

**BEFORE THE HEARINGS PANEL AT TIMARU DISTRICT COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991 (“**the Act**”)

**AND**

**IN THE MATTER** of the Proposed Timaru District Plan: Hearing Stream B: Rural

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**VANCE HODGSON**

**FOR**

**HORTICULTURE NEW ZEALAND**

**REQUEST FOR FURTHER CLARIFICATION ARISING FROM HEARING B**

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22 August 2024

1. Minute 14 of the Hearings Panel (dated 9 August 2024), records that at Hearing Stream B, the panel requested clarification or provided an opportunity for submitters to provide additional information or responses to panel questions.
2. I have been requested to provide as follows:

Submitter	Representative/Witness	Request from Panel
Horticulture NZ	Mr Hodgson (Planning)	Examples of District Plan rules that require planting of setbacks or shelterbelts as mitigation for reverse sensitivity effects.

3. My findings are that planting of setbacks or shelterbelts as mitigation for reverse sensitivity (in rural zones) are more typically encompassed in matters of assessment, control or discretion in district plans rather than prescribed in a standard. They typically relate to amenity and visual effects. Examples are included below.
4. I am aware that shelterbelts can be used in regional plan rules to manage spray drift, and I include the Tasman Resource Management Plan example.

**Tasman Resource Management Plan (Appendix 1)**

5. Responding to a discharge related effect, the Tasman Resource Management Plan includes rules relating to spray belts used to avoid or mitigate adverse effects arising from the drift of pesticides across property boundaries in particular as they relate to any school and its grounds, early childhood education facility and its grounds, visitor accommodation or tourist accommodation.

**Far North Proposed District Plan (Appendix 2)**

6. Prescribes a setback in the Horticultural Zone and Rural Production Zone. Where that setback is not met, matters of discretion are restricted to screening, planting and landscaping of the site.
7. In the Horticultural Processing Zone where removal of shelterbelts is a controlled activity supported by a particular policy.

**Partially Operative Selwyn District Plan (Appendix 3)**

8. Provides for defined amenity planting as a permitted activity in the General Rural Zone.

**Hurunui Operative District Plan (Appendix 4)**

9. Prescribes setbacks for sensitive and non-sensitive activities in the Rural Zone with landscaping, screening and amenity tree planting identified assessment criteria.

**Proposed Wairarapa District Plan (Appendix 5)**

10. Prescribes minimum setbacks for buildings, structures and residential units in the General Rural Zone. Where those setbacks are not met, matters of discretion include the ability to mitigate adverse effects through the use of screening, planting, landscaping, and alternative design.

**Central Otago District Plan (Appendix 6)**

11. Requires that subdivision in the area identified as Rural Resource Area include a condition requiring the establishment of the Horticulture 15m Amenity Edge, Horticulture 10m Amenity Edge, RLPA Amenity Edge and Shelterbelt planting prior to the issue of a certificate under section 224c.

## APPENDIX 1 – TASMAN RESOURCE MANAGEMENT PLAN

<b>2.2 Defined Words</b>	
Spray belt	<p>means a line of vegetation which at maturity is:</p> <ul style="list-style-type: none"> <li>(a) a minimum of one metre thick; and</li> <li>(b) a minimum of six metres high; and</li> <li>(c) a mixture of species, including one or more evergreen species; and</li> <li>(d) semi-permeable with a porosity of no more than 50 percent; and</li> <li>(e) more than one row of plantings.</li> </ul> <p>NOTE: The spray belt will need to be higher than the height at which a pesticide discharge occurs, and where this is more than 6 metres, other Plan rules that regulate the height of spray belts and shelter belts will also apply.</p>
<b>17.5 RURAL 1<sup>1</sup> ZONE RULES</b>	
<b>17.5.3 Building Construction, Alteration, or Use</b>	
<b>17.5.3.3 Restricted Discretionary Activities (Building Construction, Alteration, or Use)</b>	
General	<ul style="list-style-type: none"> <li>(d) If an adjoining property has horticultural plantings, including vineyards, where pesticides may be discharged to air, any school and its grounds, early childhood education facility and its grounds, visitor accommodation or tourist accommodation is set back at least: <ul style="list-style-type: none"> <li>(i) 30 metres from the boundary common to the horticultural plantings, including vineyards, and the building or grounds; or</li> <li>(ii) 20 metres from horticultural plantings, including vineyards, where a spray belt is established along the boundary common to the horticultural plantings and the building or grounds.</li> </ul> </li> </ul>
<b>17.5.20 Principal Reasons for Rules</b>	
Pesticide Discharges	The setback and spray belt requirements will avoid or mitigate adverse effects arising from the drift of pesticides across property boundaries.
<b>34.2.20 Methods of Implementation</b>	
34.2.20.1 Regulatory	<ul style="list-style-type: none"> <li>(a) Rules relating to: <ul style="list-style-type: none"> <li>(i) the discharge of pesticides to air, land or water;</li> <li>(ii) setbacks, separation distances, or planting of spray belts in association with activities that involve or may involve adverse cross-boundary effects resulting from the use of pesticides, particularly in sensitive areas such as dwellings, schools, sensitive production activities, public lands, water bodies, or water supply catchment areas;</li> <li>(iii) appropriate training for pesticide users.</li> </ul> </li> <li>(b) Action to address pesticide spray drift complaints jointly with appropriate industry user groups, where such groups exist according to established protocol.</li> <li>(c) Mediation to help resolve conflict where there are problems experienced with spray drift across property boundaries.</li> <li>(d) <u>Enforcement and abatement action where necessary.</u></li> </ul>

