

SECTION 42A REPORT

Report on submissions and further submissions on the
Proposed Waikato District Plan

Hearing 12: Country Living Zone s42A report

Report prepared by: Susan Chibnall

Date: 3 March 2020



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List of submitters and further submitters addressed in this report

Original Submitter	Submission number
Andrew and Christine Gore	330
Angeline Greensill for Tainui o Tainui	942
Auckland and Waikato Fish and Game	433
Anton Marais	249
Blue Wallace Surveyors Ltd	662
Brent Trail	345
Catherine Wright	269
Cindy and Tony Young	735
Counties Power Limited	405
Counties Manukau Police	297
Derek and Colleen Hartley	196
Dinah Robcke	551
DPI 2014 Limited	875
Ethan Findlay	418
Fire and Emergency New Zealand	378
First Gas Limited	945
Fonterra Limited	797
Gary McMahon	50
Glenn Soroka and Louise Meredith	624
Godfrey Bridger	408
Grace M Wilcock	845
Greig Metcalfe	602
Haley Bicknell-McMahon	147
Hamilton City Council	535
Heritage New Zealand Lower Northern Office	559
Horticulture New Zealand	419
Jack Macdonald	782
Jade Hyslop	435
Jason Howarth	7
Jenny Kelly	590
John Lawson	825
John Rowe	922

Further submitter	Submission number
Allen Fabrics	<i>FSI349</i>
Andrew and Christine Gore	<i>FSI062</i>
Andrew Mowbray	<i>FSI305</i>
Blue Wallace Surveyors Ltd	<i>FSI287</i>
Bootleg Brewery	<i>FSI264</i>
Bowrock Properties Limited	<i>FSI197</i>
Chorus New Zealand Limited	<i>FSI031</i>
Cindy and Tony Young	<i>FSI221</i>
Collette Shona Hanarahan	<i>FSI051</i>
Counties Power Limited	<i>FSI134</i>
Dave Roebeck	<i>FSI133</i>
Ethan and Rachael Findlay	<i>FSI311</i>
Federated Farmers	<i>FSI342</i>
First Gas Limited	<i>FSI211</i>
Fonterra Limited	<i>FSI333</i>
Garth and Sandra Ellmers	<i>FSI092</i>
Gary Bogaart/ Meremere Dragway Inc	<i>FSI304</i>
Gary Bogaart/ Meremere Dragway Inc	<i>FSI118</i>
Genesis Energy Limited	<i>FSI345</i>
Glover Family Trust	<i>FSI144</i>
Hamilton City Council	<i>FSI379</i>
Heritage New Zealand Pouhere Taonga	<i>FSI323</i>
Julie Ann Perry	<i>FSI044</i>
KiwiRail Holdings Limited	<i>FSI272</i>
Mercury NZ Limited	<i>FSI223</i> <i>FSI386</i> <i>FSI387</i> <i>FSI388</i>
Meridian Energy Limited	<i>FSI258</i>
Middlemiss Farm Holdings Limited	<i>FSI330</i>
Mowbray Group	<i>FSI289</i>
NZTA	<i>FSI202</i>
NZTE Operations Limited	<i>FSI339</i>
Pareoranga Te Kata	<i>FSI035</i>
Parkmere Farms	<i>FSI283</i>

Jolene Francis	376
Jonathan Quigley	389
Julie Perry	348
KiwiRail Holdings Limited (KiwiRail)	986
Leo Koppens	820
Liam McGrath for Mercer Residents and Ratepayers	367
Madsen Lawrie Consultants	838
Mark Chrisp	564
Martin Lynch	161
McCracken Surveys Limited	943
Ministry of Education	781
New Zealand National Fieldays	280
NZTA	742
Parkmere Farms	696
Paula Dudley	328
Perry Group Limited	464
Pieter Van Leeuwen	754
Raglan Naturally	831
Riki Manarangi	409
Robert Hugh Maclennan	401
Shand Properties Limited	738
Sharp Planning Solutions	695
Stuart Quigley	947
Sue Robertson for Tamahere Community Committee	724
Susan Hall	788
Ted and Kathryn Letford	276
The Surveying Company	746
Turtle Nut Farm	876
Vineyard Properties Limited	626
Waikato District Council	697
Waikato District Health Board	923
Waikato Regional Airport Ltd	741
Waikato Regional Council	81
Waipa District Council	939
Whaingaroa Environmental Defence Incorporated Society	780

Rosita Dianne-Lynn Barnes	<i>FSI365</i> <i>FSI367</i>
Ryburn Lagoon Trust Limited	<i>FSI083</i>
Spark New Zealand Trading Limited	<i>FSI033</i>
Stuart Quigley and Quigley Family Trust	<i>FSI278</i>
T&G Global	<i>FSI171</i>
TaTa Valley Limited	<i>FSI340</i>
Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	<i>FSI108</i>
The Surveying Company	<i>FSI308</i>
Tony Dickson	<i>FSI002</i>
Transpower New Zealand	<i>FSI350</i>
Turangawaewae Trust Board	<i>FSI139</i>
Vineyard Road Properties Limited	<i>FSI127</i>
Vodafone New Zealand Limited	<i>FSI032</i>
Waikato Regional Airport Limited	<i>FSI253</i>
Watercare Services Ltd	<i>FSI176</i>
Whaingaroa Environmental Defence Inc. Society	<i>FSI276</i>

Please refer to Appendix I to see where each submission point is addressed within this report.

I Introduction

I.1 Qualifications and experience

1. My name is Susan Chibnall. I am employed by Waikato District Council as a Policy Planner within the Resource Management Team.
2. I hold the qualification of Bachelor of Social Science from the University of Waikato, majoring in Environmental Planning.
3. I have been employed in local government for over 13 years. I have been employed by Waikato District Council as a policy planner since 2015. In this role I have undertaken the following tasks and responsibilities:
 - The drafting of Objectives, Policies and Rules for the purpose of the district plan review process.
 - The writing of Section 32A Report
 - The summarising of submissions and further submissions.
4. Prior to my role as Policy Planner, I was a Monitoring Officer in the Regulatory Team, where the main focus was on the monitoring of land use consents, designations and district plan compliance.

I.2 Code of Conduct

5. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014, and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
6. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners.

I.3 Conflict of Interest

7. I confirm that I have no real conflict of interest. However, a perceived conflict of interest is in my capacity as a Monitoring Officer, where I have monitored or undertaken enforcement action in relation to land use consents or breaches of the district plan rules which a submitter may have been party to. I am also a ratepayer and live within the district.

I.4 Preparation of this report

8. I am the author of this report.
9. The scope of evidence relates to evaluation of submissions and further submissions received in relation to the provisions related to the Country Living Zone.
10. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
11. In preparing this report I rely on expert advice sought from Council's Monitoring Team and the Consents Team with regard to the Country Living Zone.

2 Scope of Report

2.1 Matters addressed by this report

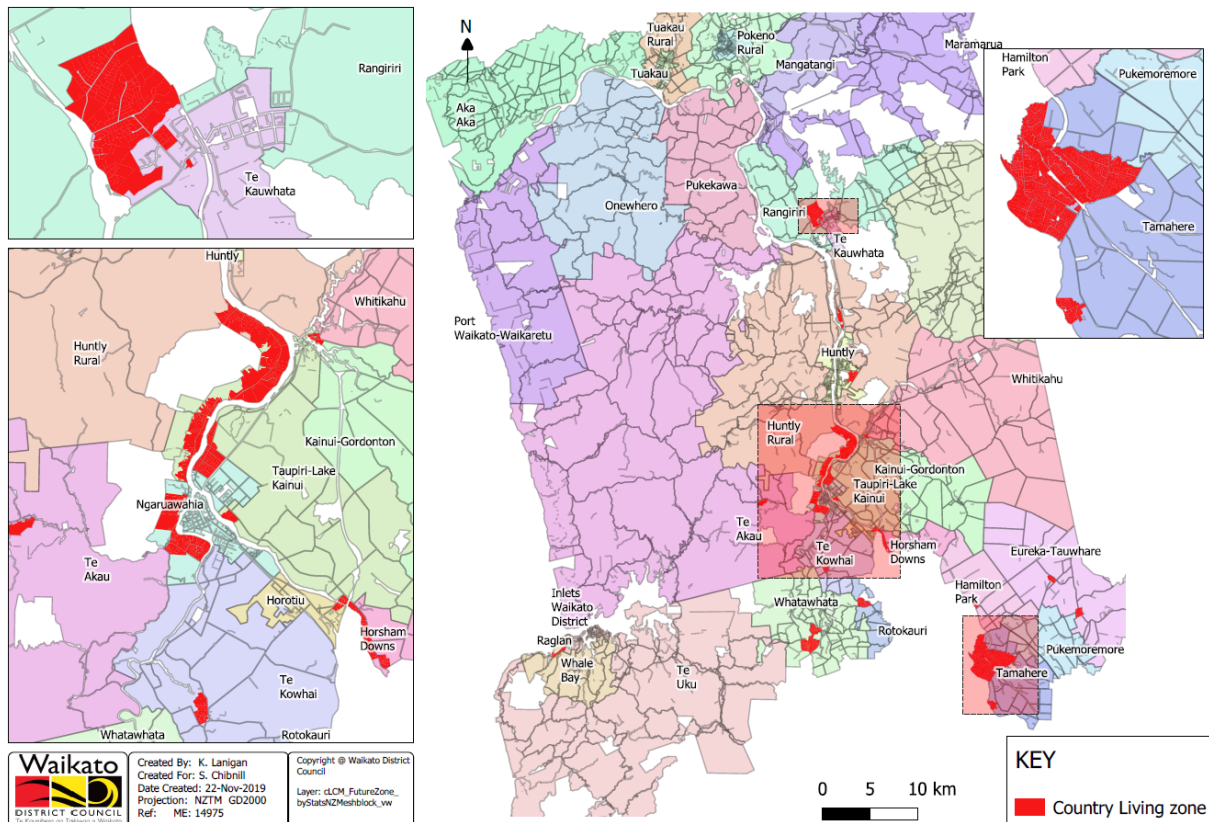
12. This report is prepared in accordance with section 42A of the RMA. This report considers submissions that were received by the Council in relation to the provisions on the management of the Country Living Zone within the Waikato Proposed District Plan. The scope of my evidence relates to the evaluation of submissions and further submissions received in regard to land use activities, land use effects, building and subdivision. Matters relating to other topics within the Country Living Zone are listed below and are not dealt with in this report, but are being evaluated in other hearing topics. However, where these topics appear within a rule and the rule is not specific to that matter, they are evaluated in this report (for example subdivision rules that have a Maaori Site of Significance, Significant Natural Area, or Outstanding Natural Feature).
13. Submissions in regard to retirement villages are not analysed in this report. When reviewing the submissions, it has been identified that Assisi Home and Eventide Home are located in different zones. The Assisi home is located in the Rural Zone, although their submission seeks to address the policies and rules within the Country Living Zone. Due to their proximity to each other, and that two sites are managed by Tamahere Eventide Home Trust, I believe it would be more effective and efficient to manage the two sites as one and defer as a subject during the Rural Zone hearing.
14. A submission from Lyndendale Farms Limited refers to a Country Living Zone rule, however all other references in the submission refer to Chapter 22 Rural Zone. For this reason I have not addressed this submission in this report as I believe it is an error. The submission point will be addressed in Rural Hearing 22, unless otherwise advised by the submitter.
15. Where the Te Kowhai Airpark affects areas within the Country Living Zone, these submissions will be evaluated within Hearing 14 Te Kowhai Airpark.
16. Submissions in regard to Historic Heritage will be evaluated within Hearing 18 Historic Heritage.
17. Submissions in regard to Natural Character will be evaluated within Hearing 21 Natural Environments.
18. Submissions in regard to Significant Natural Areas will be evaluated within Hearing 21 Natural Environments.
19. Submissions in regard to Maaori Areas and Sites of Significance will be evaluated in Hearing 20.

2.2 Overview of the topic / chapter

20. The Country Living Zone is historical in nature and has been included in the Waikato Section of the Operative Plan since 1995. It is represented in the Franklin Section as the Rural Residential Zone. The Country Living Zone provides for low density living at specific locations in rural areas. The zone also provides rural-residential living opportunities to alleviate the pressure for the subdivision and development of rural land. Of importance is optimising the size of the sites so that they avoid an outcome where lots are too small to have a rural character and too large to maintain as gardens.
21. The Country Living Zone is generally located within and in affiliation with a nearby town or village, but can also be in isolated rural areas. In the surrounding adjacent rural zones, there are activities which generate effects that may adversely affect the amenity values expected in a predominantly residential environment, (e.g. noise, odour and dust from rural production

activities). As such, managing reverse sensitivity effects is a key resource management issue that needs to be addressed.

22. Below is a map showing where in the district the proposed Country Living Zone is located.



2.3 Statutory requirements

23. The statutory considerations that are relevant to the content of this report are largely set out in the opening legal submissions by counsel for Council (23 September 2019) and the opening planning submissions for Council (23 September 2019, paragraphs 18-32.) The opening planning submissions from the Council also detail the relevant iwi management plans (paragraphs 35-40) and other relevant plans and strategies (paragraphs 41-45). The following sections identify statutory documents with particular relevance to this report.

2.4 Waikato Regional Plan

24. The Waikato Regional Plan manages the natural and physical resources of the Waikato region and gives effect to the Regional Policy Statement. Reference is made to this plan with respect to maimai.

2.5 Application of the National Planning Standards

25. The National Planning Standards (NPS) were gazetted and came into effect on the 5th of April 2019. Two of the seventeen Standards are relevant to this report:

- Standard 8- Zone Framework Standards
- Standard 14 - Definitions Standard.

26. Standard 8 defines the naming terminology for zones. The mandatory directions state that, except for special purpose zones, a district plan must only contain the zones consistent with Table 13: Zone names and descriptions.

27. Standard 14 defines terms in a Definitions List. The direction from the NPS in Standard 14 requires that where a term used in a policy statement or plan is synonymous with a term defined in the Definitions List, local authorities must use the definition in the Definitions List. Hearing 5 Definitions has addressed this in Section 2.5 of the Hearing 5 s42A report, and describes how the Planning Standards have been applied in the context of Definitions. I believe there are only minor consequential amendments required to address this within the Country Living Zone, although acknowledge that as a consequence of amending the definitions to implement the National Planning Standards, some consequential changes will be needed to the rules. Council is intending to address this matter holistically in an integration hearing at the end of the Hearings process.

2.6 Section 32

28. Section 32 of the RMA requires that the objectives of the proposal be examined for their appropriateness in achieving the purpose of the RMA, and that the provisions (policies, rules or other methods) of the proposal be examined for their efficiency, effectiveness and risk. Section 32 reports were published when the Proposed Waikato District Plan (PWDP) was notified in 2018. This report updates that earlier analysis in “section 32AA evaluations” where material changes to the plan are recommended.

2.7 Procedural matters

29. No pre-hearing meetings or Schedule 1 Clause 8AAs (Resolution of Disputes) on the submissions relating to Chapter 23 Country Living Zone land use activities, building or amenity topics were held prior to the finalisation of this s42A report.
30. There has been no further consultation with any parties regarding Chapter 23 Country Living Zone since notification of the provisions.

3 Consideration of submissions received

3.1 Overview of submissions

31. There are 342 primary submission points addressed in this report that relate to the Country Living Zone. The submissions cover a wide range of issues, including the following common issues raised by more than one submitter:
- a. Submissions on objectives and policies to recognise non-residential activities.
 - b. Emergency services facilities - submissions seeking objectives, policies and rules to support these activities.
 - c. Crime Prevention Through Environmental Design (CPTED) - submissions seeking the use of 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. Submissions on Land use - Effects, in particular Noise, Signs and Earthworks.
 - g. Submissions on Land use – Building, inclusive of setbacks, height and daylight admissions and site coverage.
 - h. Subdivision - of which there are 95 submissions that are addressed in this report. A number of submissions sought amendments to enable smaller lots below 5000m².
 - i. Consideration of the prohibitive subdivision rule, subdivision in the Airport Subdivision Control Boundary and Hamilton’s Urban Expansion Area.

32. The plan-wide submissions considered by the Hearings Panel in Hearing 2 do not affect the consideration of these submissions.

3.2 Further submissions

33. I address the further submissions in each relevant section of the report, together with the primary submissions they relate to.
34. Numerous further submissions from Mercury NZ Limited oppose original submissions on the grounds that it is not clear how effects from flooding would be managed. I have largely not addressed these because I consider them irrelevant to the matters considered in this report, and indeed the primary submissions to which they relate. These recommendations are included in Appendix 1, but there is no further discussion on these further submissions in this report.

3.3 Structure of this report

35. The report is structured by grouping the submission themes into district plan topics and aligning them with the same order they appear in the notified version of the plan (i.e. objectives, policies, and land use activities, land use effects, land use, building and subdivision).
36. Given the number, nature and extent of the submissions and further submissions received, I have structured the Section 42A report based largely on topics as follows:
- a. Objectives 5.6.1- Country Living Zone
 - b. Policy 5.6.2 through to Policy 5.6.18
 - c. Land use 23.1- Land Use - Activities
 - d. Land use 23.2 - Land Use Effects
 - e. Land use 23.3 - Building
 - f. Subdivision - 23.4

3.4 Amendments to plan text

37. Where amendments to plan text are recommended, the relevant text is presented after the recommendation with new text in red underline, and deleted text in ~~red struck through~~. All recommended amendments are brought together in Appendix 2.

4 Objectives and Policies

4.1 Introduction

38. Chapter 5 (Rural Environment) of the Proposed Waikato District Plan sets out the framework of objectives and policies that relate to the use and development of the Country Living Zone. The objectives and policies relating to Country Living Zone have been located in the Rural Environment chapter, reflective of the more rural character of the zone and its relationship with the often adjacent Rural Zone. The rule framework is contained in Chapter 23 of the Proposed Waikato District Plan. The objectives and policies seek to ensure that the character of the zone is maintained, while enhancing amenity values of the zone. Sixty submissions were received in relation to the Objectives and Policies of the Country Living Zone. The submissions in regard to the objectives and policies for subdivision are analysed within Topic 5 of this report.

4.2 Objective 5.6.1 Country Living Zone

39. Objective 5.6.1 seeks to ensure that the character and amenity values of the zone are maintained or enhanced.

4.2.1 Submissions

40. Six submission points were received on the topic of Objective 5.6.1 Country Living Zone. The topics addressed in these submissions include one in respect of the title of the zone, two in relation to amenity and character and one in regard to reverse sensitivity. Two submissions seek no specific decision and one submission seeks to retain section 5.6 Country Living Zone.

Submission point	Submitter	Summary of submission
249.1	Anton Marais	Amend the title for the "Country Living Zone" for a more commonly used term such as "Rural Residential", "Low Density Residential", or "Rural Settlement Zone".
330.92	Andrew and Christine Gore	No specific decision sought, however submission refers to Chapter 23 Country Living Zone.
<i>FS1386.452</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.92
367.9	Mercer Residents and Ratepayers Committee	Retain Section 5.6 Country Living Zone.
<i>FS1386.549</i>	<i>Mercury NZ Limited</i>	Opposes submission 367.9
418.16	Ethan Findlay	No specific decision sought, but submission opposes Chapter 23 Country Living Zone.
<i>FS1388.171</i>	<i>Mercury NZ Limited</i>	Opposes submission 418.16
419.66	Horticulture New Zealand	Amend Objective 5.6.1 Country Living Zone, as follows: (a) Subdivision, use and development in the Country Living Zone maintains or enhances the character and amenity values of the zone <u>and avoids compromising rural production land or activities.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1388.208</i>	<i>Mercury NZ Limited</i>	Opposes submission 419.66
<i>FS1171.41</i>	<i>T&G Global</i>	Supports submission 419.66
<i>FS1342.80</i>	<i>Federated Farmers</i>	Supports submission 419.66
738.2	Shand Properties Limited	Retain Section 5.6 Country Living Zone Objectives and Policies.
<i>FS1349.5</i>	<i>Allen Fabrics Ltd</i>	<i>Support submission point 738.2 as submitted.</i>
<i>FS1387.824</i>	<i>Mercury NZ Limited</i>	Opposes submission 738.2

4.2.2 Analysis

41. Anton Marais [249.1] seeks to change the name of the Country Living Zone to terminology that is in line with the National Planning Standards. The National Planning Standards, Part 8 - Zone Framework Standard mandatory directions state that a district plan must contain zones listed in NPS Table 13: Zone names and descriptions.

42. Although I agree with the intent of the submission and the reasons outlined, the submission does not quite refer to a name within NPS Table 13: Zone Names, as required by the National Planning Standards (noting of course that the National Planning Standards were gazetted after the close of the submissions on the Proposed District Plan). The submission refers to the terms 'Rural Residential', 'Low Density Residential' and, 'Rural Settlement Zone'. These terms do not feature in the Planning Standards.
43. In my view, the most appropriate name from this list is 'Rural lifestyle Zone', which reads as follows:

Rural Lifestyle Zone - 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.

44. In this regard, I consider it appropriate to adopt the Planning Standards zone name 'Rural Lifestyle Zone'. This is because the activities that already occur in the Country Living Zone (small stock numbers, horses or horticultural activities) are in alignment with the National Planning Standards zone name 'Rural Lifestyle Zone'. In addition, I consider that the primary purpose of the zone is for a single dwelling, and that the larger site sizes, absence of urban infrastructure (such as footpaths, street lights and reticulated water and wastewater) and rural setting provided by the Rural Zone mean that this zone is more rural in character than urban. The zone is a transition zone generally adjacent to a rural area, is un-serviced and does not have urban infrastructure. This name change would not result in any consequential changes to the Proposed District Plan provisions, but would require the planning maps to be updated accordingly. I recommend that the panel accept in part the submission point from Anton Marais [249.1].
45. Andrew and Christine Gore [330.92] and Ethan Findlay [418.16] do not outline the relief they seek, and I recommend these submissions be rejected.
46. The submission from Mercer Residents and Ratepayers Committee [367.9] seeks to retain Section 5.6 Country Living Zone as notified, as does Shand Properties Limited [738.2]. Allen Fabrics Ltd [FS/349.5] supports the submission from Shand Properties Limited and Mercury Energy Limited [FS/387.824] opposes the submissions. I have recommended accepting these submissions in part as I have recommended amendments to 5.6 Country Living Zone in response to other submissions.
47. Horticulture New Zealand [419.66] seeks to amend the wording of Objective 5.6.1 to include wording to avoid compromising rural production land or activities. The intent of this submission point is to recognise the potential for reverse sensitivity and therefore protect rural production. The reasons provide in the submission are that the objective is too inward focused and fails to address the rural interface with Country Living Zone. Mercury Energy [FS/388.208] opposes this submission and T & G Global [FS/171.41] and Federated Framers [FS/342.80] both support this submission.
48. The Country Living Zone provides for a range of activities and it is usual for lifestyle blocks to adjoin productive rural areas. I recommend accepting in part the additional wording. However, I consider that the use of the term 'avoid' would set the bar unnecessarily high as 'avoid' would suggest a non-complying activity status or potentially a prohibitive rule. There

needs to be some flexibility to undertake activities within the Country Living Zone that are suitable to that zone.

49. I note that Objective 5.1.1 The Rural Environment is intended to be a strategic objective and “has primacy over all other objectives in Chapter 5”. Clause (a)(ii) of this Objective is:

(a) *Subdivision, use and development within the rural environment where:*

...

(ii) *productive rural activities are supported....*

50. Therefore I consider that Objective 5.1.1 establishes the strategic intent for the zone and recognises that productive rural activities are envisaged in this zone, and indeed the wider rural environment. For this reason I do not consider an additional objective is required. However I consider that a policy addressing reverse sensitivity will be an effective means of achieving the objective. The rules that manage activities and setbacks in the County Living Zone are sufficient to give effect to the strategic objective and the additional policy.

51. The additional policy will help to ensure the efficient operation, function and use of productive rural land. As well, the additional policy gives effect to the Regional Policy Statement where there is a requirement to minimise potential for reverse sensitivity in Policy 4.4 Regionally significant industry and primary production. Accordingly, I recommend that the panel accept in part the submission point from Horticulture New Zealand [367.9].

4.2.3 Recommendation

52. For the reasons given above, I recommend that the hearings panel:

- (a) **Accept in part** Anton Marias [249.1] to change the name of the zone to align with the National Planning Standards
- (b) **Reject** Andrew and Christine Gore [330.92] and Ethan Findlay [418.16] and **accept** Mercury Energy Limited [FS1386.452] and [1388.171]
- (c) **Accept in part** Mercer Residents and Ratepayers Committee [367.9], Shand Properties Limited [738.2], Allen Fabrics Ltd [FS1349.5] and Mercury Energy Limited [FS1386.549] and [FS1387.824]
- (d) **Accept in part** Horticulture New Zealand [419.66], to the extent that the wording of the objective is amended. And **accept in part** the further submissions from T&G Global [FS1171.41], Federated Farmers [FS1342.80] and Mercury Energy Limited [FS1388.208].

4.2.4 Recommended amendments

53. The following amendments are recommended:

Chapter 23: ~~Country Living Zone~~¹ Rural Lifestyle Zone

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

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

- (a) Subdivision, use and development in the ~~Country Living~~ Rural Lifestyle Zone maintains or enhances the character and amenity values of the zone²

¹ [249.1]

² [419.66]

Amend all references to “Country Living Zone” to read “Rural Lifestyle Zone”

Planning Maps: Amend “Country Living Zone” to be “Rural Lifestyle Zone”

54. As a consequence of the additional wording to the objective, I recommend the following policy:

³5.6.19 Policy- Reverse Sensitivity

(a) Mitigate the adverse effects of reverse sensitivity through the use of setbacks, the design of subdivisions and development.

4.2.5 Section 32AA evaluation

55. The recommended change of name for the Country Living Zone does not change the planning outcomes. Accordingly, no s32AA evaluation is required to be undertaken.

56. The recommended additional policy provides additional guidance for the Country Living Zone. The amendments provide recognition of the potential reverse sensitivity effects that the Country Living Zone may arise from the adjoining rural productive land areas.

Other reasonably-practicable options

57. There are two options:
- a. no change to the policy framework as it is notified; or
 - b. amendments to the objective as sought by Horticulture NZ’s submission.
58. The amendments give better effect to the Waikato Regional Policy Statement, and ensure reverse sensitivity effects will be managed. The additional policy is the most appropriate way meet to section 5 of the Act in that it promotes the sustainable management of natural and physical resources, as well as achieve Objective 5.1.1. which is a strategic objective for the wider rural environment.

Effectiveness and efficiency

59. The policy ensures that the adverse effects on rural productive land are minimised and as well gives effect to the Regional Policy Statement. The additional wording will help ensure the efficient operation, function and use of productive rural land and provides suitable guidance to plan users for the assessment of activities that affect the rural productive land areas, whilst supporting the objective.

Costs and benefits

60. There are no additional costs, and costs are likely to be the same. There are benefits to the rural community, in that the function and use of productive land is taken into account in the event that development occurs in the Country Living Zone. There are benefits to the Country Living Zone community, as it will give a better understanding of the function of rural areas and what they can expect when living in close proximity to rural areas. There are benefits to the environment with the revised policy as it is clearer about how the effects will be managed. The additional wording will give clearer guidance to plan users as to how activities in the Country Living Zone can minimise reverse sensitivity effects on rural productive land.

³ [419.66]

Risk of acting or not acting

61. There is sufficient information on the costs to the sustainable use of rural productive land to justify the amendment to the policy.

Decision about most appropriate option

62. The new policy is the most appropriate way to give effect to the objective. Addressing reverse sensitivity is necessary to achieve the sustainable management of natural and physical resources required by the Act and gives regard to s7(c) of the RMA; the maintenance and enhancement of amenity values and s7 (b) the efficient use of natural and physical resources.

4.3 New Objective – Non-residential activities

4.3.1 Submissions

63. One submission was received seeking to include a new objective for non-residential activities, in particular to provide for fire and emergency services.

Submission point	Submitter	Summary of submission
378.63	Fire and Emergency New Zealand	Add a new Objective to Section 5.6 Country Living Zone, as follows: <u>Objective 5.6.x</u> <u>To recognise and provide for non-residential activities that contribute to the health, safety and wellbeing of the community while managing their potential adverse effects to ensure that the activities complement the amenity values of the District's Country Living areas.</u> AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
FS1388.51	Mercury NZ Limited	Opposes submission 378.63
FS1035.170	Pareoranga Te Kata	Supports submission 378.63

4.3.2 Analysis

64. Fire and Emergency New Zealand [378.63] (FENZ) seek to add a new objective that recognises the role of emergency services in the Waikato District and that it should be incorporated into the PWDP. Mercury Energy Limited [FS1388.51] opposes this submission and Pareoranga Te Kata [FS1035.170] supports the submission. I agree with the concerns of FENZ. I accept that the Proposed Waikato District Plan does not give the necessary recognition to this service, however in my view the proposed objective should be reworded as a new policy given that the overarching objective for the Country Living Zone is broad in its approach. I consider there is also a risk that the general nature of the objective sought by FENZ may not be helpful in providing guidance to the activities that are appropriate in the Country Living Zone. Arguably urban activities that provide for the “health and safety” of the communities could include medical centres and gyms, yet the Country Living Zone is not the most appropriate location for these activities. I consider a stand alone policy to specifically recognise fire and emergency facilities and activities would be a more appropriate approach.
65. A submission from FENZ was analysed in Hearing 5 Definitions, sought to include definitions for ‘emergency services’ and ‘emergency services training and management activities’. The

authors of this report recommended that these terms be included in the proposed plan. I agree with this approach, and it would assist plan users when assessing these activities within the zone. The recommended definitions are as follows:

Emergency Services	Means the New Zealand Police, Fire and Emergency New Zealand, and ambulance services.
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Emergency services training and management activities	Means the training activities, operational support and other non-emergency activities undertaken by the New Zealand Police, Fire and Emergency New Zealand, and hospital and ambulance services.
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66. For the reasons discussed, I recommend that the panel accept in part Fire and Emergency New Zealand [378.63].

4.3.3 Recommendation

67. For the reasons given above, I recommend that the hearings panel:
- (a) **Accept in part** Fire and Emergency NZ [378.63], to the extent that recognition is given to emergency services within the Proposed District Plan, and **accept in part** the further submissions from Mercury Energy Limited [FS/388.51] and Pareoranga Te Kata [FS/035.170].

4.3.4 Recommended amendments

68. The following amendments are recommended:

<p><u>45.6.8A Policy – Emergency services</u></p> <p>(a) <u>Enable the operation, use and development of emergency service activities and facilities</u></p>
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4.3.5 Section 32AA evaluation

69. The recommended addition of a policy specific to Emergency Services recognises the importance of these services in the community and will fill a gap in the Waikato Proposed District Plan.

Other reasonably-practicable options

70. The only other reasonable option would be no change to the Waikato Proposed District Plan. However, this approach will not as effectively achieve the purpose of the Act in respect of enabling people and communities to provide for emergency services which directly enables social and economic well-being, and the health and safety of the community.

Effectiveness and efficiency

71. The recommended addition of a policy ensures that the communities can provide for their social, community and economic well-being and their health and safety by explicitly enabling emergency service activities and facilities.

⁴ [378.63]

Costs and benefits

72. There are no additional costs, therefore costs are likely to be the same. There are benefits to the Country Living Zone community as emergency services, if established, would be in closer proximity to these areas and able to respond quicker when needed.

Risk of acting or not acting

73. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

Decision about most appropriate option

74. The recommended policy is the most appropriate way to achieve Objective 5.6.1 and therefore the purpose of the Act with respect to enabling people and communities to provide for emergency services, which has a direct relationship with the social and economic well-being, and health and safety of the community.

4.3.6 Policy 5.6.2 Country Living character

75. This policy seeks to ensure that buildings and activity within the Country Living Zone do not detract from the character of the zone.

4.3.7 Submissions

76. Five primary submission points were received on the topic of Policy 5.6.2 Country Living Character. A variety of changes are sought such as:
- Recognition of CPTED,
 - Retaining the existing character,
 - Enabling childcare activities and
 - Recognition of the need for water supply for firefighting.

Submission point	Submitter	Summary of submission
297.35	Counties Manukau Police	Add to Policy 5.6.2 Country Living character a new point as follows: (f) conforms to the national guidelines for CPTED
378.64	Fire and Emergency New Zealand	Retain Policy 5.6.2 Country living character, as it requires activities to be self-sufficient for water supply, unless a reticulated system is available AND Amend Policy 5.6.2(e) Country Living character, as follows: (e) Requires activities within the Country Living Zone to be self-sufficient in the provision of water supply (<u>including for firefighting purposes</u>), wastewater and stormwater disposal, unless a reticulated supply is available. AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
FS1035.171	Pareoranga Te Kata	Supports submission 378.64

389.3	J and T Quigley Ltd	Amend Policy 5.6.2 Country Living Character, to include early childcare activities OR Amend related Objectives and Policies to refer to early childhood activities. OR Amend the definition of "Rural Activity" in Chapter 13 Definitions, to include early childhood activities. AND Amend the Proposed District Plan to include all necessary, consequential or further relief required to give effect to the submission.
<i>FS1379.104</i>	<i>Hamilton City Council</i>	<i>Opposes submission 389.3</i>
590.3	Jenny Kelly	Retain Policy 5.6.2(a) (i) Country Living character, and ensure it is not contradicted.
947.3	Stuart Quigley	Amend Policy 5.6.2 Country Living Character (specific amendments are not provided); AND Amend the Proposed District Plan as necessary including provisions, consequential additions and cross references.
<i>FS1278.3</i>	<i>Stuart Quigley and Quigley Family Trust</i>	<i>Submitter supports submission 947.3</i>

4.3.8 Analysis

77. Counties Manukau Police [297.35] seeks to add a new policy requiring conformity with 'Crime Prevention Through Environmental Design' (CPTED). Although I consider that CPTED has relevance in an urban environment where it is much more densely populated and developed, I see no relevance to this matter in the Country Living Zone. I have looked at the National Guidelines for Crime Prevention through Environmental Design in New Zealand⁵ and considered the appropriateness of the seven principles to the Country Living Zone:

- a. Access: Safe movement and connections
- b. Surveillance and sightlines: See and be seen
- c. Layout: Clear and logical orientation
- d. Activity mix: Eyes on the street
- e. Sense of ownership: Showing a space is cared for
- f. Quality environments: Well-designed, managed and maintained environments
- g. Physical protection: Using active security measures.

78. While I consider these to be worthy principles (particularly for urban environments), I am not certain of the value of including a requirement to conform with the principles in a Country Living Zone policy. This zone is open and semi-rural in nature. Because of the low housing density, prominence of a rural form of development, very mature vegetation, large setbacks and absence of footpaths in the Country Living Zone, it would be difficult to

⁵ Ministry of Justice, 2005

meaningfully implement the principles. Accordingly, I recommend that the submission point from Counties Manukau Police [297.35] be rejected.

79. Fire and Emergency New Zealand [378.64] seek to retain the policy and also include additional wording to Policy 5.6.2 (e) by adding '(including for firefighting purposes)'. In my view, the additional wording requiring a site to be 'self-sufficient' in the provision of water supply for firefighting purposes places a large burden on the property owner to have a water tank with the capacity to be used in such an event (unless the site has a swimming pool or dam). My understanding of the request is that this tank would need to be independent of the drinking water supply and only be used in the event of a fire. I consider this to be an unreasonable request due to the cost of installation and having a tank of water onsite not being able to be used for anything other than firefighting. Much of the Country Living Zone is already developed and it would be unreasonable to expect property owners to retrofit a water supply solely for the purpose of firefighting, which (hopefully) is a rare event. As well, a requirement to have a water supply with sufficient volume and pressure to meet firefighting standards is unlikely to be practicable. Accordingly I recommend the panel reject Fire and Emergency New Zealand [378.64].
80. J and T Quigley Ltd [389.3] seek to amend Policy 5.6.2 to include early childcare activities, or amend related objectives and policies to refer to early childhood activities, or amend the definition of Rural Activity in Chapter 13: Definitions. Hamilton City Council [FS1379.104] opposes this submission. I agree with J and T Quigley in that childcare could be provided for within the Country Living Zone. However in my opinion Policy 5.6.8 Non-residential activities, is wide enough to cover childcare and it is unnecessary to provide for it in Policy 5.6.2.
81. With regard to amending the definition of rural activity, there is no definition in the plan for this term. However, there has been a submission received in relation to the definition of Rural Industry which is discussed in Hearing 5 Definitions, and it is also the opinion of the author of that s42A report that 'childcare' would not fall within the remit of 'rural industry'. In my view, early childhood activities are not a rural activity. Accordingly, I recommend that the panel reject J and T Quigley Ltd [389.3].
82. Jenny Kelly [590.3] seeks to retain the policy and ensure that it is not contradicted. The reasons behind the submission are pointed at the RMA being a flawed system. It may be that the submitter will wish to further speak to this at the hearing if there are particular matters that Ms Kelly is concerned about. I recommend that the panel accept Jenny Kelly [590.3].
83. Stuart Quigley [947.3] seeks to amend Policy 5.6.2 and the further submissions from Stuart Quigley and Quigley Family Trust [FS1278.3] support the submission. However, the submission does not provide any specific amendments. The submission cannot be appropriately analysed as the intent of the submissions is unclear. The submitter is invited to provide clarification of their submission through evidence. However without this clarification I recommend that the panel reject Stuart Quigley [947.3].

4.3.9 Recommendation

84. For the reasons given above, I recommend that the hearings panel:
- (a) **Reject** Counties Manukau Police [297.35]
 - (b) **Reject** Fire and Emergency New Zealand [378.64] and Pareoranga Te Kata [FS1035.171]
 - (c) **Reject** J and T Quigley Ltd [389.3] and **accept** Hamilton City Council [FS1379.104]
 - (d) **Accept** Jenny Kelly [590.3] to retain the Policy as notified
 - (e) **Reject** Stuart Quigley [947.3] and Stuart Quigley and Quigley Family Trust [FS1278.3].

4.3.10 Recommended amendments

85. There are no changes recommended in response to the submissions.

4.3.11 Section 32AA evaluation

86. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

4.4 Policy 5.6.4 Building Setbacks

87. This policy helps to ensure that existing spaciousness is maintained between buildings and adjoining sites.

4.4.1 Submissions

88. One submission was received to include reverse sensitivity in relation to setbacks.

Submission point	Submitter	Summary of submission
986.74	KiwiRail Holdings Limited (KiwiRail)	<p>Add a new clause (b) to Policy 5.6.4 Building setbacks as follows (or similar amendments to achieve the requested relief):</p> <p>(a) Maintain the existing spaciousness between buildings with adjoining sites.</p> <p><u>(b) Manage reverse sensitivity by providing sufficient setbacks buildings to provide for residents' safety and amenity</u></p> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>

4.4.2 Analysis

89. KiwiRail [986.74] seeks to add a new clause to include a reverse sensitivity aspect. In my opinion the additional wording is not necessary, as the suite of policies and rules that manage setbacks within the Country Living Zone adequately address residents' safety and amenity. I am mindful of my earlier recommendation in this report to include a specific policy that addresses reverse sensitivity. I do not see value in making a policy highly prescriptive about setbacks of buildings (although I acknowledge that this matter is linked to KiwiRail's request for setbacks of buildings from its railway designation). I recommend that the panel reject the KiwiRail [986.74] submission.

4.4.3 Recommendation

90. For the reasons given above, I recommend that the hearings panel **reject** KiwiRail [986.74].

4.4.4 Recommended amendments

91. There are no changes recommended in response to the submissions.

4.4.5 Section 32AA evaluation

92. There are no recommended amendments. Accordingly, no s32AA evaluation has been undertaken.

4.5 Policy 5.6.7 – Earthworks

93. This policy manages the effects of earthworks by ensuring that erosion and sediment loss is avoided, the ground is geotechnically sound and general management of cleanfill and the areas and volumes are appropriate.

4.5.1 Submissions

94. Three submissions were received. The submissions seek to add to the policy to manage earthworks to minimise victimisation, delete a clause in the policy concerned with natural water flows, and amend the policy in relation to heritage and cultural values.

Submission point	Submitter	Summary of submission
297.18	Counties Manukau Police	Add to 5.6.7 (Rural Environment - Country Living Zone - Policies - Earthworks) a new line as follows; <u>Manage the earthworks site to ensure that resources at the site are safe and to minimise the risk of victimisation</u>
433.9	Auckland Waikato Fish and Game Council	Delete Policy 5.6.7 (a) (iii) Earthworks. AND/OR Any alternative relief to address the issues and concerns raised in the submission.
<i>FS1083.6</i>	<i>Ryburn Lagoon Trust Limited</i>	Supports submission 433.9
559.55	Heritage New Zealand Lower Northern Office	Retain Policy 5.6.7 Earthworks, except for the amendments sought below. AND Amend Policy 5.6.7(e) Earthworks as follows: (d) Subdivision and development occurs in a manner that maintains shape, contour, and landscape characteristics <u>and avoids adverse effects on historic heritage and cultural values.</u>

4.5.2 Analysis

95. Counties Manukau Police [297.18] seek to amend Policy 5.6.7 to enable council to manage earthworks sites to minimise victimisation. In my opinion, a district plan is not the appropriate way to manage this. The scale of earthworks in the Country Living Zone is not sufficiently significant to warrant such a response in the District Plan. It is not at all similar in scale or duration to large earthworks that are often undertaken as part of residential subdivision of an urban environment. Accordingly I recommend that the panel reject Counties Manukau Police [297.18].
96. Auckland Waikato Fish and Game Council [433.9] seeks deletion of clause (a)(iii) which relates to managing earthworks where there are natural water flows and drainage paths. In my opinion, it is important that during any development involving earthworks 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. The submission mentions that this is a regional council role, however the regional council may not necessarily be involved depending on the nature and scale of the works being undertaken. Further to this, the Regional Policy Statement principles specific to rural-residential development (6A (h)) recognises rural-residential as a potential method for protecting sensitive areas such as small water bodies and gully-systems. Managing earthworks in rural-residential areas to avoid or mitigate natural water flows and established drainage paths as a

policy direction is appropriate. I recommend that the panel reject Auckland Waikato Fish and Game Council [433.9].

97. Heritage New Zealand Lower Northern Office [559.55] seek additional wording to the policy to address historic and cultural values. I consider that this is sufficiently covered under policies in Chapter 2 Tangata Whenua and Chapter 7 Heritage. I am also mindful that when the Proposed District Plan is migrated into the National Planning Standards structure, historic heritage will have its own chapter which will ensure that the Chapter 7 objectives and policies are applied to all zones, negating the need for policies specific to each zone. Accordingly, I recommend that the panel reject Heritage New Zealand Lower Northern Office [559.55].

4.5.3 Recommendations

98. For the reasons given above, I recommend that the hearings panel:
- (a) **Reject** Counties Manukau Police [297.18]
 - (b) **Reject** Auckland Waikato Fish and Game Council [433.9] and Ryburn Lagoon Trust Limited [FS1083.6]
 - (c) **Reject** Heritage New Zealand Lower Northern Office [559.55].

4.5.4 Recommended amendments

99. There are no changes recommended in response to the submissions.

4.5.5 Section 32AA evaluation

100. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

4.6 Policy - 5.6.8 Non-residential activities

101. This policy manages the establishment of non-residential activities such as commercial or industrial activities and sets parameters around what non-residential activities might be appropriate.

4.6.1 Submissions

102. Four submissions were received, seeking amendments to cover topics such as recognising CPTED and childcare services.

Submission point	Submitter	Summary of submission
297.37	Counties Manukau Police	Add to Policy 5.6.8 Non-residential activities a new point as follows: <u>(b) ensure any non-residential activities and associated buildings, structures and facilities conform to the national guidelines for CPTED</u>
378.65	Fire and Emergency New Zealand	Retain Policy 5.6.8 Non-residential activities, to the extent that it anticipates non-residential activities in the Country Living Zone AND Amend Policy 5.6.8 Non-residential activities, as follows: (a) Limit the establishment of commercial or industrial non-residential activities within the Country Living Zone unless they:

		(ii) Provide for the health, <u>safety</u> and well-being of the community <u>and that service or support an identified local need.</u> AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
<i>FS1035.172</i>	<i>Pareoranga Te Kata</i>	Supports submission 378.65
389.7	J and T Quigley Ltd	Add a new clause (iii) to Policy 5.6.8 Non-residential activities, as follows: <u>(iii) Are in close proximity (within 1 km) to a Village Living Zone and include early childhood education.</u> AND Amend the Proposed District Plan to include all necessary, consequential or further relief required to give effect to the submission.
<i>FS1379.106</i>	<i>Hamilton City Council</i>	Opposes submission 389.7
535.55	Hamilton City Council	Retain Policy 5.6.8 Non-residential activities.

4.6.2 Analysis

103. Counties Manukau Police [297.37] seek to add a new policy requiring conformity with 'Crime Prevention Through Environmental Design' (CPTED). As discussed previously, although I consider that CPTED has relevance in an urban environment, I see little relevance in the Country Living Zone, as this zone is open and semi-rural in nature. Accordingly, I recommend that the panel reject Counties Manukau Police [297.37].
104. Fire and Emergency New Zealand [378.65] seek to amend Policy 5.6.8 by replacing 'commercial or industrial' with 'non-residential' and adding in a safety and functional need aspect. Pareoranga Te Kata [FS1035.172] supports the submission. I consider this to be an unnecessary change. The policy is to manage, in particular, commercial or industrial activities within the Country Living Zone and the effects that these may generate. The policy is also focused on limiting commercial and industrial activities to retain the rural character of the zone. There are commercial or industrial activities that can have a functional need within the Country Living Zone that may establish through the consenting process that do not provide for the 'safety' of the community (for example childcare activities, cafés etc.). To add a safety element to the policy would limit an activity to only establish if it provides for the health and well-being, and the safety of the community. This is not the intent of the policy. Earlier in this report I have recommended the inclusion of a new policy to specifically recognise the importance of emergency services facilities and activities and I consider this to be a more appropriate response to the issues raised by Fire and Emergency New Zealand. Therefore I recommend that the panel reject Fire and Emergency New Zealand [378.65].
105. J and T Quigley [389.7] seek to include childcare facilities in Policy 5.6.8. Hamilton City [FS1379.106] opposes this submission. I disagree with J and T Quigley as it is unnecessary to add wording to Policy 5.6.8 as this policy covers childcare already. I consider that childcare facilities may have a functional need to locate in the Country Living Zone and would also provide for the social and economic well-being of the community. Therefore I do not consider that the policy hinders the establishment of a childcare provided any adverse effects were appropriately managed. I recommend that the panel reject J and T Quigley [389.7].

106. Hamilton City Council [535.55] seeks to retain the policy as it is notified. I recommend that the panel accept Hamilton City Council [535.55].

4.6.3 Recommendation

107. For the reasons given above, I recommend that the hearings panel:

- (a) **Reject** Counties Manukau Police [297.37]
- (b) **Reject** Fire and Emergency New Zealand [378.65] and Pareoranga Te Kata [FS1035.172]
- (c) **Reject** J and T Quigley [389.7] and **accept** Hamilton City [FS1379.106]
- (d) **Accept** Hamilton City Council [535.55].

4.6.4 Recommended amendments

108. There are no changes recommended in response to the submissions.

4.6.5 Section 32AA evaluation

109. There are no recommended amendments. Accordingly, no S32IAA evaluation has been required to be undertaken.

4.7 Policy 5.6.9-Existing non-residential activities

110. This policy enables existing non-residential activities to continue, provided they do not have a significant adverse effect on the character and amenity of the Country Living Zone.

4.7.1 Submissions

111. One submission was received to retain the policy.

Submission point	Submitter	Summary of submission
378.1	Fire and Emergency New Zealand	Retain Policy 5.6.9 Existing non-residential activities.
<i>FS1388.14</i>	<i>Mercury NZ Limited</i>	Opposes submission 378.1
<i>FS1035.106</i>	<i>Pareoranga Te Kata</i>	Supports submission 378.1

4.7.2 Analysis

112. The submission from Fire and Emergency New Zealand [378.1] seeks to retain Policy 5.6.9. Mercury Energy [FS1388.14] opposes the submission and Pareoranga Te Kata [FS1035.106] supports the submission. I consider this is an important policy to retain as it recognises that non-residential activities may already be established in the Country Living Zone and enables their redevelopment and expansion. I recommend that the panel accept Fire and Emergency [378.1].

4.7.3 Recommendation

113. For the reasons given above, I recommend that the hearings panel **accept** Fire and Emergency [378.1] and Pareoranga Te Kata [FS1035.106], and **reject** the further submission from Mercury Energy [FS1388.14].

4.7.4 Recommended amendments

114. There are no changes recommended in response to the submissions.

4.7.5 Section 32AA evaluation

115. There are no recommended amendments. Accordingly, no s32AA has been required to be undertaken.

4.8 Signs Policies

116. Policy 5.6.13 recognises that appropriate signage does contribute to the social and economic wellbeing of communities. Policy 5.6.14 seeks to manage signage so signs have no adverse effect on traffic or the character and amenity of the zone.

4.8.1 Submissions

117. One submission was received on Policy 5.6.13 seeking to retain the policy. Two submissions were received on Policy 5.6.14; one seeking to retain the policy the other seeking to amend to be applicable to a broader range of road users.

Submission point	Submitter	Summary of submission
433.10	Auckland Waikato Fish and Game Council	Retain Policy 5.6.13 Enabling signage, as notified.
<i>FS1330.39</i>	<i>Middlemiss Farm Holdings Limited</i>	Oppose submission 433.10
297.28	Counties Manukau Police	Retain Policy 5.6.14 Managing the adverse effects of signs as notified.
742.42	New Zealand Transport Agency	Retain Policy 5.6.14 Managing the adverse effects of signs, except for the amendments sought below AND Amend Policy 5.6.14 Managing the adverse effects of signs, as follows: (a) The location, colour, content, and appearance of signs directed at <u>or visible to road users</u> traffic is controlled <u>to ensure signs they do not distract, confuse or obstruct motorists, pedestrians and other road users adversely affect safety of road users</u> ..." AND Request any consequential changes necessary to give effect to the relief sought in the submission.

4.8.2 Analysis

118. Waikato Fish and Game [433.10] seek to retain the policy as notified. Middlemiss Farm Holdings Limited [*FS1330.39*] opposes the submission. I consider there is value in retaining the policy which gives guidance to the rules managing signs. I therefore recommend that the panel accept Waikato Fish and Game [433.10].

119. Counties Manukau Police [297.28] seek to retain Policy 5.6.14. I recommend that the panel accept this submission only in part, as I have recommended amendments to Policy 5.6.14 in response to another submission.

120. New Zealand Transport Agency [742.42] seeks to amend the policy. I consider the request is a minor change, and agree that the inclusion of 'or visible to road users' is a sensible addition to the policy, in that it encompasses all signs that may affect road users. I do not agree to replacing the wording 'signs' and '*distract, confuse or obstruct motorists, pedestrians and other road users*', as I consider that this wording gives a clear indication as to what is

being managed, and ensures that the plan user is aware of the potential effects of signage on traffic, among other things. I also consider that the narrowing of the words to just “road users” might limit applicability of the policy, and unintentionally exclude pedestrians and cyclists. I recommend that the panel accept in part New Zealand Transport Agency [742.42].

4.8.3 Recommendation

121. For the reasons given above, I recommend that the hearings panel:

- (a) **Accept** Waikato Fish and Game [433.10] and **reject** Middlemiss Farm Holdings Limited [FS1330.39].
- (b) **Accept in part** Counties Manukau Police [297.28]
- (c) **Accept in part** New Zealand Transport Agency [742.42].

4.8.4 Recommended amendments

122. The following amendments are recommended:

Policy 5.6.14 Managing the adverse effects of signs

- (a) The location, colour, content, and appearance of signs directed at traffic ⁶or visible to road users is controlled to ensure signs do not distract, confuse or obstruct motorists, pedestrians and other road users.

4.8.5 Section 32AA evaluation

123. The recommended amendments are minor and help clarify the policy’s approach, and as such the recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

4.9 Policy 5.6.15 Artificial Lighting

124. This policy provides for artificial lighting while managing the use and effects of such.

4.9.1 Submissions

125. Four submissions were received, relating to topics such as CPTED, and recognition of ecological areas.

Submission point	Submitter	Summary of submission
297.25	Counties Manukau Police	Retain Policy 5.6.15 Artificial outdoor lighting, except for the amendments sought below. AND Add to Policy 5.6.15 Artificial outdoor lighting a new line as follows: <u>(d) Conform to the national guidelines for CPTED.</u>
330.136	Andrew and Christine Gore	Amend Policy 5.6.15 Artificial outdoor lighting to control adverse effects of large project lighting and any other lighting in an ecological management area with low light emission tolerance.
330.60	Andrew and Christine Gore	No specific decision sought, however submission refers to Policy 5.6.15 Artificial outdoor lighting.

⁶ [742.42]

742.43	New Zealand Transport Agency	Retain Policy 5.6.15 Artificial outdoor lighting as notified.
<i>FS1062.96</i>	<i>Andrew and Christine Gore</i>	Oppose submission 742.43

4.9.2 Analysis

126. Counties Manukau Police [297.25] seeks to add to the policy a requirement to conform to the CPTED guidelines. As with previous submissions in regard to CPTED, although CTPED is appropriate in an urban area, I disagree with the need to conform to CPTED in the Country Living Zone. This zone is semi-rural in nature and any new development is required to maintain the open space and low density expected in this zone. I therefore consider that CPTED is not relevant. Accordingly, I recommend that the Panel reject Counties Manukau Police [297.25].
127. Andrew and Christine Gore [330.136] seek to amend the policy to acknowledge low light emission tolerance in respect of large projects and ecological areas. I consider it unnecessary to add this to Policy 5.6.15. Any large project that does not meet the permitted baseline goes through a robust consenting process to ensure that any adverse effects are managed. In particular, a large project in an ecological area will be robustly managed through territorial and regional authorities. In my view there is no benefit in additional wording in this regard. I consider that clause (b) of Policy 5.6.15 to be sufficient to address the concerns of the submitter. Accordingly, I recommend that the panel reject Andrew and Christine Gore [330.136].
128. Andrew and Christine Gore [330.60] do not disclose any relief sought, and due to the absence of detail or decision requested in the submission, I recommend this submission be rejected.
129. New Zealand Transport Agency [742.43] seeks to retain the policy as notified. Andrew and Christine Gore [FS1062.96] oppose the submission. I recommend that the panel accept New Zealand Transport Agency [742.43]. I consider that the policy strikes an appropriate balance of recognising the activities that need artificial lighting while managing any adverse effects.

4.9.3 Recommendation

130. For the reasons given above, I recommend that the hearings panel:
- Reject** Counties Manukau Police [297.25]
 - Reject** Andrew and Christine Gore [330.136]
 - Reject** Andrew and Christine Gore [330.60]
 - Accept** New Zealand Transport Agency [742.43] and **reject** Andrew and Christine Gore [FS1062.96].

4.9.4 Recommended amendments

131. There are no changes recommended in response to the submissions.

4.9.5 Section 32AA evaluation

132. There are no recommended amendments. Accordingly, no s32AA evaluation has been undertaken.

4.10 Policy 5.6.16 Noise

133. This policy seeks to ensure that the adverse effects of noise on the character and amenity of the zone are minimised, and sets out ways this can be achieved.

4.10.1 Submissions

134. Three submissions were received, two of which sought amendments to recognise the interface between residential activities and the rail corridor and state highways.

Submission point	Submitter	Summary of submission
330.61	Andrew and Christine Gore	No specific decision sought, however submission refers to Policy 5.6.16 Noise.
742.44	New Zealand Transport Agency	Retain Policy 5.6.16 Noise, except for the amendments sought below AND Amend Policy 5.6.16(a) (v) Noise, as follows: Requiring acoustic insulation where sensitive <u>land use</u> activities are located within high noise environments, <u>including near existing and designated State Highways</u> . AND Request any consequential changes necessary to give effect to the relief sought in the submission.
986.29	KiwiRail Holdings Limited (KiwiRail)	Retain Policy 5.6.16 Noise, particularly clauses (iii)-(v) as amended below AND Amend Policy 5.6.16 Noise as follows (or similar amendments to achieve the requested relief): (iii) Maintaining appropriate setback distances between high noise environments and sensitive land <u>uses and noise-sensitive activities</u> ; (iv) Managing the location of sensitive land uses <u>and noise-sensitive activities</u> , particularly in relation to lawfully-established high noise-generating activities; (v) Requiring acoustic insulation where <u>noise sensitive</u> activities are located within high noise environments. AND Any consequential amendments to link and/or accommodate the requested changes.
<i>FS1304.15</i>	<i>Gary Bogaart / Meremere Dragway Inc.</i>	Supports submission 986.29
<i>FS1345.142</i>	<i>Genesis Energy Limited</i>	Supports submission 986.29
<i>FS1118.2</i>	<i>Gary Bogaart / Meremere Dragway Inc</i>	Supports submission 986.29
<i>FS1258.90</i>	<i>Meridian Energy Limited</i>	Supports submission 986.29

4.10.2 Analysis

135. Andrew and Christine Gore [330.61] do not disclose any relief sought, and in the absence of any decision sought or additional information I recommend this submission be rejected.
136. New Zealand Transport Agency [742.44] seeks to amend clause (a)(v) of the policy to include 'land use' activities. The author of s42A Hearing 5 Definitions has recommended amendments to both the terms "noise-sensitive activities" and "sensitive land uses", however the effect is that there is little difference between the activities included in each of

these terms. Given that Policy 5.6.16 is focused on noise, I consider it appropriate that the term “noise sensitive activities” is used consistently through the policy.

