IN THE MATTER OF Resource Management Act 1991

AND

IN THE MATTER OF Proposed Timaru District Plan

Decision Report – Part 3

Rural Zones, Urban Zones, Māori Purpose Zone, Open Space Zones

19 March 2026

Part 3 Rural, Urban, Māori Purpose and Open Space Zones

CONTENTS

1 MATTERS CONSIDERED IN THIS PART

[1] This Part of the Decision Report sets out the Hearing Panel's decisions on the submissions and further submissions relating to Rural Zones, Urban Zones, the Māori Purpose Zone and Open Space Zones.

1.1 ZONE TOPICS

1.1.1 Rural Zones

[2] The Rural Zones (in Part 3 of the Proposed Plan - Area Specific Matters) comprise three sub-chapters including the General Rural Zone (GRUZ), Rural Lifestyle Zone (RLZ) and the Settlement Zone (SETZ).[1]

[3] As detailed in Mr Maclennan's s42A Report, the GRUZ Chapter enables primary production (including intensive primary production) and a range of ancillary and associated activities that support primary production such as rural industry activities; the RLZ Chapter provides for areas for predominantly a residential lifestyle within a rural environment on lots smaller than those of the GRUZ; and the SETZ Chapter provides for a number of small settlements dispersed throughout the rural area, including Acacia Drive, Cave, Ōrāri, Pareora, Winchester, Peel Forest, Blandswood and Woodbury.[2]

1.1.2 Urban Zones – Residential Zones

[4] The Residential Zones (in Part 3 of the Proposed Plan – Area Specific Matters) include the General Residential Zone (GRZ) and the Medium Density Residential Zone (MRZ). As summarised in Ms White's s42A Report, the MRZ applies to existing residential areas located near commercial centres, in Timaru and Geraldine, and the MRZ provisions anticipate further consolidation and intensification within this zone.[3] The GRZ applies to the suburban areas within Timaru, Temuka, Geraldine and Pleasant Point, and the GRZ provisions provide for 1-2 storey residential units, with ample space around buildings for plantings and outdoor living areas, and good access to sunlight.[4]

1.1.3 Urban Zones - Commercial and Mixed Use Zones

[5] There are six proposed commercial zones (in Part 3 of the Proposed Plan – Area Specific Matters) including Neighbourhood Centre Zone (NCZ); Local Centre Zone (LCZ), Large Format Retail Zone (LFRT); Mixed Use Zone (MUZ); Town Centre Zone (TCZ); and City Centre Zone (CCZ).

[6] A detailed description of the purpose of each commercial zone framework is provided in Ms White's s42A Report[5], essentially representing a hierarchy of commercial activity from the smaller in scale, to larger retail formats, to the commercial centre of Timaru.

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1 Andrew Maclennan, s42A Report: Rural Zones, 19 June 2024, Para 2.1.2.
2 Andrew Maclennan, s42A Report: Rural Zones, 19 June 2024, Para 2.1.3 - 2.1.5.
3 Liz White, s42A Report: Residential; and Commercial and Mixed Use Zones, 18 June 2024, Para 2.1.2, 2.1.4.
4 Liz White, s42A Report: Residential; and Commercial and Mixed Use Zones, 18 June 2024, Para 2.1.3.
5 Liz White, s42A Report: Residential; and Commercial and Mixed Use Zones, 18 June 2024, Para 2.1.5-2.1.11.

1.1.4 Urban Zones - General Industrial and Port Zones

[7] The General Industrial Zone (GIZ) is in Part 3 (Area Specific Matters) of the Proposed Plan and primarily provides for both heavy and light industrial activities, and a range of ancillary and other activities that are generally compatible with the anticipated effects of industrial activities. The GIZ also includes provisions to manage the interface of the GIZ with sensitive zones such as the Residential and Open Space Zones.[6]

[8] The Port Zone (PORTZ) is a Special Purpose Zone in Part 3 (Area Specific Matters) of the Proposed Plan, designed to provide for the effective and efficient operation of the Port and surrounding activities. The PORTZ provisions enable the continued operation and development of the Port while also ensuring any significant effects from the Port, or other activities occurring within the zone are appropriately managed.[7]

1.1.5 Urban Zones – Special Purpose – Māori Purpose Zones

[9] The Māori Purpose Zone (MPZ) is applied to areas of land originally granted as Native Reserve for Māori occupation and use. The MPZ includes Māori Land. Māori Land is defined as, that, within the original Māori Reserves, land that is:

a. owned by Te Rūnanga o Ngāi Tahu or Te Rūnanga o Arowhenua; or

b. Māori communal land gazetted as Māori reservation under s338 Te Ture Whenua Māori Act 1993; or

c. Māori customary land and Māori freehold land as defined in s4 and s129 Te Ture Whenua Māori Act 1993; or

d. Owned by a person or persons with evidence of whakapapa connection to the land (where documentary evidence of whakapapa connection is provided from either the Māori Land Court or the Te Rūnanga o Ngāi Tahu Whakapapa Unit), or

e. Is vested in a Trust of Māori incorporation under the Te Ture Whenua Māori Act 1993

[10] For other land within the MPZ, the GRZ provisions apply.

1.1.6 Open Space Zones

[11] Open Space Zones comprise the Natural Open Space Zone (NOSZ), the Open Space Zone (OSZ) and the Sport and Active Recreation Zone (SARZ).

[12] There is approximately 40,798 hectares of land included in the NOSZ, which makes it the largest of the open space zones. The majority of NOSZ land is public conservation land (PCL) administered by the Department of Conservation (DOC). The Canterbury (Waitaha) Conservation Management Strategy sets out objectives and policies for DOC's management

[6] Alana Hollier, s42A Report: General Industrial Zone and Port Zone, 20 June 2024, Para 2.1.2.
[7] Alana Hollier, s42A Report: General Industrial Zone and Port Zone, 20 June 2024, Para 2.1.7.

of activities in these NOSZ areas (as discussed further below). The remainder is land vested in the Timaru District Council (the Council).

[13] The OSZ encompasses neighbourhood parks, natural areas, and amenity parks where there is often landscaping and a low density of built development. Cemeteries, which are quiet and contemplative spaces, are also anticipated in this zone. The OSZ also contains two precincts, PREC4[8] – Holiday Hut Precinct at Butlers, Milford, Rangitata and Stratheona and PREC5[9], Te Aitarakihi Precinct located at 50 Bridge Street, Timaru, which includes the Te Aitaraki Multicultural Centre.

[14] The District's major sports facilities are located in the SARZ. The zone includes the Timaru International Levels Raceway on Falvey Road, the Southern Trust Events Centre, as well as other venues within the District. The zone includes PREC6, Caroline Bay recreation area.

1.1.7 Blandswood Rezoning

[15] Prior to Hearing B, a matter arose relating to the proposed inclusion of Blandswood in the Open Space Zone. Mr Collins, a submitter, raised concerns regarding Mr Maclennan's recommendations that the submissions relating to the requested rezoning of Blandswood and associated consequential amendments be transferred to the Open Space Zone topic hearing.[10] Mr Collins considered this to be incorrect, as none of the submissions relating to Blandswood request rezoning to anything but the Settlement Zone. He asserted there was no jurisdictional scope provided in the submissions to amend the provisions of any other zones.

[16] In response to a Panel Direction[11], Mr Maclennan agreed he had misrepresented submissions in his s42A Report and that there are no submissions that sought consequential amendments to the Proposed Plan that achieve a similar outcome to the rezoning relief. He made corrections to his s42A Report. The submissions sought that any consequential amendments be made or that the Proposed Plan be adjusted accordingly.[12] However, he disagreed with Mr Collins that there is no scope provided in the submissions to amend the provisions of other zones.[13] Relying on legal submissions[14] from Ms Vella for the Council, Mr Maclennan remained of the view that there is scope within the submissions to make amendments to the OSZ to provide a greater ability to develop properties in the Blandswood area. However, he considered that the merits of amending the Open Space Zone rules are best considered in the Open Space Zone hearing.

[17] In legal submissions for the Council, Ms Vella confirmed that, following discussions with Mr Collins, the Blandswood submissions are allocated to Hearing B.[15] In further legal submissions[16], it was requested that the hearing of this matter be deferred to allow discussions

[8] Now renumbered PREC9 in the Decision Version of the provisions.
[9] Now renumbered PREC10 in the Decision Version of the provisions.
[10] David Collins, Memorandum to Hearings Panel, 23 June 2024.
[11] Panel Minute 10: Directions regarding memorandum from David Collins, 25 June 2024.
[12] Andrew Maclennan, Statement of Evidence in response to Minute 10, 1 July 2024, Para 4-11.
[13] Andrew Maclennan, Statement of Evidence in response to Minute 10, 1 July 2024, Para 12-19.
[14] Jen Vella, Legal Submissions for Timaru District Council in response to Minute 10, 1 July 2024.
[15] Jen Vella, Legal Submissions for Timaru District Council in response to Minute 10, 1 July 2024, Para 14-16.
[16] Jen Vella, Legal Submissions for Timaru District Council, 12 July 2024.

between the 22 Blandswood submitters, DOC and the Council. The parties agreed to a way forward.[17] We address our consideration of Blandswood in Section 2 of this Report.

2 RURAL ZONES

2.1 DEFINITIONS

2.1.1 Assessment

Primary Production

[18] We accept Mr Maclennan's analysis and recommendation on the definitions for 'cultivation'[18] and 'land based primary production'.[19] Federated Farmers [182.9] confirmed acceptance of the s42A recommendations.[20] We find it is appropriate to retain the definition of 'cultivation' as notified, and consequently the relief sought by Forest and Bird [156.12] on the definition of 'cultivation' is also satisfactorily addressed. We also find that it is not necessary to include a definition of 'Land based primary production' in the Proposed Plan, for the reasons given in Mr Maclennan's s42A Report.

[19] NZ Pork [247.2] considered the definition of 'primary production' needed to be amended to improve interpretation and administration of the Proposed Plan by including a nested definitions table akin to the approach adopted in the Canterbury Air Plan and as amended in the Hurunui District Plan. Te Rūnanga o Ngāi Tahu [185.11] considered that having six definitions for various primary production activities makes rule interpretation unclear. Federated Farmers [182.13 and 182.15] sought deletion of the intensive indoor primary production definition, and a broader definition of 'intensive primary production' and provided example wording to this effect. Hort NZ [245.11] sought to exclude greenhouses from the definition of Intensive Primary Production. Several submitters sought deletion or amendments to the definition of 'intensive outdoor primary production.[21]

[20] Having considered these submissions, Mr Maclennan recommended that the definitions for 'primary production', 'intensive indoor primary production', and 'intensive primary production' are retained in the Proposed Plan.[22] However, he considered that 'intensive outdoor primary production' could be removed from the Proposed Plan and that the definition of 'intensive primary production' could be amended to capture the content of the deleted definition.[23] We note that as a consequential amendment he recommended that MPZ-R19 is amended to replace 'intensive indoor primary production' and 'intensive outdoor primary production' with 'intensive primary production'. We find these amendments to be appropriate.

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17 Panel Minute 12: Directions to Council and Submitters in relation to Blandswood, 17 July 2024.
18 Andrew Maclennan, s42A Report, 19 June 2024, Para 7.2.3-7.2.5.
19 Andrew Maclennan, s42A Report, 19 June 2024, Para 7.3.2-7.3.3.
20 Angela Johnston, Hearing Statement, undated.
21 Keen, Oliver, Forbes et al [46.1], Dairy Holdings Ltd [89.2], Silver Fern Farms [172.5, Alliance Group [173.5], Federated Farmers [182.14]
22 Andrew Maclennan, s42A Report, 19 June 2024, Para 7.4.15- 7.4.17
23 Andrew Maclennan, s42A Report, 19 June 2024, Para 7.4.18.

[21] We generally accept Mr Maclennan's analysis and recommendations on all other matters raised by submitters on this suite of primary production definitions, and we note that we received no evidence to the contrary. We further note we received written statements from Silver Fern Farms[24] and the Alliance Group Ltd[25] signalling support for the s42A recommendations.

Rural residential development

[22] We accept Mr Maclennan's analysis and recommendation in response to the ECan [183.11] and Fonterra [165.20] submissions.[26] We agree that the definition of 'rural residential development' can be deleted from the Proposed Plan.

Residential visitor accommodation

[23] We accept Mr Maclennan's analysis and recommendation in response to the submission from MFL [60.5] and agree that the definition of 'residential visitor accommodation' clearly applies to short term visitor accommodation.[27] On this basis we find the amendment sought by the submitter is not required.

Reverse sensitivity – matters arising from Hearing A

[24] The term 'reverse sensitivity' was not used in GRUZ-O3, GRUZ-P5, and RLZ-S4 as notified. However, in response to submissions Mr Maclennan recommended changes to these provisions to replace 'protection from sensitive activities' with 'protection from reverse sensitivity effects' to provide clarity and more accurately describe the effects from which protection is sought.[28]

[25] We have accepted the amended definition of 'reverse sensitivity' as recommended in Ms White's Final Reply, as set out in Part 2 of the Decision Report. We address our decision on GRUZ-O3, GRUZ-P5, and RLZ-S4 below.

Quarries and quarrying activities

[26] We have addressed submissions relating to the definition of 'quarry', 'quarrying activity', and 'ancillary rural earthworks' as part of our consideration of Rule GRUZ-R16 below.

2.1.2 Decision

[27] We adopt Mr Maclennan's analysis and recommendations on definitions used within the Rural Zone Chapters. The amendments to the definitions are set out in **Appendix 3**.

[28] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

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[24] Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.
[25] Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.
[26] Andrew Maclennan, s42A Report, 19 June 2024, Para 7.5.3.
[27] Andrew Maclennan, s42A Report, 19 June 2024, Para 7.6.3.
[28] Andrew Maclennan, s42A Report, 19 June 2024, Para 7.6.5-7.6.7.

2.2 GENERAL THEMES

2.2.1 Assessment

[29] FENZ[29] sought a variety of amendments to provisions relating to the servicing of firefighting water supply to land use activities across the rural zones, standards relating to building and structure height, height in relation to boundary, boundary setbacks, and emergency facilities. Mr Maclennan considered the submission points, however he found there was no need to provide for all of the requested changes as the matters were already adequately addressed in the Proposed Plan as notified. In relation to the submission points that requested exemptions or greater height, and height in relation to boundary enablement for emergency service facilities, Mr Maclennan recommended acceptance in part for those matters as they relate to towers and poles associated with emergency service facilities. We accept Mr Maclennan's analysis and recommendations on all FENZ's submission points, noting that FENZ did not appear at the hearing or submit any evidence to the contrary in response to the s42A recommendation.

[30] ECan [183.144, 183.150, 183.152] sought that the activity rules of the GRUZ, RLZ and SETZ Chapters are amended to ensure that the built form standards apply to all activities, regardless of activity status. Mr Maclennan disagreed with the amendments sought for the reasons set out in his s42A Report.[30] ECan tabled a letter[31] accepting s42A recommendations. We are satisfied that the matters raised in submissions are resolved and we do not discuss the relief sought further.

[31] Waka Kotahi[32] sought several amendments across the rural zones which they consider will support them fulfil their role to deliver a safe and efficient transport network for customers. Mr Maclennan did not support the amendments and recommended that provisions are retained as notified.[33] We accept Mr Maclennan's analysis and recommendations and in reaching this view note that we did not hear from Waka Kotahi at the hearing and no evidence was provided to us.

[32] Te Rūnanga o Ngāi Tahu[34] expressed concern that for restricted discretionary activities in rural zones, there is no ability to consider the cultural values recognised in various overlays, unless resource consent was required under the SASM rules. They sought an additional matter of discretion requiring consideration of the potential adverse effect on the spiritual and cultural values and beliefs of Kāti Huirapa, including measures to avoid, remedy or mitigate adverse effects, be added to GRUZ-R21, GRUZ-R22, GRUZ-R23, RLZ-R17, and SETZ-R13. Although Mr Maclennan disagreed with the submission and noted the extensive work undertaken in the development of the Proposed Plan, and identification of SASM, following advice from AEC, following Hearing E, and consideration of the broader submission Ms White

[29] FENZ Submission Points: [131.44, 131.45, 131.46, 131.47, 131.53, 131.49, 131.50,131.51, 131.52, 131.59, 131.60, 131.36, 131.43, 131.37, 131.58, 131.61, 131.62, 131.63, 131.68, 131.40, 131.55, 131.65, 131.41, 131.56, 131.66, 131.57, 131.67, 131.39, 131.54, 131.64, 131.69]
[30] Andrew Maclennan, s42A Report, 19 June 2024, Para 8.2.3.
[31] Deidre Francis, Tabled Letter, 1 July 2024.
[32] Waka Kotahi Submission Points: [143.149, 143.152, 143.153, 143.154, 143.155, 143.156].
[33] Andrew Maclennan, s42A Report, 19 June 2024, Para 8.3.6-8.3.7.
[34] Te Rūnanga o Ngāi Tahu Submission Points: [185.106, 185.107, 185.108, 185.109, 185.110].

recommended changes to a number of provisions across the Plan to include an additional matter of discretion. These changes were incorporated in the Council's Final Reply version of provisions, which we have accepted as appropriate.[35]

[33] Transpower [159.97, 159.98] submitted on Policies RLZ-P9 and SETZ-P4 which apply to the management of 'other activities' in the RLZ and SETZ. Transpower sought amendments to both policies to give effect to NPS-ET, to support the operation, maintenance, upgrade, and development of the national grid in all zones, especially rural areas where it is most suitable to accommodate the National Grid. Mr Maclennan disagreed with the requested changes as he relied on the Energy and Infrastructure provisions, which he said took precedence over the specific chapters, in order to implement NPS-ET.

[34] At Hearing B, Ms McLeod, the planning witness for Transpower disagreed with Mr Maclennan. She concluded that there is a tension or conflict that needs to be resolved in order to give effect to NPS-ET by either amending the areas specific policies or making it explicit in the Energy and Infrastructure Chapter, that the Energy and Infrastructure policies prevail.[36] Ms McLeod provided suggested amendments to the wording of various provisions for other activities to implement NPS-ET and provided the relevant s32AA evaluation. She considered the changes necessary because the National Grid traversed multiple zones and has both operational and functional needs that require it to be provided for. She referenced the Preamble to NPS-ET which recognised the characteristics of the network which meant that there was a limit to the extent to which it is feasible to avoid or mitigate all adverse effects. Ms McLeod was of the opinion the Plan should therefore provide a policy pathway for the operation, maintenance, upgrade, and development of the National Grid across all zones.

[35] Ms McLeod was critical of the s42A Report, in that it purported reliance on the Energy and Infrastructure Chapter 'taking precedence' which was not well executed and had the potential to introduce a hierarchy with unintended consequences. She indicated that the Council is required to resolve the tension between the need to implement the NPS-ET and area specific zones, which she considered had not been achieved. Ms McLeod offered the following alternatives as better implementing the NPS-ET:

(a) Specifically providing for the National Grid or regionally significant infrastructure in the 'other activities' policies in the areas-specific chapters;

(b) Including specific direction in the Energy and Infrastructure objectives and policies; 'apply instead', 'take precedence' or 'prevail over' the area specific provisions;

(c) Including 'other activities' policies in a 'carve out' provisions similar to that described in Ms McLeod's supplementary evidence for Hearing A where a clause in the relevant Energy and Infrastructure policy or policies states that 'in the event of conflict between Policy X and Policies GRZ-P4, MRZ-P6, RUZ-P7, RLZ-P9 and SETZ-P4, Policy X prevails.

[35] See also Part 6 Decision on SASM submissons - Section 2.
[36] Ainsley McLeod, Statement of Evidence 5 July 2024.

[36] In his Interim Reply, Mr Maclennan acknowledged that there was an issue with the relationship between SETZ -P4 and RLZ-P9 and the EI Chapter which needed to be resolved. He recommended that this is best resolved via an amendment to the EI Chapter.[37]

[37] We agree that the Plan as notified does not provide a consistent approach across all zones to implement the NPS-ET or CRPS with regard to the National Grid and regionally significant infrastructure. We waited until after Hearing E, before considering this further. Our findings on this matter are addressed in Part 5. In particular Policy EI_5 which provides for the operation, maintenance, repair, replacement, upgrade, and development of the National Grid, and sets out how effects are to be managed within different environments.

Rail Corridor Setback

[38] KiwiRail [187.85] requested that for health and safety reasons a 5m 'safety setback' for all buildings and structures from the rail corridor boundary with associated matters of discretion be applied to all Zone Chapters which are adjacent to rail corridors. The purpose of the setback is to ensure the safety of people painting their buildings, clearing gutters, or doing work on their roof, or where they may need to otherwise enter the rail corridor.

[39] Mr Maclennan, Ms White and Ms Hollier did not recommend accepting this relief. Mr Maclennan considered that the costs outweighed the benefits of universal provisions, when in reality there may be few sites across the District where the issues identified would arise.[38] Their view was that substantial areas of land would be unable to be developed without resource consent.

[40] KiwiRail presented legal submissions[39] and called evidence from KiwiRail's Manager of the RMA Team, Ms Grinlinton – Hancock[40] and Mr Gifford[41], a planning expert.

[41] KiwiRail noted that the Plan currently provides for road, side, and rear boundary setbacks in some zones, but does not address setbacks from rail. KiwiRail's proposed provision contemplates that activities complying with the setback would be permitted and those that do not would require resource consent as a restricted discretionary activity, with relevant matters of discretion to assess the impacts on the safety and efficiency of the rail network where the setback control is not met. In response to Mr Maclennan's recommendation to reject the submission point, KiwiRail disputed that the provision amounted to a 'blight' on affected land, noting that uses other than buildings or structures would not be affected.

[42] Ms Grinlinton-Hancock considered that 5m was appropriate as it ensured sufficient space for landowners and occupiers to safely carry out their activities and maintain and use their buildings whilst minimising interference with the rail corridor.

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37 Andrew Maclennan, Interim Reply, 20 September 2024 Appendix A.
38 Andrew Maclennan, s42A Report, 19 June 2024, Paras 8.6.2-8.6.3
39 A A Arthur-Young and K L Gunnell Legal Submissions on Behalf of KiwiRail Holdings Limited in relation to Hearing B, 12 July 2024.
40 Statement Of Evidence of Michelle Grinlinton-Hancock On Behalf of KiwiRail Holdings Limited, 5 July 2024.
41 Alex Gifford, Statement of Evidence, 5 July 2024.

[43] Mr Gifford provided a statutory evaluation of the provision and concluded, relying on the information from Ms Grinlinton-Hancock, that the safety setback gives effect to CRPS objectives 5.2.1, 5.2.2 and 5.2.3 and policies 5.3.2, 5.3.7, 5.3.8 and 5.3.9 and will help to achieve the purpose of the RMA. Mr Gifford considered other methods such as extending KiwiRail's designation for the rail corridor, no setback, or a more limited setback. He concluded that the 5m safety setback is the most efficient outcome as it retains land development potential (by way of resource consent) within the setback, which would otherwise be precluded in a designation, without KiwiRail's approval, whilst maintaining the safe and efficient operation of the rail network.

[44] Mr Gifford noted other zones where rules already had resource consent requirements, which reduced the cost of the safety setback rule.[42] He also referenced other District Plans where similar rules were provided. Mr Gifford provided a draft rule for the Panel consideration.

[45] In Minute 14 the Panel requested that KiwiRail provide a full s32 Report for the safety setback and maps showing a 5m setback from KiwiRail's designated rail corridor for the Timaru District.

[46] The Panel asked KiwiRail if there were any particular areas of concern within the District. In response, counsel for KiwiRail reported that the areas of current concern were already built and therefore the setback would not apply, however their concern was future issues rather than a current problem.

[47] The s32 Report provided by KiwiRail was prepared by Eclipse Group Limited in July 2024, which included a high level economic evaluation undertaken by Fraser Colegrave. The Report provides a nation-wide assessment, which indicated overall across the country only 0.9% of properties are affected. Notably the proposed safety setback would account for 1% of land in Timaru District, not all of which is vacant.[43] The various maps attached as Appendix B to the KiwiRail memorandum showed the effect of the setback adjacent to the Rail designation. It also illustrates that the designation, and therefore proposed setback, would apply not only to land immediately adjacent to the rail line, but to other areas within the designation.

[48] The safety issue raised by KiwiRail is a serious one and we accept that needs to be addressed with an appropriate planning response. The real issue is what is the most appropriate method to address the risk. In our view the options based on the evidence provided by KiwiRail, are either (a) a permitted activity rule complying with a 5m setback and an appropriately restricted matter of discretion if compliance is not achieved, or (b) an extension of KiwiRail's designation. The Council is not the requiring authority for the rail network, and it would be for KiwiRail to seek a designation if required. We could recommend this course of action, however, in the meantime we have evidence of a safety risk, particularly within the urban area, where greater intensification is encouraged through the NPS-UD. In those circumstances we consider that it is more efficient, and effective to require a safety setback of 5m, however there is then the issue of where the setback is measured from.

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42 Ibid at 6.12.

43 High Level Assessment of Proposed Building Setbacks Adjacent to the Rail Network, Fraser Colegrave Insight Economics Ltd Draft Report, July 2024 paragraph 3.2 Table 1.

[49] In Minute 14 we asked Mr Maclennan to provide examples from other District Plans as to how the issue was addressed. His analysis demonstrated a range of approaches, including the use of defined and undefined terms.[44] His recommendation was to apply the setback to site boundaries that "adjoin designated rail corridor (KRH-1)" as the reference to the designation provides suitable certainty as to which properties the setback would apply to. He noted that there were some examples where the designated rail corridor extends beyond the rail corridor. He provided examples of this in Figures 1 and 2. He was concerned that in those instances the setback would be overly restrictive.

[50] We agree with Mr Maclennan's concern regarding those properties that adjoin the designation, where the railway line is some distance from the boundary.

[51] Ms White, who considered the issue in the context of the urban zones, did not support the 5m setback.[45] However, she indicated that if the Panel considered the setback to be appropriate then it should be structured as follows:

(a) Be targeted to buildings only;

(b) Apply a tiered approach depending on the height/number of storeys of any building, i.e. 4m should only apply to buildings of two storeys or more, with a lesser setback of 2m applied to single storey buildings; and.

(c) Apply the setback to the boundary of a site which adjoins the designated rail corridor (KRH-1), for the reasons set out by Mr Maclennan.

[52] Ms White reported in her Final Reply that she had discussions Ms Grinlinton-Hancock and Mr Maclennan. Those discussions covered the following:

(a) That for this rule, it would be appropriate to apply any setback to the boundary of the designation. This reflects that the sites of concern to Mr Maclennan are sites owned by KiwiRail but leased out. As such, any buildings and structures within the leased areas require approval from KiwiRail in any case, so the rule would not impose additional restrictions.

(b) That, if possible, the rule would be most efficient if a breach of the setback could be permitted, where written approval is provided by KiwiRail. This would allow the setback to act as a trigger point where a developer/landowner would need to consult with KiwiRail but would avoid the need for Council involvement and the cost of a resource consent process where KiwiRail is comfortable with the incursion.

(c) That the concerns held by KiwiRail would not arise in relation to most structures. The setback should therefore only apply to buildings, and some specifically identified structures.

(d) That the height of a building adjoining the rail corridor is the key factor in whether the concerns held by KiwiRail arise or not, and therefore it might be

[44] Andrew Maclennan, Hearing B Interim Reply Rural Zones, 20 September 2024, paragraph 11

[45] Liz White Hearing B - Interim Reply - Residential and Commercial and Mixed Use Zones, 19 September 2025, Appendix A, pages 6-8.

acceptable to KiwiRail for a tiered/hybrid approach to be taken to setbacks, with greater setbacks applying to taller buildings.

[53] Ms White considered each of these matters further and discussed them with Mr Maclennan. Although Ms White was still not wholly in favour of setback provisions, she helpfully set out that a new standard could be added to GRZ-S3, MRZ-SZ[46], LFRZ-S3, MUZ-S3 and TCZ-S3, and as a new standard within the CCZ):

> Buildings must be setback from the boundary of designation KRH-1: a. a minimum of 2m where the building is a single storey: or b. a minimum of 5m where the buildings is two or more storeys.

[54] Ms White considered that the status of buildings not meeting these criteria should be a restricted discretionary activity with discretion limited to the matters discussed in the evidence of Alexander Gifford, as follows:

> i. the location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and
>
> ii. the safe and efficient operation of the rail network

[55] We have concluded, in reliance on the evidence from KiwiRail that a setback measured from designated rail corridor (KRH-1) is the most appropriate method to give effect to the CRPS and achieve the purpose of the Act. It is more efficient and likely to be more effective in achieving those outcomes than relying on a designation process. To the extent that there are two locations where the area extends well beyond the physical rail corridor, we are satisfied that the relevant matter of discretion will ensure that only the safety of people working on buildings and the effects on the safe and efficient operation of the rail network are considered.

[56] We have considered KiwiRail's s32 evaluation and the amendments that are supported by Mr Maclennan and Ms White. We agree that a more targeted approach proposed by Ms White than a blanket 5m setback as advanced by KiwiRail is more efficient and will be effective, having regard to the safety issues raised in evidence. We consider that the s32 evaluation provided by KiwiRail is sufficient to support Ms White's amended rule.

Miscellaneous

[57] MoE[47] sought amendments to objectives, policies, and rules within the GRUZ, RLZ, and SETZ. We agree with Mr Maclennan's analysis and conclusions and find his recommended amendments to SETZ-P3, RLZ-R7 and GRUZ-R7 to be appropriate.[48] We did not hear from MoE at the hearing or receive any further evidence on these matters.

[58] We accept Mr Maclennan's analysis and recommendations in response to the submission from TDC [42.26] and agree that the additional policy GRUZ-P11 and permitted

[46] Now renumbered MRZ-S12 in the Decisions Version of the provisions.
[47] MoE Submission Points: 106.21, 106.22, 106.23, 106.24, 106.25, 106.26, 106.27, 106.28, 106.29, 106.30.
[48] Andrew Maclennan, s42A Report, 19 June 2024, Para 8.7.9-8.7.26.

activity standard GRUZ-R15.3[49] are appropriate to ensure that the location of woodlots and shelterbelts in the GRUZ is controlled and in alignment with the outcome sought by NH-O1 (Areas subject to Natural Hazards).[50]

[59] Hort NZ [245.32] sought that a reciprocal 30m setback for new shelterbelts and new residential units be provided for in GRUZ-S4 to ensure consistency with the more precautionary 30m setback in GRUZ-R15.[51] Mr Hodgson explained that:

> 'The Partially Operative Selwyn District Plan (Appeals Version) includes a GRUZ rule requiring a 30m setback of shelterbelts and woodlots from any residential unit on an adjoining property and a 30m setback from internal boundaries of any new residential unit …. for both fire risk and reverse sensitivity/amenity purposes…' [52]

[60] Mr Maclennan initially rejected Hort NZ's submission[53], however following the hearing he reconsidered his position and agreed that it is appropriate to provide a reciprocal 30m setback for new shelterbelts and new residential units. He recommended the additional setback could be incorporated into GRUZ-S4.5 and provided an amended provision to this effect.[54] We are satisfied the recommended amendments address the submission appropriately and represent a better planning outcome.

