

WAIKATO DISTRICT COUNCIL

Hearings of Submissions on the Proposed Waikato District Plan

Report and Decisions of Independent Commissioners

Decision Report 18: Country Living Zone

17 January 2022

Commissioners

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Mr Dynes Fulton

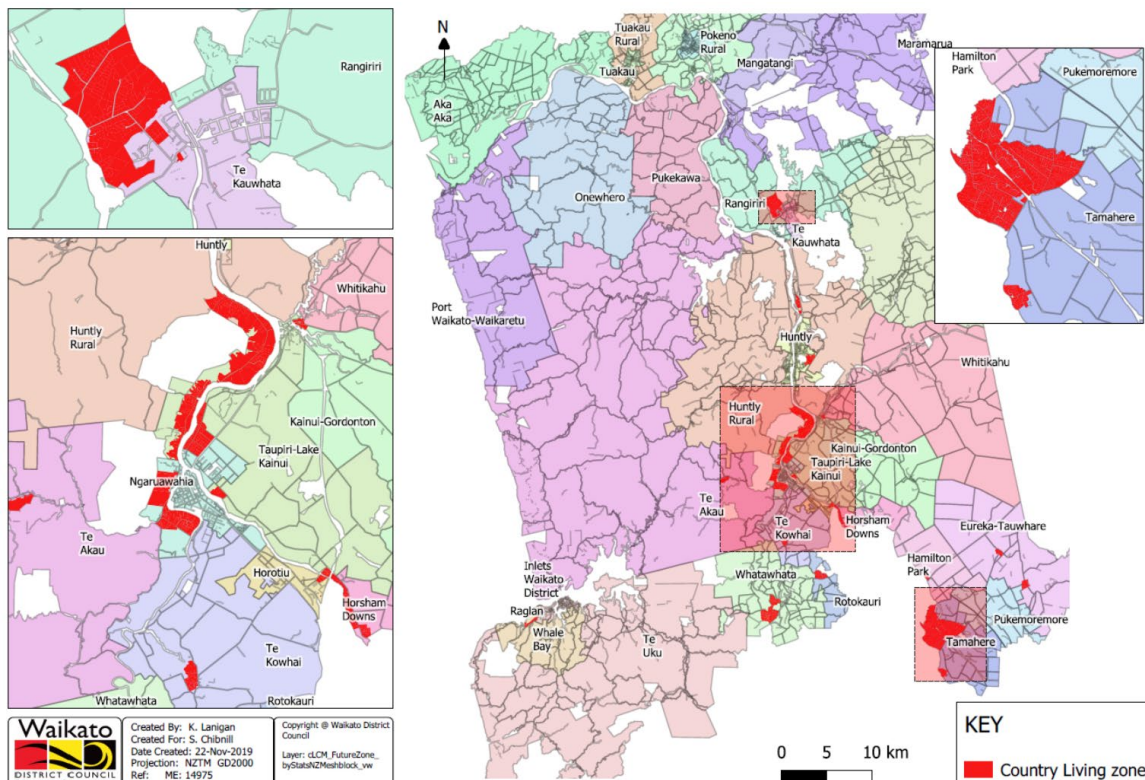
Ms Linda Te Aho

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1 Introduction

1. Hearing 12 related to all the submissions received by the Waikato District Council (Council) on the provisions of the Country Living Zone (CLZ) within the Waikato Proposed District Plan (PDP). This hearing specifically related to objectives, policies, land use activities, land use effects, building and subdivision within the CLZ.
2. The PDP was notified prior to the implementation of the National Planning Standards, which standardise planning provisions. We have explained below in our Decision that in order to implement the National Planning Standards, the CLZ will be renamed as the 'Rural Lifestyle Zone'. We highlight to plan users that when searching for the CLZ provisions, they must instead look for the 'Rural Lifestyle Zone'. We have however continued to use 'CLZ' in this Decision for consistency with Hearing 12.
3. The CLZ provides for low density living at specific locations in rural areas and is intended to provide rural-residential living opportunities to alleviate the pressure for the subdivision and development of rural land. The CLZ is generally located near an urban town or village, but can also be in isolated rural areas. Substantial areas of the zone are located at Te Kauwhata and around Ngaruawahia, extending north towards Taupiri. Tamahere is the largest area of CLZ and is in close proximity to Hamilton City.



Gordonton Road which will transfer into Hamilton City Council's jurisdiction at some point and will eventually be urbanised. The purpose of the UEA is to ensure that development in the meantime does not compromise the future ability to urbanise. The provisions limit the subdivision and land uses that can establish in order to allow more efficient urban development in the future.

2 Hearing Arrangements

5. The hearing was held on Tuesday 7 April 2020 via Zoom. All of the relevant information pertaining to this hearing (i.e., section 42A report, legal submissions and evidence) is contained on Council's website.
6. We heard from the following parties on the CLZ provisions of the PDP:

Submitter	Attendee at the hearing
Council	Susan Chibnall (author of section 42A report)
Hamilton City Council	Laura Galt
Middlemiss Farm Holdings	Peter Fuller
The Buckland Country Living Zone Landowners Group	Peter Fuller and Shane Hartley
Mark Chrisp	In person
Ethan Findlay	In person
Jason Howarth	In person
Bowrock Properties	Hannah Palmer
NZ National Fieldays Society Inc	Peter Nation
Waikato Regional Airport Ltd	Kathryn Drew
Derek Hartley	In person
Godfrey Bridger	In person

Auckland/Waikato Fish and Game Council NZ	Ben Wilson
Tamahere Community Committee	Sue Robinson

7. Although these parties did not attend the hearing, evidence was filed by:
- a. Leigh Robcke;
 - b. Philip Barrett for William Hodgson and Leo Koppens;
 - c. Pam Butler on behalf of KiwiRail;
 - d. Teina Malone on behalf of First Gas Ltd;
 - e. Sir William Birch on behalf of CSL Trust and Top End Properties;
 - f. Tim Lester on behalf of Blue Wallace Surveyors Ltd;
 - g. Pauline Whitney on behalf of Transpower NZ;
 - h. Vance Hodgson on behalf of HortNZ;
 - i. Carolyn McAlley on behalf of Heritage New Zealand Pouhere Taonga;
 - j. Vanessa Addy on behalf of The Surveying Company;
 - k. Alec Duncan on behalf of Fire and Emergency New Zealand;
 - l. Tanya Running on behalf of New Zealand Transport Agency; and
 - m. Alec Duncan on behalf of the Ministry of Education.

3 Overview of issues raised in Submissions

8. In the section 42A report, Ms Susan Chibnall set out the full list of submissions which Council received relating to the CLZ provisions. In brief, the key matters of relief sought by the submitters relate to:¹
- a. Objectives and policies to recognise non-residential activities;

¹ Section 42A Report Hearing 12: Country Living Zone, 3 March 2020, paragraph 31.

- b. Provisions to support the establishment and operation of emergency services facilities;
- c. Inclusion of Crime Prevention Through Environmental Design (CPTED) in new development;
- d. Provisions to manage the impact of Homestays (inclusive of Airbnb and Bookabach);
- e. Provisions to enable childcare facilities and management of home occupations;
- f. More enabling provisions for earthworks;
- g. Better recognition and minimisation of reverse sensitivity;
- h. Less restrictive standards for setbacks, height, daylight admissions and site coverage;
- i. Amendments to the setback rules from waterbodies;
- j. Decreasing the minimum lot size below 5,000m²;
- k. Deleting the prohibitive subdivision rule for subdivision in the Airport Subdivision Control Boundary (ASCB);
- l. Decreasing the minimum lot size below 1.1ha in the ASCB; and
- m. The prohibitive subdivision framework in Hamilton's UEA.

3.1 Overview of evidence

9. Ms Galt presented evidence on behalf of Hamilton City Council (HCC) which addressed two main matters in the context of the UEA. Ms Galt sought to limit the commercial activities that can establish in the UEA to maintain the primacy of existing commercial centres by confining commercial activities to Business Zones. She explained this is a critical issue for HCC, as almost all of the CLZ is located near Hamilton City or main towns. Accordingly, HCC seeks to ensure that any commercial activities that establish within the CLZ are limited to providing a local service at a scale that provides for the day-to-day needs of a community. She considered that larger commercial activities should be directed to and located in existing business zoned land, so as not to adversely impact on existing centres. Ms Galt stated that while a discretionary activity status is an appropriate activity status for commercial activities in the CLZ, the current policy framework does not achieve the outcome sought by HCC.² Ms Galt therefore supported the recommendations of the section 42A report in terms

² Statement of Evidence of Laura Galt on behalf of Hamilton City Council, 17 March 2020, paragraphs 10 and 11.

of retaining Policy 5.6.8 Non-residential activities so long as it was strengthened to better protect existing centres from inappropriate commercial activities establishing in the CLZ.

10. Ms Galt also sought retention of the prohibited activity status for subdivision in the UEA to protect the land resource which will be transferred to HCC in the future. While Ms Chibnall recommended a discretionary activity status in her section 42A report, Ms Galt considered that any further fragmentation of the land will degrade the resource and HCC's ability to retrofit the land for future urbanisation purposes. She considered a prohibitive approach to subdivision in the UEA provides HCC with the best chance to urbanise the land in the most effective and efficient manner, and thus achieve the outcomes of the Strategic Agreement between Waikato District Council and Hamilton City Council.³
11. HCC was also a further submitter on a number of primary submissions and Ms Galt expressed support for the following recommendations in the section 42A report:
 - a. the retention of Policy 5.6.3 (i) Subdivision within the Country Living Zone, as notified;
 - b. the retention of the notified minimum lot size of 5000m² for the CLZ; and
 - c. the retention of Policy 5.6.8 Non-residential activities and the definition of "rural activity".
12. Mr Peter Fuller filed legal submissions on behalf of The Surveying Company and the Buckland Group, although recognised that the Buckland Group arguably did not have direct standing in this hearing due to the absence of submissions.⁴ The legal submissions were complimented by planning evidence from Mr Shane Hartley on behalf of The Surveying Company. Mr Hartley agreed with the section 42A report recommendations on the following matters⁵:
 - a. Increasing the maximum volume of earthworks as a permitted activity from 250m³ to 500m³, and retaining the other standards for earthworks;
 - b. Retaining minor household units as a permitted activity; and
 - c. Adding a rule requiring buildings to be set back a minimum of 10 metres from the bank of a perennial or intermittent stream (named or unnamed).
13. The main area in contention was the minimum site size for subdivision, where Mr Hartley sought a minimum area of 3,000m² and an average of 5,000m². He considered that having a strong objectives and policy framework would enable Council to decline

³ Statement of Evidence of Laura Galt on behalf of Hamilton City Council, 17 March 2020, paragraphs 13 and 14.

⁴ The Buckland Group of submitters sought rezoning of property between Tuakau and Pukekohe as Country Living Zone.

⁵ Statement of Primary Evidence of Shane Hartley on behalf of The Surveying Company, 16 March 2020, paragraph 2.1.

non-complying activities where subdivision did not maintain the outcomes intended for the zone. He outlined the advantages of an averaging approach such as enabling larger lots to be used for productive rural activities; reducing extensive maintenance and requirements for smaller lots; creating more flexible and design-led subdivision patterns; and providing for a range of lot sizes offering more choice.

14. Mr Fuller considered that expanding and reinforcing the restricted discretionary activity amenity assessment criteria would address the concerns expressed in the section 42A report, including loss of rural character, clustering houses near a road, and views from public places.⁶ Mr Hartley considered that the proposed policies clearly direct how to determine and reject subdivision proposals for subdivision that do not meet the averaging approach requirements which he sought.
15. Mr Fuller outlined an alternative option if we were not minded to adopt an averaging approach, which is to further strengthen the rural character criteria of discretion in the assessment of an averaging application.⁷
16. Mr Mark Chrisp sought that the minimum lot size be reduced to 3,000m² and considered that in reality the CLZ is a Large Lot Residential Zone in terms of the National Planning Standards, rather than the Rural Lifestyle Zone as recommended by Ms Chibnall.⁸ He considered that any notion that the CLZ still enables primary production largely relates only to the land that has yet to be subdivided into large residential lots or is otherwise constrained in terms of its lot size by virtue of being located within the ASCB (i.e., where there are larger lot size requirements).⁹ He observed that the vast majority of properties in the CLZ do not undertake rural production activities; rather it is an environment that is dominated by large houses surrounded by large areas of mown lawn and perimeter plantings. He considered that the 5,000m² minimum lot size is a grossly inefficient use of land; and given that the majority of the sites are in lawn, he considered that a similar level of amenity is achievable with a minimum lot size of 3,000m².¹⁰
17. Mr Chrisp identified the benefits resulting from a minimum lot size of 3,000m² as a more efficient use of land, enabling a reconfiguration of existing lots, and reducing pressure on productive Rural Zone land being used for residential purposes. He considered that the outcomes sought to be achieved by the objectives and policies of the CLZ can be achieved by a minimum net site area of 3,000m².

⁶ Legal submissions on behalf of The Surveying Company and Buckland Group, 3 April 2020, paragraph 21.

⁷ Legal submissions on behalf of The Surveying Company and Buckland Group, 3 April 2020, paragraph 16.

⁸ The Chair took no part in matters relating to this submission – see the Hearings Panel's Register of Interests.

⁹ Statement of Evidence of Mark Chrisp, 23 March 2020, paragraph 4.3.

¹⁰ Statement of Evidence of Mark Chrisp, 23 March 2020, paragraph 4.8.

18. While the primary submission of Mr Ethan Findlay was not clear as to the relief he was seeking, his further submissions supported primary submissions seeking a reduced minimum lot size. His evidence clarified that he sought that the CLZ be extended to a number of lots in Matangi. Alternatively, his evidence sought that the Rural Zone provisions be amended to facilitate reclassification and subdivision of segmented rural land that in practical terms is being used as 'country living'. He considered this will allow better use of land that is already fragmented and no longer of rural use. We understand that residential subdivision to lot sizes of 3,000-3,500m² would address the relief he sought. We wish to advise Mr Findlay that although we received his evidence in Hearing 12, we have considered the matters he raised in the context of Hearing 18 Rural Zone and Hearing 25 Zone Extents.
19. Mr Jason Howarth presented evidence primarily on the ASCB, particularly on the larger 1.1ha minimum average lot size for subdivision within that overlay. He did not consider that there is any need for a special rule to control subdivision within the ASCB and observed that there is no practical correlation with the ASCB and aeronautical operations i.e., there is no obligation for a pilot to conduct aircraft operations within the ASCB. He also noted that the operation of the Waikato Regional Airport (the Airport) has changed since Plan Change 19 which introduced the ASCB and limited future subdivision within that overlay. He mentioned that there are no longer scheduled jet operations at the Airport and there has been a reduction in scheduled domestic services.¹¹ He did not believe there to be a significant issue relating to reverse sensitivity and considered that the Airport's operations have a minor effect on the properties. He observed that more restrictive controls have largely failed to control the number of sections and dwellings as demonstrated by significant development within Tamahere over the past 10-15 years.¹²
20. Ms Hannah Palmer presented planning evidence on behalf of Bowrock Properties Limited and outlined her support for a more flexible approach to subdivision. She sought amendments to Policy 5.6.3, the key policy guiding subdivision within the CLZ, to avoid the creation of undersized lots except where it can be demonstrated that productive capacity of land can be retained.¹³ Ms Palmer did not seek any further amendments to objectives, policies or rules, and considered that should her amendment be accepted then retaining a non-complying activity status for undersized lots is appropriate. Ms Palmer considered that the amendment serves to better accommodate the productive capacity of land within the zone by providing flexibility in subdivision design, whilst still seeking to retain the character and amenity of the

¹¹ Statement of evidence by Jason Howarth, paragraph 3.