137. In contrast, KiwiRail [986.29] are seeking to include ‘noise sensitive activities’ in the policy. Meremere Dragway Inc. [FS/305.15], Genesis Energy Limited [FS/345.142], Meremere Dragway Inc. [FS/118.2] and Meridian Energy Limited [FS/258.90] all support the submission. It worth noting that the author of s42A Hearing 5 - Definitions, has identified that the terms ‘noise-sensitive activities’ and ‘sensitive land use’ are not intended to be used interchangeably. There are two rules in the Country Living Zone rules that refer to ‘noise sensitive activity’ - one in a building rule in the Horotiu Noise Acoustic Area, and a building rule for the Airport Noise Outer Control Boundary. As outlined above, I consider a consistent approach should be used in the policy and therefore recommend accepting the submissions from KiwiRail [986.29].
138. New Zealand Transport Agency [742.44] sought to include reference to ‘near existing and designated State Highways’. Using the term ‘near’ is very subjective, and a planner would not be able to determine what that may look like. The boundary setback for a sensitive land use in the Country Living Zone is set at 15m from a national route or regional boundary, or 35m from the designated boundary of the Waikato Expressway. I consider that the setbacks proposed for these areas are adequate to manage material adverse effects and there is no need to single out state highways in the policy. I recommend that the panel accept in part New Zealand Transport Agency [742.44].

4.10.3 Recommendation

139. For the reasons given above, I recommend that the hearings panel:
- (a) **Reject** Andrew and Christine Gore [330.61].
 - (b) **Reject** New Zealand Transport Agency [742.44] to the extent of including the term “sensitive land use” activities in 5.6.16(a)(v).
 - (c) **Accept** KiwiRail [986.29] and Meremere Dragway Inc [FS/304.15], Genesis Energy Limited [FS/345.142], Meremere Dragway Inc [FS/118.2] and Meridian Energy Limited [FS/258.90].

4.10.4 Recommended amendments

5.6.16 Policy -Noise

- (i) The adverse effects of noise on the character and amenity of the Country Living Zone are minimised by:
- (ii) Ensuring that the maximum sound levels are compatible with the surrounding land uses;
- (iii) Limiting the timing and duration of noise-generating activities, including construction and demolition activities;
- (iv) Maintaining appropriate setback distances between high noise environments and ~~noise-sensitive~~ **activities land-uses**;
- (v) Managing the location of ~~noise-sensitive~~ **activities land-uses**, particularly in relation to lawfully-established high noise-generating activities;
- (vi) Requiring acoustic insulation where ~~noise-sensitive~~ activities are located within high noise environments.⁷

⁷ KiwiRail [986.29]

4.10.5 Section 32AA evaluation

140. The recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

5 Topic 2 Land use – Activities

5.1 Introduction

141. This section analyses the activity rules within the Country Living Zone and 46 submissions were received on these rules. The rules establish the activity status for land uses and therefore determine whether resource consent is required.

5.2 Land use Activities - General

5.2.1 Submissions

142. Six submissions were received, of which two sought no specific decision, three seek amendments and one seeks to delete a provision.

Submission point	Submitter	Summary of submission
330.68	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.1- Land Use- Activities and/or all rules sitting under Rule 23.1 Land Use-Activities.
<i>FSI386.445</i>	<i>Mercury NZ Limited</i>	Oppose Submission 330.68
330.93	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.1 Land Use - Activities, and all rules sitting under Rule 23.1.
<i>FSI386.453</i>	<i>Mercury NZ Limited</i>	Oppose Submission 330.93
697.844	Waikato District Council	Amend Chapter 23 Country Living Zone heading, as follows: Chapter 23: Country Living Zone - <u>Rules</u>
<i>FSI387.707</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.844
697.846	Waikato District Council	Amend Rule 23.1.1 PI Permitted Activities, as follows: (a)Activity-specific conditions; (a)(b)Land Use - Effects rules in Rule 22.2 (unless the activity rule and/or activity-specific conditions identify a condition(s) that does not apply); (b)(c)Land Use - Building rules in Rule 22.3 (unless the activity rule and/or activity-specific conditions identify a condition(s) that does not apply); (c)Activity-specific conditions.
<i>FSI387.709</i>	<i>Mercury NZ Limited</i>	Oppose submission 697.846
697.851	Waikato District Council	Amend Rule 23.1.2 D1 Discretionary Activities, as follows: Any permitted activity that does not comply with <u>one or more of the</u> an 'Activity Specific Conditions' in Rule 23.1.1
<i>FSI387.713</i>	<i>Mercury NZ Limited</i>	Oppose submission 697.851

697.852	Waikato District Council	Delete Rule 23.1.2 D2 Discretionary Activities.
FS1387.714	Mercury NZ Limited	Opposes submission 697.852
738.4	Shand Properties Limited	Retain Chapter 23 Country Living Zone Rules, except Rule 23.4 Subdivision.
FS1349.7	Allen Fabrics Ltd.	Support submission point 738.4 as submitted.
FS1387.826	Mercury NZ Limited	Opposes submission 738.4

5.2.2 Analysis

143. Andrew and Christine Gore [330.68] and [330.93] do not set out any relief sought in their submissions. Due to the absence of detail or specificity in the submission, I recommend that the panel reject these submission points.
144. The submission points from Waikato District Council [697.844], [697.846] and [697.851] seek minor amendments to improve the readability of the plan. It is noted that the title of Rule 23.1.1 refers to the Chapter 23 Country Living Zone, however the rule amendments sought by [697.846] refers to '22', which is the Rural Zone. I consider this to be an error, and the reference should be '23' Country Living Zone. The amendments sought provide clarity to the plan user. I recommend that the panel accept the submissions from Waikato District Council [697.844], [697.846] and [697.851].
145. The submission from Waikato District Council [697.852] seeks deletion of discretionary Rule 23.1.2 D2. The reasons given for the deletion of the rule is that it is not needed, as it refers to Land Use Effects and Land Use Building rules, which are in subsequent parts of the chapter. I agree with this rationale, and accordingly recommend that the panel accept Waikato District Council [697.852].
146. Shand Properties Limited [738.4] seeks to retain Chapter 23 Country Living Zones rules except for Rule 23.4 which relates to subdivision. The reasons provided in the submission for retaining the chapter as notified are that the proposed rules generally provide an appropriate framework for assessing and managing effects of activities in the zone. I have accepted this submission in part as I have recommended amendments to Chapter 23 Country Living Zone in response to other submissions.

5.2.3 Recommendation

147. For the reasons given above, I recommend that the hearings panel:
- Reject** Andrew and Christine Gore [330.68] and [330.93] and **accept** Mercury Energy Limited [FS1386.445] and [FS1386.453]
 - Accept** Waikato District Council [697.844], [697.846] and [697.851] and **reject** Mercury Energy Limited [FS1387.707], [FS1387.709] and [FS1387.713]
 - Accept** Waikato District Council [697.852] and **reject** Mercury Energy Limited [FS1387.714].
 - Accept in part** the submission from Shand Properties Limited [738.4], and the further submissions from Allen Fabrics Ltd. [FS1349.7] and Mercury NZ Limited [FS1387.826]

5.2.4 Recommended amendments

Chapter 23: Country Living Zone⁸ – ~~Rules~~ [697.844]

23.1.1 Permitted Activities

⁹~~(a)Activity-specific conditions;~~
~~(a)(b)~~Land Use - Effects rules in Rule 232 (unless the activity rule and/or ~~activity-specific~~ conditions identify a condition(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(s) that does not apply);.
~~(c)Activity-specific conditions.~~ [697.846]

Discretionary Activities

D1	Any permitted activity that does not comply with ¹⁰ one or more of the an 'Activity Specific Conditions' in Rule 23.1.1 [697.851]
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~~¹¹D2 Any permitted activity that does not comply with Land Use – Effects Rule 23.2 or Land Use – Building Rule 23.3 unless the activity status is specified as controlled, restricted, discretionary or non-complying.~~ [697.852]

5.2.5 Section 32AA evaluation

148. The recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

5.3 Rule 23.1- New Rule for Emergency Services

5.3.1 Submissions

149. Two submissions were received seeking to add new provisions for emergency services.

Submission point	Submitter	Summary of submission
378.38	Fire and Emergency New Zealand	Add a new activity to Rule 23.1.1 Permitted Activities as a permitted activity as follows: (x) <u>Emergency services training and management activities.</u> AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
<i>FS1388.38</i>	<i>Mercury NZ Limited</i>	Opposes submission 378.38
<i>FS1035.144</i>	<i>Pareoranga Te Kata</i>	Supports submission 378.38
378.39	Fire and Emergency New Zealand	Add a new discretionary activity to Rule 23.1.2 Discretionary Activities, as follows:

⁸ [697.844]

⁹ [697.846]

¹⁰ [697.851]

¹¹ [697.852]

		(x) <u>Emergency service facilities.</u> AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
FS1388.39	Mercury NZ Limited	Opposes submission 378.39
FS1035.145	Pareoranga Te Kata	Supports submission 378.39

5.3.2 Analysis

150. Fire and Emergency New Zealand [378.38] seeks inclusion of ‘Emergency services training and management activities’ to be a permitted activity, and a new discretionary activity for emergency service facilities [378.39]. The reasons given for the inclusion are that the rules should be expanded to provide for emergency services training and management activities in order to better achieve the sustainable management purposes of the Act. The inclusion would also enable Fire and Emergency New Zealand to achieve its statutory function by facilitating firefighting and emergency response. I agree with this rationale, as it is important that this service be supported throughout the district. I accept that there may be adverse effects but they are likely to be temporary in nature. Given that call-outs cannot be predicted or managed, training activities can be managed and therefore I recommend inclusion of a standard regarding hours for training. Accordingly, I recommend that the panel accept Fire and Emergency New Zealand [378.38].
151. Fire and Emergency New Zealand [378.39] seek to add as a discretionary activity emergency service facilities. I agree with the reasons provided, in that emergency services facilities must be strategically located within and throughout communities to maximise their coverage and response times. This allows them to efficiently and effectively provide for the health and safety of people and communities by being able respond to emergency call-outs in a timely way. However, in my opinion a controlled activity status for the physical structure of the buildings would be more appropriate and reflects the permitted activity status for the ‘activity’. I note that Rule 23.2.1.1 PI enables noise generated by emergency sirens to be a permitted activity with no limits on the noise levels. The actual or potential effects of fire stations can be adequately managed by conditions of consent. I note that the recommendation of the Section 42A hearing report for Hearing 6 Village Zone recommended that this be a discretionary activity, however I consider that so long as the building meets the bulk and location standards for the zone, the matters of control will adequately address any other effects. I recommend that the panel accepts in part Fire and Emergency New Zealand [378.39].

5.3.3 Recommendation

152. For the reasons given above, I recommend that the hearings panel
- Accept** Fire and Emergency New Zealand [378.38] and Pareoranga Te Kata [FS1035.144] and **reject** Mercury Energy Limited [FS1388.38]
 - Accept in part** Fire and Emergency New Zealand [378.39] and Pareoranga Te Kata [FS1035.145] and **reject** Mercury Energy Limited [FS1388.39], to the extent that FENZ facilities are provided for as a controlled activity.

5.3.4 Recommended amendments

153. The following amendments are recommended:

23.1.1 Permitted Activities

	Activity-specific conditions
<u>¹²P5 Emergency services training and management activities.</u>	<u>(a) Emergency services training shall be restricted to the hours of 7:00am-10:00pm [378.38]</u>

¹³23.1.1A Controlled Activities

(1) The activities listed below are controlled activities:

<u>Activity</u>	<u>Matters of control</u>
<u>CI</u> <u>Construction of Emergency service facilities, that complies with all the Land Use – Building rules in Rule 23.3</u>	<u>(a) Council's control shall be restricted to the following matters:</u> <u>(i) Effects on amenity</u> <u>(ii) Effects on Character</u> <u>(iii) Road efficiency and safety</u> <u>(iv) Building design</u> <u>(v) Site layout and design</u> <u>(vi) Privacy on other sites</u> ¹⁴

5.3.5 Section 32AA evaluation

154. The recommended addition of a permitted activity for emergency services training and management activities and the subsequent controlled activity for the facilities recognises the importance of these services in the community and will fill a gap in the Proposed District Plan.

Other reasonably-practicable options

155. The current approach of the Proposed District Plan is that emergency services facilities and activity would be a non-complying activity in the Country Living Zone, as it is not a specifically listed activity and thus would be captured by Rule 23.1.3 NC12. Maintaining the status quo of the Proposed District Plan as notified is an option, however all emergency service activities and facilities would be assessed as a non-complying activity. The option of amending the plan to include provisions specifically to enable emergency services will ensure FENZ can efficiently and effectively provide for the health and safety of people and communities.

Effectiveness and efficiency

156. The recommended amendments for the inclusion of provisions for emergency services and facilities gives effect to Part 2 of the Act, as they provide for a community's health, safety and wellbeing. The amendments support the recommended policy for Emergency Services and provide suitable guidance to plan users for the assessment of activities that manage the Country Living Zone.

¹² [378.38]

¹³ [378.39]

¹⁴ Fire and Emergency New Zealand (378.39)

Costs and benefits

157. There are may be some costs associated with this type of activity and facility in the Country Living Zone such as traffic, noise (sirens) and effects on amenity. However, there are benefits to the Country Living Zone community, as Emergency Services, if established, would be in closer proximity to these areas, and as well provide a focal point in the area for those who wish to volunteer and train in the emergency services. There is also a wider benefit to the community resulting from the establishment of emergency services, in that the inclusion of provisions will enable them to be strategically located in the district.

Risk of acting or not acting

158. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the policy.

Decision about most appropriate option

159. The recommended amendment is the most appropriate way of achieving Objective 5.6.1. Country Living Zone. This approach ensures the health and safety of the community, but manages the bulk and location of the physical structures to be compatible with other buildings in the zone.

5.4 Rule 23.1 New Rule for Rural Activities**5.4.1 Submissions**

160. Three submissions have been received, relating to farming and rural production.

Submission point	Submitter	Summary of submission
419.42	Horticulture New Zealand	Add a new permitted activity to Rule 23.1 Land use - Activities, that provides for rural production that is existing at the time the Proposed Plan is made operative. AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1171.30</i>	<i>T&G Global</i>	Supports submission 419.42
<i>FS1388.196</i>	<i>Mercury NZ Limited</i>	Opposes submission 419.42
419.43	Horticulture New Zealand	Add a new discretionary activity to Rule 23.1 Land use - Activities, that provides for rural production activities within the Country Living Zone. AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1388.197</i>	<i>Mercury NZ Limited</i>	Opposes submission 419.43
466.28	Balle Bros Group Limited	Amend Rule 23.1 Land Use - Activities to include farming as a specified activity within the Country Living Zone.
<i>FS1388.414</i>	<i>Mercury NZ Limited</i>	Oppose submission 466.28

5.4.2 Analysis

161. Horticulture New Zealand [419.42] seeks to add a rule to permit rural production that is ‘existing’ at the time of notification. The further submission from T&G Global [FS1171.30] submission considers that the existing use rights of those rural production activities existing at the time that the provision of the Proposed Plan has legal effect should be recognised in the Plan. I agree that the Proposed Plan should provide for rural production in the Country Living Zone, however I do not agree with rural production needing to be ‘existing’ at the time of notification. In this regard I note that section 10 of the RMA will apply, although appreciate that when it comes to primary production Section 10 becomes problematic due to crop rotation and continually evolving farming practices.
162. On a similar matter, Horticulture New Zealand [419.43] seeks to add a discretionary rule that provides for rural production activities in the Country Living Zone while Balle Bros Group Limited [466.28] seeks a permitted activity status for farming. The notified version of Chapter 23 contains no mention of farming as an activity, which unfortunately would have it captured by Rule 23.1.3 NC12 as a catchall non-complying activity. Intensive farming is classified as a non-complying activity in Rule 23.1.3 NC5. In my opinion, there is useful productive land within the Country Living Zone, and that rural production should be permitted generally. Many Country Living Zone blocks are of a size that can accommodate small-scale farming, especially if they are located on high class soils. I note that Rule 23.2.1.1 PI expressly allows farming noise and has no noise limits on this being a permitted activity.
163. I disagree with the need for requiring a discretionary consent to undertake rural production in the Country Living Zone. Although these sites may have a largely residential aspect to them, they can also be on sites large enough to accommodate small-scale rural production and potentially contain highly productive soils which can be utilised for small-scale food production. I am aware that horticultural practices are evolving to a point where smaller land areas can be utilised more productively. Accordingly, I recommend that the panel accept in part the submissions from Horticulture NZ [419.42 and 419.43], and accept the submission from Balle Bros Group Limited [466.28] and include farming as a permitted activity.
164. It is noted that Hearing 5 Definitions has discussed the concepts of ‘Rural activities’, ‘Primary production’ and ‘farming’, and there is some confusion as to what each of these terms covers. The Section 42A report for Hearing 5 noted that the definition for farming will be addressed in the Rural Zone Hearing. The National Planning Standards, however, have not used the term ‘Farming’. Rather, they have used the terms ‘Rural industry’, which refers back to the definition of ‘Primary Production’. There are a number of activities included in the National Planning Standards definition of “primary production” which I do not consider would be appropriate in the Country Living Zone such as mining, quarrying or forestry. This situation could potentially be handled by exclusions in the rule e.g. primary production is a permitted activity but excludes mining, quarrying and forestry. I therefore recommend that the panel accept the submission from Balle Bros Group Limited [466.28] subject to further consideration of whether “farming” or another descriptive term is preferable.

5.4.3 Recommendation

- (a) **Accept in part** Horticulture New Zealand [419.42] and T & G Global [FS1171.30] and **accept in part** Mercury Energy Limited [FS1171.30]
- (b) **Accept in part** Horticulture New Zealand [419.43] and Mercury Energy Limited [FS1388.197]

- (c) **Accept** Balle Bros Group Limited [466.28] and **reject** Mercury Energy Limited [FS/388.414].

5.4.4 Recommended amendments

165. The following amendments are recommended:

Permitted Activities

¹⁵ P6	Farming	Nil
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5.4.5 Section 32AA evaluation

166. The rural environment is covered by the following objectives: 5.1.1 The Rural Environment and 5.2 Productive Versatility of Rural Resources. The Country Living Zone is considered to be semi-rural in nature, and it is appropriate that these objectives be taken into consideration when evaluating the effects of activities on the Country Living Zone. The recommended addition of a rule for permitting farming in the Country Living Zone recognises the potential for using productive land on a small scale. The added rule gives effect to the Waikato Regional Policy Statement policies in relation to the management of soil resources including high class soils, and overall will give effect to objectives in the Regional Policy Statement and the Proposed District Plan.

Other reasonably-practicable options

167. The only other reasonable option would be no change to the Proposed District Plan. However, this approach will not as effectively achieve the purpose of the Act to promote the sustainable management of natural and physical resources as it would mean that farming in the Country Living Zone would be a non-complying activity. The addition of the rule is the most appropriate way to give effect to the policies and ensures small-scale use of productive land.

Effectiveness and efficiency

168. The recommended amendments adding a permitted rule for farming to the Proposed District Plan ensures that productive land can be utilised. The amendments improve the effectiveness of the objective and provide guidance to plan users to ensure efficient operation, function and use of productive land.

Costs and benefits

169. There are no additional costs, therefore costs are likely to be the same. Farming enjoys existing use rights in many parts of the Country Living Zone (farming is a permitted activity in the Operative plan). There are benefits to the communities within the Country Living Zone with the additional rule, as it is clear that this land can be used for food production on a small scale. There is also potential for small 'boutique' food production industries to establish and create a community-based ethos.

Risk of acting or not acting

170. There are no additional risks in not acting. There is sufficient information on the costs to the environment and benefits to people and communities to justify the amendment to the policy.

Decision about most appropriate option

¹⁵ [419.42]

171. The recommended addition to the rule framework more readily gives effect to Objectives 5.6.1 Country Living Zone, 5.1.1 The Rural Environment and 5.2.1 Rural Resources.

5.5 Rule 23.1 - New Rules for Childcare

5.5.1 Submissions

172. Childcare activities were not included in the activity tables for the Country Living Zone, which would make them a non-complying activity under the catch-all non-complying rule 23.1.3 NC12. Three submissions were received which request a new activity rule for childcare facilities as a permitted activity.

Submission point	Submitter	Summary of submission
389.8	J and T Quigley Ltd	Add a new activity for childcare facility to Rule 23.1.1 Permitted Activities, as follows: <u>P5 Child Care Facility A child care facility established prior to notification of the District Plan and within 1km of a Village Zone</u> AND Amend the Proposed District Plan to include all necessary, consequential or further relief required to give effect to the submission.
<i>FS1388.95</i>	<i>Mercury NZ Limited</i>	Opposes submission 389.8
696.2	Parkmere Farms	Amend Rule 23.1.1 Permitted Activities, to include a small-scale childcare as a permitted activity.
<i>FS1387.379</i>	<i>Mercury NZ Limited</i>	Opposes submission 696.2
947.5	Stuart Quigley	Add a new activity to Rule 23.1.1 Permitted Activities, as follows (or with words to similar effect): <u>P5 - child care facility - A child care facility established prior to notification of the District Plan and within 1km of a Village Zone.</u> AND Amend the Proposed District Plan as necessary including provisions, consequential additions and cross references.
<i>FS1092.3</i>	<i>Garth & Sandra Ellmers</i>	Supports submission 947.5
<i>FS1278.5</i>	<i>Stuart Quigley and Quigley Family Trust</i>	Supports submission 947.5
<i>FS1387.1600</i>	<i>Mercury NZ Limited</i>	Opposes submission 947.5

5.5.2 Analysis

173. J and T Quigley Ltd [389.8], Parkmere Farms [696.2] and Stuart Quigley [947.5] all seek to add a new activity for childcare as a permitted activity. Garth and Sandra Ellmers [FS1092.3] and Stuart Quigley and Quigley Family Trust [FS1278.5] support the submission of Stuart Quigley [947.5]. The submissions from J and T Quigley Ltd [389.8] and Stuart Quigley [947.5] are both focused on those childcare facilities that are already established and have a locational requirement within 1km of a Village Zone. With respect to the existing childcare facilities, I note that Section 10 of the RMA will protect the existing use rights of a legally-established facility. I therefore consider there is no need for a specific rule to address existing facilities.

174. The submission from Parkmere Farms is seeking the inclusion of a small-scale childcare as a permitted activity and I agree. There are many effects that require consideration when establishing childcare activities - for example building coverage, signage, traffic movements, noise, character and amenity. The Operative District Plan (Waikato Section) allows for up to 10 children as a permitted activity. In my opinion this would be an appropriate number to allow as a permitted activity while still maintaining the character and amenity of the zone. I note that Rule 23.1.2 D5 is for an education facility excluding a childcare facility for up to 10 children so it seems that the Proposed District Plan was intended to have a more enabling approach to childcare for up to 10 children but this did not come through into the notified version. Accordingly, I recommend the inclusion of childcare facilities for up to 10 children as a permitted activity and that the panel accept the submission from Parkmere Farms [696.2], and accept in part the submissions from J and T Quigley [389.8] and Stuart Quigley [947.5].
175. Non-compliance with these standards (i.e. childcare for greater than 10 children) would cascade to a discretionary activity under Rule 23.1.2 D1.

5.5.3 Recommendation

176. For the reasons given above, I recommend that the hearings panel:
- (a) **Accept in part** J and T Quigley Ltd [389.8], and Stuart Quigley [947.5] and the further submissions from Mercury Energy Limited [FS1388.95 and FS1387.1600], Garth & Sandra Ellmers [FS1092.3] and Stuart Quigley and Quigley Family Trust [FS1278.5].
 - (b) **Accept** the submission from Parkmere Farms [696.2] and **reject** the further submission from Mercury NZ Limited [FS1387.379].

5.5.4 Recommended amendments

¹⁶ P7	Childcare	(a) for up to 10 children
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5.5.5 Section 32AA evaluation

177. The proposed amendments are to provide for a small scale childcare facility within the Country Living Zone as a permitted activity.

Other reasonably-practicable options

178. The only other reasonable option would be no change to the Proposed District Plan, however this would not support the ability to undertake small scale childcare activities within the Country Living Zone. The approach in the notified Proposed District Plan is that childcare is not listed as an activity in the Country Living Zone and therefore becomes a non-complying activity under the catch-all rule for activities not specifically stated. The addition of the rule is the most appropriate way to give effect to the policies and ensures small-scale childcare can be established which will support the social and economic needs of the community.

Effectiveness and efficiency

179. The recommended amendments adding a permitted rule for a childcare facility in the Proposed District Plan ensures that the needs of the community can be met in terms of

¹⁶ [389.8],[947.5]

childcare. The amendments improve the effectiveness of the objective and policies for the proposed plan and provide guidance to plan users to that a small scale childcare facility can have a functional need in the zone.

Costs and benefits

180. There are no additional costs, therefore costs are likely to be the same. There are benefits to the communities within the Country Living Zone with the additional rule, as it is clear that this zone can facilitate a childcare facility on a small scale.

Risk of acting or not acting

181. There are no additional risks in not acting. There is sufficient information on the costs to the environment and benefits to people and communities to justify the amendment to the policy.

Decision about most appropriate option

182. The recommended addition to the rule framework more readily gives effect to Objective 5.6 Country Living Zone by ensuring that the character and amenity of the zone is maintained by limiting the scale and therefore the effects associated with it. This amendment will help meet the social and economic needs of the community by enabling children to be cared for within their local community.

5.6 Rule 23.1 - New Rule for Travellers' Accommodation

5.6.1 Submissions

183. One submission was received to add travellers accommodation as a new permitted activity in Rule 23.1.1. Homestay is a permitted activity (P2) and travellers accommodation (with no limits on the scale) is a discretionary activity in Rule 23.1.2 D9.

Submission point	Submitter	Summary of submission
697.849	Waikato District Council	Add a new permitted activity (P5) to Rule 23.1.1 P5 Permitted Activities, as follows: P5 Travellers' Accommodation (a) For up to 5 people
FS1387.712	Mercury NZ Limited	Opposes submission 697.849

5.6.2 Analysis

184. Waikato District Council [697.849] seeks to add 'Travellers' accommodation' for up to 5 people as a permitted activity. Mercury Energy Limited [FS1389.712] opposes the submission. This submission was to address the issue where there was no permitted baseline for the activity and the discretionary activity status was intended to manage traveller's accommodation for larger enterprises. In regard to the term "Travellers accommodation" the authors of Hearing 5 Definitions has recommended to replace this definition with "visitor accommodation" from the Planning Standards. I consider that given that homestay is a permitted activity (and with no limits on size or scale), it is appropriate to also include small travellers accommodation as a permitted activity. I therefore recommend that the panel accept Waikato District Council's submission [697.849] and include travellers accommodation for up to 5 people as a permitted activity .

5.6.3 Recommendation

185. For the reasons given above, I recommend that the hearings panel **accept** Waikato District Council [697.849], and **reject** the further submission from Mercury Energy Limited [FS1387.712].

5.6.4 Recommended amendments

¹⁷ P8	Visitor accommodation	(a) For up to 5 people
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5.6.5 Section 32AA evaluation

186. Travellers' accommodation has been provided for as a discretionary activity, but not a permitted activity. This needs to be consistent with other zones. The proposed amendments are to provide for a small scale travellers accommodation facility within the Country Living Zone as a permitted activity.

Other reasonably-practicable options

187. The only other reasonable option would be no change to the Proposed District Plan, however this would not support the ability to undertake small scale travellers accommodation activities within the Country Living Zone. The approach in the notified Proposed District Plan is that travellers' accommodation is a discretionary activity with no limits on the scale. The addition of the rule is the most appropriate way to give effect to the policies and ensures small-scale travellers accommodation can be established which will support the social and economic needs of the community.

Effectiveness and efficiency

188. The recommended amendments adding a permitted rule for small scale travellers accommodation facility in the Proposed District Plan ensures that the needs of the community can be met in terms of travellers accommodation. The amendments improve the effectiveness of the objective and policies for the proposed plan and provide guidance to plan users to that a small scale travellers accommodation facility can have a functional need in the zone.

Costs and benefits

189. There are no additional costs, therefore costs are likely to be the same. There are benefits to the communities within the Country Living Zone with the additional rule, as it is clear that this zone can facilitate travellers' accommodation on a small scale.

Risk of acting or not acting

190. There are no additional risks in not acting. There is sufficient information on the costs to the environment and benefits to people and communities to justify the amendment to the policy.

Decision about most appropriate option

191. The recommended addition to the rule framework more readily gives effect to Objective 5.6 Country Living Zone by ensuring that the character and amenity of the zone is maintained by limiting the scale and therefore the effects associated with it. This amendment will help meet the social and economic needs of the community by enabling temporary visitors to be accommodated within the rural residential environment.

¹⁷ [697.849]

5.7 Restricted Discretionary Activity - New Gas Pipeline Rule

5.7.1 Submissions

192. There are currently no restricted discretionary activities in the Country Living Zone One submission was received seeking to add a Restricted Discretionary Rule in relation to establishment of a residential activity within close proximity to the gas transmission pipeline.

Submission point	Submitter	Summary of submission
945.22	First Gas Limited	<p>Add a new Restricted Discretionary Activity to Rule 23.1 Land Use Activities as follows:</p> <p><u>Establishment of a residential activity or use within 20m of a gas transmission pipeline.</u></p> <p><u>Establishment of a residential activity or use within 60m of the gas network (other than a gas transmission pipeline).</u></p> <p><u>Establishment of a sensitive land use (excluding residential activities within 60m of the gas network.</u></p> <p>AND</p> <p>Add the following matter of discretion to Rule 23.1 Land Use Activities: (a) The extent to which the development will avoid or mitigate conflict with the gas network.</p> <p>AND</p> <p>Any consequential amendments and other relief to give effect to the matters raised in the submission.</p>
<i>FS1289.7</i>	<i>Mowbray Group</i>	Opposes submission 945.22
<i>FS1305.20</i>	<i>Andrew Mowbray</i>	Opposes submission 945.22

5.7.2 Analysis

193. First Gas Limited [945.22] seeks to add a new Restricted Discretionary activity to manage setbacks from the gas transmission line. Mowbray Group [FS1289.7] and Andrew Mowbray [FS1305.20] oppose the submission. In order to consider this submission point, Council's GIS team calculated many properties would be affected. According to Council's GIS maps, the gas transmission line does cross properties zoned as Country Living Zone on the south side of Horotiu Bridge Road, Clark Road and Waingaro Road, and Hakarimata Road near Ngaruawahia. There are 56 lots zoned as Country Living Zone which have the gas transmission line traversing the site. In my opinion, this addition is unnecessary, as it is my understanding that the gas pipelines are either covered by a designation or an easement which restricts activities near or in the corridor. I believe it is the responsibility of First Gas Limited to manage these effects through the easement or designation process. For these reasons I see no benefit in duplicating the request within the district plan. I recommend that the panel reject the submission from First Gas Limited [945.22].

Figure 1



5.7.3 Recommendation

194. For the reasons given above, I recommend that the hearings panel **reject** First Gas Limited [945.22] and **accept** Mowbray Group [FS/289.7] and Andrew Mowbray [FS/305.20].

5.7.4 Recommended amendments

195. There are no changes recommended in response to the submissions.

5.7.5 Section 32AA evaluation

196. There are no recommended amendments. Accordingly, no s32AA evaluation has been undertaken.

5.8 Rule 23.1.1 Permitted Activities - Homestay

168. The Proposed District Plan provides for the opportunity to operate a homestay as a permitted activity in the Country Living Zone with no limits on scale.

5.8.1 Submissions

197. Seven submissions were received, with six of the submissions seeking that homestays be regulated.

Submission point	Submitter	Summary of submission
435.15	Jade Hyslop	Amend Home stay provisions in Rule 23.1.1 Permitted Activities, to provide for registration of Homestay or Visitor accommodation.
<i>FS1388.260</i>	<i>Mercury NZ Limited</i>	Opposes submission 435.15
697.847	Waikato District Council	Amend Rule 23.1.1 P2 Permitted Activities, as follows: Home stay for up to 4 people
<i>FS1387.710</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.847
697.854	Waikato District Council	Add a new discretionary activity (D12) to Rule 23.1.2 Discretionary Activities, as follows: <u>A home stay for more than 4 people.</u>
<i>FS1387.716</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.854
780.24	Whaingaroa Environmental Defence Incorporated Society	Amend Rule 23.1.1 P2 Permitted Activities to provide for the registration of Homestay or Visitor accommodation.
<i>FS1387.1200</i>	<i>Mercury NZ Limited</i>	Opposes submission 780.24
788.11	Susan Hall	Amend Rule 23.1.1 P2 Permitted Activities for homestays, to be more regulated in Raglan, all homestays and holiday house accommodation to be registered with Council, to prohibit new owners of existing houses or newly built houses from offering homestay accommodation or holiday rentals, unless they live onsite at the time of guests staying, and a maximum of 4 temporary residents.
<i>FS1276.250</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	Supports submission 788.11
825.24	John Lawson	Amend Rule 23.1.1 P2 Permitted Activities to provide for the registration of Homestay or Visitor accommodation.
<i>FS1387.1323</i>	<i>Mercury NZ Limited</i>	Opposes submission 825.24
831.80	Gabrielle Parson on behalf of Raglan Naturally	Amend Rule 23.1.1 P2 Permitted Activities, to require registration of homestay or visitor accommodation.
<i>FS1276.253</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	Supports submission 831.80

5.8.2 Analysis

198. I bring to the attention of the panel a submission from Susan Hall [788.11], who has ticked the trade competition box on her submission form, indicating that there may be financial gain to her depending on the outcome of the hearing. Susan Hall operates a backpackers hostel. Although it is the Panel's decision on whether to accept Ms Hall's submission, I have evaluated her submission anyway. The analysis below is also relevant to her submission.
199. Submissions from Jade Hyslop [435.15], Whaingaroa Environmental Defence Incorporated Society [780.24], John Lawson [825.24] and Gabrielle Parson on behalf of Raglan Naturally [831.80], all seek to create rules that provide for the management of homestays. There are also further submissions in support of Susan Hall [788.11] and Raglan Naturally from Whaingaroa Environmental Defence Incorporated Society [FS1276.260] and [FS1276.253].

200. The definition of homestay is relevant to my analysis of these submissions and I note that the Section 42A report for Hearing 5 Definitions recommends that the definition of homestay remain unchanged from what was notified. This was:
- Means accommodation provided to guests who pay a daily tariff to stay in a home with the permanent occupants of the household.*
201. The purpose of the homestay rule is to acknowledge that a commercial activity on a small scale can operate while creating no adverse effects on the environment. It is important to note that the use of the dwelling in this capacity is still a residential activity as the definition requires the home to still be occupied by permanent residents. I can appreciate the potential issues that homestays may generate and the concerns expressed in the submissions (the submissions also mention and include for consideration Airbnb and Bookabach).
202. The homestay definition requires that a permanent occupant of the house be in the house when any guests are there. In my opinion, renting out spare rooms for short-term stays generates no different effects from having flatmates on a more permanent basis.
203. When considering the effects of a homestay, I consider that the activity is fundamentally a residential activity. A residential activity is expressly permitted in the Country Living Zone in Rule 23.1.1 P1. This also applies to the Airbnb and Bookabach scenario. No matter how long the stay is, the effects of this are no different from a permanent resident in the house, or even a flatting situation. With this in mind, a consenting authority would not be able to identify any adverse effects on the environment.
204. The ability of a property owner to rent out their house or a room for a residential activity is not an RMA matter. From a monitoring/enforcement perspective, to be able to successfully enforce a rule framework that is fundamentally trying to manage a permitted activity (that being using a bedroom or a house for a residential purpose) would be problematic. Accordingly, I recommend that the panel reject the submissions from Jade Hyslop [435.15], Whaingaroa Environmental Defence Incorporated Society [780.24], Susan Hall [788.11], John Lawson [825.24] and Gabrielle Parson on behalf of Raglan Naturally [831.80].
205. Waikato District Council [697.847] seeks to amend the homestay rule to restrict the number of people to four. With respect to the analysis above, although I disagree with the need to include a standard for the number of people in a homestay, as I consider the limiting factor is the number of bedrooms available for the purpose of the homestay, I can appreciate that this rule could be misused by a visitor accommodation. I am aware that I have recommended including a number of people for visitor accommodation. Although I consider that visitor accommodation is a different activity as the occupancy is entirely transient and there is no permanent occupancy, for consistency I recommend including a maximum occupancy for homestays. I recommend that the panel accept Waikato District Council [697.847].
206. Waikato District Council [697.854] seeks to add a new discretionary rule for homestay for more than four people. A homestay activity has been provided for as a permitted activity. A discretionary activity rule is already provided for in DI for an activity that does not comply with a permitted activity, and therefore an additional discretionary rule is not required I recommend that the panel accept in part Waikato District Council [697.854].

5.8.3 Recommendation

207. For the reasons given above, I recommend that the hearings panel
- (a) **Reject** Jade Hyslop [435.15], Whaingaroa Environmental Defence Incorporated Society [780.24], Susan Hall [788.11], John Lawson [825.24] and Gabrielle Parson on behalf of Raglan Naturally [831.80]
 - (b) **Accept** Mercury Energy Limited [FS1388.260], [FS1387.1200] and [FS1387.1323]
 - (c) **Reject** Whaingaroa Environmental Defence Incorporated Society [FS1276.260] and [FS1276.253]
 - (d) **Accept** Waikato District Council [697.847]
 - (e) **Reject** Mercury Energy Limited [FS1387.710]
 - (f) **Accept in part** Waikato District Council [697.854]
 - (g) **Reject** Mercury Energy Limited [FS1387.716].

5.8.4 Recommended amendments

23.1.1 Permitted Activities

Activity		Activity-specific conditions
P2	Home stay	Nil (a) for up to 4 people

5.8.5 Section 32AA evaluation

208. Homestay has been provided for as a permitted activity, but with no limits on the scale or intensity. The proposed amendments are to provide for a small scale homestay facility within the Country Living Zone as a permitted activity.

Other reasonably-practicable options

209. The only other reasonable option would be no change to the Proposed District Plan, however this would may have the potential to be misused by visitor accommodation activities within the Country Living Zone. The approach in the notified Proposed District Plan is that homestay activities are permitted with no limits on the scale. The addition of standards managing scale is the most appropriate way to give effect to the policies and ensures small-scale homestay can be established which will support the social and economic needs of the community.

Effectiveness and efficiency

210. The recommended amendments adding a permitted rule for small scale homestay activities in the Proposed District Plan ensures that the needs of the community can be met in terms of visitor accommodation. The amendments improve the effectiveness of the objective and policies for the proposed plan and provide guidance to plan users to that a small scale homestay can have a functional need in the zone.

Costs and benefits

211. There are no additional costs, therefore costs are likely to be the same. There are benefits to the communities within the Country Living Zone with the additional rule, as it is clear that this zone can facilitate homestay on a small scale.

Risk of acting or not acting

212. There are no additional risks in not acting. There is sufficient information on the costs to the environment and benefits to people and communities to justify the amendment to the policy.

Decision about most appropriate option

213. The recommended addition to the rule framework more readily gives effect to Objective 5.6 Country Living Zone by ensuring that the character and amenity of the zone is maintained by limiting the scale and therefore the effects associated with it. This amendment will help meet the social and economic needs of the community by enabling temporary visitors to be accommodated within the rural residential environment.

5.9 Rule 23.1.1 -Temporary Event

214. The Proposed District Plan permits temporary events to occur at different times and for different purposes. A temporary event is a permitted activity in the Country Living Zone provided all the standards are met such as duration, hours, temporary structures and frequency.

5.9.1 Submissions

215. Two submissions have been received, one of which seeks to amend the rule and the other to retain.

Submission point	Submitter	Summary of submission
328.6	Paula Dudley	Amend Rule 23.1.1 P3 (c) Permitted Activities for Operating hours of temporary events to be shortened with some flexibility during daylight savings.
<i>FSI 386.387</i>	<i>Mercury NZ Limited</i>	Opposes submission 328.6
742.232	New Zealand Transport Agency	Retain Rule 23.1.1 P3 Permitted Activity - Temporary event as notified.
<i>FSI 387.897</i>	<i>Mercury NZ Limited</i>	Opposes submission 742.232

5.9.2 Analysis

216. Paula Dudley [328.6] seeks to shorten the hours of temporary events. The reason provided in the submission is in relation to safety concerns for residences neighbouring reserves and the public use of the reserve. I note that although Ms Dudley's submission is on the Country Living Zone rule, the concerns stem from use of a public reserve for temporary events. The use of a reserve is managed under the Reserve Zone, and not managed through the Country Living Zone. Although I have addressed the submission point in my report, the submission point will be addressed in Hearing 16 relating to the Reserve Zone. However I consider that the hours of operation as the rule was notified are sensible in the approach where a temporary event can only occur up to three times a year, and only operate until 8:30pm. I consider this is not unreasonable and allows members of the communities to come together. In relation to the safety aspect, I consider this to be a policing matter. I recommend that the panel reject Paula Dudley [328.6], and that this matter is more fully explored in Hearing 16.
217. New Zealand Transport Agency [742.232] seeks to retain the rule as notified, with particular support for the standard requiring no direct access from a national route or regional arterial road. I recommend that the panel accept New Zealand Transport Agency [742.232] as the rule appropriately manages the scale and significance of temporary events.

5.9.3 Recommendation

218. For the reasons given above, I recommend that the hearings panel:

- (a) **Reject** Paula Dudley [328.6] and **accept** Mercury Energy [FS1386.387]
- (b) **Accept** New Zealand Transport Agency [742.232] and **reject** Mercury Energy [FS1387.897].

5.9.4 Recommended amendments

219. There are no changes recommended in response to the submissions.

5.9.5 Section 32AA evaluation

220. There are no recommended amendments. Accordingly, no s32AA evaluation has been undertaken.

5.10 Rule 23.1.1 - Home Occupation

221. The rule provides for the flexibility for people to work from their homes at a scale that maintains the character and amenity of the area.

5.10.1 Submissions

222. Three submissions were received, two seeking to amend the rule and one seeking to manage heavy traffic.

Submission point	Submitter	Summary of submission
697.848	Waikato District Council	Amend Rule 23.1.1 P4 (d) and (e) Permitted Activities, as follows: (d) Unloading and loading of vehicles and/or the receiving of customers or <u>and deliveries can</u> only occur after 7:30am and before 7:00pm on any day; (e) Machinery may only be operated after 7:30am and up to 9pm on any day.
<i>FS1387.711</i>	<i>Mercury NZ Limited</i>	Oppose submission 697.848
724.3	Tamahere Community Committee	Amend Rule 23.1.1 P4 Permitted Activities - home occupations, by replacing the notified conditions with the conditions for home occupations in this zone as set out in the Waikato Section of the Operative Waikato District Plan.
<i>FS1387.801</i>	<i>Mercury NZ Limited</i>	Oppose submission 724.3
742.233	New Zealand Transport Agency	Retain Rule 23.1.1 P4 Home occupation, except for the amendments sought below AND Add a new condition to Rule 23.1.1 P4 Permitted Activity - Home occupation as follows: <u>f) There are no heavy vehicle movements associated with the activity.</u> AND Add a new Restricted Discretionary rule for home occupations not complying with 23.1.1 P4(f), with discretion restricted to the effects of heavy vehicle traffic on the safety and efficiency of the transport

		network. AND Request any consequential changes necessary to give effect to the relief sought in the submission.
FSI387.898	Mercury NZ Limited	Opposes submission 742.233

5.10.2 Analysis

223. Waikato District Council [697.848] seeks to amend the times for home occupation. The reasons are to align the hours of the activity with the noise rules for the zone. Accordingly, I recommend that the panel accept Waikato District Council [697.848] and amend the hours of operation to 7am and 7pm.
224. Tamahere Community Committee [724.3] seeks to amend the home occupation rule to revert to how it is in the Operative District Plan (Waikato section). The Operative District Plan has two home occupation rules - one is specifically tailored for the Tamahere Country Living Zone which limits the area to 40m² and the other is a rule that applies generally to the rest of the Country Living Zone. The submission from the Tamahere Community Committee made the following comments on the various clauses in the rule:

Previously there was a limit of 40m ² of the gross floor area that could be used for a home occupation. This has been removed.	Support
The business must still be wholly contained in the dwelling or an ancillary building.	Support
Machinery may be operated up until 9pm at night now, this was previously 7.00pm.	Do not support
No limit on heavy vehicle movements per day, previously only 4.	Do not support
No limit on vehicle movements per day, previously 30, now up to 100 (chapter 14.12).	Do not support
No longer requires that the activity does not interfere with neighbours' televisions, radios, telephones or electronic equipment	Do not support

225. The difference between the two rules in the Operative District Plan (Waikato Section) is minimal. The activity in both rules requires the activity is wholly contained within the dwelling or attached garage. To further understand the submission, I have compared the Operative District Plan rules for Tamahere to those in the Proposed District Plan.

Standard	Operative District Plan (Waikato Section)	Proposed District Plan
Gross floor area	(a) It involves no more than 40m ² of the total gross floor area and is wholly contained within the dwelling or attached garage, and	
Number of people	(b) no more than 2 people who are not permanent residents of the site are employed at any one time, and	(c) No more than 2 people who are not permanent residents of the site are employed at any one time;
Electrical interference	(c) the activity does not interfere with neighbours' televisions, radios, telephones or electronic equipment, and	

Heavy vehicles	(d) the activity creates no more than 4 heavy vehicle movements per day, and	
Deliveries and customers	(e) there is no unloading and loading of vehicles or the receiving of customers or deliveries before 7:30am or after 7:00pm on any day, and	(d) Unloading and loading of vehicles or the receiving of customers or deliveries only occur after 7:30am and before 7:00pm on any day;
Operation of machinery	(f) there is no operation of machinery before 7:30am or after 7:00pm on any day, and	(e) Machinery may be operated after 7:30am and up to 9pm on any day.
Visibility of the activity	(g) materials, machinery, trailers or heavy vehicles associated with the home occupation are not visible from a public road or neighbouring property.	(a) It is wholly contained within a building; (b) The storage of materials or machinery associated with the home occupation are wholly contained within a building;

226. I agree with the activity needing to be wholly contained within the building, but disagree with restricting the size of the building and it having to be attached. With respect to the proposed rule, where there is no limit on the area and it does not have to be attached to the dwelling, this is a more pragmatic approach for someone wanting to work from home. If the activity is wholly contained within a building and the noise rules are complied with, then any effects will be less than minor (because you cannot see or hear the activity). In my opinion, the proposed rule provides the flexibility for people to work from their home. I recommend that the panel reject Tamahere Community Committee [724.3].
227. Given the progression in technology, there is not the same risk of electrical interference and for this reason the standard has been deleted. The limit on heavy vehicles has also been deleted from the standards due to the overarching standards for vehicle movements in the zone, as contained in Chapter 14 Infrastructure and Energy.
228. The submission from New Zealand Transport Agency [742.233] seeks to include a restriction on heavy vehicles for home occupations. The reasons stated in the submission are that home occupations should not involve heavy vehicles. I disagree with this approach, as it would not be practicable to restrict the road to only certain types of road users. I note that Rule 14.12.1 P4(1)(a) allows the following traffic generation in the Country Living Zone:
- there is a maximum of 100 vehicle movements per day, and no more than 15% of these vehicle movements are heavy vehicle movements*
- This is a traffic limit per activity, and is not specific to home occupations. In this regard, the infrastructure hearing would be best suited to address the issue raised by the Transport Agency. In the meantime, I recommend that the Panel reject the submission from the New Zealand Transport Agency [742.233].

5.10.3 Recommendation

229. For the reasons given above, I recommend that the hearings panel:
- (a) **Accept** Waikato District Council [697.848] and **reject** Mercury Energy Limited [FS1387.711]

- (b) **Reject** Tamahere Community Committee [724.3] and **accept** Mercury Energy Limited [FS1387.801]
- (c) **Reject** New Zealand Transport Agency [742.233] and **accept** Mercury Energy Limited [FS1387.898].

5.10.4 Recommended amendments

23.1.1 P4 Home Occupation

- ¹⁸(d) Unloading and loading of vehicles and/or the receiving of customers ~~or~~ **and** deliveries **can** only occur after 7:~~30~~0am and before 7:00pm on any day;
- (e) Machinery may only be operated after 7:~~30~~0am and up to ~~9~~7pm on any day. [697.848]

5.10.5 Section 32AA evaluation

230. The recommended changes to the times within the rule will align the hours for receiving of customers and deliveries with the noise rule for this zone. This provides clarification of the rules and makes them consistent with other rules in the other zone chapters.

Other reasonably-practicable options

231. The status quo rule (proposed plan) is an option, however this would create inconsistency within the Proposed District Plan rule framework for managing non-residential activities. To keep the hours of operation at up to 9 p.m. will potentially have an adverse effect on the character and amenity of the area.

Effectiveness and efficiency

232. The recommended changes to the rule ensure consistency between the activity and the noise standard, thereby helping to ensure that the adverse effects on the character and amenity are minimised. The amendments to the rule improve the effectiveness of the policy and provide suitable guidance to plan users.

Costs and benefits

233. There will be additional costs to home occupations in terms of times they can operate, however the recommended amendments are minor and will ensure that any home occupation will not create any adverse effects in relation to noise, and acknowledge that the zone is fundamentally for residential use.

Risk of acting or not acting

234. There is sufficient information on the cost to the Country Living Zone and benefits to people and the communities to justify the amendment of the times.

Decision about most appropriate option

235. The recommended amendment of the activity rule more readily gives effect to the Objective for the Country Living Zone than the notified version. The amendment will more effectively achieve Objective 5.6.1 and maintain the character and amenity values of the zone. Addressing the noise will give regard to s7(c) of the RMA and the maintenance and enhancement of amenity values of the zone.

¹⁸ [697.848]

5.11 Rule 23.1.2 - Education Facility

5.11.1 Introduction

236. Rule 23.1.2 D5 makes an education facility (excluding a childcare facility for up to 10 children) a discretionary activity.

5.11.2 Submissions

237. Three submissions were received, two of which seek to amend the rule and the other to add a restricted discretionary rule for education facilities.

Submission point	Submitter	Summary of submission
389.9	J and T Quigley Ltd	Amend Rule 23.1.2(1) and D5 Discretionary Activities, as follows: (1) The activities listed below are discretionary activities, <u>unless in close proximity 1km to a Village Zone</u> D5 An education facility, excluding a child care facility for up to 10 children <u>and P5 above</u> AND Amend the Proposed District Plan to include all necessary, consequential or further relief required to give effect to the submission.
<i>FSI388.96</i>	<i>Mercury NZ Limited</i>	Opposes submission 389.9
781.15	Ministry of Education	Delete Rule 23.1.2 D5 Discretionary Activities for an education facility AND Add a Restricted Discretionary activity rule that provides for education facilities in Rule 23.1.2 as follows: <u>23.1.2 Restricted Discretionary Activities</u> <u>(1) The activities listed below are restricted discretionary activities Activity RD1 Education facilities</u> Council's discretion shall be restricted to the following matters: <u>The extent to which it is necessary to locate the activity in the Country Living Zone.</u> <u>Reverse sensitivity effects of adjacent activities.</u> <u>The extent to which the activity may adversely impact on the transport network.</u> <u>The extent to which the activity may adversely impact on the streetscape.</u> <u>The extent to which the activity may adversely impact on the noise environment.</u>
<i>FSI387.1219</i>	<i>Mercury NZ Limited</i>	Oppose submission 781.15
<i>FSI202.89</i>	<i>New Zealand Transport Agency</i>	Supports submission 781.15
947.6	Stuart Quigley	Amend Rule 23.1.2 Discretionary Activities, as follows (or with words to similar effect): (1) The activities listed below are discretionary activities.,

		unless in close proximity 1km to a Village Zone. ... D5 An education facility, excluding a child care facility for up to 10 children <u>and P5 above</u> . AND Amend the Proposed District Plan as necessary including provisions, consequential additions and cross references.
FS1278.6	Stuart Quigley and Quigley Family Trust	Support submission 947.6
FS1387.1601	Mercury NZ Limited	Oppose submission 947.6

5.11.3 Analysis

238. J and T Quigley Ltd [389.9] and Stuart Quigley [947.6] seek to amend the activities stated in the discretionary Rule 23.1.2 to be excluded if within 1km of the Village Zone, also a consequential amendment to recognise childcare as a permitted activity (note: I have addressed this submission point in Section 4.4 of this report). Stuart Quigley and Quigley Family Trust support the submission. I disagree with this approach, as despite where any of the listed activities locate, they need to be assessed on their suitability for the corresponding zone. The effects generated by these activities will likely have adverse effects on the areas and need to be managed accordingly. In addition, there are very few locations in the District where the Country Living Zone is adjacent to the Village Zone. I note the exclusion to recognise childcare for up to 10 children as a permitted activity but I do not think this is necessary. I recommend that the panel reject the submission from J and T Quigley Ltd [389.3] and Stuart Quigley [947.6].
239. The submission from the Ministry of Education [781.15] requests that provision be made for education facilities as a restricted discretionary activity in the Country Living Zone. I agree with the submitter that education facilities can provide social infrastructure for areas. However, education facilities need to be at a scale that is in keeping with the character of the zone. Therefore, I agree that a restricted discretionary activity status is most appropriate but recommend that additional matters of discretion be included such as:
- Effects on amenity
 - Effects on character
 - Building form, bulk and location
 - Site layout and design
 - Privacy on other sites.
240. The submission appears to address education facilities in broad terms, therefore recognises that not all education facilities are promoted by a requiring authority. In this regard, if the education facility is for the purposes of a Ministry of Education school, then I believe that this is best dealt with under Part 8 Designations, Section 168 of the RMA. Because I have recommended additional matters of discretion to those sought in the submission, I recommend that the panel accept in part the submission from the Ministry of Education [781.15].

5.11.4 Recommendation

241. For the reasons given above, I recommend that the hearings panel
- Reject** J and T Quigley Ltd [389.9], Stuart Quigley [947.6] and Quigley Family Trust [FS1278.6], and **accept** Mercury Energy Limited [FS1388.96] and [FS1387.1601]

- (b) **Accept in part** Ministry of Education [781.15] and the further submissions from New Zealand Transport Agency [FS/202.89] and Mercury Energy Limited [FS/387.1219].

5.11.5 Recommended amendments

¹⁹23.1.1A Restricted Discretionary Activities

(1) The activities listed below are restricted discretionary activities:

<u>Activity</u>		<u>Activity-specific conditions</u>
<u>RDI</u>	<u>Education facilities</u>	<u>(a) Council's discretion shall be restricted to the following matters:</u> <ul style="list-style-type: none"> <u>(i) The extent to which it is necessary to locate the activity in the Country Living Zone.</u> <u>(ii) Reverse sensitivity effects of adjacent activities.</u> <u>(iii) The extent to which the activity may adversely impact on the transport network.</u> <u>(iv) The extent to which the activity may adversely impact on the streetscape.</u> <u>(v) The extent to which the activity may adversely impact on the noise environment.</u> <u>(vi) Effects on character</u> <u>(vii) Building form, bulk and location</u> <u>(viii) Site layout and design</u> <u>(ix) Privacy on other sites</u>

5.11.6 Section 32AA evaluation

242. The recommended amendment to change the discretionary activity to a restricted discretionary activity recognises the potential for education facilities to locate in the Country Living Zone. Objective 5.6.1 Country Living Zone and the associated policies ensure that any development of this sort is managed appropriately.

Other reasonably-practicable options

243. One alternative is to keep the status quo of the proposed plan, where education facilities are provided for as a discretionary activity. However, this would require a higher degree of evaluation through a consenting process. A restricted discretionary status with specific matters of discretion is the more appropriate way to give effect to the objective and therefore the Act.

Effectiveness and efficiency

244. The recommended amendments, including the matters of discretion align with the, Country Living Zone objective and the associated policies, and is the most appropriate way to give effect to Part 5 of the Act, in particular enabling people and communities to provide for their social, economic and cultural wellbeing. The matters of discretion provide suitable guidance to plan uses for the assessment of activities that affect the Country Living Zone.

¹⁹ [781.15]

Costs and benefits

245. There are some costs to the environment such as noise, traffic and amenity, however the matters of discretion are specific and can be taken into consideration through the consenting process. There are potential benefits such as employment, community, and education.

Risk of acting or not acting

246. There are no additional risks in not acting. There is sufficient information on the costs to the environment and benefits to people and communities, to justify the amendment to the policy.

Decision about most appropriate option

247. The amendment gives effect to the Objective 5.6.1 in that it will help maintain the character and amenity of the zone. It is considered to be more appropriate for achieving the purpose of the RMA than the notified version.

5.12 Rule 23.1.2 - Commercial activities

248. Commercial activities are provided for as a Discretionary activity in the Country Living Zone (excluding produce stalls).