[61] Six submitters[55] (Rooney Group) considered land-based extraction is important for continuity of supply and consistency of gravel quality. As summarised in Mr Maclennan's s42A Report, they sought a gravel extraction overlay across land where existing land-based gravel extraction and clean fill deposition occurs.[56] Further submissions were received in favour[57] and in opposition[58] to the Rooney Group's submission.

[62] Mr Maclennan disagreed that an additional gravel extraction overlay is required within the Proposed Plan and stated:

> "…I agree that land-based gravel extraction is important to continuity of supply and consistency of gravel quality. However, I disagree that an additional gravel extraction overlay is required within the PDP. I note that land where existing landbased gravel extraction and clean fill deposition occurs will either have an existing resource consent to operate or will have existing use rights. In either case, the activity will be able to continue under the PDP without the need for an additional overlay. I also note that the provisions of the GRUZ Chapter protect primary production.84 activities from reverse sensitivity effects through both GRUZ-P5 and GRUZ-S4 which requires new sensitive activities be setback

49 Now CRUZ-R17
50 Andrew Maclennan, s42A Report, 19 June 2024, Para 8.8.6-8.8.14.
51 Now GRUZ-R17
52 Mr Hodgson, Statement of Evidence, 5 July 2024, Para 51.
53 Andrew Maclennan, s42A Report, 19 June 2024, Para 10.37.24.
54 Andrew Maclennan, s42A Interim Reply: Hearing B, 20 September 2024, Para 98-100.
55 Submitters including Rooney Holdings [174.5], Rooney GJH [191.5], Rooney Group [249.5], Rooney Farms [250.5], Rooney Earthmoving [251.5], TDL [252.5].
56 Andrew Maclennan, s42A Report, 19 June 2024, Para 8.9.5.
57 Fulton Hogan [170.6FS] and Road Metals [169.6FS].
58 DOC [166.31FS] and Forest and Bird [156.244FS].

500m from a lawfully established quarry or mine. Given this, I do not consider that the suggested overlay is required."

[63] We heard from Mr Hole on behalf of the Rooney Group Limited and other submitters (Rooney Group) at the hearing who confirmed that he accepted Mr Maclennan's recommendation that an additional gravel extraction overlay is not required.[59]

[64] However, Mr Hole considered that GRUZ-P5 and GRUZ-O3 could be refined to strengthen recognition of mining and quarrying already lawfully established.[60] In his evidence he set out what he considered to be a policy gap between the objectives and rules that seek to manage the relationship between mining and quarrying and sensitive environments and activities. He requested explicit recognition of the protection of mining and quarrying from reverse sensitivity effects and he suggested additions to the provisions.

[65] We note that the relevant objectives, policies, and rules address primary production, which as defined includes mining and quarrying, therefore the protection he seeks appears already to be embedded in the Proposed Plan. There is a broader issue regarding the tension between protection of existing productive land uses and protection of sensitive activities from encroachment by a range of primary production land uses that may generate adverse effects. This issue is discussed further below.

General Provisions for Primary Production

[66] We agree with and accept Mr Maclennan's analysis and conclusions on those submissions concerning general provisions for primary production for the reasons set out in his s42A Report.[61]

General Provisions for Reverse Sensitivity

[67] Hort NZ [245.1 and 245.2] requested that the Council strengthen the policy framework for recognising reverse sensitivity effects and ensure proper placement of activities to prevent reverse sensitivity effects. The submission highlights the need to address food security and preserve the values of highly productive land. The submission also raises concerns about rural lifestyle and urban development putting pressure on horticulture activities.

[68] Mr Maclennan was of the view that GRUZ-O3 and GRUZ-P5 adequately address reverse sensitivity effects and give effect to CRPS Policy 5.3.12(1)(a) and (b).

[69] We agree with Mr Maclennan that GRUZ-O3 and GRUZ-P5 when considered in isolation do address reverse sensitivity effects, however, there is a tension in the wider provisions, where protection is sought for 'sensitive activities', which we initially found to potentially conflict with each other. In Minute 14 we requested Mr Maclennan to provide further clarification of the higher order policy approach in the NPS-HPL and CRPS to weighing the enablement of primary production and protection and avoidance/minimizing adverse effects

[59] Nathan Hole, Statement of Evidence, 5 July 2024, Para 10.
[60] Nathan Hole, Statement of Evidence, 5 July 2024, Para 10-22.
[61] Andrew Maclennan, s42A Report, 19 June 2024, Para 9.1.5-9.1.7.

on sensitive activities. We asked him to clarify whether the objectives, policies and rules give effect to higher order documents in relation to primary production and management of the effects of primary production on sensitive land uses.

[70] Mr Maclennan set out the relevant higher order objectives and policies relating to reverse sensitivity in the Appendix B 'reverse sensitivity mapping'. He accepted that in the context of 'highly productive land' there is a clear weighting towards ensuring that sensitive activities do not adversely affect surrounding land-based primary production activities. He provided an analysis of the relevant objectives and policies in the CRPS and concluded that Objective 5.2.1 is weighted towards enabling rural activities within the rural environment and ensuring that conflicts between incompatible activities are avoided. Similarly, Policy 5.3.12(1)(a) and (b) and its explanation makes it clear that the weighting is towards ensuring that the encroachment of sensitive activities into rural areas that may result in reverse sensitivity is avoided. Mr Maclennan emphasized the use of the word 'encroachment' in the explanation as indicating that further or additional development of sensitive activities into rural areas may result in reverse sensitivity effects on established rural activities is to be avoided.[62]

[71] He did, however, note that there is limited direction within the CRPS as to how the amenity of existing sensitive activities within rural areas or the amenity of sensitive activities in residentially zoned areas adjoining rural areas should be managed. His view was that the CRPS does not prevent the Plan from ensuring that the amenity of existing sensitive activities within both the GRUZ and along zone boundaries is maintained.

[72] In general terms we find that the tension is capable of resolution if we start from the position that rural productive uses must in the first instance internalize their effects within their property boundaries to the extent it is possible to do so, however, as is the case with noise, dust, odour and other 'off site impacts', these are unlikely to be able to be avoided altogether. In those circumstances there is then a need to ensure that the expectations of people and communities in the rural environment are set through the objectives, policies, and rules. The GRUZ is first and foremost a rural environment, supporting productive land uses. This is what the NPS-HPL and CRPS seek to do, therefore the Plan must give effect to those higher order documents.

[73] There is the reality that there are and will continue to be sensitive land uses which are either historical or have a functional and operational need to be in the rural environment. In that case, there is a need to ensure that those sensitive activities include adequate mitigation measures so as to avoid or minimise the effects of rural productive land on them that are unable to be contained within the property boundaries of rural productive activity. Aside from the general duties in s16 and 17 of the RMA, we do not consider that the higher order documents impose any other wider duties on rural productive land uses to 'protect' sensitive activities. Rather, through good planning and the use of methods such as setbacks, plantings, buffers and the like (both within the sites of sensitive activities and at the margins of productive land uses), reverse sensitivity effects and adverse environmental effects on the occupants of sensitive land uses can be avoided or minimised as required by the higher order objectives

[62] Andrew Maclennan, Interim Reply Rural, 20 September 2024, Para 29.

and policies. We consider this issue further below in the context of submissions on the GRUZ objectives and policies.

General Provisions for Height and floor area

[74] We agree with and accept Mr Maclennan's analysis on ECan's submissions [183.4, 183.1] and find the recommended amendments to RLZ-S1, RLZ-S3, SETZ-S1 and SETZ-S4 to be appropriate.[63] In reaching this view we note ECan tabled a letter[64] accepting the s42A recommendations., We are satisfied that the general matters raised in submissions are resolved and we do not discuss the relief sought further.

2.2.2 Decision

[75] We adopt Mr Maclennan's analysis and recommendations on general themes across the Rural Zone Chapters, with the addition of provisions related to setbacks for buildings adjacent to the designated rail corridor.[65] The amendments to the provisions are set out in **Appendix 3.**

[76] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

[77] In terms of the addition of the setback for buildings adjacent to the rail corridor we adopt the s32 evaluation provided by KiwiRail and further evaluation of Ms White in the Final Reply in support of the amendments.

2.3 GENERAL RURAL ZONE OBJECTIVES

2.3.1 Assessment

GRUZ-O1

[78] We have considered the submissions that seek changes to this objective, which range from widening its application to a full range of activities and through to narrow it to farming activities only. We accept the analysis and recommendations of Mr Maclennan with regard to those submissions and agree that GRUZ-O1 be retained as notified for the reasons he has given.[66] We note that the issue regarding the appropriate balance and weighting of primary production vs other activities in the GRUZ arises below in the more specific objectives and policies, which we have also considered when accepting Mr Maclennan's recommendation on GRUZ-O1. We particularly draw on the fact that the GRUZ is not limited to highly productive land, however its primary focus is for productive land uses and those activities that have a functional and operational need to locate in the Rural Zone, such as rural industry. We find the objective as notified appropriately reflects those activities.

[63] Andrew Maclennan, s42A Report, 19 June 2024, Para 9.3.3-9.4.9.
[64] Deidre Francis, Tabled Letter, 1 July 2024.
[65] GRUZ-S3.2, MRZ-S12, LFRZ-S7, MUZ-S3, TCZ-S3, CCZ-S10
[66] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.2.6 – 10.2.9.

GRUZ-O2

[79] We generally accept the analysis and recommendations of Mr Maclennan and in particular agree that no amendment is required to GRUZ-O2 to give effect to the NPS-HPL as sought by NZ Frost Fans [255.17], rather it is the role of the Versatile Soils Chapter (renamed Highly Productive Land Chapter[67]) to protect the highly productive land areas within the GRUZ.[68] We further agree with Mr Maclennan's recommended amendment to GRUZ-O2.2 in response to NZ Frost Fans other submission point [255.19] and consider this addresses the submission appropriately.

[80] As summarised in Mr Maclennan's s42A Report, three submitters sought that sensitive activities locating in the rural environment should not anticipate a higher level of amenity in a working productive environment. They therefore sought to amend clause (2) to refer directly to activities in support of primary production. Two submitters also sought to delete clause (3).

[81] D and S Payne [160.37FS], called planning evidence from Ms Lynette Wharfe, who supported the deletion of GRUZ-O2 (3).[69] Ms Wharfe was concerned that clause (3) when read in the context of GRUZ-O4, appeared to compromise primary production through expectations of a higher level of amenity. She drew on the experience of the Payne's horticultural activities to illustrate the potential issue. We discuss the conflicting objectives in GRUZ-O3 and O4 below.

[82] Although we find Ms Wharfe's point about the perceived conflicting priorities in the objectives appear to be well made, we do not think that the inclusion of clause (3) was intended to diminish the prioritisation of productive land uses or rural industry in the GRUZ. We do agree with the submitters, however, that the wording used and its placement in the objective creates internal conflict within the GRUZ objectives. We consider that this could be addressed through an amendment to the GRUZ-O2.3. The suggestion by Pork NZ, Silver Fern Farms and Alliance Group to include 'existing' to sensitive activities, appears to address the issue by ensuring the objective does not inadvertently encourage the addition of new sensitive uses in areas that would create reverse sensitivity effects. This change is recommended by Mr Maclennan in his Interim Reply[70], which we accept.

GRUZ-O3

[83] We agree with Mr Maclennan that the recommended amendment to GRUZ-O3 in response to the submissions from Helicopters Sth Cant [53.20], Ballance [86.11] and NZAAA [132.24] provides greater clarity as to how reverse sensitivity effects on primary production activities are to be managed, enabling the efficient use and development of the GRUZ.[71] We did not hear or receive any evidence to the contrary.

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67 See Parts 1 and 7 of the Decision for a discussion on the Government's most recent suite of national policy statement changes relating to HPL and the steps we took to seek the views of Council and submitters in response to those changes.
68 Andrew Maclennan, s42A Report, 19 June 2024, Para 10.3.9.
69 Lynette Wharfe, Statement of Evidence, 3 July 2024, Paras 5.7 – 5.20.
70 Andrew Maclennan, Hearing B Interim Reply Rural Zones, 20 September 2024, Para 55-61
71 Andrew Maclennan, s42A Report, 19 June 2024, Para 10.4.19.

[84] Fonterra [165.125] supports the protection of primary production in rural zones but sought that this protection should also be afforded to rural industry that is located in the GRUZ. Initially, Fonterra sought an amendment to GRUZ-O3 to this effect. However, at the hearing Ms Tait confirmed that the relief sought was appropriately addressed via Mr Maclennan's recommended amendment to GRUZ-P5.[72] On this basis, the amendment to GRUZ-O3 was not pursued any further. Accordingly, we accept Mr Maclennan's analysis and recommendations on this matter.[73]

[85] We accept Mr Maclennan's analysis and recommendations relating to the submissions from Silver Fern Farms [172.112] and the Alliance Group [173.114] and note that Silver Fern Farms tabled a letter[74] which indicated support for the s42A recommendations, as did the Alliance Group.[75] We further accept Mr Maclennan's analysis in response to NZ Frost Fans [255.20] and agree that it is the role of the VS Chapter (now HPL Chapter) to protect the highly productive land areas within the GRUZ.[76]

[86] Mr Hole for Rooney Group suggested in his evidence that an amendment be made to GRUZ-O3, to further complement GRUZ-O5, to reference existing mining and quarrying activities. As we note above, the definition of primary production is inclusive of mining and quarrying, so no change is required.

GRUZ-O4

[87] GRUZ-O4 as notified seeks to protect sensitive activities and zones from intensive primary production, mining and quarrying and other intensive primary production. Silver Fern Farms [172.113] and Alliance [173.115] were critical of the objective, which they interpreted as requiring rural land uses to respond to encroachment from sensitive land use activities which would be inconsistent with the direction in GRUZ-O3. This concern was also shared by D and S Payne [160.37FS][77] who expressed concern about sensitive land use conflicts arising between rural land uses and the apparent conflict between the GRUZ objectives.[78] We accept the conclusions and recommendations of Mr Maclennan and agree that the amendments to GRUZ-O4 are appropriate in response to the submissions from Silver Fern Farms [172.113] and the Alliance Group [173.115].[79] We note that Silver Fern Farms tabled a letter[80] which indicated support for the s42A recommendations, as did the Alliance Group.[81] Ms Wharfe also supported the reference to existing sensitive activities to improve clarity of the provision and note it was consistent with Mr Willis' recommendation for SD-O9. We are satisfied that all other submission points have been addressed appropriately, and we received no evidence to the contrary.

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72 Susannah Tait, Statement of Evidence, 5 July 2024, Para 7.9.
73 Andrew Maclennan, s42A Report, 19 June 2024, Para 10.4.16.
74 Steve Tuck, Mitchell Partnerships, Letter on behalf of Silver Fern Farms, 11 April 2024.
75 Doyle Richardson, Mitchell Partnerships, Letter on behalf of the Alliance Group Ltd.
76 Andrew Maclennan, s42A Report, 19 June 2024, Para 10.4.17.
77 Statement of Evidence by Lynette Pearl Wharfe for D and S Payne [160], 3 July 2024.
78 Ibid at 5.21-5.24.
79 Andrew Maclennan, s42A Report, 19 June 2024, Para 10.5.7-10.5.12.
80 Steve Tuck, Mitchell Partnerships, Letter on behalf of Silver Fern Farms, 11 April 2024.
81 Doyle Richardson, Mitchell Partnerships, Letter on behalf of the Alliance Group Ltd.

GRUZ-O5

[88] Several submissions were received on GRUZ-O5 – Mining and quarrying. We accept Mr Maclennan's analysis and recommendations, and we find the proposed amendment to GRUZ-O5 to be appropriate. We note we received no evidence to the contrary from Road Metals [169.42], Fulton Hogan [170.44], or Waka Kotahi [143.146].

2.3.2 Decision

[89] We adopt Mr Maclennan's analysis and recommendations on GRUZ-O1, GRUZ-O2, GRUZ-O3, GRUZ-O4, and GRUZ-O5. The amendments to the provisions are set out in **Appendix 3.**

[90] In terms of s32AA, we adopt Mr Maclennan's evaluation in support of the changes made.

2.4 GENERAL RURAL ZONE POLICIES

2.4.1 Assessment

GRUZ-P1

[91] We accept Mr Maclennan's analysis and recommendations on GRUZ-P1 and agree that the direction within the policy is clearly enabling of primary production activities and that it is not necessary to broaden its scope.[82] We find the amendment to GRUZ-P1.3 in response to Silver Fern Farms [172.114] and Alliance Group [173.116] to be appropriate.

GRUZ-P2

[92] B Speirs [66.37] considered it inaccurate to include the words 'large minimum' within GRUZ-P2.1 because many of the smaller allotments in the GRUZ have ample space around buildings and sought these words be deleted. We accept Mr Maclennan's analysis and recommendation[83] and agree that although GRUZ does have a variety of sizes, the predominant character of the GRUZ is one of large allotments with large areas of open space.

GRUZ-P5

[93] As notified GRUZ-P5 was titled 'Protecting Primary Production' and sought to manage sensitive activities within the zone so that they are located to avoid adverse effects on primary production, and if avoidance was not possible then the sensitive activity provided mitigation measures to minimise those adverse effects. Five submissions supported the policy and sought for it to be retained. Federated Farmers [182.191] requested that the policy go further to 'enable management of adverse effects'. We are not persuaded that this relief differs in substance, because avoidance appears to be the appropriate first line, and implements GRUZ-O3 and CRPS Policy 5.3.12, and the policy provides the alternative of requiring mitigation in the event avoidance is not possible. Both appear to be enabling management of

[82] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.7.6-10.7.9.
[83] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.8.4.

the adverse effect. Silver Fern Farms [172.116] and Rural Contractors [178.7] requested that the policy should be broadened to ensure rural, industry and other activities that support primary production are protected from potential reverse sensitivity effects. NZ Frost Fans [255.23] also maintained their earlier theme, that the policy needed to emphasise the protection of land based primary production on highly productive land and further that the policy should address reverse sensitivity effects. We have already decided that the GRUZ Chapter has wider application than just highly productive land and that remains our view.

[94] Mr Maclennan agreed with those submitters requesting the extension of the policy to rural industry. We agree that it is appropriate and gives effect to the CRPS, and recognises rural industries that have a functional and operational need to be located in rural areas. Mr Maclennan also recommended in response to submissions that the focus of the policy ought to be reverse sensitivity effects and should be renamed and the policy amended accordingly. We consider that to be the most appropriate form of the policy to give effect to the NPS-HPL, CRPS and GRUZ-O3.

[95] Having considered the submissions and Mr Maclennan's analysis we accept his recommendation.

GRUZ-P6

[96] We accept the analysis and recommendation of Mr Maclennan in response to submissions and find it is appropriate to retain GRUZ-P6 as notified, except for the minor amendment under RMA, Schedule 1, cl16.[84] We received no evidence to the contrary.

GRUZ-P7

[97] Fonterra [165.126] sought the deletion of the word 'only' from GRUZ-P7.1. Mr Maclennan was of the view that retaining the word 'only' ensures the presumption of the policy is that rural industries and other activities will only be allowed where the specific policy tests in GRUZ-P7 can be achieved.[85] Whereas, Ms Tait, in her evidence, considered the inclusion of 'only' suggests that rural industry and emergency service facilities[86] are not generally anticipated in the zone, which is contrary to their restricted discretionary activity status.[87] She stated she considered GRUZ-P7 is trying to achieve too much by managing restricted discretionary, discretionary and non-complying activities. In her view, rural industry and emergency service facilities should be dealt with separately to those activities that are not generally anticipated in the zone.[88] We find the 'only' policy direction to be suitable and were not persuaded otherwise.

[98] We accept Mr Maclennan's analysis and recommendations in response to the submissions from Federated Farmers [182.193] and Port Blakely [94.12] for the reasons set

[84] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.10.6-10.10.8.
[85] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.11.6.
[86] We assume Ms Tait has selected 'emergency service facilities' as one type of 'other activity' for the purposes of this Policy.
[87] Susannah Tait, Statement of Evidence, 5 July 2024, Para 7.12.
[88] Susannah Tait, Statement of Evidence, 5 July 2024, Para 7.13.

out in the s42A Report.[89] In reaching this view we note that Ms Johnston confirmed that Federated Farmers supported the s42A recommendation[90], and we did not receive any evidence to the contrary.

[99] Transpower's submission [159.96] highlighted the technical requirements of the National Grid and that it is not always possible to minimise its adverse effects. They suggest that due to the national importance of the National Grid and to align with the NPS-ET, the Proposed Plan should include a policy "pathway" to support the operation, maintenance, upgrade, and development of the National Grid in all zones, rather than potentially hindering it.[91] On this basis, Transpower sought an additional clause in GRUZ-P7. In response, Mr Maclennan considered that the EI Chapter provides for this pathway, and that introduction of a clause within GRUZ-P7 would be at odds with the architecture of the Proposed Plan. We heard from Ms McLeod at the hearing who considered that:

> On this basis, I share the concerns expressed in Transpower's submission and consider that the development or upgrade of the National Grid would be assessed as inconsistent with Policies GRZ-P4, MRZ-P6, RUZ-P7[92], RLZ-P9 and SETZ-P4 because:
>
> > a. the Policies include 'and' and therefore the development or upgrade of the National Grid would only be allowed in the relevant zone where consistent with all of the clauses in the Policies;
> >
> > b. as described in the Preamble to the NPS-ET, the characteristics of the National Grid would likely mean that the adverse effects of the National Grid could not be avoided or minimised.
> >
> > c. similarly, the built form of the National Grid is not likely to maintain the character and qualities of the relevant zone as described in related objective.
>
> Insofar as the Policies listed above apply to the National Grid, it is my conclusion that the Policies fail to give effect to the Objective and Policies 1 and 2 of the NPS-ET and also gives rise to tension or conflict between the Energy and Infrastructure policies and the area-specific policies in the Proposed District Plan. [93]

[100] Ms McLeod disagreed with Mr Maclennan's conclusion that the EI policies 'apply instead' or 'take precedence' over the area-specific policies. She concluded there is a tension or conflict that needs to be resolved in order to give effect to the NPS-ET by either amending the relevant area-specific policies or by making it explicit that the EI policies prevail over the area-specific zone provisions.[94] She put forward three alternative drafting approaches to resolve this tension in a manner that in her view give effect to the NPS-ET.[95]

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89 Andrew Maclennan, s42A Report, 19 June 2024, Para 10.11.3, 10.11.5.
90 Angela Johnston, Hearing Statement, not dated.
91 Andrew Maclennan, s42A Report, 19 June 2024, Para 10.11.4.
92 We assume this is a typographical error and that the reference relates to GRUZ-P7.
93 Ainsley McLeod, Statement of Evidence, 5 July 2024, Para 37-38.
94 Ainsley McLeod, Statement of Evidence, 5 July 2024, Para 7.
95 Ainsley McLeod, Statement of Evidence, 5 July 2024, Para 40.

[101] Mr Maclennan in his Interim Reply, agreed with Ms McLeod that this is best resolved via an amendment to the EI Chapter.[96] We have addressed this issue in Part 1 of this Decision where we agree with the recommended amendments to the Introduction of the Energy and Infrastructure Chapter, albeit we have amended the wording to reflect where provisions apply 'instead of'; and as addressed in our decision on the EI Chapter[97] we have inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the 'weight' to be given to provisions in the event of conflict is clear. On this basis we are satisfied that Transpower's concerns have been appropriately addressed.

GRUZ-P8

[102] We accept Mr Maclennan's analysis and recommendation and agree that GRUZ-P8 be retained as notified. We note that Ms Johnston confirmed that Federated Farmers [182.94] supported the s42A recommendation[98], and we did not receive any evidence to the contrary.

GRUZ-P9

[103] NZ Pork [247.24] considered the 40ha qualifier in GRUZ-P9 to be unworkable for pig farming and sought that the site size threshold be lowered to 20ha. However, in his evidence, Mr Hodgson agreed with Mr Maclennan's recommendation to reject the submission given there is an alternative consenting pathway for smaller sites via a restricted discretionary consent process.[99]

[104] We agree that no changes are required to GRUZ-P9, other than a minor grammatical amendment under RMA Schedule 1, cl16.

New Policy

[105] Federated Farmers [182.180] sought to amend or insert new provisions within the GRUZ Chapter to recognise and provide for private property rights and allow landowners to subdivide land for specific purposes, such as creating lifestyle lots and lots for family members. We accept Mr Maclennan's analysis and recommendation to reject the submission and note that Federated Farmers did not pursue this submission point at the hearing and expressed support for Mr Maclennan's recommendation.[100]

2.4.2 Decision

[106] We adopt Mr Maclennan's analysis and recommendations on GRUZ-P1, GRUZ-P2, GRUZ-P5, GRUZ-P6, GRUZ-P7, GRUZ-P8, GRUZ-P9, and New Policy. The amendments to the provisions are set out in **Appendix 3**.

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96 Andrew Maclennan, Hearing B: Interim Reply, 20 September 2024.
97 Panel Decision Report, Part 5, Section 2.16.1
98 Angela Johnston, Hearing Statement, not dated.
99 Vance Hodgson, Statement of Evidence for NZ Pork, 5 July 2024, Para 50.
100 Angela Johnston, Hearing Statement, undated.

[107] In terms of s32AA, we adopt Mr Maclennan's evaluation in support of the changes made.

2.5 GENERAL RURAL ZONE RULES

2.5.1 Assessment

GRUZ-R1

[108] We accept Mr Maclennan's analysis and recommendation in response to submissions on GRUZ-R1 PER-3, to retain this clause as notified.

[109] An issue traversed at the hearing was as a consequence of Mr Maclennan's recommended amendment to PER-4, in response to a submission by Keen, Oliver, Forbes et al [46.3] to include a 100m setback within GRUZ-R1 PER-4 for milking sheds and buildings used to house or feed stock from the notional boundary of an existing sensitive activity on a separate site under different ownership.[101] NZ Pork [247.31] sought an exemption for buildings and structures related to movable pig shelters including farrowing huts less than 30m^2 in area and mobile pig shelters less than 2m in height. We heard from Mr Hodgson at the hearing who suggested that an exclusion be provided in line with the approach of the Selwyn District.[102]

[110] We asked Mr Maclennan to consider the merits of the exclusion sought by NZ Pork, and in his Interim Reply he confirmed he now accepted Mr Hodgson's submission and recommended an exclusion be inserted into PER-4 to address the relief sought.[103] We find this amendment to be appropriate and we agree it ensures there is flexibility when locating movable pig shelters, which provides for primary production activities, while also ensuring they are of a size that maintains the amenity of existing sensitive activities.

[111] We accept Mr Maclennan's analysis and recommendation in response to submissions on GRUZ-R1.

GRUZ-R2 and GRUZ-R3

[112] We accept the analysis and recommendations of Mr Maclennan in response to Federated Farmer's submission [182.197] on GRUZ-R2; and B Speirs [66.39] and Federated Farmer's submission [182.198] on GRUZ-R3.[104] We agree that the minor amendments to both provisions improve clarity and interpretation of the provisions.[105] We note that Ms Johnston confirmed that Federated Farmers supported the s42A recommendations.[106] We heard no evidence to the contrary from B Speirs.

[101] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.15.6.
[102] Vance Hodgson, Statement of Evidence, 5 July 2024, Para 81.
[103] Andrew Maclennan, Hearing B: Interim Reply, 20 September 2024, Para 18.
[104] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.16.3-10.17.7.
[105] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.16.3-10.16.9.
[106] Angela Johnston, Hearing Statement, undated.

GRUZ-R4

[113] MFL [60.42] and Maze Pastures [41.5] sought that PER-1 allow for approved subdivision consents issued by TDC before the Plan is fully operative. We heard from Ms McMullan for MFL at the hearing who sought an amendment to this effect. Following the hearing, Mr Maclennan recommended an amendment to PER-1 and noted that Ms McMullan was in agreement with this drafting approach.[107] No other amendments to the rule are recommended by Mr Maclennan in response to other submissions.

[114] We accept Mr Maclennan's analysis and recommendations in response to submissions on GRUZ-R4[108], and we agree that the recommended amendments to GRUZ-R4 are appropriate.

GRUZ-R7

[115] Hort NZ [245.125] and NZ Pork [247.26] have requested that education activities, which are sensitive to the effects from primary production, should be restricted discretionary activities rather than permitted activities. Mr Maclennan did not agree, because the rule only permitted educational activities that take place within and ancillary to an existing principal residential unit, they were no more susceptible to the effects from primary production than a residential activity. As an alternative Mr Maclennan suggested that the educational activities could be subject to the addition of standard GRUZ-S5 to ensure that they are set back from intensive primary production activities, farm effluent disposal areas and lawfully established quarries and mines.

[116] We note that rule GRUZ-R7, applies to small scale educational activities, rather than a school or larger childcare facility. Larger scale educational activities were proposed to be fully discretionary activities in the notified Plan, however, in response to submissions from the MoE [106.23] and Waihi School [236.1FS], Mr Maclennan recommended that other educational activities be restricted discretionary activities with a list of matters of discretion.[109]

[117] Mr Hodgson supported Mr Maclennan's alternative of making the permitted activity rule also subject to GRUZ-S4.[110] He considered that gives effect to the changes recommended by Mr Maclennan to the objectives and policies to protect primary production from reverse sensitivity effects. As we have noted in our discussion on objectives and policies above, the key to managing the relationship between sensitive land use and rural productive uses is good planning, managing expectations and ensuring adequate separation, to avoid reverse sensitivity effects and adverse effects on sensitive land uses. We are satisfied that the rule, with the addition of a requirement to adhere to GRUZ-S4 is appropriate and gives effect to the objectives and policies within the Plan and higher order documents.

[118] In relation to Waihi School [236.1, 236.1FS], Mr Maclennan recommended, in consultation with Waihi School representatives, a site-specific package of provisions for their

[107] Andrew Maclennan, Hearing B: Interim Reply, 20 September 2024, Para 53.
[108] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.18.9-10.18.23.
[109] See section 2.2 above.
[110] Vance Hodgson, Statement of Evidence for NZ Pork, 5 July 2024, paragraph 28.

site. We have accepted that those provisions are appropriate, as discussed in the Rezoning Requests section of this Report.

GRUZ-R8

[119] Hort NZ [245.126] and NZ Pork [247.27] requested that residential care activities provided for as permitted activities in GRUZ-R8 ought to be restricted discretionary activities. Similar to the discussion above, the rule only provides for small scale residential care activities within or ancillary to existing residential units. Mr Maclennan considered that the scale would not be sufficiently sensitive to warrant a consent application and would be similar to a residential land use. Mr Maclennan suggested the alternative of linking the rule to GRUZ-S4(sic).

[120] Having considered the submissions from NZ Pork and Hort NZ, we do not consider that the scale of activity permitted by GRUZ-R8 requires a restricted discretionary activity. However, we accept Mr Hodgson's evidence that a requirement to adhere to GRUZ-S4 is appropriate for the reasons above.

GRUZ-R9

[121] Hort NZ [245.127] and NZ Pork [247.28] seek that the permitted activity rule for residential visitor accommodation be a restricted discretionary activity due to it being a sensitive land use. Mr Maclennan disagreed, noting the scale of activity permitted by rule GRUZ-R9, did not justify a consent being required. For the reasons stated above we consider that a requirement to adhere to GRUZ-S4 is appropriate.

