments to achieve consistency across rural zones
HZ-S5	Minor amendment to replace 'glass houses' with 'greenhouses'



Analysis of Submissions on Key Issue 7: Standards HZ-S1, S2, S3 and S5

Matters raised in submissions

Standard HZ-S1

173. Horticulture NZ's (S159.165) submission on HZ-S1 states the standard provides for artificial crop protection structures up to 6m. It is inferred that the submitter supports this standard.
174. Kapiro Residents Association (S427.046-047), Kapiro Conservation Trust (S449.056-057), Our Kerikeri (S338.060-061) and Carbon Neutral NZ (S529.205-206) support in part the standards for crop protection support structures in HZ-S1 and HZ-S3. However, these submitters consider that additional standards for such structures are required to prevent further adverse effects on visual amenity and rural character. These submitters have included suggested wording for amended provisions in their submissions.

Standard HZ-S2

175. John Andrew Riddell (S431.193) requests that HZ-S2 is retained as notified on the basis that he agrees with varying the height in relation to boundary standard depending on the orientation of the boundary.
176. Horticulture NZ (S159.166) opposes HZ-S2 on the basis that it should not apply to artificial crop protection structures because they are open and let light through. As such, Horticulture NZ requests that artificial crop protection structures are exempt from the need to comply with HZ-S2.

Standard HZ-S3

177. I note that FENZ submission on HZ-S3 (S512.085) has been addressed in Key Issue 4 of the Rural Wide Issues and RPROZ report and the analysis is not repeated here.
178. Horticulture NZ (S159.167) supports HZ-S3 in part but requests that the setback for artificial crop protection structures is reduced from 3m to 1m. Horticulture NZ also consider that the 10m setback of habitable buildings from boundaries alone is insufficient to address potential reverse sensitivity effects. To resolve these concerns, Horticulture NZ request that HZ-S3 is amended as follows:

The building or structure, or extension or alteration to an existing building or structure must be setback at least 10m from all site boundaries, except

- 1. habitable buildings are setback at least 30m from the boundary of an unsealed road and 20m from side and rear boundaries; and*
- 2. artificial crop protection and support structures are setback at least ~~3m~~ 1m from all site boundaries*



179. Jono Corskie (S37.002) is concerned about the proposed setbacks under HZ-S3 as they apply to sites 5,000m² or less in size where a dwelling has not yet been constructed. Jono Corskie notes that the ODP allowed for the creation of numerous 5,000m² lots on the assumption that only 3m setbacks would be required for buildings and structures. Jono Corskie is also concerned that the 10m setback from boundaries adjoining roads will create additional consent requirements for structures such as sheds and greenhouses and lead to under-utilisation of smaller land parcels.

Standard HZ-S5

180. Horticulture NZ (S159.168) supports the 12.5% maximum site coverage threshold for buildings or structures and the standard's exclusion of horticultural structures and buildings. Horticulture NZ notes, however, that HZ-S5 excludes *'glass houses'* and requests this is replaced with *'greenhouses'*.
181. Trent Simpkin (S283.035) opposes all building coverage rules in all zones, including HZ-S5.¹¹ Regarding the HZ, Trent Simpkin requests an increase in maximum building or structure coverage allowance from 12.5% to 20%, or the insertion of a permitted standard stating that if coverage is above the maximum or 2,500m², it is a permitted activity if visual assessment and landscape plans are provided as part of the building consent.

Analysis

Standard HZ-S1

182. As I have recommended the insertion of a new rule to specifically manage artificial crop protection structures and crop support structures, this negates the need for HZ-S1 and HZ-S3 to expressly include controls on artificial crop protection structures or crop support structures.
183. My recommended new rule for artificial crop protection structures and crop support structures is included in the recommendations section below, as well as consequential amendments to HZ-S1 and HZ-S3 based on my recommendations in the Rural Wide Issues and RPROZ report.