5.12.1 Submissions

249. One submission was received to amend the rule.

Submission point	Submitter	Summary of submission
535.75	Hamilton City Council	Amend Rule 23.1.3 Discretionary Activities, to ensure existing commercial centres are maintained (currently listed as D3) in the Country Living Zone; AND Add objectives and policies as a consequential amendment. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
<i>FS1388.713</i>	<i>Mercury NZ Limited</i>	Oppose submission 535.75

5.12.2 Analysis

250. Hamilton City Council [575.75] seeks to ensure that existing commercial activities are maintained. Mercury Energy Limited [FS1388.713] opposes the submission. Hamilton City Council have referred to Rule 23.1.3 I believe this to be an error and should be 23.1.2. The submission is somewhat confusing, as it states a desire to maintain existing commercial centres. However, when contemplating the reasons, I believe what Hamilton City Council is seeking is to ensure that new commercial activities in the Country Living Zone are restricted, and that any new commercial activities should be directed to the main centres (Business zones). In my opinion the discretionary activity status is an appropriate mechanism to manage this.
251. The objective and policies are specific to character and amenity, and as well there is a suite of policies that manages buildings, scale and intensity of development, as well as non-

residential activities. There are activities such as a childcare facility or a café, for example, which may be appropriate in the Country Living Zone, as they support the communities within them. I consider the discretionary activity status combined with policies such as Policies 5.6.8 and 5.6.9 set an appropriate framework for managing both new and existing commercial activities in the Country Living Zone. For the reasons discussed, I recommend that the panel reject Hamilton City Council [575.75].

5.12.3 Recommendation

252. For the reasons given above, I recommend that the hearings panel:
 (a) **Reject** Hamilton City Council [575.75] and **accept** the further submission from Mercury Energy [FS1388.713].

5.12.4 Recommended amendments

253. There are no changes in response to the submissions.

5.12.5 Section 32AA evaluation

254. There are no recommended amendments. Accordingly, no s32AA evaluation has been undertaken.

5.13 Rule 23.1.2 – Travellers’ accommodation

255. Travellers’ accommodation is a discretionary activity in Rule 23.1.2.

5.13.1 Submission

256. One submission was received to amend the rule.

Submission point	Submitter	Summary of submission
697.853	Waikato District Council	Amend Rule 23.1.2 D9 Discretionary Activities, as follows: Travellers' accommodation <u>for more than 5 people</u>
FS1387.715	Mercury NZ Limited	Opposes submission 697.853

5.13.2 Analysis

257. Waikato District Council [697.853] seeks the additional wording “for more than five people” in Rule 23.1.2 D9 for travellers’ accommodation. The addition of a clarifier for more than 5 people supports the permitted activity status requested in a previous submission. It provides clarity for the Plan user that travellers’ accommodation for more than 5 people needs to be appropriately assessed as a discretionary activity. I recommend that the Panel accept Waikato District Council [697.853].

5.13.3 Recommendation

258. For the reasons given above, I recommend that the hearings panel
 (a) **Accept** Waikato District Council [697.853] and **reject** the further submission from Mercury Energy Limited [FS1387.715].

5.13.4 Recommended amendments

23.1.2 D9 Travellers' accommodation

D9 Travellers' accommodation²⁰ [for more than 5 people](#) [697.853]

5.13.5 Section 32AA evaluation

259. Travellers' accommodation has been provided for as a discretionary activity, but not a permitted activity. This needs to be consistent with other zones. The proposed amendments are to provide for a small-scale travellers' accommodation facility within the Country Living Zone as a permitted activity, and for larger scale operations as a discretionary activity.

Other reasonably-practicable options

260. The only other reasonable option would be no change to the Proposed District Plan, however this would not support the ability to undertake small scale travellers accommodation activities within the Country Living Zone. The approach in the notified Proposed District Plan is that travellers' accommodation is a discretionary activity with no limits on the scale. The addition to the existing rule is the most appropriate way to give effect to the policies and ensures that small-scale travellers accommodation can be established which will support the social and economic needs of the community, while ensuring that larger-scale operations are assessed against the objectives and policies for the zone.

Effectiveness and efficiency

261. The recommended amendments adding a permitted rule for small scale travellers accommodation facility in the Proposed District Plan ensures that the needs of the community can be met in terms of travellers' accommodation. The amendments improve the effectiveness of the objective and policies for the proposed plan and provide guidance to plan users that larger scale travellers' accommodation will need to be more comprehensively considered.

Costs and benefits

262. There are no additional costs, therefore costs are likely to be the same. There are benefits to the communities within the Country Living Zone with the additional to the rule, as it is clear that this zone can facilitate travellers' accommodation on a small scale.

Risk of acting or not acting

263. There are no additional risks in not acting. There is sufficient information on the costs to the environment and benefits to people and communities to justify the amendment to the policy.

Decision about most appropriate option

264. The recommended addition to the rule framework more readily gives effect to Objective 5.6 Country Living Zone by ensuring that the character and amenity of the zone is maintained by limiting the scale and therefore the effects associated with it. This amendment will help meet the social and economic needs of the community by enabling temporary visitors to be accommodated within the rural residential environment.

²⁰ [697.853]

5.14 Rule 23.1.3 Non Complying Activity - Urban expansion area

265. There were no specific land use activity rules relating to Hamilton's Urban Expansion Area.

5.14.1 Submissions

266. One submission was received to add a rule which would make a number of activities a non-complying activity if they were to be undertaken within Hamilton's Urban Expansion Area.

Submission point	Submitter	Summary of submission
697.855	Waikato District Council	Add a new non-complying activity (NC13) to Rule 23.1.3 Non-Complying Activities, as follows: <u>(a) The following activities located within the Urban Expansion Area: (i) intensive farming;</u> <u>(i) storage, processing or disposal of hazardous waste;</u> <u>(ii) correctional facility;</u> <u>(iii) extractive industry;</u> <u>(iv) industrial activity;</u> <u>(v) motorised recreation activity;</u> <u>(vi) transport depot;</u> <u>(vii) rural industry.</u>
FS1387.717	Mercury NZ Limited	Oppose submission 697.855

5.14.2 Analysis

267. Waikato District Council [697.855] seeks to add a new non-complying rule to manage activities in the Urban Expansion Area. The Hamilton Urban Expansion Area is an overlay which sits over Rural and Country Living Zones on the eastern edge of Hamilton City. It covers an area which will go across into Hamilton City at some point and will eventually be urbanised. The purpose of it is to ensure that development in the meantime does not compromise the future ability to urbanise. The objective for the Urban Expansion Areas is as follows:

5.5.1 Objective –Hamilton's Urban Expansion Area (a) Protect land within Hamilton's Urban Expansion Area for future urban development.

268. The addition of the rule will ensure that the Urban Expansion Area is protected for future appropriate development, and the non-complying activity status reflects this. The Urban Expansion Area coincides with the Country Living Zone opposite the Fonterra Dairy Factory in the proximity of the Horotiu area.

269. I note that the approach of the Operative District Plan (Waikato Section) was not to limit the land uses within the Urban Expansion Policy Area in the *Country Living Zone*, but to have a number of prohibited activities where the Urban Expansion Policy Area fell within the *Rural Zone*. Those prohibited activities that apply only in the Urban Expansion Policy Area within the *Rural Zone* are:

- (i) disposal or storage of solid waste (excluding contaminated land remediation under Rule 25.30)
- (ii) hazardous waste storage, reprocessing or disposal (excluding contaminated land remediation under Rule 25.30)

- (iii) educational, training or correctional facilities involving more than 10 people
- (iv) extractive industries
- (v) commercial activities (excluding a produce stall)
- (vi) industrial activities
- (vii) travellers' accommodation for more than 5 people,
- (viii) motorised recreation facilities
- (ix) new roads, except in compliance with indicative roads on the planning maps, and excluding upgrading and widening of established roads
- (x) buildings over 2,000 m² gross floor area
- (xi) subdivision of allotments less than 5000 m², or an allotment average below 1.3 ha.

270. In terms of the activities sought to be a non-complying activity, it is worth considering the discussion of the terms in the section 42A report for Hearing 5 Definitions. The term 'Rural Industry' as it appears in the notified version of the Proposed District Plan differs from the National Planning Standard. The author of Hearing 5 Definitions has recommended adopting the National Planning Standard definition of 'Rural Industry', which is as follows:

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

271. In this regard I believe that this definition would be the most appropriate approach for the Urban Expansion Area, as this would capture activities that would prevent an efficient future use of the Urban Expansion Area. I also note that some of the activities recommend to be listed are already listed in the non-complying rule and it is not necessary to repeat them in the context of the Hamilton Urban Expansion Area (such as transport depot NC6 and extractive industry NC2). I recommend that the Panel (subject to the National Planning Standards definition for Rural Industry) accept in part Waikato District Council [697.855].

5.14.3 Recommendation

272. For the reasons given above, I recommend that the hearings panel
- (a) **Accept in part** Waikato District Council [697.855]
 - (b) **Accept in part** Mercury Energy Limited [FS/387.717].

5.14.4 Recommended amendments

23.1.3 Non-Complying Activities

²¹ NC13	(a) The following activities located within the Urban Expansion Area: (i) industrial activity; (ii) rural industry.
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5.14.5 Section 32AA evaluation

273. A new rule is required to provide consistency with the Country Living Zone for activities situated within the Urban Expansion Area.

²¹ [697.855]

Other reasonably-practicable options

274. The only other reasonable option would be no change to the notified version of the plan, where there are no rules in regard to the Urban Expansion Area. However, this approach would not capture the two additional activities that would prevent an efficient future use of the Urban Expansion Area or give effect to the Objective and Policies for the Hamilton Urban Expansion Area.

Effectiveness and efficiency

275. The recommended addition of the rules is the most efficient way to give effect to the objectives and policies, and therefore the purpose of the Act. The additional rules will help to ensure the efficient future function of the Urban Expansion Area, and provides guidance to plan users for the assessment of activities that may occur here.

Costs and benefits

276. There will be additional costs to the Country Living Zones in terms of restrictions on activities that can no longer establish as a permitted activity. However, the benefits of imposing restrictions on certain activities as non-complying will protect the future use of the Urban Expansion Area.

Risk of acting or not acting

277. There is sufficient information on the risk of not acting to the Urban Expansion Area should the amendments not be made.

Decision about most appropriate option

278. The recommended amendment to the rule framework more readily gives effect to the Objective and Policies for the Urban Expansion Area than the notified version. Imposing a non-complying activity status ensures that any proposed activity is robustly assessed. The combination of the Objective, Policies and proposed rules will ensure the management of natural and physical resources required by the Act.

5.15 Rule 23.1.3 – Non-Complying Activity**5.15.1 Submissions**

279. One submission was received seeking the inclusion of additional activities to avoid reverse sensitivity.

Submission point	Submitter	Summary of submission
797.36	Fonterra Limited	<p>Add a new activity to Rule 23.1.3 Non Complying activities as follows (or words to similar effect):</p> <p><u>NCI3</u></p> <p><u>(a) Within the Te Rapa Dairy Manufacturing Site Noise Control Boundary:</u></p> <p style="padding-left: 40px;"><u>(i) a child care facility;</u></p> <p style="padding-left: 40px;"><u>(ii) a hospital or hospice;</u></p> <p style="padding-left: 40px;"><u>(iii) an education facility;</u></p> <p style="padding-left: 40px;"><u>(iv) travellers accommodation.</u></p> <p>AND</p> <p>Any consequential amendments or further relief to</p>

		give effect to the concerns raised in the submission.
<i>FS1387.1275</i>	<i>Mercury NZ Limited</i>	Opposes submission 797.36
389.5	J and T Quigley Ltd	No specific decision sought, but the submission supports in part Rule 23.1.3 Non-Complying Activities.
<i>FS1388.93</i>	<i>Mercury NZ Limited</i>	Opposes submission 389.5

5.15.2 Analysis

280. The submission from J and T Quigley [389.5] cannot be appropriately analysed, as the intent of the submission is unclear and no specific relief is sought. The submitters are invited to provide clarification of their submission through evidence. I recommend that the panel accept in part to the extent it supports Rule 23.1.3.
281. Fonterra Limited [797.36] seek to restrict activities in the Country Living Zone. I note that the Fonterra Te Rapa Dairy Factory is located within Hamilton City, however directly across the river from the dairy factory is an area of Country Living Zone. In the Operative District Plan (Waikato Section) there is a Fonterra Noise Control Boundary area identified on the planning maps. This boundary is for information purposes only and there are no provisions associated with it. However, the Proposed District Plan makes no reference to this noise boundary. The Country Living Zone area across the river from Fonterra is also subject to the Urban Expansion Area. It is noted that Fonterra Limited does not refer to residential activities in its submission, and instead specifically identifies child care facilities, hospital or hospice, education facility or travellers' accommodation. The area of Country Living Zone (shown below) has residential houses already established. Although I have recommended that childcare and visitors accommodation be a permitted activity in the Country Living Zone, I have limited the scale of these with standards to keep them small. For reasons discussed, I do not consider that the suggested amendments are necessary. I note this matter was canvassed in Hearing 3 Strategic Objectives in the context of a similar submission from Fonterra and was recommended to be rejected on the basis that residential activities have already established in the area, and any reverse sensitivity effects are already mitigated. The report author concluded that the activities suggested in the submission will be no more sensitive than houses. I recommend that the panel reject Fonterra Limited [797.36].

Figure 2: Operative Map of Fonterra Limited industrial zone and noise boundary

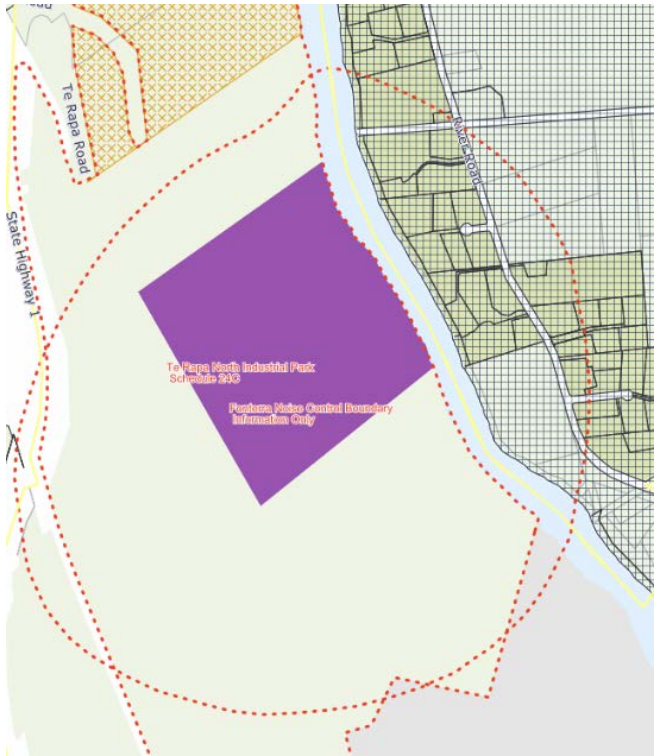
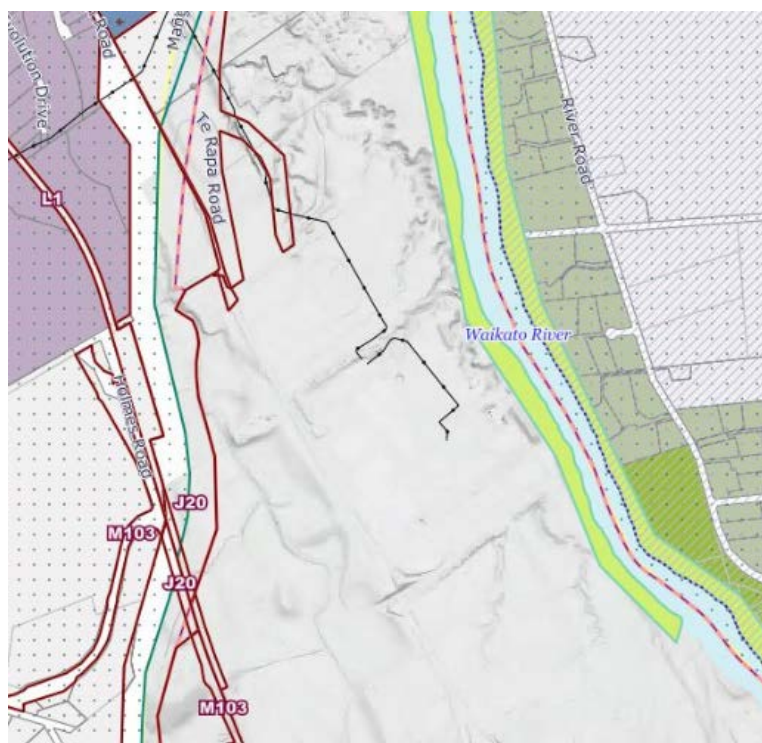


Figure 3: Operative Map of Fonterra Limited industrial zone and noise boundary (with Aerial)



Figure 4: Proposed Plan Map



5.15.3 Recommendation

282. For the reasons given above, I recommend that the hearings panel

- (a) **Accept in part** J and T Quigley [389.5] and **accept** Mercury Energy [FS/388.93]
- (b) **Reject** Fonterra limited [797.36] and **accept** Mercury Energy Limited [FS/387.1275].

5.15.4 Recommended amendments

283. There are no changes recommended in response to the submission.

5.15.5 Section 32AA evaluation

284. There are no recommended amendments. Accordingly, no s32AA evaluation has been undertaken.

6 Topic 3 Land Use - Effects

6.1 Introduction

285. This section analyses the activity rules within the Country Living Zone, upon which 59 submissions were received. The rules determine whether resource consent is required for a particular activity.

6.2 Land Use Effects - General

6.2.1 Submissions

286. Two submissions were received, seeking no specific decision.

Submission point	Submitter	Summary of submission
330.69	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2 Land Use - Effects and/or all the rules sitting under Rule 23.2 Land Use - Effects.
<i>FSI 386.446</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.69
330.94	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2 Land Use - Effects.
<i>FSI 386.454</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.94

6.2.2 Analysis

287. Andrew and Christine Gore [330.69] and [330.94] do not outline any specific relief sought, and because of this I am unable to analyse the submission points. Due to the absence of relief sought, I recommend that the panel reject Andrew and Christine Gore [330.69] and [330.94].

6.2.3 Recommendation

288. For the reasons given above, I recommend that the hearings panel:

- (a) **Reject** Andrew and Christine Gore [330.69] and [330.94]
- (b) **Accept** Mercury Energy Limited [*FSI 386.446*] and [*FSI 386.454*].

6.2.4 Recommended amendments

289. There are no changes recommended in response to the submissions.

6.2.5 Section 32AA evaluation

290. There are no recommended amendments. Accordingly, no s32AA evaluation has been undertaken.

6.3 Land use Effects - Noise

291. Rule 23.2.1 has two separate rules one for general permitted noise standards, and the other focused on construction noise. These rules ensure an appropriate level of amenity with respect to noise by establishing acceptable noise limits.

6.3.1 Submissions

292. Eight submissions were received, two of which relate to the Mystery Creek Events Centre. The others relate to the noise standards.

Submission point	Submitter	Summary of submission
280.2	New Zealand National Fieldays Society Inc	Amend Rule 23.2.1 Noise to align with the Waipa District Council operative District Plan and implement the Environment Court Consent Order (see submission for copy of Consent Order). AND Amend the zoning to align with Waipa District Councils Operative District Plan to manage the Mystery Creek Events Centre and noise generation.
330.95	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2.1 - Noise, and/or all rules under

		Rule 23.2.1.
378.40	Fire and Emergency New Zealand	Retain Rule 23.2.1.1 Noise - General.
<i>FS1035.146</i>	<i>Pareoranga Te Kata</i>	Supports submission 378.40
697.856	Waikato District Council	<p>Delete Rule 23.2.1.1 P3 Noise - General; AND</p> <p>Amend Rule 23.2.1.1 P2 Noise - General, as follows:</p> <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 must not exceed:</p> <p>(i) 50dB (LAeq), 7am to 7pm every day; (ii) 45dB (LAeq), 7pm to 10pm every day; (iii) 40dB (LAeq) and 65dB (LAm_{ax}), 10pm to 7am the following day.</p> <p><u>(b) Noise measured within any site in any other zone, other than the Rural Zone, must meet the permitted noise levels for that other zone.</u></p> <p><u>(i) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 "Acoustics Measurement of Environmental Sound".</u></p> <p><u>(ii) Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 "Acoustic Environmental noise".</u></p> <p>AND</p> <p>Amend Rule 23.2.1.1 D1, as follows: Noise that does not comply with Rule 23.2.1.1 P1, P2, P3, P4 or P5.</p>
<i>FS1051.17</i>	<i>Colette Shona Hanrahan</i>	Opposes submission 697.856 this submission relates to subdivision
697.857	Waikato District Council	<p>Delete Rule 23.2.1.1 P5 Noise - General; AND</p> <p>Add to Rule 23.2.1.1 P4(a) Noise - General, as follows:</p> <p><u>(c) Noise levels shall be measured in accordance with the requirements of Standard NZS 6801:2008 "Acoustics Measurement of Environmental Sound".</u></p> <p><u>(d) Noise levels shall be assessed in accordance with the requirements of Standard NZS 6802:2008 "Acoustic Environmental noise".</u></p> <p>AND</p> <p>Amend Rule 23.2.1.1 D1, as follows: Noise that does not comply with Rule 23.2.1.1 P1, P2, P3, <u>or</u> P4 or P5</p>
923.159	Waikato District Health Board	<p>Amend Rule 23.2.1.1 P2, P3, P4, P5 and D1- Noise-General as follows:</p> <p>P2</p> <p>Sound measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed:</p> <p>(a) Noise measured at the following noise limits at any point within a notional boundary on within any site in the Rural Zone and within any other site in the</p>

		<p>Country Living Zone must not exceed:</p> <ul style="list-style-type: none"> (i) <u>50dB LAeq(15min) dB (LAeq), 7am to 7pm, every day;</u> (ii) <u>45dB LAeq(15min) dB (LAeq), 7pm to 10pm every day;</u> (iii) <u>40dB LAeq(15min) dB (LAeq) and 65 dB (LAmax), 10pm to 7am the following day;</u> (iv) <u>65dB LAFmax, 10pm to 7am the following day;</u> <p><u>(b)The permitted activity noise limits for the zone of any other site where sound is received.</u></p> <p>P3</p> <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> <p>P4</p> <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> <p>(a)In Tamahere Commercial Areas A and B does not exceed:</p> <ul style="list-style-type: none"> (i)65dB (LAeq), 7am to 10pm; (ii)50dB (LAeq) and 75 dB (LAmax), 10pm to 7am the following day, <p>(b)Outside Tamahere Commercial Areas A and B, does not exceed:</p> <ul style="list-style-type: none"> (i)55dB (LAeq), 7am to 10pm; (ii)40dB (LAeq) and 70Db (LAmax), 10pm to 7am the following day. <p>P5</p> <p>(a) Noise levels shall be measured in accordance with the requirements of NZS 6801:2008 "Acoustics Measurement of Environmental Sound."</p> <p>(b)Noise levels shall be assessed in accordance with the requirements of NZS 6802:2008 "Acoustic Environmental Noise."</p> <p>D1</p> <p>(a)Sound that is outside the scope of NZS 6802:2008 or a permitted activity standard; and</p> <p>(b)Sound Noise that does not comply with Rule 23.2.1.1 P1 or P2, P3, P4 or P5.</p>
939.5	Waipa District Council	<p>Add provisions to Rule 23.2.1.1 Noise - General for the Mystery Creek Event Centre, to mirror that contained in the Operative Waipa District Plan Rule 9.4.2.16 (c).</p>
923.160	Waikato District Health Board	<p>Add new Rule 23.2.1.X applying to activity in Tamahere Commercial Areas A and B, worded as follows:</p> <p><u>P1 Farming noise, and sound generated by emergency generators and emergency sirens.</u></p> <p><u>P2 Sound measured in accordance with NZS 6801:2008 and assessed in accordance with NZS</u></p>

	<p><u>6802:2008 must not exceed:</u></p> <p><u>(a) The following noise limits at any point within any other site in Tamahere Commercial Areas A and B:</u></p> <p style="padding-left: 40px;"><u>(i) 65dB LAeq(15min), 7am to 10pm;</u></p> <p style="padding-left: 40px;"><u>(ii) 50dB LAeq(15min), 10pm to 7am;</u></p> <p style="padding-left: 40px;"><u>(iii) 75 dB LAFmax, 10pm to 7am the following day;</u></p> <p><u>(b) The following noise limits at any point within any site outside the Tamahere Commercial Areas A and B:</u></p> <p style="padding-left: 40px;"><u>(i) 55dB LAeq(15min), 7am to 10pm;</u></p> <p style="padding-left: 40px;"><u>(ii) 40dB LAeq(15min), 10pm to 7am;</u></p> <p style="padding-left: 40px;"><u>(iii) 70dB LAFmax, 10pm to 7am the following day;</u></p> <p><u>DI</u></p> <p><u>(a) Sound that is outside the scope of NZS 6802:2008 or a permitted activity standard; and (b) Sound that does not comply with Rule 23.2.1.X P1 or P2.</u></p>
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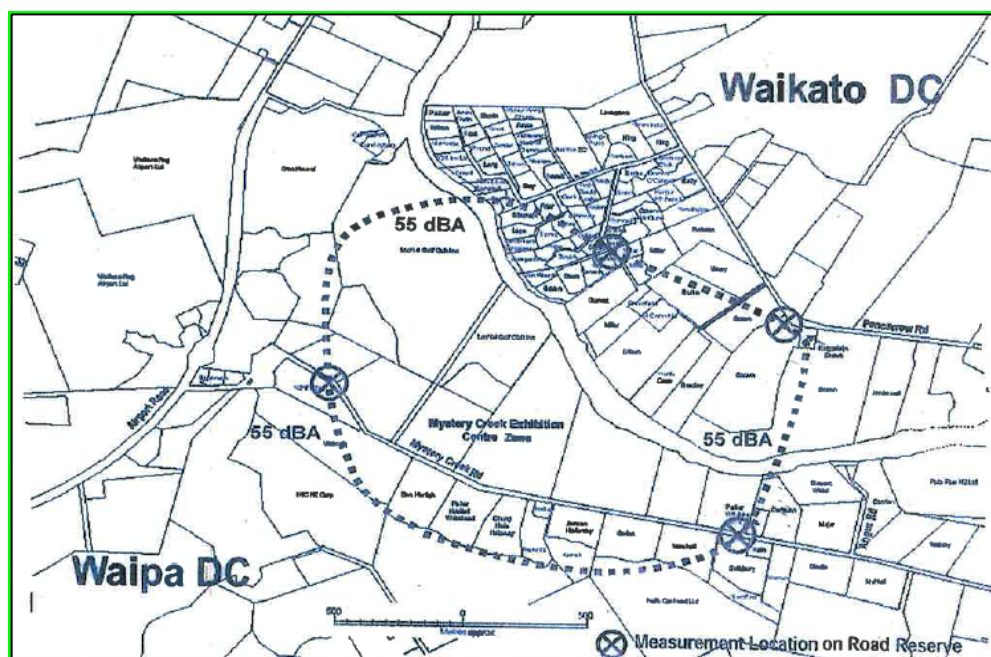
6.3.2 Analysis

293. New Zealand National Fieldays Society Inc. [280.2] submission seeks to align the noise rules in the Proposed Waikato District Plan with the Waipa District Plan by implementing the Environment Court Consent Order dated 28 July 1997 relating to the Mystery Creek Events Centre (see the paragraph below). Waipa District Council [939.5] also seeks to add provisions to the general noise rule to mirror the operative Waipa District Plan with respect to the Mystery Creek Events Centre. In my consideration of this matter, it is worth noting that the Mystery Creek Events Centre is entirely located within the Waipa District jurisdiction.
294. I have read the Environment Court Consent Order that was submitted as evidence in support of the New Zealand National Fieldays Society Inc. submission. The Environment Court documentation submitted consists of three aspects:
- (a) a draft copy of the Consent Order
 - (b) the signed copy of the Consent Order requiring Waipa District Council to include in their plan, noise provisions that are relevant to the Waikato District Council's area during the operation of the National Fieldays at Mystery Creek
 - (c) a Memorandum of Understanding (MOU) between Waipa District Council, New Zealand Fieldays Society Inc. and Waikato District Council.
295. It is my understanding from the Consent Order that there is no requirement for Waikato District Council to alter its noise provisions to align with the Waipa District Plan.
296. In respect of the MOU, it acknowledges that the appeals have been resolved by making specific provisions (in the Waipa Plan) that noise emanating from the Mystery Creek Exhibition Zone will be generally in line with Waikato District Council's standards, and on activity days the daytime level within the territorial boundary of Waikato district will be raised and this will be reflected in the Waipa plan (that acknowledges the Waikato district area across the river). The Waipa Plan has to date included noise levels that give effect to the MOU. My understanding, from a monitoring perspective, is that in the event that a complaint is received (from within the Waikato district), in relation to noise generated by the Fieldays, (in the Waipa district), then that complaint is followed up by Waipa District

Council and assessed against the noise provisions in the Waipa plan relevant to the Waikato district.

297. As a note, to the best of my knowledge and Council's database, there have been no recorded noise complaints in relation to the operation of the National Fieldays for some time now. I consider it would be impractical to ring fence an area in Waikato district that has a higher threshold for noise than the rest of the zone. The only value would be that it could signal to new landowners that at times the noise generated from the Mystery Creek Events Centre will be increased above what is normally permitted in the Country Living Zone. The noise limits relate to what can be generated within the zone so this would theoretically mean that the sites within this area could generate higher noise levels. This to my mind is not the intention of the environment court decision, and I question whether a noise overlay similar to the Horotiu industrial acoustic area would be a more appropriate way to recognise the increased noise levels arising from Mystery Creek and manage expectations of the nearby landowners.
298. Based on the submission received, I recommend that the panel reject New Zealand National Fieldays Society Inc. [280.2] and Waipa District Council [939.5].

Figure 5: Depicting the noise boundary relating to Waikato District Council (Source: Submission document)



299. Andrew and Christine Gore [330.95] do not outline any relief sought, and due to the absence of specificity I recommend this submission be rejected.
300. Fire and Emergency New Zealand [378.40] seek to retain the rule as notified. Pareoranga Te Kata [FS1035.146] supports the submission. I recommend that the panel accept this submission only in part, as I have recommended amendments to Rule 23.2.1 in response to other submissions.
301. Waikato District Council submission [697.856] seeks to clarify the rules by deleting P3 and adding the standards to P2, to ensure that the standards referred to in P5 are complied with in conjunction with the rule. Colette Hanrahan [FS1051.17] opposes the submission, however it is noted that the further submission refers to subdivision Rule 23.4.10, which relates to walkways which seems like an error in the further submission. As well, Waikato

District Council [697.857] is seeking to delete P5 and to include the standards within P4. I agree with the changes, as they provide clarity to the plan user as to how the noise rules are to be implemented. I recommend that the panel accept Waikato District Council submission [697.856] and [697.857].

302. Two highly detailed submissions were received from the Waikato District Health Board [923.159 and 923.160] which sought amendments to the noise standards. Due to lack of time I have not been able to obtain expert advice from a specialist in acoustics, however I will obtain this analysis prior to the hearing and will make this available to the Waikato District health Board for their consideration.

6.3.3 Recommendation

303. For the reasons given above, I recommend that the hearings panel:
- (a) **Reject** New Zealand National Fieldays Society Inc. [280.2] and Waipa District Council [923.160]
 - (b) **Reject** Andrew and Christine Gore [330.95]
 - (c) **Accept** in part Fire and |Emergency New Zealand [378.40] and Pareoranga Te Kata [FS1035.146]
 - (d) **Accept** Waikato District Council [697.856] and **reject** Colette Hanrahan [FS1051.17]
 - (e) **Accept** Waikato District Council [697.857].
 - (f) **Reject** Waipa District Council [939.5]
 - (g) **Defer** the submissions from Waikato District Health Board [923.159 and 923.160] to the hearing and obtain expert acoustic advice in advance of the hearing.

6.3.4 Recommended amendments

Noise – General 23.2.1

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 must not exceed:</p> <ul style="list-style-type: none"> (i) 50dB (L_{Aeq}), 7am to 7pm every day; (ii) 45dB (L_{Aeq}), 7pm to 10pm every day; (iii) 40dB (L_{Aeq}) and 65dB (L_{Amax}), 10pm to 7am the following day. <p>(b) <u>²²Noise measured within any site in any other zone, other than the Rural Zone, must meet the permitted noise levels for that other zone.</u></p> <ul style="list-style-type: none"> (i) <u>Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 "Acoustics Measurement of Environmental Sound".</u> (ii) <u>Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 "Acoustic Environmental noise".</u> [697.856]
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. [697.856]</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: (i) 65dB (L_{Aeq}), 7am to 10pm; (ii) 50dB (L_{Aeq}) and 75dB (L_{Amax}), 10pm to 7am the following day, <p>(b) Outside Tamahere Commercial Areas A and B, does not exceed:</p> <ul style="list-style-type: none"> (i) 55dB (L_{Aeq}), 7am to 10pm;

²² [697.856]

	(ii) 40dB (L _{Aeq}) and 70dB (L _{Amax}), 10pm to 7am the following day. <u>²³(c) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 "Acoustics Measurement of Environmental Sound".</u> <u>(d) Noise levels shall be assessed in accordance with the requirements of Standard NZS 6802:2008 "Acoustic- Environmental noise".</u>
P5	(a) Noise levels shall be measured in accordance with the requirements of Standard NZS 6801:2008 "Acoustics Measurement of Environmental Sound". (b) Noise levels shall be assessed in accordance with the requirements of Standard NZS 6802:2008 "Acoustic Environmental noise". [697.857]
DI	Noise that does not comply with Rule 23.2.1.1 P1, P2, P3 , P4 or P5 . [697.856], [697.857]

6.3.5 Section 32AA evaluation

304. The recommended amendments are to provide clarification without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

6.4 Rule 23.2.1.2 Construction Noise

6.4.1 Submissions

305. Two submissions were received - one seeking amendments for clarification, and the other seeks no specific decision.

Submission point	Submitter	Summary of submission
330.70	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2.1.2 Noise - Construction.
697.858	Waikato District Council	Amend Rule 23.2.1.2 P1(a) Noise - Construction, as follows: Noise generated from the construction site must <u>not exceed</u> meet the limits in NZS 6803:1999 (Acoustics - Construction Noise);

6.4.2 Analysis

306. Andrew and Christine Gore [330.70] do not outline any relief sought, and due to the absence of specificity I recommend this submission is rejected.

307. The submission from Waikato District Council [697.858] seeks to amend Rule 23.2.1.2 to provide clarification. Construction noise should not 'exceed' the limits, rather than 'meet' the limits. I recommend that the panel accept the submission from Waikato District Council [697.858].

6.4.3 Recommendation

308. For the reasons given above, I recommend that the hearings panel

- (a) **Reject** Andrew and Christine Gore [330.70]
- (b) **Accept** Waikato District Council [697.858].

6.4.4 Recommended amendments

PI(a) Noise - Construction, as follows: Noise generated from the construction site must not exceed ~~meet~~ the limits in NZS 6803:1999 (Acoustics - Construction Noise); [697.858]

²³ [697.857]

6.4.5 Section 32AA evaluation

309. The recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

6.5 Rule 23.2.2 Glare and Artificial Light Spill

6.5.1 Submissions

310. Two submissions have been received - one to retain the rule, and the other seeks no specific decision.

Submission point	Submitter	Summary of submission
330.96	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2.2 Glare and Artificial Light Spill.
742.234	New Zealand Transport Agency	Retain Rule 23.2.2 PI Glare and Artificial Light Spill as notified. AND Retain Rule 23.2.2 RDI Glare and Artificial Light Spill as notified.

6.5.2 Analysis

311. Andrew and Christine Gore [330.96] do not outline any relief sought, and due to the absence of specificity I recommend this submission is rejected.

312. New Zealand Transport Agency [742.234] seeks to retain the rule as notified. I recommend that the panel accept The New Zealand Transport Agency [742.234] as this rule sets out standards to manage glare and light spill.

6.5.3 Recommendation

313. For the reasons given above, I recommend that the hearings panel

(a) **Reject** Andrew and Christine Gore [330.96]

(b) **Accept** New Zealand Transport Agency [742.234].

6.5.4 Recommended amendments

314. There are no changes recommended in response to the submissions.

6.5.5 Section 32AA evaluation

315. There are no recommended amendments. Accordingly, no s32AA evaluation has been undertaken.

6.6 Rule 23.2.3 Earthworks

316. The rules for earthworks ensure that the size of permitted excavations will not have any significant adverse effects on amenity and character of the zone. The Waikato Regional Policy Statement establishes the overarching policy for earthworks, and the Waikato Regional Plan also has a function to manage earthworks. The role of the Regional Council is soil conservation, sedimentation and discharges.

6.6.1 Submissions

317. 21 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.

Submission point	Submitter	Summary of submission
330.97	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2.3 Earthworks, and/or all rules sitting under Rule 23.2.3.
662.24	Blue Wallace Surveyors Ltd	Retain Rule 23.2.3.1 P1 Earthworks - General, except for the amendments sought below AND Amend Rule 23.2.3.1 P1 (a) (iii) Earthworks - General as follows: (iii) A building platform <u>and accessway</u> for a residential activity including an accessory building.
662.25	Blue Wallace Surveyors Ltd	Amend Rule 23.2.3.1 P2 Earthworks - General as follows: (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: (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 12 month period; ... (iii) Earthworks are set back +0.5 m from any boundary; ...
695.105	Sharp Planning Solutions Ltd	Retain the maximum area of earthworks in Rule 23.2.3.1 P2 Earthworks - General.
695.106	Sharp Planning Solutions Ltd	Amend Rule 23.2.3.1 P2 Earthworks - General, so that earthworks limits be applied as a ratio of the site area i.e. 1:1 so that a 450m ² site would provide 450m ³ of earthworks.
695.107	Sharp Planning Solutions Ltd	Amend Rule 23.2.3.1 P4 (i) Earthworks - General, to increase the infill volume from 20m ³ to 50m ³ .
695.108	Sharp Planning Solutions Ltd	Amend Rule 23.2.3.1 P4 (ii) Earthworks - General, to increase the maximum depth from 1m to 1.5m.
697.860	Waikato District Council	Amend Rule 23.2.3(1) Earthworks, as follows: (1) Rule 23.2.3.1 – Earthworks General, provides the permitted rules for earthworks activities for the Rural Zone. <u>This rule does not apply in those areas specified in Rule 23.2.3.1A, 23.2.3.2, 23.2.3.3 and 23.2.3.4.</u>
697.861	Waikato District Council	Delete Rule 23.2.3.1 P1 (a) (ii) Earthworks - General.
697.863	Waikato District Council	Amend Rule 23.2.3.1 P2(a) Earthworks - General, as follows: (i) Do not exceed a volume of more than 250m ³ and an area of more than 1000m ² within a site over any single <u>consecutive</u> 12 month period;

		(iii) Earthworks are setback <u>at least</u> 1.5m from any boundary;
697.864	Waikato District Council	Delete Rule 23.2.3.1 P3 Earthworks - General; AND Amend Rule 23.2.3.1 RDI (a) as follows: (a) Earthworks that do not comply with Rule 23.2.3.1 P1, P2, P3-or P4.
697.865	Waikato District Council	Amend Rule 23.2.3.1 P4(a)(iv) Earthworks - General, as follows: (iv) Fill material is setback <u>at least</u> 1.5m from all boundaries;
746.116	The Surveying Company	Amend Rule 23.2.3.1 P2 (a) (i)- Earthworks - General to increase the earthworks volume to 500m ³ .
<i>FS1287.43</i>	<i>Blue Wallace Surveyors Ltd</i>	Supports submission 746.116
746.144	The Surveying Company	No specific decision sought, but submission supports with amendments Rule 23.2.3.1 P1 Earthworks - General and considers that where subdivision has been approved, there should be no requirements for land owners to apply for additional resource consents for earthworks to undertake permitted activities on the land.
746.145	The Surveying Company	No specific decision sought, but submission supports with amendments Rule 23.2.3.1 P3 Earthworks - General and considers that where subdivision has been approved, there should be no requirements for land owners to apply for additional resource consents for earthworks to undertake permitted activities on the land.
875.2	DPI 2014 Limited	No specific decision sought, but submission recognises that the importation of fill to enable residential development is appropriate in Rule 23.2.3.1 Earthworks - General, and questions whether this would be a permitted activity (P2) or a non-complying activity (NCI).
943.64	McCracken Surveys Limited	Amend Rule 23.2.3.1 P1 (a)(iii) Earthworks - General, to include access/driveway.
945.23	First Gas Limited	Add a new condition to Rule 23.2.3.1.P2 (a)(vii) Earthworks-General: <u>(vii) Earthworks to a depth of greater than 200mm are to be located a minimum of 12m from the centerline of a gas pipeline.</u> AND Any consequential amendments and other relief to give effect to the matters raised in the submission.
<i>FS1305.23</i>	<i>Andrew Mowbray</i>	Opposes submission 945.23
<i>FS1289.3</i>	<i>Mowbray Group</i>	Opposes submission 945.23
945.24	First Gas Limited	Add a matter of discretion to Rule 23.2.3.1 RDI (b) Earthworks-General as follows: <u>(xii) Effects on the safe, effective and efficient operation, maintenance and upgrade of infrastructure, including access.</u>

		AND Any consequential amendments and other relief to give effect to the matters raised in the submission.
<i>FS1134.88</i>	<i>Counties Power Limited</i>	Supports submission 945.24
986.105	KiwiRail Holdings Limited (KiwiRail)	Add a new clause (vii) to Rule 23.2.3.1 P2(a) Earthworks - General as follows (or similar amendments to achieve the requested relief): <u>(vii) Be located more than 1.5 m horizontally from any infrastructure, including a waterway, open drain or overland flow path;</u> AND Any consequential amendments to link and/or accommodate the requested changes.
<i>FS1176.318</i>	<i>Watercare Services Ltd</i>	Supports submission 986.105
986.113	KiwiRail Holdings Limited (KiwiRail)	Amend Rule 23.2.3.1 P2 (a)(iv) Earthworks general as follows (or similar amendments to achieve the requested relief): <u>(iv) Areas exposed by the earthworks are stabilized to avoid runoff within 1 month of the cessation re-vegetated to achieve 80% ground cover 6 months of the commencement of the earthworks</u> AND Any consequential amendments to link and/or accommodate the requested changes.

6.6.2 Analysis

318. Andrew and Christine Gore [330.97] do not outline any relief sought in their submission, and I recommend this submission be rejected.

Inclusion of access ways

319. Blue Wallace Surveyors Ltd [662.24] and McCracken Surveys Limited [943.64] both seek to amend the earthworks rule to accommodate the access way as part of development works in PI. The effect of this amendment would be that earthworks associated with access ways are not subject to the maximum volumes and area standards. I disagree with this approach, as the development of an access way has the potential to be substantial, particularly in the Country Living Zone where the sites are over 5000m². The effects as such should be addressed through an assessment of the scale of the access way that is required to reach the building platform. The submissions consider that earthworks are inherent in subdivision consents, however although an access way is considered, there is no specific requirement to create the access way through the subdivision consent process. The subdivision may require proof of a complying house site; however, the access way may or may not be created to that site. This allows for some flexibility for a property owner to decide where the building platform is located and the route for access to reach it. There is a permitted baseline for earthworks which can be applied, and if the volume and area are exceeded, the consenting process is an appropriate way to manage the activity. I therefore recommend that the panel reject Blue Wallace Surveyors [662.24] and McCracken Surveys Limited [943.64].

Volume and area of earthworks

320. Blue Wallace Surveyors [662.25] and The Surveying Company [746.116] both seek to increase the volume of earthworks from 250m³ to 500m³. Blue Wallace [FS1287.43] also supports The Surveying Company's submission. I agree with the increase in volumes, as

generally a Country Living Zone lot size has a minimum area of 5000m² and a variety of sizes upwards. I consider 500m³ to be an appropriate amount of earthworks and the fundamental shape and contour would likely be retained. In terms of what 500m³ amounts to, and the effects on amenity and truck movements, a truck has a capacity of around 8-10m³, which would equate to approximately 50 truck movements (or 25 truck and trailer loads). This may seem a lot, however the earthworks activity is temporary in nature, although the outcome may be more permanent. I consider that increasing the volume would not have any permanent impact on neighbouring properties in terms of character and amenity. Of note, the s42A report writer for the Hearing 6 Village Zone has also recommended an increase from 250m³ to 350m³, which acknowledges the size of the properties within that zone. I consider increasing the volume within the Country Living Zone to 500m³ is appropriate. This amount would also allow flexibility to a property owner to undertake landscaping projects that will further improve the amenity of the site and wider area.

321. Sharp Planning Solutions [695.105] seek to retain the maximum area of earthworks. I recommend the panel accept Sharp Planning Solutions [695.105].
322. Sharp Planning Solutions [695.106] seeks to amend the earthworks rule to apply a ratio of 1:1 on a site so that a 450m² site would enable 450m³ of earthworks. I disagree with this approach, as this would potentially mean that large volumes and areas of earthworks could be undertaken without due consideration of the effects. For example, a 5000m² property (which is the minimum lot size for the Country Living Zone) would be able to undertake 5000m³ of earthworks which is a significant volume. This scenario would also not give effect to the Waikato Regional Policy Statement Policy 14.1 which focuses on managing the effects of activities to maintain soil quality and reduce the risk of erosion. In some cases this would also breach rules in the Waikato Regional Plan. I consider the volumes and area proposed (subject to my recommended amendment to the maximum volume) are appropriate to manage the adverse effects that can be generated by earthworks. I recommend that the panel reject Sharp Planning Solutions [695.106].

Reduction of setback

323. The submission from Blue Wallace also seeks to reduce the setback to the boundary from 1.5m to 0.5m. I do not agree with the reduction, as there needs to be adequate restriction as to how close to a neighbouring boundary earthworks can occur. In my own experience as a Monitoring Officer, I have observed the undermining of fence lines and retaining walls when cuts have been made, and offsite effects when earth is piled up on the boundary. Further to this, there needs to be room between boundaries to construct sediment controls. In my opinion, the 1.5m setback is appropriate. I recommend that the panel reject these parts of the submission from Blue Wallace [662.25] and accept the submission from The Surveying Company [746.116].
324. Waikato District Council [697.865] seeks to add the words 'at least' into Rule 23.2.3.1 P4. I agree with the inclusion of the additional wording, as this provides clarity to the rule and I recommend that the panel accept Waikato District Council [697.865].

Importation and depth of fill

325. Sharp Planning Solutions [695.107] seeks to increase the volume of fill material from 20m³ to 50m³. I agree with the increase in volume. As previously discussed, 20m³ is only two truckloads and this would not allow landscaping bunds to be constructed. It is my opinion that 50m³ would be a more appropriate amount - and keeping in mind the size of a Country

Living Zone property, the increase in volume would not result in any increase in adverse effects. I recommend that the panel accept Sharp Planning Solutions [695.107].

326. Sharp Planning Solutions [695.108] seeks to increase the depth of fill from 1m to 1.5m in Rule P4(a)(ii). My understanding is the 1m depth is to ensure that no stability issues arise. However, Rule P2 has a permitted baseline of 1.5m depth of cut or fill above or below ground level. There is also a clause that restricts the slope to 1:2 (1 vertical to 2 horizontal) which will help with stability. I agree with the increase as sought by the submitter and therefore recommend that the panel accept Sharp Planning Solutions [695.108].

General format

327. The submission point from Waikato District Council [697.860] refers to the Rural Zone. This appears to be an error. The intent of the submission is to ensure that the general earthworks rules do not apply to 23.2.3.2, 23.2.3.3 and 23.2.3.4. I recommend the recognition of these three rule references, as this will clarify that the general earthworks rule will not apply to these specific areas. There is a risk that earthworks in a specific area are covered by inconsistent rules. I also note that the incorrect rule reference has been made. The amended wording to the rule will provide clarity for the plan user. I recommend that the panel accept Waikato District Council [697.860].
328. Waikato District Council [697.861] seeks to delete Rule 23.2.3.1 PI (a) (ii). The reason given is that the content of the clause (being earthworks for the purposes of tracks, fences or drains) is already contained within the definition of Ancillary Rural Earthworks. The term 'Ancillary Rural Earthworks' was discussed in Hearing 5 Definitions. In that hearing the recommendation was to use this terminology, however the definition will also be considered in the Rural Zone hearing and the Country Living Zone hearing. The definition of ancillary rural earthworks is as follows:

Means any earthworks or disturbance of soil associated with:

- (a) *cultivation, land preparation (including establishment of sediment and erosion control measures), for planting and growing operations;*
- (b) *harvesting of agricultural and horticultural crops (farming) and forests (forestry); and*
- (c) *maintenance and construction of facilities typically associated with farming and forestry activities, including, but not limited to, **farm/forestry tracks**, roads and landings, stock races, silage pits, **farm drains**, farm effluent ponds, feeding pads, **fencing** and sediment control measures.*

[emphasis added]

However, this definition will be further discussed in the Rural Zone Hearing. Although tracks, fences or drains do fall within the definition of "ancillary rural earthworks", not everyone undertaking earthworks for these purposes will be undertaking a rural activity. For example, fencing of swimming pools would not be considered to be a rural activity. Therefore I recommend that the panel reject the submission from Waikato District Council [697.861].

329. Waikato District Council [697.863] seeks to amend the wording of Rule 23.2.3.1 P2(a) Earthworks - General by adding 'consecutive' to it. I agree with this amendment, as it provides clarity to the plan user. I therefore recommend that the panel accept Waikato District Council [697.863].
330. Waikato District Council [697.864] seeks to delete Rule 23.2.3.1 P3, as this has been included in Rule 23.2.3.1 PI(a)(iii). As a consequence, reference to P3 in Rule 23.2.3.1 RDI should be deleted. I agree with the submission, as it removes a duplication of rules. I recommend that the panel accept Waikato District Council [697.864].

331. Submissions from The Surveying Company [746.144 and 746.145] and DPI 2014 Limited [875.2] cannot be appropriately analysed, as the intent of the submissions is unclear and no specific relief is sought. The submitters are invited to provide clarification of their submissions through evidence. In the absence of this information in the submissions, I recommend that the panel reject The Surveying Company [746.144] and [746.145] and DPI 2014 Limited [875.2].

Setback to infrastructure

332. First Gas Limited submissions [945.23] and [945.24] seek an additional requirement to earthworks Rule 23.2.3.1 P2 (a)(vii), and an associated matter of discretion to Rule 23.2.3.1 RDI (b). Andrew Mowbray [FS/305.23] and Mowbray Group [FS/289.3] oppose the submissions and Counties Power [FS/134.88] supports submission [945.24]. First Gas seeks that any earthworks greater than 200mm in depth within 12m of the gas line be subject to consent. I believe this to be an unnecessary addition to the rule, as the gas pipelines are either covered by a designation or an easement which restrict earthworks (and other activities) within the 12m corridor. In my opinion, it is First Gas's responsibility to implement this requirement and not a matter for a district plan. I recommend that the panel reject First Gas Limited submissions [945.23] and [945.24].

333. With regards to the request for an additional matter of discretion assessing the impacts of earthworks on infrastructure, I agree that this is appropriate. The inclusion of an additional matter of discretion will be an effective way to help achieve Objective 6.1.1 Development, operation and maintenance of infrastructure. I therefore recommend accepting the submission point from First Gas [945.24].

334. KiwiRail [986.105] seeks to add a new clause regarding a 1.5m horizontal distance for earthworks in relation to infrastructure. Watercare Services Ltd [FS/176.318] supports the submission. In terms of infrastructure and boundary setbacks, this is covered in P2 (a) (iii), where there is a requirement to be 1.5m from any boundary, so would serve no purpose in regard to a rail corridor. The suggested amendment would apply to all infrastructure (for example historic water lines, culverts, fibre etc) and in my opinion this would be impractical, as there is insufficient data to know for certain where the infrastructure is located. It would be impossible to monitor an earthworks rule in this regard. In addition, it would mean that the infrastructure providers could not undertake earthworks to access their own assets. On this basis, I recommend that the panel reject KiwiRail [986.105].

335. KiwiRail [986.113] seeks to amend the wording in Rule 23.2.3.1 P2 (a)(iv) to use 'stabilised' as opposed to being revegetated. The proposed 80% coverage within 6 months is not only for the purposes of erosion control and dust issues, but also for amenity. However I appreciate that there are other ways to stabilise earthworks that are not vegetation such as concrete or hardstand. I recommend that the panel accept the submission from KiwiRail [986.113].

6.6.3 Recommendation

336. For the reasons given above, I recommend that the hearings panel:

- (a) **Reject** Andrew and Christine Gore [330.97]
- (b) **Reject** Blue Wallace Surveyors Ltd [662.24] and McCracken Surveys Limited [943.64]
- (c) **Accept in part** Blue Wallace Surveyors Ltd [662.25] and The Surveying Company [746.116]
- (d) **Accept in part** Blue Wallace Surveyors Ltd [FS/287.43]

- (e) **Accept** Sharp Planning Solutions [695.105]
- (f) **Reject** Sharp Planning Solutions [695.106]
- (g) **Accept** Sharp Planning Solutions [695.107]
- (h) **Accept** Sharp Planning Solutions [695.108]
- (i) **Accept in part** Waikato District Council [697.860]
- (j) **Reject** Waikato District Council [697.861]
- (k) **Accept** Waikato District Council [697.863]
- (l) **Accept** Waikato District Council [697.864]
- (m) **Accept** Waikato District Council [697.865]
- (n) **Reject** First Gas Limited submissions [945.23] and **accept** Andrew Mowbray [FSI 305.23] and Mowbray Group [FSI 289.3]
- (o) **Accept** First Gas Limited [945.24] and the further submission from Counties Power [FSI 134.88]
- (p) **Reject** KiwiRail [986.105] and Watercare Services Ltd [FSI 176.318]
- (q) **Accept** KiwiRail [986.113]
- (r) **Reject** The Surveying Company [746.144], [746.145] and DPS 2014 Limited [875.2].

6.6.4 Recommended amendments

337. The following amendments are recommended:

- (1) Rule 23.2.3.1 – Earthworks General, provides the permitted rules for earthworks activities for the Country Living Zone. This rule does not apply in those areas specified in, 23.2.3.2, 23.2.3.3 and 23.2.3.4. [697.860]

23.2.3.1 Earthworks - General

P2	<p>(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:</p> <ul style="list-style-type: none"> (i) Do not exceed a volume of more than 250-500m³ and an area of more than 1000m² 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. <p>[662.25], [746.116]</p>
P3	<p>(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:</p> <p>(i) be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development. [697.863]</p>
P4	<p>(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:</p>

	<ul style="list-style-type: none"> (i) Not exceed a total volume of 2050m³; (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; (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. <p>[695.107], [695.108]</p>
RD1	<ul style="list-style-type: none"> (a) Earthworks that do not comply with Rule 23.2.3.1 P1, P2, P3 or P4. [697.864] (b) Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> ... (xii) <u>Effects on the safe, effective and efficient operation, maintenance and upgrade of infrastructure, including access.</u>

6.6.5 Section 32AA evaluation

338. The Objective for the Country Living Zone fundamentally manages the character and amenity of the zone. The recommended amendments to Earthworks Rule 23.2.3 are to provide a more practical approach to the volume of earthworks, reflective of the lot size and character of the zone.

339. The inclusion of a matter of discretion regarding infrastructure is an effective way to achieve Objective 6.1.1 Development, operation and maintenance of infrastructure.

Other reasonably-practicable options

340. An option would be to maintain the proposed volume of 250m³, however on properties that are usually 5000m² or larger than this, this would be limiting. Increasing the volume to 500m³ is a more practical approach while still supporting the policies of the zone.

341. In terms of consideration of infrastructure, an option would be to have no assessment criteria as was the approach in the notified Plan.

Effectiveness and efficiency

342. The recommended amendments to Rule 23.2.3 still give effect to the Regional Policy Statement in regard to soil erosion, as the other provisions ensure that the adverse effects on the environment are minimised. The amendment to the rule improves the effectiveness of the policies in implementing the objective, as it will support Policy 5.6.3 in terms of creating building platforms that are appropriately positioned.

343. The inclusion of a matter of discretion regarding infrastructure is an effective way to achieve Objective 6.1.1 Development, operation and maintenance of infrastructure. It will ensure that earthworks will not affect the ability for infrastructure to be developed, operated and maintained.

Costs and benefits

344. There may be perceived costs, in that there is potential for adverse effects such as sedimentation and erosion and effects on amenity. However, other provisions in the plan manage these. The recommended amendments to Earthworks Rule 23.2.3 will provide a

more practical approach to the volume of earthworks that can be undertaken. The benefit of the increased volume will allow for a more flexible approach to situations where building platforms can be created without having to engage with the consenting process, and as well provide for landscaping activities to occur.

345. There will not be any additional costs associated with an additional matter of assessment regarding infrastructure.

Risk of acting or not acting

346. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment of the rule.

Decision about most appropriate option

347. The amendment is considered to be more appropriate in achieving the Objective for the Country Living Zone than the notified version, as it provides for the sustainable use of the land.
348. The additional matter of discretion regarding infrastructure is the most appropriate way to achieve Objective 6.1.1, and ensuring that earthworks will not affect the ability for infrastructure to be developed, operated and maintained.