GRUZ-R10

[122] We accept Mr Maclennan's analysis and recommendation in response to Helicopters Sth Cant [53.24], NZAAA [132.30] and Federated Farmers [182.199] submissions on GRUZ-R10 and agree that the amendments improve clarity and interpretation of the provision.[111]

GRUZ-R11

[123] Hort NZ [45.114] and NZ Pork [247.29] sought that the broad suite of setbacks within GRUZ-S4 should apply to all recreation activities on the basis that a recreational activity adjoining primary production could constrain primary production activities.[112] Mr Maclennan recommended these submissions be rejected[113], a position he maintained in his Interim Reply for the reason that the activities included within the definition of 'recreational activities' would not be considered sensitive activities and therefore the additional standard is not required.[114] Having considered the broad definition of recreation activities we do not consider it appropriate that the standards apply to <u>all</u> recreational activities for the reasons given by Mr Maclennan.

[111] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.22.4-10.22.8.
[112] Vance Hodgson, Statement of Evidence, 5 July 2024, Para 46-47.
[113] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.22.4-10.22.8.
[114] Andrew Macklennan, s42A Reply Report, 20 September 2024.

[124] We agree with Mr Maclennan's recommended amendments in response to the Rooney Group[115] and TDL [252.84] to ensure that small scale commercial recreational activities such as guided hunting and recreational tours are permitted by GRUZ-R11.[116] We also find it appropriate that a new definition of 'commercial recreational activity' is included within the Proposed Plan, as recommended by Mr Maclennan[117].

GRUZ-R12

[125] We agree with Mr Maclennan that GRUZ-R12 be retained as notified for the reasons set out in his s42A Report. We note that Ms Johnston confirmed that Federated Farmers [182.200] supported the s42A recommendations.[118]

GRUZ-R14[119]

[126] GRUZ-14 relates to the use of airstrips and helicopter landing sites. Included in our discussion of this rule is the related definitions of 'agricultural aviation activities', 'day', and 'rural airstrips'.

[127] In terms of the definitions, submitters requested a new definition for 'agricultural aviation activities' to support a new permitted activity rule in GRUZ-14.[120] Amendments to the definition of 'day' and to 'rural airstrips' was also requested to support a more enabling rule for agricultural aviation activities.[121]

[128] Overall, there was significant opposition to the rule from the rural aviation community, who considered the rule to be overly restrictive, and failed to recognise the importance of the industry in supporting rural productive land uses and a range of private aviation activities on private airstrips.

[129] Mr Maclennan explained in the s42A Report that the rule endeavoured to strike a balance between providing for primary production activities in accordance with objective GRUZ-O1 and providing a higher level of amenity, as articulated in GRUZ-O2.3. He accepted that there was some uncertainty in the drafting of rule GRUZ-14 as to what was captured as it related to both helicopter landing sites and airstrips which were not defined, he considered there were in fact two types of activities. Firstly, permanent airstrips and helicopter landing sites which are areas intended or designed to be used, whether wholly or partly, for landing, departure, movement, or servicing aircraft, and secondly the single aircraft flight, or landing or take-off. He considered the effects quite different and should be managed separately.

[130] In relation to permanent airstrip or helicopter landing sites, Mr Maclennan recommended changes to GRUZ-14 to apply to permanent airstrips and landing sites with limits on period of use (maximum of 30 days per 12 months) and separation distances from

[115] Submitters including Rooney Holdings [174.84], Rooney, G.J.H. [191.84], Rooney Group [249.84], Rooney Farms [250.84], Rooney Earthmoving [251.84].
[116] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.23.4-10.23.5.
[117] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.23.4-10.23.7
[118] Angela Johnston, Hearing Statement, undated.
[119] To be renumbered GRUZ-R15 and GRUZ-R16
[120] Ballance [86.1], Helicopters Sth Cant [53.2], NZAAA [132.1] Federated Farmers [182.201].
[121] Ibid and Hort NZ [245.34].

residential zones and the notional boundary of a building with an existing noise sensitive activity on a separate site under separate ownership. He recommended changes to make permanent airstrips and helicopter landing sites that do not meet the revised permitted activity rule requirements to be restricted discretionary activities rather discretionary, and he recommended nine matters of discretion including extent of compliance with NZS6807.

[131] In relation to aircraft and helicopter movements, Mr Maclennan recommended a new rule which permitted aircraft and helicopter movements for emergency purposes only such as medical emergencies, search and rescue or firefighting; or are associated with purposes ancillary to rural production including topdressing, spraying, stock management, fertiliser application, and frost mitigation, including the incidental landing and take-off of helicopters during their normal course of operation. All other aircraft and helicopter movements must be setback greater than 100m from any Residential Zone; the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership. Non-compliance with the permitted activity rule would be restricted discretionary activities with eight matters of discretion including extent of compliance with NZS6807. [122]

[132] NZHA [45.1] opposed the notified rule GRUZ-14 on the basis it failed to provide for the essential role that helicopters play in the rural environment. However, at the hearing Mr Milner for the NZHA accepted that the s42A Report authors recommended changes to the rule, including new GRUZ-R14A[123] would adequately provide for commercial aviation activities.[124] The NZHA also requested a definition of 'aircraft and helicopter movement', to include a single aircraft flight operation (landing and departure), but to exclude maintenance procedures.

[133] NZAAA [132.1] was represented by Mr Tony Michelle at the hearing and also expressed support for the revised version of rule GRUZ-R14 and 14A.[125] The NZAAA also requested that the words 'rural production' be replaced with 'primary production' as it is defined in the Plan. The NZAAA requested the inclusion of a definition of 'agricultural aviation'.

[134] The Aircraft Owners and Pilots Association of New Zealand [201] (AOPA) and Mr Sid McAuley [57.1] remained opposed to the inclusion of a rule at the hearing. The AOPA represent people who fly small non-commercial fixed wing aircraft recreationally. They were represented by legal counsel, Mr Maw, who submitted that there was no basis to impose regulation on this activity at all through the Plan.[126] He noted the absence of a proper evaluation of the necessity for the rule, or its appropriateness in the Council's s32 Report. Representatives of the AOPA had made LGOIMA requests to try and identify the justification for the restrictions imposed by the Proposed Plan. There was no information provided in response in relation to any complaints leading to the need for the rule or data to support the proposed rule.

[122] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.25.15-10.25.35.
[123] Now renumbered GRUZ-16 in the Decision Version of provisions.
[124] Richard Milner CEO of New Zealand Helicopter Association, Statement of Evidence, 3 May 2024.
[125] Tony Michelle, Executive Officer of New Zealand Agricultural Aviation Association, Statement of Evidence, 1 July 2024.
[126] Joint Legal Submissions on behalf of the Aircraft Owners and Pilots Association and Sid McCauley, 12 July 2024.

[135] Mr Maw had considered the recommendations in the s42A Report. However, he maintained that there is no evidential foundation for imposing these restrictions on small fixed-wing aircraft as the flying of small fixed-wing aircraft has not created an identified issue. These restrictions unnecessarily limit and regulate an activity, and these limitations will be detrimental to the submitters and to the wider community.

[136] Following the hearing the Panel requested further information from the Council in relation to the background information that supported the inclusion of the rule, and an analysis of the Operative Plan provisions that would apply to aircraft.

[137] Ms Vella for the Council provided a response by way of Memorandum on 23 August 2024, the memorandum included recommendations from the Council's acoustic expert Mr Hunt. Ms Vella also explained there had been 'several complaints' regarding aircraft noise between 2011-2013, but there was no specific detail about the nature of these to be of any real assistance to our understanding of the issue. Ms Vella also outlined her interpretation of the Operative Plan status quo regulation of aircraft. In response Mr Maw filed further comment which offered an alternative interpretation of the provisions in the Operative Plan. He was also critical of the further analysis provided by Mr Hunt.[127]

[138] Depending on which interpretation of the Operative Plan is applied, the status quo for flying small non-commercial fixed-wing aircraft is either: (a) No regulation or limitation; or (b) 50dBA L10 between 7am – 10pm and applying the NZS 6801:1991 measurement of sound and assessing the noise in accordance with the provisions in NZS 6802:1991 assessment of environmental sound.

[139] Following the hearing the Council continued to engage with the submitter regarding an appropriate rule framework. Mr Maw offered a way forward in Appendix B to his memorandum. On 28 February 2025 Ms Vella filed a further memorandum outlining TDC general support for the proposal put forward by Mr Maw. To assist the Panel with its findings TDC filed further supplementary evidence from acoustics expert Mr Hunt, and an updated s42A and s32AA report prepared by Mr Maclennan.[128]

[140] Mr Maclennan considered the amendments proposed in the memorandum of counsel for the submitters dated 6 December 2024 in consultation with both Mr Hunt and Ms White, who is the s42A officer for the NOISE Chapter (heard in Hearing F). Mr Maclennan's view, having regard to the advice of Mr Hunt, is that:

(a) the provisions proposed should sit in GRUZ-R14 – which is the recommended rule that would govern movements on permanent airstrips - rather than GRUZ-R14A which would govern ad hoc aircraft flights;

(b) with this amendment, the provisions are appropriate to enable the use of non-commercial small fixed-wing aircraft as a permitted activity, while also ensuring

[127] Memorandum on behalf of the Aircraft Owners and Pilots Association and Sid Mcauley, 6 December 2024.
[128] Andrew Maclennan, Supplementary Evidence, 28 February 2025, and Malcom Hunt, Statement of Evidence, 28 February 2025

that the effects of the activity are managed to ensure the amenity of the GRUZ is maintained.

[141] Mr Maclennan recommended minor drafting changes to accommodate the above. We have carefully considered the evidence on this matter and consider the recommended amendments to GRUZ-R14 (now GRUZ-R15) and GRUZ-R14A (now GRUZ-R16) are appropriate.

GRUZ-R15[129]

[142] H.B [74.3], an informal group of landscape architects and those with an interest in indigenous planting submitted on GRUZ-R15 seeking that no trees or shelterbelts shall be planted within 15m of SH1 unless they are of an indigenous variety. Mr Maclennan disagreed with the submission of H.B for the reason that there are no restrictions on planting indigenous vegetation adjoining SH1 for amenity purposes. In his view there was insufficient justification to prevent non-indigenous trees or shelterbelts adjoining SH1 over and above the matters listed within GRUZ-R15.[130] We heard from Ms Di Lucas on behalf of H.B at the hearing. We did not find there was sufficient evidence or evaluation to support a rule requiring indigenous planting, rather it was a matter which could continue to be pursued through information provided in non-regulatory planting guides in conjunction with ECan or TDC.

[143] Hort NZ [245.118] opposed the recession plane standard of GRUZ-R15 rule which controls the distance a building must be setback from a property. We heard from Ms Cameron at the hearing who explained the value and purpose of shelterbelts to rural production[131] and Mr Hodgson who considered that the recession plane standard of GRUZ-R15 is likely to impact on existing shelterbelts planted specifically to support the primary production activity. As addressed in Section 2.2 (General Themes), we find Mr Maclennan's amendment to GRUZ-R15 to satisfactorily address the submitter's concern by requiring that any shelterbelt or woodlot be setback 30m from any residential unit or other principal building on an adjoining property.

[144] We generally accept Mr Maclennan's analysis and recommendations in response to submissions on GRUZ-R15 and agree it is appropriate to retain the definition of 'shelterbelt' as notified, and that no further amendments are made to GRUZ-R15. In reaching this view we note we received no evidence from MFL [60.43], and Federated Farmers [182.202] confirming acceptance of Mr Maclennan's recommendation on this matter.[132]

GRUZ-R16[133]

[145] We accept Mr Maclennan's analysis and recommendations relating to GRUZ-R16[134] and associated definitions, noting we either received no evidence from any party, or submitters confirmed acceptance of the recommendations.

[129] Now renumbered GRUZ-R17 in the Decision Version of provisions
[130] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.26.8.
[131] Sarah Cameron, Statement of Evidence, 5 July 2024.
[132] Angela Johnston, Hearing Statement, undated.
[133] Now renumbered GRUZ-R18 in the Decision Version of provisions.
[134] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.27.16-10.27.24.

GRUZ-R18[135]

[146] Hort NZ [245.120] support a permitted activity rule for primary production, but consider the proposed rule is unworkable and overly restrictive. They suggest there is confusion about the need for dark green or black cloth on vertical surfaces and uncertainty regarding setbacks and structural length control. They highlight artificial crop protection structures are necessary to achieve policy objectives and enable primary production. They requested simplification of the rule to require dark green or black cloth for vertical fences within 10 m of a road or existing residential unit and for structure(s) less than 6m high, the structure(s) are setback a distance of 3m from the boundary.

[147] Mr Maclennan agreed in part with the submission of Hort NZ. He considered that the dark netting on vertical faces should only be required in certain locations where greater amenity is anticipated within the Plan. Rather than limiting the standard to road boundaries and existing dwellings, he considered the dark cloth requirement should apply within 20m of a property boundary. He disagreed with the amendments to PER-3 to a single setback and preferred the graduated setback standards depending on the height of the structure to ensure that the amenity of the sites adjoining the artificial crop protection structures is retained. He agreed with the submitter that artificial crop protection structures are necessary to achieve GRUZ-O1 and GRUZ-P1 which enable primary production activities.[136]

[148] Mr Hodgson for Hort NZ provided an example in his evidence from a recent consent order for appeals between Hort NZ and the Waikato District Council concerning artificial crop protection structures under the Proposed Waikato District Plan, which provides an agreed position for artificial crop protection structures that requires no setback unless bordering a residential unit. He considered that the approach could be adopted in the Timaru District.[137]

[149] Mr Maclennan maintained his view of the graduated setback requirements for crop protection structures which set the height limits based on the distance from a boundary, provide flexibility as to the height of the structure while also ensuring that the amenity of the sites adjoining the artificial crop protection structures is retained.

[150] We have considered the alternatives before us, including the example from the Waikato District Council consent order. We do not consider that the Waikato approach is easily translated to Timaru, because we are not privy to the details of the appeal or the issues that had been raised with the Council decision which was appealed in that case. We have considered Mr Hodgson's simplified approach to setbacks compared to Mr Maclennan's graduated approach. We find on balance that the graduated approach is more targeted and is therefore more efficient and effective in addressing the actual and potential effects of the activity without unreasonably constraining rural productive land uses.

[135] Now renumbered GRUS-R20 in the Decision Version of provisions.
[136] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.28.4 -10.28.6.
[137] Vance Hodgson, Hort NZ, Statement of Evidence, 5 July 2024, paragraph 58 referring to. https://environmentcourt.govt.nz/assets/Documents/Publications/2024-NZEnvC-063-Horticulture-New-Zealand-v-Waikato-District-Council.pdf

GRUZ-R19[138]

[151] Mr Maclennan did not support Hort NZ's submission [245.121] that sought to amend PER-1 of GRUZ-R19 to provide an appropriate consenting pathway for the reasons set out in his s42A Report.[139] Nor did he support the change sought by B Speirs [66.41]. However, he did agree with Hort NZ [245.31] that a definition of 'post-harvest facility' be added to the Proposed Plan to provide clarity to the permitted standard.[140] We agree this is a beneficial addition and note that Mr Hodgson for Hort NZ confirmed he supported the recommendations in the s42A Report on these matters.[141] We further find the recommended minor RMA Schedule 1, cl 16 amendment to GRUZ-R19 to be acceptable.

GRUZ-R20[142]

[152] NZ Pork [247.30] and Hort NZ [245.122] supported this provision but raised concern with the site area thresholds. Mr Hodgson confirmed in his evidence on behalf of both submitters he accepted Mr Maclennan's recommendation to lower the threshold from 80ha to 40ha and noted that the Proposed Plan enables the consideration of workers accommodation on sites smaller than 40ha via a consenting pathway.[143] We are satisfied the recommended amendment addresses the relief sought within the NZ Pork, Hort NZ and Rooney Group submissions[144] and note we received no evidence on this matter from any other party.

GRUZ-R21[145]

[153] We accept the analysis and recommendations of Mr Maclennan in response to submissions on the definition of 'rural industry' and GRUZ-R21 and find the recommended amendment to GRUZ-R21 to be appropriate. We note we received no evidence to the contrary from any party, and Silver Fern Farms [172.125] confirmed acceptance of the s42A recommendation. [146]

GRUZ-R23[147]

[154] We accept the analysis and recommendations of Mr Maclennan in response to submissions on GRUZ-R23 and find the recommended amendments to GRUZ-R23 to be appropriate. We note we received no evidence to the contrary from any party, and Federated Farmers [182.206] confirmed acceptance of Mr Maclennan's recommendation on this matter.[148]

[138] Now renumbered GRUZ-R21 in the Decisions Version of the provisions.
[139] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.29.8.
[140] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.29.7.
[141] Vance Hodgson, Statement of Evidence, 5 July 2024, Para 63-68.
[142] Now renumbered GRUZ-R22 in the Decisions Version of the provisions.
[143] Vance Hodgson, Statement of Evidence, 5 July 2024, Para 69-77.
[144] Submitters including Rooney Holdings [174.84], Rooney, G.J.H. [191.84], Rooney Group [249.84], Rooney Farms [250.84], Rooney Earthmoving [251.84].
[145] Now renumbered GRUZ-R23 in the Decisions Version of the provisions.
[146] Steve Tuck, Mitchell Partnerships, Letter on behalf of Silver Fern Farms, 11 April 2024.
[147] Now renumbered GRUZ-R25 in the Decisions Version of the provisions.
[148] Angela Johnston, Hearing Statement, undated.

GRUZ-R29[149] and GRUZ-27A[150]

[155] Enviro NZ [162.17] raised a concern that cleanfills and landfills are considered a non-complying activity under GRUZ-R29 and they consider that the GRUZ is the most likely zone to accommodate such activities to allow for residential, commercial, industrial, and rural growth. On this basis Enviro NZ sought a discretionary activity status for these activities.

[156] We heard from Ms Rosser for Enviro NZ at the hearing who helpfully explained the background to the submission point. She accepted that managed landfills appropriately treated as non-complying activities under Rule GRUZ-R29, but considered cleanfills may find it difficult to obtain consent if also addressed as a non-complying activity. On this basis she recommended a separate discretionary rule for cleanfills would be appropriate and would meet the objectives and policies of the GRUZ.[151]

[157] Mr Maclennan initially disagreed with the submitter and considered that new industrial activities (such as cleanfills) not listed in GRUZ-R21 are not anticipated and therefore the non-complying activity status is appropriate.[152] However, having heard the evidence from Ms Rosser at the hearing, Mr Maclennan reconsidered this view and confirmed that he accepted that there should be separate management approaches for cleanfills and landfills.[153] On this basis, he recommended a new discretionary rule GRUZ-R27A (now GRUZ-R30) be added to the GRUZ.

[158] Having considered the submissions and evidence we accept the analysis and recommendations of Mr Maclennan in response to submissions on GRUZ-R29 (now GRUZ-R32).

GRUZ – New Rural Contractor Depot Rule

[159] Rural Contractors [178.1, 178.9, 178.10, 178.11] sought to include a new permitted rule to provide for a rural contractor depot, with a restricted discretionary default. As a consequential amendment, the submitter sought to amend GRUZ-R21 - Rural industry to specifically exclude a rural contractor depot. They also sought to include the following definition for “Rural contractor depot” to support implementation.

[160] Mr Maclennan disagreed that an additional new permitted activity rule and definition for rural contractor depots are required. He considered that it is appropriate that a rural contractor depot that meets the definition of a ‘rural industry’ as defined within the Proposed Plan be managed through a restricted discretionary activity framework to ensure that adverse effects of the activity are adequately managed. He considered this rule framework is required to give effect to GRUZ-P7 which states that rural industries are only allowed in the GRUZ where the specific matters listed in GRUZ-P7.1 are achieved. We received no evidence to the contrary.

[149] Now renumbered GRUZ-R32 in the Decisions Version of the provisions.
[150] Now renumbered GRUZ-R30 in the Decisions Version of the provisions
[151] Karen Rosser, Summary Statement of Evidence, Para 5.1-5.8.
[152] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.33.4.
[153] Andrew Maclennan, Hearing B: Interim Reply, 20 September 2024, Para 102-105.

[161] We accept the analysis and recommendations of Mr Maclennan in response to the submission from Rural Contractors [178.1, 178.9, 178.10, 178.11] and agree it is appropriate to retain the provision as notified.

2.5.2 Decision

[162] We adopt Mr Maclennan's final recommendations with regard to GRUZ rules as set out in the Final Reply, for the reasons set out above. The amendments to the provisions are set out in **Appendix 3**.

[163] In terms of s32AA, we adopt Mr Maclennan's evaluation in support of the changes made.

2.6 GENERAL RURAL ZONE STANDARDS

2.6.1 Assessment

GRUZ-S1

[164] RNZ's submission sought changes to GRUZ-S1 to address safety risks from electromagnetic radiation interference (*EMR*) that can arise if tall structures are constructed near RNZ's Facility [152.57]. Initially Mr Maclennan accepted in part the submission of Radio NZ [152.57] and recommended a new matter of discretion be added to GRUZ-S1 to provide discretion for these effects to be considered through the restricted discretionary activity consent process.[154] We received legal submissions on behalf of Radio NZ which stated that the recommended change did not address Radio NZ's concern, being the risk of EMR effects on surrounding buildings.[155] In consultation with Radio NZ's legal counsel, Mr Maclennan reconsidered his recommendation and put forward revised amendments to address the submission points.[156] We are satisfied the relief sought by Radio NZ has been appropriately addressed and we find the recommended amendments to be appropriate.

GRUZ-S3

[165] As previously addressed in relation to GRUZ-R1, NZ Pork [247.31] sought an exemption for buildings and structures related to movable pig shelters including farrowing huts less than 30m^2 in area and mobile pig shelters less than 2m in height.

[166] They also considered that partially or fully roofed mobile pig shelters would fall within the NPS definition of building and structure and therefore would be captured by the setback rule. As such they sought to include a new definition of 'ancillary buildings and structures (primary production)' for ancillary buildings and structures that support primary production and seek mobile pig shelters to be included in this definition.

[167] We accept the NZ Pork evidence of the purpose and function of moveable pig shelters and find that they are ancillary buildings and structures. We note Mr Maclennan also accepted

[154] Andrew Maclennan, s42A Report, 19 June 2024, Para 10.35.5.
[155] Hadleigh Pedler/Ben Williams, Legal Submissions, 11 July 2024, Para 6.
[156] Andrew Maclennan, s42A Summary, 17 July 2024, Para 12.

the submission in his Interim Reply. We agree that the amendment suggested by Mr Maclennan to exclude farrowing huts less than 10m^2 in area and less than 2m in height from GRUZ-R1, PER-4(2) improves certainty for plan users. We also agree that no change to the standard is required, nor any additional definition for ancillary buildings and structures (primary production) required.

[168] We accept Mr Maclennan's analysis and recommendation in response to the submissions from Maze Pastures [41.6] and MFL [60.45].

GRUZ-S4

[169] A number of submitters sought changes to the standard to include other activities that were potentially sensitive to encroachment by sensitive land uses.[157] We were not persuaded that the standard should be extended to all rural industry activities for the reasons outlined by Mr Maclennan. We did not hear evidence in relation to the requested changes from J R Livestock [241.32], Barkers [179.19] or Rural Contractors [178.11].

[170] In terms of NZ Frost Fans [255.28] request to provide for setbacks from existing and new frost fans, Mr Maclennan accepted in principle that they were activities that should be addressed in the standard, but he reserved his position until the hearings on the Noise Chapter. We did as well. Having now addressed the matter in Part 7 of the Report we agree with Ms White's recommended amendment to GRUZ-S4.5 which introduces the requirement that no new noise sensitive activity may be established within 100m of an existing or consented frost fan. We note Mr Maclennan's agreement on his matter where he states:

> This amendment would prevent the establishment of any new noise sensitive activity within 100 metres of an existing or consented frost fan. Beyond this distance, the provisions of the NOISE chapter will ensure that where a new noise sensitive activity is proposed between 100 and 300 metres of a frost fan, acoustic insulation and ventilation requirements will apply to manage potential reverse sensitivity effects.[158]

GRUZ-S5

[171] We accept Mr Maclennan's analysis and recommendation in response to the submissions on GRUZ-S5 and we agree that it is appropriate for GRUZ-S5 to be retained as notified, except where modified by minor clarifications and grammatical corrections.

GRUZ-New Standard

[172] We accept Mr Maclennan's analysis and recommendation in response to the ECan [183.148] submission seeking a limit on building coverage and we agree that an additional building coverage standard is not required.

[157] Andrew Maclennan, s42A Report, paragraph 10.37.1
[158] Andrew Maclennan, s42A Final Reply, 4 August 2025, para 14.

2.6.2 Decision

[173] We adopt Mr Maclennan's analysis and recommendations on GRUZ Standards. The amendments to the provisions are set out in **Appendix 3**.

[174] In terms of s32AA, we adopt Mr Maclennan's evaluation in support of the changes made.

2.7 RURAL LIFESTYLE ZONE OBJECTIVES

2.7.1 Assessment

RLZ-O2

[175] We accept Mr Maclennan's analysis and recommendation in response to the submission from ECan [183.149] and find the recommended amendment appropriate to give effect to higher order documents.[159] In reaching this view we note ECan tabled a letter[160] which signalled acceptance of the s42A recommendations, and on that basis, we are satisfied that the matter raised in submissions is resolved.

2.7.2 Decision

[176] We adopt Mr Maclennan's analysis and recommendations on RLZ-O2 The amendment to the provision is set out in **Appendix 3**.

[177] In terms of s32AA, we adopt Mr Maclennan's evaluation in support of the changes made.

2.8 RURAL LIFESTYLE ZONE RULES

2.8.1 Assessment

RLZ-R2

[178] We accept Mr Maclennan's analysis and recommendation in response to the submissions on RLZ-R2 and find the minor amendments to PER 1 and PER-2 of this Rule to be appropriate.[161]

RLZ-R5

[179] We accept Mr Maclennan's analysis and recommendation in response to the submission on RLZ-R5 and find the minor amendment to PER-1 of this Rule in response to B Speirs [66.43] to be appropriate.[162]

[159] Andrew Maclennan, s42A Report, 19 June 2024, Para 11.2.3-11.2.7.
[160] Deidre Francis, Tabled Letter, 1 July 2024.
[161] Andrew Maclennan, s42A Report, 19 June 2024, Para 11.3.6- 11.3.12.
[162] Andrew Maclennan, s42A Report, 19 June 2024, Para 11.4.3.

2.8.2 Decision

[180] We adopt Mr Maclennan's analysis and recommendations on RLZ-R2 and RLZ-R5. The amendments to the provisions are set out in **Appendix 3**.

[181] In terms of s32AA, we adopt Mr Maclennan's evaluation in support of the changes made.

2.9 RURAL LIFESTYLE ZONE STANDARDS

2.9.1 Assessment

RLZ-S5

[182] We accept Mr Maclennan's analysis and recommendation in response to the submission on RLZ-S5 and find the minor amendment to Clause 2 in response to B Speirs [66.44] to be appropriate.[163]

RLZ-S9

[183] We accept Mr Maclennan's analysis and recommendation in response to the submissions on RLZ-S9 from FENZ [131.58] and ECan [183.151] and agree that that RLZ-S9 be retained as notified.[164]

2.9.2 Decision

[184] We adopt Mr Maclennan's analysis and recommendations on RLZ-S5 and RLZ-S9. The amendment to RLZ-S5 is set out in **Appendix 3**.

[185] In terms of s32AA, we adopt Mr Maclennan's evaluation in support of the changes made.

2.10 RLZ REZONING SUBMISSIONS

2.10.1 Assessment

[186] We accept Mr Maclennan's analysis and recommendation in response to the submissions on rezoning HPL areas within the RLZ[165] and agree that no changes to the Proposed Plan are required. We note we heard no evidence to the contrary.

2.10.2 Decision

[187] We adopt Mr Maclennan's analysis and recommendations on submissions relating to rezoning.

[163] Andrew Maclennan, s42A Report, 19 June 2024, Para 11.5.3.
[164] Andrew Maclennan, s42A Report, 19 June 2024, Para 11.5.9.
[165] Andrew Maclennan, s42A Report, 19 June 2024, Para 11.6.5-11.6.9.

2.11 BROOKFIELD ROAD SPECIFIC CONTROL AREA

2.11.1 Assessment

[188] Submitter MFL [60.47] raised concern regarding RLZ-S3 and S8[166] insofar as the proposed standards conflicted with resource consents granted for development in the Brookfield Road area. The submitter sought an amendment to clarify that the notified 10% site coverage does not apply to the Brookfield Road specific control area and requested an additional clause stating that the footprint of all buildings on the Brookfield Road specific control area site shall not exceed 12.5% of the net site area. The submitter also considered RLZ-S8 conflicts with a specified subdivision consent and sought that the tree provisions for the Brookfield Road specific control area are retained from the current Rural Residential (Brookfield Road) zone.

[189] Mr Maclennan explained the background to the zoning rules in this location and disagreed with the submitter that a bespoke alternative rule should be included for the existing development. He was of the view that existing consents, and existing use rights where applicable, address any perceived inconsistency between development authorised under the ODP and the Proposed Plan standards.

[190] At the hearing we received evidence from Mr Chris Knight, the director of Quarry Hills Development Limited, the developer of the Brookfield Road subdivision.[167] He explained the background to the subdivision process and some of the practical challenges for the development. Mr Knight explained that the developer had accepted a number of limitations on the development, including site coverage, as a compromise as part of the consenting process. However, as the development proceeded, he said there were a number of design challenges for the development, including the site coverage limitation, particularly on flat sites, which potential buyers had, anecdotally, found too restrictive and said did not enable a house and garage within the footprint. This was the reason for the request for a more enabling rule framework in the Proposed Plan.

[191] The submitter provided planning evidence from Ms McMullan[168] and legal submissions in support of the position.[169] The planning evidence and legal submissions did not advance the position beyond the general argument that the 2.5% difference between notified requirement of 10% in RLZ-S3 and the requested 12.5% was minimal, and reflective of 'clear market' evidence of the difficulties with the proposed rule for this development.

[192] During the hearing Ms McMullan clarified that the request to include the 12.5% standard related only to lots of approximately 5000m^2, not larger allotments which would be inappropriate. She suggested a maximum site coverage of 700m^2.

[193] In his Interim Reply, Mr Maclennan maintained his view that the Proposed Plan standard was appropriate, even in the context of the Brookfield subdivision, which primarily

[166] The submitter withdrew submission point [60.48].
[167] Christopher Knight, Statement of Evidence, 5 July 2024.
[168] Melissa McMullan, Statement of Evidence, 5 July 2024
[169] Legal submissions on behalf of MFL, 11 July 2024,

provided for sites of 5000m^2, in which case in the context of the subdivision, would enable a 500m^2 dwelling and garage, which he considered remained an appropriate permitted activity standard.

[194] We find that although Mr Knight explained the practical difficulties some purchasers had experienced, we did not receive adequate evidence to support an evaluation under s32AA to depart from the notified provisions. We had no valuation or independent real estate evidence, nor any landscape or design evidence that demonstrated the difference between the rule as notified and the alternative proposal.