Standard HZ-S2

184. I disagree with Horticulture NZ that artificial crop protection structures should be exempt from height in relation to boundary (HIRB) standard HZ-S2. HIRB standards are not just to manage access to daylight, they are also in place to manage built dominance effects from the proximity buildings and structures to boundaries. The HIRB standard places an additional layer of protection for neighbours on eastern, western and southern site boundaries

¹¹ Note that this submission point was incorrectly allocated to HZ-R5 in the published Summary of Submissions. As it clearly relates to HZ-S5 and the building coverage controls in the HZ, it has been assessed in this section of the section 42A report.



as, from my calculations¹², a building or structure that complied with the 3m setback and the 6m height limit would not comply with a 2m+35° or 2m+45° HIRB standard (but it would comply with the 2m+55° standard on northern boundaries). I also consider that HIRB is a valuable tool in addition to maximum height and setback standards as it can account for changes in ground level between the point measured on the boundary and the building/structure. As such, I recommend that HZ-R2 continues to apply to artificial crop protection structures and crop support structures.

Standard HZ-S3

185. I note that there are no existing railway lines extending through the HZ. However, in the interests of futureproofing the provisions of the zone and for consistency across all rural zones, I have recommended two new matters of discretion to HZ-S3 to address safety concerns raised by KiwiRail, particularly as KiwiRail's submission (S416) requests that these setbacks be inserted into all zones. The reason for this change is assessed in Key Issue 4 of the Rural Wide Issues and RPROZ section 42A report.
186. I do not agree with Horticulture NZ's request for buildings or structures to be setback 20m from side and rear boundaries under HZ-S3. In my view, 10m is an appropriate setback between buildings and structures on sites adjacent to horticultural activities, particularly when artificial crop protection structures and crop support structures are only required to be set back 3m from site boundaries. In my view, imposing 20m setbacks from all side and rear boundaries across the HZ would be overly onerous for landowners, particularly as not all boundaries will be shared with a horticultural operation and there are other setbacks in place to protect primary production activities involving the keeping of animals. I do not recommend an increase in setback distances as a result of the Horticulture NZ submission.
187. In response to Jono Corskie's submission requesting more permissive setbacks for lots less than 5,000m², I understand that ODP allowed 5,000m² lots to be created and that some of these lots will not yet have a house constructed on them. Although there may be some site-specific cases where the PDP setbacks are difficult to meet, particularly from a road, I consider that most 5,000m² lots are large enough to accommodate a residential unit while still complying with the 10m site boundary setbacks. I note that HZ-S3 does not have the same 3m setbacks for accessory buildings as the equivalent RPROZ standard and agree that the risks associated with non-habitable accessory buildings close to boundaries (e.g. reverse sensitivity, privacy) are less than those associated with habitable buildings. As such I recommend a similar exemption for accessory buildings to the equivalent RPROZ-S3 standard for sites 5,000m² or less, however I consider that the

¹² A building or structure could only be a maximum of 5m in height to comply with a 2m+45° HIRB standard when set back 3m from a boundary. Similarly, it could only be 4.1m in height and setback 3m to comply with a 2m+35° HIRB standard. For a building or structure to comply with the 2m+55° HIRB standard at 3m from the boundary it could be up to 6.28m, so it would be under the 6m max height limit. These calculations assume the ground level at both the boundary and the building is the same.



accessory buildings should be 'non-habitable' in order to qualify for the 3m setback.

188. I recommend a consequential amendment to HZ-S3 to align with my recommendations on equivalent standard RSZ-S3 in the Settlement Zone. I understand that the intention was that all rural zones in the PDP that have a setback standard should have an exemption for walls and fences up to 2m in height, otherwise consent would be required for every boundary fence or wall. This exemption has been included in the RPROZ, RLZ, RRZ and RSZ setback standards but has been missed from HZ-S3. As such, I recommend that a new clause stating that the setback standard does not apply to fences or walls no more than 2m in height above ground level is inserted into HZ-S3 to achieve consistency across all rural zones.
189. I also recommend other amendments to HZ-S3 to align the wording with the equivalent standard RPROZ-S3 with respect to setbacks from unsealed roads and commercial forests. The reasons for these changes are set out in Key Issue 28 of the Rural Wide Issues and RPROZ section 42A report.