6.7 Rule 23.2.6.1 - Signs General

349. The rules for signs (23.2.6.1 and 23.2.6.2) manage the number of signs and their placement, to ensure that visual amenity and traffic safety are considered. Rule 23.2.6.1 establishes standard and rules for general signs and real estate signs.

6.7.1 Submissions

350. 16 submissions were received, across a wide range of aspects of the sign rules.

Submission point	Submitter	Summary of submission
330.71	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2.6 - Signs-General.
330.100	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2.6.1 Signs - General.
433.25	Auckland Waikato Fish and Game Council	Amend Rule 23.2.6.1 P1 Signs - General, as follows: A public information sign erected by a government agency <u>and Auckland Waikato Fish and Game Council</u> . AND/OR Any alternative relief to address the issues and concerns raised in the submission.
433.26	Auckland Waikato Fish and Game Council	Delete Rule 23.2.6.1 P2 (a) (i) and (vii) Signs - General, relating to a single sign AND Delete Rule 23.2.6.1 P2 (a) (viii) Signs-General relating to the Waikato Expressway AND/OR Any alternative relief to address the issues and concerns raised in the submission.

FSI 323.187	Heritage New Zealand Pouhere Taonga	Opposes submission 433.26
559.86	Heritage New Zealand Lower Northern Office	Amend Rule 23.2.6.1 P2 Signs - general to exclude any type of signage on Heritage Items and Maori Sites of Significance. AND Amend Rule 23.2.6.1 RDI Signs - general to include signage on Heritage items and Maaori Sites of Significance. AND Add an advice note under this new rule to advise of the other heritage building related rules within the Chapter. AND Provide for any consequential amendments as required.
602.53	Greig Metcalfe	Amend Rule 23.2.6.1. P3 (a) Signs - general as follows: (a) Any real estate 'for sale' sign relating to the site on which it is located must comply with all of the following conditions: (i) There is no more than 1 sign per agency <u>measuring 600mm x 900mm per road frontage of the site to which the sign relates;</u> (ii) <u>There is no more than 1 sign measuring 1800mm x 1200mm per site to which the sign relates;</u> (iii) <u>There is no more than 1 real estate header sign measuring 1800mm x 1200mm on one other site;</u> (ii) (iv) The sign is not illuminated; (iii) (v) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials; (iv) (vi) The sign does not project into or over road reserve. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
FSI 323.87	Heritage New Zealand Pouhere Taonga	Opposes submission 602.53
695.112	Sharp Planning Solutions Ltd	Amend Rule 23.2.6.1 P2 (a) (iii) Signs - General, to increase the maximum sign size to 3m ² (total per site).
FSI 323.88	Heritage New Zealand Pouhere Taonga	Opposes submission 695.112
695.113	Sharp Planning Solutions Ltd	No specific relief sought for Rule 23.2.6.1 P2 (a) (vii), however the submission notes that Council has no jurisdiction over State Highways and the Waikato Expressway when these are under NZTA jurisdiction.
697.878	Waikato District Council	Delete Rule 23.2.6.1 P2(a)(viii) Signs - General; AND Amend Rule 23.2.6.1 P2(a)(xi) Signs - General, as follows: (xi) The sign is <u>for the purpose of identification and interpretation not attached to</u> of a Maori site of

		significance listed in Schedule 30.3 (Maori Sites of Significance) except for the purpose of identification and interpretation;
697.879	Waikato District Council	Amend Rule 23.2.6.1 P3 Signs - General as follows: (a) A real estate 'for sale' or 'for rent' sign relating to the site on which it is located must comply with all of the following conditions: (i) There is no more than 4 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 road reserve.
742.235	New Zealand Transport Agency	Retain Rule 23.2.6.1 P1 Signs - General as notified. AND Retain Rule 23.2.6.1 P2 Signs - General as notified. AND Retain Rule 23.2.6.1 RDI Signs - General as notified.

6.7.2 Analysis

351. Submissions from Andrew and Christine Gore [330.71] and [330.100] and Sharp Planning Solutions Ltd [695.113] do not outline any relief sought in their submissions. In the absence of this detail, I recommend these submissions be rejected.
352. The submission from Auckland Waikato Fish and Game [433.25] seeks to allow a permitted activity status for signs for their organisation. The reasons provided in the submission are that Fish and Game erect important public signs. The purpose of the signage rules is to protect the visual amenity and character of the zone and standards are imposed to avoid excessive signage or signs that would adversely affect non-commercial land uses or traffic safety. The proposed provisions do however, recognise that signage may be required as part of non-residential activities and have standards which would allow Fish and Game to erect a sign on a property as a permitted activity if the sign meets all of the standards. The provisions as notified allow an appropriate level of signage which helps to maintain the amenity and character of the zone. For the reasons discussed, I recommend that the panel reject Auckland Waikato Fish and Game [433.25].
353. An additional submission point from Auckland Waikato Fish and Game [433.26] seeks to delete a number of standards from the rule including the requirement to have a maximum of one sign per site, set backs from the State Highway and the location of a sign on a road reserve. Heritage New Zealand [FS/323.187] opposes the submission. The reasons provided in the submission are that these standards are too restrictive for the purposes of Auckland Waikato Fish and Game. In my opinion the standards are appropriate for the management of signage in the zone, particularly given that the purpose of the zone is a rural residential environment. I consider the standards to be appropriate and any deviation from these assessment criteria can be assessed through a consenting process. I recommend that the panel reject Auckland Waikato Fish and Game [433.26].
354. New Zealand Transport Agency [742.235] is seeking to retain Rules 23.2.6.1 P1, P2 and RDI Signs - General as notified. I have recommended accepting this submission in part only, as I have recommended amendments to the rule in response to other submissions.

355. The submission from Waikato District Council [697.878] seeks to delete clause 23.2.6.1 P2(a)(viii) which relates to road reserve. This is due to the clause is not required, as the Country Living Zone provisions do not apply within the road reserve. I consider this is an appropriate amendment.

Signs on heritage items and Maaori sites and areas of significance

356. The submission from Heritage New Zealand Lower Northern Office [559.86] seeks that there be no signage on heritage items or Maaori sites of significance. In my opinion, Rule 23.2.6.1 P2 enables signs for identification and interpretation purposes only while preventing signs on these items or features for any other purpose. I consider this approach to be appropriate. The size of the sign is limited to 1m² and is unlikely to compromise a building, or a Maaori site of significance. In regard to the request to include signage on heritage items and Maaori Sites of Significance as a restricted discretionary activity, I consider this to be unnecessary, as the permitted activity size is limited to 1m² and any sign that does not meet this will be a restricted discretionary activity with appropriate matters of discretion which relate to heritage.
357. With respect to an advisory note sought by Heritage New Zealand, the panel may consider including a general advice note in the opening chapter of the Proposed Plan guiding plan users to Heritage New Zealand Pouhere Taonga. This will become particularly useful when the Proposed District Plan is transitioned to the National Planning Standards and there is a dedicated Historic Heritage chapter. In terms of the request to add an advice note signposting other heritage building related rules within the Chapter, the National Planning Standards will negate the need. I recommend that the panel reject Heritage New Zealand Pouhere Taonga [559.86].
358. Waikato District Council [697.878] seeks reordering of the wording of clause P2(a)(xi). However, the amendments as they are written do not achieve the desired outcome, because the amendments sought would require every sign to be for the purposes of identification and interpretation. My understanding is that the intent of the submission is that you could not physically 'attach' a sign to a Maaori site of Significance. I recommend alternative wording to achieve the outcome sought such as: 'On a site with a Maaori site of significance listed in Schedule 30.3 (Maaori sites of Significance) for the purpose of identification and interpretation.' This wording makes it clear that clause 23.6.1 P2(a)(xi) only applies to these sites. I recommend that the panel accept in part the submission from Waikato District Council [697.878].

Size and number of real estate signs

359. The submission from Greig Metcalfe [602.53] seeks to amend Rule 23.2.6.1 P3 which relates to real estate signs to introduce size limits. Heritage New Zealand Pouhere Taonga [FS/323.87] opposes the submission. Waikato District Council [697.879] also seeks amendment to the real estate signage rules to address "for rent" as well as "for sale" and to apply the rules per site rather than per agency. The submission from Waikato District Council also sought to remove the standard requiring real estate signs to not protrude over the road reserve.
360. Mr Metcalfe sought to allow signs on each road frontage rather than each site. I disagree with this, as this has potential to have adverse effects on the character and amenity of the zone, particularly when this is combined with the request to allow signs per agency rather than per site. Signs on corners sites where there are multiple road frontages have the potential to impact on traffic safety and public rights-of-way.
361. I agree with the inclusion of a size for real-estate signs, however when setting a size for a sign, the size needs to be considered in conjunction with the number of signs. Mr Metcalfe has recommended allowing one sign per agency at 0.54m². However, if there is one sign per agency, there is the potential to result in a proliferation of signs. Mr Metcalfe has also

recommended, in addition to one sign per agency, an allowance for one sign per site to be up to 2.16m² (relating to that site) and an additional 2.16m² sign on one other site. My understanding of the latter request is to allow a sign not related to the site to be placed somewhere else. Mr Metcalfe may wish to clarify this at the hearing, but I have concerns about traffic safety and amenity impacts. In respect of the size of the sign, I recommend inclusion of a size requirement as this is currently missing from the rule. I recommend a compromise between 0.54m² and 2.16m², and suggest that 1m² would be appropriate. It is worth noting that the Operative Waikato District Plan Waikato and Franklin sections both contain a size limit for a real estate sign of 1m², and apart from placement of signs has not caused any issues. Should the panel accept this recommendation, I suggest that this be adopted across all zones to avoid issues with inconsistency between the zones. I recommend that the panel accept in part the submission from Greig Metcalfe [602.53].

362. In respect of Waikato District Council's submission [697.879], I agree with the amendment from one sign per agency to three signs per site, as this in my opinion allows for adequate advertising of a property on a temporary basis, with a temporary effect on the character and amenity of the area. I recommend allowing 3 real estate signs per site and limiting the size of each sign to 1m². In respect of the additional wording 'for rent', I believe this to be unnecessary, as the hearing report writer of Topic 5 Definitions has recommend that the definition of 'Real estate sign' be included as follows:

*Real estate sign: Means a real estate sign advertising a property or business for sale, **for lease, or for rent.***

[emphasis added]

363. I therefore do not consider that the rule needs to be amended to specifically enable signs for rent. For the reasons given above, I recommend that the panel accept in part Greig Metcalfe [602.53] and Waikato District Council [697.879].

Size of signs

364. Sharp Planning Solutions Ltd [695.112] seeks to amend the sign size in Rule P2 to increase it from 1m² to 3m². Heritage New Zealand Pouhere Taonga [FS695.112] opposes the submission. I consider a maximum size of 1m² to be appropriate given the rural residential purpose of the zone, and to minimise effects on traffic safety, character and amenity. I recommend that the panel reject Sharp Planning Solutions Ltd [695.112].

6.7.3 Recommendation

- (a) **Reject** Andrew and Christine Gore [330.71] and [330.100]
- (b) **Reject** Auckland Fish and Game [433.25]
- (c) **Reject** Auckland Fish and Game [433.26] and **accept** Heritage New Zealand Pouhere Taonga [FS1323.187]
- (d) **Reject** Heritage New Zealand Pouhere Taonga [559.86]
- (e) **Accept in part** Greig Metcalfe [602.53] and **reject** Heritage New Zealand Pouhere Taonga [FS1323.87]
- (f) **Accept in part** Waikato District Council [697.879]
- (g) **Reject** Sharp Planning Solutions Ltd [695.112] and **accept** Heritage New Zealand Pouhere Taonga [FS1323.88]
- (h) **Reject** Sharp Planning Solutions Ltd [695.113]
- (i) **Accept in part** New Zealand Transport Agency [742.235]
- (j) **Accept in part** Waikato District Council [697.878].

6.7.4 Recommended amendments

23.2.6.1 Signs-General

P2	<p>(a) A sign must comply with all of the following conditions:</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 1 m²; (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; (ix) The sign is not attached to a tree identified in Schedule 30.2 Notable Trees, except for the purpose of identification; (x) The sign is not attached to a heritage item listed in Schedule 30.1(Heritage Items) except for the purpose of identification and interpretation; (xi) The sign is not attached to a <u>On a site with a</u> Maaori Site of Significance listed in Schedule 30.3 (Maaori Sites of Significance) except is for the purpose of identification and interpretation; (xii) The sign relates to: <ul style="list-style-type: none"> A. goods or services available on the site; or B. a property name sign. [697.878]
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6.7.5 Section 32AA evaluation

365. The recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

6.8 Rule 23.2.6.2 Signs - Effects on Traffic

6.8.1 Submissions

366. Six submissions have been received. There are a range of changes requested, including:

- (a) Deletion of the references to “any other sign”
- (b) Recognition of railway crossings and
- (c) Limitations on words and graphics.

Submission point	Submitter	Summary of submission
330.101	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2.6 Signs - effects on traffic.
695.114	Sharp Planning Solutions Ltd	Amend Rule 23.2.6.2 P1(a)(ii) Signs - Effects on traffic, to delete the words "and any other sign"; OR Amend Rule 23.2.6.2 P1(a)(ii) Signs - Effects on Traffic, as follows: Be located at least 60m from controlled intersections,

		<p>pedestrian crossings and any other sign <u>on the same site.</u></p> <p>OR</p> <p>Amend Rule 23.2.6.2 P1(a)(ii) Signs - Effects on Traffic, as follows:</p> <p>Be located at least 60m from controlled intersections, pedestrian crossings and any other sign <u>railway crossings (or roads under Council jurisdiction).</u></p>
697.880	Waikato District Council	<p>Amend Rule 23.2.6.2 P1(a) Signs - effects on Traffic, as follows:</p> <p>(a) Any sign directed at road users must <u>meet the following conditions:</u></p> <p>(i) Not imitate the content, colour or appearance of any traffic control sign; and</p> <p>(ii) Be located at least 60m from controlled intersections, pedestrian crossings and any other sign; and</p> <p>(iii) Not obstruct sight lines of drivers turning into or out of a site entrance and intersections; and</p> <p>(iv) Be able to be viewed by drivers for at least 250m; and</p> <p>(v) Contain no more than 40 characters and no more than 6 symbols; and</p> <p>(vi) Have lettering that is at least 200mm high; and</p> <p>(vii) Comply with the following Where the sign directs traffic to a site entrance <u>the sign must be at least:</u></p> <p>A. 175m from the site entrance on any road with a speed limit of 80 km/hr or less; or</p> <p>B. 250m from the site entrance on any road with a speed limit of more than 80km/hr.</p>
FS1264.26	Bootleg Brewery	Opposes submission 697.880
742.236	New Zealand Transport Agency	<p>Retain Rule 23.2.6.2 P1 Signs- effects on traffic, except for the amendments sought below</p> <p>AND</p> <p>Amend Rule 23.2.6.2 P1v) Signs - effects on traffic as follows:</p> <p>Contain no more than 40 characters and no more than 6 <u>words, symbols or graphics.</u></p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>
742.237	New Zealand Transport Agency	Retain Rule 23.2.6.2 D1 Signs - effects on traffic as notified.
986.120	KiwiRail Holdings Limited (KiwiRail)	<p>Amend Rule 23.2.6.2 P1 Signs – Effects on traffic as follows (or similar amendments to achieve the requested relief):</p> <p>(a) Any sign directed at road <u>land transport</u> users must:</p> <p>...</p> <p>(iii) Not obstruct sight lines of drivers turning into or out of a site entrance and intersections or <u>at a level crossing;</u></p> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>

6.8.2 Analysis

367. Andrew and Christine Gore [330.101] do not disclose any relief sought, and I recommend this submission be rejected.
368. Waikato District Council [697.880] seeks to amend the wording in Rule 23.2.6.2 for clarification purposes and also to remove clause (iv) which requires the sign to be viewed for at least 250m. The reason provided by the submission is that the proposed distance of 250m is unachievable and not appropriate in the Country Living Zone. Bootleg Brewery [FS/264.26] opposes the submission. I agree with this rationale, and recommend that the panel accept the submission from Waikato District Council [697.880].
369. New Zealand Transport Agency [742.236] submission is seeking to limit the number of words and graphics. The rule as notified refers to characters and symbols. The current interpretation of the rule by the Monitoring Team is that a letter represents a character. The proposed plan (and the operative Waikato Section) allow for 40. The addition of the words ‘and no more than 6 words’, or *graphics* complicates the situation for a plan reader. The rule would then read to include 40 characters, and as well, 6 words, symbols and graphics. The request would be increasing the amount of information on the sign. I do not believe this is the intent of the submission. Further to this, I am unsure about the difference between the terms ‘characters, symbols and graphics’ from an NZTA perspective, and invite NZTA to provide some clarification. I recommend that the panel reject New Zealand Transport Agency [742.236].
370. The New Zealand Transport Agency [742.237] seeks to retain DI as notified. I recommend accepting this submission as discretionary is an appropriate activity status upon non-compliance with one or more of the standards.
371. Sharp Planning Solutions [695.114] seeks to remove the requirement for a sign to be 60m away from another sign, and to instead have the reference to “other signs on the same site”. Although the intent of the standard is to prevent distraction for drivers and reduce clutter, I am mindful that the minimum frontage length in the Country Living Zone is notified as 15m and I have recommend this to be increased to 50m Businesses such as home occupations are entitled to have a sign for their permitted activity. With this kind of limit requiring signs to be a minimum of 60m from another sign, there is a risk of it being a case of “first in, first served”. I 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. I note that the submission offers three different options for addressing this issue and I consider the following amendments will be more specific as to what kind of signs need to be considered:
- (ii) Be located at least 60m from controlled intersections, pedestrian crossings, [railway crossings](#) and any other sign [associated with roads and traffic management](#) and
372. I recommend that the panel accept in part the submission from Sharp Planning Solutions [695.114].

Railway crossings

373. The submission from KiwiRail [986.120] and Sharp Planning Solutions [695.114] seeks to include a reference to level crossings. The KiwiRail submission also seeks to replace “road users” with “land transport users”. I agree in part with KiwiRail, in that including ‘at a level crossing’ ensures that signs do not create an adverse effect at level crossings, thereby providing a greater safety aspect. In regard to changing ‘road user’ to ‘land transport user’, I see no benefit to this change as, ‘road user’ is a clear and known term to the plan user as to what this applies to. The signs have more significant consequence if they are distracting drivers of

vehicles, and are less likely to distract other land transport users such as pedestrians. I recommend that the panel accept in part the submission from KiwiRail [986.120].

6.8.3 Recommendation

374. For the reasons given above, I recommend that the hearings panel:

- (a) **Accept** Waikato District Council [697.880] and **reject** the further submission from Bootleg Brewery [FS1264.26]
- (b) **Accept in part** Sharp Planning Solutions [695.114]
- (c) **Reject** New Zealand Transport Agency [742.236]
- (d) **Accept** New Zealand Transport Agency [742.237]
- (e) **Accept in part** KiwiRail [986.120].

6.8.4 Recommended amendments

²⁴23.2.6.2 Signs- Effects on Traffic

PI	<p>(a) Any sign directed at road users must meet the following conditions:</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, railway crossings and any other sign associated with roads and traffic management and (iii) Not obstruct sight lines of drivers turning into or out of a site entrance and intersections or at a level crossing; and (iv) Be able to be viewed by drivers for at least 250m; and (v) Contain no more than 40 characters and no more than 6 symbols; and (vi) Have lettering that is at least 200mm high; and (vii) Comply with the following—Wwhere the sign directs traffic to a site entrance the sign must be at least: <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	375.Any sign that does not comply with Rule 23.2.6.2 PI.

6.8.5 Section 32AA evaluation

375. The recommended 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.

Other reasonably-practicable options

376. The current approach of the Proposed District Plan is that the standards do not recognise railway crossings or other signs associated with the management of transport. The options are broadly to retain the notified version, or include recognition of level crossings and other signs for traffic management.

Effectiveness and efficiency

377. The recommended amendments will be considerably more effective at helping achieve Objective 6.1.1 Development, operation and maintenance of infrastructure and Objective 6.5.1 Land transport network. The amended standards will ensure signs do not increase the danger to road users.

²⁴ [691.880], [986.120]

Costs and benefits

378. There are no additional costs associated with these recommended amendments.

Risk of acting or not acting

379. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the standards.

Decision about most appropriate option

380. The recommended amendment is the most appropriate way of achieving Objective 6.1.1 Development, operation and maintenance of infrastructure and Objective 6.5.1 Land transport network. This approach ensures the health and safety of the community, and the continued safe operation of the transport network.

6.9 Rule 23.2.7 Outdoor Storage

6.9.1 Introduction

381. The Country Living Zone contains rules for managing the outdoor storage of materials although arguably this is more of an issue in the Industrial and Business Zones than the Country Living Zone. Industrial activities are a non-complying activity in the Country Living Zone. Storage ancillary to rural or residential activities should be enabled.

6.9.2 Submissions

382. Two submissions have been received - one seeks no specific decision and the other seeks to delete.

Submission point	Submitter	Summary of submission
330.102	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2.7 Outdoor Storage.
<i>FSI386.390</i>	<i>Mercury NZ Limited</i>	Oppose submission 330.102
697.881	Waikato District Council	Delete Rule 23.2.7 Outdoor Storage.
<i>FSI387.721</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.881

6.9.3 Analysis

383. Andrew and Christine Gore [330.102] do not outline any relief sought in the submission, and I recommend this submission be rejected due to the lack of specificity and information.

384. Waikato District Council [697.881] seeks to delete the rule. The reasons provided in the submission are that it would be difficult to enforce. For example, a firewood stack could potentially be captured by this rule. The other rules in Chapter 23 are sufficient to manage the character and amenity of the zone without having to specifically address outdoor storage. I recommend that the rule be deleted, but this will necessitate a consequential deletion of Policy 5.6.17 Outdoor storage, as there would be no supporting rules. I realise that the policy may be useful in consideration of discretionary and non-complying resource consent applications, however there are a number of other policies which will be more effective in allowing consideration of amenity and character such as 5.6.2 Policy – Country Living character and 5.6.5 Policy – Scale and intensity of development. I therefore recommend that the panel accepts Waikato District Council [697.881] and Rule 23.2.7 and Policy 5.6.17 are both deleted.

6.9.4 Recommendation

- (a) **Reject** Andrew and Christine Gore [330.102] and **accept** the further submission from Mercury Energy Limited [FS1386.390]
- (b) **Accept** Waikato District Council [697.881] and **reject** the further submission from Mercury Energy Limited [FS1387.721].

6.9.5 Recommended amendments

~~²⁵5.6.17 Policy – Outdoor storage~~

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

~~²⁶23.2.7 Outdoor Storage~~

PI	(a) Outdoor storage of materials must be fully screened by fencing or landscaping from any: (i) public road; (ii) public reserve; (iii) adjoining site.
RDI	(a) Outdoor storage of materials that do not comply with Rule 23.2.7 PI. (b) Council's discretion is restricted to the following matters: (i) Visual amenity; (ii) Size and location of the outdoor storage area; and (iii) Measures to mitigate adverse effects. [697.881]

6.9.6 Section 32AA evaluation

385. The assessment addresses the notified provisions in relation to outdoor storage and whether there is a need to manage the effects of this through the plan.

Other reasonably-practicable options

386. One option is to retain the notified version; however this option would create an unnecessary framework that would be unlikely to be workable for a property owner. Outdoor storage of material is not a common matter in the Country Living Zone.

Effectiveness and efficiency

387. The overarching objective and the policies that support the objective are sufficient to manage the character and amenity of the zone without having to specifically address outdoor storage. These changes are considered to be more efficient and effective than the notified version, in that they will allow the continued use of land without unnecessary restraints.

Costs and benefits

388. There are no additional costs, therefore costs are likely to be the same. Retaining the policy and rule framework as notified will place an unnecessary restraint on the use of land by property owners. The benefit of removing the provisions will be greater consideration of the use of land.

²⁵ [697.881]
²⁶ [697.881]

Effectiveness and efficiency

389. The recommended deletion of the policy is consequential to the deletion of the rules. This will ensure that the Proposed District Plan does not contain policies without supporting rules.

Risk of acting or not acting

390. There is sufficient information on the costs to the retirement industry to justify the additional policy.

Decision about most appropriate option

391. The proposed deletion of the rules and supporting policy is the most efficient way to enable people and communities to provide for their social, economic and cultural well-being, and therefore the purpose of the Act. It is also the most effective way of achieving Objective 5.6.1 Country Living Zone which seeks to enhance or maintain the character and amenity values of the zone without unreasonably constraining the use of the land.

7 Topic 4 - Land Use Building

7.1 Introduction

392. The provisions in this topic seek to maintain and enhance the character and amenity of the zone. Controls are based around site coverage, setbacks and the scale of buildings. The rules for building bulk and location are contained in Section 23.3 and include the following matters:

- (a) Number of dwellings
- (b) Minor dwellings
- (c) Location of buildings in overlays
- (d) Height
- (e) Building setbacks
- (f) Daylight admission
- (g) Building coverage
- (h) Restrictive overlays such as areas with high levels of background noise.

7.2 Rule 23.3.1 – Dwelling

7.2.1 Introduction

393. Rule 23.3.1 establishes a single dwelling on a site as a permitted activity, so long as it is not located in any of the environmental overlays such as Significant Natural Areas. Any dwelling not complying with this rule is a discretionary activity.

7.2.2 Submissions

394. Six submissions were received. One to retain the rule as notified, three seek no specific decision and two seek to amend.

Submission point	Submitter	Summary of submission
81.177	Waikato Regional Council	Retain Rule 23.3.1 Dwelling.
<i>FS1223.41</i>	<i>Mercury NZ Limited</i>	Supports submission 81.177
330.105	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.3 Land Use - Building.
<i>FS1386.391</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.105
330.72	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.3 Land Use - Building and/or all rules sitting under Rule 23.3 Land Use - Building.
<i>FS1386.447</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.72
330.106	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.3.1 Dwelling.
<i>FS1386.392</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.106
405.72	Counties Power Limited	Add a clause to Rule 23.3.1 PI (b) Dwelling so that where there are existing overhead lines, the location of the dwelling must comply with the requirements of NZECP34:2001.
697.890	Waikato District Council	Amend Rule 23.3.1 PI Dwelling, as follows: (a) One dwelling within a <u>site record of title</u> ; (b) The dwelling must not be located within any <u>of the following landscape and natural character areas</u> :
<i>FS1387.722</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.890

7.2.3 Analysis

395. Waikato Regional Council [81.177] seeks to retain the rule and I recommend that the panel accept the submission from Waikato Regional Council [81.177], subject to amendments in response to other submissions. I consider that rule is adequately enabling and sets an expectation for the zone that there will be a single dwelling on each site.
396. Andrew and Christine Gore [330.105], [330.72] and [330.106] do not disclose any relief sought in their submission. I recommend that the panel reject Andrew and Christine Gore [330.105] [330.72] and [330.106] due to the lack of specificity and detail in their submission.
397. Counties Power Limited [405.72] seek to include a requirement to comply with NZECP34:2001. I note that this is an express requirement in Chapter 14.4 where structures are proposed within the National Grid Yard. In my opinion it is not the role of a district council to administer the requirements of NZECP34:2001. It is clearly stated in this standard that property owners should consult with the owners of the electrical lines. Accordingly, I recommend that the panel reject Counties Power Limited [405.72].
398. The submission from Waikato District Council [697.890] seeks additional wording to the rule. These amendments will provide greater clarity for the plan user. I recommend that the panel accept Waikato District Council [697.890]. Waikato District Council also sought to change “site” to “record of title”. Following on from Hearing 5 Definitions, it appears that “site” is the most appropriate term given the definition provided for in the National Planning Standards definitions. I therefore recommend rejecting this aspect of the submission point,

but accepting in part the submission from Waikato District Council, and including these amendments in Rule 23.3.1 PI.

7.2.4 Recommendation

- (a) **Accept** Waikato Regional Council [81.177] and **reject** Mercury Energy Limited [FS1223.41]
- (b) **Reject** Andrew and Christine Gore [330.105], [330.72] and [330.106] and **accept** Mercury Energy Limited [FS1386.391],[FS1386.447] and [FS1386.392]
- (c) **Reject** Counties Power Limited [405.72]
- (d) **Accept in part** Waikato District Council [697.890] and the further submission from Mercury Energy Limited [FS1387.722].

7.2.5 Recommended amendments

23.3.1 Dwelling

- ²⁷PI (a) One dwelling within a [site record of title](#);
- (b) The dwelling must not be located within any [of the following landscape and natural character areas](#):
- (i)...

7.2.6 Section 32AA evaluation

399. The recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

7.3 Rule 23.3.2 – Minor Dwelling

400. The district plan includes provision for a single minor dwelling to be constructed as a permitted activity. The standards require it to be close to the main dwelling, which ensures that the impacts on the environment are reduced and has the effect of clustering the residential uses together.

7.3.1 Submissions

401. Ten submissions were received in relation to minor dwellings. Of these, four seek to retain the rule as notified, four seek to amend the rule, one seeks to delete and one requests no specific decision.

Submission point	Submitter	Summary of submission
81.179	Waikato Regional Council	Amend Rule 23.3.2 Minor dwelling to provide for minor dwellings in a landscape or natural character area as a discretionary activity.
269.1	Catherine Wright	Retain Rule 23.3.2 Minor Dwelling, except for the amendments sought below AND Amend Rule 23.3.2 Minor Dwelling to have a flexible location (in metres) between a minor dwelling and the existing dwelling.
FS1386.273	Mercury NZ Limited	Opposes submission 269.1

²⁷ [697.890]

330.107	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.3.2 Minor dwelling.
<i>FSI 386.393</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.107
405.73	Counties Power Limited	Add a clause to Rule 23.3.2 PI (b) Minor Dwelling so that where there are existing overhead lines, the location of the dwelling must comply with the requirements of NZECP34:2001.
696.6	Parkmere Farms	Retain Rule 23.3.2 Minor dwelling, including the following aspects: (a) A single minor dwelling is a permitted activity; (b) 70m ² as the maximum gross floor area (c) The absence of limitations on the type of person occupying the minor dwelling (e.g. dependent family member); (d) Absence of provisions requiring the minor dwelling to be temporary.
<i>FSI 387.383</i>	<i>Mercury NZ Limited</i>	Opposes submission 696.6
697.891	Waikato District Council	Amend Rule 23.3.2 PI Minor dwelling as follows: (a) <u>One minor dwelling within a site record of title must comply with all of the following conditions: not exceed 70m² gfa.</u> (i) Where there is an existing dwelling located within a site not exceed 70m² gross floor area (ii) The minor dwelling must be located within 20m of the principal residential unit dwelling; (iii) The minor dwelling must share a single driveway access with the existing principal residential unit dwelling.
<i>FSI 387.723</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.891
724.2	Sue Robertson for Tamahere Community Committee	Delete Rule 23.3.2 (b)(i) Minor Dwelling which requires this building to be located within 20 metres of the primary dwelling.
<i>FSI 387.800</i>	<i>Mercury NZ Limited</i>	Opposes submission 724.2
735.4	Cindy and Tony Young	Retain Rule 23.3.2 Minor dwelling.
<i>FSI 387.819</i>	<i>Mercury NZ Limited</i>	Opposes submission 735.4
746.117	The Surveying Company	Retain Rule 23.3.2 PI-Minor Dwelling as notified.
<i>FSI 387.975</i>	<i>Mercury NZ Limited</i>	Opposes submission 746.117
754.4	Pieter Van Leeuwen	Retain the following aspects of Rule 23.3.2 Minor dwelling: <ul style="list-style-type: none"> • Permitted activity status; • 70m² maximum gross floor area; • Conditions for the minor dwelling; • Absence of limitations on the type of person occupying the minor dwelling; and • Enabling the minor dwellings to be permanent buildings.
<i>FSI 387.1104</i>	<i>Mercury NZ Limited</i>	Opposes submission 754.4

7.3.2 Analysis

Building in natural environmental overlays

402. The submission from Waikato Regional Council [81.179] is seeking to amend the rule to provide for a minor dwelling in landscape or natural character areas. This is not necessary, as Rule 23.3.3 framework specifies that any building or structures in any of the natural environmental overlays is a discretionary activity. I recommend that the panel reject Waikato Regional Council [81.179] as further amendments are not necessary.

Distance from the primary dwelling

403. Two submissions opposed the requirement for the minor dwelling to be located within 20m of the primary dwelling. Catherine Wright's [269.1] submission seeks to have a flexible distance for a minor dwelling from the main dwelling. The reasons provided in the submission are that sometimes the topography of a site can make the 20m distance problematic. The Tamahere Community Committee [724.2] seeks to delete the requirement to be 20m away from the main dwelling. The 20m setback ensures that the amenity and rural character of the zone are maintained, and having the minor dwelling in close proximity to the main dwelling means that areas and facilities on the site are shared. This standard has the effect of clustering the residential buildings which helps to reduce the impacts largely rural residential character of the zone. It also means that the minor dwelling is less likely to be fenced and landscaped as if it is a separate lot, thus maintaining the perception of a larger lot size. I recommend that the panel reject the submissions from Catherine Wright's [269.1] and Tamahere Community Committee [724.2].
404. Andrew and Christine Gore [330.107] do not outline any relief sought. I recommend that the panel reject the submission from Andrew and Christine Gore [330.107] due to lack of specificity and detail.

Retention of the rule

405. Parkmere Farms [696.6] seek to retain the minor dwelling rule as notified, as do Cindy and Tony Young [735.4], The Surveying Company [746.117] and Pieter Van Leeuwen [754.4]. I consider that the rule enabling minor dwellings provides housing choice and enables flexibility in living environments to accommodate a range of family structures such as elderly parents or young families. I recommend that the panel accept the submissions from Parkmere Farms [696.6], Cindy and Tony Young [735.4], The Surveying Company [746.117] and Pieter Van Leeuwen [754.4] and that the minor dwelling rule be retained.

NZECP

406. Counties Power Limited [405.73] seeks to include a requirement to comply with NZECP34:2001. A similar submission point has already been analysed with Counties Power Limited's submission [405.72], and the same recommendation applies to this submission. Accordingly, I recommend that the panel reject Counties Power Limited [405.73].

Amendment to terminology

407. Waikato District Council [697.891] seeks to amend the rule for additional clarity. I agree with the majority of the proposed changes in this submission point, as I consider it provides clarity to the plan user. The submission also recommends changing the term 'site' to 'record of title'. Hearing 5 Definitions analysed a submission from Waikato District Council to include a definition of 'Record of Title'. Given the definition of 'site' included in the National Planning Standards I consider this to be more appropriate in the context of the minor

dwelling rule. Further I note that the definition of 'site' refers to record of title. Therefore I recommend that the panel accept in part the submission point from Waikato District Council [697.891].

7.3.3 Recommendation

- (a) **Reject** Waikato Regional Council [81.179]
- (b) **Reject** Catherine Wright's [269.1] and **accept** Mercury Energy Limited [FS/386.393]
- (c) **Reject** Tamahere Community Committee [724.2] and **accept** the further submission from Mercury Energy Limited [FS/387.800]
- (d) **Reject** Andrew and Christine Gore [330.107] and **accept** the further submission from Mercury Energy Limited [FS/386.393]
- (e) **Accept** Parkmere Farms [696.6] and **reject** the further submission from Mercury Energy Limited [FS/387.383]
- (f) **Accept** Cindy and Tony Young [735.4] and **reject** the further submission from Mercury Energy Limited [FS/387.819]
- (g) **Accept** The Surveying Company [746.117] and **reject** the further submission from Mercury Energy Limited [FS/387.975]
- (h) **Accept** Pieter Van Leeuwen [754.4] and **reject** the further submission from Mercury Energy Limited [FS/387.1104]
- (i) **Reject** Counties Power Limited [405.73].
- (j) **Accept in part** Waikato District Council [697.891] and **accept in part** the further submission from Mercury Energy Limited [FS/387.723].

7.3.4 Recommended amendments

²⁸Rule 23.3.2 Minor dwelling

PI	<p>(a) One minor dwelling within a <u>site record of title</u> must <u>comply with all of the following conditions: not exceed 70m² gfa.</u></p> <p>(i) Where there is an existing dwelling located within a site not exceed 70m² <u>gross floor area</u></p> <p>(ii) The minor dwelling must be located within 20m of the <u>principal residential unit dwelling</u>;</p> <p>(iii) The minor dwelling must share a single driveway access with the <u>existing principal residential unit dwelling</u>.²⁹</p>
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7.3.5 Section 32AA evaluation

408. The recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

²⁸ [697.891]

²⁹ [697.891]

7.4 Rule 23.3.4.1 – Height - General

7.4.1 Submissions

409. Six submissions were received. One requests no specific decision, five seek to amend the rule.

Submission point	Submitter	Summary of submission
330.109	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.3.4 Height, and/or all rules sitting under Rule 23.3.4.
378.42	Fire and Emergency New Zealand	Amend Rule 23.3.4.1 Height, to include the following: This Standard does not apply to emergency service facilities and hose drying towers up to 15m associated with emergency service facilities. AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
<i>FS1035.148</i>	<i>Pareoranga Te Kata</i>	Supports submission 378.42
695.115	Sharp Planning Solutions Ltd	Amend Rule 23.3.4.1 PI Height, so the rule should apply to that part of the building structure opposite the immediate ground level only; AND Amend Rule 23.3.5 Daylight admission as a consequential amendment.
697.893	Waikato District Council	Amend Rule 23.3.4(2) Height, as follows: (2) Rule 23.3.4.1 - Height - Building general provides permitted height levels across the entire Rural Zone for buildings, structures or vegetation. <u>This rule does not apply in those areas specified in Rule 23.3.4.2.</u>
<i>FS1253.23</i>	<i>Waikato Regional Airport Ltd</i>	Opposes submission 697.893

7.4.2 Analysis

410. Andrew and Christine Gore [330.109] do not outline any relief sought in their submission, and I recommend this submission be rejected.

411. Fire and Emergency New Zealand [378.42] seek a height exemption for emergency service facilities and hose-drying towers up to 15m. *Pareoranga Te Kata* [FS1035.148] supports the submission. Given that I have recommended a controlled activity status in paragraph 141 of this report for the facilities, the height of emergency service facilities and hose-drying towers will be assessed as part of the resource consent process. I am mindful that the activity status would be discretionary for being over height, however in my opinion a 15m tall tower in the Country Living Zone needs careful consideration as to its placement on a site. I therefore consider that a 15m height limit for hose drying towers associated with an emergency service could be a controlled activity to match the activity status for the facility, provide certainty that the consent will be granted and allow consideration of the location and bulk of the structure. I am also mindful that drying towers may not be the current method for managing hoses and invite FENZ to provide some advice on this. I recommend that the panel accept in part the submission from Fire and Emergency New Zealand [378.42].

412. The submission from Sharp Planning Solutions Ltd [695.115] seeks to amend the height rule. The author of the s42A report for Village Zone Hearing 6 also analysed a similar submission from this submitter.
413. I agree with the analysis from this report, as this suggested amendment could result in amenity and shading issues, as the 'height' restriction would only apply to part of the building structure rather than the building as a whole. I recommend that the panel reject Sharp Planning Solutions [695.115].
414. Waikato District Council [697.893] seeks to amend the height rule for clarification purposes. Mercury Energy Limited [FS/253.23] opposes the submission. As above, a similar submission in Village Zone Hearing 6 also addressed this issue. My understanding is that the intent of the submission is to ensure that areas within the Airport Obstacle Limitation Surface area are subject to a more stringent rule framework. However, the way the submission has been worded would not result in the desired outcome. It is noted that the submission refers to the Rural Zone and not the Country Living Zone; I believe this to be an error and should be referring to the Country Living Zone. I recommend that the panel reject Waikato District Council [697.893].

7.4.3 Recommendation

- (a) **Reject** Andrew and Christine Gore [330.109]
- (b) **Accept in part** Fire and Emergency New Zealand [378.42] and the further submission from *Pareoranga Te Kata* [FS/1035.148]
- (c) **Reject** Sharp Planning Solutions [695.115]
- (d) **Reject** Waikato District Council [697.893] and **accept** the further submission from Mercury Energy Limited [FS/253.23].

7.4.4 Recommended amendments

415. I recommend the following amendments to Rule 23.3.4.1 as follows:

PI	The maximum height of any building must not exceed 7.5m.
<u>CI</u>	<p>(a) <u>The maximum height of hose drying towers associated with emergency services must not exceed 15m.</u></p> <p>(b) <u>The matters over which control will be reserved:</u></p> <p><u>(i) Location on the site</u></p> <p><u>(ii) Dominance effects on adjoining sites</u></p> <p><u>(iii) Design</u></p>
DI	Any building that does not comply with Rule 23.3.4.1 PI <u>or CI</u> .

7.4.5 Section 32AA evaluation

416. The amendments to Rule 23.3.4.1 Height –General will provide for the functional requirements of FENZ when constructing Fire and Emergency facilities.

Other reasonably-practicable options

417. One option is to maintain the notified version of the rule, however this may not allow for a fire and emergency facility to be fully operative when maintaining equipment.

Effectiveness and efficiency

418. An increase height allowance for fire and emergency facilities allows for the effective operation of the facility. The inclusion of an exemption for associated structures will help provide for the health and safety of the community by enabling the efficient functioning of Fire and Emergency New Zealand.

Costs and benefits

419. There are potential costs with the increase in the height to the character of the zone. The activity has been recommended to be a controlled activity and as I have recommended that the height for the hose drying towers also be a controlled activity, the character of the zone can be taken in to consideration through the consenting process, therefore still achieving Objective 5.6.

Risk of acting or not acting

420. There are no additional risks in not acting. There is sufficient information on the costs to the environment and benefits to people and communities to justify the amendment to the rule.

Decision about most appropriate option

421. The recommended amendment to Rule 23.3.4.1 Height –General is a minor allowance which will provide for the health and safety of the community, but also retains the character and amenity of the zone as sought by Objective 5.6.1.

7.5 Rule 23.3.5 – Daylight admission**7.5.1 Submissions**

422. Four submissions have been received.

Submission point	Submitter	Summary of submission
330.110	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.3.5 Daylight admission.
695.116	Sharp Planning Solutions Ltd	Amend Rule 23.3.5 PI Daylight admission, as follows: Buildings must not protrude through a height control plane rising at an angle of 37 45 degrees commencing at an elevation of 2.5 3m above ground level at every point of the site boundary.
697.897	Waikato District Council	Amend Rule 23.3.5 RD1 (b) Daylight admission, as follows: (b) Council's discretion is restricted to the following matters: (i) Height of <u>the</u> building; (ii) Design and location of the building; (iii) Admission of daylight and sunlight to the site and other site; (iv) Privacy on <u>any</u> other site; (v) Effects on amenity values <u>of the locality</u> .
746.118	The Surveying Company	Amend Rule 23.3.5 PI-Daylight Admission as follows: A building must not protrude through a height control plane rising at an angle of 45 37 degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary.

7.5.2 Analysis

423. Andrew and Christine Gore [330.110] do not outline any relief sought in their submission, and I recommend this submission be rejected.
424. Sharp Planning Solutions Ltd [695.116] is seeking to change to either the angle and/or the height to be used for the 'height in relation to boundary' Rule 23.3.5 PI. The Surveying Company [746.118] also seeks to change the angle used for the height in relation to boundary. I agree with the submitters that all daylight control planes should be consistent with adjoining Councils rules. The author of the s42A for Hearing 6 Village Zone assessed the approach of other councils and concluded that generally 45 degrees is used and is an easier measurement to be used in calculations. This approach will also consistent with other councils' district plans. In terms of the height, the variation between councils is 2m to 3m plus height from the boundary angle. This results in a varying degree of shadow lengths. The setback in the Country Living Zone is 12m from every boundary other than a road boundary. This means that the daylight angle in this sense is somewhat academic. Both angles (either 37 or 45 degrees) rise well above the 7.5 maximum building height for the Country Living Zone at a point 12m horizontally from the boundary.
425. In terms of the height commencing at an elevation of 2.5m, I believe that this should be retained, because to future-proof these areas for more intensified development, a 2.5m starting point is consistent with more intensified residential zones. I recommend that the panel accept in part Sharp Planning Solutions Ltd [695.116] and accept the submission from the The Surveying Company [746.118].
426. Waikato District Council [697.897] is seeking amendments to the rule that will provide clarity to the rule in respect to shading and other sites. The amendment will improve the usability of the plan. I recommend that the panel accept the submission from Waikato District Council [697.897].

7.5.3 Recommendation

- (a) **Reject** Andrew and Christine Gore [330.110]
- (b) **Accept** in part Sharp Planning Solutions Ltd [695.116]
- (c) **Accept** The Surveying Company [746.118]
- (d) **Accept** Waikato District Council [697.897].

7.5.4 Recommended amendments

23.3.5 Daylight admission

PI	Buildings 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.
³⁰ RDI	<ul style="list-style-type: none"> (a) A building that does not comply with Rule 23.3.5 PI. (b) Council's discretion is restricted to the following matters: <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. [697.897]

³⁰ [697.897]

7.5.5 Section 32AA evaluation

427. The amendments to Rule 23.3.5 Daylight Admission are to provide consistency with other councils and is an easier measurement to calculate.

Other reasonably-practicable options

428. One option is to maintain the notified version of the rule, however this would not make for consistency with other councils.

Effectiveness and efficiency

429. A 45 degree angle still affords adequate daylight and would continue to minimise visual dominance when combined with the setbacks. The amendments will still give effect to Policy 5.6.5 Scale and intensity of development and 5.6.6 Height of buildings, which manage the daylight considerations. This approach more efficiently achieves Objective 5.6.1 and maintains the character and amenity of the zone.

Costs and benefits

430. There are potential costs with the increase in the daylight admission angle, in that it increases the level of shading. However the setback rules in the Country Living Zone are such that this is unlikely to occur. The benefit of increasing the angle will make it easier to calculate the daylight admission, and as well the 45 degree angle will be consistent with neighbouring councils.

Risk of acting or not acting

431. There are no additional risks in not acting. There is sufficient information on the costs to the environment and benefits to people and communities to justify the amendment to the rule.

Decision about most appropriate option

432. The recommended amendment to Rule 23.3.5 Daylight admission supports the objective and policies and more readily gives effect to the purpose of the Act and Objective 5.6.1 than the notified version.

7.6 Rule 23.3.6 Building Coverage

433. The building coverage rule helps maintain character and amenity values by restricting the amount of area that can be covered by buildings, and thereby limiting the bulk of buildings.

7.6.1 Submissions

434. 14 submissions were received. 10 seek to amend the rule to increase the site coverage, one gives no specific decision requested, two seek to retain and one to add a new rule.

Submission point	Submitter	Summary of submission
330.111	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.3.6 Building coverage.
<i>FSI 386.394</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.111
695.117	Sharp Planning Solutions Ltd	Amend Rule 23.3.6 PI Building coverage, as follows: The total building coverage must not exceed 10% <u>of the site area</u> or 300m ² , whichever is the larger.
<i>FSI 387.335</i>	<i>Mercury NZ Limited for</i>	Opposes submission 695.117
696.5	Parkmere Farms	Amend Rule 23.3.6 PI Building coverage, as follows: The total building coverage must not exceed 10% or 300 m² <u>400m²</u> .

		whichever is the larger.
FSI387.382	Mercury NZ Limited	Opposes submission 696.5
697.898	Waikato District Council	Amend Rule 23.3.6 PI Building coverage, as follows: The total building coverage must not exceed 10% or 300m ² , whichever is the larger.
FSI387.726	Mercury NZ Limited	Oppose submission 697.898
697.899	Waikato District Council	Amend Rule 23.3.6 DI Building coverage, as follows: Total B Building coverage that does not comply with Rule 23.3.6 PI.
FSI387.727	Mercury NZ Limited	Opposes submission 697.899
724.4	Tamahere Community Committee	Retain Rule 23.3.6 Building coverage, which permits up to 10% building coverage or 300m ² , whichever is the larger.
FSI387.802	Mercury NZ Limited	Opposes submission 724.4
735.3	Cindy and Tony Young	Amend Rule 23.3.6 PI Building coverage, to read as follows: The total building coverage must not exceed 10% or 300 m² <u>500m²</u> , whichever is the larger.
FSI387.818	Mercury NZ Limited	Opposes submission 735.3
735.7	Cindy and Tony Young	Amend Rule 23.3.6 PI Building Coverage, to increase the permitted building coverage limits.
FSI387.822	Mercury NZ Limited	Opposes submission 735.7
754.3	Pieter Van Leeuwen	Amend Rule 23.3.6 PI - Building Coverage to read as follows: The total building coverage must not exceed 10% or 300 <u>400m²</u> , whichever is the larger.
FSI387.1103	Mercury NZ Limited	Opposes submission 754.3
754.8	Pieter Van Leeuwen	Amend Rule 23.3.6 PI Building coverage to increase the permitted building coverage limits.
FSI387.1108	Mercury NZ Limited	Opposes submission 754.8
838.16	Madsen Lawrie Consultants	Amend Rule 23.3.6(PI) Building coverage to increase the percentage of permitted building coverage.
FSI387.1373	Mercury NZ Limited	Opposes submission 838.16
697.896	Waikato District Council	Add a new rule to Rule 23.3 Land Use - Building after Rule 23.3.6 Building coverage, as follows: <u>Rule 23.3.6A Impervious surfaces</u> <u>PI The impervious surface of a site must not exceed 70%.</u> <u>RDI (a) Impervious surfaces that does not comply with Rule 23.3.4A PI (b) Council's discretion is restricted to the following matters:</u> <u>(i) Site design, layout and amenity;</u> <u>(ii) The risk of flooding, nuisance or damage to the site or other buildings and sites.</u>
FSI387.725	Mercury NZ Limited	Opposes submission 697.896

7.6.2 Analysis

435. The authors of the Section 42A for Hearing 5 Definitions in paragraph 312, recommends adopting the Planning Standards definition of building coverage, and that section 42A authors should consider any consequential changes to rules required as a result of this. This is a

significant task and will be undertaken comprehensively towards the end of the hearings. Building coverage is defined in the National Planning Standards as:

means the percentage of the net site area covered by the building footprint.

436. Andrew and Christine Gore [330.111] do not outline any relief sought in their submission I recommend that the panel reject the submission from Andrew and Christine Gore [330.111] due to the lack of specificity and detail in the submission.
437. Sharp Planning Solutions Ltd [695.117] seeks to include additional wording 'of the site'. I agree with the submitter, as this will clarify the rule for the plan user.
438. Parkmere Farms [696.5], Cindy and Tony Young [735.3] and [735.7], Pieter Van Leeuwen [754.3] and [754.8] and Madsen Lawrie Consultants [838.16] all seek to increase the building coverage. In my opinion, the application of the rule is generous, as it allows 10% site coverage or 300m², whichever is the **larger**. Therefore, a site that is 5000m² means building coverage can be up to 500m². However, any site that is less than 3000m² will be limited to 300m² of building coverage. The reason for the 300m² limit is to manage the bulk and location on sites that are smaller in area than this. The building coverage rule, as notified, ensures that the amenity and character of the Country Living Zone is maintained. I therefore recommend that the panel reject Parkmere Farms [696.5], Cindy and Tony Young [735.3] and [735.7], Pieter Van Leeuwen [754.3] and [754.8] and Madsen Lawrie Consultants [838.16].
439. Waikato District Council [697.898] and [697.899] seeks to make minor amendments to the rule by removing the word 'total'. The reasons provided in the submission are that the word 'total' is not required. I agree with the submitter and recommend that the panel accept the submission from Waikato District Council [697.898].
440. Waikato District Council [697.896] seeks to add a new rule for impervious surfaces. This rule is currently located in the Infrastructure and Energy chapter in Rule 14.11.1, but this is more of a building rule rather than associated with infrastructure (even though I acknowledge that impervious surface has a consequence for managing stormwater). I agree with relocating this rule, as it provides clarity for the plan user. I recommend that the panel accept the submission from Waikato District Council [697.896].

7.6.3 Recommendation

- (a) **Reject** Andrew and Christine Gore [330.111] and **accept** Mercury Energy Limited [FS1386.394]
- (b) **Accept** Sharp Planning Solutions Ltd [695.117] and **reject** Mercury Energy Limited [FS1387.335]
- (c) **Reject** Parkmere Farms [696.5], Cindy and Tony Young [735.3] and [735.7], Pieter Van Leeuwen [754.3] and [754.8] and Madsen Lawrie Consultants [838.16]
- (d) **Accept** Mercury Energy Limited [FS1387.382], [FS1387.818],[FS1387.822], [FS1387.1103] [FS1387.1108] and [FS1387.1373]
- (e) **Accept** Waikato District Council [697.898] and [697.899] and **reject** Mercury Energy Limited [FS1387.726] and [FS1387.727]
- (f) **Accept** Tamahere Community Committee [724.4] and **reject** Mercury Energy Limited [FS1387.802]
- (g) **Accept** Waikato District Council [697.896] and **reject** Mercury Energy Limited [FS1387.725].

7.6.4 Recommended amendments

23.3.6 Building coverage

PI	³¹ The total building coverage must not exceed 10% <u>of the site</u> or 300m ² , whichever is the larger. [697.898], [695.117]
DI	Total building coverage that does not comply with Rule 23.3.6 PI. [697.899]

³²23.3.6A Impervious surfaces

<u>PI</u>	<u>The impervious surface of a site must not exceed 70%.</u>
<u>RDI</u>	<u>(a) Impervious surfaces that does not comply with Rule 23.3.4A PI</u> <u>(b) Council's discretion is restricted to the following matters:</u> <u>(i) Site design, layout and amenity;</u> <u>(ii) The risk of flooding, nuisance or damage to the site or other buildings and sites.</u> [697.896]

7.6.5 Section 32AA evaluation

441. The recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

7.7 Rule 23.3.7.1 - Setbacks

442. The setback rules play an important role in the overall amenity and character of the zone as they control the location of buildings on each site. Rule 23.3.7.1 establishes setback for all buildings from the boundary, depending on the lot size and whether the boundary is a road frontage.

7.7.1 Submissions

443. 16 submissions were received, the majority of which seek minor amendments, and four submissions seek a reduction in the setback.

Submission point	Submitter	Summary of submission
276.10	Ted and Kathryn Letford	Amend Rule 23.3.7.1 (a) (iii) Building Setbacks (All Boundaries), from 12m to a 6m setback.
330.112	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.3.7 Building setbacks and all other rules sitting under Rule 23.3.7.
401.1	Robert Hugh MacLennan	Amend Rule 23.3.7 Building Setbacks, to reduce the required boundary setback from 12m to 1.5m.
419.44	Horticulture New Zealand	Retain Rule 23.3.7 PI Building setbacks - All boundaries, as notified.
419.45	Horticulture New Zealand	Add a new clause (iv) to Rule 23.3.7.1 P2 (a) Building setbacks - All boundaries, as follows: (a) Any building located on a lot containing 1000m ² or

³¹ [697.898], [697.899], [695.117]

³² [697.896]

		less must be set back a minimum of: ... <u>(iv) 10m from every boundary adjoining a Rural Zone.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1171.31</i>	<i>T&G Global</i>	Supports submission 419.45
419.46	Horticulture New Zealand	Add a new clause (v) to Rule 23.3.7.1 RDI (b) Building setbacks - All boundaries as follows: <u>(v) reverse sensitivity effects.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1171.32</i>	<i>T&G Global</i>	<i>Supports submission 419.46</i>
466.29	Balle Bros Group Limited	Retain Rule 23.3.7 P1 Building setbacks as notified.
466.30	Balle Bros Group Limited	Amend Rule 23.3.7 RDI Building setbacks to include consideration of reverse sensitivity as a matter of discretion.
695.118	Sharp Planning Solutions Ltd	Amend Rule 23.3.7.1 P2 (a) (ii) Building setbacks - All boundaries, to include an exemption where an indicative road has been constructed and is open to the public but the indicative road has not been removed from the Planning Maps.
695.119	Sharp Planning Solutions Ltd	Amend Rule 23.3.7.1 P2 (a) (iii) Building setbacks - All boundaries to reduce the minimum setback to 6m for all sites.
697.901	Waikato District Council	Amend Rule 23.3.7.1 P1 (a) Building Setbacks - All boundaries, as follows: (b) A building located on a <u>site Record of Title</u> containing more than 1000m ² must be set back a minimum of:
697.902	Waikato District Council	Add a new clause (v) to Rule 23.3.7.1 RDI (b) Building setbacks - All boundaries, as follows: <u>(v) reverse sensitivity.</u>
724.10	Tamahere Community Committee	Amend the building setbacks from Tamahere Commercial Areas A and B, by reinstating the requirements of the Operative District Plan rule that enables an accessory building or non-habitable building to be built within the 100m setbacks from these areas.
742.238	New Zealand Transport Agency	Amend Rules 23.3.7.1 P1 and P2 Building Setbacks - All boundaries to require 35m setbacks from the Waikato Expressway designation boundary, and 15m setbacks from all other state highways.
<i>FS1283.6</i>	<i>Parkmere Farms</i>	<i>Opposes submission 742.238</i>
<i>FS1221.6</i>	<i>Cindy and Tony Young</i>	<i>Opposes submission 742.238</i>

7.7.2 Analysis

444. Ted and Kathryn Letford [276.10], Robert Hugh Maclennan [401.1] and Sharp Planning Solutions Ltd [695.119] seek a reduction in the setback to the boundary. Two submissions

request the setback to the boundary to be 6m and one submission requests the setback to be 1.5m.