¹² Statement of evidence by Jason Howarth, paragraph 4.

¹³ Statement of Evidence of Hannah Palmer for Bowrock Properties Limited, 16 March 2020, paragraph 6.4.

zone.¹⁴ She considered that the rigidity in Policy 5.6.3 would contribute to fragmentation of potentially productive land by taking a one size fits all approach, and therefore would not adequately give effect to the Waikato Regional Policy Statement (RPS). We questioned her about the ability to undertake productive uses and she considered that clustering would result in larger lots that were more capable of productive uses.

21. Mr Peter Nation appeared at the hearing representing the NZ National Fieldays Society Inc. He provided the background to the noise overlays which sit over the Fieldays site at Mystery Creek, which was established following an Environment Court order 23 years ago. Although the Fieldays site is located entirely within the Waipa District, Mr Nation considered that the noise overlay should be extended into the PDP to reflect the Environment Court's decision and ensure that any future landowners are aware of the venue and the noise generated by activities on the site.
22. Ms Kathryn Drew appeared on behalf of Waikato Regional Airport Ltd (WRAL). Ms Drew explained the genesis of the ASCB and the 1.1ha average minimum lot size within that overlay, then outlined her support for retaining this approach.¹⁵ She considered that removing the ASCB would undermine the existing integrated cross-boundary approach developed by the three councils (i.e., Hamilton, Waikato and Waipa) to manage the effects of the Airport's operations on the receiving environment. She considered that there is a need to control reverse sensitivity effects that may arise due to potential noise to limit the number of people exposed to those adverse noise effects. Ms Drew thought that the most effective way to achieve this outcome is by limiting the potential for new dwellings to be built within the ASCB through the retention of the larger average lot size.¹⁶ She agreed with a non-complying activity status for subdivision with an average lot size smaller than 1.1ha within the ASCB, provided that Policy 5.6.3 Subdivision within the CLZ was amended to ensure that policy protected the Airport as regional significant infrastructure from reverse sensitivity effects. Without the change to Policy 5.6.3, she considered that the prohibited status for subdivision that does not comply with the averaging requirement should be retained.¹⁷
23. Mr Derek Hartley is a landowner at Newell Road, Tamahere, which is located on the eastern side of the Airport. He sought to remove the rules applying to the Airport noise area and to allow discretion for thoughtful subdivision of Tamahere of lots less than 5,000m².

¹⁴ Statement of Evidence of Hannah Palmer for Bowrock Properties Limited, 16 March 2020, paragraph 7.1.

¹⁵ Statement of Rebuttal Evidence by Kathryn Drew on behalf of Waikato Regional Airport Limited, 24 March 2020, paragraphs 14-22.

¹⁶ Statement of Rebuttal Evidence by Kathryn Drew on behalf of Waikato Regional Airport Limited, 24 March 2020, paragraph 30.

¹⁷ Evidence Highlights of Kathryn Drew on behalf of Waikato Regional Airport Ltd, page 10.

24. Mr Godfrey Bridger presented to us around the need for the minimum lot size to be reduced from 5,000m² to 4,000m². He considered such a reduction would enable the supply of sections in the CLZ to transition to a slightly higher density housing. He considered that this is a very important issue that has not had adequate investigation. Mr Bridger suggested the minimum lot size is in conflict with Council's, the region's and New Zealand's policies to relieve the population pressures from growing urban centres and facilitate orderly planned development. He considered that maintaining density of the CLZ is not the outcome the PDP should be seeking.¹⁸
25. Mr Ben Wilson presented evidence on behalf of Auckland/Waikato Fish and Game Council and sought to exempt maimai (a gamebird shooting structure) from the building setback rules to waterbodies. He considered that building and using maimai is a fundamental part of gamebird hunting in New Zealand. He observed that a wide range of structures are used as maimai, many of which meet the definition of a building under the Building Act 2004.¹⁹ He drew our attention to several areas where the CLZ adjoins the Waikato River, and the zone overlaps with the riparian margin. He considered that these areas already have long established maimai that have not caused any safety issues to date. He considered that the construction of a maimai is a safer approach than shooting occurring from any location.²⁰
26. Ms Sue Robertson presented on behalf of the Tamahere Community Committee and covered a number of matters. She supported allowing a minor dwelling as a permitted activity and that it not be limited to accommodation for a dependant relative. She opposed the requirement for the minor dwelling to be within 20m of the principal dwelling, particularly as topography may not be conducive to the restriction of 20m.
27. While she supported home occupations, she expressed concern about the following standards:
- a. Machinery may be operated up until 9pm, this was previously 7pm;
 - b. No limit on heavy vehicle movements per day, previously only 4;
 - c. No limit on vehicle movements per day, previously 30, now up to 100 as set out in Chapter 14.12; and
 - d. No longer requires that the activity does not interfere with neighbours' televisions, radios, telephones or electronic equipment.

¹⁸ Verbal submission to Hearing 12 Country Living Zone by Godfrey Bridger, 7 April 2019.

¹⁹ Summary of Submission of Benjamin Wilson on behalf of Auckland/Waikato Fish and Game Council, 7 April 2020, paragraph 2.3.

²⁰ Summary of Submission of Benjamin Wilson on behalf of Auckland/Waikato Fish and Game Council, 7 April 2020, paragraph 3.4.

28. She considered that the rules for home occupations may erode amenity values, and tight controls are required as the CLZ is not a business zone. She also considered that the provisions were not clear regarding the ability to build a non-habitable or accessory building within the 100m setback to the Tamahere Commercial Areas A and B.
29. Ms Robertson supported the analysis in the section 42A report regarding building coverage and the retention of the 5,000m² minimum lot size, although opposed the larger average lot size in the ASCB. She considered that as there are now only minimal parcels of undeveloped land remaining in the ASCB, it seemed redundant to maintain the subdivision restrictions and considered that the situation should be managed by a 'no complaints' covenant on new titles in the Airport Outer Noise Zone and within the SEL 95 Boundary.
30. Mr Leigh Robcke filed evidence to be tabled at the hearing on behalf of the estate of John Robert Robcke and Dinah Leigh Robcke. Mr Robcke's evidence focused on the subdivision standards including the minimum lot size and considered these as overly conservative when compared with the district plans of adjoining territorial authorities. He doubted that viable primary production could occur on such small areas of land, particularly given the common large size of the houses, recreation amenities, curtilage and so on. On this basis, he suggested that the National Planning Standards' Settlement Zone is more appropriate (by reference to Glen Massey).
31. Mr Philip Barrett filed evidence on behalf of William Hodgson and Leo Koppens. He addressed reverse sensitivity in the context of the ASCB where he considered that there had been a substantial change to the Airport environment from when the rule was first negotiated at mediation, and limiting subdivision was no longer appropriate. He considered that growth of the Airport and the Tamahere community could continue simultaneously and that future subdivision and residential development would not hinder that growth. Mr Barrett further considered there was no relevant and reliable evidence that reverse sensitivity is a factual issue that warranted maintenance of the rule, and to retain it was disproportionately favourable to WRAL.²¹ He considered that an alternative solution to addressing any potential reverse sensitivity issues with WRAL would be to require the new activity enter into a "no complaints" covenant via a land encumbrance.
32. Ms Pam Butler filed evidence on behalf of KiwiRail expressing support for the amendments recommended in the section 42A report to the following provisions:
 - a. Policy 5.6.16 Noise;
 - b. Rule 23.2.3.1 P2 (a)(iv) Earthworks general;

²¹ Submission Statement of Philip Barrett for William Hodgson and Leo Koppens, 20 March 2020, Paragraph 1.7.

- c. Rule 23.2.6.2 P1 Signs – Effects on traffic;
 - d. Rule 23.1 Land Use;
 - e. Policy 5.6.3 Subdivision; and
 - f. Rule 23.4.2 General subdivision.
33. While KiwiRail sought inclusion of a new paragraph in Rule 23.2.1 P2(a) Earthworks – General to require earthworks to be setback at least 1.5m from any infrastructure, Ms Butler did not oppose Ms Chibnall’s recommendation to reject this request, on the basis that there is already a setback requirement for earthworks from the property boundary. Ms Butler supported the inclusion of a new reverse sensitivity policy. The main area of disagreement was the 5m setback which KiwiRail sought for all buildings adjacent to the rail corridor, which Ms Chibnall recommended rejecting. Ms Butler considered such a setback was necessary to manage risks to human safety associated with the interface between rail operations and activities on all sites adjoining the rail corridor, and avoid or minimise the potential for objects or structures inadvertently and / or unexpectedly coming into conflict with moving trains within the rail corridor.²²
34. Sir William Birch filed evidence on behalf of CSL Trust and Top End Properties and outlined his support for the following section 42A report recommendations:
- a. The various changes to Rule 23.2.3 Earthworks;
 - b. Retaining the minimum net site area for Rule 23.4.2 General Subdivision at 5,000m². He considered that decreasing the minimum net site area would greatly increase the potential lot yield from properties zoned as CLZ throughout the district, which would not align with the intended function of the zone; and
 - c. The change to Rule 23.3.5 Daylight Admission to use 45 degrees, which would be consistent with other district plans and make calculation easier.
35. Mr Tim Lester filed evidence on behalf of Blue Wallace Surveyors Ltd and focused on the areas where Ms Chibnall recommended rejecting the submission points. Mr Lester considered that earthworks for accessways should be explicitly provided for as a permitted activity and should be exempted from the earthworks standards. While Mr Lester supported Ms Chibnall’s recommendation to increase the permitted volume of earthworks to 300m³, he remained concerned at the setback required for earthworks from the property boundary and sought this be reduced from 1.5 to 0.5m. He considered that structures on property boundaries will have already gone through an

²² Evidence of Pam Butler on behalf of KiwiRail Holdings Ltd, 17 March 2020, paragraph 4.4.

assessment process, and any undermining of abutting boundary structures is a civil matter between parties. Mr Lester supported Ms Chibnall's recommendation to clarify setbacks from managed wetlands. He considered that the policy addressing subdivision (Policy 5.6.3) should not seek to "avoid" undersized lots, given the inflexible policy direction and hurdles of s104D in the Resource Management Act 1991 (RMA). He supported a less restrictive discretionary activity status for CLZ subdivision in the UEA as recommended by Ms Chibnall, as well as a discretionary activity status for subdivision in the Coal Mining Policy Area. He considered that a 500m² building platform requirement for subdivision provided flexibility and was more appropriate than 1,000m².

36. Ms Pauline Whitney filed evidence on behalf of Transpower NZ, which focused on whether the rules regarding subdivision near the National Grid should be replicated in each of the zone chapters or the infrastructure and energy chapter. Ms Whitney opposed the "zone by zone" approach and instead preferred a standalone set of National Grid provisions, for the reason it avoids duplication and provides a coherent set of rules which plan readers can refer to. She supported clear cross referencing in the zone chapters.
37. Mr Vance Hodgson filed evidence on behalf of HortNZ and addressed reverse sensitivity issues, as well as the need to enable farming. He sought inclusion of a new policy to address reverse sensitivity issues, to reflect Policy 4.4(f) of the RPS. He considered that where a building infringes a setback standard, an additional matter of discretion would be helpful that addressed reverse sensitivity effects.²³ Mr Hodgson supported an activity status cascade to discretionary where a building does not comply with Rule 23.3.7.2, which sets out setbacks for sensitive land uses.²⁴
38. Mr Hodgson considered that an explicit permitted activity listing for farming in the CLZ would acknowledge that there are areas of farming activity including on highly productive land where the value of food production supports retaining and encouraging rural activities.²⁵
39. Ms Carolyn McAlley filed evidence on behalf of Heritage New Zealand Pouhere Taonga and expressed concern that the submission points had largely been recommended to be rejected by Ms Chibnall in her section 42A report. Ms McAlley sought recognition of historic and cultural values in the following provisions:

²³ Statement of Evidence by Vance Hodgson on behalf of Horticulture New Zealand, 16 March 2020, Paragraphs 20-24.

²⁴ Statement of Evidence by Vance Hodgson on behalf of Horticulture New Zealand, 16 March 2020, Paragraph 27.

²⁵ Statement of Evidence by Vance Hodgson on behalf of Horticulture New Zealand, 16 March 2020, Paragraphs 16-19.

- a. Policy 5.6.7 Earthworks;
 - b. Rule 23.2.6.1 Signs, in particular the inclusion of a restricted discretionary activity for signs on historic heritage sites or Maori Sites and Areas of Significance.
Alternatively, if a 1m² sign was enabled as a permitted activity, then Ms McAlley sought the inclusion of an additional standard regarding the location of the sign on the building and method of attaching the sign; and
 - c. Rule 23.4.5 Subdivision site boundaries and the correct translation of historic heritage into the new rule recommended by Ms Chibnall, and a non-complying activity status where historic heritage items are split across property boundaries.
40. Ms Vanessa Addy filed evidence on behalf of The Surveying Company and identified all the submission points which were recommended to be accepted by Ms Chibnall in her section 42A report, including an increase in the volume of earthworks, retention of the rule for minor dwellings, amendments to relax the daylight admission angle to 45°, 10m building setbacks from perennial or intermittent streams and the deletion of Rule 23.4.9 Subdivision creating reserves.
41. Ms Alec Duncan filed evidence on behalf of Fire and Emergency New Zealand and supported the inclusion of a policy enabling emergency services. She considered that Policy 5.6.2(e) – Country Living character should ensure sufficient water supply for firefighting, a matter which was rejected by Ms Chibnall in her section 42A report. Ms Duncan supported the controlled activity status for hose drying towers up to 15m but sought this height limit be applied to all emergency service facilities as well. She also considered that the subdivision standards in the CLZ should include a connection to water supply for firefighting purposes, and a matter of discretion in the same vein.
42. Ms Duncan expressed support for Ms Chibnall's recommended amendments of the following provisions:
- a. Policy 5.6.8 Non-residential activities;
 - b. Policy 5.6.9 Existing non-residential activities;
 - c. New permitted activity for 'emergency services training and management';
 - d. New controlled activity for 'emergency service facilities';
 - e. Rule 23.2.1.1. Noise – General; and
 - f. Rule 23.3.7.5 Building setback – Waterbodies.
43. Ms Tanya Running filed evidence on behalf of Waka Kotahi New Zealand Transport Agency (Waka Kotahi) and addressed the following rules:

- a. Rule 23.2.6.2 P1 Signs - effects on traffic, where she suggested alternative wording for clearer understanding and to align with Waka Kotahi's brochure, "Advertising Signs on State Highways";
 - b. Rule 23.3.7.1 RD1 Building setbacks – All boundaries, where she sought amendments to the wording to refer to "transport network safety and efficiency"; and
 - c. Rule 23.1.1 P4 Permitted Activities – Home occupations, where she sought the inclusion of a rule preventing the use of a heavy vehicle.
44. Ms Alec Duncan filed evidence on behalf of the Ministry of Education, which sought a restricted discretionary activity status for education facilities, rather than the notified discretionary activity status. Ms Chibnall agreed with the request in her section 42A report, and thus Ms Duncan's evidence focused on the matters of discretion. Ms Duncan preferred the matters of discretion contained in the Ministry of Education's submission relating to bulk and location of buildings to those recommended by Ms Chibnall.

4 Panel Decisions

45. We note that 342 primary submission points were received on the CLZ and these were considered in a comprehensive section 42A report, rebuttal and closing statement prepared by Ms Chibnall who recommended a number of changes. We have therefore focused our decision on the areas of contention and where we have an alternative view to the recommendations of Ms Chibnall. We have summarised our decisions on all the CLZ provisions but to varying degrees of detail depending on how contentious the subject matter was.
46. Given the overlap between submitters on a number of outstanding issues before the Panel, the following sub-sections have been grouped by issues.