Standard HZ-S5

190. I agree with Horticulture NZ that HZ-S5 should be amended to exclude 'greenhouses' rather than 'glass houses' in alignment with the recommended definition for 'greenhouse' in the Rural Wide Issues and RPROZ section 42A report. This ensures consistent terminology is used throughout the HZ chapter.
191. I disagree with Trent Simpkin that the building coverage control should be increased from 12.5% to 20%. This is a significant increase and well in excess of the 15% impermeable coverage rule in HZ-R2. I also disagree with this submitter's request for an alternative permitted pathway for activities that exceed 20% coverage or 2,500m² by way of a visual assessment and landscape plan. As discussed in relation to the submitter's request for a permitted activity pathway for non-compliance with HZ-R2 where there is a TP10 report, this type of pathway would give considerable discretion to landscape architects, enabling them to effectively approve landscaping and planting plans to mitigate built dominance, privacy and amenity/character effects without any Council oversight. As such, I recommend that this submission point is rejected.

Recommendation

192. For the reasons set out above, I recommend that the submissions on HZ-S1, HZ-S2, HZ-S3 and HZ-S5 are accepted, accepted in part and rejected as set out in **Appendix 2**.
193. I recommend that the words '*except that artificial crop protection and support structures shall not exceed a height of 6m above ground level*' are deleted from HZ-S1.



194. I recommend that HZ-S3 is amended as follows:

HZ-S3	Setback (excluding from MHWS or wetland, lake and river margins)	
Horticulture zone	<p>The building or structure, or extension or alteration to an existing building or structure must be setback at least 10m from all site boundaries, except:</p> <ol style="list-style-type: none"> 1. habitable buildings are setback at least <u>320m</u> from the boundary of an unsealed road; and 2. <u>on sites less than 5,000m², non-habitable accessory buildings can be setback to a minimum of 3m for boundaries that do not adjoin a road; and</u> 3. <u>habitable buildings must be set back 30m from the boundary of a site containing a commercial forest.</u> 4. artificial crop protection and support structures must be setback at least 3m from all site boundaries; or <p>This standard does not apply to:</p> <ol style="list-style-type: none"> i. <u>fences and walls no more than 2m in height above ground level;</u> ii. uncovered decks less than 1m in height above ground level; iii. underground wastewater infrastructure; and or iv. water tanks less than 2.7m in height above ground level. 	<p>Where the standard is not met, matters of discretion are restricted to:</p> <ol style="list-style-type: none"> a. the character and amenity of the surrounding area; b. screening, planting and landscaping on the site; c. the design and siting of the building or structure with respect to privacy and shading; d. natural hazard mitigation and site constraints; e. the effectiveness of the proposed method for controlling stormwater; f. the safety and efficiency of the current or future access, egress on site and the roading network; and g. the impacts on existing and planned public walkways, reserves and esplanades; ; h. <u>reverse sensitivity effects on primary production activities;</u> i. <u>the health impacts of dust from unsealed roads on habitable buildings;</u> j. <u>the location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor; and</u>



		k. the safe and efficient operation of the rail network.
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195. I recommend that HZ-S5 is amended as follows:

"ii. tunnel and glass houses greenhouses."

Section 32AA evaluation

196. The majority of recommended amendments to the HZ standards listed above are to align with recommendations made to equivalent standards in the Rural Wide Issues and RPROZ section 42A report. As such, the section 32AA evaluation for the amendments to standards is not repeated here.

197. The exceptions are the new exemption for non-habitable accessory buildings on sites less than 5,000m² and the change from 'glasshouses' to 'greenhouses'. I consider that it is appropriate to include the same exemption for accessory buildings on smaller sites as included in RPROZ-S3, but with the added requirement that the buildings be 'non-habitable' given the increased potential risk of reverse sensitivity effects in the Horticulture Zone due to the close proximity of smaller rural lifestyle sized sites to horticultural operations. This will result in more efficient use of these smaller sites while still maintaining the 10m setbacks for habitable buildings that contain more sensitive activities. As such, I consider this amendment to be more effective and efficient in achieving the relevant objectives in the PDP than the notified standard and are therefore appropriate in terms of section 32AA of the RMA.

198. I consider that the change from 'glasshouses' to 'greenhouses' is a minor amendment that does not change the general intent of HZ-S5. As such, I do not consider that a further evaluation under section 32AA is required.