<sup>1</sup> Also applied in Rural 2 Zone, Rural 3 Zone and Rural Residential Zone

## APPENDIX 2 – FAR NORTH PROPOSED DISTRICT PLAN

HZ-S3	Setback (excluding from MHWS or wetland, lake and river margins)	
Horticulture zone	<p>The building or structure, or extension or alteration to an existing building or structure must be setback at least 10m from all site boundaries, except</p> <ol style="list-style-type: none"> <li>1. habitable buildings are setback at least 30m from the boundary of an unsealed road; and</li> <li>2. artificial crop protection and support structures are setback at least 3m from all site boundaries.</li> </ol> <p><b>This standard does not apply to:</b></p> <ol style="list-style-type: none"> <li>i. uncovered decks less than 1m in height above ground level;</li> <li>ii. underground wastewater infrastructure; and</li> <li>iii. water tanks less than 2.7m in height above ground level.</li> </ol>	<p><b>Where the standard is not met, matters of discretion are restricted to:</b></p> <ol style="list-style-type: none"> <li>a. the character and amenity of the surrounding area;</li> <li>b. screening, planting and landscaping on the site;</li> <li>c. the design and siting of the building or structure with respect to privacy and shading;</li> <li>d. natural hazard mitigation and site constraints;</li> <li>e. the effectiveness of the proposed method for controlling stormwater;</li> <li>f. the safety and efficiency of the current or future access, egress on site and the roading network; and</li> <li>g. the impacts on existing and planned public walkways, reserves and esplanades.</li> </ol>
RPROZ-S3	Setback (excluding from MHWS or wetland, lake and river margins)	
Rural Production zone	<p>The new building or structure, or extension or alteration to an existing building or structure must be setback at least 10m from all site boundaries, except:</p> <ol style="list-style-type: none"> <li>1. on sites less than 5,000m<sup>2</sup> accessory buildings can be setback to a minimum of 3m for boundaries that do not adjoin a road; or</li> <li>2. artificial crop protection and support structures must be setback at least 3m from all site boundaries; or</li> <li>3. habitable buildings must be setback at least 30m from the boundary of an unsealed road.</li> </ol> <p><b>This standard does not apply to:</b></p> <ol style="list-style-type: none"> <li>i. fences or walls no more than 2m in height above ground level; or</li> <li>ii. uncovered decks less than 1m in height above ground level; or</li> <li>iii. underground wastewater infrastructure; or</li> <li>iv. water tanks less than 2.7m in height above ground level.</li> </ol>	<p><b>Where the standard is not met, matters of discretion are restricted to:</b></p> <ol style="list-style-type: none"> <li>a. the character and amenity of the surrounding area;</li> <li>b. screening, planting and landscaping on the site;</li> <li>c. the design and siting of the building or structure with respect to privacy and shading;</li> <li>d. natural hazard mitigation and site constraints;</li> <li>e. the effectiveness of the proposed method for controlling stormwater;</li> <li>f. the safety and efficiency of the current or future access, egress on site and the roading network; and</li> <li>g. the impacts on existing and planned public walkways, reserves and esplanades.</li> </ol>
HPFZ-P5	<p>Provide for the removal of a screening shelterbelt planting if it can be demonstrated that:</p> <ol style="list-style-type: none"> <li>a. it is not required to screen the activities occurring on the site;</li> <li>b. it is not required to mitigate noise or light spill effects; and</li> <li>c. the removal will not create an adverse effect on the surrounding character and amenity values of the area.</li> </ol>	
HPFZ-R4	Removal of shelterbelts	
Horticulture Processing Facility zone	<p><b>Activity status:</b> Controlled</p> <p><b>Matters of control are limited to:</b></p> <ol style="list-style-type: none"> <li>a. the use of fencing or landscaping that ensures an adequate level of screening;</li> <li>b. it is not required to mitigate noise or light spill effects;</li> <li>c. existing shelterbelts on adjoining properties; and</li> <li>d. the removal will not create an adverse effect on the surrounding character and amenity values of the area.</li> </ol>	<p><b>Activity status where compliance not achieved:</b> Not applicable</p>