4.1 Implementation of the National Planning Standards

47. Ms Chibnall considered the range of zones available in the National Planning Standards and concluded that "Rural Lifestyle Zone" was the most appropriate.²⁶ We note that the zone is described in the National Planning Standards as:

Areas used predominately for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while enabling primary production to occur.

²⁶ Hearing 12: section 42A Report on Country Living Zone, Susan Chibnall, 3 March 2020, paragraph 43.

48. We agree that Rural Lifestyle Zone is the most appropriate translation of the zone, and although we accept that many sites will not be used for primary production, primary production is enabled within the zone albeit on a small scale.
49. We also consider there is value in the inclusion of a descriptive statement to provide clarity on the purpose and character of the zone.

4.2 Purpose of the Zone

50. Objective 5.6.1 essentially establishes the overall purpose of the CLZ, however the only submission seeking amendments to the objective was Horticulture New Zealand who sought inclusion of “avoids compromising rural production land or activities” at the end of the objective. We do not consider Objective 5.6.1 to be a particularly effective over-arching objective for the zone and indeed reads more as a policy. We have included an additional clause which better describes the outcome for the zone, which is that residential living is enabled in a rural setting.

4.3 Crime Prevention Through Environmental Design

51. Counties Manukau Police sought a number of changes to the policies in particular to require activities and structures to conform to the CPTED principles. We do not consider that CPTED principles are particularly relevant to the CLZ given the open and semi-rural character of the zone, so we have not made the amendments sought. We agree with Ms Chibnall that the low housing density, prominence of a rural form of development, very mature vegetation, large setbacks and absence of footpaths in the CLZ would make it difficult to meaningfully implement such a policy.²⁷

4.4 Policies

52. The CLZ as notified had 17 policies which covered a range of topics. We have summarised our decision on each one below:

Policy 5.6.2 Country Living character

53. We have not added in the reference to water for firefighting, as the focus of this policy is on the supply of water rather than the uses for it. We have addressed the issue of water for firefighting more holistically later in this decision. We have not added references to specific activities as requested by submitters as we consider that the rules are the most appropriate location for that level of detail rather than policies.

Policy 5.6.7 Earthworks

54. Auckland/Waikato Fish and Game Council sought to delete clause (a)(iii) which relates to managing earthworks where there are natural water flows and drainage paths. We agree with Ms Chibnall that it is important that during any development involving

²⁷ Hearing 12: Country Living Zone section 42A report, Susan Chibnall, 3 March 2020, paragraph 78.

earthworks that councils have the ability to manage the effects, especially when there is potential to affect the natural direction of water flows, as this may result in adverse effects on waterways.²⁸ We therefore have retained clause (a)(iii). Heritage New Zealand Lower Northern Office sought additional wording to the policy to address historic and cultural values, but we consider this is most appropriately addressed in the chapters focused on historic heritage and cultural values.

Signs Policies

55. In the CLZ, there are three policies managing signs within the zone, being Policies 5.6.12-14. Waka Kotahi sought amendments to Policy 5.6.14 to simplify the policy and focus it on avoiding adverse effects on the safety of road users. We agree with Ms Chibnall that the notified version of the policy provides greater clarity as to the effects which are being managed, and have therefore only amended clause (a) to broaden the application of the policy to include signs being visible to road users.

Policy 5.6.15 Artificial Lighting

56. We have not made any changes to Policy 5.6.15. While we appreciate the concerns of Andrew and Christine Gore, we consider any large project that does not meet the permitted activity rules in an ecological area will be effectively managed through the PDP objectives and policies relevant to the natural environment (Chapter 3) rather than the CLZ policies.

Policy 5.6.16 Noise

57. Three submissions were received on this policy, two of which sought amendments to recognise the interface between residential activities and the rail corridor and state highways. We have not made the amendments sought by Waka Kotahi and have addressed the issue of development near the Waikato Expressway holistically in our Infrastructure decision. We have amended the references in the policy to “noise” sensitive activities to better align with the definitions for that term.

4.5 Non-residential activities

58. Ms Galt expressed concern that if a discretionary activity status was retained for commercial activities in the CLZ, the policies were not strong enough to prevent undermining of the role of the business centres and protect against inappropriate commercial activities. We are mindful that commercial activities may be appropriate in the CLZ to support the needs of the community, and thus we consider that a discretionary activity status is appropriate. We then considered the policy framework for non-residential activities in the CLZ, particularly Policy 5.6.8 Non-residential activities. The policy seeks to “limit” the establishment of commercial and industrial

²⁸ Hearing 12: Country Living Zone section 42A report, Susan Chibnall, 3 March 2020, paragraph 96.

activities in the CLZ unless they have a functional need to locate in the CLZ or provide for the health and well-being of the district. We consider that a stronger directive is needed, so have replaced the word “limit” with “avoid”. Exemptions apply from this directive but we note that there may still be a consenting pathway in particular circumstances. This policy is not intended to apply to home occupations as these have their own policy (Policy 5.6.10).

59. Three other submissions sought amendments to Policy 5.6.8 but we have not made the changes requested. We have not included references to specific activities in Policy 5.6.8, as the rules are a more appropriate approach for that level of detail rather than policies.

4.6 Development in the Hamilton Urban Expansion Area

60. The UEA control on development was the subject of a number of submissions seeking to enable increased levels of subdivision. On the other hand, HCC sought to retain the UEA and the more restrictive rules and policies. We considered Objective 5.5.1 and Policy 5.5.2 and agree with Ms Galt that future urbanisation of the CLZ within the UEA would be compromised if development opportunities were liberalised.
61. We agree with Ms Chibnall's analysis and have included industrial activities and rural industry as non-complying activities in the UEA. We consider these activities have the potential to compromise the eventual urban development of this area and should have a non-complying activity status.
62. Turning to subdivision in the UEA, Policy 6.17 of the RPS recognises the pressure for rural-residential development particularly in areas within easy commuting distance of Hamilton. Implementation method 6.17.1 of the RPS requires “strictly limiting rural-residential development in the vicinity of Hamilton City”. A range of activity statuses were open to us to consider for subdivision in the UEA. The activity statuses included prohibited (which was the notified activity status and supported by Ms Galt), non-complying (which the submission from Blue Wallace Surveyors Ltd sought), and discretionary activity status (as recommended by Ms Chibnall in her section 42A report and supported by Mr Lester). Having considered the number of properties in the UEA large enough to contemplate subdivision, we consider that a non-complying activity status, supported by directive objective/policy provisions to be appropriate.

4.7 Emergency Services

63. We acknowledge the critical role of emergency service facilities and the need for them to be located in the communities they serve. We therefore wish to enable these facilities and training activities while managing adverse effects on the surrounding character and amenity.

64. We started by considering the policy framework and agree with Ms Chibnall that an enabling policy framework for emergency services in the CLZ is required, and see the value in including a new specific policy. We do not see the need for an objective specifically for non-residential activities as sought by Fire and Emergency New Zealand, as we are satisfied that Objective 5.6.1 suffices.
65. Turning to the activity status, we agree that emergency services training and management activities should be a permitted activity, with reasonable limits on the timing / duration of training activities. In terms of the construction of the physical structures for emergency service facilities, we have made this a restricted discretionary activity consistent with the approach for other zones, allowing consideration of effects on amenity, character, site layout etc. We understand the concerns of Ms Duncan about the height limit for the building, but given that the height limit of the surrounding properties will be 7.5m, we consider that a maximum height of 9m for the building and 15m for the hose drying towers is appropriate. This will be sufficient to accommodate tall vehicles such as fire appliances while not being inconsistent with the scale of other development in the zone. We agree with Ms Chibnall that new definitions will be required to provide clarity for the emergency services activities and facilities.
66. The third issue was water supply in terms of Policy 5.6.2(e), the subdivision standards and matters of discretion for subdivision. Because much of the CLZ has no reticulated for water supply, a requirement to connect to a water supply with sufficient volume and pressure to meet firefighting standards is unlikely to be practicable. Ms Duncan considered that development could provide water supply through alternative means such as water tank storage, bores or, if required, a sprinkler system to compensate for an inability to connect to some form of water supply that will meet the requirements set out in the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (Code of Practice).²⁹ We do not consider reference to the Code of Practice is necessary, given the rural characteristics of the zone. We agree with Ms Chibnall that it is not practical for water to be protected for firefighting purposes (particularly in times of low rainfall) and instead the focus of the matters of discretion should be on the water supply being *accessible* for firefighting.

4.8 Management of noise generated by National Fieldays

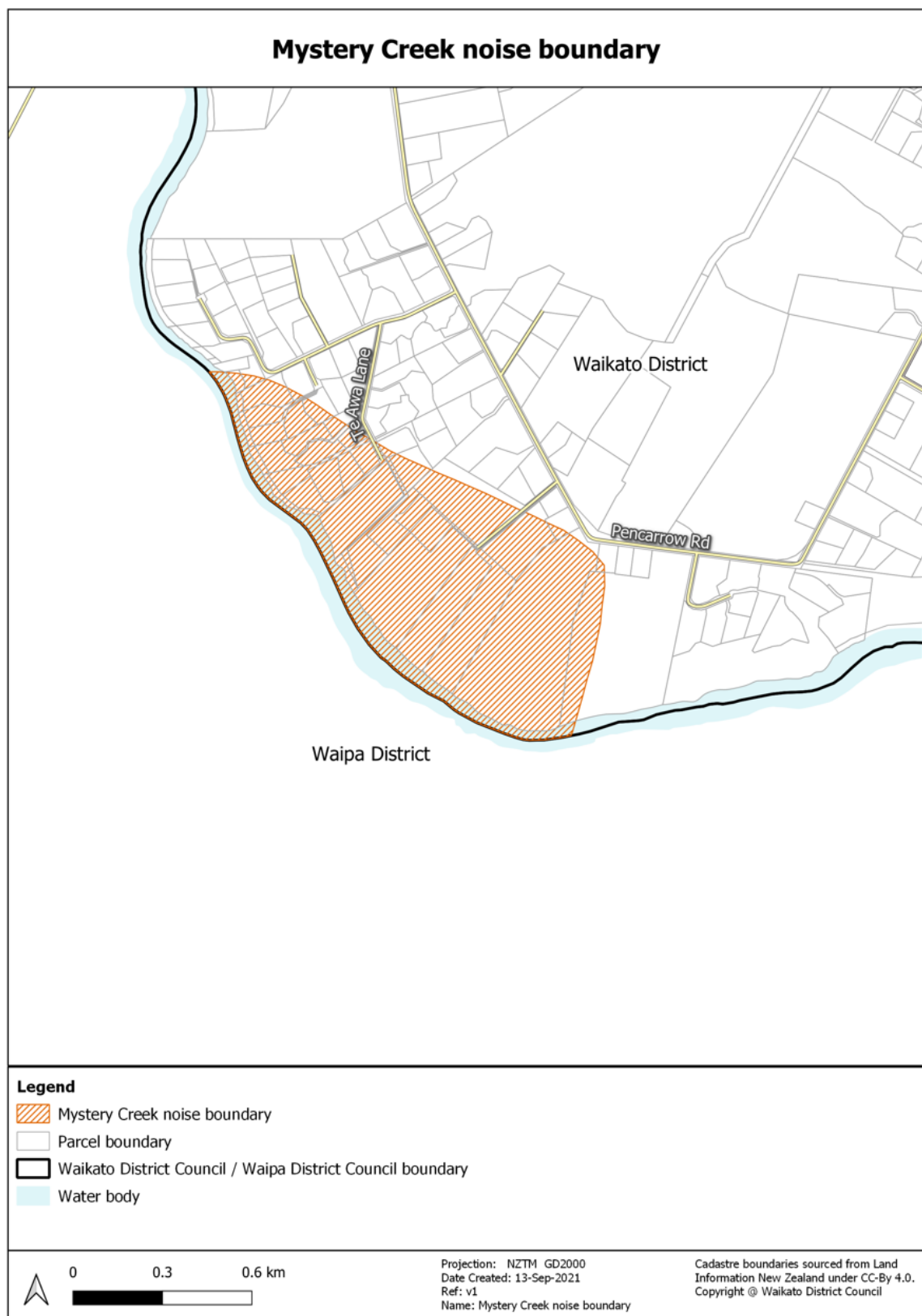
67. Both Waipa District Council and New Zealand National Fieldays Society Inc sought to add provisions to the general noise rule to mirror the operative Waipa District Plan with respect to the Mystery Creek Events Centre. The management of noise generated from Mystery Creek Events Centre is a complex issue because the source of the noise (being Mystery Creek Events Centre) is entirely located within the Waipa District jurisdiction. Ms Chibnall recommended rejecting the submissions because the

²⁹ Statement of evidence of Alex Duncan on behalf of Fire and Emergency New Zealand, 16 March 2020.

Environment Court Consent Order from 1997 did not specifically require Waikato District Council to align their noise rules with those of Waipa District Council.³⁰ Having heard from Mr Nation and read Ms Chibnall's closing statement,³¹ we have determined that the noise contours should be included on the district plan maps as an alert layer, as this will alert any prospective landowners to the increased noise levels associated with Mystery Creek Events Centre via Land Information Memorandum reports.

³⁰ Hearing 12: Country Living Zone section 42A report, Susan Chibnall, 3 March 2020, paragraphs 293-298.

³¹ Hearing 12: Country Living Zone closing statement, Susan Chibnall, 20 April 2020, paragraphs 52-67.



4.9 Management of reverse sensitivity effects

68. As discussed above, the matter of reverse sensitivity was addressed by Ms Drew in relation to the Airport. Mr Hodgson addressed reverse sensitivity in the context of farming and sought inclusion of a new policy that reflected the language of the RPS. We are mindful of the direction from the RPS to:
- a. Minimise land use conflicts, including minimising potential for reverse sensitivity (Objective 3.12(g);
 - b. Avoiding or minimising the potential for reverse sensitivity (Policy 4.4);
 - c. Avoid or minimise the potential for reverse sensitivity effects (Implementation Method 4.4.1); and
 - d. Discourage new sensitive activities (Implementation Method 6.1.2).
69. We agree with Mr Hodgson and have included a new Policy 5.6.19 as follows:
- 5.6.19 Policy- Reverse Sensitivity
- (a) Avoid or minimise the potential for reverse sensitivity through:³²
- (i) the use of setbacks, the design of subdivisions and development
 - (ii) limiting subdivision near the Waikato Regional Airport Urban Expansion Area
70. We also agree that reverse sensitivity effects should be included as a matter of discretion in Rule 23.3.7.1.
71. Horticulture New Zealand also sought a setback of 100m from any boundary adjoining a Rural Zone where the sensitive activity is not a residential activity. The current setback in the CLZ is 12m, and we consider that anything larger would unreasonably constrain use of the site, particularly given that the minimum lot size is 5,000m². We therefore have rejected this submission point.
72. The setbacks from the rail corridor could also be considered in the context of reverse sensitivity as Ms Butler supported the inclusion of a reverse sensitivity policy, but also sought a 5m setback for all buildings from the rail corridor. Given that the setbacks are in excess of 12m for sites larger than 1,000m², we agree with Ms Chibnall that this will only be an issue for sites less than 1,000m² where the yards are 1.5m. KiwiRail has sought a 5m setback in all zones across the district.
73. We were not persuaded by the evidence of Ms Butler in respect of the CLZ and consider it is more appropriate that the setback rule remain located in Rule 23.3.7.2, which requires new buildings for sensitive activities to be located 5m from the designated boundary of the rail corridor.
74. We have not added a clause to Policy 5.6.4 as requested by KiwiRail which seeks to manage reverse sensitivity through setbacks, and instead have included this concept

³² Horticulture New Zealand (419.66).

in new Policy 5.6.19 which addresses reverse sensitivity. We have added specific matters of discretion where buildings for sensitive land uses are closer than 5m from the designated boundary of the railway corridor. We consider that the amendments will be effective at helping achieve Objective 6.1.1 Development, operation and maintenance of infrastructure and Objective 6.5.1 Land transport network. The additional clauses will ensure that the effects of a sensitive land use on the rail corridor can be considered in the event dispensation is sought from the rule.