445. The Country Living Zones enables residential development opportunities, along with other non-residential uses, through development controls, to ensure that an appropriate level of amenity is provided within this zone. A higher level of amenity is anticipated in comparison to urban zones. Building setbacks play an important role in retaining the character and amenity of the area. The setback from the road boundary is to maintain the sense of spaciousness already present, and to allow for landscaping while at the same time serving to mitigate effects generated by road users. As well, the setback helps manage any reverse sensitivity that may arise from farming activities on a neighbouring rural productive area. The section 32 report for the Country Living Zone states that:

a significant issue for the District is maintaining and enhancing the character and amenity of these areas, which is a unique in its character. If these rules are not included in the plan, reverse sensitivity effects may arise that could affect the successful and viable operation of existing rural activities, which by their nature, generate adverse effects. Given that the rural economy underpins the economy of the Waikato District, but that the development of sensitive activities (such as dwellings) is provided for in the Country Living Zone in relative proximity to rural activities, there is a need for effective provisions that proactively address potential reverse sensitivity effects.

446. The setbacks as notified are appropriate to ensure that they support the objective and policies, and maintain the character and amenity of the zone. The operative plan setbacks on sites greater than 1050m² are 12m from every boundary except the road which has been set at 7.5m. These setback requirements have established a character for the zone and the role of the Proposed District Plan is to maintain this. For reasons provided, I recommend that the panel reject Ted and Kathryn Letford [276.10], Robert Hugh MacLennan [401.1] and Sharp Planning Solutions Ltd [695.119].
447. New Zealand Transport Agency [742.238] seeks to increase the setback to expressways to be 35m and state highways to have a 15m setback, to all boundaries. This is opposed by the further submissions from Parkmere Farms [FS/283.6] and Cindy and Tony Young [FS/221.6]. The setback distances requested by the Transport Agency already apply through Rule 23.3.7.2 for sensitive land use which requires a 35m setback from the designated boundary of the Waikato Expressway, and 15m from a national route or regional arterial boundary. Further submissions from Parkmere Farms and Cindy and Tony Young express concerns that this would result in an inefficient use of land. Not all buildings are for habitation, and these would not be subject to any reverse sensitivity effects arising from the road and should not be subjected to an increased setback. I agree with these further submissions.
448. In the instance of an alteration to a dwelling or the addition of a minor dwelling, a habitable building is likely to meet the noise standards on the inside, but outside of the building where one would likely spend time could be subject to noise from an expressway or state highway. I believe that people would be aware of the proximity to these roads when purchasing the properties. Further to this, the conditions of a designation include stringent noise rules, not only during construction but for the ongoing use of the road. In some instances acoustic insulation has occurred through conditions or acoustic walls have been constructed. The setback, if accepted, would leave large areas of land unusable except for outside use, and is an inefficient use of the land resource. Given that the setback distances requested already apply to a sensitive land use, I see no benefit in adding further restrictions in Rule 23.3.7.
449. Further to the above, below are maps showing where the State highway or expressway passes through the Country Living Zone. The majority of these roads have been completed

or are close to being completed, and as mentioned are subject to designation conditions that manage noise. For the reasons discussed, I recommend that the panel reject New Zealand Transport Agency [742.238].

Figure 6: Proposed Tamahere Country Living Zone

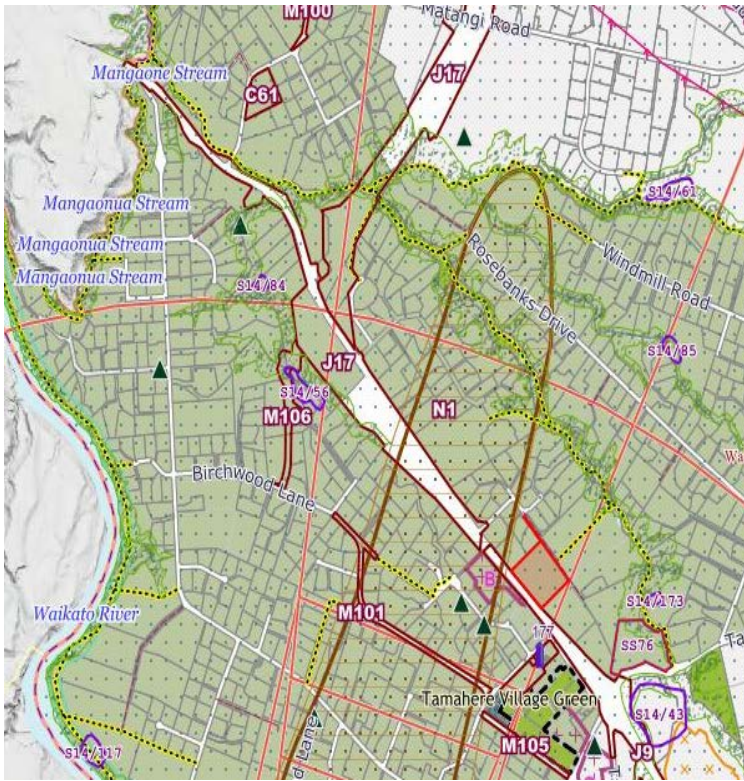


Figure 7: Proposed Tamahere Country Living Zone Aerial

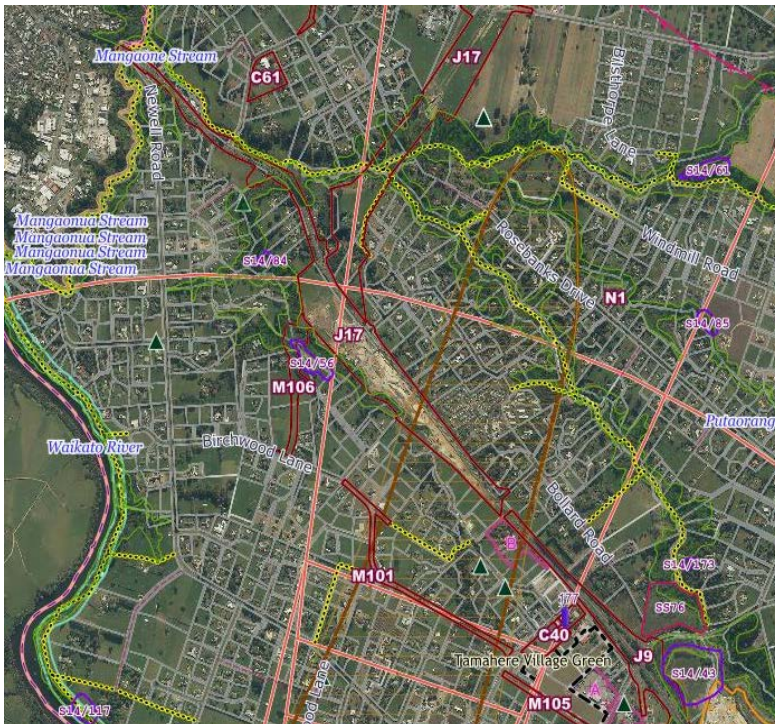


Figure 8: Proposed Ruakura Country Living Zone



Figure 9: Proposed Ruakura Country Living Zone Aerial



Figure 10: Ohinewai Country Living Zone



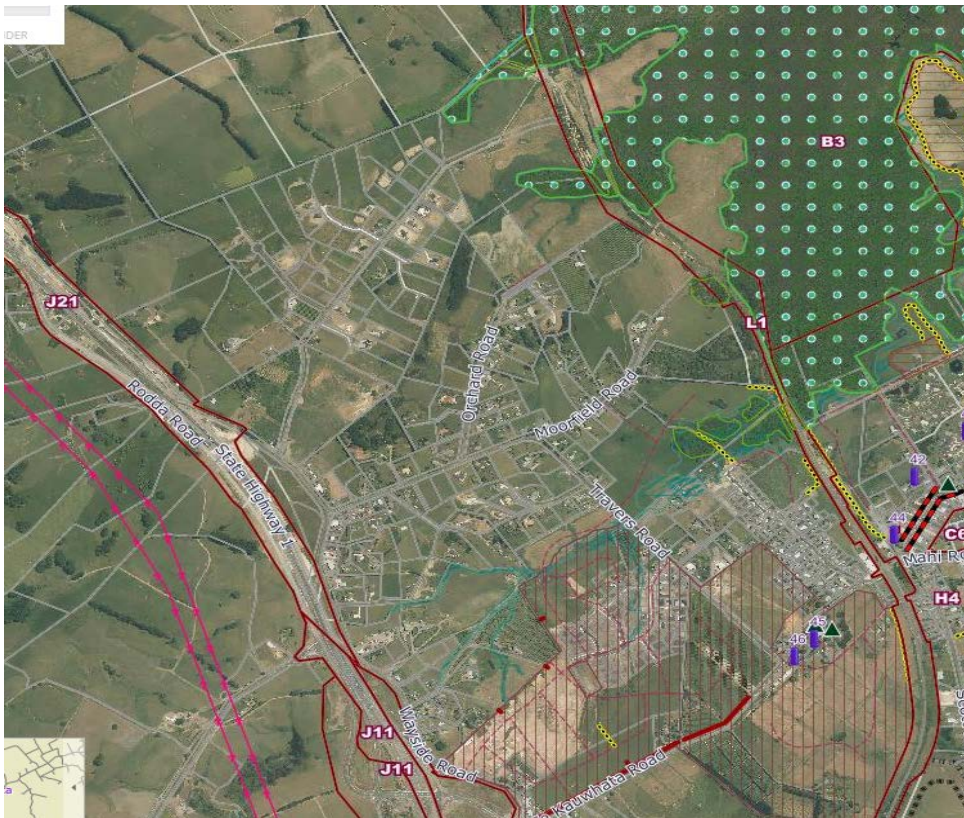
Figure 11: Proposed Ohinewai Country Living Zone Aerial



Figure 12: Proposed Te Kauwhata Country Living Zone



Figure 13: Proposed Te Kauwhata Country Living Zone



450. Andrew and Christine Gore [330.112] do not identify any relief sought and I recommend this submission be rejected due to the lack of specificity and detail.
451. Horticulture New Zealand [419.44] seeks to retain Rule 23.3.7 PI as notified. I recommend that the panel accept Horticulture New Zealand [419.44].
452. Horticulture New Zealand [419.45] seeks to increase the setback to 10m from the boundary on properties which are 1000m² or less. T & G Global [FS1171.31] support the submission. I disagree with the setback being increased. Country Living Zone properties which are 1000m² or less are historical titles and are likely already developed. There is no subdivision rule framework in the Country Living Zone which would support any new lots of this size being created. The setbacks as notified require a 3m setback from the road boundary and 1.5m from every other boundary on sites less than 1000m². To have a 10m setback from a Rural Zone boundary on these properties as well, would likely make it very difficult to meet any permitted baseline for development, and in my opinion this would be unreasonable. I acknowledge that there is potential for reverse sensitivity issues, however these sites are small in area in comparison to the norm, and are already developed. To the best of my knowledge, there have been no complaints from this size property. For reasons given, I recommend that the panel reject Horticulture New Zealand [419.44].
453. Horticulture New Zealand [419.46] seek to add a reverse sensitivity clause to Rule 23.3.7.1 RD1 (b) as a matter of discretion. T & G Global [FS1171.32] support the submission. Balle Bros Group Limited [466.30] also seeks the inclusion of 'reverse sensitivity' as a matter of discretion, as does Waikato District Council [697.902]. I agree with this addition, and the recommended clause would be effective in addressing reverse sensitivity effects in combination with the new policy I have recommended including to acknowledge reverse sensitivity. I recommend that the panel accept Horticulture New Zealand [419.46], Balle Bros Group Limited [466.30] and Waikato District Council [697.902].
454. Balle Bros Group Limited [466.29] seeks to retain the building setback rule as notified. I recommend that the panel accept Balle Bros Group Limited [466.29].
455. Sharp Planning Solutions Ltd [695.118] seeks an exemption on setbacks to indicative roads if the indicative road has been constructed. The author of the s42A report for Hearing 6 Village Zone discusses similar submissions, stating that the notified version of the plan has no mechanism or explanation as to what happens to indicative roads once they are formed. The author of the Village Zone report has suggested the following additional wording:
- Despite rule 23.3.7.1 PI(a)(ii), this rule does not apply where the indicative road has been formed, is open to the public and has been vested in Council.*
- I consider this wording to be appropriate for the situation and recommend that the panel accept Sharp Planning Solutions Ltd [695.118].
456. Waikato District Council [697.901] seeks to amend the wording from 'site' to 'Record of title'. These amendments are intended to provide greater clarity for the plan user. However as discussed previously in my report, I consider the definition of 'site' to be more appropriate given the National Planning Standard definition discussed in Hearing 5. I recommend that the panel reject the submission point from Waikato District Council [697.901].
457. Tamahere Community Committee [724.10] seeks to enable an accessory building or non-habitable building to be built within the 100m setback to Tamahere Commercial area. Rule 23.3.7.3 Building setbacks from Tamahere Commercial Areas A and B requires a 100m setback to the Tamahere Commercial area. The rule specifically says 'Any new building or alteration to an existing building for a sensitive land use'. The rule refers to a sensitive land use,

which by definition includes a residential activity, therefore the rule will restrict a dwelling, but not a non-habitable or accessory building. In this regard, I agree with the submission, as the reverse sensitivity issues are not likely to occur in relation to non-habitable buildings. By allowing these types of buildings within the setback provides for more efficient use of the land without creating any reverse sensitivity issues. I recommend that the panel accept Tamahere Community Committee [724.10], however no change is required to the proposed rule.

7.7.3 Recommendation

- (a) **Reject** Ted and Kathryn Letford [276.10], Robert Hugh Maclennan [401.1] and Sharp Planning Solutions Ltd [695.119]
- (b) **Reject** New Zealand Transport Agency [742.238]
- (c) **Accept** Parkmere Farms [FS/283.6] and Cindy and Tony Young [FS/221.6]
- (d) **Reject** Andrew and Christine Gore [330.112]
- (e) **Accept** Horticulture New Zealand [419.44] and T & G Global [FS/171.32]
- (f) **Reject** Horticulture New Zealand [419.45]
- (g) **Reject** T & G Global [FS/171.31]
- (h) **Accept** Horticulture New Zealand [419.46]
- (i) **Accept** T & G Global [FS/171.32]
- (j) **Accept** Balle Bros Group Limited [466.30]
- (k) **Accept** Balle Bros Group Limited [466.29]
- (l) **Accept** Waikato District Council [697.902]
- (m) **Accept** Waikato District Council [697.901]
- (n) **Accept** Tamahere Community Committee [724.10].

7.7.4 Recommended amendments

Rule 23.3.7.1 Building Setbacks - All boundaries

PI	<p>(a) A building located on a <u>site</u> ³³<u>Record of Title</u> containing more than 1000m² must be set back a minimum of:</p> <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. <p><i>³⁴(b) Despite rule 23.3.7.1 PI(a)(ii), this rule does not apply where the indicative road has been formed, is open to the public and has been vested in Council.</i></p>
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Rule 23.3.7.1 RDI

RDI	<ul style="list-style-type: none"> (a) A building that does not comply with Rule 23.3.7.1 PI or P2. (b) Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> (i) amenity values; (ii) effects on traffic;
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³³ [697.901]

³⁴ [695.118]

	<ul style="list-style-type: none"> (iii) daylight admission to adjoining properties; (iv) effects on privacy of adjoining sites. (v) ³⁵reverse sensitivity effects [419.46], [697.902]
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7.7.5 Section 32AA evaluation

458. The recommended additional matter of discretion to Rule 23.3.7.1 provides recognition of the potential reverse sensitivity effects that may arise from buildings on the adjoining rural productive land areas.

Other reasonably-practicable options

459. There are two options:

- a. no change to the policy framework as it is notified; or
- b. amendments to the objective as sought by Horticulture NZ's submission.

460. The amendments give better effect to the Waikato Regional Policy Statement, and ensure reverse sensitivity effects will be managed. The additional matter of discretion is the most appropriate way meet to section 5 of the Act in that it promotes the sustainable management of natural and physical resources, as well as achieve Objective 5.6.1.

Effectiveness and efficiency

461. The additional matter of discretion ensures that the adverse effects on rural productive land are minimised and as well gives effect to the Regional Policy Statement. The additional wording will help ensure the efficient operation, function and use of productive rural land and provides suitable guidance to plan users for the assessment of activities that affect the rural productive land areas, whilst supporting the objective.

Costs and benefits

462. There are no additional costs, and costs are likely to be the same. There are benefits to the rural community, in that the function and use of productive land is taken into account in the event that development occurs in the Country Living Zone. There are benefits to the Country Living Zone community, as it will give a better understanding of the function of rural areas and what they can expect when living in close proximity to rural areas. There are benefits to the environment with the additional matter of discretion as it is clearer about how the effects will be managed. The additional wording will give clearer guidance to plan users as to how activities in the Country Living Zone can minimise reverse sensitivity effects on rural productive land.

Risk of acting or not acting

463. There is sufficient information on the costs to the sustainable use of rural productive land to justify the amendment to the rule.

Decision about most appropriate option

464. The new matter of discretion is the most appropriate way to support the recommended policy for reverse sensitivity and therefore Objective 5.6.1. Addressing reverse sensitivity is necessary to achieve the sustainable management of natural and physical resources required by the Act and gives regard to s7(c) of the RMA; the maintenance and enhancement of amenity values and s7 (b) the efficient use of natural and physical resources.

³⁵ [419.46] and [697.902]

7.8 Rule 23.3.7.2 - Setbacks sensitive land use

465. Rule 23.3.7.2 provides additional setbacks for sensitive land uses. This rule has the effect of trumping the general setback rule as it is more restrictive (in most cases) than the setbacks in Rule 23.3.7.1. These setbacks are not only for purposes of noise, but also to minimise reverse sensitivity effects.

7.8.1 Submissions

466. Nine submissions were received in relation to setbacks where there is a sensitive land use.

Submission point	Submitter	Summary of submission
419.47	Horticulture New Zealand	Add a new clause (vii) to Rule 23.3.7.2 PI (a) Building setbacks - Sensitive land use, as follows: (a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of: ... (vii) <u>100m from any boundary adjoining a Rural Zone where the sensitive activity is not a residential activity.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1388.198</i>	<i>Mercury NZ Limited</i>	Opposes submission 419.47
<i>FS1330.32</i>	<i>Middlemiss Farm Holdings Limited</i>	Opposes submission 419.47
419.48	Horticulture New Zealand	Retain Rule 23.3.7.2 DI Building setback - Sensitive land use, as notified.
696.9	Parkmere Farms	Retain Rule 23.3.7.2 PI (a) (ii) Building setback - sensitive land use.
742.240	New Zealand Transport Agency	Retain Rule 23.3.7.2 PI Building setback - sensitive land use as notified (subject to relief sought in other submissions on acoustic treatment).
742.241	New Zealand Transport Agency	Retain Rule 23.3.7.2 DI Building setback - sensitive land use, as notified.
754.7	Pieter Van Leeuwen	Retain Rule 23.3.7.2 PI (a) (ii) Building setback sensitive land use, as notified.
<i>FS1387.1107</i>	<i>Mercury NZ Limited</i>	Opposes submission 754.7
986.55	KiwiRail Holdings Limited (KiwiRail)	Amend Rule 23.3.7.2 Building setback sensitive land use as follows (or similar amendments to achieve the requested relief): Building setback sensitive land use PI <u>Sensitive land use</u> (a)Any <u>new building or alteration to an existing building</u> for a sensitive land use must be set back a minimum of: (i)5m from the designated boundary of the railway corridor ... <u>P2 Railway corridor any new buildings or alterations to an existing building must be setback 5 metres from any designated railway corridor boundary</u> OR Retain Rule 23.3.7.2 PI(a)(i) Building setback sensitive land use if the primary relief above is not accepted AND

		Any consequential amendments to link and/or accommodate the requested changes.
FS1033.8	Spark New Zealand Trading Limited	Opposes in part submission 986.55
FS1032.8	Vodafone New Zealand Limited	Opposes in part submission 986.55
FS1031.8	Chorus New Zealand Limited	Opposes in part submission 986.55
986.68	KiwiRail Holdings Limited (KiwiRail)	Add new matters of discretion relating to non-compliance with the 5m Building setback - railway corridor (sought elsewhere in other submission points) in Rule 23.1 Land Use Activities as follows (or similar amendments to achieve the requested relief): <u>1. The size, nature and location of the buildings on the site. 2. The extent to which the safety and efficiency of rail and road operations will be adversely affected. 3. The outcome of any consultation with KiwiRail. 4. Any characteristics of the proposed use that will make compliance unnecessary.</u> AND Any consequential amendments to link and/or accommodate the requested changes.

7.8.2 Analysis

467. Hearing Report 5 Definitions discusses the term 'sensitive land use' and has recommended some amendments to further clarify the definition. In this regard the recommended definition is proposed to include educational facilities, childcare facilities, waananga, koohanga reo, a residential activity, papakainga building, retirement village, visitor accommodation, student accommodation, homestay, health facility or hospital and a place of assembly. The term 'sensitive land use' is used in rules which manage reverse sensitivity.
468. Horticulture New Zealand [419.47] seeks to add an additional setback clause to increase the setback to 100m from a sensitive activity from any boundaries with the Rural Zone. Mercury Energy Limited [FS/388.198] and Middlemiss Farm Holdings Limited [FS/330.32] oppose the submission. In my opinion, when considering the land uses incorporated in the definition of sensitive land use activities, it is assumed that the activities all occur indoors. With the current setback in the Country Living Zone being 12m, I believe that this is adequate to manage any potential reverse sensitivity issue from indoors. In my opinion it is when the activity is not indoors that a potential reverse sensitivity issue may arise. However, a setback, no matter how big, will not alleviate this and it would be generally accepted that the primary productive activities are a part of what is expected not only within the Country Living Zone (albeit at a smaller scale) but also the neighbouring Rural Zone.
469. My discussions with the Monitoring Team regarding reverse sensitivity as well as my own experience as a Monitoring Officer show that there has only been the occasional complaint received in relation to the interface of the Country Living Zone and the Rural Zone. Most complaints within the Country Living Zone are between those who reside within it.
470. A further submission from Middlemiss Farm Holdings Limited [FS/330.32] considers that a 100m setback would place an unreasonable constraint on the use of land. I agree with Middlemiss Farm Holdings Limited, in that imposing a 100m setback would result in inefficient use of land. For reasons discussed, I recommend that the panel reject Horticulture New Zealand [419.47].

471. Parkmere Farms [696.9] and Pieter Van Leeuwen [754.7] seek to retain Rule 23.3.7.2 PI(a)(ii) which relates to the setback to a national route or regional arterial boundary. I recommend that the panel accept Parkmere Farms [696.9] and Pieter Van Leeuwen [754.7].
472. New Zealand Transport Agency [742.240] seeks to retain Rule 23.3.7.2 PI as notified. I recommend that the panel accept New Zealand Transport Agency [742.240].
473. Horticulture New Zealand [419.48] and New Zealand Transport Agency [742.241] seek to retain the discretionary activity rule as notified. I recommend that the panel accept Horticulture New Zealand [419.48], and New Zealand Transport Agency [742.241].
474. KiwiRail [986.55] are seeking to amend the rule to apply a 5m setback to all sites, not just sensitive land use, or as an alternative retain the rule as it has been notified. Spark New Zealand Trading Limited [FS1033.8], Vodafone New Zealand Limited [FS1032.8] and Chorus New Zealand Limited [FS1031.8] all oppose the submission.
475. This is not a necessary change in the Country Living Zone rule framework. The setback to boundaries in general is 12m from every boundary other than a road boundary. On sites that are less than 1000m² the setback is 3m. Sites in the Country Living Zone which are less than 1000m² are historic in nature and there is no proposed subdivision rule framework that supports properties of this size. In the event that a building consent is applied for on sites that are greater than 1000m², the 12m setback will apply, as it is the more stringent rule. My understanding of the 5m setback in the rule for sensitive land use is to manage the sites that are less than 1000m² that are adjacent to a railway corridor. The general setback rule for a property of this size is proposed to be 1.5m (other than a road boundary). If the site is adjacent to a railway corridor the proposed 5m setback will apply. In my opinion, the 12m setback rule is the preferred distance from boundaries, inclusive of a railway corridor. I recommend that the panel reject the first part of KiwiRail [986.55], and accept the alternative offered, which is to retain the rule.
476. KiwiRail [986.68] are seeking to add four new matters of discretion to the 5m setback rule. I agree with the request. The additional matters of discretion would enable a planner to sufficiently consider the effects on the boundary of the railway corridor. I recommend that the panel accept in part KiwiRail [986.68].

7.8.3 Recommendation

- (a) **Reject** Horticulture New Zealand [419.47] and **accept** Mercury Energy Limited [FS1388.198] and Middlemiss Farm Holdings Limited [FS1330.32]
- (b) **Accept** Parkmere Farms [696.9]
- (c) **Accept** Pieter Van Leeuwen [754.7] and **reject** Mercury Energy Limited [FS1387.1108]
- (d) **Accept** New Zealand Transport Agency [742.240]
- (e) **Accept** Horticulture New Zealand [419.48]
- (f) **Accept** New Zealand Transport Agency [742.241]
- (g) **Accept in part** KiwiRail [986.55]
- (h) **Accept in part** Spark New Zealand Trading Limited [FS1033.8], Vodafone New Zealand Limited [FS1032.8] and Chorus New Zealand Limited [FS1031.8]
- (i) **Accept** KiwiRail [986.68].

7.8.4 Recommended amendments

477. The following amendments are recommended:

³⁶ RD I	<p>(a) <u>Any building for a sensitive land use that does not comply with Rule 23.3.7.2 PI (a)(i) regarding setbacks from the railway corridor</u></p> <p>(b) <u>Council's discretion is restricted to the following matters:</u></p> <p>(i) <u>The size, nature and location of the buildings on the site.</u></p> <p>(ii) <u>The extent to which the safety and efficiency of rail and road operations will be adversely affected.</u></p> <p>(iii) <u>The outcome of any consultation with KiwiRail.</u></p> <p>(iv) <u>Any characteristics of the proposed use that will make compliance unnecessary.</u></p>
DI	Any building for a sensitive land use that does not comply with Rule 23.3.7.2 PI, <u>(other than PI (a)(i))</u>

7.8.5 Section 32AA evaluation

478. The recommended amendments to recognise the potential effects of a sensitive land to the rule framework will more effectively achieve Objective 6.1.1 Development, operation and maintenance of infrastructure and Objective 6.5.1 Land transport network.

Other reasonably-practicable options

479. Apart from a setback standard, the current approach of the Proposed District Plan is that there is no recognition of the effects a sensitive land use has on the rail corridor. The options are broadly to retain the notified version, or include recognition for a sensitive land use.

Effectiveness and efficiency

480. The recommended 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.

Costs and benefits

481. There are no additional costs associated with these recommended amendments.

Risk of acting or not acting

482. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the Rule 23.3.7.2 Building setback-Sensitive land use.

Decision about most appropriate option

483. The recommended amendment is the most appropriate way of achieving Objective 6.1.1 Development, operation and maintenance of infrastructure and Objective 6.5.1 Land transport network and Objective 5.6.1 Country Living Zone. This approach ensures the health and safety of the community, and the continued safe operation of the transport network while still supporting the character and amenity of the zone.

³⁶ KiwiRail[986.68]

7.9 Rule 23.3.7.5 – Building Setback - Waterbodies

7.9.1 Submissions

484. Ten submissions were received on a range of matters including:

- a. Retaining the rule
- b. Modifying the rule so it does not apply to artificial waterbodies
- c. Modifying the rule so it does not apply to maimai
- d. Consistency of the rule across the zones
- e. Amending the setbacks to reflect the general setback amount
- f. Consistency with the Operative District Plan setbacks.

Submission point	Submitter	Summary of submission
161.3	Martin Lynch	Delete the requirement for a 23m building setback to apply to artificial water bodies in Rule 23.3.7 (Building Setbacks).
378.43	Fire and Emergency New Zealand	Retain Rule 23.3.7.5 Building setback - Waterbodies.
<i>FS1035.149</i>	<i>Pareoranga Te Kata</i>	Supports submission 378.43
433.28	Auckland Waikato Fish and Game Council	Amend Rule 23.3.7.5 PI Building setback - Waterbodies, as follows: (a) Any building <u>that is not a maimai</u> must be set back a minimum of: ... AND/OR Any alternative relief to address the issues and concerns raised in the submission.
662.26	Blue Wallace Surveyors Ltd	Amend Rule 23.3.7.5 PI Building setback - Waterbodies as follows: (a) Any building must be set back a minimum of: (i) 23m from the margin of any: A. Lake <u>over 4ha</u> ; and B. Wetland; ... (v) <u>10m from a managed wetland.</u>
695.120	Sharp Planning Solutions Ltd	Amend Rule 23.3.7.5 Building setbacks – Waterbodies and Rule 22.3.7.5 Building setbacks, to be made the same.
697.468	Waikato District Council	Amend Rule 23.3.7.5 Building setback - Waterbodies, to be consistent in terms of the terminology of structures across all zone chapters.
<i>FS1139.16</i>	<i>Turangawaewae Trust Board</i>	Opposes submission 697.468
<i>FS1108.17</i>	<i>Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)</i>	Opposes submission 697.468
697.905	Waikato District Council	Delete Rule 23.3.7.5 PI (b) Building setback - waterbodies; AND Add a new permitted activity P2 to Rule 23.3.7 Building setbacks as follows: P2 <u>A public amenity of up to 25m², or a pump shed</u>

		(public or private) within any building setback identified in rule 23.3.7.5 P1. AND Amend Rule 23.3.7.5 D1 Building setbacks, as follows: Any building that does not comply with Rule 23.3.7.5 P1 or P2
697.906	Waikato District Council	Amend Rule 23.3.7.5 Building setback - waterbodies, as follows: P1 (a) Any building must be set back a minimum of: (i) 23 32m from the margin of any; A. lake; 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.
FS1387.729	Mercury NZ Limited	Opposes submission 697.906
746.119	The Surveying Company	Add to Rule 23.3.7.5 P1-Building Setbacks - Waterbodies as follows: <u>a building must be set back a minimum of 10 metres from the bank of a perennial or intermittent stream (named or unnamed).</u>
943.65	McCracken Surveys Limited	Amend Rule 23.3.7.5 P1 (a) - Building setback - Waterbodies, to carry over existing rule from the Operative District Plan.

7.9.2 Analysis

485. The submission from Martin Lynch [161.3] requests deletion of the requirement to be 23m back from an artificial waterbody. The Section 42a report for Hearing 6 Village zone also discussed this. The proposed plan does not contain this requirement in terms of an 'artificial' waterbody. However, my understanding from the original submission is that this property has a landscaped man-made pond, where the property owner wishes to protect a building setback for any future building near the pond. As a note, the area of interest has not been identified as a significant natural feature. Currently the property contains a dwelling and associated buildings, and in the event that a building consent is applied for, will be subject to other rules in the plan and accordingly, will be assessed on its merits through a consenting process. In regard to the man-made pond, other legislation, namely the Building Act, is likely to focus on aspects such as ground stability, especially in an area that is close to water. When considering that the proposed rule heading refers to 'waterbody', the RMA defines 'waterbody' to mean the following:

...means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.

486. Overall it would not be appropriate to delete the rule as there are other factors that the rule is managing (for example facilitating esplanades). For these reasons, I recommend that the panel reject the submission from Martin Lynch [161.3].

487. Fire and Emergency New Zealand [378.43] seek to retain the rule as it is notified. Pareoranga Te Kata [FS1035.149] supports the submission. As I have recommended amendments in response to other submissions, I recommend that the panel accept in part the submission from Fire and Emergency New Zealand [378.43].

488. Auckland Waikato Fish and Game [433.28] seek to exempt maimai from the setback to waterbodies. I note that the author of the s42A report for Hearing 2 All of Plan and Village Zone Hearing 6 has accepted this submission. The reasons provided in the hearing report were that this will result in better alignment with the Waikato Regional Plan. However, I consider this an unnecessary addition to Rule 23.3.7.5. The control of maimai is a Regional Plan function, except where this is located on the surface of rivers or on dry land. The purpose of the Country Living Zone is to accommodate large-lot residential lifestyles. Considering that the purpose of a maimai is for the shooting of game, it is doubtful that there would be situations in this zone that could accommodate the ability to safely fire a gun. There is also the potential scenario that a maimai is re-purposed and creates disputes between neighbours. In my opinion, any building in this zone, unless consented, needs to meet the specified setbacks, as this will ensure that the character of the area is maintained. I acknowledge that this may not be the same solution in other zones such as the Rural Zone. For the reasons discussed, I recommend that the panel reject the submission from Auckland Waikato Fish and Game [433.28].
489. Waikato District Council [697.906] submission seeks to increase the distance of the setbacks to lakes and rivers. The reasons provided in the Waikato District Council submission for the increase in setback are that the setback will represent a 25m esplanade reserve plus the yard setback for the Waikato and Waipa Rivers, and a 20m esplanade plus the yard setback for all other waterbodies. When considering that the proposed rule heading refers to 'waterbody', the RMA defines 'waterbody' to mean the following:
- ...means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.*
490. I recommend the panel accept only in part Waikato District Council [697.906] as I have recommended amendments in response to other submissions.
491. Blue Wallace Surveyors Ltd [662.26] seeks an amendment to Rule 23.3.7.5 by imposing a size standard on a lake, and the suggested size in the submission is 4ha. I am comfortable with this approach. To the best of my knowledge the only lakes that are in the vicinity of the Country Living Zone are Lake Hakanoa and Lake Rotokauri, both of which are either 4ha in size (Rotokauri) or slightly larger (Hakanoa). The submission also seeks to add a clause to Rule 23.3.7.5 to allow a 10m setback to a managed wetland. The term 'managed wetland' is not defined in the Proposed Plan. However, I believe that it would be reasonable to allow a more lenient setback in this situation as a 32m setback for the purposes of obtaining an esplanade would not be required. If the panel accepts these recommendations, it would be sensible to include a definition for a 'managed wetland', as it is unclear what exactly this relates to. I recommend the panel accept in part Blue Wallace Surveyors Ltd [662.26].
492. The Surveying Company [746.119] is seeking to add to Rule 23.3.7.5 a 10m setback from the bank of a perennial or intermittent stream. I agree with this approach. When it comes to setting a setback distance from a perennial or intermittent stream, as a starting point I have considered the Waikato Regional Plan, where in Rule 4.2.18 there is reference to a 10m setback to an artificial watercourse, modified watercourses or river bed when managing access for maintenance. The 10m setback allows for the manoeuvrability of machinery. In my opinion, a 10m setback from a perennial or intermittent stream would be consistent with the Waikato Regional Plan and seems appropriate. I recommend the panel accept The Surveying Company [746.119].
493. The submission from Dave MacCracken [943.65] seeks to retain the operative rule from the Waikato section of the plan. The rule in the Operative District Plan (Waikato Section) contains setbacks ranging from 27.5m and 32.5 through to 50m. The 50m setback relates to

the River Bank Stability Policy Area. My understanding of this policy area is that it is inaccurate and that a general approach as proposed is a more appropriate way to manage the setbacks to waterbodies. For these reasons I recommend that the panel reject the submission from Dave MacCracken [943.65].

494. Sharp Planning Solutions [695.120] seeks to amend the rule for waterbodies setbacks in the Country Living Zone to be the same as the Rural Zone. Given that I have recommended that the panel accept the request from Waikato District Council [697.902] to increase the setback in the Country Living Zone, and that in the Rural Zone there is a similar submission requesting the same setbacks, I recommend that the panel accept Sharp Planning Solutions [695.120].
495. Waikato District Council [697.468] seeks to amend the terminology of structures in Rule 23.3.7.5 to be consistent across all zones. Turangawaewae Trust Board [FS1139.16] and Waikato Tainui [FS1108.17] both oppose the submission. The consistent approach to wording will improve the readability of the plan and ensure that a consistent approach is undertaken when accessing any departure from the rule. I recommend that the panel accept Waikato District Council [697.468].
496. Waikato District Council [697.905] seeks to amend Rule 23.3.7.5 to clarify that a pump shed can be public or private property, and to amend the discretionary activity rule as a consequential amendment. I agree with this approach as it provides consistency with other zone chapters. I recommend that the panel accept Waikato District Council [697.905].

Figures 14 and 15: Proposed District Plan Maps showing the location of Country Living Zone in relation to Lake Hakanoa and Lake Rotokauri





7.9.3 Recommendation

- (a) **Reject** Martin Lynch [161.3]
- (b) **Accept** in part Fire and Emergency New Zealand [378.43]
- (c) **Accept** in part [FS1035.149] Pareoranga Te Kata
- (d) **Reject** Auckland Waikato Fish and Game [433.28]
- (e) **Accept** in part Waikato District Council [697.906]
- (f) **Reject** Mercury Energy Limited [FS1387.729]
- (g) **Accept** in part Blue Wallace Surveyors Ltd [662.26]
- (h) **Accept** Sharp Planning Solutions [695.120]
- (i) **Accept** Waikato District Council [697.468]
- (j) **Reject** Turangawaewae Trust Board [FS1139.16] and Waikato Tainui [FS1108.17]
- (k) **Accept** Waikato District Council [697.905]
- (l) **Accept** The Surveying Company [746.119]
- (m) **Reject** Dave MacCracken [943.65].

7.9.4 Recommended amendments

497. The following amendments are recommended:

23.3.7.5 Building setback - Waterbodies

PI	<ul style="list-style-type: none"> (a) Any building must be set back a minimum of: <ul style="list-style-type: none"> (i) 232m from the margin of any; <ul style="list-style-type: none"> A. Lake over 4ha; and B. wetland; (ii) 232m from the bank of any river (other than the Waikato River and Waipa River);
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	<p>(iii) 37m from the banks of the Waikato River and the Waipa River; and</p> <p>(iv) 27.532m from mean high water springs or</p> <p>(v) 10m from the bank of a perennial or intermittent stream (named or unnamed) [746.119]</p> <p>(b) — PI does not apply to a public amenity of up to 25m², or a pump shed. [697.905] [697.906]</p> <p>(v) 10m from a managed wetland [662.26]</p>
P2	A public amenity of up to 25m², or a pump shed (public or private) within any building setback identified in rule 23.3.7.5 PI. [697.905]
D1	Any building that does not comply with Rule 23.3.7.5 P1 or P2 [697.905]

7.9.5 Section 32AA evaluation

498. The above assessment of submissions addresses the notified provisions and the need for them to be amended to improve their effectiveness and efficiency, along with the costs and benefits of the recommended changes. The evaluation should be read in conjunction with the discussion above.

Other reasonably-practicable options

499. An option would be to keep the proposed rule, however I believe this to be unreasonable in some situations, and the submissions offer the opportunity to improve the plan where a larger setback is not required, while still giving effect to the objective and policies of the zone.

Effectiveness and efficiency

500. The recommended amendments to the rule framework improve the guidance to plan users for the assessment of activities that affect the areas around waterbodies. The amendments are additional, therefore the fundamental purpose of the rule stays intact, and the policies relating to character are not undermined. As well, the amended rules will allow for flexibility for the location of buildings while still supporting the building setback policy where spaciousness between buildings with adjoining sites is of importance. The flexibility of building location potentially allows for the views and vistas of the larger waterbodies to be maintained. These changes are considered to support a more efficient and effective use of the land than the notified rule, while recognising the importance of the relevant policies.

Costs and benefits

501. There are no additional costs, therefore costs are likely to be the same. There are benefits for the environment with the revised rules, as it is clearer how the effects will be managed in terms of setbacks to waterbodies. Other benefits are clearer guidance to plan users regarding the effects of buildings on lesser waterbodies.

Risk of acting or not acting

502. The primary risk of not acting is that there may be instances where the setback rule prevents development on a site without the necessity of resource consent. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the rules.

Decision about most appropriate option

503. The proposed amendments are considered to be more appropriate in achieving the Objective of for the Country Living Zone than the notified version and the purpose of the RMA.

7.10 Rule 23.3.8 - Horotiu Noise Acoustic Area

7.10.1 Submissions

504. One submission was received, with no specific decision sought.

Submission point	Submitter	Summary of submission
330.113	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.3.8 Horotiu Noise Acoustic Area.
<i>FS/386.395</i>	<i>Mercury NZ Limited</i>	Oppose submission 330.113

7.10.2 Analysis

505. Andrew and Christine Gore [330.113] do not outline any relief sought. Mercury Energy Limited [*FS/386.395*] opposes the submission. I recommend that the panel reject the submission from Andrew and Christine Gore [330.113] due to the lack of detail and specificity.

7.10.3 Recommendation

(a) **Reject** Andrew and Christine Gore [330.113] and **accept** the further submission from Mercury Energy Limited [*FS/386.395*].

7.10.4 Recommended amendments

506. There are no changes recommended in response to the submissions.

7.10.5 Section 32AA evaluation

507. There are no recommended amendments. Accordingly, no s32AA evaluation has been undertaken.

7.11 Rule 23.3.7.6 – Setbacks in the Environmental Protection Area

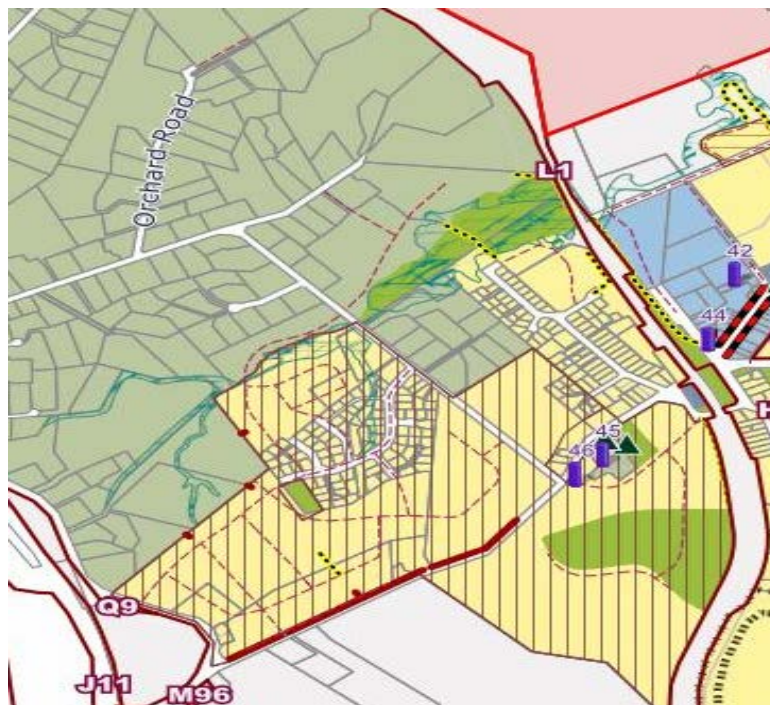
7.11.1 Submissions

Submission point	Submitter	Summary of submission
433.29	Auckland Waikato Fish and Game Council	Amend Rule 23.3.7.6 PI Building setback - Environmental Protection Area, as follows: A building <u>that is not a maimai</u> must be set back a minimum of 3m from an Environmental Protection Area. AND/OR Any alternative relief to address the issues and concerns raised in the submission.

7.11.2 Analysis

508. Auckland Waikato Fish and Game [433.29] seeks an exemption for maimai to be set back from the Environmental Protection Area. The Environmental Protection Area is specific to Te Kauwhata and is in the vicinity of, or borders, the Whangamarino Wetland. The Country Living Zone in Te Kauwhata is shown on the map below, and the pale green/blue markings on the map represent the EPA. Given that the majority of the Country Living Zone properties also border a residential area, in my opinion it would be inappropriate for maimai to be provided for in this area. A similar submission from Fish and Game [433.28], has been discussed above, where I raised concerns about the effects on the amenity of the area and the potential re-purposing of the maimai. Also, as previously discussed, considering that the purpose of a maimai is for the shooting of game, it is doubtful that there would be situations in this zone that could accommodate the ability to safely fire a gun. For the reasons given, I recommend that the panel reject Auckland Fish and Game [433.29].

Figure 16



7.11.3 Recommendation

(a) **Reject** Auckland Fish and Game [433.29].

7.11.4 Recommended amendments

509. There are no changes recommended in response to the submissions.

7.11.5 Section 32AA evaluation

510. There are no recommended amendments. Accordingly, no s32AA evaluation has been undertaken.

7.12 Rule 23.7.4 - Airport Noise Outer Control Boundary

7.12.1 Submission

511. One submission was received to amend the location of the rule.

Submission point	Submitter	Summary of submission
697.904	Waikato District Council	Amend location of Rule 23.3.7.4 Building - Airport Noise Outer Control Boundary to follow rule 23.3.8 Building - Horotiu Noise Acoustic Area.
FSI 387.728	Mercury NZ Limited	Opposes submission 697.904

7.12.2 Analysis

512. Waikato District Council [697.904] seeks to amend the location of Rule 23.3.7.4 to follow Rule 23.3.8. This rule is a noise rule, not a setback requirement, and needs to be relocated. I agree with the amendment, as it makes it easier and more logical for the plan user. I recommend that the panel accept Waikato District Council [697.904].

7.12.3 Recommendation

(a) **Accept** Waikato District Council [697.904] and **reject** the further submission from Mercury Energy Limited [FSI 387.728].

7.12.4 Recommended amendments

513. There are no changes recommended in response to the submission.

7.12.5 Section 32AA evaluation

514. There are no recommended amendments. Accordingly, no s32AA evaluation has been undertaken.

8 Topic 5: Subdivision

8.1 Introduction

515. The subdivision provisions for the Country Living Zone are the key mechanism for controlling the creation of new lots and the character of the zone. The intent and purpose of the Country Living Zone is somewhat of a transition zone between the urban zones and the Rural Zone. The minimum lot size of 5000m² is intended to provide rural-residential living opportunities that are large enough to be self-serviced in terms of water supply, wastewater and stormwater.

516. There are a number of objectives and policies in Chapter 5 Rural Environment that address subdivision – both directly and indirectly. For example, Objective 5.6.1 relates specifically subdivision, use and development in the Country Living Zone, however this is achieved by Policy 5.6.2 which identifies the aspects of the Country Living Zone that contribute to character. Policy 5.6.3 is focused primarily on subdivision and ensures that the pattern of subdivision supports the intended character of the zone.

517. In terms of subdivision, these objectives and policies are delivered by Section 23.4, which contains the subdivision rules. However, this report does not address all of the subdivision rules, and those that are specific to particular areas or overlays are addressed in other hearings, such as Hearing 14 Historic Heritage. Rules that address more than one of the

overlays will be addressed in this report to avoid segmenting a rule unnaturally across multiple hearings. Thus, this section of the report addresses the following subdivision rules:

- a. Rule 23.4.1 lists Prohibited Subdivision in the Country Living Zone.
- b. Rule 23.4.2 provides for General Subdivision in the Country Living Zone
- c. Rule 23.4.3 - Subdivision within identified areas
- d. Rule 23.4.4 - Title Boundaries – contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities and aggregate extraction areas
- e. Rule 23.4.5 - Site boundaries – Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori
- f. Rule 23.4.7 - Subdivision - Road frontage
- g. Rule 23.4.8 - Subdivision Building platform
- h. Rule 23.4.9 – Subdivision for a Reserve
- i. Rule 23.4.10 - Subdivision of land containing mapped off-road walkways
- j. Rule 23.4.11 - Subdivision of land containing all or part of an Environmental Protection Area
- k. Rule 23.4.12 - Esplanade reserves and esplanade strips

518. However, Sections 5.6 and 23.4 are not the only provisions relevant to subdivision in the Country Living Zone - Chapters 6 and 14 relate to infrastructure and include matters such as access, three waters servicing, telecommunication and electricity. These provisions will be addressed in Hearing 22 Infrastructure.

8.2 Objectives and Policies

519. This section addresses the submissions received on Policy 5.6.3, which is specific to subdivision, building and development in the Country Living Zone and sets out the expectations for these activities. The policy has 5 clauses which seek to:

- a. Avoid undersized lots;
- b. Ensure that the size and shape enable sufficient setbacks;
- c. Building platforms maintain the character;
- d. Recognise existing infrastructure; and
- e. Avoid reverse sensitivity.

520. Although the title of the policy is 'Subdivision', the content of the policy is subdivision, building and development. This policy is intended to achieve Objective 5.6.1, which seeks to maintain or enhance the character and amenity values of the Country Living Zone.

521. Thirteen primary submissions were received on Policy 5.6.3, ranging from support for the notified version of the policy to seeking various amendments. The amendments sought include:

- a. Recognition of Crime Prevention Through Environmental Design;
- b. Inclusion of lot sizes in the policy;

- c. Broadening the recognition of reverse sensitivity with new development and activities;
- d. Moderating the language away from 'avoiding' undersized lots, and conversely stronger policy direction on avoiding undersized lots;
- e. Encouraging greater intensification;
- f. Managing artificial lighting; and
- g. Greater recognition of effects of subdivision on infrastructure.

522. Twenty two further submissions were received.

8.2.1 Submissions

Submission point	Submitter	Summary of submission
297.36	Counties Manukau Police	Add to Policy 5.6.3(a) (Subdivision within the Country Living Zone a new point as follows: <u>(vi) conforms to the national guidelines for CPTED</u>
<i>FS1386.315</i>	<i>Mercury NZ Limited</i>	Opposes submission 297.36
389.4	J and T Quigley Ltd	Add a clause to Policy 5.6.3 Subdivision within the Country Living Zone, as follows: (vi) where sites are in close to a village Zone, subdivision can be between 5,000m2 and 3000m2 unreticulated. AND Amend the Proposed District Plan to include all necessary, consequential or further relief required to give effect to the submission.
<i>FS1388.92</i>	<i>Mercury NZ Limited</i>	Opposes submission 389.4
<i>FS1379.105</i>	<i>Hamilton City Council</i>	Opposes submission 389.4
419.67	Horticulture New Zealand	Retain Policy 5.6.3 Subdivision within the Country Living Zone, as notified.
<i>FS1388.209</i>	<i>Mercury NZ Limited</i>	Opposes submission 419.67
<i>FS1333.13</i>	<i>Fonterra Limited</i>	Supports submission 419.67
433.8	Auckland Waikato Fish and Game Council	Retain Policy 5.6.3 (a) (v) Subdivision within the Country Living Zone, as notified.
<i>FS1223.69</i>	<i>Mercury NZ Limited</i>	Supports submission 433.8
466.47	Balle Bros Group Limited	Retain Policy 5.6.3 Subdivision within the Country Living Zone as notified, except for the amendments outlined below AND Amend Policy 5.6.3 (v) Subdivision within the Country Living Zone as follows: existing lawfully-established activities, <u>and new development and activities</u> , are protected from reverse sensitivity effects
<i>FS1388.423</i>	<i>Mercury NZ Limited</i>	Opposes submission 466.47
<i>FS1272.5</i>	<i>KiwiRail Holdings Ltd</i>	Opposes submission 466.47
590.4	Jenny Kelly	Retain Policy 5.6.3(a) (i) and (ii) Subdivision within the Country Living Zone, and ensure it is not contradicted.
<i>FS1388.995</i>	<i>Mercury NZ Limited</i>	Opposes submission 590.4

662.3	Blue Wallace Surveyors Ltd	Retain Policy 5.6.3 Subdivision within the Country Living Zone, except for the amendments sought below AND Amend Policy 5.6.3(a)(i) Subdivision within the Country Living Zone as follows: (i) The creation of undersized lots is avoided <u>discouraged</u> where character and amenity are compromised;
<i>FSI 387.96</i>	<i>Mercury NZ Limited</i>	Opposes submission 662.3
<i>FSI 379.226</i>	<i>Hamilton City Council</i>	Opposes submission 662.3
695.54	Sharp Planning Solutions Ltd	No specific decision sought with respect to Policy 5.6.3(a) (i) Subdivision within the Country Living Zone, but submission considers greater intensification of Country Living Zoned land is to be encouraged not discouraged.
<i>FSI 379.266</i>	<i>Hamilton City Council</i>	Opposes submission 695.54
<i>FSI 197.30</i>	<i>Bowrock Properties Limited</i>	Support submission 695.54
<i>FSI 387.314</i>	<i>Mercury NZ Limited</i>	Opposes submission 695.54
697.560	Waikato District Council	Delete from Policy 5.6.3(a)(i) Subdivision within the Country Living Zone as follows: (i) The creation of undersized lots is avoided where character and amenity are compromised; AND Add to Policy 5.6.3(a) Subdivision within the Country Living Zone a new policy (vi) as follows: <u>(vi) Character and amenity is not compromised</u>
<i>FSI 287.33</i>	<i>Blue Wallace Surveyors Ltd</i>	Opposes submission 697.560
<i>FSI 387.611</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.560
742.41	New Zealand Transport Agency	Retain Policy 5.6.3 Subdivision within the Country Living Zone, except for the amendments sought below AND Amend Policy 5.6.3(a)(iv) Subdivision within the Country Living Zone, as follows: existing <u>and planned</u> infrastructure is not compromised <u>adversely affected</u> ; AND Request any consequential changes necessary to give effect to the relief sought in the submission.
<i>FSI 387.860</i>	<i>Mercury NZ Limited</i>	Opposes submission 742.41
942.25	Angeline Greensill for Tainui o Tainui	Add a new clause to Policy 5.6.3 Artificially outdoor lighting as follows: <u>In remote coastal and rural areas ensure artificial outdoor lighting is directed downward.</u>
<i>FSI 340.192</i>	<i>TaTa Valley Limited</i>	Supports submission 942.25
947.4	Stuart Quigley	Amend Policy 5.6.3 Subdivision within the Country Living Zone, as follows (or with words to similar effect): (a) Subdivision, building and development within the Country Living Zone ensures that:... <u>(vi) where sites are in close to a village Zone, subdivision can be up wards of 5,000m² unreticulated.</u> AND Amend the Proposed District Plan as necessary including provisions, consequential additions and cross references.
<i>FSI 387.1599</i>	<i>Mercury NZ Limited</i>	Opposes submission 947.4

FSI278.4	Quigley Family Trust	Supports submission 947.4
FSI379.371	Hamilton City Council	Opposes submission 947.4
986.28	KiwiRail Holdings Limited (KiwiRail)	Retain Policy 5.6.3 Subdivision within the Country Living Zone as notified.
FSI176.291	Watercare Services Ltd	Supports submission 986.28

8.2.2 Analysis

523. The submission from Jenny Kelly [590.4] supported clauses (i) and (ii) and sought that these policies not be contradicted. The submitter considered that these policies have already been contradicted in Te Kauwhata due to the liberal resource consent applications. The support for these clauses is noted.

Crime Prevention Through Environmental Design

524. The submission from Counties Manukau Police [297.36] sought inclusion of a new clause requiring conformation with the national guidelines for CPTED. I have looked at the National Guidelines for Crime Prevention through Environmental Design in New Zealand³⁷ and considered the appropriateness of the seven principles to the Country Living Zone:

- a. Access: Safe movement and connections
- b. Surveillance and sightlines: See and be seen
- c. Layout: Clear and logical orientation
- d. Activity mix: Eyes on the street
- e. Sense of ownership: Showing a space is cared for
- f. Quality environments: Well-designed, managed and maintained environments
- g. Physical protection: Using active security measures.

525. While I consider these to be worthy principles (particularly for urban environments), I am not certain of the value of including a requirement to conform with the principles in a Country Living Zone policy. Because of the low housing density, prominence of a rural form of development, very mature vegetation, large setbacks and absence of footpaths in the Country Living Zone, it would be difficult to meaningfully implement the principles. For this reason I recommend rejecting the submission point from Counties Manukau Police [297.36].

Reverse sensitivity

526. Horticulture New Zealand [419.67], Auckland Waikato Fish and Game Council [433.8] and KiwiRail Holdings Limited [986.28] all supported retention of Policy 5.6.3, or parts of the policy, primarily on the basis that it ensures that existing lawfully-established activities are protected from reverse sensitivity effects. I agree that it is important that the policy recognises the potential for reverse sensitivity effects to arise, and the need to protect existing lawfully-established activities. In my consideration of clause (v), I realised that while clauses (i)-(v) are highly relevant to subdivision, clause (v) is relevant to both subdivision *and* landuse. Because the title of the Policy is “Subdivision within the Country Living Zone”, there is a risk that this clause of the policy will be overlooked in terms of land use activities. To avoid this situation occurring, I recommend that Policy 5.6.3(a)(v) be carved off as its

³⁷ Ministry of Justice, 2005

own discrete policy, and retain the relevance to both subdivision and land use activities. For this reason and due to my further amendments made in response to other submissions, I recommend accepting in part the submissions seeking retention of Policy 5.6.3.

527. Earlier in this report I have recommended a new policy regarding reverse sensitivity in response to a submission from Horticulture New Zealand. I therefore recommend that Policy 5.6.3(a)(v) be deleted, and instead be shifted to a new policy. I have recommended replacing the word “building” with “land uses” as buildings themselves are not likely to give rise to reverse sensitivity effects; instead it is the activity for which they may be used which should be the focus.

5.6.19 Policy- Reverse Sensitivity

(a) The design and layout of subdivision, land uses and development within the Country Living Zone minimises the potential for reverse sensitivity effects.