## APPENDIX 3 – PARTIALLY OPERATIVE SELWYN DISTRICT PLAN

### AMENITY PLANTING DEFINITION

Any plants, shrubs or trees planted primarily to provide shelter or aesthetic appeal in association with a principal building, or to visually screen any building, including any food producing trees, vines, or bushes within close proximity to the principal building and used to only supply the residents on site.

#### GRUZ-R22      Amenity Planting

**Activity Status:** [PER](#)

1. The establishment of new, or expansion of existing [amenity planting](#)

**Where this activity complies with the following rule requirements:**

[GRUZ-REQ16](#) Springfield [Airfield Height](#) Restriction

[EI-REQ23](#) West Melton Aerodrome [Height](#) Restriction

[EI-REQ24](#) Planting [Setback](#) Restriction near [Significant Electricity Distribution Line](#)

**Activity status when compliance not achieved:**

2. Activity status when compliance with any rule requirement listed in this rule is not achieved:  
Refer to relevant Rule Requirement

## APPENDIX 4 – HURUNUI DISTRICT PLAN

### 3.4.8 Assessment criteria

When considering an application and whether or not it can be granted pursuant to Part 2 of the [RMA](#), the Council will have regard to the relevant assessment criteria:

1. Setbacks/separation distances/amenity planting
  - (a) The extent to which the intrusion into the setback requirement is necessary to enable more efficient, practical and/or pleasant use of the remainder of the [site](#) or the long term protection of significant trees or natural features on the [site](#);
  - (b) The provision of [landscaping](#) or screening to compensate for the setback encroachment;
  - (c) The extent to which alternative practical locations are available on the [site](#) without intruding into the setback requirement;
  - (d) The extent to which the encroachment into the setback requirement will detract from the pleasantness, coherence, openness and attractiveness of the [site](#) as viewed from the [road](#) and adjoining sites;
  - (e) The extent to which any [building](#) encroaching into the setback requirement will be compatible with the appearance, layout and scale of other buildings and sites in the surrounding area;
  - (f) The adverse effects of the [building](#) intrusion into the setback requirement on the outlook and privacy of people on the adjoining sites;
  - (g) The extent to which a proposal would introduce the potential for cross-[boundary](#) effects between potentially environmentally incompatible activities, such as the proximity of residences near vineyards in the Waipara Wine Growing Area;
  - (h) Any adverse effects on the continued use and [development](#) of the [land](#) in the vicinity, such as in the Waipara Wine Growing Area;
  - (i) The visual effects of [amenity tree planting](#) setbacks, particularly from public places or on local landscape and [amenity values](#); and
  - (j) Any potential reverse-sensitivity effects with other [land](#) uses, including infrastructure, major roads, the rail network and business and industrial activities.