4.10 Land use activities

75. Section 23.1 sets out the activities and their status. We have added the following to the permitted activities:

- a. Emergency services training and management activities;
- b. Farming;
- c. Childcare facility;
- d. Visitor Accommodation; and
- e. Construction, demolition, additions and alterations to a structure or building.

We consider these activities are all appropriate in the CLZ and will not adversely affect the character or amenity of the zone.

76. We have added two restricted discretionary activities being educational facilities (other than childcare) and childcare for greater than ten children.

77. We agree with Ms Chibnall that a rule for establishing a residential or sensitive activity in close proximity to the gas transmission line is not appropriate in the CLZ rules, and we have addressed this issue in more detail in our Decision Report 13: Infrastructure.

78. Consistent with our decisions across the other zones, we have assigned a discretionary activity status to activities which have not been specifically listed, rather than non-complying as notified.

4.11 Home occupations

79. Ms Robertson outlined her concerns with the standards for home occupations. We do not see the need to restrict the size of the building and consider there are other standards in the CLZ which more effectively manage this, such as site coverage and impermeable area. Given the progression in technology, we consider there is not the same risk of electrical interference, and we have not heard any evidence to make us think otherwise. The matter of heavy vehicles associated with home occupations was also addressed by Ms Running. Given that the standards in Chapter 14 Infrastructure and Energy allow 100 vehicle movements per day in the CLZ and no more than 15% of these vehicle movements are heavy vehicle movements, we cannot see the value in having a more restrictive rule applying to home occupations. We agree with Ms

Chibnall's recommended reduction in the duration of the operation of machinery from 9pm to 7pm.

4.12 Educational facilities

80. Ms Duncan supported the restricted discretionary activity status for education facilities as recommended by Ms Chibnall, and we agree. We have also included childcare for more than 10 children as a restricted discretionary activity with appropriate matters of discretion, rather than assigning a discretionary status.

4.13 Land Use Effects

81. While we have set out our decision on broader matters below, we have addressed here some of the more discrete decisions we have made on the CLZ Land Use – Effects rules which sit in Chapter 23.2.

Noise

82. We have amended the rules to be consistent with the noise rules applying to other zones, and to reflect the most accurate units of measuring sound.

Signs

83. There are two rules which manage signs in the CLZ and the most substantive changes we have made are the limits on the size of real estate signs in response to the submission from Greig Metcalfe and clarification of the standards for signs directed at road users (Rule 23.2.6.2). While there were a number of submissions seeking larger signs or an increased number, we are aware that the character of the CLZ is residential development in a rural setting. We consider that the standards will achieve the objective for the zone in terms of character and amenity, while ensuring safety of traffic, pedestrians and cyclists.
84. Waka Kotahi sought to limit the number of words and graphics. We agree with Ms Chibnall's assessment that the addition of the words 'and no more than 6 words', or 'graphics' complicates the situation for a plan reader and we have not made any changes in response. Turning to Sharp Planning Solutions, we consider the important factor is the distance from other road signs and significant roading features such as intersections and pedestrian crossings, rather than the distance from other signs on private property. We therefore have amended clause (a)(ii) accordingly. We agree with KiwiRail that it is appropriate to expand clause (a)(ii) to include levels crossings and other signs associated with roads and traffic management. We consider these amendments to the standards will more effectively achieve Objective 6.1.1 Development, operation and maintenance of infrastructure and Objective 6.5.1 Land transport network.

Outdoor storage

85. We have deleted this rule in response to the submission from Council on the basis that it is not appropriate in the CLZ and will unduly limit residential uses.

4.14 Earthworks

86. Twenty-one submissions were received on the earthworks rules, with many seeking to increase the permitted baseline for volume of earthworks and to exclude the earthworks limits from applying to accessways. We agree with Ms Chibnall's assessment and recommendations to increase the permitted volume to 500m³.
87. Mr Lester sought the earthworks limits not apply to the formation of accessways (Rule 23.2.3.1 P1). Ms Chibnall recommended rejecting this request on the basis that the size of the sites (being over 5,000m²) mean that the development of an accessway has the potential to require substantial earthworks, and a consenting process is an appropriate way to manage the activity.³³ We agree.
88. Sharp Planning Solutions sought to increase the volume of fill material from 20m³ to 50m³. We agree with Ms Chibnall's assessment that 20m³ is only two truckloads and this would not allow landscaping bunds to be constructed. We agree that 50m³ would be a more appropriate amount. We also agree that a 1.5m maximum depth of cut or fill is more appropriate than 1m, particularly given that slopes are restricted to 1:2 (1 vertical to 2 horizontal) which will help with stability.
89. First Gas Limited sought an additional requirement to the earthworks rule, Rule 23.2.3.1 P2 (a)(vii), and an associated matter of discretion in Rule 23.2.3.1 RD1 limiting earthworks in close proximity to the gas line. Although we have addressed this matter comprehensively in our decision on Infrastructure and Energy, we record that we agree that including the matter of discretion is appropriate, but do not consider setbacks for earthworks to be necessary.
90. As requested by KiwiRail, we have amended the wording in Rule 23.2.3.1 P2 (a)(iv) to refer to earthworks being 'stabilised' as opposed to being revegetated and have amended the wording of the standard accordingly.
91. The other remaining issue in contention regarding earthworks is the setback requirement. We prefer Ms Chibnall's reasoning and recommendation for a 1.5m setback to the 0.5m proposed by Mr Lester.
92. Having undertaken an evaluation in accordance with s32AA of the RMA, we consider the amendments are more appropriate in achieving the Objective for the CLZ than the

³³ Hearing 12: Country Living Zone section 42A report, Susan Chibnall, 3 March 2020, paragraph 319.

notified version, as it provides for the sustainable use of the land and better manages the effects of earthworks.

4.15 Land use – Buildings Rules

Daylight admission

93. Sharp Planning Solutions sought amendments to the daylight angle to be 45° (rather than 27°) commencing at 3m (rather than 2.5m). We agree that the 45° better aligns with the daylight controls of adjoining councils, but for the same reason consider the starting height should remain at 2.5m.

Building coverage

94. As notified, the permitted site coverage rule allows coverage of either 10% or 300m², whichever is the larger. We are not persuaded that any change is necessary.

Setbacks

95. We have retained the notified setbacks from the road boundary as they are necessary to maintain the sense of spaciousness already present, to allow for landscaping and to retain the character of the zone. Although Waka Kotahi sought to increase the setback for expressways to be 35m and state highways to be 15m for all boundaries, this is already the setback for sensitive land uses in Rule 23.3.7.2, and we see no reason to extend the setback to apply to all buildings.
96. We have added a rule which addresses the scenario where indicative roads have been constructed, but the planning maps have not yet undergone a Schedule 1 process to remove the notation.

4.16 Minor dwelling

97. We agree with Ms Chibnall that the requirement for a minor dwelling to be within 20m from the main dwelling serves to protect the character and amenity of the zone. We are not persuaded that any change is warranted, but we have amended the description of “principal residential unit” to make the standard clearer.

4.17 Setbacks from waterbodies

98. Given the small areas of the district where CLZ is located adjacent to a waterway, we do not see any problem in a maimai of a maximum specified size (10m²) to be located within the setback requirement for a waterbody, as proposed by Mr Wilson for Auckland/Waikato Fish and Game Council. We have therefore added such a provision to permitted activity Rule 23.3.7.5 Building setback – waterbodies, noting that maimais that do not comply with this standard will be a discretionary activity.
99. In the context of Rule 23.3.7.5 Building setback – waterbodies, Mr Lester and Ms Chibnall agree that there should be a more lenient setback of 10m to a ‘managed wetland’ and that the term should be defined. We agree, however, we also consider it

appropriate to include an advice note advising plan users that they will also need to consider the National Environmental Standards for Freshwater.

100. We have increased the setbacks from waterbodies in response to the submission from Council.

4.18 General subdivision

101. Various submissions sought a reduced minimum lot size from 5,000m², as notified, that were in the range of between 1,000m² and 4,000m².
102. We agree with Ms Chibnall that the minimum lot size of 5,000m² is intended to provide rural-residential living opportunities that are large enough to be self-serviced in terms of water supply, wastewater and stormwater. We are aware that the minimum lot size in the Operative District Plan for the CLZ is 5,000m², and given the amenity and character is already well developed in this zone, we are not persuaded to change it.
103. In that regard, we agree with Ms Chibnall that:³⁴
- a. Reducing the minimum lot size would have an impact on the character of the CLZ as well as the surrounding Rural Zone. It would result in a somewhat large-lot urban character, which is more akin to the Village Zone;
 - b. A decrease in lot size will increase the density of the zone and may generate potential impacts on amenity in terms of increased noise and traffic;
 - c. There would be a loss of open vista and space with an increase in the number of dwellings. The dwellings in the CLZ are often large so there would be a noticeable increase in the level of buildings;
 - d. There is the potential for an increase in reverse sensitivity effects in respect of the adjoining rural productive areas;
 - e. Decreasing the lot size decreases the opportunity for small scale primary productive activities to occur;
 - f. Decreasing the lot size reduces the range of residential lifestyle options, noting that the CLZ provides for low-density residential opportunities in a rural setting;
 - g. Decreasing the lot size will increase the cumulative impacts of on-site servicing for wastewater and stormwater.

Whilst Mr Hartley's proposal for a minimum lot size of 3,000m² and an average of 5,000m² would allow more flexibility in lot size, we consider that allowing smaller sites (even though these may be balanced by a larger site) creates a risk that the character of the CLZ will, over time, be eroded.

104. Given all the above, we have retained the 5,000m² minimum lot size.

³⁴ Section 42A Closing Statement Hearing 12: Country Living Zone Report, Susan Chibnall, 20 April 2020, paragraph 48.

105. Policy 5.6.3 is the key policy for guiding subdivision, which Ms Palmer and Mr Lester considered was too inflexible. Nevertheless, we consider that a strong policy position will more effectively support Objective 5.6.1 and we are not persuaded to change it, for the reasons presented by Ms Chibnall.
106. As a direct consequence, we also consider that a subdivision proposal that does not comply with the 5,000m² minimum lot size should be a non-complying activity.
107. Contrary to the submission of Grace Wilcock, we do not consider there would be significant indigenous biodiversity gains to be made from incentivising subdivision in the CLZ if Significant Natural Areas were to be protected. We therefore reject this submission point.
108. We have also amended the matters of discretion in Rule 23.4.1 to ensure a wider range of potential effects of subdivision are able to be considered.

4.19 Subdivision under the Airport Overlays

109. The purpose of the ASCB and SEL 95 Boundary overlays, as marked on the planning maps, is to limit the amount of development close to the Airport and the potential for reverse sensitivity effects. Rule 23.4.2 RD1(a)(ii) controls subdivision of CLZ land within the ASCB and SEL 95 Boundary and increases the minimum lot size to 1.1ha (as opposed to 5,000m² for CLZ sites outside of these overlays). Rule 23.4.2 RD1 (a)(iii) sets out a calculation for sites that straddle the ASCB so that subdivision of the portion of the site outside the overlay is not constrained. Non-compliance with these minimum lot sizes cascades to a non-complying activity status.
110. Central to our consideration of the various submissions is the direction provided by the RPS. The Airport is defined as regionally significant infrastructure in the RPS, which means the following objectives and policies are directly relevant:
 - a. Policy 6.6 Significant infrastructure and energy resources;
 - b. Implementation Method 6.6.1 Plan provisions;
 - c. Implementation Method 6.1.8(c) Information to support new urban development and subdivision; and
 - d. Implementation Method 6.6.5 Measures to avoid adverse effects.

These all seek to protect the efficient and effective operation of the Airport now and in the future.

111. The submitters helpfully set out the genesis of the lower density subdivision rules within the ASCB which was the result of an appeal that was settled in 2003. We understand from Ms Drew that the 1.1ha lot size was based on the average size of land parcels within the Outer Control Boundary at the time and were intended to 'hold

the line' at that density, while allowing for subdivision elsewhere in Tamahere to increase in density to 5,000m² lots.³⁵

112. We are aware that the Outer Control Noise Boundary is an area where aircraft noise levels are predicted to be between 55 and 65 dBA Ldn. Having carefully considered all the evidence, we consider that the ASCB should remain in its current location, and that minimum lot size within the ASCB and SEL 95 should continue to be set at 1.1ha.
113. For increased clarity we have split the rule for subdivision in the ASCB away from the general subdivision rule and it now has its own standalone rule.
114. We considered Mr Barrett's proposal for dealing with reverse sensitivity effects by requiring new activities to enter into a "no complaints" covenant via a land encumbrance,³⁶ but do not consider it would be effective or appropriate.
115. The Operative District Plan: Waikato Section currently classifies subdivision within the Hamilton Airport SEL 95 Boundary or inside the Airport Noise Subdivision Control Boundary that creates allotments with an average net site area of less than 1.1ha as a prohibited activity. The PDP classified such subdivision as a non-complying activity. We agree that a non-complying activity status is the most appropriate activity status, and that there is a gap in the policy framework to address reverse sensitivity, particularly given the direction from the RPS. This is a matter we discuss more generally below. In terms of the Airport, we are mindful that while there is an objective and policy in Chapter 6 Infrastructure and Energy addressing reverse sensitivity, this refers to "infrastructure" generally and there is no specific reference to the Airport. We therefore agree with Ms Drew that reverse sensitivity relating to the Airport should be explicitly addressed by a policy and have therefore included the following new policy:³⁷

5.6.19 Policy- Reverse Sensitivity

(a) Avoid or minimise the potential for reverse sensitivity through:

- (i) the use of setbacks, the design of subdivisions and development
- (ii) limiting subdivision within the Airport Subdivision Control Boundary.

4.20 Subdivision within Identified Areas

116. Rule 23.4.4 was intended to apply to subdivision of sites within one of the PDP's overlays, however we consider it is more appropriate to have separate rules, with one dealing with subdivision of Significant Natural Areas, and the other archaeological

³⁵ Rebuttal evidence of Kathryn Drew on behalf of Waikato Regional Airport Ltd, 24 March 2020, paragraph 20.

³⁶ Submission Statement of Philip Barrett for William Hodgson and Leo Koppens, 20 March 2020, paragraph 3.1.

³⁷ Horticulture New Zealand (419.66).

sites, Maaori sites and areas of significance, and notable trees. This approach enables the matters of discretion to be more bespoke. We have also changed the activity status to cascade to discretionary rather than non-complying, because the non-complying activity status is unnecessary given that in some circumstances it is unavoidable to put a boundary through an archaeological site, or a Maaori site or area of significance.

4.21 Subdivision – Road frontage

117. We have considered Waka Kotahi's proposal to increase the minimum width of the road boundary in Rule 23.4.7 from 15m to 50m for front sites alongside Ms Chibnall's analysis of the existing width of road frontages.³⁸ After doing so, we are satisfied that increasing the road frontage to 50m will assist in supporting the objectives and policies of the zone, which have a strong focus on retaining character and amenity.

4.22 Building platform for subdivision

118. Mr Lester considered that a 1,000m² building platform is excessive in the CLZ and is significantly above and beyond what is reasonable. Ms Chibnall considered that the standard will ensure a site versatile enough to accommodate many different orientations, shapes and sizes.³⁹ Given that the minimum lot size is 5,000m², we consider a 1,000m² platform will ensure that the landowner (or developer) has choice about where buildings are situated within that platform. It is also an effective mechanism for ensuring that a future resource consent for encroaching the building standards (such as setbacks, daylight angles etc) is not required. We consider the minimum 1,000m² building platform to be appropriate.

