

SECTION 42A REPORT: ADDENDUM

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

Hearing 5: Chapter 13 Definitions

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Date: 30 April 2020



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I Introduction

1. This report has been jointly prepared by Anita Copplestone and Megan Yardley. It forms an addendum to the section 42A report which we prepared and published on 5 November 2019. That report was tabled for the hearing into Chapter 13: Definitions, which opened on the 10 December 2019. Chapter 13: Definitions of the Plan sets out how certain terms used in the Proposed Plan are to be interpreted and applied.

1.1 Background

2. Our full names are Anita Renie Copplestone and Megan Elizabeth Yardley. Anita is a Senior Planner with Perception Planning Limited, a resource management planning consultancy. Megan is a Resource Management Advisor with the same company.
3. We were contracted by the Waikato District Council (Council) in 2019 to provide recommendations in the form of a Section 42A report on Definitions. We wrote the s42A report for Hearing 5: Chapter 13 Definitions (s42A report).
4. Our qualifications and experience are contained in section 1.1 to 1.4 of that report.
5. We confirm that we have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 when preparing this addendum report and maintain that we have no real or perceived conflict of interest.
6. We are authorised by the Council to give this evidence to the Proposed District Plan Hearing Panel.

1.2 Preparation of this report

7. Consistent with the original report, our general method of working has been to assess definitions individually, but we have jointly reviewed and agreed on the approach taken by the other author. Sections 6, 8, 9 and 11 of this report are therefore drafted in the first person, where appropriate.

2 Scope of report

2.1 Matters addressed by this report

8. This report is prepared in accordance with section 42A of the RMA. It provides an addendum to address the matters set out in our memorandum to the Hearing Panel dated 16 December 2019.
9. Hearing 5 was adjourned on the 10th of December 2019 on the basis that the settling of definitions is likely to be an iterative process requiring further consideration at future hearings. The Hearing Panel indicated that it may hold a further session to assist with its deliberations on definitions during the Integration Hearing.
10. During the hearing, we identified that there are five broad categories of definitions to be considered:

- (a) Definitions that are largely settled, on the basis they did not attract any submissions.
- (b) Definitions that are recommended to be amended, deleted, or retained as notified following consideration of submissions, but are now largely settled. This includes potential new definitions.
- (c) Definitions that we recommend are deferred for consideration at future hearings into topic or zone matters.
- (d) National Planning Standards definitions that were not considered in the s42A report, but will be incorporated into the Proposed Plan during this plan review process.
- (e) Definitions that would benefit from minor amendments to improve their clarity and certainty.

11. At the hearing, we agreed to undertake the following tasks:

- (a) Set out which definitions we consider fall into the five categories above, on the basis of submissions, evidence received and discussions held at the hearings to date.
- (b) For the fourth category of definitions (National Planning Standards definitions not addressed in the section 42A report), identify the consequential amendments that will be required to maintain the meaning of corresponding definitions in the Proposed Plan.
- (c) For the fifth category of definitions, review all definitions that are not Planning Standards definitions to identify any minor amendments that could improve their clarity and conciseness.¹ This work is limited to identifying minor amendments which fall within the scope of submissions and Schedule 1, clause 16(2).²
- (d) Record those minor corrections and amendments to the National Planning Standards definitions as recently published by the Ministry for the Environment (MfE), and address the substantive change to the definition of 'net site area', by updating our recommended consequential amendments.
- (e) Undertake a review to ensure that where Planning Standards definitions are adopted, the 'activity' itself as well as the land and buildings is covered by the plan provisions, where this was the intent. We agreed to undertake this task for non-Planning Standards definitions too.
- (f) Revisit our recommendations on a number of discrete definitions, as requested by the Panel at the hearing.
- (g) Provide a means to delineate Planning Standards definitions in Chapter 13, from other definitions.

12. This addendum report documents the tasks set out above.

13. As this addendum report was being drafted, MfE issued 'Guidance on consequential amendments to policy statements and plans'. We reviewed this guidance and summarise its

¹ This work will be guided by the drafting principles set out in the 'Ministry for the Environment, Guidance for 14. Definitions Standard'.

² If changes are identified which may have more than a minor effect, those changes may need to be addressed through a Variation. We indicated we will identify any recommended amendments which we consider would fall outside the scope of submissions or Schedule 1, clause 16 (2).

content at section 2.2.2. Our approach to identifying consequential amendments is consistent with this guidance.