528. Balle Bros Group Limited [466.47] supported Policy 5.6.3 also, but sought additional wording so that the recognition of existing activities in clause (v) is broadened to include not just existing lawfully-established activities, but also new development and activities. The reason provided by the submitter is that this is particularly important where the Country Living Zone abuts the Rural Zone. Reverse sensitivity generally refers to the situation where new, incompatible activities constrain the operation or expansion of existing lawfully-established activities. The new activity is ‘sensitive’ to the effects of the existing activity, and can result in complaints to Council, with the risk of constraints being placed on those lawfully-established activities. I appreciate the submitter’s concerns that normal rural activities undertaken on a Rural-zoned site may be constrained by development on a Country Living-zoned site, but note that activities undertaken on Rural-zoned land will be managed by the Rural Zone provisions. I consider that the focus should be on existing lawfully-established activities, as any ‘new’ activities will be managed through the rules applicable to the particular zone in which the activity is undertaken. New development or activities cannot be the subject of reverse sensitivity effects, as the focus is on established activities. The further submission from KiwiRail Holdings Ltd [FS1272.5] opposed the primary submission on those grounds, and considered that to apply the term ‘reverse sensitivity’ to new activities would be inconsistent with the widely-accepted meaning of the term. I agree, therefore recommend rejecting in part this submission point, noting that the submission also supported the policy, which is largely recommended for retention.

Infrastructure

529. The New Zealand Transport Agency [742.41] supported the policy, although sought amendments to clause (iv) to broaden the policy to not only existing but also planned infrastructure. The Agency also sought to replace the word “compromise” with “adversely-affected”. I support the recognition of planned infrastructure in Policy 5.6.3, and this is a concept which is recognised in the Waikato Regional Policy Statement - e.g. Policy 6.39(a)(ii) Co-ordinating growth and infrastructure. I consider “adversely affect” to be a higher bar than “compromise”. I note that clause (d) of the 6A Development principles in the Waikato Regional Policy Statement states that new development should not *compromise* the safe, efficient and effective operation and use of existing and planned infrastructure, including transport infrastructure. This policy position is particularly relevant where there is clearly-planned future infrastructure such as indicative roads. Therefore I recommend accepting the

references to planned infrastructure, but retaining the reference to “compromise” rather than “adversely affected” as follows:

- (iv) existing and planned infrastructure is not compromised;

Lot size

530. The use of the word “avoided” in Policy 5.6.3(i) in relation to undersized lots was the focus of submissions from Blue Wallace Surveyors Ltd [662.3], who opposed the use of the word and that policy position. Blue Wallace Surveyors Ltd considered that the word “avoid” is absolute and will restrict flexibility in subdivision design. The submitter sought replacement with the word “discourage” instead. The use of the word “avoid” was deliberately included in the Plan to address deficiencies in the Operative District Plan (Waikato Section). The Operative District Plan does not provide sufficient policy direction to refuse resource consent applications for undersized lots in the Country Living Zone. I am aware of recent case law and that “avoid” means just that – that there is no circumstance in which that activity would be acceptable. I am also mindful that policy direction needs to be clear and unambiguous, and the use of lesser words such as “discourage” is not particularly helpful for either applicants or Council officers processing consent applications.
531. The Country Living Zone is intended to provide a more rural form of residential development, and sits on the scale of intensity between the Rural Zone and Village Zone (which is more urban in its densities and form). I am mindful of the National Planning Standards and the range of zones described. I consider that the Country Living Zone is most aligned with the “Rural Lifestyle Zone” and note that the description of this is as follows:
- Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur.*
532. By adopting a more permissive policy position towards undersized lots, there is the risk of more development in the range of the Village Zone (recommended in the Hearing 6 s42A report to be reduced to a minimum lot size of 2,500m²). I consider that a stronger policy position will more effectively support Objective 5.6.1 and maintain or enhance those character and amenity values of the zone, and better support the environment described in the Rural Lifestyle Zone. I am also mindful that Rule 23.4.2 classifies subdivision that creates lots less than 5000m² as a non-complying activity. Thus I consider that the policy position of “avoid” and the non-complying activity status present a highly directive framework for managing subdivision in the Country Living Zone and retaining the character of that zone. I therefore recommend that the submission from Blue Wallace Surveyors Ltd [662.3] be rejected.
533. The submission point from Sharp Planning Solutions Ltd [695.54] considered that there should be greater intensification of Country Living-zoned land and it represents a waste of rural land resources. Similarly, the submissions from J and T Quigley Ltd [389.4] and Stuart Quigley [947.4] sought an amendment to the policy which enabled reduced lot size where sites are in close proximity to a Village Zone. I note that the submission from Stuart Quigley sought that subdivision be upwards of 5,000m² unreticulated where sites are close to a Village Zone. Given the similar submission point from J and T Quigley, I have interpreted this to mean that the submitter is seeking increased development where Country Living Zoned sites are close to a Village Zone.

534. The purpose of the Country Living Zone is to be a transition between urban and rural, but to have more of a rural character (hence inclusion of the Country Living Zone objectives and policies in Chapter 5 Rural Environment, rather than Chapter 4 Urban Environment). In order to retain the character and integrity of the Country Living Zone and prevent the zones from being a sliding scale with no discernible difference between them, I recommend that these submission points be rejected. I consider it important to retain the integrity and purpose of each zone, and one of the key mechanisms to achieve this is controlling the lot size (and in doing so, maintain the density and a more rural form of development). I note that these submitters are seeking rezoning in their submissions, and suggest that this is a more appropriate avenue to address the issues raised in submissions, rather than a change in the minimum lot size of the Country Living Zone through the policies.
535. Waikato District Council [697.560] sought an amendment to separate clause (i) into two parts – one that avoids the creation of undersized lots, and the second which focuses on character and amenity not being compromised. The reason provided in the submission is that the words “where character and amenity is not compromised” weakens the policy, and this portion of the clause is more appropriate as a separate criterion. I agree that a more directive and certain policy framework is more helpful to all users of the Plan, and that the current combination of lot size, character and amenity in clause (i) is not particularly certain or directive. I consider that there is value in a policy establishing that character and amenity of the Country Living Zone are important, and this is currently lacking in terms of the policy framework for subdivision. I thought about whether these issues could be reasonably addressed through subdivision, and concluded that the standards for subdivision, such as lot size, road frontage and building platform, should all combine to create character and amenity for the zone. In my consideration of this issue, I looked closely at the wording of the title - “Subdivision”, while the start of the policy addresses “Subdivision, building and development”. I consider that this has the potential to cause confusion, and duplicates other policies which are focused on the building and development aspect. There is no specific submission which addresses this issue, but in the interests of clarity I recommend amending the start of the policy to be focused on subdivision, so it is aligned with the title of the policy. I therefore recommend that the submission point from Waikato District Council [697.560] be accepted and Policy 5.6.2 be amended as follows:

(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~~;

...

(v) Character and amenity is not compromised.

Lighting

536. The submission point from Angeline Greensill for Tainui o Tainui [942.25] sought addition of a clause in the policy to require artificial outdoor lighting to be directed downwards in remote coastal and rural areas. I understand the concerns raised by the submitter, particularly where the Country Living Zone is located in more remote areas (i.e. not adjoining an urban area). I have recommended that Policy 5.6.3 be focused on subdivision, and consider that lighting matters are more appropriately addressed by Policy 5.6.15 Artificial outdoor lighting. Policy 5.6.15 is achieved by Rule 23.2.2 Glare and Artificial Light Spill, which requires illumination to not exceed 10 lux measured horizontally and vertically at

any other site. I therefore recommend rejecting the submission point, as these matters are sufficiently addressed by Policy 5.6.15 and Rule 23.2.2.

8.2.3 Recommendation

537. Having assessed the submissions above, I recommend the following:

- (a) **Accept** Counties Manukau Police [297.36] be rejected, and the further submission from Mercury NZ Limited [FS/386.315];
- (b) **Accept in part** Horticulture New Zealand [419.67], and the further submissions from Mercury NZ Limited [FS/388.209] and Fonterra Limited [FS/333.13];
- (c) **Accept in part** Auckland Waikato Fish and Game Council [433.8] and the further submission from Mercury NZ Limited [FS/223.69] be;
- (d) **Accept in part** KiwiRail Holdings Limited (KiwiRail) [986.28] and the further submission from Watercare Services Ltd [FS/176.291];
- (e) **Accept in part** Jenny Kelly [590.4] and the further submission Mercury NZ Limited [FS/388.995];
- (f) **Accept in part** Balle Bros Group Limited [466.47], Mercury NZ Limited [FS/388.423] and KiwiRail Holdings Ltd [FS/272.5];
- (g) **Accept in part** New Zealand Transport Agency [742.41] and Mercury NZ Limited [FS/387.860];
- (h) **Reject** Blue Wallace Surveyors Ltd [662.3] and the further submissions from Mercury NZ Limited [FS/387.96] and **Accept** Hamilton City Council [FS/379.226];
- (i) **Reject** Sharp Planning Solutions Ltd [695.54] and Bowrock Properties Limited [FS/197.30], and **accept** the further submissions from Hamilton City Council [FS/379.266] and Mercury NZ Limited [FS/387.314];
- (j) **Reject** J and T Quigley Ltd [389.4] and **accept** the further submissions from Mercury NZ Limited [FS/388.92] and Hamilton City Council [FS/379.105];
- (k) **Accept** Waikato District Council [697.560], and **reject** the further submissions from Blue Wallace Surveyors Ltd [FS/287.33] and Mercury NZ Limited [FS/387.611];
- (l) **Reject** Angeline Greensill for Tainui o Tainui [942.25] and the further submission from TaTa Valley Limited [FS/340.192]
- (m) **Reject** Stuart Quigley [947.4] and Stuart Quigley and Quigley Family Trust [FS/278.4], and **accept** the further submissions from Mercury NZ Limited [FS/387.1599] and Hamilton City Council [FS/379.371].

8.2.4 Recommended amendments

538. I therefore recommend that Policy 5.6.3 be amended as follows:

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 ~~and planned~~ infrastructure is not compromised;

~~(v) existing lawfully established activities are protected from reverse sensitivity effects.~~

~~(v) character and amenity are not compromised.~~

5.6.19 Policy- Reverse Sensitivity

(a) The design and layout of subdivision, land uses and development within the Country Living Zone minimises the potential for reverse sensitivity effects.

8.2.5 Section 32AA evaluation

539. The amendment to clause (a) is to focus the policy, and when considered in the context of the other policies in Section 5.6 which address building and development more fully, this is considered the most appropriate way to achieve Objective 5.6.1.

540. Similarly, the recommended creation of a new Policy 5.6.3A is an administrative change, so that the consideration of reverse sensitivity applies to subdivision, land use and development rather than just subdivision (given that I have recommended that Policy 5.6.3 be focused on subdivision). Therefore no Section 32AA evaluation is required, as the text is consistent with the notified version of the Plan.

Amendments to clause (a)(i)

541. Clause (a)(i) is recommended to be amended to focus on avoiding undersized lots, and the second leg of the policy is recommended to be separated as its own clause.

Other reasonably-practicable options

542. There are four possible options for consideration:

- a. Retain the clause as notified;
- b. Take a more moderate policy position on undersized lots;
- c. Strengthen the policy position by deleting the references to not compromising character and amenity; and
- d. Splitting the policy into two separate clauses.

Effectiveness and efficiency

543. The recommended amendments to Policy 5.6.3(a)(iv) give effect to Objective 5.6.1 Country Living Zone, which seeks to maintain or enhance the character and amenity values of the zone. The amendments improve the effectiveness of the policy in implementing Objective 5.6.1, and provide appropriate guidance to plan users as to the approach to undersized lots. The amendments result in a more directive policy position, which is then backed up with a non-complying activity status.

Costs and benefits

544. There are potential costs to those wishing to undertake subdivision and create undersized lots, however there will be benefits for those landowners who value the character and intent of the Country Living Zone. The other benefit is clearer guidance to plan users regarding the policy framework for undersized lots. There is a wider benefit to the local and regional community, in that the Plan ensures a range of living options available for the district.

545. This amendment may have a very small economic effect, in that undersized lots will not be created. However, the benefit is the social effect of enabling rural lifestyle options.

Risk of acting or not acting

546. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment of the policy.

Decision about most appropriate option

547. The amendment gives effect to Objective 5.6.1 and will support Objective 5.1.1(a)(iii), which seeks to avoid urban subdivision, use and development in the rural environment. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version of Policy 5.6.3(a)(i).

Amendments to clause (a)(iv)

548. Clause (a)(iv) is recommended to be amended to ensure that planned as well as existing infrastructure is not compromised.

Other reasonably-practicable options

549. There are three possible options for consideration:

- a. Retain the clause as notified;
- b. Amend the clause as sought by the submission from the New Zealand Transport Agency; and
- c. Accept only one amendment of the two sought by the New Zealand Transport Agency.

Effectiveness and efficiency

550. The recommended amendments to Policy 5.6.3(a)(iv) give effect to Objective 6.1.1 Integration of infrastructure with subdivision, land use and development. This objective seeks to provide for infrastructure, and integrate this with subdivision, use and development. The amendments improve the effectiveness of the policy in implementing Objective 6.1.1 and 6.4.1, and provide appropriate guidance to plan users when considering subdivision in the Country Living Zone. The amendments result in more directive policy.

Costs and benefits

551. There are unlikely to be any additional costs arising from this amendment. The benefit is a clearer consideration of planned infrastructure.

Risk of acting or not acting

552. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the policy.

Decision about most appropriate option

553. The amendment gives effect to Objective 6.1.1, and helps achieve Objective 6.4.1, which requires infrastructure to be provided for, and integrated with, subdivision, use and development. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version of Policy 5.6.3(a)(iv). Recognition of planned infrastructure is a concept in Waikato Regional Policy Statement Policy 6.39(a)(ii) Co-ordinating growth and infrastructure. The recommended amendment will align better with clause (d) of the 6A Development principles in the Waikato Regional Policy Statement, which states that new

development should not compromise the safe, efficient and effective operation and use of existing *and planned* infrastructure, including transport infrastructure.

8.3 Subdivision - General

554. Subdivision in the Country Living Zone is managed by Section 23.4, which contains all the rules pertaining to subdivision. The rules range from controlled to prohibited activity status. The submission points addressed in this section of the report are general, in that they are not specific to a particular rule and relate more generally to the subdivision section. Five submissions and five further submissions were received.

8.3.1 Submissions

Submission point	Submitter	Summary of submission
330.73	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4 Subdivision and/or all rules sitting under Rule 23.4 Subdivision.
<i>FSI386.448</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.73
330.115	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4 Subdivision.
<i>FSI386.396</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.115
697.845	Waikato District Council	Amend Rule 23(2) Country Living Zone, as follows: The rules that apply to subdivision in the Country Living Zone are contained in Rule 23.4 <u>and the relevant rules in 14 Infrastructure and Energy; and 15 Natural Hazards and Climate Change (Placeholder).</u>
<i>FSI387.708</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.845
345.18	Brent Trail	Delete Rule 23.4 Subdivision.
<i>FSI386.488</i>	<i>Mercury NZ Limited</i>	Opposes submission 345.18
697.917	Waikato District Council	Amend Rule 23.4 Subdivision heading, as follows: 23.4 Subdivision <u>Rules</u>
<i>FSI387.731</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.917

8.3.2 Analysis

555. Andrew and Christine Gore [330.7 and 330.115] do not disclose any relief sought and I recommend these submissions are rejected.

556. Waikato District Council [697.845] sought to insert cross references in Rule 23(2) to Chapter 14 Infrastructure and Energy and 15 Natural Hazards. I recommend rejecting this submission point, as this cross reference is already present at the very beginning of Chapter 23:

(3) The activity status tables and standards in the following chapters also apply to activities in the Country Living Zone: 14 Infrastructure and Energy; 15 Natural Hazards and Climate Change (Placeholder).

557. I consider that this overarching statement, which clearly applies to all activity tables and standards, is more appropriate at the start of the chapter and does not need repeating.

558. Brent Trail [345.18] sought to delete Rule 23.4 Subdivision, on the basis that while some control is needed to facilitate good planning for future residential development, this is an

extraordinary measure. Given Mr Trail's references to allowing subdivision to take place that considers future development, I question whether the submitter is addressing the rule for subdivision in Hamilton's Urban Expansion Area (Rule 23.4.1). However if the submitter seeks to delete Rule 23.4 as expressed in his submission, I consider that clear rules are needed to manage subdivision to maintain a particular character of a zone and the expectations of the people living in that environment. Although I am recommending amendments to various rules in Section 23.4, I recommend retaining a rule framework for subdivision in the Country Living Zone and therefore recommend rejecting the submission from Brent Trail [345.18].

559. Waikato District Council [697.917] sought inclusion of a minor amendment to Section 23.4 to make it clear to Plan users that this section relates to subdivision 'rules'. I agree that this amendment improves clarity, therefore recommend amending the heading to read:

23.4 Subdivision rules

8.3.3 Recommendation

560. Having undertaken the analysis outlined above, I recommend that:

- (a) **Reject** the submission points from Andrew and Christine Gore [330.73 and 330.115], and **accept** the further submissions from Mercury NZ Limited [FS/386.448 and FS/386.396];
- (b) **Reject** the submission point from Waikato District Council [697.845], and **accept** the further submission from Mercury NZ Limited [FS/387.708];
- (c) **Reject** the submission point from Brent Trail [345.18], and **accept** the further submission from Mercury NZ Limited [FS/386.488];
- (d) **Accept** the submission point from Waikato District Council [697.917], and **reject** the further submission from Mercury NZ Limited [FS/387.731].

8.3.4 Recommended amendments

561. The following amendments are recommended to the heading of Section 23.4:

23.4 Subdivision rules

8.3.5 Section 32AA evaluation

562. As this is only an administrative amendment to make the district plan clearer, no Section 32AA evaluation is required.

8.4 Subdivision within the Hamilton Urban Expansion Area

563. The Hamilton Urban Expansion Area is an overlay which sits over Rural and Country Living Zones on the eastern edge of Hamilton City. It covers an area which will go across into Hamilton City at some point and will eventually be urbanised. The purpose of the Urban Expansion Area is to ensure that development does not compromise the future ability to urbanise this area. Rule 23.4.1 classifies any subdivision within the Hamilton Urban Expansion Area which creates any additional lots as a prohibited activity. Five submissions were received on this rule, with only Hamilton City Council supporting retention of the prohibited activity status.

8.4.1 Submissions

Submission point	Submitter	Summary of submission
161.2	Martin Lynch	Amend Rule 23.4.1 (Prohibited subdivision) to remove a blanket ban on subdivision of properties in the Country Living Zone within the Hamilton Urban Expansion Policy Area.
<i>FS1386.137</i>	<i>Mercury NZ Limited</i>	Opposes submission 161.2
<i>FS1287.8</i>	<i>Blue Wallace Surveyors Ltd</i>	Supports submission 161.2
<i>FS1379.40</i>	<i>Hamilton City Council</i>	Opposes submissions 161.2
<i>FS1277.128</i>	<i>Waikato Regional Council</i>	Opposes submission 161.2
330.116	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4.1 Prohibited subdivision.
<i>FS1386.397</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.116
535.77	Hamilton City Council	Retain the Prohibited Activity status of Rule 23.4.1 Prohibited subdivision, as notified.
<i>FS1388.714</i>	<i>Mercury NZ Limited</i>	Opposes submission 535.77
<i>FS1287.21</i>	<i>Blue Wallace Surveyors Ltd</i>	Opposes submission 535.77
<i>FS1333.19</i>	<i>Fonterra Limited</i>	Supports submission 535.77
662.27	Blue Wallace Surveyors Ltd	Delete Rule 23.4.1 PRI Prohibited Subdivision AND Add a cascading objective, policy and rule set whereby subdivision of Country Living Zone land within the Urban Expansion Area is a Non-Complying Activity and will be subject to an approved Concept Plan of development.
<i>FS1379.224</i>	<i>Hamilton City Council</i>	Opposes submission 662.27
<i>FS1387.109</i>	<i>Mercury NZ Limited</i>	Opposes submission 662.27
697.919	Waikato District Council	Amend Rule 23.4.1 PRI Prohibited Activities, as follows: Any subdivision within Hamilton's Urban Expansion Area <u>as identified on the planning maps</u> involving the creation of any additional to <u>record of title</u> .
<i>FS1387.733</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.919
<i>FS1379.276</i>	<i>Hamilton City Council</i>	Supports submission 697.919

8.4.2 Analysis

564. As notified, subdivision in the Urban Expansion Area is a prohibited activity under Rule 23.4.1. The Urban Expansion Area essentially delineates the area which will eventually be incorporated into Hamilton City's jurisdiction and will become fully urban. The prohibited activity status for subdivision is intended to prevent development that may compromise the ability of this area to be developed into urban in the future.
565. There were a range of submissions received on this rule. These ranged from support for the prohibited activity status for subdivision in the Urban Expansion Area (e.g. Hamilton City Council), submissions seeking a slightly more lenient activity status of non-complying (e.g. Blue Wallace Surveyors Ltd) to submissions seeking deletion of the rule (e.g. Martin Lynch), which would mean that subdivision within the Urban Expansion Area would have a more lenient activity status and become a restricted discretionary activity under Rule 23.4.2.

566. Hamilton City Council [535.77] seeks to retain the prohibited activity status of Rule 23.4.1 as notified. The reasons provided in this submission are that it is imperative to ensure that the objectives and policies for this area are achieved. Blue Wallace Surveyors Ltd [FS/287.21] do not consider that the Hamilton City Council submission point is accurate when stating that a prohibited activity status is imperative in the Hamilton Urban Expansion Area to ensure that the objectives and policies are achieved. Similar to urban expansion areas within Hamilton City (i.e. Peacocks Stage 2), the provision of a concept plan addressing future integration with impending urbanised land use can, and should, be considered a sensible approach to development in the PDP urban expansion areas, as opposed to a catch-all prohibited 'space saving' approach. A more appropriate and equitable planning solution for development in the Hamilton Urban Expansion Area is that of collaboration between landowners and affected parties (i.e. Hamilton City Council) to achieve mutually beneficial outcomes.
567. Fonterra Limited [FS/333.19] supported the retention of the prohibited activity status, as it affords protection for the continued operation of the Te Rapa Dairy Manufacturing Site and associated industrial land. I am aware of the concerns of Fonterra Limited that residential development will create reverse sensitivity effects and constrain the operation of the dairy factory. However the density of dwellings in the Country Living Zone is low, and based on my analysis of subdivision potential and the fact that the Hamilton Urban Expansion Area is located on the other side of the Waikato River, I consider the risk to be low and does not justify retention of the prohibited activity status.
568. The submission from Martin Lynch [161.2] opposes the blanket ban of subdividing properties inside the Hamilton Urban Expansion Area, and is of the opinion that this is a blunt instrument which locks up value for the property owners for a significant period of time when there is the ability to design subdivisions to cater for future intensification at a later date. The submitter considers that prohibiting subdivision would have a material adverse economic and social outcome, which goes against Objective 5.6.1, which calls for a balanced policy approach, and prohibiting subdivision in this area does not take into account the ability to future-proof for residential intensification. Further, in the submitter's opinion, a blanket ban would be a blunt tool which does not take into account the existing layout of Country Living Zones and whether future development would materially impact upon the long term strategy of protecting Hamilton's Urban Expansion Area. Additionally, the submitter is of the opinion that the proposed change does not reflect public consultation phases and is contrary to ratepayers' expectations and the submitter's.
569. Council's GIS team has undertaken an analysis of the development capacity of the Country Living-zoned sites within the Urban Expansion Area. At present, there are 77 properties, with a theoretical potential to create an additional 19 lots (based on a minimum site size of 5000m²) from 11 lots over 1ha (because a minimum of 1ha is needed to generate 2 lots, i.e. 2 x 5000m²). However, upon closer inspection of the location of the existing dwellings (and some of these dwellings are sizeable), only 5 of the properties would be able to be subdivided (resulting in a theoretical additional yield of 15 lots). Figure 1 below illustrates these properties from an aerial perspective which shows which properties are more likely to subdivide based on the location of existing development.

Figure 17



570. Therefore on this basis, I do not consider that the impact of subdivision in the Urban Expansion Area will be significant, and based on the numbers presented, the effect of the prohibited activity rule would be very limited.
571. In regard to thinking about the future development of the Country Living Zone into residential, the transition of this area to Hamilton City Council will be a challenge, irrespective of the proposed prohibited rule, due to the placement of dwellings that already exist and other site-specific factors (e.g. driveways, effluent disposal fields).
572. I am mindful that subdivision of this area under the Operative District Plan is not distinguished from subdivision of the general Country Living Zone, and is currently classified

as a controlled activity, so a transition to a prohibited activity status in the Proposed District Plan is substantially more stringent. While I understand the intent of the Urban Expansion Area and the desire for development undertaken now to not compromise the urban development in the future, I do not consider that a prohibited activity status is warranted. I do not think that there is any subdivision of this area that is likely to have adverse effects so dire or significant that a prohibited activity status is justified. I am also mindful of the very few additional lots that are realistically likely to be created through subdivision. I considered whether a non-complying activity would be the most appropriate, but again neither the potential adverse effects, nor the scale of potential development justifies such a stringent activity status. I am mindful of that with the objective and policy framework for the Urban Expansion Area in Chapter 5:

5.5.1 Objective – Hamilton’s Urban Expansion Area

(a) Protect land within Hamilton’s Urban Expansion Area for future urban development.

5.5.2 Policy – 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.

573. I consider that neither a prohibited, nor non-complying activity status for subdivision in the Urban Expansion Area is the most appropriate activity status. While the Objective seeks to “protect” land for future development, the policy delivers this by “managing” subdivision to ensure that the future urban development is not compromised. I am also mindful of Implementation Method 6.17.1 in the Waikato Regional Policy Statement which states:

District plan provisions and growth strategies

Waipa District Council and Waikato District Council shall include provisions in district plans and growth strategies to give effect to Policy 6.17. This will include strictly limiting rural-residential development in the vicinity of Hamilton City.

574. I therefore consider that the most appropriate activity status for subdivision within the Urban Expansion Area is discretionary. This will allow consent for subdivision to be assessed against this objective and policy, and for the applicant to demonstrate that the subdivision will not compromise the ability for future urban development. One way this could be achieved is for the subdivision application to include a theoretical subdivision layout to urban densities, and demonstrate that the location of a new dwelling does not compromise overall and eventual development of the site, including access arrangements. A discretionary activity status will also ensure consideration of other relevant policies, such as Policy 5.6.3 Subdivision within the Country Living Zone.
575. A discretionary activity status would also allow the policies regarding reverse sensitivity to be considered, and thus may address the concerns of Fonterra Limited.
576. Changing from a prohibited activity status to a discretionary activity for subdivision of the Country Living Zone within the Urban Expansion Area does require introduction of a minimum lot size, and I recommend that this be 5000m², to align with the minimum lot size for Country Living-zoned sites outside the Urban Expansion Area. This also necessitates an activity cascade upon non-compliance with the minimum lot size, and I recommend that this be classified as a non-complying activity.

~~23.4.1 Prohibited subdivision~~

~~PR1~~

~~Any subdivision within Hamilton’s Urban Expansion Area involving the creation of any additional lot.~~

23.4.2 General Subdivision

DI 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.

NCI ~~General~~ Subdivision that does not comply with Rule 23.4.1 RDI or Rule 23.4.2 DI

577. I therefore recommend accepting the submission from Martin Lynch [161.2], who sought removal of the blanket ban on subdivision within Hamilton's Urban Expansion Area, accepting in part the submission from Blue Wallace Surveyors Ltd [662.27], who sought a non-complying activity status, and rejecting the submission from Hamilton City Council [535.77], which sought to retain the prohibited activity status.
578. Andrew and Christine Gore [330.116] do not disclose any relief sought, and I recommend this submission be rejected.
579. Waikato District Council [697.919] sought to clarify Rule 23.4.1 PRI by signposting plan users to the planning maps for delineation of the Urban Expansion Area. I agree that this amendment will be helpful to identify where this area exists. Waikato District Council also sought to change "lot" to "record of title". Following on from Hearing 5 Definitions, it appears that neither of these terms is the most appropriate, and instead "allotment" is the more correct term (in accordance with the National Planning Standards definitions). I therefore recommend accepting the submission point from Waikato District Council in part, and including these amendments in the recommended new Rules 23.4.2 DI and NC2.

8.4.3 Recommendation

580. Having undertaken the analysis outlined above, I recommend that:
- (a) **Accept** the submission/further submission points from Martin Lynch [161.2] and Blue Wallace Surveyors Ltd [FS1287.8], and **reject** the further submissions from Mercury NZ Limited [FS1386.137], Hamilton City Council [FS1379.40] and Waikato Regional Council [FS1277.128];
 - (b) **Reject** the submission point from Andrew and Christine Gore [330.116], and **accept** the further submission from Mercury NZ Limited [FS1386.397];
 - (c) **Reject** the submission point from Hamilton City Council [535.77], and **accept** the further submission from Mercury NZ Limited [FS1388.714];
 - (d) **Accept** the further submission point from Blue Wallace Surveyors Ltd [FS1287.21], and **reject** the further submission from Fonterra Limited [FS1333.19];
 - (e) **Accept in part** the submission/further submission points from Blue Wallace Surveyors Ltd [662.27], Hamilton City Council [FS1379.224] and Mercury NZ Limited [FS1387.109];
 - (f) **Accept** the submission/further submission points from Waikato District Council [697.919] and Hamilton City Council [FS1379.276], and **reject** the further submission from Mercury NZ Limited [FS1387.733].

8.4.4 Recommended amendments

581. Based on the analysis above, I recommend the following amendments:

23.4 Subdivision

~~(1) Rule 23.4.1 lists Prohibited Subdivision in the Country Living Zone.~~

(2) Rule 23.4.2 provides for General Subdivision in the Country Living Zone and is subject to the following specific rules:

...

~~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

<u>DI</u>	<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>
NCI	General Subdivision that does not comply with Rule 23.4.1 RDI or <u>Rule 23.4.2 DI</u>

8.4.5 Section 32AA evaluation

Other reasonably-practicable options

582. The options afforded by the submissions on subdivision within the Hamilton Urban Expansion Area are varied:

- a. Retain the prohibited activity status as notified;
- b. Delete the prohibited activity status, which has the effect of making subdivision within this overlay a restricted discretionary activity;
- c. Adopt a non-complying activity status; and
- d. Require a concept plan of development.

Effectiveness and efficiency

583. The recommended amendments to Rule 23.4.1 and the subsequent amendments to Rule 23.4.2 give effect to Objective 5.5.1 to protect land within Hamilton's Urban Expansion Area for future urban development, as well as Objective 5.6.1, which relates to the character and amenity of the zone. The activity status will also allow consideration of other objectives and policies such as Policy 5.6.3.

Costs and benefits

584. When compared with the notified prohibited activity status, there are significant benefits to landowners of sites within the Hamilton Urban Expansion Area. Under the Prohibited activity status, consent applications could not be made. A discretionary activity status will allow subdivision applications to be considered, and for the applicants to demonstrate that the subdivision will not compromise the eventual urbanisation of this area in accordance with Policy 5.5.2.

Risk of acting or not acting

585. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

Decision about most appropriate option

586. The amendment gives effect to Objective 5.5.1, and is considered the most appropriate way to achieve the purpose of the Act.

8.5 Lot size of Subdivision - General and assessment criteria

587. Rule 23.4.2 General Subdivision is the primary rule for managing subdivision in the Country Living Zone. RDI(a)(i) applies to all Country Living-zoned sites which are outside the Hamilton Urban Expansion Area, the Airport Subdivision Control Boundary or inside the SEL 95 Boundary, as identified on the planning maps. The most common theme raised in these submissions was the minimum lot size, which was notified as being 5000m². Most submissions challenged the minimum lot size of 5000m² and sought a reduced lot size ranging from 1000m² to 4000m² and everything in between. Some submissions, such as Ted and Kathryn Letford, did not specify a particular minimum lot size, but considered that it should be less than the minimum 5000m² as notified.
588. Other outcomes sought in the submissions are:
- Support for the restricted discretionary activity status for general subdivision (Vineyard Road Properties Limited [626.3]);
 - Delete the subdivision rule (Perry Group Limited [464.10]);
 - Inclusion of an average net site area as well as a minimum lot size (The Surveying Company [746.120]);
 - Add additional matters of discretion regarding reverse sensitivity (Balle Bros Group Limited [466.31] and Horticulture New Zealand [419.49]);
 - Add additional matters of assessment regarding strategic infrastructure – Counties Power Ltd [405.75], KiwiRail Holdings Ltd [986.90], First Gas Ltd [945.25];
 - Add additional matter of discretion relating to the provision of firefighting water supply – Fire and Emergency New Zealand [378.44];
 - Inclusion of rules enabling the development of transferable development (Trustees of the Pakau Trust [624.2]; and
 - Relocation of rules to improve rule clarity – Waikato District Council [697.918].

8.5.1 Submissions

Submission point	Submitter	Summary of submission
50.1	Gary McMahon	Amend Rule 23.4.2 RDI (a)(i) General subdivision to reduce the net site area from 5000m ² to 3000m ² .
<i>FSI287.2</i>	<i>Blue Wallace Surveyors Ltd</i>	Supports submission 50.1
<i>FSI308.73</i>	<i>The Surveying Company</i>	Supports submission 50.1
<i>FSI386.38</i>	<i>Mercury NZ Limited</i>	Opposes submission 50.1
<i>FSI365.1</i>	<i>Rosita Dianne-Lynn Darnes</i>	Supports submission 50.1
<i>FSI379.6</i>	<i>Hamilton City Council</i>	Opposes submission 50.1
147.2	Haley Bicknell-McMahon	Amend Rule 23.4.2 RDI (a) (i) General subdivision by reducing the minimum net site area from 5000m ² to 3000m ² .
<i>FSI253.28</i>	<i>Waikato Regional Airport Ltd</i>	Opposes submission 147.2
<i>FSI386.127</i>	<i>Mercury NZ Limited</i>	Opposes submission 147.2
<i>FSI379.35</i>	<i>Hamilton City Council</i>	Opposes submission 147.2

330.117	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4.2 General Subdivision.
FSI386.398	Mercury NZ Limited	Opposes submission 330.117
276.11	Ted and Kathryn Letford	Amend Rule 23.4.2 RDI (a) (i) General Subdivision, to reduce the minimum lot size to allow lots below 5000m ² .
FSI379.55	Hamilton City Council	Opposes submission 276.11
FSI197.9	Bowrock Properties Limited	Supports submission 276.11
FSI311.7	Ethan & Rachael Findlay	Supports submission 276.11
FSI386.287	Mercury NZ Limited	Opposes submission 276.11
FSI127.1	Vineyard Road Properties Limited	Supports submission 276.11
328.5	Paula Dudley	Amend Rule 23.4.2 RDI (a) (i) General Subdivision, to be 3000m ² minimum site area rather than 5000m ² .
FSI386.386	Mercury NZ Limited	Opposes submission 328.5
FSI379.70	Hamilton City Council	Opposes submission 328.5
345.19	Brent Trail	Amend Subdivision Rule 23.4.2 RDI (a) (i) General Subdivision, to reduce the minimum lot size from 5000m ² to 2500m ² .
FSI386.489	Mercury NZ Limited	Opposes submission 345.19
FSI127.11	Vineyard Road Properties Limited	Supports submission 345.19
348.1	Julie Perry	Amend to allow subdivision of the property at 55A Rosebanks Drive Tamahere into two titles of 5000m ² and 3000m ² .
FSI386.494	Mercury NZ Limited	Opposes submission 348.1
FSI379.91	Hamilton City Council	Opposes submission 348.1
FSI044.1	Julie Ann Perry	Supports submission 348.1
376.3	Jolene Francis	Amend Rule 23.4 Subdivision provisions to permit additional allotments where appropriate for larger lifestyle properties.
FSI388.13	Mercury NZ Limited	Opposes submission 376.3
FSI379.101	Hamilton City Council	Opposes submission 376.3
378.44	Fire and Emergency New Zealand	Amend Rule 23.4.2 General Subdivision, as follows: (a) Subdivision must comply with all of the following conditions:... <u>(x) Proposed lots must be connected to water supply sufficient for firefighting purposes.</u> (b) Council's discretion is limited to the following matters:... <u>(i) Provision of infrastructure, including water supply for firefighting purposes.</u> AND Amend the Proposed District Plan to make further or

		consequential amendments as necessary to address the matters raised in the submission.
FSI 035.150	Pareoranga Te Kata	Supports submission 378.44
FSI 134.89	Counties Power Limited	Supports submission 378.44
FSI 388.41	Mercury NZ Limited	Opposes submission 378.44
405.75	Counties Power Limited	Add a matter of discretion to Rule 23.4.2 RD1 (a) General Subdivision as follows: <u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of existing infrastructure assets;</u>
408.1	Godfrey Bridger	Amend Rule 23.4.2 General subdivision, by reducing the minimum lot size from 5000m ² to 4000m ² .
FSI 388.153	Mercury NZ Limited	Opposes submission 408.1
FSI 379.123	Hamilton City Council	Opposes submission 408.1
409.1	Riki Manarangi	Amend Rule 23.4.2 RD1 (a) (i) General Subdivision, as follows: (a) Subdivision must comply with all of the following conditions: (i) All proposed lots must have a net site area of at least 5000m² <u>3000m²</u> .
FSI 388.154	Mercury NZ Limited	Opposes submission 409.1
FSI 379.124	Hamilton City Council	Opposes submission 409.1
419.49	Horticulture New Zealand	Add a new matter of discretion to Rule 23.4.2 RD1 (b) General Subdivision as follows: (b) Council's discretion is restricted to the following matters: ... <u>(iii) Measures to mitigate and minimise reverse sensitivity effects on adjoining Rural Zone land.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
FSI 388.199	Mercury NZ Limited	Opposes submission 419.49
FSI 171.33	T&G Global	Supports submission 419.49
FSI 134.90	Counties Power Limited	Supports submission 419.49
464.10	Perry Group Limited	Delete Rule 23.4.2 RD1 (a) (i) General Subdivision. AND Any consequential amendments or further relief to address the concerns raised in the submission.
FSI 379.183	Hamilton City Council	Opposes submission 464.10
FSI 388.383	Mercury NZ Limited	Opposes submission 464.10
466.31	Balle Bros Group Limited	Amend Rule 23.4.2 RD1 General Subdivision to include consideration of reverse sensitivity as a matter of discretion.

FS1388.415	Mercury NZ Limited	Opposes submission 466.31
FS1134.91	Counties Power Limited	Supports submission 466.31
489.18	Ann-Maree Gladding	Delete Rule 23.4.2 RD1 (a) General subdivision; AND Amend the zoning of Country Living Zoned properties to the Village Zone; AND Amend Rule 24.4.1 RD1 (a) Subdivision-General as follows: (a) Proposed lots must have a minimum net site area of 3,000m² 2000m ² , except where the proposed lot is an access allotment, utility allotment or reserve to vest.
FS1311.16	Ethan & Rachael Findlay	Supports submission 489.18
FS1127.2	Vineyard Road Properties Limited	Supports submission 489.18
FS1197.21	Bowrock Properties Limited	Supports submission 489.18
FS1379.192	Hamilton City Council	Opposes submission 489.18
FS1388.485	Mercury NZ Limited	Opposes submission 489.18
551.2	Dinah Robcke	Amend Rule 23.4.2(a)(i) General Subdivision requiring a 5000m ² minimum net site area to enable greater flexibility in subdivision development standards as they relate to the Country Living Zone in Glen Massey e.g. minimum net site area of 2500m ² with an average of 5000m ² ; OR Amend the zoning of the land on 859 and 889 Waingaro Road, Glen Massey that was zoned Country Living Zone in the Operative District Plan to Village Zone; AND Amend the Proposed District Plan to make consequential changes.
FS1388.780	Mercury NZ Limited	Opposes submission 551.2
FS1127.3	Vineyard Road Properties Limited	Supports submission 551.2
FS1278.26	Stuart Quigley and Quigley Family Trust	Supports submission 551.2
564.1	Mark Chrisp	Amend Rule 23.4.2(a) (i) - General Subdivision, as follows: (i) All proposed lots must have a net site area of at least 5000 3000m ² .
FS1379.198	Hamilton City Council	Opposes submission 564.1
FS1308.77	The Surveying Company	Supports submission 564.1
FS1127.4	Vineyard Road Properties Limited	Supports submission 564.1
FS1388.814	Mercury NZ Limited	Opposes submission 564.1
626.3	Vineyard Road Properties Limited	Retain the restricted discretionary activity status for general subdivision in the Country Living Zone and the matters of discretion for those.

FSI144.3	Glover Family Trust	Opposes submission 626.3
FSI387.22	Mercury NZ Limited	Opposes submission 626.3
FSI133.2	Dave Roebeck	Opposes submission 626.3
662.28	Blue Wallace Surveyors Ltd	Amend Rule 23.4.2 RD1 (a)(i) General Subdivision as follows: (i) All proposed lots must have a net site area of at least 53,000 30,000m ² .
FSI387.110	Mercury NZ Limited	Opposes submission 662.28
FSI379.225	Hamilton City Council	Opposes submission 662.28
FSI127.5	Vineyard Road Properties Limited	Supports submission 662.28
695.121	Sharp Planning Solutions Ltd	Amend Rule 23.4.2 RD1 (a)(i) General subdivision, to allow provision for 1000m ² sized serviced (reticulated service) lots on the outskirts of towns and villages.
FSI387.336	Mercury NZ Limited	Opposes submission 695.121
FSI379.255	Hamilton City Council	Opposes submission 695.121
FSI311.25	Ethan & Rachael Findlay	Supports submission 695.121
FSI127.6	Vineyard Road Properties Limited	Supports submission 695.121
FSI197.31	Bowrock Properties Limited	Supports submission 695.121
696.12	Parkmere Farms	Amend Rule 23.4.2 RD1 (a) (i) General Subdivision, as follows: All proposed lots must have a net site area of at least 5000 3000m ² .
FSI387.386	Mercury NZ Limited	Opposes submission 696.12
FSI379.268	Hamilton City Council	Opposes submission 696.12
724.6	Sue Robertson for Tamahere Community Committee	Retain Rule 23.4.2 RD1 (a) (i) General Subdivision, which specifies a minimum net site area of 5000m ² .
FSI387.803	Mercury NZ Limited	Opposes submission 724.6
FSI379.280	Hamilton City Council	Supports submission 724.6
735.2	Cindy and Tony Young	Amend Rule 23.4.2 RD1 (a) (i) General Subdivision, to read as follows: All proposed lots must have a net site area of at least 5000-3000 3000m ² .
FSI387.817	Mercury NZ Limited	Opposes submission 735.2
FSI379.281	Hamilton City Council	Opposes submission 735.2
746.120	The Surveying Company	Amend Rule 23.4.2 RD1 (a)(i)-General Subdivision as follows: All proposed lots must have a <u>minimum net site area of 3500m² and an average net site area of at least 5000m²</u>
FSI127.7	Vineyard Road Properties Limited	Supports submission 746.120
FSI379.290	Hamilton City Council	Opposes submission 746.120

FSI 387.976	Mercury NZ Limited	Opposes submission 746.120
754.2	Pieter Van Leeuwen	Amend 23.4.2 RD1 (a) (i)-General Subdivision to read as follows: All proposed lots must have a net site area of at least 5000 3000m ² .
FSI 379.301	Hamilton City Council	Opposes submission 754.2
FSI 387.1102	Mercury NZ Limited	Opposes submission 754.2
782.18	Jack Macdonald	Delete Rule 23.4.2 RD1 (a)(i) General Subdivision AND Amend the zoning of properties from Country Living Zone to Village Zone AND Amend Rule 24.4.1 RD1 (a) General Subdivision, as follows: (a) Proposed lots must have a minimum net site area of 3,000m² 2000m ² , except where the proposed lot is an access allotment, utility allotment or reserve to vest.
FSI 127.8	Vineyard Road Properties Limited	Supports submission 782.18
FSI 379.323	Hamilton City Council	Opposes submission 782.18
FSI 387.1235	Mercury NZ Limited	Opposes submission 782.18
820.1	Leo Koppens	Delete Rule 23.4.2 RD1 (a) (ii) and (iii) General subdivision, so the minimum lot area defaults to 5,000m ² .
FSI 253.32	Waikato Regional Airport Ltd	Opposes submission 820.1
FSI 387.1303	Mercury NZ Limited	Opposes submission 820.1
838.17	Madsen Lawrie Consultants	Amend Rule 23.4.2(RD1) (a) (i) General subdivision to decrease the minimum net site area from 5,000m ² to 2,500m ² -3,500m ² .
FSI 127.9	Vineyard Road Properties Limited	Supports submission 838.17
FSI 387.1374	Mercury NZ Limited	Opposes submission 838.17
FSI 287.44	Blue Wallace Surveyors Ltd	Supports submission 838.17
FSI 379.352	Hamilton City Council	Opposes submission 838.17
875.3	DPI 2014 Limited	Amend Rule 23.4.2 RD1 (a)(i) General Subdivision, as follows: (i) All proposed lots must have a <u>minimum</u> net site area of at least 3000m ² and <u>average net size area</u> of 5000m ² .
FSI 387.1445	Mercury NZ Limited	Opposes submission 875.3
FSI 379.357	Hamilton City Council	Opposes submission 875.3
876.2	Turtle Nut Farm Limited	Amend Rule 23.4.2 RD1 (a)(i) General Subdivision, as follows: (i) All proposed lots must have a <u>minimum</u> net site area of at least 3000m ² and <u>average net size area</u> of 5000m ² .
FSI 387.1447	Mercury NZ Limited	Opposes submission 876.2
FSI 379.358	Hamilton City Council	Opposes submission 876.2

922.19	John Rowe	Delete Rule 23.4.2 RDI (a)(i) General Subdivision AND Amend the zoning of properties from Country Living Zone to Village Zone AND Amend Rule 24.4.1 RDI (a) General Subdivision, as follows: (a) Proposed lots must have a minimum net site area of 3,000m² 2000m ² , except where the proposed lot is an access allotment, utility allotment or reserve to vest.
FSI387.1479	Mercury NZ Limited	Opposes submission 922.19
FSI379.362	Hamilton City Council	Opposes submission 922.19
FSI127.10	Vineyard Road Properties Limited	Supports submission 922.19
986.90	KiwiRail Holdings Limited (KiwiRail)	Add a new matter of discretion to Rule 23.4.2 General subdivision (or similar amendments to achieve the requested relief): <u>Reverse sensitivity effects, including on land transport networks</u> AND Any consequential amendments to link and/or accommodate the requested changes.
624.2	Glenn Soroka & Louise Meredith for Trustees of the Pakau Trust	Add new Country Living Zone subdivision rules in Rule 23.4 Subdivision, to recognise Pakau Trust's residual entitlement of 35 Environmental Lots which can be used as transferable rural title rights, as follows: <u>Rule 23.4.XX Pakau Trust Entitlement Rule For the purpose of Rule 23.4.XX, 35 transferable rural lot rights exist, that were secured by the protection of 204 hectares of significant indigenous vegetation at Klondyke Road, Port Waikato. Those transferable rural lot rights may be utilised under Rule 23.4.XXX where:</u> <u>(i) The number of transferable rural lot rights available, will reduce by the number utilised at each receiving property when a survey plan is lodged for the subdivision approved at that receiving property;</u> <u>(ii) A subdivision plan is only required for the receiver property; (iii) Transferable rural lot rights cannot be generated on any other donor property.</u> <u>Rule 23.4.XXX Transferable Rural Lot Right Subdivision RDI (a) Transferable Rural Lot Right Subdivisions utilising transferable rural lot rights under Rule 23.4.XX [Pakau Trust Entitlement Rule] must comply with all of the following conditions: (i) All proposed lots must have a net site area of at least 2500m²;</u> <u>(ii) Two additional lots can be created on the receiver property for every one transferable lot right originating under Rule 23.4.XX [Pakau Trust Entitlement Rule].</u> <u>(b) For the purposes of this rule a subdivision plan is required only for the receiver property and not the donor property.</u>

		<p><u>(c) Council's discretion is restricted to the following matters at the receiving property:</u></p> <p><u>(i) subdivision layout and design including dimensions, shape and orientation of the proposed lots;</u></p> <p><u>(ii) adverse effects on amenity values.</u></p> <p><u>DI Transferable rural lot right subdivision that does not comply with Rule 23.4.XXX RDI</u></p> <p>AND</p> <p>Amend the Proposed District Plan further with any necessary consequential or other relief that addresses Pakau Trust's concerns.</p>
<i>FSI387.17</i>	<i>Mercury NZ Limited</i>	Opposes submission 624.2
697.918	Waikato District Council	<p>Add a new clause (xi) to Rule 23.4(2) Subdivision, as follows:</p> <p><u>(xi) Rule 23.4.6B - subdivision of land within the National Grid Corridor</u></p> <p>AND</p> <p>Amend consequential renumbering:</p> <p>AND</p> <p>Add a new rule to Rule 23.4 Subdivision after Rule 23.4.6, as follows:</p> <p><u>23.4.6B Subdivision of land within the National Grid Corridor</u></p> <p><u>RDI</u></p> <p><u>(a) The subdivision of land within the National Grid Corridor must comply with all of the following conditions:</u></p> <p><u>(i) All allotments intended to contain a sensitive land use must provide 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></p> <p><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> <p><u>(b) Council's discretion is restricted to the following matters:</u></p> <p><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></p> <p><u>(ii) The ability to provide a complying building platform outside of the National Grid Yard;</u></p> <p><u>(iii) The risk of electrical hazards affecting public or individual safety, and the risk of property damage;</u></p> <p><u>(iv) The nature and location of any vegetation to be planted in the vicinity of National Grid transmission lines.</u></p> <p><u>NCI Any subdivision of land within the National Grid Corridor that does not comply with one or more of the</u></p>

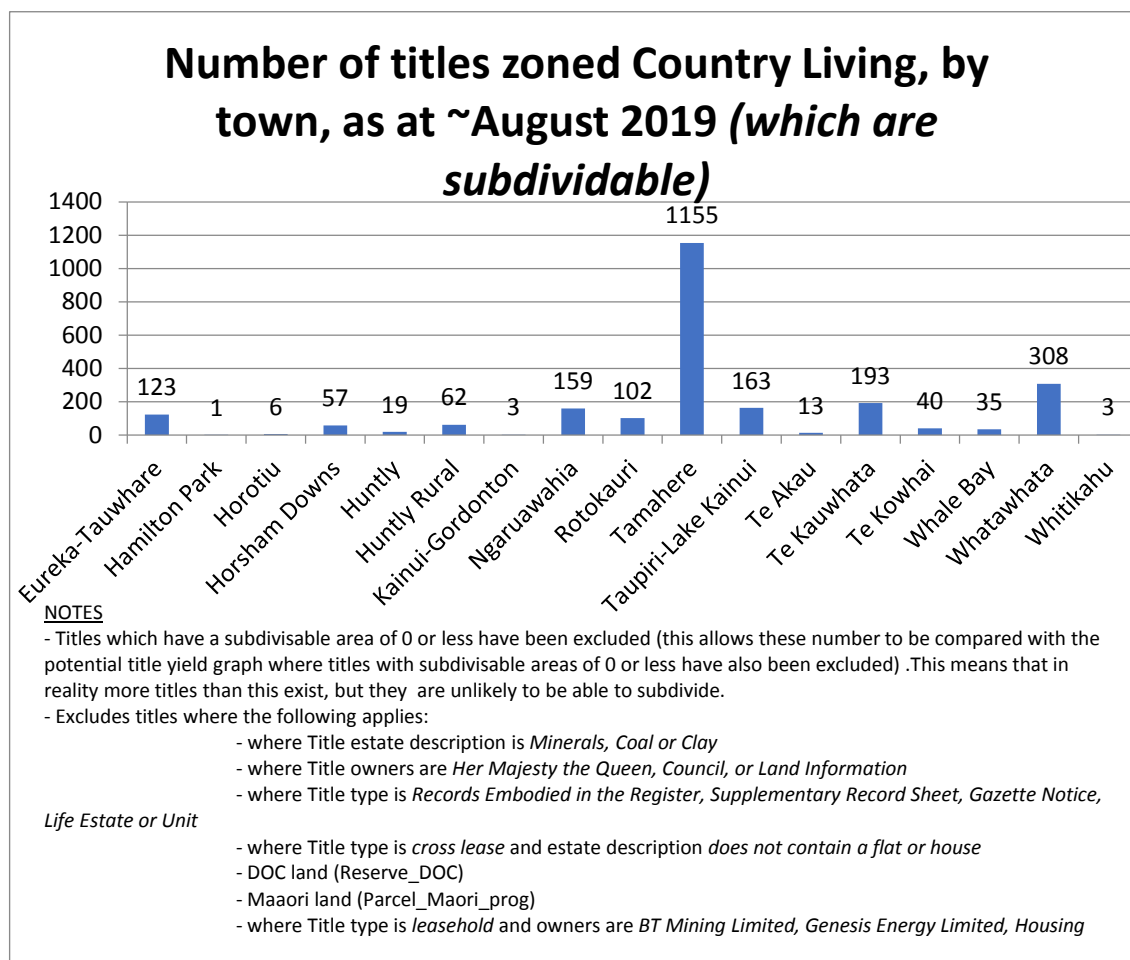
		<u>conditions of Rule 23.4.6B RD1.</u>
<i>FSI 350.129</i>	<i>Transpower New Zealand Limited</i>	Opposes submission 697.918
<i>FSI 387.732</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.918
945.25	First Gas Limited	<p>Add a new rule to Rule 23.4 - Subdivision as follows: Subdivision-Site containing a gas transmission pipeline: <u>(a) The subdivision of land containing a gas transmission pipeline is a restricted discretionary activity.</u> <u>(b) Council's discretion shall be restricted to the following matters:</u> <u>(i) The extent to which the subdivision design avoids or mitigates conflict with the gas infrastructure and activities.</u> <u>(ii) The ability for maintenance and inspection of pipelines including ensuring access to the pipelines.</u> <u>(iii) Consent notices on titles to ensure on-going compliance with AS2885 Pipelines-Gas and Liquid Petroleum-Parts 1 to 3.</u> <u>(iv) The outcome of any consultation with First Gas Limited.</u></p> <p>AND</p> <p>Any consequential amendments and other relief to give effect to the matters raised in the submission.</p>
<i>FSI 342.258</i>	<i>Federated Farmers</i>	Opposes submission 945.25

8.5.2 Analysis

Minimum lot size

589. In order to consider the most appropriate lot size for subdivision within the Country Living Zone, Council's GIS has undertaken an analysis of the current lot sizes in this zone and the theoretical potential subdivision, given a range of minimum lot sizes. Figure 18 below illustrates the distribution of existing titles across the Waikato district in the Country Living Zone. The total number of existing titles is 2442, which includes a total of 1155 in Tamahere alone. (Note I have split the calculations for Tamahere separately due to the larger average lot size within the Airport Subdivision Control Boundary.) If the titles for Tamahere are excluded, there is a total of 1287 titles across the rest of the district. As shown in Figure 18, the distribution of Country Living Zone lots across the district varies significantly from town to town, with Tamahere being the outlier, containing the highest proportion of Country Living Zone titles.

Figure 18



590. Figure 19 below illustrates the potential title yields for the different minimum lot sizes in the Country Living Zone, noting that the figures exclude Tamahere, because of the provisions relating to the airport. From this data it is clear that the capacity of lots could increase significantly if the minimum lot size were reduced to less than 5,000m². In fact at a lot size of 3000m², the number of additional lots in the zone could effectively double.

Figure 19

Proposed Lot size (m ²)	Potential Lot Yield (excluding Tamahere)	Theoretical additional lots
6,000	2,312	1,070
5,000 (status quo)	2,646	1,404
4,000	3,243	2,001
3,000	4,286	3,044
2,000	6,583	5,341
1,000	12,780	11,538

591. Although a number of submissions seek to reduce the minimum lot size from 5,000m² to as low as 2,000m², none of these submissions provide any evidence in respect to the impact that the additional lots would have on the Country Living Zone, in particular the character of the zone. Based on the analysis above, it is my opinion that the minimum lot size of

5,000m² should be retained, to ensure that the potential lot yield does not result in title sizes similar to the proposed Village Zone. This is not only because of the increased potential lot yield, but also because the character and rural aspects of these properties would be compromised, taking a form more akin to large urban lots. To ensure that the character of the Country Living zone is not lost, lot size thresholds are the most effective control that Council has to differentiate between zones.