4.23 Subdivision creating reserves and walkways

119. We have deleted Rule 23.4.9 relating to reserves, as the purpose of the rule is to create public parks and we consider it unlikely that a reserve of this nature would be required in the CLZ.
120. As detailed in our decisions on the Infrastructure and Energy chapter (Decision Report 13), we have deleted the indicative walkways, cycleways, bridleways from the planning maps.
121. We accept the submission from McCracken Surveys Limited that an additional matter of discretion should be included in Rule 23.4.12 to enable the assessment of the costs and benefits of acquiring land for esplanade reserves. However, we do not agree that

³⁸ Hearing 12: Country Living Zone Rebuttal section 42A report, Susan Chibnall, 1 April 2020, paragraph 162-163.


³⁹ Hearing 12: Country Living Zone section 42A report, Susan Chibnall, 3 March 2020, paragraph 712.

references to section 230(3) of the RMA is an appropriate matter of discretion, as this duplicates other legislative requirements.

5 Conclusion

122. We accept and/or reject the section 42A report and the evidence filed by the submitters, collectively forming the section 32AA assessment informing this Decision.
123. Overall, the Panel is satisfied that the Country Living Zone provisions, now referred to as the Rural Lifestyle Zone in accordance with implementing the National Planning Standards, as amended for the reasons set out in this Decision, will provide a suitable framework for managing land use, subdivision and development within this zone. The Rural Lifestyle Zone provisions are attached as **Attachment 1**.

For the Hearings Panel



Dr Phil Mitchell, Chair

Dated: 17 January 2022

Chapter 5

~~5.6 Country Living Zone~~ Rural Lifestyle Zone

Overview

The purpose of the Rural Lifestyle Zone is to provide for, and maintain, the semi-rural character of large lot rural-residential development. The Rural Lifestyle Zone is typically located on the fringe of towns and provides a transition to the surrounding rural area.

The zone is generally characterised by rural-residential development, with one house per site which is usually single storied and set on sections of 5,000m² or larger, surrounded by paddocks, trees and garden/landscaping. The zone provides an opportunity for people to enjoy a spacious living environment while being close to an urban centre.

Development, including fencing, will maintain an open and spacious character that contrasts with the urban towns and rural land.

In addition to residential activities, the zone also provides for some non-residential activities that operate from existing houses or from purpose-built buildings, where these activities are compatible with the character and amenity of the zone and complementary with residential activities.

5.6.1 Objective – ~~Country Living~~ Rural Lifestyle Zone

The Rural Lifestyle Zone is used primarily for a residential lifestyle within a rural environment on lots smaller than those of the General Rural Zone, while still enabling primary production to occur.

~~Subdivision, use and development in the Country Living Zone maintains or enhances the character and amenity values of the zone~~

5.6.2 Policy – ~~Country Living~~ Rural Lifestyle character

- (a) Any building and activity within the ~~Country Living~~ Zone ~~are~~ is designed, located, scaled and serviced in a manner that does not detract from the character of the area by:
 - (i) Maintaining the open space character;
 - (ii) Maintaining low density residential development;
 - (iii) Recognising the absence of Council wastewater services and lower levels of other infrastructure.
- (b) Maintain views and vistas of the rural hinterland beyond, including, where applicable, Waikato River, wetlands, lakes, and the coast.
- (c) Maintain a road pattern that follows the natural contour of the landform.
- (d) Ensures that the scale and design of any non-residential activities maintains the open rural character and addresses site specific issues such as on-site servicing, and transport related effects.
- (e) Requires activities within the ~~Country Living~~ Zone to be self-sufficient in the provision of water supply, wastewater and stormwater disposal, unless a reticulated supply is available.

5.6.3 Policy – ~~Subdivision within the Country Living~~ Zone

- (a) Subdivision, ~~building and development~~ within the ~~Country Living~~ Zone ensures that:

- (i) The creation of undersized lots is avoided ~~where character and amenity are compromised~~;
- (ii) New lots are of a size and shape to enable sufficient building setbacks from any boundary;
- (iii) Building platforms are sited to maintain the character of the ~~Country Living~~ Zone and are appropriately positioned to enable future development;
- (iv) Existing infrastructure is not compromised;
- ~~(v) Existing lawfully established activities are protected from reverse sensitivity effects.~~
- (v) Character and amenity are not compromised.

5.6.4 Policy – Building setbacks

- (a) Maintain the existing spaciousness between buildings with adjoining sites.

5.6.5 Policy – Scale and intensity of development

- (a) Minimise the adverse effects of development created by excessive building scale, overshadowing, building bulk, excessive site coverage or loss of privacy.

5.6.6 Policy – Height of buildings

- (a) Ensure building height does not result in loss of privacy or cause overshadowing on adjoining sites or detract from the amenity of the area.

5.6.7 Policies - Earthworks

- (a) Manage the effects of earthworks to ensure that:
 - (i) Erosion and sediment loss is avoided or mitigated;
 - (ii) The ground is geotechnically sound and remains safe and stable for the duration of the intended land use;
 - (iii) Changes to natural water flows and established drainage paths is avoided or mitigated.
- (b) Manage the importation of fill material to a site.
- (c) Appropriately manage the importation of cleanfill to a site.
- (d) Manage the amount of land being disturbed at any one time to avoid, remedy or mitigate adverse construction noise, vibration, odour, dust, lighting and traffic effects.
- (e) Subdivision and development occur in a manner that maintains shape, contour and landscape characteristics.

5.6.8 Policy – Non-residential activities

- (a) ~~Limit~~ Avoid the establishment of commercial or industrial activities within the ~~Country Living~~ Zone unless they:
 - (i) Have a functional need to locate within the ~~Country Living~~ Zone; and
 - (ii) Provide for the health and well-being of the community.

5.6.9 Policy – Existing non-residential activities

- (a) Enable existing non-residential activities to continue and support their redevelopment and expansion, provided they do not have a significant adverse effect on the character and amenity of the ~~Country Living~~ Zone.

5.6.10 Policy – Home ~~occupations~~businesses

- (a) Provide for home ~~occupations~~businesses to allow flexibility for people to work from their homes.
- (b) Manage the adverse effects on residential amenity through limiting home ~~occupations~~businesses to a scale that is compatible with the level of amenity anticipated in the ~~Country Living~~ Zone.

5.6.11 Policy - Temporary events

- (a) Enable temporary events and associated temporary structures, provided any adverse effects on the residential environment are managed by:
 - (i) Limits on the timing, number and duration of events;
 - (ii) Meeting the permitted noise limits for the zone.

5.6.12 Policy - Signs

- (a) Signage contributes to the social and economic wellbeing of communities by:
 - (i) Supporting infrastructure and commercial and community activities;
 - (ii) Providing information, including for public safety;
 - (iii) Identifying places.

5.6.13 Policy – Enabling signage

- (a) Provide for the establishment of signs where they are directly associated with the activity carried out on the site on which they are located;
- (b) Recognise that public information signs provide a benefit to community well-being;
- (c) Provide for temporary signage subject to meeting limits on duration.

5.6.14 Policy – Managing the adverse effects of signs

- (a) The location, colour, content, and appearance of signs directed at or visible to road users ~~traffic~~ is controlled to ensure signs do not distract, confuse or obstruct motorists, pedestrians and other road users.
- (b) Maintain the visual amenity and character of the ~~Country Living~~ Rural Lifestyle Zone through controls on the size, location, appearance and number of signs.
- (c) Avoid signs that generate adverse effects from illumination, light spill, flashing or reflection.

5.6.15 Policy – Artificial outdoor lighting

- (a) Provide for artificial outdoor lighting to enable nighttime work, farming activities, recreation activities, outdoor living, transport and security.
- (b) Control the intensity and direction of artificial lighting to avoid significant glare and light spill to adjacent sites.
- (c) Ensure artificial outdoor lighting is installed and operated so that light spill does not compromise the safe operation of the transport network.

5.6.16 Policy – Noise

- (a) The adverse effects of noise on the character and amenity of the ~~Country Living~~ Rural Lifestyle Zone are minimised by:
 - (i) Ensuring that the maximum sound levels are compatible with the surrounding land uses;

- (ii) Limiting the timing and duration of noise-generating activities, including construction and demolition activities;
- (iii) Maintaining appropriate setback distances between high noise environments and noise-sensitive activities ~~land uses~~;
- (iv) Managing the location of noise-sensitive activities ~~land uses~~, particularly in relation to lawfully-established high noise-generating activities;
- (v) Requiring acoustic insulation where noise-sensitive activities are located within high noise environments.

5.6.17 Policy – Outdoor storage

- (a) The adverse visual effects of outdoor storage are managed through screening or landscaping.

5.6.18 Policy – Objectionable odour

- (a) Ensure that the effects of objectionable odour do not detract from the amenity on other sites.
- (b) Maintain appropriate setback distances between new sensitive land uses and existing lawfully-established activities that generate objectionable odour.

5.6.19 Policy- Reverse Sensitivity

- (a) Avoid or minimise the potential for reverse sensitivity through:
 - (i) the use of setbacks, the design of subdivisions and development
 - (ii) limiting subdivision near the Waikato Regional Airport.

~~5.5.2 5.6.20 Activities within Hamilton's Urban Expansion Area~~

- ~~(a) Manage subdivision, use and development within Hamilton's Urban Expansion Area to ensure that future urban development is not compromised.~~

5.6.21 Objective - Emergency services

Recognise the essential support role of emergency services training and management activities and their important contribution to the health, safety and wellbeing of people.

5.6.22 Policy - Emergency services facilities and activities

Enable the development, operation and maintenance of emergency services training and management facilities and activities within the zone.

APPENDIX 4 -Recommendations to Chapter 23

Chapter 23: ~~Country Living Zone~~ RLZ – Rural Lifestyle Zone- Rules

- (1) The rules that apply to activities in the ~~Country Living~~ RLZ – Rural lifestyle zone are contained in Rule 23.1 Land Use – Activities, Rule 23.2 Land Use – Effects and Rule 23.3 Land Use – Building.
- (2) The rules that apply to subdivision in the ~~Country Living~~ RLZ – Rural lifestyle zone are contained in Rule 23.4.
- (3) The activity status tables and standards in the following chapters also apply to activities in the ~~Country Living~~ RLZ – Rural lifestyle ~~z~~Zone:
 - 14 Infrastructure and Energy;
 - 15 Natural Hazards and Climate Change (~~Placeholder~~).
- (4) The following symbols are used in the tables:
 - (i) PR Prohibited activity
 - (ii) P Permitted activity
 - (iii) C Controlled activity
 - (iv) RD Restricted discretionary activity
 - (v) D Discretionary activity
 - (vi) NC Non-complying activity

23.1 Land Use – Activities

23.1.1 Permitted Activities

- (1) The following activities are permitted activities if they meet all the following:
 - (a) Activity-specific standards;
 - (a)(b) Land Use – Effects rules in Rule 23.2 (unless the activity rule and/or activity specific conditions identify a condition standard(s) that does not apply);
 - (b)(c) Land Use – Building rules in Rule 23.3 (unless the activity rule and/or activity specific conditions identify a condition standard (s) that does not apply).
 - (d) ~~Activity-specific conditions~~.

Activity		Activity specific conditions <u>standards</u>
P1	<u>Residential activity</u> , unless specified below. <u>This includes occupation of a single residential unit for short term rental.</u>	Nil
P2	<u>Home stay</u>	Nil (a) maximum of 4 guests
P3	A <u>temporary event</u>	(a) The event occurs no more than 3 times per single 12 month period; (b) The duration of each event is less than 72 hours; (c) It may operate between 7.30am and 8.30pm Monday to

		<p>Sunday;</p> <p>(d) Temporary structures are:</p> <p>(i) erected no more than 2 days before the event occurs, and</p> <p>(ii) removed no more than 3 days after the end of the event;</p> <p>(e) The <u>site</u> is returned to its original condition no more than 3 days after the end of the event;</p> <p>(f) There is no direct site access from a national route or regional arterial road.</p>
P4	A <u>home occupation business</u>	<p>(a) It is wholly contained within a <u>building</u>;</p> <p>(b) The storage of materials or machinery associated with the <u>home occupation business</u> are wholly contained within a <u>building</u>;</p> <p>(c) No more than 2 people who are not permanent residents of the site are employed at any one time;</p> <p>(d) Unloading and loading of vehicles or and the receiving of customers or deliveries <u>can</u> only occur after 7:30am and before 7:00pm on any day;</p> <p>(e) Machinery may be operated after 7:30am and up to 9:00pm on any day.</p>
P5	<u>Emergency services training and management activities.</u>	<u>Nil</u>
P6	<u>Additions and alterations to an existing emergency service facility</u>	<u>Nil</u>
P7	<u>Farming</u>	<u>Nil</u>
P8	<u>Childcare facility</u>	<u>Maximum 10 children</u>
P9	<u>Visitor Accommodation</u>	<p>(a) <u>Maximum 5 guests</u></p> <p>(b) <u>Standard (a) does not apply to occupation of a single residential unit for short term rental.</u></p>
P10	<u>Construction, demolition, additions and alterations to a structure</u>	<u>Nil</u>
P11	<u>Buildings, structures and sensitive land use within the National Grid Yard as of 18 July 2018</u>	<p>(a) <u>Within National Grid Yard:</u></p> <p>(i) <u>Building alterations and additions to an existing building or structure that does not involve an increase in the building height or footprint; or</u></p> <p>(ii) <u>Infrastructure (other than for the reticulation and storage of water for irrigation purposes) undertaken by a network utility operator as defined in the Resource Management Act 1991; or</u></p> <p>(iii) <u>Non-habitable buildings or structures for farming activities in rural zones including accessory structures and yards for milking/dairy sheds (but not including any intensive farming buildings, commercial greenhouses and milking/dairy sheds); or</u></p> <p>(iv) <u>Non-habitable horticultural buildings; or</u></p> <p>(v) <u>Artificial crop protection and support structures (excluding commercial greenhouses and Pseudomonas syringae pv. Actinidiae (Psa) disease control structures);</u></p> <p>(vi) <u>Fences less than 2.5m in height, measured from the natural ground level immediately below the structure; and</u></p>

		<p>(vii) <u>Minor structures associated with farming activity that are not situated within 12m of the outer visible foundation of any National Grid tower or 10m of the outer visible foundation of a National Grid tower, including: fences, gates, stock exclusion structures, cattle-stops, stock underpasses, stock bridges and culvert crossings, and drinking water supply pipelines, troughs, and water storage tanks.</u></p> <p>(b) <u>All buildings or structures permitted by Rule 23.1.1 P11 must:</u></p> <p>(i) <u>Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions; and</u></p> <p>(ii) <u>Locate a minimum 12m from the outer visible foundation of any National Grid support structure foundation and associated stay wire, unless it is:</u></p> <p>(1) <u>A building or structure where Transpower has given written approval in accordance with clause 2.4.1 of the NZECP; or</u></p> <p>(2) <u>Fences less than 2.5m in height, measured from the natural ground level immediately below the structure, and located a minimum of 5m from the nearest National Grid support structure foundation; or</u></p> <p>(3) <u>Network utilities (other than for the reticulation and storage of water for irrigation purposes) or any part of electricity infrastructure undertaken by a network utility operator as defined in the Resource Management Act 1991, that connects to the National Grid; and</u></p> <p>(iii) <u>Not permanently physically impede existing vehicular access to a National Grid support structure;</u></p> <p>(c) <u>Artificial crop protection structures and support structures between 8m and 12m from a pole support structure but not a tower and any associated guy wire that:</u></p> <p>(i) <u>Meet the requirements of the NZECP 34:2001 ISSN 0114-0663 for separation distances from the conductor;</u></p> <p>(ii) <u>Are no higher than 2.5m;</u></p> <p>(iii) <u>Are removable or temporary, to allow a clear working space of at least 12 metres from the pole when necessary for maintenance and emergency repair purposes;</u></p> <p>(iv) <u>Allow all-weather access to the pole and a sufficient area for maintenance equipment, including a crane.</u></p>
P12	<u>Construction or alteration of a building for a sensitive land use</u>	<p>(a) <u>The construction or alteration of a building for a sensitive land use that complies with all of the following standards:</u></p> <p>(i) <u>It is set back a minimum of 10m from the centre of line of any electrical distribution or transmission lines, not associated with the National Grid, that operate at a voltage of up to 110kV; or</u></p> <p>(ii) <u>It is set back a minimum of 12m from the centre of line of any electrical distribution or transmission lines, not associated with the National Grid, that operate at a voltage of 110kV or more.</u></p>