2.11.2 Decision

[195] We adopt Mr Maclennan's analysis and recommendation and reject the relief requested by the submitter.

2.12 SHAW AND HISLOP STREETS SPECIFIC CONTROL AREA

2.12.1 Assessment

[196] As summarised in Mr Maclennan's s42A Report, the submissions seeking that 2, 4, 6 and 12 Shaw Street and 6 and 6A Hislop Street are rezoned from RLZ to GRZ have been considered as part of the Residential Zones Chapter.[170] As we have addressed in Section 3 of this Decision, we accept Ms White's analysis and recommendations and agree that GRZ zone better reflects the existing size of these sites, noting that no servicing constraints have been identified. A consequential change is also required to remove the SCA Overlay.[171]

2.12.2 Decision

[197] Given our finding in Section 3 of this Decision, we adopt Ms White's recommendation, and the amendments are contained in **Appendix 2** and **Appendix 3**.

[198] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

2.13 SETTLEMENT ZONE STANDARDS

SETZ-S4, SETZ-S6 and SETZ-S8

2.13.1 Assessment

[199] We accept Mr Maclennan's analysis and recommendation in response to the submissions on the Settlement Zone standards[172] and note we heard no evidence to the contrary.

[170] Andrew Maclennan, s42A Report, 19 June 2024, Para 11.8.3.
[171] Liz White, Final Reply s42A Report, paragraph 16
[172] Andrew Maclennan, s42A Report, 19 June 2024, Para 12.2.3, 12.3.3, 12.4.4-12.4.5.

2.13.2 Decision

[200] We adopt Mr Maclennan's analysis and recommendations on submissions relating to Settlement Zone standards SETZ-S4, SETZ-S6 and SETZ-S8, and we find the minor recommended amendment to SETZ-S6 to be appropriate. The amendment to SETZ-S6 is set out in **Appendix 3**.

[201] In terms of s32AA, we adopt Mr Maclennan's evaluation in support of the change made.

2.14 BLANDSWOOD

2.14.1 Assessment

[202] As noted above, and as detailed in Mr Maclennan's s42A Report[173] 22 submissions were received opposing the inclusion of Blandswood (a long-established settlement with permanent houses and holiday homes) in the Open Space Zone. Submitters sought rezoning from Open Space Zone–Holiday Hut Precinct to Settlement Zone (SETZ). Reasons provided in submissions included:

(a) The OPZ is not appropriate for private land with existing dwellings.

(b) The OSZ will mean resource consent is required to do anything on the submitter's property.

(c) The OSZ will result in a vacant section not being able to be built on despite its suitability for residential development.

(d) The OSZ will mean maintenance and development/improvement of properties will be restricted.

(e) The OSZ will unduly restricts property owners to develop and improve their homes or holiday homes.

(f) The Blandswood area is different from other areas where the OSZ is proposed.

[203] Since Hearing Stream B, the SETZ reporting officer (Mr Maclennan) has worked with the Blandswood submitters and DOC on revised provisions establishing a Blandswood Precinct within the Settlement Zone. Those revised provisions address the matters raised in the three submissions (originally allocated to the OSZ hearing), and all Blandswood submitters have been included in that process. We accept Mr Maclennan's advice that a Blandswood Precinct within the SETZ Chapter is the appropriate planning framework for the area.

[204] Consequential amendments have been recommended to the OSZ Chapter to remove all references to Blandswood, as this chapter will no longer apply to the area. We accept those consequential amendments.

[173] Andrew Maclennan, s42A Report, 19 June 2024, Para 13.3.2.

[205] Overall, we are satisfied that the recommended bespoke package of provisions (including a dedicated objective, policy, and rules) will ensure that the residential character and natural qualities of the Blandswood Precinct are maintained.

2.14.2 Decision

[206] We adopt Mr Maclennan's analysis and recommendations and we find the amendments to create a Blandswood Precinct within the SETZ Chapter to be appropriate. The amendments to the SETZ Chapter and consequential amendments to the OSZ Chapter are set out in **Appendix 2** and **Appendix 3**.

[207] In terms of s32AA, we adopt Mr Maclennan's evaluation in support of the changes made and we agree that the recommended amendments provide greater direction on the purpose, character and qualities of the Blandswood Precinct and the changes to the objective are the most appropriate to achieve the purpose of the RMA.

2.15 REZONING REQUESTS

2.15.1 Assessment

Waihi School

[208] Waihi School [236.1, 236.1FS] oppose the General Rural Zoning of Waihi School at 611 Temuka-Orari Highway and of the adjoining site to the north (referred to as the Rolleston Site) and sought a Special Purpose (School) Zone or alternatively a precinct or specific control area in the GRUZ for the Waihi School and Rolleston sites. Mr Maclennan, having received the further information he requested from the submitter, recommended that a new 'Waihi School Precinct' be included in the Proposed Plan comprising a new policy, and an additional rule, amended planning maps to reflect the Precinct, and an additional reference to the Precinct within SCHED16 of the Proposed Plan.[174] We heard from Ms Gallagher, representing Waihi School Trust Board (WSTB), at the hearing, who confirmed that the recommended 'PREC8-Waihi School Precinct' and the associated provisions are acceptable.[175] Having considered the submission and evidence, we are satisfied that the recommended amendments to the Proposed Plan are appropriate, and we agree the Precinct is an efficient and effective method of achieving GRUZ-O1 and will ensure that the relevant character and qualities of the GRUZ set out in GRUZ-O2 will be maintained.

Fonterra – Clandeboye Site[176]

[209] Fonterra own and operate the Clandeboye manufacturing site (Clandeboye site) located near Temuka. In evidence, Ms Tait, the planning witness for Fonterra described the Clandeboye site and provided a map showing the extent of the site, which includes the proposed General Industrial Zone (GIZ) and a small area of rural land.[177] For the purposes of this section of our decision we adopt that description of the site.

[174] Andrew Maclennan, s42A Report, 19 June 2024, Para 13.1.5 - 13.1.28
[175] Penelope Gallagher, Statement of Evidence, 5 July 2024, Para 3.
[176] As reflected in Appendix 3.
[177] Suzannah Tait, Statement of Evidence for Fonterra, 5 July 2024, sections 5.1 and 5.2

[210] The Clandeboye site is Fonterra's key asset within the Timaru District. The site processes up to 13 million litres of milk per day and is one of Fonterra's largest manufacturing sites, employing over 1000 staff. Fonterra is concerned that the proposed GIZ does not adequately provide for the unique characteristics of the Clandeboye site. Fonterra considers that the provisions are unsuitable for the site and community needs. The submission initially requested amendments to introduce a new chapter for a "Special Purpose Zone - Strategic Rural Industry" (SPZ-SRI) tailored to the Clandeboye site which would have wider application but emphasised the responsibility of individual sites to demonstrate the need or benefit of the proposed zone.

[211] The submission included proposed drafting for the SPZ-SRI which includes separate objectives, policies, rules, and standards for the zone. The proposed provisions enable the continued operation and development of strategic rural industry activities and ancillary activities while also ensuring that strategic rural industrial activities to operate without being compromised by reverse sensitivity. The submitter also seeks the introduction of a new definition of "Strategic rural industry activities" as follows:

> Strategic rural industry activities means: any activity that is associated with the processing, testing, storage, handling, packaging or distribution of products manufactured at sites in the Special Purpose Zone - Strategic Rural Industry.

[212] Prior to the hearing, and in the evidence and legal submissions provided by Fonterra, the rezoning request was significantly refined to only relate to the operational needs of the Clandeboye site. Instead of a broad strategic rural industry zone framework, the submitter requested an activity specific Special Purpose Zone for the Clandeboye Dairy Manufacturing Site (CDMS).

[213] Clandeboye site is surrounded by rural land, and Fonterra seeks, amongst other things, a specific policy protecting the site from reverse sensitivity effects. They also request a setback of 500m from farms irrigating waste from the Clandeboye plant. The submitter also proposes a noise boundary surrounding the site that will trigger insulation requirements for sensitive activities that might seek to establish in close proximity to the plant.

[214] Fonterra was represented by legal counsel, Mr Ben Williams, at the hearing who called a range of expert and corporate evidence to support the submission:

(a) Ms Suzanne O'Rourke for the company;

(b) Mr Ross Burdett for the site;

(c) Mr Mike Copeland in relation to economics;

(d) Mr Richard Chilton in relation to air quality;

(e) Mr Paul Smith on landscape and visual matters;

(f) Mr Rob Hay in relation to noise;

(g) Mr Dave Smith in relation to traffic;

(h) Ms Susannah Tait in relation to planning.

[215] The Panel accepts Fonterra's technical expert evidence, noting that evidence was not challenged by any other submitter, nor the Council. The issue is the identification of the most appropriate planning framework to provide for the activity in its current location. We have focused our consideration on the differing planning opinions provided by Ms Tait for Fonterra, and Mr Maclennan for the Council. We have also considered the legal arguments of both Ms Vella and Mr Willams, particularly in relation to the interpretation and application of the higher order planning documents.

[216] The Panel undertook a site visit, to familiarise ourselves with the activities within the site and the surrounding environment.

[217] In terms of the scope of the amended relief, Mr Williams provided an analysis of the relief requested, compared with that originally proposed. We are satisfied that the amended relief sits fairly and reasonably between the notified Plan and the original relief requested and that no legal scope issues prevent the Panel from considering the evidence on the narrowed relief or considering whether that amendment is more appropriate.

[218] In order to evaluate the different options, we first considered the higher order planning framework, then evaluated the proposed zone objectives, policies and rules within the framework required by s32/32AA of the Act.

Is it appropriate for Clandeboye to be provided for by way of a special purpose zone, a precinct, in the form of a special overlay or through the GIZ rules?

[219] Clause 8 of the National Planning Standards set out the criteria for a special purpose zone to be established. Clause 8(3) provides:

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

[220] Mr Williams submitted that 'Impractical' does not have the same meaning as 'impossible'. Although not defined by the NPS itself, 'impractical' has the dictionary meaning of "not effective or reasonable".[178] He submitted that as a matter of principle, the RMA's sustainable management purpose is also of relevance to establishing the content of the Proposed Plan. Therefore, it is not necessary to show that the site is not capable of being managed through another zone or through a combination of spatial layers (i.e., a precinct). What matters is whether the framework is an effective means of managing the natural and physical resources at the Clandeboye Site.

[178] Legal submissions on behalf of Fonterra, at [37]-[38], 12 July 2024

[221] The Panel accepts the evidence that Clandeboye factory is significant to the District and Region, and makes a significant contribution to the national economy, thereby meeting the first test.

[222] We then approached the issue of the most appropriate method (zone), firstly by considering the notified zone, to test whether it is impractical to provide for Clandeboye through the proposed zone, before then considering whether it is impractical to provide for Clandeboye with a precinct approach. It is only then we can consider the alternative of a special purpose zone.

[223] Before undertaking our evaluation, we note that a small area of land at 37 Rolleston Road and 2-10 Kotuku Place is rural land containing highly productive soils. We were told in evidence that this land was needed to provide for a proposed Biomass Project and related infrastructure, which at the time of the hearing was said to be expected to take place mid-2025.[179] Clause 3.6(4) of the NPS-HPL provides a limited pathway for the rezoning of Rural Land, otherwise prevented under the NPS-HPL.[180] In accordance with clause 3.6.4 (a) of the NPS-HPL, Fonterra argued that although the potential use of the land differed from the 'housing' or 'business' land use that might more commonly be expected to be subject to the clause, in this case there were obvious limits on where the Biomass plant could practically be located. It needed to be next to the existing site. Fonterra acknowledged that the proposal could be pursued by resource consent. They had already discounted the prospect of developing the Biomass plant on the GIZ zoned land due to special and operational constraints.

[224] Mr Williams also referred to the requirements of clause 3.11 of the NPS-HPL with regard to providing for existing use rights. We have not found it necessary to rely on clause 3.11 or make any finding on the scope of existing uses in this context. We consider however, that a sensible application of clause 3.6(4) is that the rezoning of a small area of land adjacent to the GIZ, where it is required for the Biomass plant, falls within the enablement of business land, because there is no practical alternative location for the activity, and business development capacity for the proposed Biomass plant is not available elsewhere. We accept that it is more efficient and effective than relying on resource consents for use of the Rural Zone in this instance. We consider that whatever the rezoning option is, appropriate rules can be drafted so that the land is used in conjunction with the Clandeboye site.

[225] Returning to the issue of whether the GIZ zone, with or without a precinct is 'impractical' we have considered the following evidence:

(a) The proposed GIZ zone is largely a 'roll over' of the ODP Industrial H zone. Clandeboye has operated within that framework since 1995.

[179] Ross Burdett, Statement of Evidence, 5 July 2024 at 29

[180] See Parts 1 and 7 of the Decision for a discussion on the Government's most recent suite of national policy statement changes relating to HPL and the steps we undertook to seek the views of Council and submitters in response to those changes.

(b) The site has undergone regular change and although Ms O'Rouke was concerned about the number of resource consents required for the site, these were mostly regional consents, rather than new land use consents.[181]

[226] Ms O'Rouke gave examples of rules in the Industrial H zone which were not appropriate or a good fit with the nature of the site's activities, for examples rules relating to landscaping requirements, temporary buildings, and the noise requirements (covered by an existing resource consent). She said some requirements had aspects which were no longer relevant due to changes in land use surrounding the site. Ms O'Rouke preferred a Special Purpose Zone and did not comment on the use of overlays or precincts from an operational perspective.

[227] Mr Burdett, the Site Operations Manager, provided more details of the nature of the resource consenting burden on Fonterra. Mr Burdett spoke of the positive relationship that Fonterra had with the local community, although the company had not shared with the local community its intention to seek a Special Purpose Zone through the Proposed Plan process.

[228] Ms Tait considered that the status quo roll over approach to zoning was impractical given the complexities of the operational requirements of the site.[182] We record here that although initially Mr Maclennan considered the GIZ zoning to be appropriate, he changed his view to accept that there could be improvements to the zone rules to better meet the needs of the site. To that end he preferred the use of a precinct. Ms Tait's preference was for the Special Purpose Zoning. Mr Maclennan and Ms Tait continued to discuss their differences after the hearing and reached agreement on the planning framework that could apply, whether that be by way of Mr Maclennan's precinct or Ms Taits Special Purpose Zone. They produced a joint witness statement on 2 October 2024. The main differences between their reasoning was summarised as follows:[183]

> 3. Appropriate planning mechanism for the CDMS
>
> 3.1 The experts do not agree on the appropriate planning mechanism to embed the CDMS provisions in the PDP.
>
> 3.2 Mr Maclennan considers the activities on the site are industrial in nature and are not sufficiently different from the provisions of the GIZ that warrants a special purpose zone. He considers embedding the precinct within the GIZ chapter allows the bespoke requirements of the CDMS to be incorporated into the GIZ, while retaining the notified structure of the PDP. He considers the precinct option removes the need to duplicate the policies of the GIZ related to "offence trade" and "other activities". In addition, he considers the GIZ objectives, which outline the purpose, character, qualities, use, and development of the zone1 , provide valuable context to assist plan users in understanding the nature of the area.

[181] The site is currently governed by 18 resource consents issued by the Council. There are a further 35 resource consents (or certificates of compliance) issued by ECan. In total, the site is subject to 53 resource consents.
[182] Susannah Tait, Statement of Evidence, 5 July 2024, Para 6.7.8-6.7.21.
[183] Joint Witness Statement, Maclennan and Tait, 2 October 2024 at section 3 and 4.

3.3 Finally, as noted in paragraph 13.2.9 of his s42A report the National Planning Standards state that:

"3. An additional special purpose zone must only be created when the proposed land use activities or anticipated outcomes of the additional zone meet all of the following criteria:

a) are significant to the district, region, or country

b) are impractical to be managed through another zone

c) are impractical to be managed through a combination of spatial layers"

3.4 While he appreciates a zone creates a simpler planning framework that applies to the CDMS, Mr Maclennan retains the view that it is not impractical to manage the CDMS through the GIZ provisions. Given this, his preference is the precinct option. The provisions, articulated as a precinct within the GIZ, are set out in Attachment A.

3.5 Ms Tait considers that the use of a Special Purpose Zone is still the most appropriate method for achieving the purpose of the RMA. The reasoning for this is clearly set out in her evidence in chief (dated 5 July 2024) and her summary statement (dated 23 July 2024). The provisions, articulated as a zone, are set out in Attachment B. It is noted that as a package of zone provisions, two additional policies have been included (that did not form part of the original zone package) to address offensive trades and 'other' activities.

4 S32AA

4.1 Ms Tait, within Appendix D of her evidence, has provided a section 32AA assessment of the provisions submitted with her evidence. The experts consider that this assessment is largely still relevant for the agreed provisions (whether adopted as zone or precinct provisions). As the cost/benefits and efficiency and effectiveness of both options are similar.

4.2 Ms Tait retains the view that the special purpose zone is the most efficient and effective method of achieving the objectives and thereby Part 2 of the Act, as set out in Appendix D of her evidence.

4.3 Mr Maclennan is of the view that the precinct provisions are the most efficient and effective method of achieving the objectives for the reasons set out in paragraphs 3.2 to 3.5 above.

[229] The Panel has considered the respective experts s32AA evaluation and note that the differences in efficiencies and effectiveness are finely balanced. We note however, that before the s32AA evaluation is undertaken the Panel must give effect to the NPS, which is directive as to the structure of the plan. On that basis, we do not find on the evidence that it is 'impractical' to provide for the Clandeboye dairy plant and its associated activities by way of a precinct, as required by clause 8(3) (b) and (c) of the National Planning Standard. We agree with Mr Maclennan that although the activity has some site-specific constraints that differentiate it from other industrial activities, it is still an industrial activity. Therefore, it can be accommodated within the GIZ with an overlay, for the reasons given by Mr Maclennan. We

addressed the issue of whether it is appropriate to provide for a noise insulation requirement for sensitive activities in the adjoining Rural Zone and setbacks from the disposal of dairy factory waste on the rural land surrounding the plant, following our consideration of evidence in Hearing F, and these issues are addressed in Part 7 of the Report.

[230] For completeness, for the reasons set out in Mr Maclennan's Final Reply, we also find it appropriate that 37 Rolleston Road, 2 and 10 Kotuku Place be rezoned from GRUZ to GIZ and included within the proposed Clandeboye Dairy Manufacturing Precinct as set out within the JWS (now described as PREC8).[184]

[231] In terms of specific provisions, we have carefully considered the suite of recommended amendments to achieve the Clandeboye Dairy Manufacturing Precinct as set out in the final s42A Reply Reports within the GIZ and find these to be appropriate. We further accept Mr Maclennan's recommendation where he removes (as a consequential amendment) the Height Specific Control Area from the area covered by the Clandeboye Dairy Manufacturing Precinct Building Control Plan (BCP). This is because the site-specific height controls in the Clandeboye BCP supersede those in the notified Plan Height Specific Control Area.[185]

[232] We did not find it necessary or appropriate to include a definition of 'strategic rural industry' in light of the incorporation of the new precinct.

Woodbury

[233] Earl and Lucia [13.1] consider the Rural Lifestyle Zone at Woodbury should be extended to include 42 Burdon Road, Woodbury given it is small in size (3.5ha) and adjoins the Rural Lifestyle Zone. They also note that it is outside the water protection area. Mr Maclennan agreed with the submitter and recommended that the site be rezoned from GRUZ to RLZ.[186] However, he did not consider an amendment to RLZ-R8 was required. We accept Mr Maclennan's analysis and agree that the 3.5ha site adjoining the existing RLZ better fits with the character of the RLZ.[187]

2.15.2 Decision

[234] We adopt Mr Maclennan's analysis and recommendations on rezoning requests, including Attachment A to the JWS in relation to the Clandeboye site, and the amendments are set out in **Appendix 2 and Appendix 3**.

[235] In terms of s32AA, we adopt Mr Maclennan's evaluation in support of the changes made, including the additional s32AA evaluation for the Clandeboye site as set out in the Final Reply.[188] We are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

[184] Andrew Maclennan, s42A Final Reply Report, 4 August 2025, Para 29.
[185] Andrew Maclennan, s42A Final Reply, 4 August 2025.
[186] Andrew Maclennan, s42A Report, 19 June 2024, Para 13.4.12.
[187] Andrew Maclennan, s42A Report, 19 June 2024, Para 13.4.6.
[188] Andrew Maclennan, s42A Final Reply, 4 August 2025, Para 32-35.

3 URBAN ZONES

3.1 BROAD SUBMISSIONS

3.1.1 Assessment

[236] Six submitters raised matters relevant to several of the Residential Zones (RESZ) and Commercial and Mixed Use Zones (CMUZ) Chapters but that relate to the same underlying issue, as summarised by the s42A author, Ms White.[189] We accept Ms White's analysis and recommendations in response to these submissions and further find the amendments to GRZ-S5.1 and MRZ-S5 in response to the submission from ECan [183.1] to be appropriate.[190] We note that ECan tabled a letter[191] signalling acceptance of the s42A recommendations, and we received no other evidence to the contrary.

[237] We note that in subsequent sections of this Decision we find specific amendments to provisions to be appropriate that may, to some extent, address the broader concerns expressed by these submitters. We note that we received no evidence from Woolworths in response to Ms White's recommendation.

3.1.2 Decision

[238] We adopt Ms White's analysis and recommendations on these broad submission points. The amendments to GRZ-S5 and MRZ-S5 are set out in **Appendix 3**.

[239] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.2 GENERAL RESIDENTIAL ZONE - OBJECTIVES AND POLICIES

3.2.1 Assessment

GRZ-O1 and GRZ-O2

[240] Broughs Gully [167.18, 167.19] supported both GRZ-O1 and GRZ-O2. Dept. Corrections [239.18] supported GRZ-O1. Kāinga Ora [229.62] supported the intent of GRZ-O1 but suggests minor amendments that are intended to reinforce the primary purpose of the zone as a residential environment.

[241] Kāinga Ora [229.63] requested that clauses 3 and 4 of GRZ-O2 are deleted, which relate to provision for onsite outdoor living space and ample space around buildings,

[242] Ms White agreed with the minor amendment to GRZ-O1 to refer to residential activities being provided "via" a mix of housing typologies. However, she did not agree with the other changes, because the use of "enabling", an action, is more appropriately located at the policy level. At the objective level she considered it clear that residential activities are to take primacy,

[189] Liz White, s42A Report, 18 June 2024, Para 6.3.3-6.3.8.
[190] Liz White, s42A Report, 18 June 2024, Para 6.3.15.
[191] Deidre Francis, Tabled Letter, 1 July 2024.

with other activities anticipated where both (a) complementary to the primary residential purposes and (b) support the wellbeing of residents. She did not consider an additional clause referring to a "mix of housing typologies" is required in GRZ-O2, because this is included in GRZ-O1, and clause 2 of GRZ-O2 also refers to the types of built form anticipated. Similarly, she did not agree with referring to sufficient levels of landscaping in a new clause, because clause 5 already refers to sites incorporating plantings. She considered it appropriate to delete reference to provision of ample space around buildings, because while it is an aspect of built form that is anticipated in this particular residential zone, this is more an outcome that arises from other factors, namely low to moderate building site coverage (addressed in clause 1); incorporation of plantings (clause 5); provision of sunlight access (clause 6) and privacy between properties (clause 7). Ms White agreed that the wording of clause 4 could be improved by referring to "sufficient" outdoor living space.

[243] Mr Joshua Neville, the Team Leader for Development and Planning for the South Island at Kāinga Ora, confirmed he agreed with Ms White's recommendations in relation to the objectives.[192]

[244] Ms White recommended amendments to the objectives to reflect her analysis, and these are incorporated in the Final Reply. We agree with Ms White's analysis.

GRZ-P1

[245] In regard to GRZ-P1, Kāinga Ora [229.64] sought that clause 2.b. be deleted, which refers to outdoor living areas providing ample opportunity for outdoor living, tree and garden planting; and clause 4 is amended to refer to ample "*landscaping and planting*" around buildings, to "*provide residential and streetscape amenity, and privacy to neighbouring dwellings*", rather than maintaining the character and qualities of the zone. The changes sought are to more practically provide for greater residential density opportunities, while also providing for important values for sites and neighbours. Ms White initially favoured reference to maintaining the character and qualities of the zone as they are clearly set out in GRZ-O2. However, based on Mr Neville's evidence on behalf of Kāinga Ora[193], she reconsidered her position and recommended amending GRZ-P1 to refer to the character and qualities 'anticipated' in the zone, rather than maintaining existing character and qualities.[194] We agree this change is appropriate for the reasons given by Ms White.

GRZ-P4 and GRZ-P5

[246] Transpower [159.92] sought that GRZ-P4 is amended to refer in clause 1 to operational needs as well as functional needs; clause 2 is extended to direct that effects are avoided or minimised "*to the extent practicable*"; and clause 3 amended to exempt its application to regionally significant infrastructure. As summarised in the s42A Report, these changes are sought to reflect that the technical needs of the National Grid, mean that its adverse effects cannot always be minimised, and to ensure a pathway is provided at a policy level for the

[192] Joshua Neville, Summary Statement of Evidence, 24 July 2024.
[193] Joshua Neville, Statement of Evidence, 8 July 2024, Para 5.2-5.5.
[194] Liz White, s42A Summary Report, Para 9(c).

operation, maintenance, upgrade and development of the National Grid in all zones.[195] Transpower [159.93] also sought an amendment to GRZ-P5 to reflect 'consistency' with GRZ-P4 rather than 'compliance with' GRZ-P5.

[247] Ms White agreed with the amendments sought by Transpower to clause 1 of GRZ-P4, however, she disagreed with the changes sought to clauses 2 and 3 of GRZ-P4. In her evidence, Ms McLeod for Transpower, did not agree with the conclusion that the EI policies 'apply instead' or 'take precedence' over the area-specific policies. She concluded there is a tension or conflict that needs to be resolved in order to give effect to the NPS-ET by either amending the relevant area-specific policies or by making it explicit that the EI policies prevail over the area-specific zone provisions.[196] She put forward three alternative drafting approaches to resolve this tension in a manner that in her view give effect to the NPS-ET.[197]

[248] In her Interim Reply[198], Ms White stated that:

> Mr MacLennan, Ms Hollier and I agree that there is a lack of direction in the PDP regarding the way that infrastructure is addressed at a policy level in the area-wide chapters, and agree that there is a need to address potential tension or conflict between the policies in the Energy and Infrastructure and area-wide chapters. We consider that providing a policy pathway is justified for infrastructure, in order to assist in the achievement of EI-O1, and reflects that EI-P2 already provides policy direction for managing adverse effects of infrastructure. This includes controlling the height, bulk and location of other infrastructure, consistent with the role, function, character and identified qualities of the underlying zone; minimising adverse visual effects on the environment through landscaping and/or the use of recessive colours and finishes; and requiring other infrastructure to adopt sensitive design to integrate within the site, existing built form and/or landform and to maintain the character and qualities of the surrounding area. As such we consider it appropriate for the policies in the Energy and Infrastructure Chapter to prevail over the zone chapters. We consider that it is best to address this within the Energy and Infrastructure Chapter, rather than via amending the policies across multiple zone chapters, so that the policy pathway is limited to infrastructure.
>
> Consistent with Ms McLeod's second option, we recommend that the following is added to the Introduction of the Energy and Infrastructure Chapter. For completeness we note that we have discussed and agreed this with Mr Willis, who is the s42A report author for that chapter:
>
> > In the case of conflict with any other provision in the District Plan, the NESETA and NESTF prevail.
> >
> > The policies in this chapter take precedence over policies in any Zone Chapter of Part 3 – Area Specific Matters - Zone Chapters.
>
> In terms of s32AA, I consider that clarifying the relationship between the Energy and Infrastructure Chapter and the Zone Chapter policies will result in a more

[195] Liz White, s42A Report, 18 June 2024, Para 6.4.7.
[196] Ainsley McLeod, Statement of Evidence, 5 July 2024, Para 7.
[197] Ainsley McLeod, Statement of Evidence, 5 July 2024, Para 40.
[198] Ms White, Hearing B: Interim Reply, 19 September 2024.

efficient administration of the PDP, and that applying precedence to the Energy and Infrastructure Chapter will be more effective at achieving EI-O1.

[249] Having considered the submission and evidence presented to us on Transpower's submission, we accept Ms White's recommendation and analysis and agree that the proposed amendment to the Introduction of the Energy and Infrastructure Chapter would assist in the efficient administration of the Proposed Plan. As we have discussed in Part 1 of the Report, we prefer the reference to provisions applying 'instead of'; and as addressed in our decision on the EI Chapter[199] we have inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the 'weight' to be given to provisions in the event of conflict is clear.

[250] Overall, we accept Ms White's analysis and recommendations in response to submissions on GRZ-O1, GRZ-O2, GRZ-P1, GRZ-P2, GRZ-P4 and GRZ-P5 and find the recommended amendments to be appropriate. We note we received no evidence to the contrary.

3.2.2 Decision

[251] We adopt Ms White's analysis and recommendations on GRZ-O1, GRZ-O2, GRZ-P1, GRZ-P2, GRZ-P4 and GRZ-P5. The amendments are set out in **Appendix 3**.

[252] In terms of s32AA, we are satisfied that the original s32 evaluation continues to apply.

3.3 GENERAL RESIDENTIAL ZONE - RETIREMENT VILLAGES

3.3.1 Assessment

[253] RVA [230.1, 230.2, 230.22] considers that the Proposed Plan provisions should provide a consistent, targeted approach to planning for retirement villages and recognise that aspects of retirement village activities differ from typical residential activities. They sought that an entirely new suite of provisions be provided in all zones that provides for residential activities.

[254] RVA tabled a letter[200] confirming its support for Ms White's recommendations and associated amendments to:

(a) Add express recognition of the functional and operational needs of retirement villages in GRZ-P3 and MRZ-P5 and the matters of discretion applying to GRZ-R11 and MRZ-R12.

(b) Amend GRZ-P3 and MRZ-P5 and the matters of discretion applying to GRZ-R11 and MRZ-R12 to focus resource consent assessments on the impacts on the "anticipated" character, qualities and amenity values of the surrounding area, not the "current" environment.

[199] Panel Decision Report, Part 5, Section 2.16.1
[200] John Collyns, RVA Tabled Letter 5 July 2024, Para 3-4.

(c) Amend MRZ-O2 to acknowledge the zone comprises “a predominance of medium density housing, in a range of housing typologies”.

[255] RVA also recorded its support for a Restricted Discretionary Activity status for retirement villages in the GRZ and MRZ, provided the assessment matters requested in the submission were accepted.

[256] RVA continued to advocate for a separate retirement village framework in the plan but emphasised its position with regard to public and limited notification, a new retirement village policy, and the inclusion ‘the benefits of retirement villages’ as a further matter of discretion.