2.2 Structure of this report

14. This section 42A addendum report is presented in the following order:

- Chapter 3 - sets out the definitions that are largely settled, as they did not attract any submissions;
- Chapter 4 - sets out the definitions that are recommended to be added as new, amended, deleted or retained as notified following submissions, but are now largely settled, pending testing of the practical application of the definitions;
- Chapter 5 - identifies those definitions that require further consideration at future hearings;
- Chapter 6 - identifies the relevant remaining National Planning Standard definitions that were not addressed in the s42A report, but will need to be incorporated into the Proposed Plan. It also identifies the consequential amendments that will be required as a result;
- Chapter 7 – documents the recent amendments to the National Planning Standard definitions, issued in November 2019, and the need for any changes to our recommendations as a result;
- Chapter 8 – updates our recommendations on the consequential amendments required as a result of adopting the Planning Standards definitions, following our s42A report, rebuttal evidence and discussions at the hearing;
- Chapter 9 – records our updated recommendations on a number of non-Planning Standards definitions, following our s42A report, rebuttal evidence and discussions at the hearing;
- Chapter 10 - discusses whether the Plan provides for both activities, and facilities used for carrying out those activities, and notes the role of definitions (both planning standards and non-planning standards definitions) in that function.
- Chapter 11 – provides a review of the non-Planning Standards definitions to identify minor changes that will improve clarity, consistency and accuracy;
- Chapter 12 – provides a s32AA evaluation of the recommended changes;
- Chapter 13 – sets out our conclusions.

15. The following appendices are attached to this report:

- Appendix 1: Proposed amendments to Chapter 13 (as updated by this report)
- Appendix 2: Definitions to be considered at future hearings
- Appendix 3: Recommended amendments to improve accuracy and clarity of the definitions.

2.2.1 Delineating National Planning Standards definitions in the Decisions version

16. During the exchange of evidence, submitters requested that definitions from the Definitions Standard are delineated differently in the Decisions version of the Plan, to signal to all parties the reason for inclusion of that wording, and to prevent confusion with respect to potential appeals. Clause 13 of the 10. Format standard requires that, where a definition in the Definitions Standard applies, the defined term should be highlighted or marked and include the title and version of the source document.
17. We append a further 'marked up' version of Chapter 13 (Appendix I) to this report, which identifies (with grey shading) those definitions which are sourced from the Definitions List in the Standard.

2.2.2 MfE guidance on 'Consequential amendments to policy statements and plans'

18. Direction 3 of the Definitions Standard states that:
"When a definition in the Definitions List is used, consequential amendments may be required to the policy statement or plan to ensure that the application of the definition does not alter the effect or outcomes of policy statements or plans".
19. In February 2020, MfE issued 'Guidance on consequential amendments to policy statements and plans',³ for councils implementing the 2019 Planning Standards. The guidance sets out the distinction between 'primary amendments' and 'consequential amendments' and provides more detail on the scope of what is considered to be a 'consequential amendment'.
20. A primary amendment is defined as a direct change to a plan required by the Standards. To be considered a consequential amendment, an amendment must pass two tests:
 - (a) The amendment must be consequential to a primary amendment, and
 - (b) The amendment must be necessary to avoid duplication or conflict with the primary amendment.
21. The guidance says that it expects many consequential amendments will occur as a result of revising plans to make the new definition from the Definitions List work well, noting Direction 3 of the Definitions Standard:⁴
"When a definition in the Definitions List is used, consequential amendments may be required to the policy statement or plan to ensure that the application of the definition does not alter the effect or outcomes of policy statements or plans."
22. In relation to the first test, 'consequential' does not imply that the amendment has to be minor, technical or insignificant. Provided the amendment follows as a result or consequence of amendments required by the Standards, it qualifies as consequential, even if it has an important

³ <https://www.mfe.govt.nz/sites/default/files/media/RMA/guidance-on-consequential-amendments-to-policy-statements-and-plans.pdf>

⁴ Page 2 of the Guidance on consequential amendments to policy statements and plans

or substantive effect. The limits to consequential amendments relate to their ‘function’ (to avoid duplication or conflict), not their size.

23. Consequential amendments for the purposes of the Planning Standards are distinct from amendments made under RMA Schedule 1 clause 16(2) in relation to changes of minor effect or errors. We understand that clause 16(2) is not needed to make to Planning Standards consequential amendments but appreciate that clause 16(2) changes can be combined with consequential amendments to improve clarity.
24. In relation to the second test, the guidance explains that any conflict or inconsistency must be resolved in favour of the standards. This means that pre-existing content may have to be removed or amended to be consistent with a primary amendment which is brought about by implementing the Standards. Making provision for consequential amendments allows the plan to “return to its intended policy outcome”.
25. The guidance provides a checklist for testing whether consequential amendments may be within the scope of section 581(3)(d).⁵
26. We reviewed our recommendations in light of the guidance. The approach we adopted for identifying consequential amendments in the original s42A report and in this addendum is consistent with the tests set out in this guidance.