P13	<u>Atawhai Assisi Retirement Village (Lot 1 DPS21156) maintenance, operation, and alteration</u>	<p>(a) <u>The alterations do not increase net floor area.</u></p> <p>(b) <u>Land Use – Building in Rule 22.3 except:</u></p> <p>(i) <u>Rule 23.3.1 (Residential units) does not apply;</u></p> <p>(ii) <u>Rule 23.3.2 (Minor residential units) does not apply;</u></p> <p>(b) <u>Rule 23.3.6 (Building Coverage) does not apply.</u></p>
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23.1.1A Restricted Discretionary Activities

(1) The activities listed below are restricted discretionary activities

<u>Activity</u>		<u>Activity-specific standards</u>
<u>RD1</u>	<u>Educational facilities (other than childcare)</u>	<p>(a) <u>Council's discretion shall be restricted to the following matters:</u></p> <p>(i) <u>The extent to which it is necessary to locate the activity in the RLZ – Rural lifestyle zone.</u></p> <p>(ii) <u>Reverse sensitivity effects of adjacent activities.</u></p> <p>(iii) <u>The extent to which the activity may adversely impact on the transport network.</u></p> <p>(iv) <u>The extent to which the activity may adversely impact on the streetscape, character and amenity of the neighbour, with particular regard to the bulk and location of the buildings.</u></p> <p>(v) <u>The extent to which the activity may adversely impact on the noise environment.</u></p>
<u>RD2</u>	<u>Childcare facility for more than 10 children</u>	<p>(a) <u>Council's discretion shall be restricted to the following matters:</u></p> <p>(i) <u>The extent to which it is necessary to locate the activity in the RLZ – Rural lifestyle zone.</u></p> <p>(ii) <u>Reverse sensitivity effects of adjacent activities.</u></p> <p>(iii) <u>The extent to which the activity may adversely impact on the transport network.</u></p> <p>(iv) <u>The extent to which the activity may adversely impact on the streetscape, character and amenity of the neighbour, with particular regard to the bulk and location of the buildings.</u></p> <p>(v) <u>The extent to which the activity may adversely impact on the noise environment.</u></p>
<u>RD3</u>	<u>Construction of emergency service facilities</u>	<p><u>Council's discretion shall be restricted to the following matters:</u></p> <p>(c) <u>Effects on amenity of the locality.</u></p> <p>(d) <u>Effects on character.</u></p> <p>(e) <u>Road efficiency and safety.</u></p> <p>(f) <u>Building design.</u></p> <p>(g) <u>Site layout and design; and</u></p> <p>(f) <u>Privacy on other sites.</u></p>

RD4	<u>Construction or alteration of a building for a sensitive land use that does not comply with 23.1.1 P12</u>	<u>Council's discretion shall be restricted to the following matters:</u> <u>a. Effects on the amenity values of the site;</u> <u>b. The risk of electrical hazards affecting the safety of people;</u> <u>c. The risk of damage to property; and</u> <u>Effects on the operation, maintenance and upgrading of the electrical distribution or transmission lines.</u>
RD8	<u>Atawhai Assisi Retirement (Lot 1 DPS21156) alterations and additions that increase net floor area and that meet all of the following standards:</u> (a) <u>Land Use – Effects in Rule 23.2;</u> (b) <u>Land Use – Building in Rule 23.3 except:</u> (i) <u>Rule 22.3.1 (Residential units) does not apply;</u> (ii) <u>Rule 22.3.2 (Minor residential units) does not apply;</u> (iii) <u>Rule 22.3.6 (Building Coverage) does not apply.</u>	(a) <u>Council's discretion is restricted to the following matters:</u> (i) <u>effects on rural character and amenity;</u> (ii) <u>The visual and amenity effects of building bulk and scale;</u> (iii) <u>Connectivity to, and capacity of, existing towns and villages, including connections to existing walkways, roads, and public transport;</u> (iv) <u>Connectivity to public reticulated water supply and wastewater, or the adequacy of services provided on-site;</u> (v) <u>Reverse sensitivity effects on existing farming, intensive farming, rural industry, or quarrying activities; and</u> (vi) <u>Traffic effects.</u>

23.1.2 Discretionary Activities

(1) The activities listed below are discretionary activities.

D1	Any permitted activity that does not comply with one or more of the an 'Activity Specific Standards Conditions' in <u>Rule 23.1.1</u>
D2	Any permitted activity that does not comply with Land Use – Effects <u>Rule 23.2</u> or Land Use – Building <u>Rule 23.3</u> unless the activity status is specified as controlled, restricted, discretionary or non-complying.
D3-D2	A <u>commercial activity</u> (excluding <u>produce stall</u>)
D4-D3	A <u>community activity facility</u>
D5	An <u>education facility</u> , excluding a <u>child care facility</u> for up to 10 children
D6-D4	A funeral home and/or crematorium
D7-D5	A <u>health facility</u>
D8-D6	A hospital, or a hospice with 10 or more beds
D9-D7	<u>Travellers' Visitor accommodation</u> for more than 5 guests
D10-D8	An <u>industrial activity</u>

D11 D9	A place of assembly
<u>D11</u>	<u>Any activity that is not listed as Permitted, Controlled, Restricted Discretionary, Discretionary or Non-Complying</u>

23.1.3 Non-Complying Activities

(I) The activities listed below are non-complying activities.

NC1	A correctional facility
NC2	An extractive industry Quarrying activities
NC3	A retirement village
NC4	Multi-unit development
NC5	Intensive farming
NC6	Transport depot
NC7	Motor sport and recreation events Motorised sport and recreation
NC8	(a) Within the Hamilton Airport Noise Outer Control Boundary: (i) a child care facility ; (ii) a hospital or hospice.
NC9	Construction of a building on an indicative road
NC10	A waste management facility
NC11	Storage , processing or disposal of hazardous waste
NC12	Any activity that is not listed as Permitted, Restricted Discretionary or Discretionary
<u>NC12</u>	(a) <u>The following activities located within the Urban Expansion Area:</u> (i) <u>industrial activity</u> ; and (ii) <u>rural industry</u> .
<u>NC13</u>	<u>Buildings, structures and sensitive land use within the National Grid Yard as of 18 July 2018 that do not comply with 23.1.1 P11</u>
<u>NC14</u>	<u>Any new building for a sensitive land use, or addition to an existing building that involves an increase in the building envelope or height for a sensitive land use, within the National Grid Yard</u>
<u>NC15</u>	<u>Any change of use of an existing building to a sensitive land use within the National Grid Yard</u>
<u>NC16</u>	<u>The establishment of any new sensitive land use within the National Grid Yard</u>
<u>NC17</u>	<u>Dairy/milking sheds (excluding accessory structures and buildings), commercial greenhouses, Pseudomonas syringae pv. Actinidiae (Psa) disease control structures, or buildings for intensive farming within the National Grid Yard</u>

23.2 Land Use - Effects

23.2.1 Noise

- (1) Rule 23.2.1.1 Noise – General provides permitted noise levels in the ~~Country Living~~ RLZ – Rural lifestyle ~~z~~Zone.
- (2) Rule 23.2.1.2 Noise – Construction provides permitted noise levels for construction activities.

23.2.1.1 Noise – General

P1	<u>Farming noise</u> , and noise generated by <u>emergency generators</u> and emergency sirens.
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P2	<p>(a) Noise measured at the notional boundary within any site in the Rural Zone and within any other site in the Country Living Zone Noise measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed the following noise limits at any point within a notional boundary on any other site in the RLZ – Rural lifestyle zone:</p> <ul style="list-style-type: none"> (i) 50dB {LAeq} (15min), 7am to 7pm every day; (ii) 45dB {LAeq} (15min), 7pm to 10pm every day; (iii) 40dB {LAeq} (15min) and 65dB (LA_{max}), 10pm to 7am the following day; (iv) 65dB LAF_{max}, 10pm to 7am the following day. <p>(b) The permitted activity noise limits for the zone of any other site where sound is received.</p>
P3	<p>(a) Noise measured within any site in any zone, other than the Country Living Zone and Rural Zone, must meet the permitted noise levels for that zone.</p>
P4	<p>(a) Noise generated by any activity in Tamahere Commercial Area A and Tamahere Commercial Area B, as identified on the planning maps, must not exceed the following levels:</p> <ul style="list-style-type: none"> (i) In Tamahere Commercial Areas A and B does not exceed: <ul style="list-style-type: none"> A. 65dB (LA_{eq}), 7am to 10pm; B. 50dB (LA_{eq}) and 75dB (LA_{max}), 10pm to 7am the following day, (b) Outside Tamahere Commercial Areas A and B, does not exceed: <ul style="list-style-type: none"> A. 55dB (LA_{eq}), 7am to 10pm; B. 40dB (LA_{eq}) and 70dB (LA_{max}), 10pm to 7am the following day. (c) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 "Acoustics – Measurement of Environmental Sound". (d) Noise levels shall be assessed in accordance with the requirements of Standard NZS 6802:2008
P5	<p>(a) Noise levels shall be measured in accordance with the requirements of Standard NZS 6801:2008 "Acoustics – Measurement of Environmental Sound".</p> <p>(b) Noise levels shall be assessed in accordance with the requirements of Standard NZS 6802:2008 "Acoustic Environmental noise".</p>
DI	<p>(a) Noise that is outside the scope of NZS 6802:2008 or a permitted activity standard and;</p> <p>(b) Noise that does not comply with Rule 23.2.1.1 P1 or P2, P3, P4 or P5.</p>

23.2.1.1A Noise-Tamahere Commercial Areas A and B

P1	Farming noise, and sound generated by emergency generators and emergency sirens.
P2	<p>Noise measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed:</p> <p>(a) The following noise limits at any point within any other site in Tamahere Commercial Areas A and B:</p> <ul style="list-style-type: none"> (i) 65dB LAeq(15min), 7am to 10pm; (ii) 50dB LAeq(15min), 10pm to 7am; (iii) 75 dB LAF_{max}, 10pm to 7am the following day. <p>(b) The following noise limits at any point within any site outside the Tamahere Commercial Areas A and B:</p> <ul style="list-style-type: none"> (i) 55dB LAeq(15min), 7am to 10pm; (ii) 40dB LAeq(15min), 10pm to 7am; (iii) 70dB LAF_{max}, 10pm to 7am the following day.
DI	<p>(a) Noise that is outside the scope of NZS 6802:2008 or a permitted activity standard;</p> <p>(b) Noise that does not comply with Rule 23.2.1.1A P1 or P2.</p>

23.2.1.2 Noise – Construction

PI	<p>(a) Noise generated from the construction site must not exceed meet the limits in NZS 6803:1999 (Acoustics – Construction Noise);</p> <p>(b) Construction noise shall be measured and assessed in accordance with the requirements of NZS6803:1999 'Acoustics – Construction Noise'.</p>
RDI	<p>(a) Construction noise that does not comply with Rule 23.2.3 P1.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Effects on amenity values; (ii) Hours of construction;

	(iii) Noise levels; (iv) Timing and duration; and (v) Methods of construction.
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23.2.2 Glare and Artificial Light Spill

PI	(a) Illumination from glare and artificial light spill must not exceed 10 lux measured horizontally and vertically at any other site. (b) Rule 23.2.2 PI does not apply to vehicles or equipment used in farming activities.
RDI	(a) Illumination from glare and artificial light spill that does not comply with Rule 23.2.2 PI. (b) Council's discretion is restricted to the following matters: (i) Effects on amenity values; (ii) Light spill levels on other sites; (iii) Road safety; (iv) Duration and frequency; (v) Location and orientation of the light source; and (vi) Mitigation measures.

23.2.3 Earthworks

- (1) Rule 23.2.3.1 – Earthworks - General, provides the permitted rules for earthwork activities for the Country Living RLZ – Rural lifestyle zone. These rules do not apply to earthworks for subdivision. This rule does not apply in those areas specified in Rule 23.2.3.2, 23.2.3.3 and 23.2.3.4.
- (2) There are specific standards for earthworks within rules:
 - (a) Rule 23.2.3.2 – Earthworks - Maaori Sites and Maaori Areas of Significance;
 - (b) Rule 23.2.3.3 – Earthworks - Significant Natural Areas;
 - (c) Rule 23.2.3.4 – Earthworks - Landscape and Natural Character Areas.

23.2.3.1 Earthworks – General

PI	(a) Earthworks within a site for: (i) Ancillary rural earthworks; or (ii) Construction and/or maintenance of tracks, fences or drains; or (iii) A building platform for a residential activity including an accessory building.
P2	(a) Earthworks within a site for purposes other those contained in P1 (excluding the importation of fill material) must meet all of the following conditions standards: (i) Do not exceed a volume of more than 250-500m ³ and an area of more than 1000m ² within a site over any single consecutive 12 month period; (ii) The total depth of any excavation or filling does not exceed 1.5m above or below ground level; (iii) Earthworks are set back at least 1.5m from any boundary; (iv) Areas exposed by earthworks are re-vegetated or otherwise stabilised to achieve 80% ground cover within 6 months of the commencement of the earthworks; (v) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; (vi) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.
P3	(a) Earthworks for the purpose of creating a building platform for residential purposes within a site, using imported fill material must meet the following condition: (i) be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development.
P4-P3	(a) Earthworks for purposes other than creating a building platform for residential purposes within a site, using imported fill material must meet all of the following conditions standards: (i) Not exceed a total volume of 2050m ³ ; (ii) Not exceed a depth of 1.5m; (iii) The slope of the resulting filled area in stable ground must not exceed a maximum slope of 1:2 (1 vertical to 2 horizontal); (iv) Fill material is set back 1.5m from all boundaries;

	<ul style="list-style-type: none"> (v) Areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks; (vi) Sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls; (vii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.
RD1	<ul style="list-style-type: none"> (a) Earthworks that do not comply with Rule 23.2.3.1 P1, P2, P3 or P3. (b) Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> (i) Amenity values and landscape effects; (ii) Volume, extent and depth of earthworks; (iii) Nature of fill material; (iv) Contamination of fill material; (v) Location of the earthworks to waterways, significant indigenous vegetation and habitat; (vi) Compaction of the fill material; (vii) Volume and depth of fill material; (viii) Protection of the Hauraki Gulf Catchment Area; (ix) Geotechnical stability; (x) Flood risk, including natural water flows and established drainage paths; (xi) Land instability, erosion and sedimentation; (xii) <u>Effects on the safe, effective and efficient operation, maintenance and upgrade of infrastructure, including access.</u>
NCI	Earthworks including the importation of cleanfill to a site .