[257] On the issue of notification, RVA requested that public notification is precluded and limited notification is also precluded where all of the relevant built form standards are met. RVA considered that Ms White had misunderstood its request. They confirmed that they accepted limited notification in the context of a breach of built form standards. The submitter further argued that the situation was analogous to the outcome of the Enabling Housing Act, which although not mandatory in the Timaru context, was a relevant mechanism to enable housing choice. RVA submitted that ‘Proportionate notification will support Timaru’s growth and will benefit housing supply”. In her Interim Reply, Ms White acknowledged the error and recommended that notification is not required for retirement villages where they meet built form standards (noting, with respect to MRZ-R12, a consequential change is recommended to apply the built form standards to MRZ-R12). In terms of s32AA, she considered that this is a more efficient way to achieve GRZ-O1 and MRZ-O1, while still being effective at achieving GRZ-O2 and MRZ-O2.

[258] The RVA submission supported the policies to “recognise the benefits of, and provide for, retirement villages…” in the Proposed Plan (GRZ-P3 and MRZ-P5), subject to some comments on the remainder of those policies. Ms White recommends amending those policies to read: “Recognise the benefits of and provide for retirement villages in providing a diverse range of housing and care options for older persons, and provide for them, where…”.’ The RVA argued that the s42A author’s recommendations were out of scope on the basis they narrowed the policies from that notified, in a way not requested in submissions.

[259] RVA also requested express inclusion of the benefits of retirement villages as a matter of discretion on the basis that, in its absence there was no ability for a decision maker to consider the positive benefits.

[260] Ms White did not support the alternative retirement village specific framework for the reasons set out in her s42A Report. Instead she recommended changes to the notified objectives, policies, and rules to address the issue raised by submitters. In general terms the Panel agrees with RVA that it is appropriate to provide for retirement villages as a typology of housing choice for an aging population as a matter that gives effect to the NPS-UD, in particular Objective 1. It is not necessary to provide a specific suite of provisions for retirement villages, but rather it is appropriate to ensure that the policy and rule framework appropriately recognise the activity across a range of urban zones.

[261] On that basis we consider that Ms White's recommended changes strike the appropriate balance between recognising the importance of retirement villages whilst retaining consistent drafting and structural elements of the plan. Her analysis is supported by a s32AA evaluation commensurate with the changes proposed. RVA did not appear at the hearing or provide any 32AA evaluation in support of their bespoke planning framework.

[262] We note that Kāinga Ora reviewed the s42A report and expressed general acceptance of the recommendations made by Ms White and did not provide us with any further evidence on its submission points.[201]

3.3.2 Decision

[263] We adopt Ms White's analysis and recommendations regarding retirement villages in her Interim Reply.[202] The amendments are set out in **Appendix 3.**

[264] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.4 GENERAL RESIDENTIAL ZONE – RULES

3.4.1 Assessment

[265] We accept Ms White's analysis and recommendations on the GRZ Rules[203] in response to submissions from Woolworths [242.18, 242.19] and MFL [60.35] and we find the recommended amendment to GRZ-R18[204] and the deletion of GRZ-R19 to be appropriate. In reaching this view, we note we received no evidence to the contrary.

[266] Given our finding below, we further note that we have accepted Ms White's recommended amendments to GRZ-R10 (fencing rule).

3.4.2 Decision

[267] We adopt Ms White's analysis and recommendations on the Residential Zone Rules. The amendments are set out in **Appendix 3.**

[268] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.5 GENERAL RESIDENTIAL ZONE – STANDARDS

3.5.1 Assessment

[269] GRZ-S9 – Mr Bruce Speirs [66.33 and 66.38], a registered surveyor made a number of submissions in relation to definitions, rules, and standards in the plan that he considered were unworkable, uncertain, or unnecessary. In relation to GRZ-S8 and MRZ–S6 he

[201] Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.
[202] Liz White, Hearing B Interim Reply, 19 September 2024.
[203] Liz White, s42A Report, 18 June 2024, Para 6.6.10-6.6.16.
[204] Now renumbered GRZ-R19 in the Decision Version of the provisions.

requested that the landscaping requirements should not be limited to grass and shrubs and should enable plantings in pots and stone/gravel gardens. He also requested that fencing requirements adjacent to reserves take into consideration a need for privacy and security for residents. Ms White considered the submissions and concluded that the landscaping standards are commonly applied in District Plans and the standard is necessary to assist in the implementation of MRZ-P1.3 and achievement of MRZ-O2.[205] In relation to the fencing requirements she considered that the standard provides an appropriate balance between privacy/security of residents and the benefits of passive surveillance of reserve areas.[206] The Panel agrees with Ms White that the standards as proposed are appropriate and implement the stated objectives and policies for the GRZ and MRZ.

[270] Kāinga Ora [229.78] sought that the height in relation to boundary standard [GRZ-S2] is amended to exempt it from applying where two buildings share a common wall along the boundary of a site. Ms White did not consider this amendment was required for the reason that the exemption for common walls is set out in APP8-Recession Planes, which is referenced in the Standard. We agree, noting that Kāinga Ora reviewed the s42A report and expressed general acceptance of the recommendation made by Ms White, and did not provide us with any further evidence on this matter.[207]

[271] Kāinga Ora [229.82] also sought that GRZ-S8 be amended to reduce the required space (where a habitable room is located at ground floor level) from 50m^2 to 30m^2, with the minimum dimension reduced from 5m to 4m, and to provide for less open space in the form of a balcony/patio or terrace where a residential unit is located entirely above ground floor level. In response to Ms White's recommendation to accept the submission in part, Mr Neville put forward alternative relief to reduce the minimum outdoor living space be instead amending the matter of discretion to include reference to sufficient outdoor living space that reflects the anticipated occupancy of the associated dwelling.[208] Ms White subsequently accepted the alternative relief and accordingly recommended an amendment to this effect.[209]

[272] Overall, we accept Ms White's analysis and recommendations on the GRZ Standards[210] in response to submissions (with the exception of those submissions made by FENZ relating to emergency services facilities which are addressed separately below) and we find the recommended amendments to GRZ-R12 PER-1 (to delete reference to GRZ-S9), GRZ-S3, GRZ-S6, GRZ-S8, and GRZ-S9 to be appropriate.

3.5.2 Decision

[273] We adopt Ms White's analysis and recommendations on the GRZ Standards. The amendments are set out in **Appendix 3**.

[274] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

[205] Liz White, s42A Report, Para 6.11.19.
[206] Liz White, Section 42A Report, Para 6.11.6-6.11.14
[207] Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.
[208] Joshua Neville, Statement of Evidence, 24 July 2024, Para 5.6-5.9.
[209] Liz White, s42A Summary: Hearing B, 17 July 2024, Para 9(d).
[210] Liz White, s42A Report, 18 June 2024, Para 6.7.11-6.7.18.

3.6 MEDIUM DENSITY RESIDENTIAL ZONE – OBJECTIVES AND POLICIES

3.6.1 Assessment

[275] Kāinga Ora [229.88] sought that clause 1 of MRZ-O2 is amended to refer to the zone as comprising "predominantly medium density housing via a mix of typologies" and deletion of the reference to "upgraded" streetscapes in clause 5. They consider that these better reinforce the purpose of the zone, being a medium density residential zone. Mr Neville, in his evidence stated he disagreed with Ms White's recommendations in response to its submission[211], however at the hearing he confirmed he was no longer pursuing this matter. Kāinga Ora [229.89] also sought minor changes to MRZ-P1.

[276] Given our previous findings relating to Transpower's submission in relation to GRZ-P4, we are satisfied that Transpower's submissions on MRZ-P6 and MRZ-P7 are appropriately resolved.

[277] We generally accept Ms White's analysis and recommendations on the MRZ Objectives and Policies in response to submissions and we find the recommended amendments to MRZ-O2, MRZ-P1, MRZ-P6 and MRZ-P7 to be appropriate. We did not receive any other evidence to the contrary.

[278] Our assessment and decision on new policy PREC2-P1 relating to the Bidwill Hospital Precinct is set out in the Special Purpose Hospital Zone section of this Report below.

3.6.2 Decision

[279] We adopt Ms White's analysis and recommendations on the MRZ Objectives and Policies. The amendments are set out in **Appendix 3**.

[280] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.7 MEDIUM DENSITY RESIDENTIAL ZONE - RULES

3.7.1 Assessment

[281] Kāinga Ora [229.102] sought that MRZ-R11 (relating to convenience stores) is amended so that PER-3 requires compliance with the "applicable" standards of the chapter, and also refer to District-Wide rules. On this basis it sought that an additional standard is added to the rule requiring that the activity does not involve an offensive trade or hazardous facility. Kāinga Ora [229.104] further sought the addition of a restricted discretionary rule for residential developments of four or more residential units in the MRZ, in order to enable greater residential density and development to be accommodated across Timaru where appropriate, to meet much needed housing demand. Ms White did not agree with the relief sought by Kāinga Ora and recommended the submission points be rejected. We agree, noting that Kāinga Ora reviewed the s42A report and expressed general acceptance of the

[211] Joshua Neville, Statement of Evidence, 8 July 2024, Para 5.1.

recommendations made by Ms White, and did not provide us with any further evidence on these matters.[212]

[282] We accept Ms White's analysis and recommendations on the MRZ Rules in response to submissions and we find the recommended amendments to MRZ-R4, MRZ-R5 and MRZ-R17[213] to be appropriate. Our assessment and decision on new rule MRZ-R13 relating to health care facilities is set out in the Special Purpose Hospital Zone section of this Report below.

3.7.2 Decision

[283] We adopt Ms White's analysis and recommendations on the MRZ Rules. The amendments are set out in **Appendix 3**.

[284] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.8 MEDIUM DENSITY RESIDENTIAL ZONE – STANDARDS

3.8.1 Assessment

[285] Six submitters[214] sought that MRZ-S10 which applies noise mitigation measures is deleted, stating that it is contrary to conditions granted in relation to a subdivision consent. Ms White agreed that it was appropriate to delete the standard, a position accepted by Mr Hole at the hearing where he confirmed acceptance of the s42A recommendations[215] on behalf of the six submitters (representing the Rooney Group Limited and others).

[286] RVA sought that the MRZ Chapter is amended to include those built form standards that are set out in Schedule 3A of the RMA (MDRS standards). This includes setbacks from boundaries [230.18]; outlook space requirements [230.19]; windows to street requirement [230.20] and minimum landscaping requirements [230.21]. It also includes amending MRZ-S1 (Height of buildings and structures) [230.14]; MRZ-S2 (Height in relation to boundary) [230.15]; MRZ-S3 (Outdoor living space) [230.16]; and MRZ-S5 (Building coverage) [230.17] to replicate that contained in the MDRS standards.

[287] We accept Ms White's analysis and recommendations on the MRZ Rules in response to submissions and we find the recommended amendments to MRZ-S1, MRZ-S3, MRZ-S6, MRZ-S10, and the new standard MRZ-SZ[216] (Setbacks) to be appropriate.

[212] Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.
[213] Now renumbered MRZ-R19 in the Decision Version of the provisions.
[214] Submitters Rooney Holdings [174.82], Rooney, GJH [191.82], Rooney Group [249.82], Rooney Farms [250.82], Rooney Earthmoving [251.82], and TDL [252.82].
[215] Nathan Hole, Statement of Evidence, 5 July 2024, Para 8.
[216] Now renumbered MRZ-S12 in the Decision Version of the provisions.

3.8.2 Decision

[288] We adopt Ms White's analysis and recommendations on the MRZ Standards. The amendments are set out in **Appendix 3**.

[289] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.9 FENCING RULE IN GRZ AND MRZ

3.9.1 Assessment

[290] We accept Ms White's analysis and recommendations on the fencing rules, and we find the recommended amendments to GRZ-R10 and MRZ-R10[217] to be appropriate. In reaching this view we note that Kāinga Ora reviewed the s42A report and expressed general acceptance of the recommendations made by Ms White[218], as did Mr Hole on behalf of the six submitters (representing the Rooney Group Limited and others).[219]

3.9.2 Decision

[291] We adopt Ms White's analysis and recommendations on the fencing rules GRZ-R10 and MRZ-R10. The amendments are set out in **Appendix 3**.

[292] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.10 SPECIAL PURPOSE HOSPITAL ZONE

3.10.1 Assessment

[293] Bidwill Trust [225.1] requested in its written submission that 53 Elizabeth Street is zoned "Special Purpose Hospital Zone" (HOSZ) and a new HOSZ Chapter be included in the Proposed Plan in order to ensure that hospital activities can continue to operate, develop and upgrade, in a way that avoids or mitigates adverse effects on the environment. The submission states that the zone framework would be focused on providing for hospital activities, including evolving demands, services and technological changes associated with the hospital facilities, while managing the adverse effects of these activities. Broadly speaking, this would include a permitted activity status for hospital activities, and a discretionary activity status for all other activities; and new, or expansion to existing built form being managed through built form standards. The submission states that hospital activities, including buildings have been established on the site for over a century, and note that these do not include 24-hour or emergency care facilities, and the adverse effects (such as noise and lighting emissions) that would otherwise arise from this. The purpose of the zone would be to enable the existing facilities to further develop in a manner which is compatible with the surrounding zone environment.

[217] Now renumbered MRZ-R11 in the Decision Version of the provisions.
[218] Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.
[219] Nathan Hole, Statement of Evidence, 5 July 2024, Para 8.

[294] The submitter considers the permitted activity status for existing hospitals is appropriate as the hospital is long established, has operated without complaint, is a sensitive activity similar to residential activities, does not include emergency service facilities and generally occurs during "normal working hours". In the alternative Bidwill Trust seeks that additional policies specific to the hospital be included in the MRZ Chapter, as well as a permitted activity rule for *existing hospitals [our emphasis]*, and a controlled activity "if compliance is not met", with matters of control replicating those used in relation to community facilities. The submitter notes that MRZ-R13 provides for community facilities as a restricted discretionary activity. They consider there is uncertainty arising from the definition of these referring to ''health", and whether or not this in turn links to the definition of 'health care facility' which does not include hospitals. A definition for 'hospital' has also been requested.

[295] In her s42A Report, Ms White did not support the establishment of a new Special Purpose Hospital Zone for the Bidwill hospital. She did however acknowledge the longstanding existence and importance of the Bidwill hospital and therefore recommended that a precinct would be a better method to recognise and provide for the hospital in its medium density residential setting.

[296] At the hearing, the submitter was represented by Mr Geddes, a planning consultant and the General Manager of the Trust, Mrs Rogers. Mr Geddes presented a case for the Trust, outlining the history of the use of the site and rationale for the request for a Special Purpose Zone or specific provision for the hospital in the MRZ. Mr Geddes conceded that notwithstanding the importance of the site, it likely did not meet the requirements of NPS 3.4 b and c for a Special Purpose Zone, therefore the primary relief was 'abandoned'.[220]

[297] Mr Geddes disagreed with Ms White's proposed alternative Bidwill Hospital precinct in the MRZ with a specific policy and a permitted activity rule framework for healthcare facilities and a restricted discretionary activity rule for new buildings associated with healthcare facilities. He noted that there are rule requirements proposed for the permitted activity to exclude emergency care facilities along with hours of operation controls from 7.00a.m. to 7.00p.m. He considered that although the precinct was intended to capture Bidwill activities it did not provide for an expansion of the hospital to adjoining or adjacent sites, did not recognise the 24/7 nature of the hospital and that the RDA status was too onerous, and should be permitted. Mr Geddes outlined his recommended 'refined relief':

> a. Abandonment of the Bidwill Hospital Precinct as proposed in the s.42A report; and
>
> b. Introduction in the MRZ of a specific policy, based on the policy recommended in the s.42A report, but as amended below - Provide for the ongoing use and development of existing healthcare and associated facilities at ~~within the~~ Bidwill Hospital ~~Precinct~~, where the nature, scale and design of activities and buildings are consistent with the purpose, character and qualities of the surrounding residential area.
>
> c. Provide for the following new rule in the MRZ [a permitted activity rule for healthcare facilities and activities operated by Bidwill Trust Hospital or its

[220] Statement of Evidence, Mark Geddes, 5 July 2024, Para 15.

successor, excluding emergency care facilities and meeting MRZ standards 1, 2, 5,6,7 and 9]:

[298] Mr Geddes also offered an alternative which would limit the permitted activity rule to buildings less than 300m^2 GFA. Buildings exceeding 300m^2 GFA would be controlled activities with the addition of matters of control related to the extent to which the layout and design of buildings are consistent with MRZ-O2, landscaping and signage.

[299] We note that as proposed the Plan does not expressly provide for healthcare facilities as a separate activity in the MRZ. Community facilities are restricted discretionary activities, however, although the definition references land and buildings used by the community for amongst other purposes, health, it appears to be a different land use to a health care facility which is separately defined. As such a health care facility would be a fully discretionary activity under rule MRZ-R15[221]. In response to Ms White's recommendation to provide for healthcare facilities as a restricted discretionary activity Mr Geddes commented that:[222]

> A key issue with a restricted discretionary activity status for new health care facilities is that it presents a risk that a new building providing district, regional and nationally significant healthcare services may be refused resource consent based on amenity effects or other low level effects. *It would be non-sensical for an activity that has district, regional and national significance to be refused consent on the basis of such effects.* However, that could easily be the reality with a restricted discretionary activity status that includes the discretion to refuse consent on a wide array of matters. I consider that any actual or potential adverse effects of new healthcare activities is more effectively and efficiently addressed by standards. [italics Panel emphasis].

[300] Further he said:[223]

> As stated above, the BTH was established on the site in 1912 and therefore healthcare facilities have been an established and expected part of this environment for over a century. *To provide no assurance that such an established activity can continue to develop does not seem logical. It is also illogical to not recognise the significant community investment made in the facility and that any such facilities have to grow and develop overtime.*

[301] Mr Geddes had properly recorded his prior involvement in the development of the District Plan. He said that he:

> …led the Timaru District Plan Review from its inception through to the notification of the Draft District Plan in my former capacity as District Planning Manager at Timaru District Council. I was also heavily involved in the development of all the Proposed District Plan (PDP) chapters as a planning consultant. I am still involved in peer reviewing s.42A reports for the PDP but have not been involved in peer reviewing any of the s.42A reports in relation to the urban zones and therefore have no conflicts of interest on this matter.

[221] Now renumbered MRZ-R17 in the Decision Version of the provisions.
[222] Ibid at para 24
[223] Ibid at para 28

[302] The Panel was concerned at the criticism directed by Mr Geddes at the Proposed Plan that the use of a restricted discretionary activity in this context was 'non sensical'. The Panel questioned Mr Geddes about his involvement in presenting the plan to the Council for notification, in his capacity as Planning Manager at the time. He clarified that he was not the author of s32 evaluations and did not consider any conflict existed. The Panel records our discomfort with Mr Geddes' criticism given his role in the preparation of the Plan. We gave no weight to his criticism as being relevant to the submitters request and focused our evaluation on the evidence and legal issues involved.

[303] Mr Geddes provided a s32 evaluation of the submitters refined relief as part of his evidence. His evaluation related to the following options:

> 38. In the context of Section 32 of the RMA, there are two main options to address this matter, which are to either:
>
> a. Amend the PDP to enable new healthcare facilities on the site as a permitted activity.
>
> b. Require consent for new healthcare facilities as a restricted discretionary activity.
>
> 39. A Section 32 analysis of these options is provided below and demonstrates that enabling new healthcare facilities on the site as a permitted activity is a more effective and efficient option in achieving the MRZ objectives than requiring a restricted discretionary activity for new healthcare facilities [underlining Panel emphasis]

[304] During the hearing Ms Vella and Ms White raised a possible scope issue, as it appeared the submitter was seeking relief to enable healthcare facilities operated by Bidwill Trust or its successor anywhere in the MRZ. It was also unclear to the Panel as to whether the alternative relief was being pursued for the existing site (53 Elizabeth Street), for the site and adjacent properties (across the adjoining roads), or to the whole MRZ, provided that the submitter or its successor operated the facilities. We note Mr Geddes' s32 evaluation appeared to be for the 'site' as emphasised in the underlined quote above.

[305] The Panel asked Mr Geddes to consider the Council's legal submissions on the scope issue, and he indicated that he would like the opportunity for the Trust to seek legal advice. Mr Geddes provided the Panel with a legal opinion prepared by Cavell Leitch on behalf of the Trust.

[306] The legal opinion concluded that:[224]

> In our view, based on the discussion below, the Trust's submission does fairly and reasonably raise the issue of growth of the Hospital, both at its existing site and onto adjacent sites if the demand and opportunity for that is found to exist in the future. That view is based on:
>
> 3.1. An assessment of the whole of the relief sought in the submission:

[224] Legal opinion Cavell Leitch, 1 August 2024 at 3

3.2. The fact that the proposed new zone (now not pursued by the Trust) was to include policies to enable the "growth of the zone": and

3.3. The proposed changes to the Medium Density Zone (MRZ) policies includes a policy entitle future growth, which does not limit such growth to the existing site.

[307] The Panel accepts the legal opinion correctly outlines the legal principles for establishing issues of scope. Ms Vella also provided an analysis of scope in her Memorandum filed in response to the submitter's opinion.[225] On our reading of the written submission, the Trust's initial summary suggests providing for the hospital anywhere in the zone, however in the description of the relief in section 3 limits this to 'the inclusion of existing hospitals as a permitted activity…". The alternative is identified as being inferior to the preference for a Special Purpose Zone for the "BTH lands and facilities".

[308] The submission is not well expressed and contains no map of the 'site' or 'BTH lands and facilities.' The only geographical description is the streets for the boundaries of the existing hospital site. We think a reasonable interpretation of the submission is that it is seeking relief to support the existing hospital, in its current location and does not contemplate that the hospital could be expanded elsewhere in the zone. There is no express reference to expanding the rule framework to adjacent or adjoining sites, if that was the intention, that would have been an obvious request for relief. We disagree with the Trust's legal opinion that focuses on the reference 'development' as being determinative. Development can be enabled within the existing site and is not a signal that it is intended to occur off site.

[309] Notably Mr Geddes' evidence also seeks relief for 'the site', and a map is included in his evidence at Figure 1 and summary statement along with the street and legal description. It does not include adjacent sites or address impacts on other locations. His summary of the submission seeks to rezone the site or provisions in the MRZ that enabled "hospital buildings and activities…". The original submission referred to 'existing' hospitals. Mr Geddes' s32 evaluation signals a preference for "Amend the PDP to enable new healthcare facilities on the site as a permitted activity".

[310] Although caselaw encourages a generous interpretation of a submission rather than form over substance, we find the submission is not drafted clearly. We have asked ourselves whether would be submitters have given fair and reasonable notice of what is proposed in the submission, or has their right to participate been removed.[226] We find that it would not be apparent to adjoining land owners, or owners of residential properties elsewhere in the MRZ that the submitter was seeking a permitted activity status for hospital or healthcare facilities beyond the boundaries of the existing hospital site. The absence of a map which would have supported a clearer understanding if the intention was to provide for the zone or rule framework beyond the existing hospital did not assist the submitter's scope argument. We think it a considerable stretch to expect even a well-informed submitter to make the leap suggested by Mr Geddes or the Trust's legal opinion.

[225] Memorandum of Counsel for TDC, Scope of Bidwill submission 7 August 2024.
[226] Second Limb of Motor Machinists Test.

[311] We record that we asked Ms White and Mr Geddes to review the provisions to see if they could reach agreement on a set of provisions for the hospital, and the immediate environs to support the Panel consideration of options if we found there to have been scope, which they did and produced a JWS.[227]

[312] However, having reviewed the submission, the Trust's legal opinion, and the submitters evidence we have concluded that the submission only enables relief for the site and there is no scope to consider extending the rule framework beyond the existing site, through a precinct or through amendments to the rules to provide for hospitals generally.

[313] Even if we are wrong on our finding on scope, we record we did not have sufficient evidence to support a fulsome s32AA evaluation of an alternative that enabled the hospital or healthcare facilities to develop elsewhere in the MRZ as a permitted or controlled activity regardless of whether it was operated by the Bidwill Trust. Had there been scope to do so we would have accepted the JWS option as extending the precinct to the immediately adjacent properties as shown in the figure included in the JWS, as an appropriate outcome supported by the planners joint s32AA evaluation. Accordingly, we can only accept the submission in part, to the extent that a precinct is to apply over the Bidwill site as shown in Mr Geddes' Figure 1 to his evidence in chief, as recommended by Ms White, with the amendments to the provisions as agreed between Mr Geddes and Ms White in the JWS, noting that Ms White considered that the JWS amended provisions are also appropriate for the Bidwill site.

3.10.2 Decision

[314] We adopt Ms White's analysis and recommendations in her Interim Reply to include PREC2 with associated Policy PREC2-P1 and MRZ-R13 over the Bidwill Hospital site at 53 Elizabeth Street. The amendments are set out in **Appendix 2** and **Appendix 3**.

[315] In terms of s32AA, we adopt the evaluation by Ms White and Mr Geddes, contained in their JWS[228]. We are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.11 SPECIAL PURPOSE TERTIARY EDUCATION ZONE

3.11.1 Assessment

[316] We accept Ms White's analysis and recommendations in response to the submission from Te Pūkenga [215.2, 215.3] for the reasons set out in her s42A Report.[229] In reaching this view we note that Te Pūkenga tabled evidence which confirms its agreement with the recommendations to rezone the site at 32 Arthur Street to MUZ (rather than a Special Purpose Tertiary Education Zone) and the addition of a precinct PREC6 Tertiary Education along with all consequential changes to the MUZ policies and rules.[230] We are satisfied that the

[227] Liz White, Interim Reply, Appendix C JWS Geddes and White, 16 September 2024.
[228] Liz White, Interim Reply, Appendix C JWS Geddes and White, 16 September 2024
[229] Liz White, s42A Report, 18 June 2024, Para 6.13.6 - 6.13.12.
[230] Ryan Brosnahan, Statement of Evidence, 4 July 2024, Para 8-9.

submission from Te Pūkenga has been appropriately addressed, and we find the recommended amendments to be appropriate.

3.11.2 Decision

[317] We adopt Ms White's analysis and recommendations on the inclusion of PREC6. The amendments are set out in **Appendix 2 and Appendix 3**.

[318] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.12 NEIGHBOURHOOD CENTRE ZONE

3.12.1 Assessment

[319] We accept Ms White's analysis and recommendations on the Neighbourhood Centre Zone and find the recommended amendments to be appropriate, noting we received tabled evidence from the Fuel Companies[231] and Kāinga Ora[232] indicating support for the recommendations in the s42A Report.[233] No other evidence was presented to us on the Neighbourhood Centre Zone provisions.

3.12.2 Decision

[320] We adopt Ms White's analysis and recommendations on the Neighbourhood Centre Zone. The amendments are set out in **Appendix 3**.

[321] In terms of s32AA, we are satisfied that the original s32A evaluation continues to apply.

3.13 LOCAL CENTRE ZONE

3.13.1 Assessment

[322] We accept Ms White's analysis and recommendations on the Local Centre Zone and find the recommended amendments to be appropriate, noting we received no evidence to the contrary.

3.13.2 Decision

[323] We adopt Ms White's analysis and recommendations on the Local Centre Zone. The amendments are set out in **Appendix 3**.

[324] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

[231] Thomas Trevilla, Tabled Letter, 5 July 2024, Para 8.
[232] Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.
[233] Thomas Trevilla, Tabled Letter, 5 July 2024, Para 8.

3.14 LARGE FORMAT RETAIL ZONE – GENERAL

3.14.1 Assessment

[325] Redwood [228.1] opposed objectives, policies, and a number of standards in the zone and requested that the provisions be aligned with the consented, and partially developed retail thresholds for the Showgrounds precinct under the ODP. The submitter requested the proposed LFRZ provide for restaurants and cafes and residential activities. In the alternative the submitter requested the reinstatement of the ODP Commercial 2A provisions, which included community facilities and restaurants. In reliance on the alternative relief, the submitter now requests in evidence the inclusion of visitor accommodation, childcare, and healthcare facilities. We note that in the ODP community facilities has a specific definition in the Commercial 2A zone for the Showgrounds site:

> Community Facilities
>
> Means places available to the public for the purpose of community activities and includes but is not limited to public playgrounds, recreational halls community centres, community halls and public swimming pools but excludes theatres and cinemas.

[326] A resource consent was granted in 2020 to construct and establish a bulk retail centre adjoining the state highway that enabled a level of development commensurate with the Commercial 2A zone, in Rule 2.2 of the ODP. The submitter considered that the retail thresholds in the LFRZ, in the Proposed Plan conflicted with the ODP and resource consent. The submitter considered residential development to be an appropriate addition to the Zone.

[327] Ms White raised the issue of scope to include the additional activities of visitor accommodation, childcare and health facilities, given these activities are not expressly provided for in the Commercial 2A zone. We agree that there is an issue here.

[328] Ms White acknowledged that the economic evaluation that supported the thresholds in the LFRZ was undertaken prior to the resource consent and she agreed that it was appropriate to align the LFRZ retail thresholds with the resource consent given the development was underway or nearing completion. She did not agree that it was appropriate to roll over the July 2022 ODP retail threshold provisions given the date had since passed.[234] She also recommended that the ODP thresholds for personal service retail and food and beverage be retained, including providing for restaurants provided they met the combined thresholds in the ODP. She recommended changes to LFRZ-R5 and R6 to align with the ODP and remove reference to avoiding restaurants in LFRZ-P6[235]

[329] Ms White did not initially support the request to include visitor accommodation, childcare and healthcare facilities, or residential development due to the scope issue and was supportive or residential use, on its merits because it is not consistent with the description of the Zone in the NPS. She preferred that if residential development was to be provided for in the area that it be by way of a Plan Change to rezone to a residential zone. Although not

[234] Liz White, s42A Report, paragraph 6.18.9
[235] Ibid, paragraph 6.18 13-14.

expressly requested by the submitter, she considered there may be scope to change part of the zone as a consequential change in accordance with the submitters catch all general relief.

[330] At the hearing, Redwood Group was represented by their Project Manager, Mr Gardner-Hopkins and called planning evidence from Ms Hoogeveen and economic evidence from Ms Natalie Hampson.[236] Together the expert witnesses provided evidence in support of changes to the Proposed Plan as requested by the submitter. Mr Gardner-Hopkins made representations on behalf of the submitter, which although traversing legal matters were said not to be presented as a lawyer.[237] Mr Gardner-Hopkins addressed the Panel on the issue of scope. He relied on a memorandum from Commissioner David Allen, a lawyer, provided in relation to another plan change.[238] We do not take issue with the legal principles that relate to scope, these are also addressed by Ms Vella for the Council and in other legal submissions presented at the hearing. The main issue is whether would-be submitters have been given fair and adequate notice of what is proposed in the submission or whether their right to participate has been removed.[239]

[331] Mr Gardner-Hopkins pointed to the express wording of the submission by Redwood Group to establish that there is scope for the Panel to consider the full suite of relief the submitter requests. We have no concern regarding the scope to consider residential activities as it was specifically identified in the submission. Mr Gardner-Hopkins relies on the reference to 'commercial activities' and the general request for consequential changes for full development of the site as mixed use in section 2.4 of the submission, when describing specific amendments that are requested to the zone. The submission document is not as clear as it might have been, section 2.3 of the submission describes the submitters 'position on the provisions', which refers to changes to reflect 'agreed and consented [and partially developed] retail thresholds and continue to provide for restaurants and cafes, and residential activities. It is only when you read the 'reasons' for the submission that the more generic reference to commercial activities appears. In accordance with caselaw we have taken a liberal approach to interpreting the submission and find that on balance the changes to the Operative District Plan Commercial 2A Large Format Store (Retail Park) Zone are adequately flagged.