5.2.8 Key Issue 8: Subdivision SUB-S1 and the Horticulture Zone

Overview

Provision(s)	Officer Recommendation(s)
SUB-S1	Amendment to increase discretionary activity threshold from 4ha to 8ha and removal of the controlled activity pathway



Analysis of Submissions on Key Issue 8: Subdivision SUB-S1 and the Horticulture Zone

Matters raised in submissions

Submissions that support and/or seek strengthening of SUB-S1

199. Two M Investments Limited (S317.034) supports SUB-S1 as it applies to the HZ and considers that the proposed minimum lot sizes are appropriate and will enable horticultural development alongside non-horticultural development without the latter interfering with operations.
200. Te Rūnanga o Ngāti Rēhia (S559.034) support SUB-S1 as it applies to the HZ in part but, given the proximity of the zone to Waipapa and Kerikeri, consider that SUB-S1 should be strengthened to combat the likely demand for lifestyle blocks and protect the HZ. Te Rūnanga request that SUB-S1 provides for larger lot sizes and/or a more restrictive approach to development within the HZ.
201. NRC have 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 HZ 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 HZ 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. NRC also note that a 4ha minimum lot size has the potential to fragment HPL in the HZ for lifestyle and residential use and is inconsistent with the HZ objectives and policies to avoid reverse sensitivity issues. NRC request a non-complying activity status for any subdivision resulting in lot sizes less than 10ha, which NRC consider is consistent with Clause 3.8 of the NPS-HPL.

Submissions that request pathways for rural lifestyle sized lots in the HZ

202. David Lesley Penberthy and Elena Lvovna Belyakova and Ors (S474.001) support SUB-S1 in part but request modifications for smaller residential properties and land without horticultural capacity. These submitters request that existing lots that are under 1.5ha in size on the date that the PDP is made operative are able to be subdivided further; down to 5,000m² as a controlled activity and down to 3,000m² as a non-complying activity. David Penberthy and Elena Belyakova and Ors are open to other consequential zoning and provision amendments to achieve this relief and recognise that reverse sensitivity effects need to be appropriately considered.
203. Geoffrey Raymond Lodge (S540.002) and Thomson Survey Ltd (S190.002) oppose SUB-S1 insofar as it relates to the HZ and consider it too punitive and restrictive. The submitters are concerned that the minimum lot sizes do not appear to consider the actual productive capacity of land, the proposed



land use, or existing lot size. The submitters consider that overly restrictive subdivision minimum lot sizes in the HZ will render marginally productive units uneconomic owing to the owners' inability to diversify and reduce debt. The submitters also note that the HZ encompasses a wide area containing land with many different characteristics and lot sizes and therefore the submitters consider that a 'one size fits all' approach is not sustainable. These submitters request that the following restricted discretionary lot size is inserted to SUB-S1 for HZ:

In each five-year period, up to 2 lots of between 3,000m² and 1ha over the period of the life of the District Plan.

204. Thomson Survey Ltd (S190.002) further note that, if Council have concerns surrounding the introduction of multiple small lot options as a restricted discretionary activity, a discretionary activity status might be considered. Thomson Survey Ltd propose key matters of consideration as being land suitability, location and physical character if the rule was drafted as a restricted discretionary activity.

Analysis

205. As a starting point, the rationale for the minimum lot sizes in SUB-S1 for the HZ outlined in the Rural Section 32 Evaluation Report is as follows (**emphasis added**):

*'10ha was adopted as the minimum controlled lot size in the Horticulture zone, which is slightly larger than the recommended minimum-controlled lot size in the Rural Production zone for lots with good access to water, this was due to providing for some additional land to cater for access, infrastructure, housing and other associated buildings in addition to having land for primary production. It was also considered that current lot sizes in this zone are heavily based on supporting the kiwifruit industry, which due to its high returns can support smaller lot sizes. By having a 10ha lot it provides for more opportunities to grow other crops such as avocados, which require more land area. Subdivision pressures can occur if fruit prices drop, or crops are affected by disease, therefore lots need to be of a size able to adapt to changing markets. A 4ha lot is considered to be **the absolute minimum lot size that can still be a productive parcel (in some circumstances)**, which is why a discretionary activity is appropriate to determine whether creating a smaller 4ha lot in productive use is feasible.'*