23.2.3.2 Earthworks - Maaori Sites and Maaori Areas of Significance

The provisions notified under this heading are addressed in Decision 7: Maaori Sites and Maaori Areas of Significance

23.2.3.3 Earthworks – Significant Natural Areas

The provisions notified under this heading are addressed in Decision 9: Significant Natural Areas

23.2.3.4 Earthworks – within Landscape and Natural Character Areas

The provisions notified under this heading are addressed in Decision 10: Landscapes

23.2.4 Hazardous substances

The provisions notified under this heading are addressed in Decision 11: Hazardous Substances and Contaminated Land

23.2.5 Notable Trees

The provisions notified under this heading are addressed in Decision 8: Historic Heritage

23.2.6 Signs

- (1) **Rule 23.2.6.1** Signs – General provides permitted standards for any sign, including real estate signs, across the entire **Country Living RLZ – Rural lifestyle zZone**.
- (2) **Rule 23.2.6.2** Signs – effects on traffic applies specific standards for signs that are directed at road users.

23.2.6.1 Signs – General

P1	A public information sign erected by a government agency.
P2	<p>(a) A sign must comply with all of the following conditions <u>standards</u>:</p> <ul style="list-style-type: none"> (i) It is the only sign on the site; (ii) The sign is wholly contained on the site; (iii) The sign does not exceed an area of 1m²; (iv) The sign height does not exceed 3m; (v) The sign is not illuminated; (vi) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials; (vii) The sign is set back at least 50m from a state highway and the Waikato Expressway; (viii) The sign does not project over road reserve; (viii) The sign is not attached to a tree identified in Schedule 30.2 Notable Trees, except for the purpose of identification; (ix) The sign is not attached to a heritage item listed in Schedule 30.1 (Heritage Items) except for the purpose of identification and interpretation; (x) The sign is not attached to a Where the sign is on a site with a Maaori Site of Significance listed in Schedule 30.3 (Maaori Sites of Significance) except it must be for the purpose of identification and interpretation; (xi) The sign relates to: <ul style="list-style-type: none"> A. goods or services available on the site; or B. a property name sign.
P3	<p>(a) A real estate 'for sale' sign relating to the site on which it is located must comply with all of the following conditions <u>standards</u>:</p> <ul style="list-style-type: none"> (i) There is <u>are</u> no more than + 3 signs per site agency; (ii) The sign is not illuminated; (iii) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials; (iv) The sign does not project into or over a road reserve; (v) The sign does not exceed an area of 1m².
P4	<u>Official sign</u>
P5	<u>Signs that are located within a building or that are not visible from a road or adjoining site.</u>
RD1	<p>(a) Any sign that does not comply Rule 23.2.6.1 P1, P2 or P3.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Amenity values; (ii) Rural character of the locality; (iii) Effects on traffic safety; (iv) Effects of glare and artificial light spill; (v) Content, colour and location of the sign; (vi) Effects on any notable trees; (vii) Effects on the heritage values of any heritage item due to the size, location, design and appearance of the sign; (viii) Effects on cultural values of any Maaori Site of Significance; (ix) Effects on notable architectural features of the building.

23.2.6.2 Signs - effects on traffic

PI	<p>(a) Any sign directed at road users must <u>meet the following standards</u>:</p> <ul style="list-style-type: none"> (i) Not imitate the content, colour or appearance of any traffic control sign; and (ii) Be located at least 60m from controlled intersections, pedestrian crossings, <u>railway crossings</u> and any other sign <u>associated with roads and traffic management</u>; and (iii) Not obstruct sight lines of drivers turning into or out of a site entrance and intersections <u>or at a level crossing</u>; and (iv) Be able to be viewed by drivers for at least 250m; and (iv) Contain no more than 40 characters and no more than 6 symbols; and (v) Have lettering that is at least 200mm high; and (vi) <u>Comply with the following</u> Where the sign directs traffic to a site entrance <u>the sign must be at least</u>: <ul style="list-style-type: none"> A. 175m from the site entrance on any road with a speed limit of 80 km/hr or less; or B. 250m from the site entrance on any road with a speed limit of more than 80km/hr.
DI	Any sign that does not comply with Rule 23.2.6.2 PI .

23.2.7 Outdoor Storage

PI	<p>(a) Outdoor storage of materials must be fully screened by fencing or landscaping from any:</p> <ul style="list-style-type: none"> (i) public road; (ii) public reserve; (iii) adjoining site.
RDI	<p>(a) Outdoor storage of materials that do not comply with Rule 23.2.7 PI.</p> <ul style="list-style-type: none"> (i) Council's discretion is restricted to the following matters: (ii) Visual amenity; (iii) Size and location of the outdoor storage area; and (iv) Measures to mitigate adverse effects

23.2.8 Indigenous vegetation clearance inside a Significant Natural Area

23.2.9 Indigenous vegetation clearance - outside a Significant Natural Area

The provisions notified under these headings are addressed in Decision 9: Significant Natural Areas

23.3 Land Use – Building

23.3.1 Dwelling Residential unit

PI	<p>(a) One dwelling residential unit within a site record of title;</p> <p>(b) The dwelling residential unit must not be located within any of the following landscape and natural character areas:</p> <ul style="list-style-type: none"> (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) Outstanding Natural Character Area of the coastal environment; (iv) High Natural Character Area of the coastal environment.
DI	A dwelling residential unit that does not comply with Rule 23.3.1 PI .

23.3.2 Minor dwelling residential unit

PI	<p>(a) A maximum of one minor dwelling residential unit within a site record of title <u>must comply with the following standards</u>: not exceed 70m² gfa.</p> <p>(b) Where there is an existing dwelling located within a site:</p>
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	<ul style="list-style-type: none"> (i) <u>Not exceed 70m² gross floor area;</u> (ii) <u>The minor dwelling must Be located within 20m of the principal residential unit dwelling;</u> (iii) <u>The minor dwelling must Share a single driveway access with the existing principal residential unit dwelling.</u>
DI	A <u>minor dwelling</u> residential unit that does not comply with <u>Rule 23.3.2 PI.</u>

23.3.3 Buildings and structures in Landscape and Natural Character Areas

DI	<ul style="list-style-type: none"> (a) Any building or structure that is located within any: <ul style="list-style-type: none"> (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) Outstanding Natural Character Area; (iv) High Natural Character Area.
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23.3.4 Height

- (1) Rules 23.3.4.1 and 23.3.4.2 provide permitted height limits for buildings, structures or vegetation.
- (2) Rule 23.3.4.1 Height – Building general provides permitted height limits across the entire ~~Country Living~~ RLZ – Rural lifestyle zZone.
- (3) Rule 23.3.4.2 Height – Buildings, structures and vegetation within an airport obstacle limitation surface provides height limits for within this area.

23.3.4.1 Height – Building General

PI	<ul style="list-style-type: none"> (a) The maximum <u>height</u> of any <u>building</u> or structure <u>measured from the natural ground level immediately below that part of the structure must not exceed 7.5m.</u> (b) <u>Chimneys not exceeding 1m in width and finials shall not exceed a maximum height of 9.5m measured from the natural ground level immediately below the structure;</u>
CI	<ul style="list-style-type: none"> (a) <u>The height of emergency services facilities (excluding hose drying towers) measured from the natural ground level immediately below that part of the structure must not exceed 9m.</u> (b) <u>The matters over which control will be reserved:</u> <ul style="list-style-type: none"> (i) <u>Location on the site</u> (ii) <u>Dominance on adjoining sites</u> (iii) <u>Design.</u>
C2	<ul style="list-style-type: none"> (a) <u>The maximum height of emergency services hose drying towers measured from the natural ground level immediately below that part of the structure must not exceed 15m.</u> (b) <u>The matters over which control will be reserved:</u> <ul style="list-style-type: none"> (i) <u>Location on the site;</u> (ii) <u>Dominance on adjoining sites;</u> (iii) <u>Design.</u>
DI	Any <u>building</u> that does not comply with <u>Rule 23.3.4.1 PI, CI or C2.</u>

23.3.4.2 Height - Buildings, structures and vegetation within an airport obstacle limitation surface

The provisions notified under this heading are addressed in Decision 26: Te Kowhai Airpark Zone

23.3.5 Daylight admission Height in relation to boundary

PI	<u>Buildings and structures must not protrude through a height control plane rising at an angle of 37 45 degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary.</u>
RDI	(a) A <u>building</u> that does not comply with <u>Rule 23.3.5 PI.</u>

	<p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Height of the building; (ii) Design and location of the building; (iii) Extent of shading on adjacent site; (iv) Privacy on any other site; (v) Effects on amenity values of the locality.
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23.3.6 Building coverage

PI	<p>The total building coverage must not exceed 10% of the site or 300m², whichever is the larger. <u>Rule 23.3.6 PI does not apply to:</u></p> <ul style="list-style-type: none"> (i) a structure that is not a building; or (ii) Eaves of a building that project less than 750mm horizontally from the exterior wall of the building
DI	<p>Total building coverage that does not comply with Rule 23.3.6 PI.</p>

23.3.6A Impervious surfaces

PI	<p>The impervious surface of a site must not exceed 70%.</p>
RD1	<ul style="list-style-type: none"> (a) Impervious surfaces that do not comply with Rule 23.3.4A PI. (b) Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> (i) Site design, layout and amenity; (ii) The risk of flooding, nuisance or damage to the site or other buildings and sites.

23.3.7 Building setbacks

- (1) Rules 23.3.7.1 to 23.3.7.6 provide the permitted building setback distances for a building from a site boundary, specific land use activities and environmental features.
- (2) Rule 23.3.7.1 Building setbacks – all boundaries provide permitted building setback distances from any boundary on any site within the Country Living RLZ – Rural lifestyle zone. Different setback distances are applied based on the type of building.
- (3) Rule 23.3.7.2 Building setback - sensitive land use provides permitted setback distances for any building containing a sensitive land use from specified land use activities.
- (4) Rule 23.3.7.3 Building setbacks from Tamahere Commercial Areas A and B provide specific setback requirements for these commercial areas at Tamahere.
- (5) Rule 23.3.7.4 Building – Airport Noise Outer Control Boundary.
- (6) Rule 23.3.7.5 Building setback - waterbodies provide permitted setback distances from a lake, wetland, river and coast.
- (7) Rules 23.3.7.6 Building setback - Environmental Protection Area provide specific setback distances from specified environmental features.

23.3.7.1 Building Setbacks – All boundaries

PI	<ul style="list-style-type: none"> (a) A building located on a site Record of Title containing more than 1000m² must be set back a minimum of: <ul style="list-style-type: none"> (i) 7.5m from a road boundary; (ii) 17.5m from the centre line of an indicative road; (iii) 12m from every boundary other than a road boundary. (b) Rule 23.3.7.1 PI(a)(ii) does not apply where the indicative road has been formed, is open to the public and has been vested in Council. (c) Rule 23.3.7.1 PI(a) does not apply to a structure which is not a building.
P2	<ul style="list-style-type: none"> (a) Any building located on a lot containing 1000m² or less must be set back a minimum of: <ul style="list-style-type: none"> (i) 3m from a road boundary; (ii) 1.5m from every boundary other than a road boundary; (iii) 24m from an existing dwelling residential unit on any adjoining site.

	<u>(b) Rule 23.3.7.1 P2(a) does not apply to a structure which is not a building.</u>
RD1	<p>(a) A building that does not comply with Rule 23.3.7.1 P1 or P2.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) amenity values; (ii) effects on traffic; transport network safety and efficiency; (iii) daylight admission to adjoining properties; (iv) effects on privacy of adjoining sites; and (v) <u>reverse sensitivity effects.</u>

23.3.7.2 Building setback - sensitive land use

PI	<p>(a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of:</p> <ul style="list-style-type: none"> (i) 5m from the designated boundary of the railway corridor; (i) 15m from a national route or regional arterial boundary; (ii) 35m from the designated boundary of the Waikato Expressway; (iii) 200m from an Aggregate Extraction Area containing a sand resource; (iv) 500m from an Aggregate Extraction Area containing a rock resource; (v) 300m from the boundary of another site containing an intensive farming activity; (vi) 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site; (vii) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed.
P2	<p>(a) <u>Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of 5m from the designated boundary of the railway corridor.</u></p>
RD1	<p>(a) <u>Any building for a sensitive land use that does not comply with Rule 23.3.7.2 P2 regarding setbacks from the railway corridor.</u></p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) <u>The size, nature and location of the buildings on the site;</u> (ii) <u>The extent to which the safety and efficiency of rail and road operations will be adversely affected;</u> (iii) <u>The outcome of any consultation with KiwiRail; and</u> (iv) <u>Any characteristics of the proposed use that will make compliance unnecessary.</u>
DI	Any building for a sensitive land use that does not comply with Rule 23.3.7.2 P1.

23.3.7.3 Building setbacks from Tamahere Commercial Areas and A and B

PI	<p>(a) Any new building for a sensitive land use or alteration to an existing building for a sensitive land use must be:</p> <ul style="list-style-type: none"> (i) Set back at least 100m from Tamahere Commercial Area A; or (ii) Within 100m of Tamahere Commercial Area A providing: <ul style="list-style-type: none"> A. the alteration is to a dwelling residential unit that has existed since 30 June 2012; B. no part of the alteration is located between the existing dwelling residential unit and any boundary of Tamahere Commercial Area A; and C. it is designed and constructed to achieve the internal design sound level specified in Appendix I (Acoustic Insulation) – Table 14.
P2	<p>(a) Any new building or alteration to an existing building for a sensitive land use must be:</p> <ul style="list-style-type: none"> (i) Set back at least 100m from Tamahere Commercial Area B; or (ii) Within 100m of Tamahere Commercial Area B and either: <ul style="list-style-type: none"> A. the alteration is to a dwelling residential unit that has existed since 30 June 2012 and no part of the alteration is located between the existing dwelling residential unit and boundary of Tamahere Commercial Area B; or B. it is a new dwelling residential unit that is placed within the building platform approved in the course of any subdivision and it is designed and constructed to achieve the internal design sound level specified in Appendix I (Acoustic Insulation) – Table 14; C. Within Tamahere Commercial Area B, be designed and constructed to achieve the internal design sound level specified in Appendix I (Acoustic Insulation). – Table 14.

RD1	<p>(a) Any new building or alteration to an existing building for a sensitive land use that does not comply with Rule 23.3.7.3 P1 or P2.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) reverse sensitivity; (ii) the means to avoid, remedy or mitigate adverse effects on amenity within the site; (iii) the setback distance from Tamahere Commercial Area A and Tamahere Commercial Area B; (iv) the position, orientation and design of the building and outdoor living court in relation to Tamahere Commercial Area A and Tamahere Commercial Area B.
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23.3.7.4 Building – Airport Noise Outer Control Boundary

P1	Construction, addition to, or alteration of a building containing a noise sensitive activity within the Airport Noise Outer Control Boundary that is designed and constructed to achieve the internal design sound levels specified in Appendix I (Acoustic Insulation) Table I.
D1	<p>(a) Construction, addition to, or alteration of a building that does not comply with Rule 23.3.7.4 P1.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) On-site amenity values; (ii) Noise levels received at the notional boundary of the building; (iii) Timing and duration of noise received at the notional boundary of the building; (iv) Potential for reverse sensitivity effects.