[332] Ms White and Ms Hoogeveen agree on the amendments that are to be made to the commercial retail development thresholds for the site and the inclusion of restaurants. However, there remained disagreement as to whether provisions should also be made for visitor accommodation, healthcare facilities and childcare services, and residential activity. Ms Hoogeveen and Ms Hampson are supportive of these changes and provided evidence to support a s32AA evaluation. Ms Hampson did not consider that there would be any retail distributional effects (i.e. impacts on the CCZ or other zone hierarchy) on the basis that the submitter only sought limited provision for these additional uses, all of which would still require a restricted discretionary activity resource consent.

[236] Hannah Hoogeveen, Statement of Evidence, 5 July 2024, Natalie Hampson, Statement of Evidence, 5 July 2024. The submitter provided statements of evidence from Paul Hudson, Development Manager for Redwood Group and related submitter Equinox Capitol Limited's Development Manager, Nathan Buckley related to the development of the site.
[237] Memorandum/Representations for Hearing on Behal of Redwood Group, 23 July 2024, paragraph 1.
[238] Ibid, attachment 1.
[239] Second Limb of Motor Machinists Test.

[333] The Panel requested that further informal conferencing be undertaken by the Submitter and Council planning experts to see if further progress could be made. Ms White was concerned to ensure that she had the benefit of a peer review of the economic evaluation provided by Ms Hampson to support her further consideration of the changes requested by the submitter as she was unable to comment on whether there was likely to be an adverse distributional impact on other commercial centres. We directed that the Council economic expert peer review Ms Hampson's evidence and that be provided to the submitter. If there was general agreement between the economic experts, then we requested the planners undertake further discussions. In the event there was disagreement between the economic experts we indicated we would consider making formal conferencing directions.[240]

[334] The Council sought a peer review from Mr Derek Foy, a Director of Formative Limited. He provided a comprehensive review of Ms Hampson's evidence and generally agreed with her conclusions that there was unlikely to be any negative distributional effect on the CCZ or other centres. He did have some reservations about the 'suitability' of the site for visitor accommodation, given the relatively low amenity of the LFRZ, but that was not an impact on other centres. On the basis of the conclusions of the economic experts Ms White and Ms Hoogeveen met and reached an agreed position.[241] They provided a JWS with an agreed set of provisions and a supporting s32AA evaluation to include the additional activities within the LFRZ. They also recommended that there should be amendments to the objectives of the Zone, to support the additional activities.

[335] We have reviewed the evidence from Redwood Group, Mr Foy's opinion and the reasoning provided by Ms White and Ms Hoogeveen. We accept and adopt their reasoning as set out in the JWS and confirm we find that the outcome is both within scope and appropriate having regard to the requirements of RMA s32AA. In reaching our decision we have considered submissions made by the Timaru TC Ratepayers [219.6] and Timaru Civic Trust [223.7] that seek further restrictions on the zone to protect the City Centre from negative impacts. We are satisfied that the proposed zone rules, with the changes agreed by Ms White, and economic evidence of Ms Hampson and the peer review from Mr Foy address those concerns.

[336] For completeness we note that there were a number of submissions that raised concerns about the fairness of the Redwood Group advancing changes to the land uses for the former showgrounds site, and it's on-sale. Those are not matters relevant to the preparation of the Proposed Plan therefore we reject those submissions.[242]

[337] We accept Ms White's analysis and recommendations on the Large Format Retail Zone – General and find the recommended amendments to be appropriate, noting we received no evidence to the contrary. We further note that Harvey Norman[243] confirmed its general support for the s42A recommendations and amendments.[244]

[240] Minute 14.
[241] Memorandum of Counsel for TDC, 23 August 2024.
[242] Timaru TC Ratepayers 143 and Timaru Civic Trust 223
[243] Harvey Norman submission points: 192.10, 192.16, 192.22, 192.23, 192.25, 192.26, 192.27, 192.28, 192.29, 192.30, 192.31, 192.37, 192.38
[244] Natasha Rivai, Statement of Evidence, 5 July 2024, Para 4.1.

3.14.2 Decision

[338] We adopt Ms White's analysis and recommendations on the Large Format Retail Zone – General, and the outcomes of the JWS with regard to the inclusion of the Former Showgrounds Precinct (PREC5). The amendments are set out in **Appendix 2 and Appendix 3**.

[339] In terms of s32AA, we adopt the evaluation contained within the JWS.[245]

3.15 LARGE FORMAT RETAIL ZONE – OBJECTIVES AND POLICIES

3.15.1 Assessment

[340] We note that we address Redwood Group [228.1] general opposition to the objectives, policies and a number of standards above.

[341] We note that we address Harvey Norman's request for the site at 226 Evans Street to be rezoned below in Section 3.31 of this Decision.

[342] We accept Ms White's analysis and recommendations on the Large Format Retail Zone – Objectives and Policies. In reaching this view we note that Z Energy[246] [116.32, 116.33, 116.34], ECan [118.158, 183.159][247], the Alliance Group [173.127][248] and Harvey Norman [192.17, 192.18, 192.19, 192.20, 192.21, 192.24][249] confirmed acceptance of the s42A recommendations, and we received no evidence to the contrary.

3.15.2 Decision

[343] We adopt Ms White's analysis and recommendations on the Large Format Retail Zone objectives and policies, and the amendments are set out in **Appendix 3**.

[344] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.16 LARGE FORMAT RETAIL ZONE – RULES AND STANDARDS

3.16.1 Assessment

[345] We have addressed the broader submission points by Redwood Group [228.3, 228.4, 228.5, 228.6] above, and we have accepted the changes agreed between Ms White and Ms Hoogeveen.

[346] We note we address Harvey Norman's submission with regard to LFRZ-S3.3 in Section 3.31 of this Decision in response to its zone change request.

[245] Memorandum of Counsel for TDC, 23 August 2024.
[246] Thomas Trevilla, Tabled Letter, 5 July 2024.
[247] Deidre Francis, Tabled Letter, 1 July 2024.
[248] Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.
[249] Natasha Rivai, Statement of Evidence, 5 July 2024, Para 4.1.

[347] Harvey Norman [192.39] also sought changes to the Appendix 9 guidelines[250] for Large Format Retail as they pertain to active frontages, visibility from streets and building materials. They consider that the guidelines are more focused on smaller retail shops and not taller buildings anticipated in the LFRZ. Ms White disagreed, noting in her s42A Report that the guidelines were included in the Plan as part of the current zoning in this area, and are therefore specific to it.[251] We heard from Ms Rivai for Harvey Norman at the hearing who emphasised the limitations and potential inferior urban design outcomes of the design guidelines which require glazing for ground floor building facades visible from the street or reserve. Harvey Norman considers that there should be sufficient flexibility to include timber and concrete building materials. Ms White indicated that the guidelines are guidance, not a rule, but conceded that there could be recognition for alternative materials where there is a functional or operational need. We agree with Ms White's recommendation, and note we were not provided with any specific urban design evidence that supported a complete change to the guidelines, as requested by Harvey Norman. We note that the guidelines have been carried across from the ODP Commercial 2A Zone. The outcome that Harvey Norman seek can be addressed through consenting processes where necessary.

[348] We have addressed KiwiRail's [187.85] submission seeking setbacks from the rail corridor in our decisions in the Rural Zones General Themes section of this Report, the same outcome is accepted in relation to LFRZ-S3.

[349] We accept Ms White's analysis and recommendations on the Large Format Retail Zone – Rules and Standards and find the recommended amendments to be appropriate.

3.16.2 Decision

[350] We adopt Ms White's analysis and recommendations on the Large Format Retail Zone Rules and Standards. The amendments are set out in **Appendix 3**.

[351] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.17 MIXED USE ZONE OBJECTIVES, POLICIES, RULES

3.17.1 Assessment

[352] Te Pūkenga [215.5], as an alternate to rezoning their site to a Special Purpose Zone, sought that MUZ-O1 is amended to recognise the importance of tertiary education, by adding *"and recognises the contribution to the District's and Region's social and economic wellbeing made by existing tertiary education activities".* We accept Ms White's analysis and recommendations in response to the submission and note our earlier finding that Te Pūkenga tabled evidence confirming its agreement with the s42A[252] recommendations. We are satisfied that the submission from Te Pūkenga has been appropriately addressed.

[353] We accept Ms White's analysis and recommendations on the Mixed Use Zone – Objectives and Policies for the reasons set out in her s42A Report, noting that we received

[250] Proposed District Plan AAP9 – Large Format Retail Design Guidelines.
[251] Liz White, s42A Report, 18 June 2024, Para 6.20.16.
[252] Ryan Brosnahan, Statement of Evidence, 4 July 2024, Para 8-9.

tabled evidence from the Fuel Companies[253] and Kāinga Ora[254] indicating support for the recommendations in the s42A Report.[255] We received no other evidence to the contrary, and we find the recommended amendments to be appropriate.

[354] We accept Ms White's analysis and recommendations on the Mixed Use Zone – Rules for the reasons set out in her s42A Report, noting that we received no evidence to the contrary. We find the recommended amendments to be appropriate.

3.17.2 Decision

[355] We adopt Ms White's analysis and recommendations on the Mixed Use Zone. The amendments are set out in **Appendix 3**.

[356] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.18 MIXED USE ZONE – STANDARDS

3.18.1 Assessment

[357] Kāinga Ora [229.135] sought that the outdoor living space requirement (in MUZ-S5) is amended to reduce the requirement from 20m^2 per unit, where outdoor living space is provided at ground floor level, to 12m^2 per unit, consistent with the area required if provided by way of a balcony. We accept Ms White's analysis and recommendations that no change to MUZ-S5 is appropriate.[256]

[358] We have addressed KiwiRail's [187.85] submission seeking setbacks from the rail corridor in our decisions in the Rural Zones General Themes section of this Report, the same outcome is accepted in relation to MUZ-S3.

[359] We accept Ms White's analysis and recommendations in response to the submission points from Te Pūkenga [215.10, 215.11, 215.12] and note our earlier finding that Te Pūkenga tabled confirming its agreement with the s42A recommendations[257]. On that basis, we are satisfied that the submission points from Te Pūkenga have been appropriately addressed.

[360] We accept Ms White's analysis and recommendations in response to the submission from Te Pūkenga submission [215.2, 215.3] for the reasons set out in her s42A Report.[258] In reaching this view we note that Te Pūkenga tabled evidence confirming its agreement with the recommendations to rezone the site to MUZ (rather than a Special Purpose Tertiary Education Zone) along with all consequential changes to the MUZ policies and rules.[259] We are satisfied that the submission from Te Pūkenga has been appropriately addressed, and we find the recommended amendments to be appropriate.

[253] Thomas Trevilla, Tabled Letter, 5 July 2024, Para 8.
[254] Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.
[255] Thomas Trevilla, Tabled Letter, 5 July 2024, Para 16.
[256] Liz White, s42A Report, 18 June 2024, Para 6.23.15-6.23.16.
[257] Ryan Brosnahan, Statement of Evidence, 4 July 2024, Para 8-9.
[258] Liz White, s42A Report, 18 June 2024, Para 6.13.6 - 6.13.12.
[259] Ryan Brosnahan, Statement of Evidence, 4 July 2024, Para 8-9.

[361] We accept Ms White's analysis and recommendations on the Mixed Use Zone – Standards and we find the recommended amendments to be appropriate.

3.18.2 Decision

[362] We adopt Ms White's analysis and recommendations on the Mixed Use Zone Standards. The amendments are set out in **Appendix 3**.

[363] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.19 TOWN CENTRE ZONE – OBJECTIVES AND POLICIES

3.19.1 Assessment

[364] Z Energy [116.23] sought that clause 1 of TCZ-P4 is amended so that existing service stations are exempted from the direction to provide a veranda along the main street frontage. They consider that the policy does not recognise that there are some existing areas that do not align with the direction in the policy and that such provision would be unreasonable, given the functional requirements of service stations. Ms White disagreed that the change was necessary because any existing buildings which do not meet the requirement have existing use rights, and these would be taken into account in any resource consent triggered as a result of a building expansion or redesign.[260]

[365] In a letter tabled to the Hearing Panel, Z Energy maintained its position, and presented an alternative whereby if an exclusion is not recommended, TCZ-P4 and associated TCZ-S5 could be amended so that the Council can have the ability to consider the functional or operational needs of activities that cannot comply.[261] Following the hearing, in her s42A Interim Reply, Ms White confirmed she agreed with the submitter that it would be appropriate to allow for consideration of operational and functional requirements of activities where compliance is not practicable. On this basis, she recommended an amendment to TCZ-P4 (and TCZ-S5) to address alternative relief sought.[262] We are satisfied the submitter's concern has been appropriately addressed.

[366] We accept Ms White's analysis and recommendations on the Town Centre Zone, noting that we received tabled evidence from the Fuel Companies[263] [196.85] and Kāinga Ora[264] [229.139-229.142] indicating support for the recommendations in the s42A Report. We received no other evidence to the contrary, and we find the recommended amendments to be appropriate.

3.19.2 Decision

[367] We adopt Ms White's analysis and recommendations on the Town Centre Zone – Objectives and Policies. The amendments are set out in **Appendix 3**.

[260] Liz White, s42A Report, 18 June 2024, Para 6.24.14.
[261] Thomas Trevilla, Tabled Letter for Z Energy, 5 July 2024, Para 8c.
[262] Liz White, s42A Interim Reply: Hearing B, 19 September 2024.
[263] Thomas Trevilla, Tabled Letter for Fuel Companies, 5 July 2024, Para 8.
[264] Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

[368] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.20 TOWN CENTRE ZONE - RULES AND STANDARDS

3.20.1 Assessment

[369] Given our previous finding in response to a submission from Z Energy [116.23] on TCZ-P4, we find Ms White's recommended amendment to TCZ-S5 to be appropriate in addressing the alternative relief sought by the submitter.

[370] We have addressed KiwiRail's submission [187.85] seeking setbacks from the rail corridor in the Rural Zones General Themes section of this Report, the same outcome is accepted in relation to TCZ-S3.

[371] We accept Ms White's analysis and recommendations on the Town Centre Zone – Rules and Standards, noting that we received tabled evidence from the Fuel Companies[265] and Kāinga Ora[266] indicating support for the recommendations in the s42A Report. We find the recommended amendments to be appropriate.

3.20.2 Decision

[372] We adopt Ms White's analysis and recommendations on the Town Centre Zone – Rules and Standards and the amendments are set out in **Appendix 3**.

[373] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.21 CITY CENTRE ZONE – SOUTHERN PRECINCT

3.21.1 Assessment

[374] We have addressed KiwiRail's submission [187.85] seeking setbacks from the rail corridor in the Rural Zones General Themes section of this Report. The same outcome is accepted in relation to CCZ Standards.

[375] We accept Ms White's analysis and recommendations on the City Centre Zone – Southern Precinct we find the recommended amendments to be appropriate and note we received no evidence to the contrary. We agree it is appropriate to delete the Southern Centre Precinct from the planning maps and make amendments to the provisions to delete references to this precinct.

3.21.2 Decision

[376] We adopt Ms White's analysis and recommendations on the City Centre Zone – Southern Precinct. The amendments are set out in **Appendix 2 and Appendix 3**.

[265] Thomas Trevilla, Tabled Letter for Fuel Companies, 5 July 2024, Para 8.
[266] Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

[377] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.22 CITY CENTRE ZONE – OPEN SPACE

3.22.1 Assessment

[378] TDHL [186.47-186.50] submitted requesting amendments to provisions to provide greater recognition of the need for public open space in the CCZ. We accept Ms White's analysis and recommendations in relation to the submission, noting we did not receive any evidence to the contrary from TDHL. We find the recommended amendments to be appropriate.

3.22.2 Decision

[379] We adopt Ms White's analysis and recommendations on the City Centre Zone in relation to Open Space. The amendments are set out in **Appendix 3**.

[380] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.23 CITY CENTRE ZONE

3.23.1 Assessment

[381] MoE [106.43, 106.44] and Kāinga Ora [229.152-229.155] seek a range of changes to the CCZ Objectives and Policies. We accept Ms White's analysis and recommendations on the City Centre Zone – Objectives and Policies and we find the recommended amendments to be appropriate.

[382] Several submissions were received on the CCZ Rules and Standards, as set out in Ms Whites s42A Report.[267] We accept Ms White's analysis and recommendations on the City Centre Zone – Rules and Standards. We find the recommended amendments to be appropriate and note we received no evidence to the contrary.

3.23.2 Decision

[383] We adopt Ms White's analysis and recommendations on the City Centre Zone provisions. The amendments are set out in **Appendix 3**.

[384] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.24 'OTHER ACTIVITIES' – POLICIES

3.24.1 Assessment

[385] Submissions were received from MoE [106.16, 106.19, 106.32, 106.37, 106.39] and Woolworths [242.17, 242.20] on the wording "only allow" in relation to other activities within policies across the RESZ and CMUZ Chapters. We accept Ms White's analysis and recommendations on submissions commenting on 'Other Activities' policies and we agree no

[267] Liz White, s42A Report, 18 June 2024, Para 6.29.1-6.29.11.

changes are required as a result of these submissions, noting we received no evidence to the contrary.

3.24.2 Decision

[386] We adopt Ms White's analysis and recommendations on the 'Other Activities' policies and find that no changes are required to the Proposed Plan provisions.

3.25 INFRINGEMENT OF STANDARDS

3.25.1 Assessment

[387] ECan [183.156, 183.157] and Kāinga Ora [229.76, 229.105, 229.119, 229.130, 229.144, 229.158] submitted on the application of standards. We accept Ms White's analysis and recommendations submissions relating to 'Infringement of Standards'. We agree no changes are required as a result of these submissions, noting we received no evidence to the contrary.

3.25.2 Decision

[388] We adopt Ms White's analysis and recommendations on the 'Infringement of Standards' and find that no changes are required to the Proposed Plan provisions.

3.26 NEW STANDARDS FOR RESIDENTIAL ACTIVITIES

3.26.1 Assessment

[389] Kāinga Ora[268] sought a number of changes to the provisions of the Proposed Plan to provide a package of rules that supported a quality urban environment whilst balancing an enabling planning environment. Their submission points were to support the delivery of Kāinga Ora housing in the District, in the most effective way.

[390] Mr Neville provided corporate evidence to support the Kāinga Ora submission points. Kāinga Ora supported most of Ms White's recommendations across the plan, however Mr Neville explained that Kāinga Ora disagrees with Ms White's position on the following provisions: Policy GRZ-P1, Objective MRZ-O2[269], and outdoor living space within the GRZ, MUZ, and CCZ. We address those matters in this part of the Decision.

[391] In relation to GRZ-P1, Kāinga Ora requested the addition of the word 'landscaping' and the replacement of the word 'maintain' with 'anticipated by' the zone. That is because they consider that the requirement to 'maintain' results in an assessment that reflects the existing amenity, rather than reflecting changes that may be anticipated by the zone. In terms of outdoor living space requirements, Ms White had agreed with part of the submission point, however she did not accept the minimum size. Mr Neville illustrated the challenges with the

[268] Kāinga Ora [229.84, 229.109, 229.112, 229.113, 229.122, 229.123, 229.136, 229.137, 229.138, 229.149, 229.150, 229.151, 229.162, 229.164, 229.165]
[269] In response to questions from the Panel it is understood this submission point was no longer pursued.

proposed dimensions, which he said would restrict opportunities for housing choice and variety. Kāinga Ora suggested an alternative wording for GRZ-S8.1 as follows:

> 'provision of sufficient outdoor living space, which reflects the anticipated occupancy of the associated dwelling; and...'

[392] Ms White also accepted the submission point regarding outdoor living space in the MUZ and CCZ in so far as Kāinga Ora sought minimum outdoor living space requirements for above ground residential units, but not in relation to the option of providing communal outdoor living space in the MUZ.

[393] In her Interim Reply[270], Ms White recommended amending GRZ-P1 to refer to the character and qualities 'anticipated' in the zone, rather than maintaining existing character and qualities. In terms of s32AA, she considered this better aligns the policy with the outcomes sought in GRZ-O2 and makes it clear that it is the character and qualities that are set out and anticipated through the GRZ framework, rather than those which may currently exist. It is also consistent with wording used elsewhere in the Plan (e.g. MRZ-P4).

[394] In her Interim Reply Ms White recommended extending matter of discretion 1 in GRZ-S8 to add: "which reflects the anticipated occupancy of the associated dwelling". In terms of s32AA, she considered that this is a minor change, but allowing for this consideration is a more efficient way of implementing GRZ-P1.2.b.

[395] In terms of the request to provide for communal outdoor living space, Ms White accepted that the intent of the submission has been clarified as being to provide an option for the outdoor living space for residential units above the ground floor to be made up of both private and communal space. However, taking this approach in the MUZ would be different to that applied in other zones (e.g. MRZ, CCZ and TCZ) where a balcony is required where units are above the ground floor level. In her view, if communal outdoor living space is proposed at a ground floor level, this is best considered through a resource consent process, noting the matters of discretion include: 1. provision of useable outdoor space; 2. accessibility and convenience for residents; and 3. alternative provision of public outdoor space, in close proximity to meet resident's needs.

[396] We accept Ms White's analysis and recommendations on New Standards for Residential Activities. We find her recommended amendments to be appropriate.

3.26.2 Decision

[397] We adopt Ms White's analysis and recommendations on 'New Standards for Residential Activities' The amendments are set out in **Appendix 3**.

[398] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

[270] Liz White, Hearing B Interim Reply, 19 September 2024.

3.27 EMERGENCY SERVICES AND SERVICING STANDARDS

3.27.1 Assessment

[399] FENZ[271] submitted on a range of matters, relating to emergency services and servicing standards. We accept Ms White's analysis and recommendations on Emergency Services and agree with the recommended changes to GRZ-S1, LCZ-S1, TCZ-S1 and APP8. We further accept her analysis with regard to Servicing Standards and agree no changes are required. In reaching this view we note we received no evidence to the contrary from FENZ.

3.27.2 Decision

[400] We adopt Ms White's analysis and recommendations, and the amendments are set out in **Appendix 3**.

[401] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.28 OUTDOOR STORAGE STANDARD

3.28.1 Assessment

[402] Waka Kotahi [143.159, 143.161, 143.164, 143.168, 143.171] requested changes to provisions relating to screening of outdoor storage areas. We accept Ms White's analysis and recommendations on the Outdoor Storage Standards and agree with Ms White that no changes are required in response to these submission points. In reaching this view we note we received no evidence to the contrary from Waka Kotahi.

3.28.2 Decision

[403] We adopt Ms White's analysis and recommendations and find it appropriate that no changes to the Proposed Plan are made.

3.29 RAIL CORRIDOR SETBACKS

3.29.1 Assessment

[404] We have previously addressed the submission from KiwiRail [187.85], which seeks provision for setbacks from rail corridors across the District in our discussion within the Rural Zones General Themes section. We refer to our reasoning above and accept the submission point in part.

3.29.2 Decision

[405] We adopt Ms White's analysis and recommendations. The amendments are set out in **Appendix 3**.

[271] FENZ [131.18, 131.19, 131.21, 131.22, 131.25, 131.27, 131.29, 131.30, 131.32, 131.33, 131.70, 131.71, 131.73, 131.74, 131.77, 131.79, 131.80, 131.82, 131.83, 131.86, 131.89, 131.91, 131.93, 131.95, 131.96, 131.98, 131.101, 131.104]

[406] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.30 DEFINITIONS, MATTERS ARISING FROM HEARING A

3.30.1 Assessment

[407] We accept Ms White's analysis and recommendations and agree that no changes are recommended to the definitions of 'residential visitor accommodation', 'Emergency Services Facilities', or 'supported residential care activity'.

[408] Reverse sensitivity is a term used in MRZ-P1, PREC1-O1, PREC1-P1 and MUZ-P4. We are satisfied that the amendments that we have made in Part 2 of our decision are appropriate in the context of how the term is used in these urban provisions, and we agree with the recommendation of Ms White that no changes are required to these provisions as a result of the changes to the definition.

3.30.2 Decision

[409] We adopt Ms White's analysis and recommendations. No changes are required.

3.31 ZONINGS

3.31.1 Assessment

[410] We accept Ms White's analysis and recommendations in respect of the submissions from TDC [42.72], Kāinga Ora [229.86], Timaru Old Boys [5.1], Broughs Gully [167.1, 167.2], and Hocken, F [112.1] for the reasons set out in the s42A Report.[272] We received no evidence to the contrary.

[411] We accept Ms White's analysis and recommendations in respect of the submissions from Foodstuffs [193.2, 193.3] noting we received evidence from Mr Allan on behalf of Foodstuffs confirming agreement with the s42A recommendations.[273]

Shaw and Hislop Street

[412] We heard from John McKenzie, Joe McKenzie and Catherine Bo Choung at the hearing representing the group of submitters[274] seeking the rezoning on Shaw Street and Hislop Street. We also heard from Stephanie Mercer [264FS], also a resident of Shaw Street, who opposed the rezoning. Ms Mercer noted that the properties proposed for rezoning border Council reserve (Pekapeka Gulley Track), were across the road from Talbot Forest and were part of an earlier rural residential subdivision where extensive native planting has been carried out. Ms Mercer was concerned about the effects on ecological values of the area and considered that, as an alternative to GRZ, specific exemptions from the Rural Lifestyle zone

[272] Liz White, s42A Report, 18 June 2024, Para 6.39.3, 6.39.19, 6.39.23-6.39.28, 6.39.30, 6.39.32, 6.39.33
[273] Mark Allan, Statement of Evidence, 5 July 2024, Para 70.
[274] Submitters J McKenzie [10.1], Baekelandt, A [87.1], McKenzie & Choung [103.1], Regenvanu, M [180.1] and Hussey, D and C [218.1]

should be considered. Ms Mercer explained that she and her partner had extensively planted their section and she wished to see the other properties in Shaw and Hislop Streets do the same to provide ecological linkages to the neighbouring reserves. She considered the area to be unique and that rezoning was a 'missed opportunity' to enhance the biodiversity and recreational values of the area.

[413] Having considered the submissions and evidence presented to us, we accept Ms White's analysis and recommendations and agree that GRZ better reflects the existing size of these sites, noting that no servicing constraints have been identified. We are not persuaded otherwise. We also accept the consequential changes required as set out in Ms White's s42A Reply.[275]

226 Evans Street

[414] Harvey Norman [192.1] sought that the eastern part of 226 Evans Street is rezoned from GIZ to LFRZ; and that the GRZ of the western portion is extended further to the east. The submitter also sought a range of consequential changes to the LFRZ Chapter provisions as set out in the s42A Report.[276] In support of its submission, the submitter provided evidence from Fraser Colegrave on the potential effects of the relief sought on Timaru's CCZ from an economic perspective.[277] Relying on this evidence, Ms White recommended that the eastern part of 226 Evans Street be rezoned to LFRZ; that the GRZ zoning of the western portion of 226 Evans Street be extended to 5m from the boundary of the consented location for trailer parks; and that a range of consequential changes be made to the LFRZ framework.[278] Ms Rivai, in her evidence for Harvey Norman, signalled general acceptance of the recommended amendments to provisions, noting that the rezoning aligns with the currently consented and likely future uses on this eastern part of the site.[279]

[415] However, Ms Rivai disagreed with Ms White's recommended 15m setback for buildings in the LFRZ to the adjoining GRZ to the west to reflect the new boundary interface. She stated that:

> "This recommended setback is substantial and Council notes that this aligns with similar setback distances applied for industrial and residential zone interfaces. Activities anticipated in industrial zones are likely to have greater nuisance effects on residential environments than those anticipated under the LFRZ, which are generally commercial in nature. It is noted that under the Operative DP, the commercial zone has predominantly a 5m setback applied to residential activities/zones, and that a 5-10m setback would be more reasonable give the LFR zoning and the anticipated/consented activities on the Site"[280]

[416] In response to Ms Rivai's evidence, Ms White reconsidered her recommendation and considered it would be appropriate to reduce the setback from 15m to 10m, a position she

[275] Liz White, s42A Final Reply, 4 August 2025, para 16.
[276] Liz White, s42A Report, 18 June 2024, Para 6.39.6.
[277] Fraser Colegrave, Statement of Evidence, 11 June 2024 (Appendix 4 to the s42A Report).
[278] Liz White, s42A Report, 18 June 2024, Para 6.39.36 – 6.39.38.
[279] Natasha Rivai, Statement of Evidence, 5 July 2024, Para 1.8, 3.1, 3.2, 3.3.
[280] Natasha Rivai, Statement of Evidence, 5 July 2024, Para 3.2.

confirmed in her s42A Interim Reply.[281] We agree with Ms White and find the reduced setback will still provide a sufficient buffer to minimise conflict between any potentially incompatible activities.

Willowridge Evans Street

[417] Willowridge [235.1], requested the rezoning of properties at 192, 194, 196, 204, 206 and 208 Evans Street and 4 Grants Road from GRZ and NCZ to LCZ, or alternative relief of similar effect.

[418] At the hearing, in legal submissions and in the evidence of Mr Geddes, the submitter revised the relief requested to seek: the rezoning of the submission land to LCZ, together with a slight amendment to the gross floor area standards (it is accepted there is scope only for these to apply to the submission land and not the LCZ generally), and amended wording to the objectives of the LCZ; or in the alternative, the rezoning of all the submission land to NCZ, with amendments to the gross floor area standards for the NCZ (again in relation to the submission land only) and amended wording to the objectives of the NCZ.

[419] Willowridge development manager, Ms Alison Devlin provided an explanation of the development history for the site, including current proposals being pursued by resource consent. Ms Devlin explained that Willowridge considers the location of the site on the State Highway and the increasingly commercial character of the surroundings make the site ideal for commercial development, particularly the development of fast-food restaurants. We were told that the submitter is currently at the feasibility and design stage and aims to have agreements and concept in place in the next couple of months, from the hearing in July 2024 so that detailed design and planning can progress. Willowridge would seek necessary consents later in 2024 with a view to undertaking construction in 2025.

[420] Mr Geddes provided planning evidence in support of the submission to rezone the property. Mr Geddes noted the current use of the site and the fact that the site is located on the corner of Evans Street and Grants Road which is now controlled by traffic signals as a consequence of the LFRZ Showgrounds Precinct which is across Evans Street. He also identified the range of commercial activities in the locality. The Panel inspected the site from the intersection of Evans Street and Grants Road and from the intersection with the LFRZ Showgrounds Precinct.

[421] In Mr Geddes' opinion, either the LCZ or NCZ, with amendments to either to reflect not only the needs of local residents, but also to the convenience needs of people passing through the area.

[422] Mr Geddes considered that the site is suited to fast-food restaurants. He provided a s32 analysis which focused on the most appropriate method to enable 'this development' i.e. the submitters aspirations for a fast-food restaurant. His option analysis was limited to either enabling the amendment to allow for the development or not.

[281] Liz White, s42A Interim Reply: Hearing B, 19 September 2024.

[423] He provided an assessment of the development as against the Proposed Plan SD-O6 and NPS-UD, Policy 1, which are both broadly framed.