592. I note that the Operative District Plan (Waikato Section) had a minimum lot size for subdivision of 5,000m², which has created a certain type of character and form of development. The minimum lot size has been retained in the Proposed District Plan to maintain this.
593. Council has not engaged any technical experts to assess the effect that a smaller lot size would have on the productive potential of smaller lot sizes. However, if the minimum lot size were reduced to less than 5,000m², the likelihood of rural activities being undertaken would be further reduced. A 5,000m² lot would be able to support 1 or 2 small paddocks or a small orchard or horticultural operation. To reduce the minimum lot size further would limit those types of 'Country Living' activities.
594. The submission from the Tamahere Community Committee [724.6] sought to retain the 5,000m² minimum site size, and while I recommend that this submission be accepted, I recommend that all the other submission points seeking a reduced minimum site size be rejected.
595. Sharp Planning Solutions Ltd [695.121] sought a reduction in the minimum lot size for the Country Living Zone to 1000m² for sites that had reticulated servicing on the outskirts of towns and villages. I consider that this is the role of the Village Zone rather than the Country Living Zone. Drawing on the evidence and analysis presented in Hearing 6 Village Zone, the Village Zone is applied to two discrete environments within the district – the remote rural villages which are not serviced with water and wastewater, as well as areas in Tuakau and Te Kowhai where servicing is likely at some point in the future, at which time the sites will be able to develop to more urban densities.
596. The purpose of the Country Living Zone is to be a transition between urban and rural, but to have more of a rural character (hence inclusion of the Country Living Zone objectives and policies in Chapter 5 Rural Environment, rather than Chapter 4 Urban Environment). In order to retain the character and integrity of the Country Living Zone and prevent the zones from being a sliding scale with no discernible difference between them, I recommend that this submission point be rejected. I suggest that Sharp Planning Solutions Ltd consider a zone change to a more urban zone for the lots they have in mind, rather than pursuing a change in the minimum lot size of the Country Living Zone.
597. I am mindful of the National Planning Standards and the range of zones described. I consider that the Country Living Zone is most aligned with the 'Rural Lifestyle Zone', and note that the description of this is as follows:
- Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur.*
598. I consider a lot size of 1000m² to more akin to a larger residential site than a rural site, and would not support the environment described in the Rural Lifestyle Zone.
599. The submission from Julie Perry [348.1] sought to enable subdivision of the property at 55A Rosebanks Drive, Tamahere into two titles of 5000m² and 3000m². For the reasons outlined

above, I recommend retaining the requirement for a 5000m² minimum lot size; therefore recommend rejecting this submission point.

600. Andrew and Christine Gore [330.117] do not disclose any relief sought, and I recommend this submission be rejected.

Average and minimum lot sizes

601. The approach to managing subdivision in the Country Living Zone is to have a minimum lot size, but alternative approaches were sought in some submissions, such as a minimum lot size combined with an average lot size. The submitters seeking an alternative approach such as this included Dinah Robcke [551.2], The Surveying Company [746.120], DPI 2014 Limited [875.3] and Turtle Nut Farm Limited [876.2]. The submissions considered that this would allow more flexibility in lot size. I consider this is true and would allow a subdivision pattern that was more responsive to the natural features of the site, such as contours, native bush etc. However, by allowing smaller sites (even though these may be balanced by a larger site), there is a risk that the character of the Country Living Zone is eroded, and it becomes significantly more challenging to decline a subdivision with under-sized lots. For example, a two lot subdivision could create one lot of 3000m² and another of 7000m², which would meet the 5000m² average and the 3000m² minimum lot sizes (as sought by these submitters). In terms of effects, there is very little difference between this scenario and another two-lot subdivision next door, creating two lots of 3000m². The character of the zone as established by the pattern of development created by smaller subdivided lots would very quickly be changed.
602. I therefore recommend that a minimum lot size be retained as the primary mechanism for management of subdivision and lot size.

Activity status

603. The submission from Vineyard Road Properties Limited [626.3] supports the restricted discretionary activity status of general subdivision and the associated matters of discretion for the Country Living Zone. The support for this rule is noted, although I have recommended amendments to the matters of discretion in Rule 23.4.2 RDI in response to other submission points. For this reason, I recommend accepting the submission point from Vineyard Road Properties Limited in part.

Provision of water for firefighting

604. Fire and Emergency New Zealand [378.44] seeks that the rule be amended to require all new lots to be connected to a water supply that is sufficient for firefighting purposes, with applications becoming a non-complying activity where such supply is not available. Given that much of the Country Living Zone is not serviced, a requirement to connect to a water supply with sufficient volume and pressure to meet firefighting standards is unlikely to be practicable. I do see value in including an assessment criterion to require the assessment of the provision of infrastructure, which is quite broad in its applicability and would include adequate roads, power, as well as consideration of water supply for firefighting purposes where practicable. I therefore recommend that the relief be accepted in part, with an additional matter of discretion added to 23.4.1 RDI to enable consideration of firefighting water supply where practicable.

(b) Council's discretion is restricted to the following matters:

...

[\(iii\) The provision of infrastructure, including water supply for firefighting where practicable](#)

Consideration of effects on infrastructure

605. KiwiRail Holdings Ltd [986.90] and Counties Power Ltd [405.75] lodged similar submissions that both seek additional matters of discretion to enable Council to consider the effects that subdivision applications might have on the ongoing operation of existing network infrastructure. First Gas Ltd [945.25] likewise lodged a submission seeking additional provisions to control the subdivision of sites containing reticulated gas pipelines. The concerns raised by these submitters include both the ability to access and maintain this infrastructure, and the potential for reverse sensitivity and/or public safety effects to arise. These issues are considered to be legitimate matters that decision-makers should have the ability or discretion to consider when assessing subdivision applications. Existing network infrastructure plays a strategic role in the well-being of the district's communities and represents significant existing sunk investment.
606. KiwiRail Holdings Limited (KiwiRail) [986.90] also sought inclusion of a new matter of discretion to Rule 23.4.2 General subdivision to require consideration of reverse sensitivity effects, including on-land transport networks. I note that Objective 6.1.6 seeks to protect infrastructure from reverse sensitivity effects, and that infrastructure is not compromised. I also note that the Waikato Regional Policy Statement addresses this matter in Objective 3.12(c) as follows:
- Development of the built environment (including transport and other infrastructure) and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes, including by:*
- ...
- c) integrating land use and infrastructure planning, including by ensuring that development of the built environment does not compromise the safe, efficient and effective operation of infrastructure corridors;*
- ...
- minimising land use conflicts, including minimising potential for reverse sensitivity;*
- ...
607. I therefore consider that inclusion of a matter of discretion regarding reverse sensitivity is appropriate for subdivision in the Country Living Zone to give effect to Objective 6.1.6 and Policy 6.1.7.
608. The submission from First Gas Limited [945.25] sought to include a new rule which would make subdivision of land containing a gas transmission pipeline to be a restricted discretionary activity. Although gas transmission lines are not afforded the same protection through a National Policy Statement as the National Grid, First Gas Limited are seeking inclusion of a similar approach in the district plan.
609. In order to consider this submission point, Council's GIS team calculated many properties would be affected. According to Council's GIS maps, the gas transmission line does cross properties zoned as Country Living Zone on the south side of Horotiu Bridge Road, Clark Road and Waingarō Road, and Hakarimata Road near Ngaruawahia. There are 56 lots zoned as Country Living Zone which have the gas transmission line traversing the site. These sites have a theoretical subdivision potential (based on lot size alone) to create an additional 231 lots. Because of the configuration of the sites, it should be recognised that not all resulting lots from a subdivision (child lots) will have the gas transmission line on them. The gas transmission line is often close to the road however, meaning that any access to rear sites may be across the gas transmission line.

Figure 19: Country Living Zoned sites traversed by the gas transmission line



610. The way that First Gas Limited have crafted their proposed new rule means that subdivision of all sites that have a gas transmission line traversing them would only be subject to the gas transmission rule, not the general subdivision rule (Rule 23.4.2 RD1). Thus there is a risk that all the matters of discretion relating to more general subdivision, such as adverse effects on amenity values, would not be considered.
611. I note that the Section 42A author for Hearing 10 Residential Zone addressed a similar request from First Gas Limited and recommended that a new matter of discretion be added rather than insertion of a whole new rule. I agree that this is a more efficient approach, and would ensure that where lots are proposed to be subdivided that have a gas transmission line on them, a matter of discretion would require consideration of any effects on the gas transmission line.
612. I do not see the need to single out the gas transmission line and consider that a more efficient approach would be a single matter of discretion which related to all infrastructure. I therefore recommend that the submission point from First Gas Limited [945.25] be accepted in part, and an additional matter of discretion be added to Rule 23.4.2 RD1(b) as follows:

(iv) The subdivision layout and design in regard to impact on the operation, maintenance, upgrading and development of infrastructure assets, or give rise to reverse sensitivity effects on existing land transport networks.

Reverse sensitivity effects

613. Horticulture New Zealand [419.49] sought to include a new matter of discretion for subdivision that addresses measures to mitigate and minimise reverse sensitivity effects on adjoining Rural Zone land. Balle Bros Group Limited [466.31] sought inclusion of a similar matter of discretion focused on reverse sensitivity, but did not limit this to just consideration of adjoining Rural Zone land. I note that the reasons provided in this submission are particularly concerned with the siting of buildings adjoining land used for commercial vegetable production, so the concerns are similar to those of Horticulture New Zealand.
614. I note that in many parts of the district, the Country Living Zone is surrounded by Rural Zone land. Although the Country Living Zone is intended to be a 'rural' zone, there is the potential for people to live on those sites without an understanding of the primary production activities that occur in a Rural Zone. I am aware that Policy 5.3.7 addresses reverse sensitivity effects and recognises a range of activities and effects that can be expected in the Rural Zone. I note that there are no specific setbacks required in the Country Living Zone for a boundary adjoining a Rural Zone (although there are setbacks for specific uses such as Aggregate Extraction Area or intensive farming activity). I therefore consider that reverse sensitivity where there is an adjoining Rural Zone is an appropriate matter to be considered at the time of subdivision, and would be an efficient way of giving effect to Objective 5.3.1 and Policy 5.3.7.
615. I am also mindful of the provisions in the Waikato Regional Policy Statement with regard to recognising the potential for reverse sensitivity, and seeking to minimise it. Objective 3.12(g) seeks to minimise land use conflicts, including minimising potential for reverse sensitivity. This is a development principle in Section 6A and is also recognised in Implementation Method 6.1.2.
616. For efficiency, I consider that a single matter of discretion could be inserted which requires assessment of reverse sensitivity generally, as well as addressing the concerns raised by Horticulture New Zealand [419.49] and Balle Bros Group Limited [466.31].
617. I therefore recommend accepting the submissions of Horticulture New Zealand [419.49] and Balle Bros Group Limited [466.31] by inserting the following matter of discretion into Rule RD1(b), as follows:

(b) Council's discretion is restricted to the following matters:

...

(v) Measures to mitigate and minimise reverse sensitivity effects, including on adjoining Rural Zone land.

Approach to subdivision

618. Perry Group Limited [464.10] sought deletion of Rule 23.4.2 RD1 (a) (i) General Subdivision, which is the rule which sets the minimum lot size for subdivision in the Country Living Zone. The explanation provided by the submission is that that Council should be concerned with amenity values, not with minimum lot sizes in the Country Living Zone.
619. On a similar matter, Derek and Colleen Hartley [196.1] sought to delete Rule 23.4.2 RD1 (a) (i) and (ii) so that net site areas are not prescribed. The submission considers that the rule should allow for discretion and subdivision of areas which do not materially / significantly affect the amenity value of the Country Living Zone.
620. With respect, I consider that managing subdivision through minimum lot sizes is an effective means of establishing (and then maintaining) character and amenity for the zone. This rule

sets expectations for lot sizes and provides guidance and certainty for landowners. Without a minimum lot size (or some other form of standard for lot size such as an average lot size), there would be no character for the zone and it would quickly get subdivided down to urban densities.

621. With regard to the points raised in the submission from Derek and Colleen Hartley, the rules do provide an activity status for subdivisions that create less than 5000m² as a non-complying activity.
622. Ann-Maree Gladding [489.18], Jack Macdonald [782.18] and John Rowe [922.19] sought deletion of Rule 23.4.2 RDI(a), although sought to change Countryside Living-zoned properties to Village Zone (Rule 24.4.1), with all Village-zoned lots having a net site area of at least 2000m². I consider that the Country Living Zone fulfils a role of larger lot living in a rural environment, thereby providing housing choice. By condensing all Country Living Zone properties into a Village Zone, it reduces the living environments available and lifestyle choice. These submissions will also be addressed in Hearing 25, which considers rezoning requests.
623. I recommend rejecting the submission from Perry Group Limited [464.10], Derek and Colleen Hartley [196.1], Ann-Maree Gladding [489.18], Jack Macdonald [782.18] and John Rowe [922.19].

Transferable developments

624. The submission from the Trustees of the Pakau Trust [624.2] sought inclusion of a suite of rules enabling subdivision arising from transferable rural title rights. As the transferable lot development concept arises out of the Rural Zone (even though the submission seeks the subdivision to be enacted in another zone such as Country Living Zone), I consider that it would be more efficient for the submissions addressing this matter to be addressed comprehensively in the Rural Zone hearing (Hearing 19). This will enable all the submissions seeking the inclusion of provisions enabling transferable title subdivision to be considered holistically.

National Grid

625. Waikato District Council [697.918] seeks the addition of a new 'Rule 23.4.6B' to provide for assessment of subdivision applications adjacent to the National Grid Corridor. The wider district plan structure of each zone having its own self-contained set of subdivision rules means that the new rule is sought to ensure that consideration of the National Grid is appropriately undertaken. The submission is opposed in a further submission by Transpower NZ Ltd [FS/350.129], who are instead seeking that the Proposed Plan be structured such that all provisions relating to the National Grid are located in the same section.
626. The submission seeks to add a new rule to the Country Living Zone subdivision section to enable assessment of applications seeking to subdivide land adjacent to the National Grid. As nationally-strategic infrastructure, it is appropriate that subdivision applications are able to be assessed to ensure that the creation of new lots does not threaten the ongoing maintenance, operation and upgrading of the transmission network. In addition, Policy 10 of the National Policy Statement for Electricity Transmission requires that decision-makers must, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on the electricity transmission network, and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.
627. The submission point from Waikato District Council is not challenging the presence of the rule, merely the most appropriate location within the Plan for the rule. Transpower New

Zealand Ltd have lodged a further submission opposing Council's submission, insofar as it relates to provisions dealing with the National Grid. Transpower seek that all such provisions be located in one section of the Proposed Plan. There is agreement between Waikato District Council and Transpower New Zealand Ltd on the need for a stand-alone rule controlling subdivision adjacent to the National Grid. The only question is where this rule is best located – either repeated in each zone's subdivision rules, or consolidated into a single chapter, with a cross-reference in each of the zone-specific subdivision rules to alert Plan users. The structure of the Proposed Plan is such that each zone has its own self-contained set of rules relating to subdivision (among other matters). This approach means that rules on the same topic need to be replicated across the various zones.

628. The structure of district plans is now directed by the National Planning Standards ('NPS'), which seek a consistent layout and structure across all new district plans across New Zealand. I agree with Transpower's further submission that the NPS directs the consolidation of provisions as a district-wide matter. It is understood that the structure of the Proposed Plan and its alignment with the NPS is a matter that is to be reviewed towards the end of the hearing process, to ensure that the Proposed Plan meets NPS requirements.
629. Pending that review, it is recommended that the proposed new rule be added to the Country Living Zone as a legitimate matter to be assessed as part of the subdivision consent process.
630. However, I understand Transpower New Zealand's desire for the rules regarding the National Grid to not be duplicated in each chapter. The rules regarding subdivision within the National Grid Corridor address land use, rather than the infrastructure itself, although they are located within the Infrastructure and Energy chapter of the Plan. I consider that there is a risk that a landowner wishing to subdivide within the National Grid Corridor will not even realise that there are rules relating to this matter, and would not think to look in the Infrastructure and Energy chapter of the Plan.
631. If the Hearings Panel were of a mind to avoid duplication across the Plan and collate the rules for the National Grid Yard and National Grid Corridor in one place in the Infrastructure and Energy chapter, then an alternative solution would be to have clear signposting in the subdivision sections of each zone chapter to the National Grid Corridor, and the location of those rules. This of course is one significant advantage of having an e-plan (as required by the National Planning Standards) where a hyperlink can be provided in the subdivision section of each chapter to the rules for subdivision within the National Grid Corridor.

8.5.3 Recommendation

632. Based on the analysis outlined above, I recommend the following:
- (a) **Reject** that the submission/further submission points from Gary McMahon [50.1], Blue Wallace Surveyors Ltd [FS/287.2], The Surveying Company [FS/308.73], and Rosita Dianne-Lynn Darnes [FS/365.1], and **accept** the further submission points from Mercury NZ Limited [FS/386.38] and Hamilton City Council [FS/379.6];
 - (b) **Reject** the submission point from Haley Bicknell-McMahon [147.2], and **accept** the further submissions from Waikato Regional Airport Ltd [FS/253.28], Mercury NZ Limited [FS/386.127] and Hamilton City Council [FS/379.35];
 - (c) **Reject** the submission point from Derek and Colleen Hartley [196.1], and **accept** further submissions from Waikato Regional Airport Ltd [FS/253.29], Mercury NZ Limited [FS/386.191] and Hamilton City Council [FS/379.48];

- (d) **Reject** the submission point from Andrew and Christine Gore [330.117], and **accept** the further submission point from Mercury NZ Limited [FS/386.398];
- (e) **Reject** the submission point from Ted and Kathryn Letford [276.11] and **accept** the further submission point from Hamilton City Council [FS/379.55] and Mercury NZ Limited [FS/386.287]; and **reject** the further submissions from Bowrock Properties Limited [FS/197.9], Ethan & Rachael Findlay [FS/311.7] and Vineyard Road Properties Limited [FS/127.1];
- (f) **Reject** Paula Dudley [328.5], and **accept** the further submissions from Mercury NZ Limited [FS/386.386] and Hamilton City Council [FS/379.70];
- (g) **Reject** Brent Trail [345.19] and the further submission from Vineyard Road Properties Limited [FS/127.11]; and **accept** the further submission from Mercury NZ Limited [FS/386.489];
- (h) **Reject** Julie Perry [348.1] and the further submission from Julie Ann Perry [FS/1044.1]; and **accept** the further submissions from Mercury NZ Limited [FS/386.494] and Hamilton City Council [FS/379.91];
- (i) **Reject** Jolene Francis [376.3], and **accept** the further submissions from Mercury NZ Limited [FS/388.13] and Hamilton City Council [FS/379.101];
- (j) **Accept in part** the submissions / further submissions from Fire and Emergency New Zealand [378.44], Pareoranga Te Kata [FS/1035.150], Counties Power Limited [FS/134.89] and Mercury NZ Limited [FS/388.4];
- (k) **Accept in part** Counties Power Limited [405.75];
- (l) **Reject** Godfrey Bridger [408.1], and **accept** the further submissions from Mercury NZ Limited [FS/388.153] and Hamilton City Council [FS/379.123];
- (m) **Reject** Riki Manarangi [409.1], and **accept** the further submissions from Mercury NZ Limited [FS/388.154] and Hamilton City Council [FS/379.124];
- (n) **Accept** the submissions / further submissions from Horticulture New Zealand [419.49], T&G Global [FS/171.33] and Counties Power Limited [FS/134.90]; and **reject** the further submission from Mercury NZ Limited [FS/388.199];
- (o) **Reject** Perry Group Limited [464.10], and **accept** the further submissions from Hamilton City Council [FS/379.183] and Mercury NZ Limited [FS/388.383];
- (p) **Accept** the submissions / further submissions from Balle Bros Group Limited [466.31] and Counties Power Limited [FS/134.91] and **reject** the further submission from Mercury NZ Limited [FS/388.415];
- (q) **Reject** the submission / further submissions from Ann-Maree Gladding [489.18], Ethan & Rachael Findlay [FS/311.16], Vineyard Road Properties Limited [FS/127.2], Bowrock Properties Limited [FS/197.21]; and **accept** the further submissions from Hamilton City Council [FS/379.192] and Mercury NZ Limited [FS/388.48];
- (r) **Reject** the submission / further submissions from Dinah Robcke [551.2] Vineyard Road Properties Limited [FS/127.3] and Stuart Quigley and Quigley Family Trust [FS/278.26]; and **accept** the further submission from Mercury NZ Limited [FS/388.780];
- (s) The submission / further submissions from Mark Chrisp [564.1], The Surveying Company [FS/308.77] and Vineyard Road Properties Limited [FS/127.4] be **rejected**; while the further submissions from Hamilton City Council [FS/379.198] and Mercury NZ Limited [FS/388.814] be **accepted**;

- (t) The submissions / further submissions from Vineyard Road Properties Limited [626.3], Kiwitykes Ltd on behalf of Glover Family Trust [FS1144.3], Mercury NZ Limited [FS1387.22] and Dave Roebeck [FS1133.2] be **accepted in part**;
- (u) The submissions / further submissions from Blue Wallace Surveyors Ltd [662.28] and Vineyard Road Properties Limited [FS1127.5] be **rejected**; while the further submissions from Mercury NZ Limited [FS1387.110] and Hamilton City Council [FS1379.225] be **accepted**;
- (v) The submissions / further submissions from Sharp Planning Solutions Ltd [695.121], Ethan & Rachael Findlay [FS1311.25], Vineyard Road Properties Limited [FS1127.6] and Bowrock Properties Limited [FS1197.31] be **rejected**; while the further submissions from Mercury NZ Limited [FS1387.336] and Hamilton City Council [FS1379.255] be **accepted**;
- (w) The submissions from Brenda and Gavin Butcher for Parkmere Farms [696.12] be **rejected**; while the further submissions from Mercury NZ Limited [FS1387.386] and Hamilton City Council [FS1379.268] be **accepted**;
- (x) The submissions / further submissions from Sue Robertson for Tamahere Community Committee [724.6] and Hamilton City Council [FS1379.280] be **accepted**; while the further submission from Mercury NZ Limited [FS1387.803] be **rejected**;
- (y) The submission from Cindy and Tony Young [735.2] be **rejected**; while the further submissions from Mercury NZ Limited [FS1387.817] and Hamilton City Council [FS1379.281] be **accepted**;
- (z) The submissions / further submissions from The Surveying Company [746.120] and Vineyard Road Properties Limited [FS1127.7] be **rejected**; while the further submissions from Hamilton City Council [FS1379.290] and Mercury NZ Limited [FS1387.976] be **accepted**;
- (aa) The submissions from Pieter Van Leeuwen [754.2] be **rejected**; while the further submissions from Hamilton City Council [FS1379.301] and Mercury NZ Limited [FS1387.1102] be **accepted**;
- (bb) The submissions / further submissions from Jack Macdonald [782.18] and Vineyard Road Properties Limited [FS1127.8] be **rejected**; while the further submissions from Hamilton City Council [FS1379.323] and Mercury NZ Limited [FS1387.1235] be **accepted**;
- (cc) The submissions / further submissions from Madsen Lawrie Consultants [838.17], Vineyard Road Properties Limited [FS1127.9] and Blue Wallace Surveyors Ltd [FS1287.44] be **rejected**; while the further submissions from Mercury NZ Limited [FS1387.1374] and Hamilton City Council [FS1379.352] be **accepted**;
- (dd) The submission from DPI 2014 Limited [875.3] be **rejected**, while the further submissions from Mercury NZ Limited [FS1387.1445] and Hamilton City Council [FS1379.357] be **accepted**;
- (ee) The submissions from Turtle Nut Farm Limited [876.2] be **rejected**; while the further submissions from Mercury NZ Limited [FS1387.1447] and Hamilton City Council [FS1379.358] be **accepted**;
- (ff) The submissions / further submissions from John Rowe [922.19] and Vineyard Road Properties Limited [FS1127.10] be **rejected**; while the further submissions from Mercury NZ Limited [FS1387.1479] and Hamilton City Council [FS1379.362] be **accepted**;
- (gg) The submissions from KiwiRail Holdings Limited (KiwiRail) [986.90] be **accepted**;

- (hh) The submission from Trustees of the Pakau Trust [624.2] and the further submission from Mercury NZ Limited [FS/387.17] be **deferred** for consideration at Hearing 19
- (ii) The submissions from Waikato District Council [697.918] be **accepted**; while the further submissions from Transpower New Zealand Limited [FS/350.129] and Mercury NZ Limited [FS/387.732] be **rejected**;
- (jj) The submissions / further submissions from First Gas Limited [945.25] and Federated Farmers [FS/342.258] be **accepted in part**.

8.5.4 Recommended amendments

633. The following amendments to Rule 23.4.2 Subdivision – General are recommended:

23.4.2 General Subdivision

RDI	<p>(a) Subdivision must comply with all of the following conditions:</p> <ul style="list-style-type: none"> (i) All proposed lots must have a net site area of at least 5000m². <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Adverse effects on amenity values; (ii) Effects on the Airport Subdivision Control Boundary or the SEL 95 Boundary. <u>(iii) The provision of infrastructure, including water supply for firefighting where practicable.</u> <u>(iv) The subdivision layout and design in regard to impact on the operation, maintenance, upgrading and development of infrastructure assets, or give rise to reverse sensitivity effects on existing land transport networks.</u> <u>(v) Measures to mitigate and minimise reverse sensitivity effects, including on adjoining Rural Zone land.</u>
NCI	General Subdivision that does not comply with Rule 23.4.1 RDI.

23.4 Subdivision

~~(1) Rule 23.4.1 lists Prohibited Subdivision in the Country Living Zone.~~

(2) Rule 23.4.2 provides for General Subdivision in the Country Living Zone and is subject to the following specific rules:

(i) Rule 23.4.3 - Subdivision within identified areas

...

(iv) Rule 23.4.6 - Subdivision of land containing heritage items

(v) Rule 23.4.6B – subdivision of land within the National Grid Corridor

~~(v)(vi)~~ Rule 23.4.7 - Subdivision - Road frontage

....

Rule 23.4.6B – subdivision of land within the National Grid Corridor

<u>RDI</u>	<p><u>(a) The subdivision of land within the National Grid Corridor must comply with all of the following conditions:</u></p> <ul style="list-style-type: none"> <u>(i) All allotments intended to contain a sensitive land use must provide 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.</u>
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	<p><u>other than where the allotments are for roads, access ways or infrastructure; and</u></p> <p><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> <p><u>(b) Council's discretion is restricted to the following matters:</u></p> <p><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></p> <p><u>(ii) The ability to provide a complying building platform outside of the National Grid Yard;</u></p> <p><u>(iii) The risk of electrical hazards affecting public or individual safety, and the risk of property damage;</u></p> <p><u>(iv) The nature and location of any vegetation to be planted in the vicinity of National Grid transmission lines.</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 conditions of Rule 23.4.6B RDI</u>

8.5.5 Section 32AA evaluation

634. The recommended relocation of the rule regarding subdivision in the National Grid Corridor is merely a relocation of an existing rule, therefore does not require a Section 32AA evaluation. The recommended insertion of new matters of discretion does require an assessment however.

Other reasonably-practicable options

635. Within the scope provided by submissions, there are a number of options for the matters of discretion. At a broad level, the options are:

- (a) Retain the notified version of the matters of discretion;
- (b) Add matter of discretion regarding the provision of infrastructure including firefighting, enabling the continuing access and operation of infrastructure and recognition of reverse sensitivity effects.

Effectiveness and efficiency

636. The recommended amendments addressing the provision of infrastructure including firefighting where practicable is an efficient way to achieve 6.4.1 Objective – Integration of infrastructure with subdivision, land use and development. This matter of discretion applies to all infrastructure, and is a way to ensure that any subdivision has appropriate design of infrastructure. Water supply may not always be available at a scale or pressure that is suitable for firefighting, given that most Country Living-zoned sites do not have a reticulated water supply. Therefore, the words “where practicable” recognise that a water supply that meets the needs of the fire service will not always be possible.

637. The inclusion of the new matter of discretion considering infrastructure and land transport networks is an efficient and effective way to achieve Objectives 6.5.1 Land transport network, 6.4.1 Objective – Integration of infrastructure with subdivision, land use and

development, 6.1.6 Objective – Reverse sensitivity and 6.1.1 Objective – Development, operation and maintenance of infrastructure. This matter of discretion will ensure that the subdivision layout and design is responsive to existing infrastructure, including any effects on the existing land transport network.

638. The inclusion of a new matter of discretion requiring consideration of measures to mitigate and minimise reverse sensitivity effects, including on adjoining Rural Zone land, is the most effective way to achieve 5.6.1 Objective – Country Living Zone, but also will help to achieve Objective 5.1.1 The rural environment (particularly clause (ii), which seeks to support rural activities). The purpose of this matter of discretion is to ensure that subdivisions in the Country Living Zone consider other lawfully-established activities and consider ways to mitigate or minimise any reverse sensitivity effects. It should be noted that this matter of discretion is not limited to activities occurring in any adjoining Rural Zone, thus would assist in achieving Objective 6.1.6, which relates to reverse sensitivity in the context of infrastructure also.

Costs and benefits

639. There are likely to be additional costs, in that additional matters will need to be considered in subdivision applications. Arising from these additional matters of discretion there may also need to be changes in the design or layout of the subdivision. There are likely to be benefits in terms of social and economic effects if these matters of discretion can be effective in minimising the potential for reverse sensitivity effects to arise. There will also be economic and social benefits to infrastructure providers, in that the ongoing operation of and access to their assets will be considered. There is wider benefit to the local and wider community from the ongoing operation of, or upgrades to, infrastructure.
640. These recommended amendments will have no effect on economic growth or employment.

Risk of acting or not acting

641. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the matters of discretion.

Decision about most appropriate option

642. The amendments gives effect to various provisions in the Regional Policy Statement concerned with avoiding reverse sensitivity and enabling the continuing operation of infrastructure. They are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the matters of discretion for Rule 23.4.2 RD1.

9 Subdivision within the Airport Subdivision Control Boundary

643. The Airport Subdivision Control Boundary and SEL 95 Boundary are overlays marked on the planning maps which sit over the Country Living Zone (as well as other zones) within close proximity of the Waikato Regional Airport. The purpose of the overlay is to limit the amount of development, and therefore the number of people, that will be exposed to increased noise from aircraft. The primary purpose is to limit the potential for reverse sensitivity effects.

644. Rule 23.4.2 RDI(a)(ii) controls subdivision of land within the Airport Subdivision Control Boundary and SEL 95 Boundary and increases the minimum lot size to 1.1ha (as opposed to 5,000m² for Country Living-zoned sites outside of these overlays). Rule 23.4.2 RDI (a)(iii) sets out a calculation for sites that straddle the Airport Subdivision Control Boundary 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.
645. Subdivision is not the only control on the areas close to Waikato Regional Airport. In addition to the controls on subdivision, the construction, additions or alterations to a building containing a noise-sensitive activity within the Airport Noise Outer Control Boundary must be constructed to achieve the internal design sound levels specified in Appendix I (Acoustic Insulation). This is a permitted activity under Rule 23.3.7.4, provided these acoustic insulation standards are met. The Airport Obstacle Limitation Surface also applies to the Country Living-zoned properties on the eastern edge of Hamilton City. Rule 23.3.4.2 controls the height of buildings, structures, and vegetation within these overlays.
646. Nine submissions were received on the subdivision rules pertaining to sites within the Airport Subdivision Control Boundary and SEL 95 Boundary. The submissions were received on the following matters:
- Three submissions sought deletion of the overlays from the planning maps,
 - Four submissions sought deletion of the increased lot size requirements,
 - The submission from Waikato Regional Airport Ltd sought to make subdivision that does not comply with the 1.1ha minimum lot size a prohibited activity (as opposed to a non-complying activity as notified); and
 - The submission from Waikato District Council sought minor amendments to improve the clarity of the rule.

9.1.1 Submissions

Submission point	Submitter	Summary of submission
7.1	Howarth Consulting	Delete Rule 23.4.2 (a) (ii) and (iii) General Subdivision, in relation to a 1.1ha lot size.
<i>FS1253.27</i>	<i>Waikato Regional Airport Ltd</i>	Opposes submission 7.1
<i>FS1386.5</i>	<i>Mercury NZ Limited</i>	Opposes submission 7.1
<i>FS1002.1</i>	<i>Tony Dickson</i>	Supports submission 7.1
50.2	Gary McMahon	Delete the Airport Subdivision Control Boundary from Map 27.2.
<i>FS1253.43</i>	<i>Waikato Regional Airport Ltd</i>	Opposes submission 50.2
147.1	Haley Bicknell-McMahon	Delete the Airport Subdivision Control Boundary from Planning Map 27.2.
<i>FS1253.44</i>	<i>Waikato Regional Airport Ltd</i>	Opposes submission 147.1
196.1	Derek and Colleen Hartley	Delete Rule 23.4.2 RD I(a) (i) and (ii) so that net site areas are not prescribed.

FS1253.29	Waikato Regional Airport Ltd	Opposes submission 196.1
FS1386.191	Mercury NZ Limited	Opposes submission 196.1
FS1379.48	Hamilton City Council	Opposes submission 196.1
196.2	Derek and Colleen Hartley	Delete the Airport Subdivision Control Boundary from the Proposed District Plan.
FS1253.45	Waikato Regional Airport Ltd	Opposes submission 196.2
697.920	Waikato District Council	<p>Amend Rule 23.4.2 RDI General Subdivision, as follows: (a) Subdivision must comply with all of the following conditions, <u>where applicable</u>:</p> <p>(i) All proposed lots must have a net site area of at least 5000m².</p> <p>(ii) Where the land being subdivided is wholly inside the Airport Subdivision Control Boundary or <u>wholly</u> or partly 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;</p> <p>(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: <u>Proposed Record of Titles lots = $\frac{\text{area (ha) outside*}}{0.5} + \frac{\text{area (ha) inside*}}{1.1}$</u></p> <p>* outside and inside Airport Subdivision Control Boundary</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Adverse effects on amenity values;</p> <p>(ii) Effects on the <u>operation of the airport Airport Subdivision Control Boundary or the SEL 95 Boundary.</u></p>
FS1253.30	Waikato Regional Airport Ltd	Supports submission 697.920
724.7	Sue Robertson for Tamahere Community Committee	Delete Rule 23.4.2 (a)(ii) General Subdivision, which is the requirement for an average site area of 1.1ha where the land to be subdivided is located within the Airport Subdivision Control Boundary.
FS1253.31	Waikato Regional Airport Ltd	Opposes submission 724.7
FS1387.804	Mercury NZ Limited	Opposes submission 724.7
741.2	Waikato Regional Airport Ltd	<p>Delete Rule 23.4.2 General subdivision RDI (a)(ii), (a)(iii), (b) and NCI;</p> <p>AND</p> <p>Add a new prohibited subdivision rule in Rule 23.4.1 Prohibited subdivision as follows:</p> <p><u>PR2</u></p> <p><u>(a) Any subdivision inside the Airport Subdivision Control Boundary or inside the SEL95 Boundary identified on the planning maps where the average net site area is less than 1.1ha.</u></p> <p><u>(b) Where the land is being subdivided straddles the Airport</u></p>

		<p>Subdivision Control Boundary any subdivision that creates more lots than the number calculated by the following formula. $\text{Number of new lots} = (\text{area(ha) outside the Airport Subdivision Control Boundary} / 0.5) + (\text{area (ha) inside the Airport Subdivision Control Boundary} / 1.1).$ </p> <p>AND</p> <p>Any further relief and/or amendments to the Proposed Plan as may be necessary.</p>
FS1387.832	Mercury NZ Limited	Opposes submission 741.2
943.67	McCracken Surveys Limited	No specific decision sought, but the submission states: The rule is too restrictive and has not prevented the significant development Zone Subdivision of dwellings within the Airport Subdivision Control Boundary or inside the SEL 95 Boundary. The rule has created an anomaly of larger lots over 1.1 ha whereas the majority of surrounding lots are closer to 5000m ² . There is no longer a valid reason to retain the average.
FS1253.33	Waikato Regional Airport Ltd	Opposes submission 943.67
FS1387.1593	Mercury NZ Limited	Opposes submission 943.67

9.1.2 Analysis

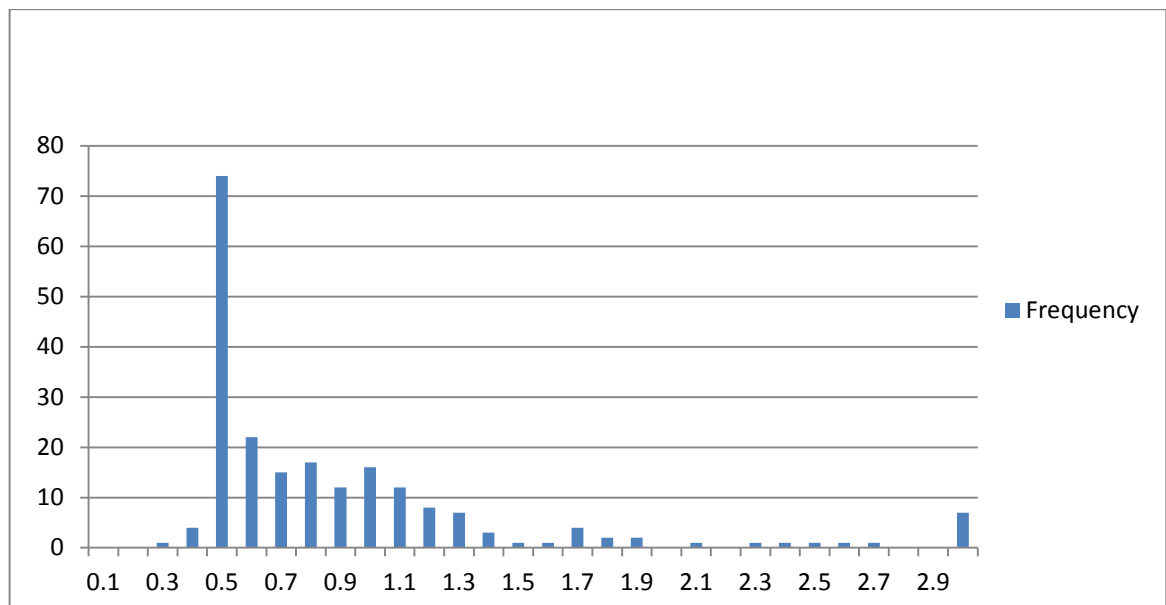
Activity status and average lot size

647. Waikato Regional Airport Ltd [741.2] sought deletion of the restricted discretionary rule for subdivision within the Airport Subdivision Control Boundary, and instead making this a prohibited activity where the average site is less than 1.1ha. This would have the effect of having an unspecified activity status for subdivision within the Airport Subdivision Control Boundary or inside the SEL95 Boundary, where the average net site area is more than 1.1ha, and being a prohibited activity where the average lot size is less than 1.1ha. As the activity status for an average net site area of more than 1.1ha is unspecified, it would arguably be a Discretionary Activity, as provided for in Section 87B of the RMA. It is not clear from the submission whether this is the intention or an oversight in drafting the submission.
648. 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 (Rule 27.5(i)), and greater than 1.1ha as a controlled activity (Rule 27.62.1(c)). The rules in the Operative District Plan: Waikato Section also contain the same formula for calculating lots straddling the Airport Noise Subdivision Control Boundary that is included in the Proposed District Plan (Rules 27.5(j) and 27.62.1(d) of the Operative District Plan: Waikato Section). Thus the activity status of subdivision in the Airport Subdivision Control Boundary or inside the SEL 95 Boundary is more stringent in the Proposed District Plan for average lots greater than 1.1ha (restricted discretionary versus controlled), conversely more lenient for an average lot size less than 1.1ha (non-complying versus prohibited).
649. Leo Koppens [820.1], Howarth Consulting [7.1] and Tamahere Community Committee [724.7] also submitted on the Airport Subdivision Control Boundary or inside the SEL95 Boundary, but in contrast sought a more lenient activity status. The submissions sought to delete Rule 23.4.2 RDI (a) (ii) and (iii) General subdivision. This would have the effect of a subdivision within the Airport Subdivision Control Boundary being treated no differently

from subdivision elsewhere in the Country Living Zone. The effect would be to reduce the minimum lot area to 5,000m² instead of 1.1ha.

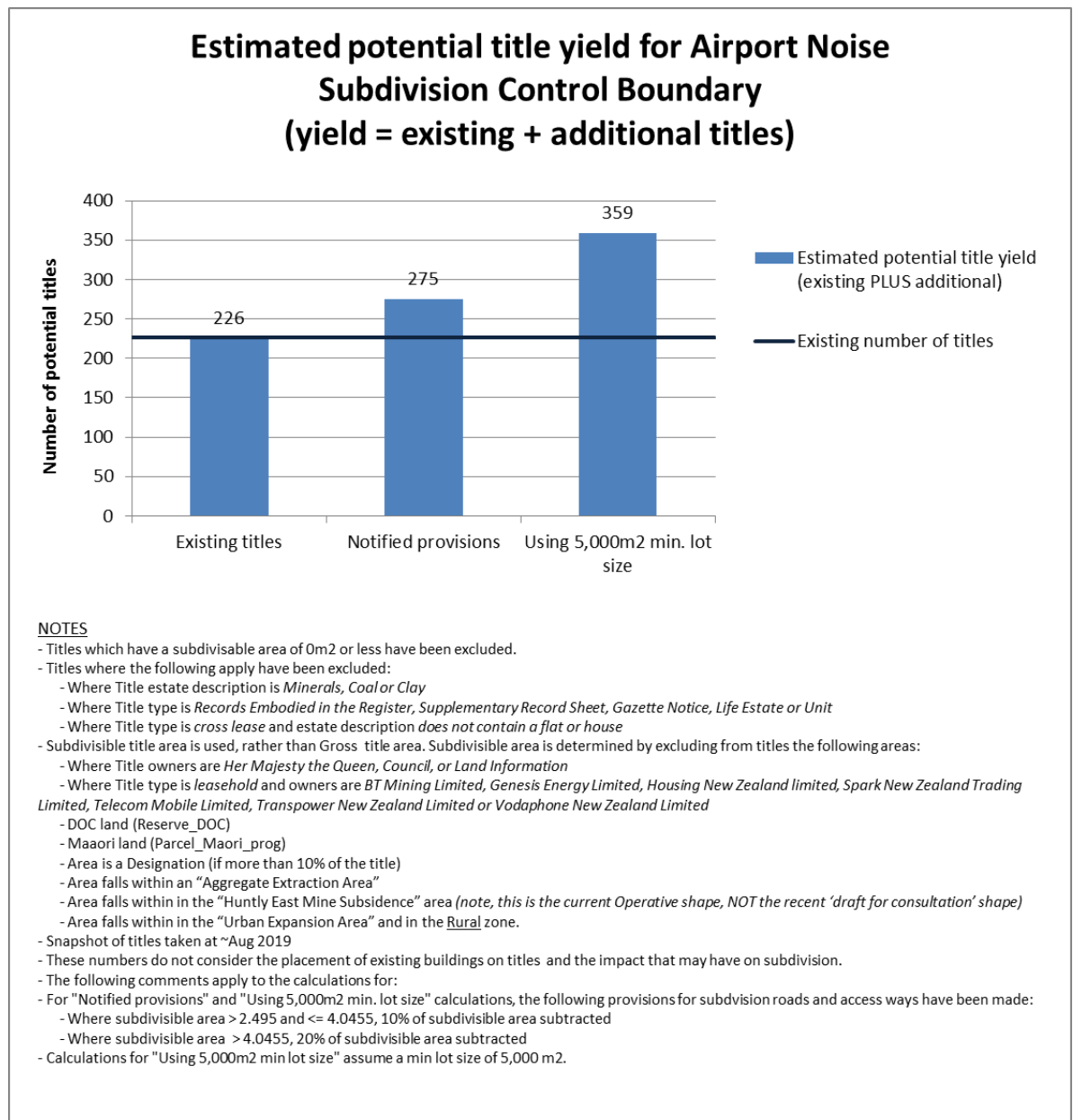
650. While the submission from McCracken Surveys Limited [943.67] did not seek any specific decision, the submission considers that the rule is too restrictive and has not prevented the significant development within the Airport Subdivision Control Boundary or inside the SEL 95 Boundary. The rule has created an anomaly of larger lots over 1.1 ha, whereas the majority of surrounding lots are closer to 5000m². There submission considers there is no longer a valid reason to retain the average. There are 214 lots within the Country Living Zone that also are covered by the Airport Subdivision Control Boundary. Of these, 161 are less than 1.1ha and 53 are greater than 1.1ha. So while on the face of it, it appears that McCracken Surveys Limited are correct and that there are significantly more sites less than 1.1ha, the larger sites have a significant potential to be subdivided. The distribution of lot sizes within the Airport Subdivision Control Boundary is illustrated in Figure 20.

Figure 20: Distribution of lot sizes within the Airport Subdivision Control Boundary



651. To understand the scale of subdivision within the Airport Subdivision Control Boundary or inside the SEL95 Boundary, Council's GIS has calculated the number of existing lots and theoretical subdivision yield assuming a minimum 5000m² lot size (general subdivision rule). There are 226 existing titles within the Airport Subdivision Control Boundary which could yield an additional 60 lots, and 87 existing lots which straddle the Airport Subdivision Control Boundary. This could potentially yield an additional 133 lots using the general subdivision minimum lot size of 5000m². If the 1.1ha minimum average lot size is applied, this reduces to 49 additional lots.

Figure 21



652. Given this conclusion, while I consider that managing subdivision within the Airport Subdivision Control Boundary or inside the SEL95 Boundary requires a special rule, I am not persuaded that a prohibited activity status for lots that do not meet the rule (i.e. cannot meet the 1.1ha average) is necessarily the most appropriate approach, given that the threshold for prohibited status is such a high hurdle, given recent case law. Further, the rule proposed by Waikato Regional Airport in its submission does not provide an option for subdivision which does meet the minimum average lot size of 1.1ha.
653. I therefore consider that a non-complying activity status for subdivision which cannot achieve a 1.1ha average (being the next step down from a prohibited activity status) is the most appropriate. It still indicates that additional development is not appropriate, whilst enabling robust analysis of the proposal against the objective and policy framework. I note that there are no objectives and policies within the Proposed District Plan that specifically address subdivision within the Airport Subdivision Control Boundary. Policy 5.3.15(a)(vi) addresses noise and vibration by requiring acoustic insulation where sensitive activities are

located within high noise environments, including the Airport Noise Outer Control Boundary. Other more general reverse sensitivity objectives and policies would apply however, such as Policy 5.6.3(a)(v), Objective 6.1.6 and Policy 6.1.7. I note that Objective 6.1.6 as notified seeks to “protect” infrastructure from reverse sensitivity, while Policy 6.1.7 achieves this objective by “avoiding” reverse sensitivity effects on infrastructure from subdivision, use and development. Given recent case law, a non-complying activity status coupled with an ‘avoid’ policy is comparable in effect to a prohibited activity status.

654. I am also aware of the other mechanisms in the Proposed District Plan for managing development in close proximity to the Waikato Regional Airport, such as Rule 23.3.7.4, which requires acoustic insulation standards for noise-sensitive activities. The Airport Obstacle Limitation Surface also applies to the Country Living-zoned properties on the eastern edge of Hamilton City. Rule 23.3.4.2 controls height of buildings, structures, and vegetation within these overlays. Thus I consider that there are a number of controls within the Proposed District Plan which have the effect of limiting the level of noise for sensitive land uses, and indeed controlling the height and location of buildings in close proximity to the airport.
655. I am aware that the purpose of additional controls on subdivision in this area is to limit the number of people and land uses subject to adverse noise effects from aircraft. I am aware that the 1.1ha average lot size was decided by the Environment Court at the time of Variation 14 to the Operative District Plan: Waikato Section and has already been the subject of a great deal of analysis and debate. I consider that the 1.1ha minimum average is appropriate, therefore recommend rejecting the submissions from Leo Koppens [820.1], Howarth Consulting [7.1], Tamahere Community Committee [724.7] and McCracken Surveys Limited [943.67].
656. Turning to the most appropriate activity status, I recommend rejecting the submission from Waikato Regional Airport Ltd [741.2], as I consider that a restricted discretionary activity status is the most appropriate for subdivisions within the Airport Subdivision Control Boundary or inside the SEL95 Boundary that can achieve a minimum 1.1ha average lot size. This does not unreasonably hinder development in this area, but still reduces the level of potential development, therefore the number of people likely to be subjected to increased noise from aircraft. I note the matter of discretion being:
- (b)(ii) Effects on the Airport Subdivision Control Boundary or the SEL 95 Boundary.
- (although noting the submission from Waikato District Council, which seeks to clarify this matter of discretion which I have addressed in the following section of my report):
657. I consider a cascade to non-complying activity for subdivisions that are less than 1.1ha average lot size to be the most appropriate activity status. This clearly signals to landowners that more intense development than 1.1ha is not appropriate.

Planning maps

658. The submissions from Gary McMahon [50.2], Haley Bicknell-McMahon [147.1] and Derek and Colleen Hartley [196.2] sought to delete the Airport Subdivision Control Boundary from Map 27.2. This would have the effect of removing all additional controls on subdivision and would allow subdivision to 5000m². The purpose of the overlay is primarily to limit the number of noise-sensitive activities (such as residential homes) that establish within the area that is regularly subjected to noise from aircraft. By controlling subdivision, the Airport Subdivision Control Boundary is effectively managing reverse sensitivity issues. This is a common approach near significant airports and is intended not only to protect the airport

from reverse sensitivity effects, but also ensure a reduction in the number of people subjected to higher levels of noise generated by aircraft. I consider this to be an appropriate and effective means of addressing the issues created by higher levels of aircraft noise, but also the most appropriate means of achieving Objective 6.1.6, which seeks to “protect” infrastructure from reverse sensitivity effects. Therefore I recommend rejecting the submissions seeking deletion of the Airport Subdivision Control Boundary from planning maps.

Clarity of rules

659. The submission from Waikato District Council [697.920] sought minor changes to the wording of 23.4.2 RDI to clarify that not all clauses in RDI will apply to every subdivision. I recommend that these changes be accepted, as not every site is located within the Airport Subdivision Control Boundary, thus clause (ii) and (iii) will not be relevant to a large number of Country Living-zoned sites.

660. The submission from Waikato District Council [697.920] also sought amendment to clause (a)(ii) to clarify that the clause applies to sites both wholly or partly inside the SEL 95 Boundary. I agree that this amendment will improve the clarity of the rule, therefore recommend that the submission point be accepted. I also recommend that matter of discretion (ii) be amended, as it is the effects on the operation of the airport which should be the focus of an assessment of effects, not the effects on the overlays themselves.

661. The submission sought that “Record of Titles” be replaced by “lots”. Following on from Hearing 5 Definitions, it appears that neither of these terms is the most appropriate, and instead “allotment” is the more correct term (in accordance with the National Planning Standards definitions). For this reason, I recommend accepting in part submission point [697.920], and that Rule 23.4.2 RDI be amended as follows:

(a) Subdivision must comply with all of the following conditions, where applicable:

- (i) All proposed lots must have a net site area of at least 5000m².
- (ii) Where the land being subdivided is wholly inside the Airport Subdivision Control Boundary, or wholly or partly 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: Proposed Record of Titles allotments =

$$\frac{\text{area (ha) outside}^*}{0.5} + \frac{\text{area (ha) inside}^*}{1.1}$$

* outside and inside Airport Subdivision Control Boundary

(b) Council’s discretion is restricted to the following matters:

- (i) Adverse effects on amenity values;
- (ii) Effects on the operation of the airport ~~Airport Subdivision Control Boundary or the SEL 95 Boundary~~

9.1.3 Recommendation

662. Based on the analysis outlined above, I recommend the following:

- (a) Howarth Consulting [7.1] and the further submission from Tony Dickson [FS/002.1] be **rejected**, while the further submissions from Waikato Regional Airport Ltd [FS/253.27] and Mercury NZ Limited [FS/386.5] be **accepted**;

- (b) Gary McMahon [50.2] be **rejected**, and the further submission from Waikato Regional Airport Ltd [FS/253.43] be **accepted**;
- (c) Haley Bicknell-McMahon [147.1] be **rejected** and the further submission from Waikato Regional Airport Ltd [FS/253.44] be **accepted**;
- (d) Derek and Colleen Hartley [196.2] be **rejected**, and the further submission from Waikato Regional Airport Ltd [FS/253.45] be **accepted**;
- (e) Waikato District Council [697.920] be **accepted**, and the further submission from Waikato Regional Airport Ltd [FS/253.30] be **accepted**;
- (f) Tamahere Community Committee [724.7] be **rejected**, and the further submissions from Waikato Regional Airport Ltd [FS/253.31] and Mercury NZ Limited [FS/387.804] be **accepted**;
- (g) Waikato Regional Airport Ltd [741.2] be **rejected**, and the further submission from Mercury NZ Limited [FS/387.832] be **accepted**;
- (h) Leo Koppens [820.1] be **rejected**, and the further submissions from Waikato Regional Airport Ltd [FS/253.32] and Mercury NZ Limited [FS/387.1303] be **accepted**; and
- (i) McCracken Surveys Limited [943.67] be **rejected**, and the further submissions from Waikato Regional Airport Ltd [FS/253.33] and Mercury NZ Limited [FS/387.1593] be **accepted**.

9.1.4 Recommended amendments

663. The following amendments are recommended to Rule 23.4.2 RDI:

- (a) Subdivision must comply with all of the following conditions, where applicable:
 - (i) All proposed lots must have a net site area of at least 5000m².
 - (ii) Where the land being subdivided is wholly inside the Airport Subdivision Control Boundary, or wholly or partly 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: Proposed Record of Titles allotments =

$$\frac{\text{area (ha) outside}^*}{0.5} + \frac{\text{area (ha) inside}^*}{1.1}$$

* outside and inside Airport Subdivision Control Boundary
- (b) Council's discretion is restricted to the following matters:
 - (i) Adverse effects on amenity values;
 - (ii) Effects on the operation of the airport ~~Airport Subdivision Control Boundary or the SEL 95 Boundary~~

9.1.5 Section 32AA evaluation

664. Most of the amendments recommended to Rule 23.4.2 RDI in the context of the Waikato Regional Airport and control of subdivision are to improve clarity of the rule and will not change the intent or application of the rule. However, the most significant amendment recommended is the change to the matter of discretion – from focusing on the effects on

the Airport Subdivision Control Boundary or the SEL 95 Boundary, to effects on the operation of the airport.

665. Changing the focus of the matter of discretion is considered to be the most appropriate way to achieve the following objectives associated with infrastructure:
666. The definition of “infrastructure” in the Resource Management Act includes clause (j) *an airport as defined in section 2 of the Airport Authorities Act 1966.*
- a. Objective 6.1.1 Development, operation and maintenance of infrastructure
 - b. Objective 6.1.6 – Reverse sensitivity
667. Subdivision per se will have no effect on the Airport Subdivision Control Boundary or the SEL 95 Boundary (which is essentially an overlay on the planning maps), but it could have an effect on the operation of the airport.

Other reasonably-practicable options

668. Other reasonably-practicable options include the text that was notified, or deleting that particular matter of discretion.

Effectiveness and efficiency

669. The recommended amendments to the matter of discretion will ensure that the effects on the airport are considered, thus achieving Objectives 6.1.1 and 6.1.6. The amendments improve the effectiveness of the rule in implementing the objectives, and provide suitable guidance to plan users for the assessment of activities that have the potential to affect the ongoing operation of the airport.

Costs and benefits

670. There are no additional costs, therefore costs are likely to be the same. There are benefits for the airport, with the revised matters of discretion being clearer as to the purpose of consents and matters to be addressed and assessed. There is wider benefit to the local and regional community from ensuring the ongoing operation of the airport, and reducing the risk of reverse sensitivity effects.

Risk of acting or not acting

671. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the matters of discretion.

Decision about most appropriate option

672. The amendment gives effect to the objectives. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version of the matters of discretion.

10 Subdivision - Identified Areas

10.1.1 Submissions

673. Four submissions were received seeking consideration in regard to infrastructure, coal mining and a new identified area.

Submission point	Submitter	Summary of submission
330.118	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4.3 Subdivision within identified areas.
<i>FSI 386.399</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.118
405.76	Counties Power Limited	Add the following to Rule 23.4.3 DI (a) (i-viii) Subdivision within identified areas as follows: <u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of existing infrastructure assets;</u>
662.29	Blue Wallace Surveyors Ltd	Delete Rule 23.4.3 DI (a) (vi) Subdivision within identified areas relating to Coal Mining Area.
<i>FSI 387.111</i>	<i>Mercury NZ Limited</i>	Opposes submission 662.29
697.921	Waikato District Council	Add a new rule (ix) to Rule 23.4.3 DI Subdivision within identified areas, as follows: <u>(ix) A natural hazard area.</u>
<i>FSI 387.734</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.921

10.1.2 Analysis

674. Andrew and Christine Gore [330.118] do not disclose any relief sought. Mercury Energy Limited [*FSI 386.399*] opposes the submission. I recommend that the panel reject the submission point from Andrew and Christine Gore [330.118].
675. Counties Power Limited [405.76] seeks to add a Discretionary Activity that will enable Council to consider the effects that subdivision potentially has on the operation of existing infrastructure assets. The reasons given are to prevent the assets from becoming landlocked. Similar submissions were received from Counties Power and KiwiRail Holdings Ltd and discussed in the s42A report for Hearing 6: Subdivision. However, in this instance the submission sought that a matter of discretion be included in the Restricted Discretionary Activity rule. The report writer discussed that the existing network infrastructure plays a strategic role in the well-being of the district's communities. I agree with the analysis undertaken in regard to this matter and the thinking that the consideration of these matters is defined as effects on 'regionally significant infrastructure', as defined in the Waikato Regional Policy Statement. By referring to regionally-significant infrastructure also eliminates any confusion that the rule may apply to just any infrastructure assets (which was discussed previously in regard to setbacks for earthworks to infrastructure, in that it is unknown where all infrastructure is located). As discussed in Village Zone Subdivision, a tailored definition for regionally-significant infrastructure sits across the plan. This will potentially be discussed in the Infrastructure hearing. However, in my opinion the suggested Discretionary Activity would be more appropriate as a matter of discretion under the General Subdivision rule 23.4.2, as opposed to Rule 23.4.3 Subdivision within identified areas. I recommend that the panel, subject to an appropriate definition, accept in part Counties Power Limited [405.76]

676. Blue Wallace Surveyors Ltd [662.29] seeks to delete subdivision in a coal mining area as a discretionary activity and make it a matter of limited discretion. Mercury Energy Limited [FS/387.111] opposes the submission. The Waikato Regional Policy Statement discusses that the effect of development on access to mineral resources, particularly aggregates, needs to be considered. The Waikato Regional Policy is clear in its direction for district plans to have provisions for rural-residential development to be directed away from identified significant mineral resources. Therefore it is appropriate that subdivision within a coal mining area be a discretionary activity and can be accessed accordingly in any consent application. I recommend that the panel reject Blue Wallace Surveyors Ltd [662.29].
677. Waikato District Council [697.921] seeks to include a new discretionary rule to manage subdivision within a natural hazard area. Mercury Energy Limited [FS/387.734] opposes the submission. The reasons given are that this is to accommodate the consequential changes as a result of changes to 23.4.4 Title boundaries rule. I agree with this rationale and recommend that the panel accept Waikato District Council [697.921].