206. I understand why this rationale was put forward when the PDP was notified, based on the NPS-HPL not being in force at the time. I agree that a 10ha sized lot can be appropriate where there is productive land with good access to water as a variety of horticultural activities could establish and be viable on 10ha lots. However, I also recognise that the NPS-HPL is now in effect, which contains a strong 'avoid' provision in Policy 7 and associated Clause 3.8 for subdivision of HPL. Approximately 65% of the HZ is HPL (as defined



by the transitional definition of HPL in the NPS-HPL) and Clause 3.8 directs that subdivision of this land should be avoided unless the overall productive capacity of the land is retained over the long term¹³. Although most of the balance of HZ land is LUC 4 (which is not defined as HPL under the NPS-HPL), I consider it appropriate to treat LUC 4 land in the same way as the LUC 2-3 land in the HZ with respect to subdivision given that LUC 4 land is also suitable for a range of primary production activities e.g. arable and vegetable cropping, horticulture (including vineyards and berry fields), pastoral grazing, tree crop or production forestry use where there is good access to water¹⁴.

207. The NPS-HPL also directs that district plan provisions must ensure that the 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 activities¹⁵.

208. In my opinion, the need to consider these tests, e.g. overall productive capacity, cumulative loss of HPL and actual and potential reverse sensitivity effects necessitates a different approach to the subdivision of lots containing HPL, which accounts for approximately 2/3 of land in the HZ¹⁶, and that it is appropriate to also apply this approach to the balance of the HZ for consistency. The mechanism for introducing a specific HPL subdivision rule will be covered in Hearing 16 – Subdivision in October 2025, however I have discussed this issue with the section 42A officer for the subdivision chapter and understand that amendments to the subdivision chapter will be recommended to give effect to the NPS-HPL. The rule framework that I have discussed with the subdivision reporting officer is a discretionary activity rule framework for any subdivision in either the RPROZ or HZ that creates one or more additional allotments that contain HPL (i.e. if the HPL is contained in the balance lot, the standard subdivision rules and standards apply).

209. As such, I consider that a controlled activity pathway is no longer appropriate for subdivision in the HZ, particularly when the balance of land that is not HPL is predominantly LUC 4 land (just under 30% of the zone¹⁷), which is or also has the potential to be highly productive. On this basis, I consider 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 but

¹³ Or the subdivision is on specified Māori land or is for specified infrastructure or defence facilities, as set out in Clause 3.8(1)(b) and (c) of the NPS-HPL.

¹⁴ As discussed with respect to the Overview statement in Key Issue 1 above.

¹⁵ Clause 3.8(2) of the NPS-HPL.

¹⁶ 65% as calculated by FNDC GIS team.

¹⁷ As calculated by FNDC GIS team.



also achieve the policy direction of the HZ, particularly HZ-O3, HZ-P5 and HZ-P7.