[424] We did not have the benefit of any retail distribution assessment, or traffic impact assessment of a fast-food restaurant at this location.

[425] Ms White did not support the requested rezoning to LCZ, given the specific purpose of that zone, identified in the NPS. Mr Geddes highlighted in his evidence that LCZ was used in other parts of the District, for example, further south on Evan's Street, which included a range of fast-food restaurants.

[426] In her Interim Reply Ms White supported rezoning 192 and 194 Evans Street to NCZ because the properties are in the same ownership as the other adjoining NCZ-zoned properties and therefore allows the wider landholding to be managed under the same framework. Ms White pointed to controls in the Proposed Plan to manage the 'new' NCZ/GRZ interface. Additionally, the rezoning would be a relatively small extension of the current zone and in her view, it is not of a scale that would undermine other centres or be inconsistent with the urban form in this area. She considered rezoning the two properties would meet NCZ-O1. Ms White considered that the NCZ would allow the specific activity sought by the submitter for this site to be considered as either a permitted or discretionary activity (under NCZ-R1), depending on its scale. She accepted that there will be additional traffic effects arising from such a development but noted that the Proposed Plan includes thresholds for high traffic generating activities which she considered are able to address effects arising from any activities that have higher traffic effects.

[427] Ms White did not agree that the changes sought to the NCZ framework in Mr Geddes' evidence are minor and inconsequential. In her view, they would change the intended focus of the zone and that this would change the focus of the zone across the entire District, not just in relation to this particular site. She did not consider that there is anything about the site that warrants a different rule framework applying.

[428] Overall, she recommended that 192 and 194 Evans Street are rezoned to NCZ, but no changes are made to the NCZ framework. Under s32AA, she considered that application of the NCZ to these two land parcels is consistent with NCZ-O1 and allows for a more efficient approach to management of the submitter's landholdings. She considered that the rezoning will assist in achieving UFD-O1.1 by providing additional capacity for commercial activities which is consolidated with the existing settlement pattern.

[429] The Panel agrees with Ms White, that the modifications suggested by Mr Geddes to either the LCZ or the NCZ are not minor or inconsequential and would also have an impact on the hierarchy and role of centres. We note that LCZ and NCZ have a similar focus on residential needs, with the NCZ serving the 'immediate' residential area and LCZ being the 'catchment' or wider area.[282] The changes requested by Mr Geddes would make either zone incompatible with the zone descriptions in Table 13 and with the way that the Proposed Plan uses those zones.

[282] NPS Standard 8, Table 13.

[430] LCZ may be a better fit for this location based on its accessibility to a wider residential area, however we have not had the benefit of a retail distribution assessment to enable us to evaluate whether there is any impact the CCZ. We consider such an assessment to be important because the Council's s32 Report emphasised the importance of the role of centres. The Proposed Plan introduces a hierarchy to commercial centres, by clearly setting out the role and function of each zone and emphasising the role of the City Centre Zone as the largest and principal centre for a range of commercial and community activities.[283]This is reflected in LCZ-O1. In support of the s32 Report the Council commissioned an Economic Assessment of the business land market in the District and demonstrated that there is sufficient commercially zoned land to meet the future requirements of the District over the next 20 years.[284] A subsequent report in 2021 confirmed sufficient supply in the short and medium term.[285]

[431] In the alternative, given that the Proposed Plan zone for the majority of the site is NCZ, we prefer Ms White's recommendation to add the two residential properties to the proposed NCZ, rather than rezone the site in its entirety to LCZ. Rezoning the two GRZ properties to NCZ to match the remaining properties on the submitters site is more efficient and effective, and places a lesser risk to the retail hierarchy in the Plan in the absence of a specific retail distribution assessment. The submitter has already committed to a particular development proposal and has secured resource consents to advance the project. During our site visits we noted that the original buildings have been demolished and there are signs of a new development under construction.

168 Kings Street and 27 Hally Terrace, Temuka

[432] Aitken et al [237.9] sought the rezoning of 168 King Street, Temuka from GRZ to TCZ, noting that the property is zoned Commercial 1 in the ODP. Having considered their submission, Ms White agreed that the TCZ zoning would be more suitable given the site is not currently used for a residential activity. We agree, noting that Ms Clay supported Ms White's recommendation on behalf of the submitters.[286]

[433] Aitken et al [237.5] also requested that 27 Hally Terrace, Temuka be zoned TCZ. 27 Hally Terrace is zoned Commercial 1, along with other properties to the south in the ODP, however, it appears to have been rezoned as residential in the Proposed Plan because 27 Hally Terrace, and other properties are currently in residential use. Unfortunately, there are no submissions seeking that the properties to the south are to retain a commercial zone. Following the hearing we directed Ms White to meet with Ms Clay, the planning expert for the submitter. They agreed that from a merit's perspective, it would be appropriate to zone 27 Hally Terrace and those properties to the south of it TCZ. However, we understand that Counsel are agreed there is no scope to rezone the properties to the south of 27 Hally Terrace to TCZ. Rezoning of these properties would therefore need to be undertaken via a separate future process, e.g. a variation or plan change.

[283] Section 32 Report Commercial and Mixed Use Zones, page 22.
[284] Property Economics (2019). Timaru District Business Land Economic Assessment, p. 12 (https://www.timaru.govt.nz/pdp-supporting-info).
[285] Property Economics. Timaru District Business Land Economic Assessment (2021)https://www.timaru.govt.nz/__data/assets/pdf_file/0004/816178/Property-Economics-2021-Timaru-District-Business-Land-Economic-Asessment.pdf
[286] Mary Clay, Statement of Evidence, 5 July 2024, Para 24.

[434] Although Ms White acknowledged that there was no shortfall of commercially zoned land and therefore the rezoning is not "needed", she accepted that there is demand for redevelopment of this property and also noted that 25 Hally Terrace is a vacant lot, rather than having an established residential use. Her view was that the rezoning of 27 Hally Terrace is not appropriate unless the southern properties are also rezoned. Ms Clay's view remains as set out in her evidence, which is that rezoning of 27 Hally Terrace to TCZ is appropriate.

[435] The Panel visited the site, and although from a practical perspective there is obvious merit in linking this site, along with the properties to the south to the TCZ, we find on balance that it would be more efficient and effective for the sites to be considered together, to enable a proper evaluation under s32 of the Act, rather than a piecemeal approach. We note specifically that TCZ-O2 makes specific reference to the size and scale of TCZ, commensurate with the size of the population it serves, and not distracting from the CCZ. Although the single site would be a smaller encroachment, it raises an issue about the adjoining land to the south, and we have no submissions requesting their rezoning. We did not have sufficient evidence before us to understand the impact of an isolated pocket of TCZ land, in circumstances where adjoining land-owners may wish to pursue residential land uses, nor on future expectations to use the land to the south for commercial purposes given it is bounded by TCZ. We do not find it to be efficient or effective in the context of s32 to rezone the single site. We agree that this is unsatisfactory, however, we consider we are constrained by the limited scope of the submission which prevents us from tidying up the zone boundary. We would strongly encourage the Council to consider a variation or Plan Change if it sees merit in resolving the issue and extending the TCZ at Temuka.

16A, 16D and 16E Hilton Highway

[436] Port Bryson [104.3] requested properties at 16A, 16D and 16E Hilton Highway are rezoned from GRZ to GIZ to recognise existing use, and future desired development of the site. At the hearing, Mr Pipe amended the request to rezone the properties to MUZ.[287] The amendment was made because Mr Pipe believed, having considered the s42A Report from Ms Hollier that MUZ most closely reflects the current activities consented for the site and would allow the site to be developed as a business park 'based around office, service and showroom facilities supported by self storage'. Mr Pipe also indicated that the Company had purchased 18 Hilton Highway, which is intended to be amalgamated with 16 D. Mr Pipe outlined the long history of industrial activity, and that the residential zoning had meant multiple resource consents were required.

[437] Ms Hollier agreed in her s42A Report that the GRZ was no longer appropriate, and she recommended GIZ (as had been requested by the submitter originally). Mr Pipe, however had concerns that the GIZ was not the best fit for the intended 'business park' type development being undertaken on the site. Mr Pipe also addressed the flooding and coastal hazard overlays for the property. We address the hazard overlays in Part 8.

[438] The Panel was not clear on why the Council had discounted the MUZ for this site, given its location adjoining residential areas. We asked Ms Hollier to confer with Ms White

[287] Bruce Pipe, Statement of Evidence, Part A

(who addressed the MUZ) to provide a further explanation of the reasons for this. Ms White addressed this in her Interim Reply.

[439] Ms White explained that she had conferred with Ms Hollier as part of the preparation of the s42A Report, and Ms Hollier's analysis and recommendations (paras 7.2.8 – 7.2.14) in relation to the zoning were informed by her input. Ms Hollier reported that following initial discussion with the submitter, a MUZ was considered. However, in considering the framework that would apply under a MUZ or GIZ, the existing activities on the site, as well as those referred to by the submitter, Ms White and Ms Hollier were both of the view that MUZ would not be the most appropriate zoning for this site and that GIZ was more appropriate. This is because some of the established activities on the site (storage facilities) fall within the definition of industrial activities. The MUZ framework provides only for limited expansion of existing industrial activities, (under MUZ-R7 PER-2) and new industrial activities are non-complying. In Ms Whites view, applying the MUZ would therefore not be a good "fit" considering the industrial activities on this site. She also noted that residential activities are also provided for in the MUZ, through a restricted discretionary consenting pathway (MUZ-R10) which is designed to ensure that potential reverse sensitivity effects on commercial or existing industrial activities are minimised (MUZ-P4).

[440] In essence, it is anticipated that over time, the MUZ (where it is currently proposed to apply in the Plan) will transition to provide more residential living opportunities. However, Ms White considered that providing for residential activities on this site, which contains industrial and trade supply activities, is likely to lead to conflicts with the established activities. Ms White further explained that a key focus of the MUZ is on commercial activities, with these being permitted. This reflects that the areas of MUZ proposed in the Plan are located around the CCZ, with the framework aimed at consolidating commercial activities to support the overall function of the CCZ as the District's key commercial and civic centre. In her view, this is different to the Hilton Highway site, which is located away from the CCZ and would instead allow for commercial development on this site which is unconnected to the functioning of the CCZ (and could detract from it). In other commercial zones, such as NCZ and LFRZ there are controls on the scale and nature of commercial activities to ensure that they do not undermine the purpose, function, and amenity values of the CCZ.

[441] Ms White concluded that the application of MUZ to this site would therefore not assist in achieving MUZ-O1, which is explicit about activities being provided for in the zone in a manner that reinforces the City Centre as a key commercial and civic centre. Ms White agreed with Ms Hollier's comments that it is appropriate for additional commercial activities (such as offices) on this site to be carefully considered and not just permitted through application of a MUZ zoning. Ms White noted that nearby areas, which included a range of activities, including retail and food outlets at Washdyke were also zoned GIZ in the Proposed Plan.

[442] The Panel visited the site, and has considered Mr Pipe's evidence, and the analysis undertaken by Ms White and Ms Hollier. We are satisfied that the GRZ is not the most appropriate zone given the history of the use of the site is primarily industrial in character. We agree with Ms Hollier's analysis that GIZ is the most appropriate zone, and for the reasons

given by Ms White the MUZ is not appropriate at this location given its purpose and the objectives for that zone.

3.31.2 Decision

[443] We adopt Ms White's analysis and recommendations in relation to the rezoning of properties above. The amendments are set out in **Appendix 2.**

[444] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.32 GENERAL INDUSTRIAL ZONE – GENERAL MATTERS AND INTRODUCTION

3.32.1 Assessment

[445] We accept Ms Hollier's analysis and recommendations in response to the submissions from PS Earthmoving [204.5], Timaru TC Ratepayers [219.1] and ECan [183.1, 183.4]. We note that ECan tabled a letter[288] which signalled acceptance of the s42A recommendations, and we received no other evidence to the contrary. We agree that no amendments are required to the Proposed Plan in response to these submissions.

[446] We address Ms Hollier's recommended amendment to GIZ-R3 PER1 in response to ECan's submission [183.1] in Section 3.38 of this Decision.

[447] We address Ms Hollier's recommended amendments to the GIZ standards in response to ECan's submission [183.4] in Section 3.39 of this Decision.

3.32.2 Decision

[448] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. No changes are required to the Proposed Plan.

3.33 GIZ-O1, GIZ-O2, GIZ-O3

3.33.1 Assessment

[449] We accept Ms Hollier's analysis and recommendations in response to the submissions on GIZ-O1, GIZ-O2, and GIZ-O3 for the reasons set out in the s42A Report.

[450] In reaching this view we note that Fonterra confirmed general acceptance of the s42A recommendations[289], however stated that GIZ-O1, GIZ-O2 and GIZ-O3 (along with GIZ-P1 and GIZ-P6) are not the most efficient and effective way to achieve the outcomes sought for the Clandeboye site. We discuss the Clandeboye site in Section 2.15.

[288] Deidre Francis, Tabled Letter, 1 July 2024.
[289] Susannah Tait, Statement of Evidence, 5 July 2024, Para 8.2.

[451] We further note we received written statements from Silver Fern Farms[290] and the Alliance Group Ltd[291] signalling support for the s42A recommendations.

[452] We received no other evidence to the contrary.

3.33.2 Decision

[453] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report, and we find the recommended minor change to GIZ-O2 is appropriate. GIZ-O1 and GIZ-O3 remain unchanged. The amendment to GIZ-O2 is set out in **Appendix 3**.

[454] In terms of s32AA, we adopt Ms Hollier's evaluation in support of the change made.

3.34 PREC3-O1 WASHDYKE INDUSTRIAL EXPANSION PRECINCT

3.34.1 Assessment

[455] We accept Ms Hollier's analysis and recommendations in response to the submission of Kāinga Ora [229.167] on PREC3-O1 for the reasons set out in the s42A Report and agree it is appropriate to retain this provision as notified. We note that Kāinga Ora reviewed the Section 42A report and expressed general acceptance of the recommendations made by Ms Hollier and did not provide us with any further evidence on this matter.[292]

3.34.2 Decision

[456] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report, and we find no changes are necessary to PREC3-O1 in response to submissions.

3.35 NEW PROVISIONS FOR PROPOSED REDRUTH PROJECT

3.35.1 Assessment

[457] Enviro NZ [162.10] initially sought the addition of a new objective, policy, and rule to the GIZ to provide for a new precinct for the Redruth Landfill, along with associated map changes to recognise the Redruth Landfill and Resource Recovery Facility at 23 Shaw Street and 55A-55C Redruth Street as a precinct. However, Enviro NZ subsequently advised it no longer wished to proceed with this request[293] and on this basis we have not considered this matter any further in this Decision.

3.36 GIZ-P1, GIZ-P2, GIZ-P3, GIZ-P5, GIZ-P6

[458] A range of submissions were received on these policies, as set out in Ms Hollier's s42A report.[294] Transpower [159.99] sought an additional clause in GIZ-P6 to cover regionally significant infrastructure. Initially, Ms Hollier did not agree with the relief sought on the basis that most of the provisions of the Energy and Infrastructure Chapter take precedence over the

[290] Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.
[291] Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.
[292] Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.
[293] Kaaren Rosser, Statement of Evidence, 23 July 2024, Para 4.1.
[294] Alana Hollier, s42A Report, Hearings B2, 20 June 2024,

Zone Chapters. As discussed in Part 1 of the Decision, having considered Transpower's evidence and the additional evidence provided by Ms White in her s42A Interim Reply, we agree that the proposed amendment to the Introduction of the Energy and Infrastructure will assist in the efficient administration of the Proposed Plan and address Transpower's concerns appropriately, a position also adopted by Ms Hollier in her s42A Interim Reply.[295] We also note that in addition we have inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the 'weight' to be given to provisions in the event of conflict is clear.

[459] We generally accept Ms Hollier's analysis and recommendations in response to submissions on these policies, and find the minor amendments to GIZ-P1, GIZ-P3 and GIZ-P6 to be appropriate, and agree that no amendments are required to GIZ-P2 or GIZ-P5.

[460] We note that Fonterra confirmed general acceptance of the s42A recommendations[296], however stated that GIZ-P1 and GIZ-P6 (along with GIZ-O1, GIZ-O2 and GIZ-O3) are not the most efficient and effective way to achieve the outcomes sought for the Clandeboye site. We discuss the Clandeboye site in Section 2.15, but note here that a number of changes have been made to the Policies to accommodate the Clandeboye Dairy Manufacturing Precinct.

[461] We further note we received written statements from Silver Fern Farms[297] and the Alliance Group Ltd[298] signalling support for the s42A recommendations. Kāinga Ora reviewed the s42A report and expressed general acceptance of the recommendations made by Ms Hollier.[299]

[462] In her evidence, Ms Rosser on behalf of Enviro NZ confirmed acceptance of the s42A recommendations in respect of GIZ-P5 and GIZ-P6[300].

3.36.1 Decision

[463] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. The amendments to GIZ-P1, GIZ-P3 and GIZ-P6 are set out in **Appendix 3**.

[464] In terms of s32AA, we adopt Ms Hollier's evaluation in support of the change made.

3.37 PREC3-P1

3.37.1 Assessment

[465] We accept Ms Hollier's analysis and recommendations in response to Kāinga Ora's [229.169] submissions on PREC3-P1[301] (and GIZ-S4) and find the amendment to PREC3-P1 is appropriate. We note that in its evidence, Kāinga Ora reviewed the s42A report and

[295] Alana Hollier, s42A Interim Reply: Hearing B, 20 September 2024.
[296] Susannah Tait, Statement of Evidence, 5 July 2024, Para 8.2.
[297] Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.
[298] Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.
[299] Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.
[300] Kaaren Rosser, Statement of Evidence, 23 July 2024, Para 4.2-4.3.
[301] Now renumbered PREC7-P1 in the Decision Version of the provisions.

expressed general acceptance of the recommendations made by Ms Hollier[302] and we received no other evidence to the contrary.

3.37.2 Decision

[466] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. The amendment to PREC3-P1 is set out in **Appendix 3**.

[467] In terms of s32AA, we adopt Ms Hollier's evaluation in support of the changes made.

3.38 GIZ–R1, GIZ-R2, GIZ-R3, GIZ-R4[303].

3.38.1 Assessment

[468] As summarised in Ms Hollier's s42A Report with respect to submissions on GIZ General matters and Introduction, we accept the recommended change to GIZ-R3 PER-1 in response to ECan's submission [183.1].

[469] Enviro NZ [162.15] requested clarification of the gross floor area in GIZ-R3 PER-3 and expressed concerns about whether the scale was too large and could result in reverse sensitivity effects. Ms Hollier was not concerned as the measurement was gross floor area so included both front and back of house activities. She considered the balance was appropriate in terms of the needs of a functional working environment without compromising the commercial zones.

[470] Although Enviro NZ did not request an alternative floor area in their written submission, Ms Rosser's evidence was that 100m^2 was appropriate and she compared this to other District Plans. She gave examples of where larger cafes had set up near Enviro NZ facilities with resultant complaints and associated costs to resolve these.

[471] While we acknowledge the concern, Ms Rosser did not offer a s32AA analysis to support her evidence, and we did not receive sufficient evidence to support our own evaluation of the alternatives. We therefore prefer Ms Hollier's evidence on this issue.

[472] We generally accept Ms Hollier's analysis and recommendations in response to submissions on the GIZ rules for the reasons set out in her s42A Report, and we find the minor amendments to GIZ-R1, GIZ-R2 and GIZ-R3 to be appropriate. We further agree that it is appropriate to retain GIZ-R4[304] as notified. We note that we received letters from Z Energy[305], the Alliance Group[306], Silver Fern Farms[307], the Rooney Group submitters[308] and ECan[309] confirming acceptance of the s42A recommendations. We received no other evidence to the contrary.

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[302] Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.
[303] Now renumbered GIZ-R5 in the Decision Version of the provisions.
[304] Now renumbered GIZ-R5 in the Decision Version of the provisions.
[305] Thomas Trevilla, Tabled Letter, 5 July 2024.
[306] Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.
[307] Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.
[308] Nathan Hole, Statement of Evidence, 5 July 2024, Para 8.
[309] Deidre Francis, Tabled Letter, 1 July 2024.

3.38.2 Decision

[473] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. The amendments to the GIZ rules are set out in **Appendix 3**.

[474] In terms of s32AA, we adopt Ms Hollier's evaluation in support of the changes made.

3.39 GIZ STANDARDS

3.39.1 Assessment

[475] As summarised in Ms Hollier's s42A Report with respect to ECan's submission [183.4]. relating to the GIZ standards, we accept the recommended changes.

[476] Fonterra raised concerns about the suitability of applying GIZ standards to the Clandeboye site in particular GIZ-S1, GIZ-S2 and GIZ-S6. We have addressed the Fonterra submission through our acceptance of a precinct with bespoke rules as set out in Section 2.15 above.

[477] Overall, we generally accept Ms Hollier's analysis and recommendations in response to submissions on the GIZ standards for the reasons set out in her s42A Report, and we find the amendments to GIZ-S4, GIZ-S5 and GIZ-S6 to be appropriate. We note that we received letters from Z Energy[310], the Alliance Group[311] and Silver Fern Farms[312] confirming acceptance of the s42A recommendations.

3.39.2 Decision

[478] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. The amendments to the GIZ standards are set out in **Appendix 3**.

[479] In terms of s32AA, we adopt Ms Hollier's evaluation in support of the changes made.

3.40 GIZ NEW STANDARD FOR WATER SUPPLY SERVICING

3.40.1 Assessment

[480] We accept Ms Hollier's analysis and recommendations in response to FENZ's submissions [131.106, 131.112] and agree that a new standard for servicing is not required. We note we received no evidence to the contrary.

3.40.2 Decision

[481] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. No amendments to the Proposed Plan are required.

[310] Thomas Trevilla, Tabled Letter, 5 July 2024.
[311] Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.
[312] Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.

3.41 GIZ NEW STANDARD FOR RAIL CORRIDOR SETBACKS

3.41.1 Assessment

[482] We have addressed the KiwiRail [187.85] submission point in our decision on GRUZ-S3 and have applied the outcome to the relevant urban zone provisions for the same reasons.

3.41.2 Decision

[483] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report, except to the extent referred above. The amendments are set out in **Appendix 3**.

[484] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.42 GIZ-SCHED16 SCHEDULE OF PRECINCTS AND SPECIFIC CONTROL AREAS

3.42.1 Assessment

[485] We accept Ms Hollier's analysis and recommendations in response to the Silver Fern Farms [172.161] and Alliance Group [173.154] submissions, noting that we received letters from Silver Fern Farms[313] and the Alliance Group[314] confirming acceptance of the s42A recommendations.

3.42.2 Decision

[486] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. No amendments to the Proposed Plan are required.

3.43 GIZ MAPS

3.43.1 Assessment

[487] As a consequence of our decisions made above we have made consequential changes to mapping in response to the submissions from Fonterra [165.2, 165.8], Port Bryson [104.3] and Hilton Development [205.3] for the reasons set out above.

[488] Canterbury Woodchip et al [52.1] requested to re-zone 2-8 Arowhenua Street and 61 Bridge Street, Arundel from GRUZ to GIZ. The submitter considers that the GIZ zoning would better reflect the sites' consented and existing use as a wood processing facility for woodchip production and ancillary transport and storage of the woodchip and ancillary wood/timber materials.

[313] Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.
[314] Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.

[489] The submitter did not attend the hearing. Ms Hollier provided a thorough analysis of the alternatives and recommended that the property remain GRUZ. We accept her recommendation.[315]

[490] Simo Enterprises [148.1] requested a large area of the GIZ in Washdyke has a new precinct applied to reflect the commercial nature of this area of the GIZ. If a light industrial/commercial precinct is not applied, they sought the properties be re-zoned to MUZ. The precinct or change in zoning is sought as the submitter considers the general industrial zoning is not reflective of the businesses in this area, and any new development of these businesses would be considered a non-complying activity.

[491] The submitter did not attend the hearing. Ms Hollier provided a thorough analysis of the alternatives and recommended that the property remain GIZ with no precinct. We accept her recommendation.[i]

3.43.2 Decision

[492] Consequential mapping changes are made in **Appendix 2.**

[493] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.44 PORTZ ZONE: GENERAL AND PORTZ-P1

3.44.1 Assessment

[494] We accept Ms Hollier's analysis and recommendations in response to general submissions received on the PORTZ, and submission received on PORTZ-P1, noting that we received a letter from ECan[316], Fonterra[317], PrimePort[318] and TDHL[319] confirming their respective support for the s42A recommendations.

3.44.2 Decision

[495] We adopt Ms Hollier's analysis and recommendations. No changes to the Proposed Plan are required.

[315] Alannah Hollier, s42A Report, paragraphs 7,2.4-7.2.7
[316] Deidre Francis, Tabled Letter, 1 July 2024.
[317] Susannah Tait, Statement of Evidence, 5 July 2024, Para 8.3.
[318] Kim Seaton, Statement of Evidence, representing PrimePort and TDHL, 5 July 2024, Para 19.
[319] Kim Seaton, Statement of Evidence, representing PrimePort and TDHL, 5 July 2024, Para 19.

3.45 PORTZ MAPS – HEIGHT SPECIFIC CONTROL AREA OVERLAY

3.45.1 Assessment

[496] We accept Ms Hollier's analysis and recommendations in response to submissions noting that we received a letter from Fonterra[320], PrimePort[321] and TDHL[322] confirming their respective support for the s42A recommendations. We find it is appropriate to delete the Height Specific Control Area Overlay from the PORTZ.

3.45.2 Decision

[497] We adopt Ms Hollier's analysis and recommendations. The amendment is set out in **Appendix 2**.

4 MĀORI PURPOSE ZONE

4.1 MPZ MAPPING

4.1.1 Assessment

[498] Submissions from Waipopo Huts [189.1, 189.2] and Te Kotare [115.3] sought that the Proposed Plan zoning around Waipopo Huts be amended to recognise the historic Māori settlement and to provide for safe residential use and papakāinga-type development. More specifically, Waipopo Huts requested that 36 properties at Waipopo Huts be zoned MPZ, and that the PREC4[323] Holiday Huts Precinct be removed from this land. TDC [42.73] also sought that additional land to the north at 447–475 and 550–582 Waipopo Road be zoned MPZ, noting that this area had been omitted in error.

[499] We accept Ms White's analysis[324] that zoning the 36 properties at Waipopo Huts as MPZ is appropriate and consistent with how the area has been treated elsewhere in the Plan, including TDC's submissions on the former Māori reserve. We agree that applying MPZ across this block, rather than retaining Open Space Zoning with a bespoke precinct, provides a clearer and more coherent planning framework that better reflects the Māori purpose of the settlement. On that basis, we also accept the recommendation to remove PREC4[325] from this land.

[500] In relation to 447–475 Waipopo Road, we agree with Ms White[326] that it would be less efficient to create a bespoke set of provisions for papakāinga-type development when MPZ already provides an appropriate zone framework. Extending the MPZ to this land provides consistency across the settlement and avoids the need for overlapping provisions between the MPZ and a precinct or specific control area.

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320 Susannah Tait, Statement of Evidence, 5 July 2024, Para 8.3.
321 Kim Seaton, Statement of Evidence, representing PrimePort and TDHL, 5 July 2024, Para 19.
322 Kim Seaton, Statement of Evidence, representing PrimePort and TDHL, 5 July 2024, Para 19.
323 Now renumbered PREC9 in the Decision Version of the provisions.
324 Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.1.6
325 Now renumbered PREC9 in the Decision Version of the provisions.
326 Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.1.7

[501] We also accept the recommendation[327] that 550–582 Waipopo Road be zoned MPZ, with PREC4[328] removed from these properties. This ensures that all land at Waipopo Huts is managed under a single, integrated zone framework that recognises the historic and ongoing Māori occupation and use of the area.

[502] For completeness, we note that submitter concerns about the application of other overlays to this land are addressed in the relevant topic decisions and are not reconsidered here.

4.1.2 Decision

[503] We accept the reporting officer's recommendations and confirm that the 36 properties at Waipopo Huts, together with 447–475 and 550–582 Waipopo Road, are zoned MPZ and that PREC4[329] is removed from this land. The mapping amendments are shown in **Appendix 2.**

[504] In terms of s32AA, we adopt Ms White's evaluation insofar as it relates to these zoning changes. We are satisfied that extending the MPZ and removing PREC4[330] provides a clearer and more efficient planning framework that better recognises Māori occupation and use, and is the most appropriate means of achieving the relevant objectives of the Proposed Plan and the purpose of the RMA.

4.2 MPZ FRAMEWORK

4.2.1 Assessment

[505] Submitters expressed a range of views on the MPZ rule framework. Te Rūnanga o Arowhenua [185.87], Te Kotare [115.19-115.25] and Waipopo Huts [189.29, 189.30] supported the MPZ objectives and policies, emphasising the importance of enabling papakāika development and providing a planning framework that reflects mana whenua aspirations for a thriving, sustainable, and self-sufficient Māori community.

[506] Other submitters sought broader changes. Te Tumu Paeroa [240.3, 240.9–.12] sought to extend the application of the MPZ to all Māori landowners. Waipopo Huts [189.59] sought deletion of the potable water storage standard in MPZ-S4 on the basis that it placed unnecessary burden on small dwellings. Te Kotare Trust [115.27] and TDC [42.59] sought that the MPZ include a discretionary rule for activities not otherwise listed to provide greater clarity for plan users.

[507] We accept Ms White's analysis[331] that the MPZ is appropriately focused on enabling development for mana whenua, consistent with the definitions in the Proposed Plan and the drafting of MPZ-O1 and MPZ-O2. Extending the chapter to all Māori landowners would not align with the zone's purpose and would broaden the framework beyond its intended scope.

[327] Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.1.8
[328] Now renumbered PREC9 in the Decision Version of the provisions.
[329] Now renumbered PREC9 in the Decision Version of the provisions.
[330] Now renumbered PREC9 in the Decision Version of the provisions.
[331] Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.2.13

[508] We also accept the recommendation[332] to reduce the potable water storage requirement in MPZ-S4 from 45,000 litres to 30,000 litres. In her Interim Reply[333], Ms White records advice from Council's engineering experts that a storage volume of 30,000 litres is adequate for household supply, and that firefighting requirements can be met cumulatively within the MPZ. We consider this amendment better aligns with the purpose of the MPZ, as an unduly high storage requirement could frustrate papakāika development without materially improving environmental or safety outcomes.

[509] On site wastewater and servicing standards (MPZ-S2 and MPZ-S3), we accept Ms White's analysis[334] that the requirements remain appropriate given the constraints of the local environment, including shallow groundwater and limited opportunities for alternative disposal systems. Evidence from Ms Stevenson[335] on behalf of Waipopo Huts and Te Kotare Trust, and the Ogilvie Report[336] supports retaining these standards to avoid public health and environmental risks that could undermine the viability of the MPZ.

[510] We do not accept submissions seeking deletion of these servicing requirements or the substitution of holding tanks as a permitted alternative. The evidence indicates that holding-tank arrangements present operational risks, impose ongoing maintenance costs, and may not provide a sustainable long term solution for the MPZ community.