23.3.7.5 Building setback – waterbodies

P1	<p>(a) Any building must be set back a minimum of:</p> <ul style="list-style-type: none"> (i) 23-32m from the margin of any; <ul style="list-style-type: none"> A. Lake over 4ha; and B. wetland; (ii) 23-32m from the bank of any river (other than the Waikato River and Waipa River); (iii) 37m from the banks of the Waikato River and the Waipa River; and (iv) 27-5-32m from mean high water springs.or (v) <u>10m from the bank of a perennial or intermittent stream (named or unnamed)</u> (vi) <u>10m from a managed wetland</u> <p>(b) — PI does not apply to a public amenity of up to 25m², or a pump shed.</p>
P2	A public amenity of up to 25m ² , or a pump shed (public or private) within any building setback identified in rule 23.3.7.5 P1.
P3	A maimai structure with a maximum floor area of 10m ² within any building setback identified in rule 23.3.7.5 P1
D1	Any building that does not comply with Rule 23.3.7.5 P1, P2 or P3

Note: Refer to National Environmental Standard for Freshwater

23.3.7.6 Building setback – Environmental Protection Area

P1	Any building must be set back a minimum of 3m from an Environmental Protection Area .
D1	Any building that does not comply with Rule 23.3.7.6 P1 .

23.3.8 Building - Horotiu Noise Acoustic Area

P1	Construction, addition to, or alteration of a building containing a noise sensitive activity within the Horotiu Noise Acoustic Area that is designed and constructed to achieve the internal design sound levels specified in Appendix I (Acoustic Insulation) – Table I I.
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DI	<p>(a) Construction, addition to, or alteration of a building that does not comply with Rule 23.3.8 Pl.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) On-site amenity values; (ii) Noise levels received at the notional boundary of the building; (iii) Timing and duration of noise received at the notional boundary of the building; (iv) Potential for reverse sensitivity effects.
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23.3.9 Historic Heritage

The provisions notified under this heading are addressed in Decision 8: Historic Heritage

23.4 Subdivision rules

- (1) **Rule 23.4.1** lists Prohibited Subdivision in the Country Living Zone.
- (1) **Rule 23.4.2** provides for General Subdivision in the ~~Country Living~~ **RLZ – Rural lifestyle zZone** and is subject to the following specific rules:
 - (i) **Rule 23.4.3** - Subdivision within identified areas;
 - (ii) **Rule 23.4.4** - Title Boundaries – ~~existing buildings; contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities and aggregate extraction areas~~
 - (iii) **Rule 23.4.5** - Site boundaries – Significant Natural Areas; heritage items, archaeological sites, sites of significance to Maaori
 - (iv) **Rule 23.4.6** - Subdivision of land containing heritage items;
 - (v) **23.4.6A** Subdivision of land containing a Maaori site of significance or Maaori area of significance;
 - (vi) **Rule 23.4.7** - Subdivision - Road frontage;
 - (vii) **Rule 23.4.8** - Subdivision Building platform;
 - (viii) ~~Rule 23.4.9~~ Subdivision for a Reserve
 - (viii) **Rule 23.4.10** - Subdivision of land containing mapped off-road walkways;
 - (ix) **Rule 23.4.11** - Subdivision of land containing all or part of an Environmental Protection Area;
 - (x) **Rule 23.4.12** - Esplanade reserves and esplanade strips.

Refer to Chapter 14.4 National Grid for subdivision near the National Grid.

23.4.1 Prohibited subdivision

PR1	Any subdivision within Hamilton's Urban Expansion Area involving the creation of any additional lot.
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23.4.2 General Subdivision

RDI	<p>(a) Subdivision must comply with all of the following conditions standards:</p> <ul style="list-style-type: none"> (i) All proposed lots must have a net site area of at least 5000m². (ii) Where the land being subdivided is inside the Airport Subdivision Control Boundary, or inside the SEL 95 Boundary identified on the planning maps, the average net site area of all proposed lots must be at least 1.1ha; (iii) Where the land being subdivided straddles the Airport Subdivision Control Boundary, the maximum number of proposed titles must be the smallest nearest whole number calculated by the following formula: <p>Proposed Record of Titles allotments = area (ha) outside* + area (ha) inside*</p>
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	$\frac{\text{area (ha) outside} + \text{area (ha) inside}}{0.5 + 1.1}$ <p>* outside and inside Airport Subdivision Control Boundary</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Adverse effects on amenity values; Effects on the Airport Subdivision Control Boundary or the SEL 95 Boundary. (ii) <u>The provision of infrastructure, including water supply accessible for firefighting;</u> (iii) <u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of infrastructure assets, or give rise to reverse sensitivity effects on existing land transport networks; and</u> (iv) <u>Measures to minimise reverse sensitivity effects, including on adjoining GRUZ – General rural zone land.</u>
RD2	<p>(a) <u>Subdivision of land wholly inside the Airport Subdivision Control Boundary, or wholly or partially inside the SEL 95 Boundary identified on the planning maps must comply with all of the following standards:</u></p> <ul style="list-style-type: none"> (i) <u>Where the, the average net site area of all proposed lots must be at least 1.1 ha;</u> (ii) <u>Where the land being subdivided straddles the Airport Subdivision Control Boundary, the maximum number of proposed titles must be the smallest nearest whole number calculated by the following formula:</u> $\text{Proposed allotments} = \frac{\text{area (ha) outside} + \text{area (ha) inside}}{0.5 + 1.1}$ <p>* outside and inside Airport Subdivision Control Boundary</p> <p>(b) <u>Council's discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none"> (i) <u>Adverse effects on amenity values;</u> (ii) <u>Effects on the operation of the airport;</u> (iii) <u>The provision of infrastructure, including water supply accessible for firefighting;</u> (iv) <u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of infrastructure assets, or give rise to reverse sensitivity effects on existing land transport networks.</u> (v) <u>Measures to minimise reverse sensitivity effects, including on adjoining GRUZ – General rural zone land.</u>
NC1	General <u>Subdivision</u> that does not comply with <u>Rule 23.4.1 RD1</u> .
NC2	<u>Subdivision</u> that does not comply with <u>Rule 23.4.1 RD2</u> .
NC3	<u>Subdivision within Hamilton's Urban Expansion Area (as identified on the planning maps) where all proposed allotments have a net site area of at least 5000m².</u>

23.4.3 Subdivision within identified areas

DI	<p>(a) <u>Subdivision</u> of any lot containing any these areas:</p> <ul style="list-style-type: none"> (i) <u>High Natural Character Area;</u> (ii) <u>Outstanding Natural Character Area;</u> (iii) <u>Outstanding Natural Landscape;</u> (iv) <u>Outstanding Natural Feature;</u> (v) <u>Significant Amenity Landscape dune;</u> (vi) <u>Coal Mining Area;</u> (vii) <u>Aggregate Resource Area;</u> (viii) <u>Aggregate Extraction Area;</u> (ix) <u>A natural hazard area.</u>
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23.4.4 Title boundaries – Existing Buildings natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities, aggregate extraction areas

RD1	<p><u>Subdivision of land containing any natural hazard area, contaminated land, Significant Amenity Landscape, notable tree, intensive farming activity or Aggregate Extraction Area must comply with all of the following conditions:</u></p> <ul style="list-style-type: none"> (i) (a) The <u>boundaries</u> of every proposed lot containing an existing <u>building</u> must demonstrate compliance with the Land Use - Building rules in <u>Rule 23.3</u> relating to:
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	<p>(i) Rule 23.3.5 (Daylight admission Height in relation to boundary);</p> <p>(ii) Rule 23.3.6 (Building coverage);</p> <p>(iii) Rule 23.3.7 (Building Setbacks).</p> <p>(b) Rule 23.4.4 RDI (a)(i) does not apply to any non-compliance with the Land Use – Building rules in Rule 23.3 that existed lawfully prior to the subdivision.</p> <p>(ii) Any boundary of a proposed lot must not divide the following: a natural hazard area; contaminated land; Significant Amenity Landscape; Notable tree.</p> <p>(iii) Any boundary of a proposed lot must provide the following setbacks: 300m from any intensive farming activity; 200m from an Aggregate Extraction Area for sand extraction; 500m from an Aggregate Extraction Area for rock extraction.</p> <p>(b)(c) Council's discretion is restricted to the following matters:</p> <p>(i) Landscape values;</p> <p>(ii) Amenity values and character;</p> <p>(iii) Reverse sensitivity effects;</p> <p>(iv) Effects on any existing building.</p> <p>(v) Effects on a natural hazard area;</p> <p>(vi) Effects on contaminated land;</p> <p>(vii) Effects on a notable tree;</p> <p>(viii) Effects on an intensive farming activity;</p> <p>(ix) Effects on an Aggregate Extraction Area.</p>
NCI(DI)	Subdivision that does not comply with Rule 23.4.4 RDI .

23.4.5 Site boundaries – Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori

RDI	<p>(a) Any boundary of a proposed lot must not divide any of the following:</p> <p>(i) A Significant Natural Area;</p> <p>(ii) A heritage item as identified in Schedule 30.1 (Heritage Items);</p> <p>(iii) A Maaori site of significance as identified in Schedule 30.3 (Maaori Sites of Significance); or</p> <p>(iv) A Maaori area of significance as identified in Schedule 30.4 (Maaori Areas of Significance).</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) effects on a Significant Natural Area;</p> <p>(ii) effects on a heritage item;</p> <p>(iii) effects on a Maaori site of significance;</p> <p>(iv) effects on a Maaori area of significance;</p> <p>(v) effects on a archaeological site</p>
NCI-DI	Subdivision that does not comply with Rule 23.4.5 RDI.

23.4.6 Subdivision of land containing heritage items

The provisions notified under this heading are addressed in Decision 8: Historic Heritage

23.4.7 Subdivision - Road frontage

RDI	<p>(a) Every proposed lot as part of the subdivision having with a road boundary, other than one designed as an access allotment or utility allotment or lot accessed via an access leg containing a road access leg, must have a width along the road boundary of at least 1550m.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Safety and efficiency of vehicle access and road network;</p> <p>(ii) Amenity values and rural residential character.</p>
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DI	Subdivision that does not comply with Rule 23.4.7 RDI .
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23.4.8 Subdivision - Building platform

RDI	<p>(a) Subdivision, other than an access allotment or utility allotment, must provide a building platform on every the proposed lot. that. The building platform must meet all of the following standards:</p> <ul style="list-style-type: none"> (i) has an area of 1000m² exclusive of boundary setbacks; (ii) has an average gradient no steeper than 1:8; (iii) has vehicular access in accordance with Rule 14.12.1 PI; (iv) is certified by a geotechnical engineer as geotechnically stable; and suitable for a building platform; (v) is not subject to inundation in a 2% AEP storm or flood event; (vi) a dwelling residential unit could be built on as a permitted activity in accordance with Rule 23.3. <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Earthworks and fill material required for building platform and access; (ii) Geotechnical suitability for a building; (iii) Avoidance or mitigation of natural hazards; (iv) Effects on landscape and amenity; (v) Measures to avoid storm or flood events.
DI	Subdivision that does not comply with Rule 23.4.8 RDI .

23.4.9 Subdivision creating Reserves

RDI	<p>(a) Every reserve, including where a reserve is identified within a structure plan or master plan (other than esplanade reserve), proposed for vesting as part of the subdivision, must be bordered by roads along at least 50% of its boundaries.</p> <p>(i) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (ii) the extent to which the proposed reserve aligns with the principles of Council's Parks Strategy, Playground Strategy, Public Toilets Strategy and Trails Strategy; (iii) consistency with any relevant structure plan or master plan; (iv) reserve size and location; (v) proximity to other reserves; (vi) the existing reserve supply in the surrounding area; (vii) whether the reserve is of suitable topography for future use and development; (viii) measures required to bring the reserve up to Council standard prior to vesting; <p>standard of boundary fencing.</p>
DI	Subdivision that does not comply with Rule 23.4.9 RDI .

23.4.10 Subdivision of land containing mapped off-road walkways

RDI	<p>(a) Subdivision where walkways shown on the planning maps are to be provided as part of the subdivision must comply with all of the following conditions:</p> <ul style="list-style-type: none"> (i) is at least 3 metres wide and (ii) the walkway is designed and constructed for shared pedestrian and cycle use, as per Rule 14.12.1 P8 (Access and road performance standards); (iii) the walkway is generally in accordance with the walkway route shown on the planning maps; (iv) the walkway is shown on the plan of subdivision and vested in the Council. <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) alignment of the walkway; (ii) drainage in relation to the walkway; (iii) standard of design and construction of the walkway; (iv) land stability; (v) amenity matters including batter slopes; (vi) connection to reserves.
DI	Subdivision that does not comply with Rule 23.4.10 RDI .

23.4.11 Subdivision of land containing all or part of an Environmental Protection Area

CI	<p>(a) Subdivision of land containing all or part of an Environmental Protection Area must comply with all of the following conditions standards:</p> <ul style="list-style-type: none"> (i) Include a planting and management plan for the area, prepared by a suitably-qualified person, containing exclusively native species suitable to the area and conditions; (ii) Planting must be undertaken prior to the issue of the 224(c) certificate. <p>(b) Council's control is reserved over the following matters:</p> <ul style="list-style-type: none"> (i) Measures proposed in the planting and management; (ii) Vesting of reserve land in Council, if appropriate; <u>and</u> (iii) <u>Legal protection if appropriate.</u>
RD1	<p>(a) Subdivision that does not comply with Rule 23.4.11 CI.</p> <ul style="list-style-type: none"> (i) Council's discretion is restricted to the following matters: (ii) Measures proposed in the planting and management; (iii) Vesting of reserve land in Council, if appropriate; (iv) Effects on amenity values; (v) Effects on ecological values.

23.4.12 Esplanade reserves and esplanade strips

RD1	<p>(a) Subdivision of an esplanade reserve or strip 20m wide (or other width stated in Appendix 5 Esplanade Priority Areas) is required to be created from every proposed lot and shall vest in Council where the following situations apply:</p> <ul style="list-style-type: none"> (i) less than 4ha and within 20m of: <ul style="list-style-type: none"> (ii) A. mean high water springs; or (iii) B. the bank of any river whose bed has an average width of 3m or more; or (iv) C. a lake whose bed has an area of 8ha or more; or (v) (ii) 4ha or more within 20m of mean high water springs or a water body identified in Appendix 5 4 (Esplanade Priority Areas). <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) the type of esplanade provided - reserve or strip; (ii) width of the esplanade reserve or strip; (iii) provision of legal access to the esplanade reserve or strip; (iv) matters provided for in an instrument creating an esplanade strip or access strip; and (v) works required prior to vesting any reserve in the Council, including pest plant control, boundary fencing and the removal of structures and debris; and (vi) <u>costs and benefits of acquiring the land.</u>
DI	<p>Subdivision that does not comply with Rule 23.4.12 RD1.</p>

23.4.13 Subdivision of land within the National Grid Corridor

RD1	<p>(a) <u>The subdivision of land within the National Grid Corridor that complies with all of the following standards:</u></p> <ul style="list-style-type: none"> <u>(i) All resulting allotments must be able to demonstrate that they are capable of accommodating a building platform for the likely principal building(s) and any building(s) for a sensitive land use located outside of the National Grid Yard, other than where the allotments are for roads, access ways or infrastructure; and</u> <u>(ii) The layout of allotments and any enabling earthworks must ensure that physical access is maintained to any National Grid support structures located on the allotments, including any balance area.</u> <p>(b) <u>Council's discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none"> <u>(i) The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of the National Grid;</u> <u>(ii) The ability to provide a complying building platform outside of the National Grid Yard;</u> <u>(iii) The risk of electrical hazards affecting public or individual safety, and the risk of property damage;</u> <u>(iv) The nature and location of any vegetation to be planted in the vicinity of National Grid transmission lines.</u>
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	<p>(v) <u>The risk to the structural integrity of the National Grid;</u></p> <p>(vi) <u>The extent to which the subdivision design and consequential development will minimise the potential reverse sensitivity on and amenity and nuisance effects of the National Grid asset.</u></p>
<u>NCI</u>	<u>Any subdivision of land within the National Grid Corridor that does not comply with one or more of the standards of Rule 23.4.13 RDI.</u>