10.1.3 Recommendation

- (a) **Reject** Andrew and Christine Gore [330.118] and **accept** the further submission from Mercury Energy Limited [FS/386.399]
- (b) **Accept in part** Counties Power Limited [405.76]
- (c) **Reject** Blue Wallace Surveyors Ltd [662.29] and **accept** the further submission from Mercury Energy Limited [FS/387.111]
- (d) **Accept** Waikato District Council [697.921] and **reject** the further submission from Mercury Energy Limited [FS/387.734].

10.1.4 Recommended amendments

10.1.2 General Subdivision

RDI	<p>(a) Subdivision must comply with all of the following conditions:</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: $\text{Proposed Record of Titles} = \frac{\text{area (ha) outside}^*}{0.5} + \frac{\text{area (ha) inside}^*}{1.1}$ <p>* outside and inside Airport Subdivision Control Boundary</p> <ul style="list-style-type: none"> (i) Council's discretion is restricted to the following matters: (ii) Adverse effects on amenity values; (iii) Effects on the Airport Subdivision Control Boundary or the SEL 95 Boundary. (iv) <u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of regionally significant infrastructure assets;</u>
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23.4.3 Subdivision within identified areas

DI	<p>(a) Subdivision of any lot containing any these areas:</p> <ul style="list-style-type: none"> (i) High Natural Character Area; (ii) Outstanding Natural Character Area; (iii) Outstanding Natural Landscape; (iv) Outstanding Natural Feature; (v) Significant Amenity Landscape dune; (vi) Coal Mining Area; (vii) Aggregate Resource Area; (viii) Aggregate Extraction Area; (ix) <u>A natural hazard area.</u>
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10.1.3 Section 32AA evaluation

678. The above submission assessment addresses the notified provisions and the need for them to be amended to improve their effectiveness and efficiency in relation to the overarching Country Living Zone Objective.

Other reasonably-practicable options

679. One option is to retain the notified version. However, this will not enable the consideration of important infrastructure or natural hazard areas during a subdivision process. The recommended amendments are the most appropriate way to give effect to the Regional Policy Statement and the RMA.

Effectiveness and efficiency

680. The recommend amendment to the rules improves the linkages to the Policy 5.6.3 which ensure that existing infrastructure is not compromised. The amendments will be consistent with the Waikato Regional Policy Statement in regard to regionally significant infrastructure and natural hazard areas. There will be improved clarity in the plan when managing these aspects.

Costs and benefits

681. There may be some additional costs to owners of properties which are eligible for subdivision, as they will have additional matters of discretion in relation to regionally-significant infrastructure if located within a natural hazard area. There are benefits to the environment with the revised rule framework, as it is clearer about how the effects will be managed. Other benefits are clearer guidance to plan users regarding the effects of subdivision on the environment. There is wider benefit to the local and regional community, as regionally-significant infrastructure and natural hazards areas will be considered through the subdivision process.

Risk of acting or not acting

682. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

Decision about most appropriate option

683. The amendments give effect to the Waikato Regional Policy Statement and are considered to be more appropriate in achieving the purpose of the RMA than the notified version of Policy.

11 Subdivision - Title boundaries – natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities, aggregate extraction areas

684. This section analyses submissions in relation to Rule 23.4.4. These are as follows:

11.1.1 Submissions

Submission point	Submitter	Summary of submission
330.119	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4.4 Title boundaries - natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities, aggregate extractions areas.
<i>FS1386.400</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.119
345.20	Brent Trail	Delete Rule 23.4.4 RDI (a) (iii) Title boundaries - natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities, aggregate extraction areas. AND Delete from every zone the subdivision rule which requires the boundary of every proposed lot to not divide any of the following: A natural hazard area; Contaminated land; Significant Amenity Landscape; Notable tree.
697.922	Waikato District Council	Amend Rule 23.4.4 Title boundaries - natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities, aggregate extraction areas heading, as follows: Title boundaries - Existing Buildings - natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities, aggregate extraction areas
<i>FS1387.735</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.922
697.923	Waikato District Council	Amend Rule 23.4.4 RDI Title boundaries - natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities, aggregate extraction areas, as follows:

		<p>(a) 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:</p> <p>(i) (a) The boundaries of every proposed lot containing an existing building must demonstrate compliance with the Land Use - Building rules in Rule 23.3 relating to:</p> <p>(i) Rule 23.3.5 (Daylight admission);</p> <p>(ii) Rule 23.3.6 (Building coverage);</p> <p>(iii) Rule 23.3.7 (Building Setbacks);</p> <p>(ii) (b) Rule 23.4.4 RD1 (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>(iii) (c) Any boundary of a proposed lot must not divide the following:</p> <p>A. a natural hazard area;</p> <p>B. contaminated land;</p> <p>C. Significant Amenity Landscape;</p> <p>D. Notable tree.</p> <p>(iv) Any boundary of a proposed lot must provide the following setbacks:</p> <p>A. 300m from any intensive farming activity;</p> <p>B. 200m from an Aggregate Extraction Area for sand extraction;</p> <p>C. 500m from an Aggregate Extraction Area for rock extraction.</p> <p>(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>
<i>FS1387.736</i>	<i>Mercury NZ Limited</i>	Opposes submission 697.923
697.924	Waikato District Council	<p>Amend Rule 23.4.4 NCI Title boundaries - natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities, aggregate extraction areas to change to DI a discretionary activity rather than a non complying activity, as follows:</p> <p><u>NCI-DI Discretionary activities</u> Title boundaries - natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities, aggregate extraction areas</p>
<i>FS1223.130</i>	<i>Mercury NZ Limited</i>	Supports submission 697.924

FS1387.737	Mercury NZ Limited	Opposes submission 697.924
FS1308.113	The Surveying Company	Supports submission 697.924
738.6	Shand Properties Limited	Amend Rule 23.4.4 Title boundaries, so that the activity status for a subdivision not complying with the standards is discretionary rather than non-complying.
FS1349.9	Allen Fabrics Ltd.	Support submission point 738.6 as submitted.
FS1387.828	Mercury NZ Limited	Opposes submission 738.6

11.1.2 Analysis

685. Andrew and Christine Gore [330.119] do not identify any relief sought. I recommend that the panel reject the submission point from Andrew and Christine Gore [330.119] due to lack of specificity and detail.
686. Brent Trail [345.20] seeks to delete Rule 23.4.4 (a)(iii), which requires boundaries to not divide a natural hazard area, contaminated land, significant natural area or a notable tree. . The reasons provided by the submission are that this rule would be unreasonable and impracticable.
687. Waikato District Council [697.922] and [697.923] also seek to amend the subdivision rule to change the focus of the rule from being a trigger for considering title boundary effects on overlays, to focus on the location of title boundary for lots containing existing buildings.. I consider there is a legitimate need for a rule that enables Council to assess potential effects of proposed new title boundaries on lots containing existing buildings, to ensure that those new boundaries do not create effects on amenity and character. I recommend that the panel accept in part Brent Trail [345.20] and accept Waikato District Council [697.922] and [697.923].
688. Waikato District Council [697. 924] and Shand Properties Limited [738.6] seek to amend the subdivision title boundary rule from non-complying to discretionary upon non-compliance with one or more standards. Allen Fabric Ltd [FS1349.9] supports Shand Properties Limited submission and Mercury Energy Limited [FS1387.828] opposes the submission. The reason provided by the submission is that the activity status us too onerous. I recommend that the panel accept the submission point from Waikato District Council [697.924] and Shand Properties Limited [738.6].

11.1.3 Recommendation

- (a) **Reject** Andrew and Christine Gore [330.119] and **accept** Mercury Energy Limited [FS1384.40]
- (b) **Accept in part** Brent Trail [345.20]
- (c) **Accept** Waikato District Council [697.922] and [697.923], and **reject** the further submissions from Mercury Energy Limited [FS1387.735] and [FS1387.736]
- (d) **Accept** Waikato District Council [697. 924] and Shand Properties Limited [738.6] and the further submission from Allen Fabric Ltd [FS1349.9] and **accept** the further submission from Mercury Energy Limited [FS1223.130] and The Surveying Company [FS1308.113]; and **reject** Mercury Energy Limited [FS1387.828] but **reject** the submissions from Mercury Energy Limited [FS1387.737].

11.1.4 Recommended amendments

23.4.4 Title boundaries – ~~Existing Buildings natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities, aggregate extraction areas~~

RDI	<p>(a) 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:</p> <p>(i) (a) The boundaries of every proposed lot containing an existing building must demonstrate compliance with the Land Use - Building rules in Rule 23.3 relating to:</p> <p style="margin-left: 20px;">(i) Rule 23.3.5 (Daylight admission);</p> <p style="margin-left: 20px;">(ii) Rule 23.3.6 (Building coverage);</p> <p style="margin-left: 20px;">(iii) Rule 23.3.7 (Building Setbacks);</p> <p>(ii) (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>(iii) Any boundary of a proposed lot must not divide the following:</p> <p style="margin-left: 20px;">A. a natural hazard area;</p> <p style="margin-left: 20px;">B. contaminated land;</p> <p style="margin-left: 20px;">C. Significant Amenity Landscape;</p> <p style="margin-left: 20px;">D. Notable tree.</p> <p>(iv) Any boundary of a proposed lot must provide the following setbacks:</p> <p style="margin-left: 20px;">A. 300m from any intensive farming activity;</p> <p style="margin-left: 20px;">B. 200m from an Aggregate Extraction Area for sand extraction;</p> <p style="margin-left: 20px;">C. 500m from an Aggregate Extraction Area for rock extraction.</p> <p>(b) (c) Council's discretion is restricted to the following matters:</p> <p style="margin-left: 20px;">(i) Landscape values;</p> <p style="margin-left: 20px;">(ii) Amenity values and character;</p> <p style="margin-left: 20px;">(iii) Reverse sensitivity effects;</p> <p style="margin-left: 20px;">(iv) Effects on any existing building;</p> <p style="margin-left: 20px;">(v) Effects on a natural hazard area;</p> <p style="margin-left: 20px;">(vi) Effects on contaminated land;</p> <p style="margin-left: 20px;">(vii) Effects on a notable tree;</p> <p style="margin-left: 20px;">(viii) Effects on an intensive farming activity;</p> <p style="margin-left: 20px;">(ix) Effects on an Aggregate Extraction Area.</p>
<u>NCID1</u>	Subdivision that does not comply with Rule 23.4.4 RDI.

11.1.5 Section 32AA evaluation

689. Given that the above changes are to remove matters from proposed rule 23.4.4 which are effectively covered by the land use provisions contained in the notified version of the plan, I do not consider a s32AA evaluation is required, as effectively the proposed amendment is to make it clearer to plan users that the rule requires an assessment of the land use provisions (i.e. daylight admission, building coverage and setbacks).

690. The rule was also requiring subdivision to not divide areas such as natural hazard areas, Significant Natural Areas, contaminated land and notable trees, some of which are not practical to apply. For instance it would be difficult to determine what the effects of subdivision severing a natural hazard area or contaminated land are. These matters will also be covered by Stage 2 of the Proposed District Plan and the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health. Further

Significant Natural Areas and notable trees are proposed to be managed through other provisions in the Country Living Zone subdivision rules (e.g. Rule 23.4.5 manages SNAs).

12 Subdivision - Site boundaries – Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori

12.1.1 Submissions

Submission point	Submitter	Summary of submission
330.120	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4.5 Site boundaries - Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori.
345.21	Brent Trail	Delete Rule 23.4.5 Site boundaries - Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori.
<i>FS1323.29</i>	<i>Heritage New Zealand Pouhere Taonga</i>	Opposes submission 345.21
559.272	Heritage New Zealand	Retain Rule 23.4.5 RDI Site boundaries - Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori.
559.273	Heritage New Zealand	Retain Rule 23.4.5 NCI Site boundaries - Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori.
<i>FS1388.811</i>	<i>Mercury NZ Limited</i>	Opposes submission 559.273
697.925	Waikato District Council	Amend Rule 23.4.5 Site boundaries - Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori heading, as follows: Site boundaries - Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori, <u>notable trees</u>
697.926	Waikato District Council	Amend Rule 23.4.5 RDI (a) Site boundaries - Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori, as follows: (a) Any boundary of a proposed lot must not divide any of the following: (i) A Significant Natural Area; (ii) A heritage item as identified in Schedule 30.1 (Heritage Items); (iii) A Maaori site of significance as identified in Schedule 30.3 (Maaori Sites of Significance); or (iv) A Maaori area of significance as identified in Schedule 30.4 (Maaori Areas of Significance). <u>(iii) notable tree</u>
697.928	Waikato District Council	Add new rule to Rule 23.4 Subdivision after Rule 23.4.5 Site boundaries - Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori, as follows:

		<p><u>23.4.6A Subdivision of land containing archaeological sites, Maaori sites of significance and Maaori areas of significance</u></p> <p><u>RDI (a) The boundaries of every proposed lot must not divide any of the following:</u></p> <p><u>(i) Maaori sites of significance as identified in Schedule 30.3 (Maaori sites of significance);</u></p> <p><u>(ii) Maaori areas of significance as identified in Schedule 30.4 (Maaori areas of significance).</u></p> <p><u>(b) Council's discretion is restricted to the following matters:</u></p> <p><u>(i) effects on heritage values;</u></p> <p><u>(ii) context and setting of the heritage item; and (iii) the extent to which the relationship of the heritage item with its setting is maintained.</u></p> <p><u>DI Subdivision that does not comply with Rule 23.4.6A RDI.</u></p>
FS1323.30	Heritage New Zealand Pouhere Taonga	Opposes submission 697.928

12.1.2 Analysis

691. Andrew and Christine Gore [330.120] do not identify any relief sought, and I therefore recommend that this submission be rejected due to the lack of detail and specificity.
692. Brent Trail [345.21] seeks to delete Rule 23.4.5, which requires that Significant Natural Areas, heritage items, archaeological sites, and sites of significance to Maaori are not divided into multiple titles through subdivision. Heritage New Zealand Pouhere Taonga [FS1323.29] opposes the submission. The reasons provided in the submission are that Significant Natural Areas areas and Maaori sites can be very large and often to create access, viable building sites and practical boundaries it is unavoidable to have boundaries go through parts of them. Brent Trail agrees that parts of significant Maaori sites should not be severed, however some sites, by their nature can be spread out. While I somewhat agree with the practical implications of these rules, I disagree that the rule should be deleted in its entirety and therefore reject this submission. I consider that it is easier to manage all of these significant items and areas under a single title rather than having them spread (and therefore managed differently) across multiple titles.
693. Submissions from Heritage New Zealand [559.272] and [559.273] are seeking to retain the Restricted Discretionary rule and the non-complying rule as notified. Mercury Energy Limited [1388.811] opposes [559.273]. I therefore recommend accepting Heritage New Zealand [559.272] and [559.273] only in part, as I have recommended amendments to the rules in response to other submissions, which are outlined below.
694. Waikato District Council [697.925] seeks to amend the title of Rule 23.4.5 to only refer to Significant Natural Areas and to include notable trees within the title. Given that Waikato District Council also has a submission to include a new rule to cover the deleted themes, I recommend that the panel accept in part the submission from Waikato District Council [697.925] as I consider the notable trees need to sit with the archaeological sites and Maaori sites and areas of significance to appropriately align with objectives and policies relating to each matter. I agree that it makes sense to provide separate rules in the District Plan

dealing with the Significant Natural Areas and then the archaeological sites, Maaori sites and areas of significance and notable trees together in a separate rule.

695. Further to this, Waikato District Council [697.926] seeks to delete from rule 23.4.5 clauses (ii), (iii) and (iv) as well as add 'Notable trees' to the rule as a matter of discretion. My view is that notable trees should form part of the new rule as proposed in submission [697.928] and does not require a matter of discretion, as it would be covered by those matters proposed by new rule 23.4.6A.
696. The addition of 'Notable trees' is a consequence of rationalisation of the scope of Rule 23.4.4. Clause (ii) is removed because it is already covered in Rule 23.4.6. Clauses (iii) and (iv) are removed to set these rules apart and create a new rule entirely (proposed Rule 23.4.6A). Further to this, for completeness, the submission from Waikato District Council [697.928] seeks to add a proposed new Rule 23.4.6A as an amendment resulting from splitting out archaeological sites and Maaori sites and areas of significance in Rule 23.4.5. Heritage New Zealand [FS/323.30] opposes submission [697.928].
697. The suggested amendment of a new rule has changed the hierarchy of the rule framework from non-complying to discretionary. In my opinion, the non-complying activity status is an onerous status to contend with in the consenting process given that in some circumstances it is unavoidable to put a boundary through an archaeological site or a Maaori site or area of significance and therefore the activity status seems to generate an unreasonably high hurdle. I believe that a discretionary activity status more than adequately addresses the matter. The proposed amendments rationalise the rules so that they deal solely with the effects related to boundaries severing an archaeological site or a Maaori site or area of significance onto one or more titles.
698. Maaori sites and areas of significance are diverse in terms of their size, location, context and associated values. There may well be site-specific situations where subdivision could be deemed 'appropriate', and a discretionary activity status would reflect this. This would be a more efficient and effective approach to assessing subdivision of blocks with these aspects. I recommend that the panel accept in part Waikato District Council [697.926] and [697.928].

12.1.3 Recommendation

- a) **Reject** Andrew and Christine Gore [330.120]
- b) **Reject** Brent Trail [345.21]; and **accept in part** the further submission from Heritage New Zealand [FS/323.29]
- c) **Accept in part** Heritage New Zealand Lower Northern Office [559.272] and [559.273]
- d) **Reject** Mercury Energy Limited [FS/388.8/1]
- e) **Accept** Waikato District Council [697.925]
- f) **Accept in part** Waikato District Council [697.926] and [697.928], and **reject** the further submission from Heritage New Zealand [FS/323.30].

12.1.4 Recommended amendments

23.4.5 Site boundaries – Significant Natural Areas, ~~38 heritage items, archaeological sites, sites of significance to Maaori~~

RDI	(a) Any boundary of a proposed lot must not divide any of the following:
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³⁸ [697.925]

	<ul style="list-style-type: none"> (i) A Significant Natural Area; (ii) A heritage item as identified in Schedule 30.1 (Heritage Items); (iii) A Maaori site of significance as identified in Schedule 30.3 (Maaori Sites of Significance); or (iv) A Maaori area of significance as identified in Schedule 30.4 (Maaori Areas of Significance). <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) effects on a Significant Natural Area; (ii) effects on a heritage item; (iii) effects on a Maaori site of significance; (iv) effects on a Maaori area of significance; (v) effects on a archaeological site
NC+DI	Subdivision that does not comply with Rule 23.4.5 RDI.

23.4.6A Subdivision of land containing archaeological sites, Maaori sites of significance and Maaori areas of significance and notable trees

<u>RDI</u>	<p><u>(a) The boundaries of every proposed lot must not divide any of the following:</u></p> <ul style="list-style-type: none"> <u>(i) Maaori sites of significance as identified in Schedule 30.3 (Maori sites of significance);</u> <u>(ii) Maori areas of significance as identified in Schedule 30.4 (Maaori areas of significance);</u> <u>(iii) Notable trees.</u> <p><u>(b) Council's discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none"> <u>(i) effects on heritage values;</u> <u>(ii) context and setting of the heritage item;</u> <u>(iii) the extent to which the relationship of the heritage item with its setting is maintained;</u> <u>(iv) effect on cultural context and significance.</u> <u>(v) Management and protection of the feature or item</u>
<u>DI</u>	Subdivision that does not comply with Rule 23.4.6A RDI.

12.1.5 Section 32AA evaluation

699. The recommended amendments will rationalise the components of the rule and make it clear to plan users that each rule is managing the effects of subdivision in a slightly different way. One provision will focus solely on the protection of Significant Natural Areas a, while the other will focus solely on archaeological sites, sites and areas of significance to Maaori and notable trees. While I do not consider these changes require significant evaluation, because they largely reflect what is in the notified plan already, they are changes from what was originally notified.

Other reasonably-practicable options

700. One option is to maintain the notified version of the rule (status quo). However, the rule as notified is not as clear and provides some confusion to the plan user. Separating out the various aspects improves the readability of the plan and separates the assessment of effects associated with the individual matters.

Effectiveness and efficiency

701. The rationalisation of the rule components improves the efficiency of the Proposed Plan. The amendments to the rules improve the effectiveness by enabling better consideration during a subdivision process in respect to both Significant Natural Areas, and of Maaori sites and areas of significance, archaeological sites and notable trees together. Having the consistent approach of a discretionary rather than non-complying activity status across the plan improves the plan's efficiency. A discretionary activity status adequately allows the ability to assess the effects and aligns with policy direction in regard to s6 matters. The revised provisions also align with Objective 7.1.1 and policies 7.1.2, 7.1.3, 7.1.5 and 7.1.6 in respect to the heritage matters.

Costs and benefits

702. There are no additional costs, therefore costs are likely to be the same. A change in activity status from non-complying to discretionary still enables a robust assessment of effects during a consenting process.

Risk of acting or not acting

703. There are no additional risks in not acting. The changes sought merely provide clarity for the plan user and separate the matters out to address the effects of them individually through provisions, as opposed to being in one.

Decision about most appropriate option

704. The amendments still give effect to the objective and policies relating specifically to the Country Living Zone as well as those objectives and policies which cover the entire District Plan (i.e. heritage) and I consider the proposed amendments to be more appropriate in achieving the purpose of the RMA than the notified version.

12.1 Subdivision - Road frontage

705. Rule 23.4.7 requires every new lot to have a width along the road boundary of at least 15m of road frontage. The purpose of the rule is to manage traffic safety (through the provisions of separation between accesses) and retain the amenity and character of the zone.

12.1.1 Submissions

706. Six submission points were received in relation to the road frontage rule. The submitters are seeking a range of outcomes, from reducing the distance to 3m through to increasing the road frontage to 20m and 50m rather than the 15m as notified.

Submission point	Submitter	Summary of submission
328.7	Paula Dudley	Amend Rule 23.4.7 RD1 (a) Road frontage to include more specific details on rules about what/how the number(s) of dwellings/lots/activities can determine the width(s) of a right of way and the 15m width is excessive.
330.122	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4.7 Subdivision - Road frontage.
695.140	Sharp Planning Solutions Ltd	Amend Rule 23.4.7 RD1 (a) Subdivision – Road frontage, to change the minimum width along the road boundary in

		the Country Living Zone from 15m to 20m.
697.929	Waikato District Council	Amend Rule 23.4.7 RD1 (a) Subdivision - Road frontage, as follows: (a) Every proposed lot as part of the subdivision having with a road boundary, other than one designed as any access allotment or utility allotment <u>or lot accessed via an access leg containing a road access leg</u> , must have a width along the road boundary of at least 15m.
742.144	New Zealand Transport Agency	Amend Rule 23.4.7 RD1 (a) Subdivision - Road frontage as follows: (a) Every proposed lot as part of the subdivision having a road boundary, other than one designed as an access allotment or utility allotment containing a road access leg, must have a width along the road boundary of at least 15m 50m.
FS1283.2	Parkmere Farms	Opposes submission 742.144
FS1221.2	Cindy and Tony Young	Opposes submission 742.144
746.121	The Surveying Company	Amend Rule 23.4.7 RD1 (a)-Subdivision - Road Frontage. AND Amend Rule 23.4.7-Subdivision-Road Frontage as per Rule 26.6.4-Vehicular Access Requirement of the Operative Waikato District Plan- Franklin Section.

12.1.2 Analysis

707. The submission from Paula Dudley [328.7] requests clarification within the rule to include more specific details on how the width is determined relative to the number of dwellings and activities, and as well considers the 15m road frontage requirement to be excessive. In regard to the former part of the submission - details of the standards for access and right of ways are addressed in the Infrastructure Chapter for all subdivisions. In respect of the 15m road frontage, this is discussed below. I recommend that the hearings panel reject the submission point from Paula Dudley [328.7].
708. Andrew and Christine Gore [330.122] do not outline any relief sought, therefore I recommend that this submission point be rejected due to lack of detail and specificity.
709. The submission point from Sharp Planning Solutions Ltd [695.140] seeks to increase the road frontage requirement to 20m, whereas New Zealand Transport Agency [742.144] has sought to increase the road frontage to 50m. The Surveying Company [746.121] seeks to decrease the road frontage to 3m, as per the Operative Franklin section of the Waikato Plan. Waikato District Council [697.929] has not suggested any change to the road frontage distance, however have sought minor amendments to provide clarity to the rule.
710. To consider a 20m road frontage, as recommended by Sharp Planning Solutions Ltd, would mean there would be no differentiation between the Village Zone, where it is expected that the density will be greater, whereas the Country Living Zone is more open and rural in nature and therefore should have wider road frontages to maintain the amenity and character for this zone and to ensure traffic safety.
711. The Operative District Plan (Waikato Section) requires a 50m road frontage, and the Franklin Section requires 3m. In the instance of the Waikato Section, the purpose of the

50m road frontage is to preserve amenity and to ensure that traffic safety is managed, by ensuring that entrances are not too frequent along the road. I agree with NZTA in proposing a 50m road frontage. The Country Living Zone comprises open spaces and is very similar to the Rural Zone in terms of character, which is not a low speed environment. Therefore it is important to maintain site separation distances within a faster speed environment.

712. A GIS analysis indicates that the median value for road frontages in the Country Living Zone is 56.29m and the average length is 84.5m. The analysis also shows that the most commonly occurring length is 12m, however I have disregarded this particular metric, as these will be right-of-ways/driveways for properties at the back of road front properties.
713. The Country Living Zone has been created under the regime of an open rural character and in my opinion the 50m would recognise that it is not a completely rural environment (where a 60m road frontage has been proposed for the Rural Zone), so a slightly shorter frontage will maintain the open and spacious character of the zone.
714. When considering the amenity of the zone, a 15m road frontage would potentially facilitate long narrow sections or rear lots and a 3m road frontage as sought by The Surveying Company would have significantly more impact on the shape and position of proposed lots in this regard. A 3m frontage has the potential to create a more urban character with narrow sites. Further submissions from Parkmere Farms [FS/283.2] and Cindy and Tony Young [FS/221.2] have opposed the NTZA submission. Reasons given are that 50m will create a 100m-deep section, as opposed to a 333m-deep site if the road frontage were 15m as notified. A 15m or 3m road frontage would not assist in supporting the objectives and policies of the zone, which have a strong focus on retaining the character and amenity. I recommend that the panel accept in part the submission point from New Zealand Transport Agency [742.144] and Waikato District Council [697.929] and reject the submission points from Sharp Planning Solutions Ltd [695.140], Paula Dudley [328.7], Andrew and Christine Gore [330.122] and The Surveying Company [746.121].

12.1.3 Recommendation

- (a) **Reject** Paula Dudley [328.7]
- (b) **Reject** Christine Gore [330.122]
- (c) **Reject** Sharp Planning Solutions Ltd [695.140]
- (d) **Accept in part** Waikato District Council [697.929], in that they seek to clarify the rule
- (e) **Accept in part** New Zealand Transport Agency [742.144], in that they seek to increase the road frontage distance and **reject** the further submissions from Parkmere Farms [FS/283.2] and Cindy and Tony Young [FS/221.2]
- (f) **Reject** the Surveying Company [746.121].

12.1.4 Recommended amendments

23.4.7 Subdivision - Road frontage

RDI	(a) ³⁹ Every proposed lot as part of the subdivision having with a road boundary, other than one designed as any access allotment or utility allotment or lot accessed via an
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³⁹ [697.929]

	<p>access leg containing a road access leg, must have a width along the road boundary of at least⁴⁰ 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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12.1.5 Section 32AA evaluation

715. The recommend amendments to the road frontage rule provide for safety and maintaining the amenity and character of the Country Living Zone. Given that this is a change from 15m to 50m, it does warrant evaluation. The other changes to the rule are minor and essentially provide clarity to the wording of the proposed rule.

Other reasonably-practicable options

716. It is an option is to retain the notified version of the rule which allows for a 15m road frontage. It is also an option to adopt the wide range of suggested distances as included in the submissions discussed above, ranging from 3m to 50m.

Effectiveness and efficiency

717. I consider that a 50m road frontage in the Country Living Zone is the most appropriate option and will achieve Objective 5.6.1 and 5.6.2, which aim to ensure the amenity and character of the Country Living Zone is maintained. Further the change aligns to Objective 6.5.1 in relation to the safety of the land transport network.

Costs and benefits

718. There are no additional costs that would result from the change to the road frontage rule for the Country Living Zone and therefore costs are likely to be the same. There are benefits for the amenity and character of the Country Living Zone, which will not be compromised by having short frontages and it also ensures the safety of proposed allotments on the land transport network.

719. There are not anticipated costs, other than the need for resource consent where proposed subdivisions cannot comply with the rule. However as all subdivisions in the zone require resource consent anyway, the cost forms part of the application for resource consent.

Risk of acting or not acting

720. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

Decision about most appropriate option

721. The change to the rule is the most appropriate option to give effect to Objectives 5.6.1 and 5.6.2 and 6.5.1 and will ensure both the amenity and character and traffic safety for additional subdivision within the Country Living Zone.

⁴⁰ [742.144]

12.2 Subdivision – 23.4.8 Building platform

12.2.1 Submissions

722. Eight submissions were received on this rule. Three seek to reduce the building platform requirement from 1000m² to 500m² or 600m². One submission seeks to delete it entirely and others seek minor amendments or seek no specific decision.

Submission point	Submitter	Summary of submission
330.123	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4.8 Subdivision- Building platform.
<i>FSI 386.401</i>	<i>Mercury NZ Limited</i>	Opposes submission 330.123
345.22	Brent Trail	Delete Rule 23.4.8 Building platform.
<i>FSI 386.490</i>	<i>Mercury NZ Limited</i>	Opposes submission 345.22
551.3	Dinah Robcke	Amend Rule 23.4.8(a)(i) Subdivision - Building Platform requiring 1000m ² minimum building platform sizes to enable greater flexibility in subdivision development standards e.g. building platform of 500m ² as they relate to the Country Living Zone in Glen Massey.
<i>FSI 388.781</i>	<i>Mercury NZ Limited</i>	Opposes submission 551.3
<i>FSI 278.27</i>	<i>Stuart Quigley and Quigley Family Trust</i>	Supports submission 551.3
551.4	Dinah Robcke	Amend Rule 23.4.8(a)(ii) Subdivision - Building Platform requiring average gradients to be no steeper than 1:8, to enable greater flexibility in building development standards as they relate to the Country Living Zone in Glen Massey; OR Amend the zoning of the land on 859 and 889 Waingaro Road, Glen Massey that was previously zoned Country Living Zone in the Operative District Plan to Village Zone; AND Amend the Proposed District Plan to make consequential changes.
<i>FSI 388.782</i>	<i>Mercury NZ Limited</i>	Opposes submission 551.4
<i>FSI 278.28</i>	<i>Stuart Quigley and Quigley Family Trust</i>	Opposes submission 551.4
662.30	Blue Wallace Surveyors Ltd	Amend Rule 23.4.8 RD1 (a)(i) Subdivision - Building platform as follows: (i) has an area of 1,000m² <u>500m²</u> exclusive of boundary setbacks;
695.122	Sharp Planning Solutions Ltd	Amend Rule 23.4.8 RD1 (a) (i) Subdivision - Building platform, to decrease the area from 1000m ² to 600m ² (exclusive of boundary setbacks).
<i>FSI 387.337</i>	<i>Mercury NZ Limited</i>	Opposes submission 695.122
695.123	Sharp Planning Solutions Ltd	No specific relief sought for Rule 23.4.8 RD1 (a)(v) Subdivision - Building platform, but submission notes that

		a 1% AEP requirement normally applies although the submitter is not opposed to a lesser requirement provided this is consistent with regulatory practice elsewhere.
<i>FS1387.338</i>	<i>Mercury NZ Limited</i>	Opposes submission 695.123
697.930	Waikato District Council	Amend Rule 23.4.8 RD1(a) Subdivision - Building platform, as follows: (a) Subdivision, other than an access allotment or utility allotment, must provide a building platform on <u>every</u> the proposed lot. <u>The building platform must meet all of the following conditions:</u> (i) has an area of 1000m ² 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 P1; (iv) is certified by a geotechnical engineer as <u>geotechnically stable and suitable for a building platform;</u> (v) is not subject to inundation in a 2% AEP storm or flood event; (vi) a dwelling could be built on as a permitted activity in accordance with Rule 23.3.

12.2.2 Analysis

723. Submissions from Andrew and Christine Gore [330.123] and Sharp Planning Solutions Ltd [695.123] do not disclose any relief sought. I that recommend the panel reject the submission points from Andrew and Christine Gore [330.123] and Sharp Planning Solutions Ltd [695.123] due to lack of specificity and detail.

Minimum area

724. There are a range of submissions seeking to amend the minimum area for a building platform. The submission from Dinah Robcke [551.3] seeks to reduce the requirement on a building platform to 500m². Blue Wallace Surveyors Ltd [662.50] also seeks to reduce the size to 500m². Sharp Planning Solutions Ltd [695.122] is seeking a reduction to 600m². Brent Trail [345.22] seeks to delete the rule in its entirety.

725. In a subdivision process it is expected that the practicality of the building platform will have been considered by the developer and the Council at the time of subdivision, and that a subsequent purchaser of the site can reasonably expect to have an area suitable to build upon. A 1000m² building platform allows for flexibility around the placement of buildings and separation of the buildings if desired - for example, a shed located away from the dwelling. It is important when drawing allotment boundaries that a building platform be identified so that a dwelling can be built as a permitted activity, as mentioned in the rule. The notified 1000m² provides for consideration of setbacks from boundaries, water bodies and natural hazards. For this reason I recommend that the panel rejects the submission points from Dinah Robcke [551.3], Blue Wallace Surveyors Ltd [662.50], Sharp Planning Solutions Ltd [695.122] and Brent Trail [345.22].

Standards

726. Dinah Robcke [551.4] submission is seeking to amend the rule to enable greater flexibility in building development standards in the Country Living Zone. No suggestion has been made in the submission as to what this flexibility may look like, and the submitter is invited to expand on this at the hearing. However, the reference to the average gradient being no steeper than 1:8 means that the building platform would require not only minimal earthworks, but also is considered to have a minor effect on the visual or amenity of the area. A second part of the submission is seeking to amend the zoning. In this regard, this part of the submission will be addressed in the zone extents hearing towards the end of this year. I recommend that the panel reject in part Dinah Robcke [551.4].

Minor amendments for clarity

727. Waikato District Council [697.930] seeks amendment to the rule to provide clarity. I recommend that the panel accept Waikato District Council [697.930].

12.2.3 Recommendation

- (a) **Reject** Andrew and Christine Gore [330.123] and Sharp Planning Solutions Ltd [695.123]
- (b) **Accept** Mercury Energy Limited [FS/386.401] and [FS/387.338]
- (c) **Reject** the submission / further submission from Dinah Robcke [551.3] and Quigley Family Trust [FS/278.27]; but **accept** the further submission from Mercury Energy Limited [FS/388.781]
- (d) **Reject** Blue Wallace Surveyors Ltd [662.30]
- (e) **Reject** Sharp Planning Solutions Ltd [695.122] and **accept** the further submission from Mercury Energy Limited [FS/386.490]
- (f) **Reject** Brent Trail [345.22] and **accept** the further submission from Mercury Energy Limited [FS/387.337]
- (g) **Reject in part** Dinah Robcke [551.4] and **accept** the further submissions from Mercury Energy Limited [FS/388.782] and Quigley Family Trust [FS/278.28]
- (h) **Accept** Waikato District Council [697.930].

12.2.4 Recommended amendments

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: <u>The building platform must meet all of the following conditions:</u></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 P1; (iv) is certified by a geotechnical engineer as geotechnically stable; <u>and suitable for a building platform;</u> (v) is not subject to inundation in a 2% AEP storm or flood event; (vi) a dwelling 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;
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	(iv) Effects on landscape and amenity; (v) Measures to avoid storm or flood events.
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12.2.5 Section 32AA evaluation

728. The recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

12.3 Subdivision – 23.4.9 Creating Reserves

729. The notified rule applies to reserves that are proposed to be vested in Council (other than esplanade reserves) to be bordered by roads along at least 50% of their boundary.

12.3.1 Submissions

Submission point	Submitter	Summary of submission
328.8	Paula Dudley	Amend Rule 23.4.9 RDI (b) Subdivision creating Reserves to require consultation with neighbouring property owners directly affected by planning and implementation of public owned reserves.
330.124	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4.9 Subdivision creating Reserves.
405.77	Counties Power Limited	Add a matter of discretion to Rule 23.4.9 RDI (b) Subdivision creating Reserves as follows: <u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of existing infrastructure assets;</u>
FS1211.54	First Gas Limited	Supports submission 405.77
746.122	The Surveying Company	Delete Rule 23.4.9 RDI (a)-Subdivision Creating Reserves and make it a matter of discretion.

12.3.2 Analysis

730. Paula Dudley [328.8] is seeking to amend the rule in order to ensure that consultation occurs with neighbouring properties during the subdivision process. In this regard, during the resource consent process it is likely that a neighbouring property will be considered an affected party if the scale of effects anticipated by the subdivision is likely to impact on neighbouring landowners. This is generally assessed at the time Council determines a notification decision on an application. At this stage of the process neighbours can then express their concerns and reasons. Given that there is already a process for public consultation, I do not think it necessary to include a specific rule in regard to consultation or notification, and recommend that the panel reject the submission point Paula Dudley [328.8].
731. Andrew and Christine Gore [330.124] do not outline any relief sought, and I recommend this submission be rejected due to lack of detail and specificity.
732. The submission from The Surveying Company Ltd [742.122] seeks to delete the rule and make the creation of reserves a matter of discretion. It is worth noting that this rule does not appear in the Operative Waikato Plan. On closer analysis of the rule, it appears that, if

the purpose of the rule is for the creation of public parks, then it would be unlikely that a reserve of this nature would be required in the Country Living Zone. In regard to making this a matter of discretion, it would then need to sit under the general subdivision rule and would be considered even for a two lot subdivision, which I consider to be an unreasonable approach. I consider that a provision for creating reserves is not required in this zone and hence I recommend that Rule 23.4.9 should be deleted. I therefore recommend that the panel accept in part the submission from The Surveying Company Ltd [742.122].

733. Counties Power Limited [405.77] seeks an additional assessment matter within the rule that provides opportunity for Council to consider whether the proposed layout and design will impact on existing infrastructure assets. First Gas [FS1211.54] supports the submission. Given my consideration above, in my opinion the rule is not required in this zone, and I recommend that the panel rejects the point from Counties Power Limited [405.77].

12.3.3 Recommendation

- (a) **Reject** Paula Dudley [328.8]
- (b) **Reject** Andrew and Christine Gore [330.124]
- (c) **Reject** Counties Power Limited [405.77] and the further submission from First Gas [FS1211.54]
- (d) **Accept in part** Surveying Company Ltd [746.122].

12.3.4 Recommended amendments

~~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>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) the extent to which the proposed reserve aligns with the principles of Council's Parks Strategy, Playground Strategy, Public Toilets Strategy and Trails Strategy; (ii) consistency with any relevant structure plan or master plan; (iii) reserve size and location; (iv) proximity to other reserves; (v) the existing reserve supply in the surrounding area; (vi) whether the reserve is of suitable topography for future use and development; (vii) measures required to bring the reserve up to Council standard prior to vesting; (viii) the type and standard of boundary fencing.
DI	Subdivision that does not comply with Rule 23.4.9 RDI.

12.3.5 Section 32AA evaluation

734. In my opinion, Rule 23.4.9 Subdivision creating reserves should be deleted from the Country Living zone given that this zone does not anticipate the creation of reserves in this semi-rural zone.

Other reasonably-practicable options

735. Retaining the rule as notified is one option that could be considered. However, this would not ensure an effective and efficient district plan. The rule would only be triggered if the developer was of a mind to provide a recreational area for the Country Living Zone and in many instances there would be no necessity for a reserve to be created, unless perhaps the subdivision was on the outskirts of a town or village.

Effectiveness and efficiency

736. The amendments improve the effectiveness and efficiency of the plan, in that deleting the rule removes an unnecessary rule framework that is unlikely to be triggered. It also aligns with the objective and policy framework which provides for rural activities in the Country Living Zone. Unless there is good reason, reserves are typically features of the urban zoning to ensure there are adequate spaces for recreational activities.

Costs and benefits

737. In deleting the rule framework from the Country Living Zone provisions, the key benefit is that this will reduce the cost to a developer to produce a recreational area at the time of subdivision. This does not come as a cost to the Country Living Zone community as the zone is semi-rural in nature where the amenity and character is based on larger sections and open space reducing the need for 'neighbourhood parks'. Further there would be less need given the space attributed to properties within this zone and has a different to need to urban areas where in a more densely populated area parks provide for recreational areas that offset living in much smaller densities.

Risk of acting or not acting

738. The risk of not acting is that the rules as notified would be unduly onerous and would add no significant improvement to the Country Living Zone. By deleting the provisions from the Country Living Zone these onerous requirements will be avoided.

Decision about most appropriate option

739. The amendment continues to give effect to the objectives and policies. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

12.4 Rule 23.4.10 - Subdivision of land containing mapped off-road walkways

740. Rule 23.4.10 requires that where a walkway is shown on the planning maps, the walkway meets certain standards. Three submissions were received in respect to this rule.

12.4.1 Submissions

Submission point	Submitter	Summary of submission
330.125	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4.10 Subdivision of land containing mapped off-road walkways.
697.931	Waikato District Council	Amend Rule 23.4.10 Subdivision of land containing mapped off-road walkways heading, as follows: Subdivision of land containing mapped off-road walkways, <u>cycleways, bridleways</u>
697.932	Waikato District Council	Amend Rule 23.4.10 RD1 Subdivision on land containing mapped off-road walkways, as follows: (a) Subdivision <u>of land where containing</u> walkways shown on the planning maps <u>must provide those walkways, cycleways and bridleways and are to be provided as part of the subdivision</u> must comply with all of the following

		<p>conditions:</p> <p>(i) <u>The walkway, cycleway or bridleway</u> is at least 3 metres wide and</p> <p>(ii) the walkway, <u>cycleway or bridleway</u> is designed and constructed for shared pedestrian and cycle use, as per Rule 14.12.1 P8 (Access and road performance standards);</p> <p>(iii) the walkway, <u>cycleway or bridleway</u> is generally in accordance with the walkway route shown on the planning maps;</p> <p>(iv) the walkway, <u>cycleway or bridleway</u> is shown on the plan of subdivision and vested in the Council. (b) Council's discretion is restricted to the following matters:</p> <p>(i) alignment of the walkway, <u>cycleway or bridleway</u>;</p> <p>(ii) drainage in relation to the walkway, <u>cycleway or bridleway</u>;</p> <p>(iii) standard of design and construction of the walkway, <u>cycleway or bridleway</u>;</p> <p>(iv) land stability; (v) amenity matters including batter slopes;</p> <p>(vi) connection to reserves.</p>
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12.4.2 Analysis

741. Andrew and Christine Gore [330.125] do not outline any relief sought, therefore I recommend this submission be rejected due to the lack of detail and specificity.
742. Waikato District Council [697.931 and 697.932] seeks to amend the title and the content of the rule by extending the scope to include bridleways and cycle ways, (as well as walkways). The reasons given are that the identified routes on the planning maps include functions that are broader than just walkways. The proposed amendment will improve the readability of the plan and align with Objective 6.5.1 Land transport network and Policy 6.5.2 Construction and operation of the land transport network . I recommend that the panel accept the submission from Waikato District Council [697.931] and [697.932].

12.4.3 Recommendation

- (a) **Reject** Andrew and Christine Gore [330.125]
- (b) **Accept** Waikato District Council [697.931] and [697.932].

12.4.4 Recommended amendments

23.4.10 Subdivision of land containing mapped off-road walkways, cycleways, and bridleways

RDI	<p>(a) Subdivision <u>of land where containing</u> walkways, <u>cycleways, bridleways</u> shown on the planning maps <u>must provide those walkways, cycleways and bridleways and are to be provided as part of the subdivision</u> must comply with all of the following conditions:</p> <p>(i) <u>The walkway, cycleway or bridleway</u> is at least 3 metres wide and</p> <p>(ii) the walkway, <u>cycleway or bridleway</u> is designed and constructed for shared pedestrian and cycle use, as per Rule 14.12.1 P8 (Access and road performance standards);</p> <p>(iii) the walkway, <u>cycleway or bridleway</u> is generally in accordance with the walkway route shown on the planning maps;</p> <p>(iv) the walkway, <u>cycleway or bridleway</u> is shown on the plan of subdivision and vested</p>
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	<p>in the Council.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) alignment of the walkway <u>cycleway or bridleway</u>;</p> <p>(ii) drainage in relation to the walkway <u>cycleway or bridleway</u>;</p> <p>(iii) standard of design and construction of the walkway <u>cycleway or bridleway</u>;</p> <p>(iv) land stability;</p> <p>(v) amenity matters including batter slopes;</p> <p>(vi) connection to reserves.</p>
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12.4.5 Section 32AA evaluation

743. The recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

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

744. Rule 23.4.11 ensures that a planting and management plan is provided when subdivision is undertaken in an Environmental Protection Area. Two submission points were received in respect to this rule.

12.5.1 Submissions

Submission point	Submitter	Summary of submission
330.126	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4.11 Subdivision of land containing all or part of an Environmental Protection Area.
697.933	Waikato District Council	Add to Rule 23.4.11 C1 (b) Subdivision of land containing all or part of an Environmental Protection Area, a new clause (iii) as follows: (iii) <u>Legal protection if appropriate.</u>

12.5.2 Analysis

745. Andrew and Christine Gore [330.126] do not outline any relief sought in their submission, therefore I recommend that this submission be rejected due to lack of detail and specificity.
746. The submission from Waikato District Council [697.933] is seeking to include a clause that allows for legal protection, if appropriate. The reasons provided in the submission are that the additional clause will enable Council to protect areas of planting in perpetuity. Given that the rule requires a planting and management plan for the area being subdivided, it would be a sensible approach to seek legal protection to ensure the future of the planting. I recommend that the panel accept the submission from Waikato District Council [697.933].

12.5.3 Recommendation

- (a) **Reject** Andrew and Christine Gore [330.126]
- (b) **Accept** Waikato District Council [697.933].

12.5.4 Recommended amendments

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:</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. (iii) <u>⁴¹Legal protection if appropriate</u>
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12.5.5 Section 32AA evaluation

747. The recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

12.6 23.4.12 Subdivision - Esplanade reserves and esplanade strips

748. Rule 23.4.12 requires the provision of an esplanade reserve or strip where subdivision is near to mean high water springs, the banks of rivers or a lake. Five submission points were received in respect to this rule.

12.6.1 Submissions

Submission point	Submitter	Summary of submission
330.127	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.4.12 Esplanade reserves and esplanade strips.
405.78	Counties Power Limited	Add a matter of discretion to Rule 23.4.12 RD1 (b) Esplanade reserves and esplanade strips as follows: <u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of existing infrastructure assets;</u>
<i>FS1211.55</i>	<i>First Gas Limited</i>	Supports submission 405.78
697.934	Waikato District Council	Amend Rule 23.4.12 RD1(a) Esplanade reserves and esplanade strips, as follows: (a) Subdivision of an esplanade reserve or strip 20m wide (or other width stated in Appendix 54 Esplanade Priority Areas) is required to be created from every proposed lot and shall vest in Council where the following situations apply:
943.66	McCracken Surveys Limited	Add clause (v) to Rule 23.4.12 RD1 (b) - Subdivision - Esplanade reserves and esplanade strips, as follows: <u>(vi) costs and benefits of acquiring the land</u>

⁴¹ [697.933]

943.72	McCracken Surveys Limited	Amend Rule 23.4.12 RD1 (b) e - Subdivision - Esplanade reserves and esplanade strips, to include as a matter of discretion, RMA s230 (3).
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12.6.2 Analysis

749. Andrew and Christine Gore [330.127] do not outline any relief sought, therefore I recommend this submission be rejected.
750. Counties Power Ltd [405.78] seek a further matter of discretion to enable council to have consideration of the impact that new esplanade reserves or strips may have on the operation, maintenance, upgrading and development of infrastructure. First Gas [FS1211.55] supports the submission. Given that I have included a new matter of discretion in this regard in Rule 23.4.2. General subdivision, I believe that the additional matters of discretion are not necessary. I recommend that the panel reject the submission from Counties Power Ltd [405.78].
751. The submission from Waikato District Council [697.934] seeks to amend a referencing error in relation to the Appendix numbering. This will provide clarification for the plan user. I recommend that the panel accept Waikato District Council [697.934].
752. The submission from [943.66] McCracken Surveys Limited raises a valid point in respect to an additional matter of discretion in regards to costs and benefits of acquiring land. This was included as a matter of discretion in the Operative District Plan which provides an opportunity for Council to determine whether there is merit in acquiring the land proposed for esplanade reserve or strip as part of the subdivision application. For example a reserve or strip of land that cannot be physically accessed or would be landlocked for some reason. I therefore recommend to the Panel that the submission point from McCracken Surveys Limited [943.66] be accepted.
753. The submission from [943.72] McCracken Surveys Limited seeks to include a new matter of discretion in respect to s230(3) of the RMA. I consider that it is unnecessary to duplicate the legislative requirements in relation to reserves and esplanade strips. While I accept the point that there may be reasons to waive the requirement for an esplanade reserve or strip through the resource consent process, in my view this is an issue for Council's process to address and not the District Plan. Additionally the point raised in respect to fencing is a matter for individual consent applications. For the above reasons I recommend that the Panel reject the submission point from McCracken Surveys Limited [943.72].

12.6.3 Recommendation

- (a) **Reject** Andrew and Christine Gore [330.127]
- (b) **Accept** Counties Power Ltd [405.78] and Mercury Energy Limited [FS1211.55]
- (c) **Accept** Waikato District Council [697.934]
- (d) **Accept** McCracken Surveys Limited [943.66]
- (e) **Reject** McCracken Surveys Limited [943.72].

12.6.4 Recommended amendments

23.4.12 Esplanade reserves and esplanade strips

RDI	<p>(a) Subdivision of an esplanade reserve or strip 20m wide (or other width stated in Appendix 5⁴² Esplanade Priority Areas) is required to be created from every proposed lot and shall vest in Council where the following situations apply:</p> <p>(i) less than 4ha and within 20m of:</p> <p>A. mean high water springs; or</p> <p>B. the bank of any river whose bed has an average width of 3m or more; or</p> <p>C. a lake whose bed has an area of 8ha or more; or</p> <p>(ii) 4ha or more within 20m of mean high water springs or a water body identified in Appendix 5⁴³ (Esplanade Priority Areas).</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) the type of esplanade provided - reserve or strip;</p> <p>(ii) width of the esplanade reserve or strip;</p> <p>(iii) provision of legal access to the esplanade reserve or strip;</p> <p>(iv) matters provided for in an instrument creating an esplanade strip or access strip; and</p> <p>(v) works required prior to vesting any reserve in the Council, including pest plant control, boundary fencing and the removal of structures and debris.</p> <p>(vi) <u>costs and benefits of acquiring the land</u>⁴⁴</p>
DI	Subdivision that does not comply with Rule 23.4.12 RDI.

12.6.5 Section 32AA evaluation

754. The recommended amendment is minor and essentially provides clarity to the rule therefore no further assessment is required for these minor changes.

12.7 Subdivision – Incentivise subdivision (New Rule)

755. A submission has been received requesting a new rule for incentivised subdivision by way of protecting Significant Natural Areas in the Country Living Zone.

12.7.1 Submissions

Submission point	Submitter	Summary of submission
845.6	Grace M Wilcock	Add a new rule to Rule 23.4 Subdivision similar to Policy 3.2.8 (Natural Environment - Incentivise subdivision); AND Amend Policy 3.2.8 Incentivise subdivision, to apply to the Country Living Zone.
<i>FS1387.1385</i>	<i>Mercury NZ Limited</i>	Opposes submission 845.6

12.7.2 Analysis

756. The submission from Grace Wilcock [845.6] seeks to allow for rules that incentivise subdivision though the protection of Significant Natural Areas. There are approximately 172,983 ha of Significant Natural Areas in the Country Living Zone, the majority of which appear to be within the Tamahere area. There are a few snippets of Significant Natural Areas in the following areas: Raglan, Te Kauwhata, Rotokauri, Whatawhata and Te Kowhai. There

⁴² [697.934]

⁴³ [697.934]

⁴⁴ [943.66]

are some larger areas in Ngaruawahia that form part of the Hakarimata Ranges, however these areas are also subject to other limitations such as overlays for Significant Amenity Landscapes or Outstanding Natural Features.

757. When considering the Tamahere area, much of this area is a vast gully system. The submitter seeks to include the Country Living Zone in Policy 3.2.8 Incentivise subdivision, however the proposed policy only refers to the Rural Zone. I consider this to be appropriate, as the Significant natural Area needs to be of a suitable size and quality to achieve a functioning ecosystem, and this is much more likely to occur in rural areas than in the Country Living Zone.
758. The concept of incentivising the protection of a Significant Natural Area is based on the likelihood of the improvement of the area if it were protected by way of conservation covenant. In respect to the Rural Zone, there is a gain to the environment if these areas are protected, in particular from stock intrusion, as would be required if a covenant were entered into. The Significant Natural Areas within the Country Living Zone are located on smaller residential lifestyle blocks and are not under any particular threat (especially from stock), therefore the incentive (and gain) to protect these areas is not as great. Given that much of the Significant Natural Area is incorporated in a gully system, if a covenant were entered into, it would require the fencing of the feature, and it would be inefficient to have a small section of the gully under protection but not the rest. Further to this, the proposed rule in the Rural Zone requires a minimum size of area to be protected of 1 ha, indicating that this size would be self-sustaining (this aspect will be further discussed in the rural hearing however). In the Proposed District Plan there is a minimum lot size in the Country Living zone of 5000m². In conjunction with access and the minimum size proposed for a self-sustaining ecosystem, there would be very few properties which would meet the requirement. For the reasons discussed, I recommend that the panel reject the submission point from Grace Wilcock [845.6].

12.7.3 Recommendation

- (a) **Reject** the submission from Grace Wilcock [845.6].

12.7.4 Recommended amendments

759. There are no changes recommended in response to the submission.

12.7.5 Section 32AA evaluation

760. There are no recommended amendments to the rules as notified. Accordingly, no s32AA evaluation has been undertaken.

13 Conclusion

761. The proposed Country Living Zone is a combination of the Operative District Plan - Waikato and Franklin sections. This report provides an assessment of submissions received in relation to the objectives, policies and rules within the Country Living Zone. The primary amendments I have recommended relate to the following:
- (a) Small adjustments to plan text to improve the plan's clarity and usability;
- (b) The changing of the Zone name to align with the National Planning Standards from Country Living Zone to Rural Lifestyle Zone;

- (c) Recognition of reverse sensitivity effects in terms of being adjacent to a rural productive area;
 - (d) Amending the plan to recognise the importance of emergency services;
 - (e) Amending the plan to acknowledge the productive capabilities of the land by recognising the ability to farm on a small scale;
 - (f) Providing for education facilities as a restricted discretionary activity;
 - (g) Adding new rules that manage activities within the Urban Expansion Area;
 - (h) Provisions to manage impervious surfaces;
 - (i) Amending the building setback rule to waterbodies in recognition that not all waterbodies will require an esplanade;
 - (j) Amending the plan so that reserves are not required as part of a subdivision;
 - (k) An increase in the daylight admission angle from 37 to 45 degrees; and
 - (l) Amending the earthworks rule to increase the volume.
762. In conclusion, I consider that the submissions on this chapter should be accepted, accepted in part or rejected, as set out in Appendix 1 below, for the reasons set out in Sections 4.2 – 12.7 above.
763. I recommend that provisions in Chapter 5 and 23 be amended as set out in Appendix 2 below, for the reasons set out in Sections 4.2 – 12.7 above.
764. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA (especially for changes to the objectives), the relevant objectives of the Proposed Plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken and included in Sections 4.2 – 12.7 of this report.