## APPENDIX 5 – PROPOSED COMBINED WAIRARAPA DISTRICT PLAN

GRUZ-S3	Minimum setbacks
<p>1. <i>Buildings or structures</i> must not be located within:</p> <ul style="list-style-type: none"> <li>a. 10m of any front road boundary of sealed roads;</li> <li>b. 10m of any other boundary;</li> <li>c. 25m of any front boundary of unsealed roads;</li> <li>d. 25m of any <i>significant waterbody</i>; and</li> <li>e. 10m of any <i>surface waterbody</i>.</li> </ul>	<p>Matters of discretion:</p> <ul style="list-style-type: none"> <li>1. The extent to which <i>building</i> design, siting, and external appearance adversely impacts on rural character and amenity.</li> <li>2. <i>Site</i> topography and orientation and whether the <i>building</i> can be more appropriately located to minimise adverse visual amenity effects or maintain,</li> </ul>
<p>2. <i>Residential units</i> must also not be located within:</p> <ul style="list-style-type: none"> <li>a. 40 m of the edge of a plantation forest under separate ownership;</li> <li>b. 300m of a boundary with untreated agricultural effluent disposal areas;</li> <li>c. 300m of an effluent holding pond; and</li> <li>d. 500m of an <i>intensive primary production</i> activity under separate ownership.</li> </ul> <p>Exceptions to boundary setbacks:</p> <ul style="list-style-type: none"> <li>3. Rainwater tanks with a diameter not exceeding 3.5m and <i>height</i> above <i>ground level</i> not exceeding 3m.</li> <li>4. GRUZ-S3(1)(b) and GRUZ-S3(1)(c) do not apply to <i>buildings</i> and <i>structures</i> used for <i>rural produce retail</i>.</li> <li>5. For <i>sites</i> less than 4,500m<sup>2</sup>, accessory <i>buildings</i> may be located up to 1.5m from the side and rear of the boundaries.</li> </ul> <p>This standard GRUZ-S3 does not apply to:</p> <ul style="list-style-type: none"> <li>1. Bridges and river crossings.</li> <li>2. Fences.</li> <li>3. Water intake, pump shed, and any associated water conveyance infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>enhance, or restore indigenous biodiversity values.</li> <li>3. Effect on nearby properties, including outlook, privacy, shading, and sense of enclosure.</li> <li>4. The extent to which the reduction in the setback is necessary due to the shape or natural and physical features of the <i>site</i>.</li> <li>5. The ability to mitigate adverse effects through the use of screening, planting, landscaping, and alternative design.</li> <li>6. The extent to which the reduction in setback would impact on the future ability for road widening requirements.</li> <li>7. Methods to avoid or mitigate reverse sensitivity effects.</li> </ul>

## APPENDIX 6 – CENTRAL OTAGO DISTRICT PLAN

Subdivision in the area identified as Rural Resource Area (5) shall be undertaken in accordance with the Structure Plan contained in [Schedule 19.23](#) and the application shall include all of the information/components listed below in order to be considered as a controlled activity under Rule 4.7.2.ii.

- A. Staging details for subdivision;
- B. Areas of [open space](#) that are precluded from [development](#) in general accordance with the locations shown on the Structure Plan;
- C. A condition requiring the establishment of the Horticulture 15m Amenity Edge, Horticulture 10m Amenity Edge, RLPA Amenity Edge and Shelterbelt planting prior to the issue of a certificate under section 224c of the [Resource Management Act 1991](#), with the following parameters:
  - i. The RLPA and Horticulture 15m Amenity Edges shall have a width of 15 metres.
  - ii. The Horticulture 10m Amenity Edge shall have a width of 10 metres.
  - iii. Rural Lifestyle Area [allotments](#) adjoining the Horticulture 10m Amenity Edge shall provide a private accessway of at least 4.5m in width immediately adjoining the Amenity Edge.
  - iv. Plantings shall predominantly consist of species identified in the Planting Schedule for the Rural Resource Area (5) in [Schedule 19.25](#).
  - v. Trees within the RLPA Amenity Edge shall be planted in two rows. At the time of planting these trees shall be at least 2.5 metres in [height](#) and shall have an anticipated growth rate of 3- 4 metres within 5 years. The trees to be planted shall consist of species identified in the Planting Schedule for the RLPA Amenity Edge in [Schedule 19.25](#). The front row of planting (adjacent to the Rural Lifestyle Production Area) shall have a maximum spacing of 4 metres between trees and the back row (adjacent to Rural Lifestyle Area 1) shall have a maximum spacing of 5 metres.
  - vi. Small-medium shrubs within the Horticulture 15m and 10m Amenity Edges shall be at least 1 metre high at the time of planting and trees and large shrubs within the Horticulture 15m and 10m Amenity Edges adjacent to the Horticulture Area shall at the time of planting be at least 2 metres in [height](#) and shall consist of species identified in the Planting Schedule for the Horticulture Block Amenity Edge in [Schedule 19.25](#).