[511] Finally, we accept Ms White's recommendation[337] to include a discretionary "catch-all" rule (MPZ-RX[338]) to manage activities not otherwise listed in the chapter. This is consistent with the approach taken across other zones and improves the coherence and usability of the MPZ framework.

4.2.2 Decision

[512] We accept Ms White's analysis and recommendations as set out in her s42A Report, Interim Reply and Final Reply. The amended provisions are set out in **Appendix 3**.

[513] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

4.3 OTHER MATTERS

4.3.1 Assessment

[514] Submitters raised several drafting concerns relating to internal consistency within the MPZ provisions. ECan [183.1, 183.4] sought clarification of floor-area terminology and consistent measurement of building height across the Proposed Plan. Te Kotare [115.3] and

[332] Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.2.18
[333] Liz White, Interim Reply Report: SASM and MPZ Chapters, 17 April 2025, p.7
[334] Liz White, Interim Reply Report: SASM and MPZ Chapters, 17 April 2025, p.8
[335] Ms Stevenson, Statement of Evidence, 23 January 2025, para 16-17 and 71-73
[336] Davis Ogilvie, 3-Water Servicing Options and Natural Hazards Report, July 2022, pp 9-11
[337] Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.2.21
[338] Now renumbered MPZ-R17 in the Decision Version of the provisions.

Waipopo Huts [189.3] sought recognition of servicing constraints and requested additional provisions to address potable water, wastewater, and stormwater infrastructure.

[515] We accept Ms White's analysis[339] that reference to "gross floor area" provides appropriate clarity in MPZ-R5 PER-3, as "gross floor area" is a defined term in the Proposed Plan and its use avoids ambiguity created by the phrase "an area of less than 50m²." We also accept her advice[340] that height is already addressed through the integrated rule structure of the Plan, including explicit measurement directions, and that no changes to the MPZ Chapter are required to address the concerns raised by ECan.

[516] In relation to servicing of land outside the District Plan area, we accept Ms White's assessment[341] that these matters fall within the jurisdiction of Environment Canterbury under the CLWRP and lie beyond the scope of amendments that can appropriately be made to the MPZ provisions. No further changes are required to respond to these submissions.

4.3.2 Decision

[517] We adopt Ms White's analysis and recommendations. The amended provisions are set out in **Appendix 3**.

[518] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

5 OPEN SPACE ZONES - NATURAL OPEN SPACE ZONE

5.1 REALLOCATED SUBMISSIONS

[519] In his s42A report[342], Mr Boyes acknowledged submissions that have been reallocated from the Open Space Zone Chapters in Hearing D to other hearing streams. These were:

(a) NZMCA [134.6] reallocated to Hearing F, Temporary Activities;

(b) Transpower [159.100, 159.101 and 159.102] reallocated to Hearing E, Energy and Infrastructure;

(c) Waipopo Huts Trust [189.8] reallocated to Hearing Stream E, as part of their submission to re-zone this land from OSZ to Māori Purpose Zone.

[520] Mr Boyes also advised [343] that three Blandswood submissions — Whitham [121.1], Alison [126.1] and Twaddle [127.1] — had been allocated to the OSZ topic in error. The matters raised relate principally to Settlement Zone issues, including zoning appropriateness, landscape and character effects, and natural hazard risk associated with the Kowhai Stream.

[339] Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.3.6
[340] Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.3.8
[341] Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.3.9
[342] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 6.4.1
[343] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 6.4.2

The natural hazard components have been considered in Part 8 of the Decision, and the planning and zoning components are addressed within the Settlement Zone Chapter.

[521] We have addressed the wider submissions on Blandswood in Section 2.14 of this Decision.

5.2 GENERAL SUBMISSIONS

5.2.1 Assessment

[522] ECan [183.1, 183.4] lodged a general submission seeking clearer and more consistent terminology for building size across the Plan, by linking floor areas to either the "building footprint" or "gross floor area", and a submission seeking that all height standards be measured from "ground level". In his s42A report[344], Mr Boyes concluded that the Open Space and Recreation Zones (OSRZ) Chapters already use clearly defined terms for building and structure floor areas and recommended no changes in response to [183.1], insofar as it relates to those chapters. However, he noted that the OSZ height standards do not specify measurement from ground level and recommended amending OSZ-S1 and OSZ-S3 so that height limits are measured from ground level.

[523] Forest & Bird [156.174] sought to strengthen the recognition of habitat for indigenous fauna within the NOSZ, noting that such habitat may not always coincide with indigenous vegetation. It requested amendments to the NOSZ Introduction and NOSZ-O2 to expressly refer to habitat for indigenous fauna and sought a new matter of discretion requiring the effects of all activities on indigenous fauna to be considered.

[524] In his s42A Report[345], Mr Boyes recommended amendments to the NOSZ Introduction, Objectives, and Standards to include explicit reference to habitat for indigenous fauna. He did not initially propose amending NOSZ-S4.3, on the basis that its reference to "ecological values" already captured fauna habitat. However, in his Interim Reply[346], he recommended amending NOSZ-S4.3 for consistency across all relevant standards.

[525] Mr Boyes also noted that matters of discretion apply only to activities with a restricted discretionary activity status and cannot be applied across all activities in the way sought by Forest & Bird.[347] For that reason, he recommended that the submission be accepted in part.

[526] Forest & Bird [156.175] also sought that all Public Conservation Land (PCL) be included within the NOSZ, and that additional areas of the Coastal Environment—particularly around river mouths, river floodplains and hāpua—be mapped as NOSZ. In his s42A Report[348], Mr Boyes did not recommend any mapping changes. He noted that:

(a) Land identified as NOSZ is predominantly publicly owned, located mainly in the hill and high country, and already includes PCL;

[344] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 6.3.3-6.3.11.
[345] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.1.12-7.1.13
[346] Nick Boyes, Interim Reply Report: Open Space and Recreation Zones, 18 December, Para 10-13.
[347] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.1.12-7.1.13.
[348] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.1.14-7.1.16.

(b) Much of the land at river mouths, floodplains and hāpua is privately owned and therefore inconsistent with the established pattern and purpose of the NOSZ; and

(c) The suite of coastal overlays already protects the natural character of the coastal environment and manages inappropriate subdivision, use and development.

[527] Mr Boyes advised[349] that the part of the submission relating to the Coastal Environment would be more appropriately considered in Hearing Stream F when the Coastal Overlay maps are addressed. This component of Forest & Bird's submission relating to the Coastal Environment is considered in Part 4 of the Decision Report, where submissions on the Coastal Overlay maps are addressed.

[528] DOC [166.131] supported the Introduction, Objectives, Policies and Rules of the NOSZ as notified, except NOSZ-R7 which prohibits motorsport facilities. In her planning evidence[350], Ms Williams clarified that DOC does not oppose NOSZ-R7. For that reason, we have not considered this matter further.

[529] NZMCA [134.6] submitted that, under the Proposed Plan, camping (including freedom camping) is often captured by the "activities not otherwise provided for" rule and therefore requires resource consent, including in the NOSZ. They considered this an unintended restriction on responsible camping and freedom camping and argued that this approach is inconsistent with DOC strategies that emphasise enabling people to use conservation areas and connect with nature.

[530] Mr Boyes noted[351] that freedom camping is primarily managed through separate legislative and regulatory frameworks, including the Freedom Camping Act 2011, rather than through District Plan provisions. In evidence for DOC[352], Ms Williams supported clarifying this via an advice note, indicating that freedom camping is managed under the Freedom Camping Act rather than the Proposed Plan. In his Summary Statement[353], Mr Boyes acknowledged this evidence and recommended that NZMCA's submission be considered in Hearing Stream F, as the issue relates to plan-wide temporary activities rather than to the OSZ or NOSZ Chapters specifically. We note that the NZMCA submission relating to freedom camping is addressed in Part 7 of the DecisionReport (Temporary Activities).

[531] We also note that, following the further explanation provided in the s42A Summary Statement, both Helicopters South Cant. [53.26] and the NZAAA [132.32, 132.33] confirmed that they accept the reporting officer's analysis regarding the application of section 4(3) of the RMA and did not pursue their requested amendments to NOSZ-P3 or the associated rules further.

[349] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.1.17
[350] Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 57.
[351] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.1.19-7.1.21
[352] Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 5-6
[353] Nick Boyes, s42A Summary Statement: Open Space and Recreation Zones, 7 November 2024, Para 10

5.2.2 Decision

[532] We adopt Mr Boyes' analysis and recommendation to amend OSZ-S1 and OSZ-S3 to confirm that height limits are measured from ground level.[354]

[533] We adopt Mr Boyes' analysis and recommendation to amend the NOSZ Introduction, NOSZ-O2.2, NOSZ-S1.3, NOSZ-S2.4, NOSZ-S3.3 and NOSZ-S4.3 to expressly refer to habitat for indigenous fauna.

[534] The amendments are set out in **Appendix 3**.

[535] For the purposes of s32AA, we adopt Mr Boyes' evaluation in support of the change made.

[536] We adopt Mr Boyes' analysis and recommendation that no mapping amendments are necessary.

5.3 NOSZ – OBJECTIVES

5.3.1 Assessment

[537] Aside from the Forest & Bird [156.174] submission considered in the General Submissions section above, only ECan [183.161] submitted in support of the NOSZ Objectives.

5.3.2 Decision

[538] We adopt Mr Boyes analysis and recommendation[355] to accept the ECan submission in part, given the amendments we have made to NOSZ-O2 in response to the relief sought by Forest and Bird, as discussed above.

[539] In terms of s32AA, as noted above, we adopt Mr Boyes' evaluation in support of the change made to NOSZ-O2.

5.4 NOSZ – POLICIES

5.4.1 Assessment

[540] Helicopters South Cant. [53.26] and NZAAA [132.33] sought a new definition for 'conservation activities', and amendments to NOSZ-P3 to enable a wider range of conservation activities, not only those consistent with a DOC plan or strategy.

[541] The definition of 'conservation activities' was considered in Hearing Stream A and is addressed in Part 2 of the Report.

[354] See Panel Decision Report, Part 2 Section 4.1.1 for discussion on height related provisions.
[355] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.2.1.

[542] In his s42A report[356], Mr Boyes explains that the purpose of NOSZ-P3 is to give effect to section 4 of the RMA, which enables activities undertaken in accordance with DOC plans or strategies. Many conservation activities are governed by the Conservation Act and other legislation, and it would be incorrect to assume all such activities fall within the scope of the District Plan. Widening NOSZ-P3 to provide for all conservation activities would conflict with section 4 and create policy inconsistency. We agree with this explanation.

[543] Transpower [159.100] sought amendments to NOSZ-P6 to allow regionally significant infrastructure that has an operational or functional need to locate in the NOSZ as an "other" activity. In his s42A report[357], Mr Boyes -considered that the objectives and policies in the Energy and Infrastructure Chapter prevail over the Zone Chapters. In our decision on the Energy and Infrastructure Chapter, we confirmed that, other than the Port Zone it is the rules in Sections A to F of the Energy and Infrastructure Chapter that apply instead of the zone rules. The objectives and policies of the Zone Chapters apply, and we have not specified that the EI objectives and policies prevail over the NOSZ objectives and policies. The relationship between the objectives and policies in the Energy and Infrastructure Chapter and those in the Zone Chapters is addressed through the Energy and Infrastructure objectives and policies themselves. As addressed in our decision on the EI Chapter[358] we have also inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the 'weight' to be given to provisions in the event of conflict is clear.

5.4.2 Decision

[544] We adopt Mr Boyes analysis and recommendation to reject the submissions seeking to amend NOSZ-P3.

[545] In Part 1 we address the relationship between the Energy and Infrastructure policies and Zone Chapters, and accordingly, no amendment to NOSZ-P6 is required as the Energy and Infrastructure framework appropriately establishes that relationship.

5.4.3 NOSZ – RULES

5.4.4 Assessment

[546] Alliance [173.150] sought an amendment to NOSZ-R3 to enable the planting of non-indigenous species for natural hazard mitigation, to align with CE-R3. In his s42A report[359], Mr Boyes confirmed that most land within the NOSZ is PCL administered by DOC and regulated under the Conservation Act. DOC advised the s42A officer[360] that it only supports the planting of indigenous vegetation for hazard-mitigation purposes. DOC [166.131] also supported the NOSZ rules, including NOSZ-R3, in its submission. Given that the purpose and character of the NOSZ is to maintain and enhance indigenous vegetation, Mr Boyes recommended that the Alliance submission be rejected and that non-indigenous planting remain subject to

[356] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.3.10.
[357] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.3.11-7.3.14.
[358] Panel Decision Report, Part 5, Section 2.16.1
[359] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.4.6-7.4.7
[360] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.4.6

resource consent. Alliance confirmed in its Hearing Statement[361] that it accepts the s42A recommendations.

[547] TDC [42.58] sought a new discretionary activity rule for "any activities not otherwise listed". In his s42A report[362], Mr Boyes noted that each of the Zone Chapters has a rule that applies to all other uses not listed, and that for consistency with the rest of the Plan, it would be appropriate to include a similar rule in the NOSZ Chapter.

[548] Helicopters South Cant [53.27] and NZAAA [132.34] sought a new rule to permit the use of airstrips and helicopter landing sites for conservation purposes, subject to limits on frequency and duration. In his s42A report[363], Mr Boyes confirmed that most land within the NOSZ is PCL, regulated under the Conservation Act. As noted in accordance with the relevant conservation management strategy or plan. Appendix 1 of the Conservation Management Strategy permits pest control activities, including weed control, and therefore the use of helicopters for such purposes is already enabled. Mr Boyes[364] notes that for non-PCL land, NOSZ-R2 permits animal and pest control activities, and where agricultural aviation is carried out for those purposes, a further rule is unnecessary. In his Summary Statement[365], Mr Boyes advised that the submitters accepted his analysis and no longer pursued their requested rule. On that basis, we do not consider the matter further.

5.4.5 Decision

[549] We adopt Mr Boyes' analysis and recommendations relating to the NOSZ Rules. All amendments are set out in **Appendix 3**.

[550] In terms of s32AA, we adopt Mr Boyes' evaluation in support of the changes made.

6 OPEN SPACE ZONES – OPEN SPACE ZONE

6.1 OSZ – GENERAL

6.1.1 Assessment

[551] The submissions of Mr Whitam [121.1], Amy Alison [126.1], Nicolas Twaddle [127.1] on the Blandswood area are addressed above.

[552] South Rangitata Reserve Inc (SRR Inc) [206.1] sought:

(a) Recognition of existing use rights given that huts at the South Rangitata Reserve are fully developed;

(b) That the Proposed Plan provide for orderly exit and relocation of the huts; and

[361] Doyle Richardson, Alliance Hearing Statement, 21 October 2024. para 3.
[362] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.4.10.
[363] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.4.11
[364] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.4.13-7.4.14.
[365] Nick Boyes, s42A Summary Statement: Open Space and Recreation Zones, 7 November 2024, Para 8.

(c) For permanent residents to remain as part of the Holiday Hut Precinct [206.2].

[553] In his s42A report[366], Mr Boyes said that:

(a) It is inappropriate for the Proposed Plan to codify existing use rights which are available under section 10 of the RMA;

(b) The Proposed Plan provides for activities in PREC4[367] Holiday Hut Precinct which do not distinguish between permanent and temporary residents, and there is no need to do so; and

(c) Mr Boyes submitted that Including PREC4[368] Holiday Hut Precinct in the Proposed Plan suggests that the Council has no immediate plans to seek hut removal[369]. We do not draw any conclusions regarding land tenure in the short or long term, that is a separate function of Council and not a matter for this process.

6.1.2 Decision

[554] We agree with Mr Boyes' analysis and recommendations not to amend the Plan to recognise existing use rights or to distinguish between permanent and temporary residents.

6.2 OSZ – OBJECTIVES

6.2.1 Assessment

[555] MOE [106.47] sought for educational facilities to be expressly referenced in OSZ-O1 given they are a permitted activity under OSZ-R2. In his s42A Report[370], Mr Boyes recommended no change to OSZ-O1. OSZ-R2 permits educational facilities only where any associated building or structure complies with OSZ-R10, which limits the scale of such activities. Larger-scale educational facilities are enabled elsewhere in the Plan. OSZ-O1 sets out the primary purpose of the zone. As educational facilities are not widely anticipated or provided for in this chapter, we agree they do not meet the threshold for inclusion.

6.2.2 Decision

[556] We adopt Mr Boyes analysis and recommendation[371] to not include educational facilities in OSZ-O1.

[366] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.1.8-8.1.9.
[367] Now renumbered PREC9 in the Decision Version of the provisions.
[368] Now renumbered PREC9 in the Decision Version of the provisions.
[369] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.1.10.
[370] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.2.4-8.2.8
[371] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.2.4-8.2.9.

6.3 OSZ – POLICIES

6.3.1 Assessment

OSZ-P7

[557] TDC [42.56] sought a minor drafting change and spelling correction to OSZ-P7, which Mr Boyes supported in his s42A Report.[372]

OSZ-P10

[558] Transpower [159.101] sought to amend OSZ-P10 to better provide for the National Grid by allowing other activities where these are regionally significant infrastructure that have an operational or functional need to locate in the OSZ. As previously noted regarding NOSZ-P6, we agree with Mr Boyes who considered that the Energy and Infrastructure Chapter policies prevail over the Zone Chapter policies. In Part 5 of this Report for, we accepted Ms White's recommendation that the policy direction in the Energy and Infrastructure Chapter prevails over the Zone Chapters, and as addressed in our decision on the EI Chapter[373] we have inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the 'weight' to be given to provisions in the event of conflict is clear. Accordingly, we agree with Mr Boyes that no further amendments to OSZ-P10 are required on this point.

[559] MoE [106.48] sought an amendment to OSZ-P10 to allow other activities that have a functional need to locate within the OSZ. Mr Boyes recommended[374] accepting the submission in part, noting that the relief sought was general. He assessed the definitions of functional need and operational need in the National Planning Standards and considered it appropriate to include activities that have either a functional need or operational need to locate in the OSZ. We agree with Mr Boyes' assessment.

6.3.2 Decision

[560] We adopt Mr Boyes' analysis and recommendations relation to OSZ-P7 and OSZ-P10. These amendments are set out in **Appendix 3**. In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

6.4 OSZ – RULES

6.4.1 Assessment

[561] SRR Inc [206.3] sought amendment to OSZ-R2 so that the South Rangitata Reserve can be used for recreational activities in accordance with its gazetted purpose.

[372] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.3.7.
[373] Panel Decision Report, Part 5, Section 2.16.1
[374] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.3.10.

[562] In his s42A Report[375], Mr Boyes addressed only the component of the SRR Inc submission that related to existing activities. He advised that the Proposed Plan should not codify existing use rights, which arise under section 10 of the RMA. While we agree that the Plan should not codify existing use rights, we note that this was only part of the submitter's concern.

[563] At the hearing, Mr Hall for SRR Inc clarified that the relief sought was broader, stating that they sought to enable "all activity that is for the betterment of the area," which to him meant "any ordinary activity attached to a settlement community[376]". The examples provided extended beyond existing activities and events. As notified, OSZ-R2 classified community activity, cultural activity, and educational facilities as non-complying within the Holiday Hut Precinct. The s32 Report explains that this framework responds to the significant natural hazard risks affecting the settlement. We are satisfied that SRR Inc [206.3] did seek amendments to OSZ-R2, both in its written submission and through clarification at the hearing. We therefore consider that amendments to OSZ-R2 are within scope.

[564] Although Mr Boyes did not recommend changes to OSZ-R2 in either his s42A Report or Final Reply, the evidence presented at the hearing persuaded us that community and cultural activities should continue to be enabled while the hut communities remain in place.

[565] In reaching this view, we have considered the nature and scale of the activities involved. Community and cultural activities within the Holiday Hut Precinct are long-standing, low-intensity activities that reflect the established character of these settlements. They do not materially increase hazard risk or exposure beyond what already exists for residents and visitors, and they are distinguishable from new buildings or more intensive land use that may exacerbate those risks. Enabling these activities while the community remains in place provides for continuity of use and recognises the settled expectations of those who occupy the huts.

[566] SRR Inc [206.4] sought for OSZ-R10 to be amended so that buildings and structures located within a High Hazard Overlay are a restricted discretionary activity rather than non-complying. In his s42A report[377], Mr Boyes rejected this submission, favouring a non-complying activity status because it is consistent with the avoidance direction in PREC4-P2[378] and the provisions of the Hazard and Risk Chapters. He maintained this position in his Final Reply[379] and did not recommend any changes to OSZ-R10. We agree that buildings and structures located in a High Hazard Overlay should remain a non-complying activity to give effect to the avoidance policy in PREC4-P2[380] and the Hazard and Risk Chapters of the Plan. A restricted discretionary status would not adequately reflect the significant and increasing natural hazard risks affecting the Holiday Hut Precinct, nor would it give effect to the directive policy framework.

[375] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.4.9
[376] Mr Hall, Oral Submission, Day 2 of Hearing D, 13 November 2024
[377] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.4.11.
[378] Now renumbered PREC9-P2 in the Decision Version of the provisions.
[379] Nick Boyes, Final Reply Report: Open Space and Recreation Zones, 4 August 2025, Para 5-8.
[380] Now renumbered PREC9-P2 in the Decision Version of the provisions.

[567] NZMCA [134.7] sought amendment to OSZ-R12 to permit camping grounds and caravan parks in the OSZ. Mr Boyes rejected this submission in his s42A Report[381] noting that these are typically higher-intensity land uses that can generate a range of effects, including traffic, noise, servicing demands, and potential compatibility issues with surrounding open space values. He considered it appropriate that new camping grounds and caravan parks be assessed through the resource consent process. We agree that a discretionary activity status is appropriate for new camping grounds and caravan parks, as it enables an assessment of site-specific effects and ensures that any development of this type maintains the open space character and amenity anticipated in the zone.

6.4.2 Decision

[568] We accept the evidence of Mr Hall for SRR Inc that the Reserve is gazetted for recreational purposes and that community and cultural activities, including sports days and fishing competitions, are long-established components of the hut settlement. We agree that these activities are low intensity, occur intermittently, and are consistent with the established character and functioning of the hut community. We also agree that, while the hut communities remain in place, classifying such activities as non-complying creates unnecessary regulatory uncertainty. On that basis, we have deleted OSZ-R2.2 and amended OSZ-R2.1 so that community and cultural activities are permitted in the Holiday Hut Precinct. These amendments are set out in **Appendix 3**.

[569] In terms of s32AA, we are satisfied that these amendments are the most appropriate option for achieving the purpose of the RMA, the relevant Plan provisions and for giving effect to other relevant statutory instruments.

[570] We adopt Mr Boyes' analysis and recommendation not to amend OSZ-R10 or OSZ-R12.

6.5 OSZ – STANDARDS

6.5.1 Assessment

[571] SRR Inc [206.5-206.7] sought to amend the following OSZ Standards:

(a) OSZ-S3, seeking to increase the 4m building height limit where greater height is needed to address flood mitigation;

(b) OSZ-S4, seeking reduced building setback limits and clarification on whether a laneway is a road boundary or an 'other site' boundary; and

(c) OSZ-S6, seeking increased site coverage limits.

[572] In his s42A report[382], Mr Boyes recommended adding an additional matter of discretion to OSZ-S3 to consider the extent to which any increase in height is required to address an increase in finished floor level in response to flood risk. In his Interim Reply[383], he

[381] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.4.12-8.4.16.
[382] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.5.5-8.5.9.
[383] Nick Boyes, Interim Reply Report: Open Space and Recreation Zones, 18 December, Para 8

recommended a consequential amendment to OSZ-S5 so that the same matter of discretion applies when considering the height in relation to boundary standard. We agree that adding a targeted matter of discretion to address flood-related increases in finished floor levels is a more appropriate and effects-based response than increasing the height limit in the standards themselves.

[573] We also record the reporting officer's advice that no consequential amendment to OSZ-S4 is required. OSZ-S4 addresses boundary setbacks for new buildings only and is not directly affected by increases in finished floor levels associated with flood-risk mitigation. In contrast, OSZ-S5 may be affected in limited circumstances, and the targeted matter of discretion inserted into OSZ-S5 accordingly maintains consistency with the approach under OSZ-S3.

[574] Mr Boyes explained in his s42A report[384] that the SRR Inc submissions on OSZ-S4 and OSZ-S6 were concerned with the implications of the standards for existing buildings and did not seek amendments to the standards as they apply to new buildings. Submitters confirmed this at the hearing. As OSZ-S4 and OSZ-S6 apply only to new buildings and structures, we have not considered these submissions further.

[575] For completeness, we note SRR Inc's request for clarification as to whether the laneway within the Holiday Hut Precinct should be treated as a 'road boundary' for the purposes of OSZ-S4. As clarified by Mr Boyes[385], OSZ-S4 applies only to new buildings and structures, and the submitter confirmed at the hearing that their concern related to existing buildings. Because the standard does not regulate existing structures, no further determination on this point is required as part of this decision.

6.5.2 Decision

[576] We adopt Mr Boyes' analysis and recommendation to amend OSZ-S3 and OSZ-S5. These amendments are set out in **Appendix 3**.

[577] In terms of s32AA, we are satisfied that the original s32 evaluation continues to apply due to the minor scale of the changes, which do not alter the general intent of the provisions.

6.6 OSZ – PLANNING MAPS

6.6.1 Assessment

[578] In his s42A Report, Mr Boyes acknowledged the submissions of Waipopo Huts [189.8]. We have addressed the Waipopo Huts in the MPZ section above and in our decision in Part 8 in relation to natural hazards.

[579] TDC [42.76] sought to rezone Lot 2 DP 458343 [ID:19532], Lot 1 DP72967 and Lot 1 DP 339796 [ID:19531] located on Claremont Road, from GRUZ to OSZ**.** In his s42A Report[386], Mr Boyes advised that he had liaised with the TDC Parks Manager, who confirmed that TDC

[384] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.5.5-8.5.9.
[385] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.5.5
[386] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.6.4.

were no longer pursuing the rezoning request. We accept that clarification and have not considered the matter further.

[580] SRR Inc [206.14] sought to rezone land between the existing holiday hut settlement and the Rangitata River from GRUZ to OSZ. At the hearing, the submitter clarified the specific area of land. In his Interim Reply[387], Mr Boyes confirmed that the land is in public ownership, administered by Environment Canterbury and Land Information New Zealand. In his Final Reply[388], he maintained that rezoning should not be recommended without consultation with those landowners. We agree that rezoning the land from GRUZ to OSZ is not appropriate at this time, given its public ownership, the absence of landowner support, and the fact that its current zoning does not affect its continued informal use for recreation and access.

6.6.2 Decision

[581] We adopt Mr Boyes' analysis and recommendation to reject the SRR Inc rezoning request.

7 OPEN SPACE ZONES – SPORTS AND ACTIVE RECREATION ZONE

7.1 SARZ – GENERAL

7.1.1 Assessment

General

[582] SCCC [135.2] opposed all the SARZ Objectives, Policies, Rules, and Standards, with their main concern focused on whether the rule framework was appropriate for their existing use rights to operate the Timaru International Motor Raceway (Levels Raceway). In his s42A Report[389], Mr Boyes acknowledges the importance of Levels Raceway to the District, as do we. Consistent with his advice discussed elsewhere in this report, Mr Boyes advises that it is inappropriate for the Proposed Plan to codify existing use rights which are available under section 10 of the RMA, which we agree with. Mr Boyes had considered whether a Special Purpose Zone would be appropriate for the site but confirmed in the hearing that there was no submission scope for that relief. SARZ-R10 makes all motorsport events, as well as motorsport facilities and ancillary facilities, a fully discretionary activity. Mr Boyes' recommendation is that it is appropriate for new activities not authorised under the existing resource consent to have their effects assessed through the resource consent process. We agree with this recommendation.

7.1.2 Decision

[583] We adopt Mr Boyes' analysis and recommendation to reject the SCCC submission, and we find that no amendments to the Plan are necessary.

[387] Nick Boyes, Interim Reply Report: Open Space and Recreation Zones, 18 December, Para 19-23.
[388] Nick Boyes, Final Reply Report: Open Space and Recreation Zones, 4 August 2025, Para 19.
[389] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 9.1.8-9.1.4.

7.2 SARZ – POLICIES

7.2.1 Assessment

[584] Transpower [159.102] sought for better provision for the National Grid by amending SARZ-P8 to allow for regionally significant infrastructure that has an operational or functional need to locate in the SARZ as an 'other activity'. As previously discussed, Mr Boyes notes that the Energy and Infrastructure Chapter policies prevail over the Zone Chapter policies, and therefore no amendments to SARZ-P8 are needed. In Part 5, we accepted Ms White's recommendation that policy contained in the Energy and Infrastructure Chapter shall prevail over the Zone Chapters, and as addressed in our decision on the EI Chapter[390] we have inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the 'weight' to be given to provisions in the event of conflict is clear. Accordingly, we agree with Mr Boyes that no further amendments to SARZ-P8 are needed.

7.2.2 Decision

[585] We adopt Mr Boyes' analysis and recommendations, and we find that no changes to SARZ-P8 are necessary.

7.3 SARZ - RULES

7.3.1 Assessment

[586] TDC [42.57] sought to add a new discretionary activity rule for "any activities not otherwise listed in this chapter". We have discussed a similar submission for the MPZ and NOSZ Chapters above.

7.3.2 Decision

[587] We adopt Mr Boyes analysis and recommendation to add a new rule to the SARZ to cover all other uses not specifically listed, as this is consistent with most other chapters in the Proposed Plan.[391] All amendments are set out in **Appendix 3**.

[588] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

7.4 SARZ – STANDARDS

7.4.1 Assessment

[589] Burdon L [72.5–72.8] sought amendments to SARZ-S2 Building Scale, SARZ-S3 Height, SARZ-S4 Setbacks and SARZ-S7 Hours of Operation for commercial activities. In his s42A Report[392], Mr Boyes explains that almost all SARZ land is administered by Council, apart

[390] Panel Decision Report, Part 5, Section 2.16.1
[391] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 9.4.3.
[392] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 9.6.2-9.6.6.

from the Geraldine Racecourse, which is public reserve land managed by Racecourse Trustees. Consistent with his advice throughout, Mr Boyes' recommends[393] that it is inappropriate for the Proposed Plan to codify existing use rights, which are available under section 10 of the RMA. We accept this recommendation. The Standards, as notified, are appropriate thresholds for determining when a resource consent is required and for providing a basis for further assessment against the matters of discretion.

7.4.2 Decision

[590] We adopt Mr Boyes' analysis and recommendation to not amend the Plan and to retain the Standards as notified.

7.5 MAPS

7.5.1 Assessment

[591] Rooney AJ [177.1] sought for their property located on Domain Road and a portion of their property at 32 Milford Road, Temuka to be rezoned from SARZ to GRUZ. Mr Boyes accepted[394] both rezoning requests as they better align with the surrounding land zoning.

7.5.2 Decision

[592] We adopt Mr Boyes' analysis and recommendation to accept the rezoning of the property located on Domain Road and the portion of the property at 32 Milford Road, Temuka from SARZ to GRUZ. All mapping amendments are set out in **Appendix 2**.

[593] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

[393] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 9.5.6-9.5.15.
[394] Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 9.6.2-9.6.6.