210. Providing a discretionary activity pathway for all subdivision 8ha and over in the HZ will, in my opinion, provide the ability for applicants to demonstrate the need for subdivision in the HZ, including consideration of whether or not the productiveness of the land, combined with access to water and other site-specific factors, justifies the particular sized lot being sought and whether the subdivision will maintain or improve the productive capacity of the land. Contrary to the submissions made by Thomson Survey Ltd and Geoffrey Raymond Lodge, the discretionary activity status is, in my view, the mechanism to consider actual productivity of land, existing lot sizes and land use patterns. A discretionary activity status allows applicants to put forward all arguments in support of the subdivision that they consider to be relevant and Council consent processing staff are able to consider all the relevant information when making their decision.
211. With respect to the 4ha discretionary activity threshold, I note that the FNDC Rural Environmental Economic Analysis – Update report, dated August 2020 (Appendix 1 of the Rural section 32 report¹⁸) recommends that subdivision of land within the Kerikeri Irrigation North and South Regions (which are the basis for the HZ boundaries) that creates lots less than 8ha should be non-complying. I agree with this position and note that it aligns with the non-complying status of subdivision below 8ha in the RRPOZ under SUB-S1. I agree with NRC and Te Rūnanga o Ngāti Rēhia that 4ha lots are likely to be used for rural lifestyle purposes and thereby increase potential reverse sensitivity effects within the HZ if they are enabled as a discretionary activity. It also becomes more difficult to reject applications for 4ha sized lots once a precedent has been set for that size, even if the outcomes with respect to loss of HPL, reverse sensitivity effects or land fragmentation are poor. 8ha is a size of lot that, in my experience, is generally too large to be used for rural lifestyle purposes so it is a useful higher threshold to switch from discretionary to non-complying to reinforce the primary purpose of the HZ and that rural lifestyle lots are not encouraged in the HZ.
212. As a consequence, I recommend the three submissions requesting rural lifestyle sized subdivision opportunities in the HZ are rejected. The entire premise of the zone is to protect the land for horticulture and other compatible farming activities and prevent potential reverse sensitivity effects that could undermine the viability of these productive activities. The intent of SUB-S1 is to effectively prevent rural lifestyle subdivision in the HZ and only allow subdivision where it is necessary to provide for a horticultural or other productive farming activity. I consider that the amendments to SUB-S1 that I recommend below will better achieve this intent compared to the notified version of SUB-S1 with respect to the HZ. I acknowledge that this position will limit the ability of land in the HZ to be subdivided for non-productive purposes. However, the wider approach to managing the rural

¹⁸ Refer to table on page xv.



environment still provides for rural lifestyle and rural residential living opportunities elsewhere, just not in the same location as some of the most productive land in the Far North district. I discuss the overall zoning approach for the rural environment in Key Issue 1 of the Rural Wide Issues and RPROZ section 42A report, including the more targeted opportunities for rural lifestyle development.

Recommendation

213. For the reasons set out above, I recommend that the submissions SUB-S1 with respect to the HZ are accepted, accepted in part and rejected as set out in **Appendix 2**.
214. I recommend that SUB-S1 is amended as follows:

SUB-S1	Minimum allotment sizes	
Zone	Controlled Activity	Discretionary activity
Horticulture	±0ha <u>N/A</u>	4ha <u>8ha</u>

Section 32AA evaluation

215. I consider that my analysis of the HZ subdivision minimum lot size issue above has largely addressed the requirements of a section 32AA evaluation and I consider that more restrictive minimum lot sizes and associated activity statuses will be more effective and efficient in achieving the relevant objectives in the PDP than the notified standard, particularly with respect to giving effect to the NPS-HPL, for the reasons already discussed in Key Issue 2 of the Rural Wide Issues and RPROZ section 42A report. Therefore, I consider that the amendments to SUB-S1 as it applies to the HZ are appropriate in terms of section 32AA of the RMA.

6 Conclusion

216. This report has provided an assessment of submissions received in relation to the HZ chapter and SUB-S1 as it relates to the HZ. The primary amendments that I have recommended relate to:
- a. Amendments to the overview, objectives, policies and rules of the HZ to give effect to the National Policy Statement on Highly Productive Land (NPS-HPL).
 - b. Amendments to objectives, policies, rules and standards to align with recommendations made in the Rural Wide Issues and Rural Production Zone (RPROZ) section 42A report.
 - c. Amendments to SUB-S1 as it relates to the HZ to give effect to the NPS-HPL and further restrict potential opportunities for rural lifestyle sized development.



217. Section 5.2 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the HZ chapter and SUB-S1 should be accepted, accepted in part or rejected as set out in my recommendations of this report and in **Appendix 2**.
218. I recommend that provisions for Horticulture Zone matters be amended as set out in **Appendix 1.1** below, for the reasons set out in this report. I also recommend that SUB-S1 be amended as set out in **Appendix 1.2** of this report. The consequential amendments made to the HZ as result of the recommendations in the Rural Wide Issues and RPROZ s42A report are also contained in **Appendix 1.1**.

Recommended by: Melissa Pearson – Principal Planning Consultant, SLR Consulting New Zealand

Approved by: James R Witham – Team Leader District Plan, Far North District Council.

Date: 4 November 2024