3 Definitions that are largely settled

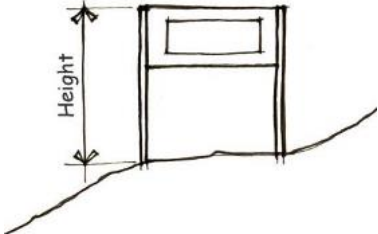
27. The following list sets out the proposed definitions from Chapter 13 that did not attract any submissions and are therefore considered to be settled. We have separately recommended minor amendments to improve the clarity and accuracy of these definitions. Those minor amendments fall under the general relief sought by the Council and submitters, minor changes under Schedule 1, Clause 16(2) RMA, or as a consequence of adopting the National Planning Standards. Our recommended minor amendments are not set out here. They are shown in Appendix 3.

Table 1: List of settled definitions from Chapter 13: Definitions

Term	Definition
Adjoining site	Means any other site sharing any length of boundary with the subject site, but does not include a site across a road, service lane, or private way, unless specifically stated in the context.
Afforestation	Has the meaning in the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.
Aggregate Resource Area	Means an area identified on the planning maps.

⁵ See page 6 of the Guidance.

Antenna	Means a device that receives or transmits radiocommunication or telecommunication signals, but not a small cell unit.
Bank	Means any outer edge of the bed of a lake, river or stream.
Biodiversity	Means the variability among living organisms and the ecological complexes of which they are a part, including diversity within species, between species and of ecosystems.
Coal Mining Area	Means land identified as a Coal Mining Area on the planning maps.
Community-scale electricity generation	Means renewable electricity generation for the purpose of supplying an immediate community (more than one site).
Equestrian centre	Means land or buildings where: <ul style="list-style-type: none"> (a) people are trained to ride, or can ride horses, for a fee; or (b) horses are raced or showed competitively (including trotting, galloping, show-jumping, cross-country and dressage).
Exploration	Has the meaning given in s2 of the Crown Minerals Act 1991.
Grid layout	Means an interconnecting system of roads, blocks and allotments, laid out in a predominantly rectilinear pattern.
Hauora	Means a facility for the care and welfare of people inclusive of a medical practitioner and persons involved in alternative forms of medicine.
Hazardous waste	Means any waste that contains hazardous substances at sufficient concentrations to exceed the minimum degrees of hazard specified by Hazardous Substances (Minimum Degrees of Hazard) Regulations 2001 under the Hazardous Substances and New Organism Act 1996; or that meets the definition for infectious substances included in the Land Transport Rule: Dangerous Goods 2005 and NZS 5433: 2012 – Transport of Dangerous Goods on Land; or that meets the definition for radioactive material included in the Radiation Safety Act 2016.
Mean high water springs	The place on the shore where spring high tides reach on average over a period of time.
Office	Means premises used for an administrative or professional service where people work primarily sitting at desks, for example accounting or legal services.
Papakaainga building	Means a building for communal use. It may include some centralised services or facilities such as food preparation, dining, conference, cultural facilities, sanitary facilities, and accommodation.
Prospecting	Has its meaning given in the Crown Minerals Act 1991.
Public amenity	Means facilities continuously offered to the general public for their use with or without charge, including restrooms, information displays, shelters, drinking fountains, outdoor seating and viewing platforms.

Research and exploratory-scale investigations for renewable electricity	Means undertaking monitoring and measuring activities of solar, wind, hydroelectricity or geothermal energy sources for potential renewable electricity generation activities.
Residual risk	Means the remaining level of risk after risk control measures have been taken.
Risk	Means in respect of any hazardous substance, represents the likelihood of specified consequences of a specific event (for example, an explosion, a fire or a toxic release) on people, ecosystems or the built environment.
Risk assessment	Means the overall process of risk identification, risk analysis and risk evaluation.
Sign height	<p>Means the distance from the lowest point of the sign to the highest point of the sign. In the case of a free-standing sign, it is the distance from ground level immediately below the sign to the top of the sign.</p> 
Speed environment	Means the speed that the 85th percentile driver will adopt. Even though a section of road may have a number of horizontal curves with a range of design speeds, there is only one speed environment.
Stable ground	Means soil that is able to stand with a factor of safety against failure of greater than 1 under all expected conditions.
Tamahere Commercial Area	Means the land identified on the planning maps as the Tamahere Commercial Area.
Telecommunication kiosk	Means a freestanding structure, of a similar scale and appearance to a telephone booth, which encloses telecommunications equipment for the purpose of providing public telecommunications uses such as, but not limited to, wireless broadband.
Transport depot	Means truck parking or servicing site, or depot for the handling or transfer of materials or vehicles.
Waananga	Means a learning facility where family and extended family are educated in whaanau ora.
Wahaanga Coast Development Area	Means an area of land on the Wahaanga Coast shown on the planning maps that provide for specific developments on Maaori freehold titles in terms of the rules for Specific Area 22.7.
Wahaanau	Means family, extended family and family group and is a familiar term to address a number of people. In the modern context, this term is

	sometimes used to include friends who may not have any kinship ties to other members.
Wharehenui	Means a meeting house or large house that is the main building on a marae where guests are accommodated.
Wind energy facility	Means buildings, turbines and structures used to generate electricity from the wind, and ancillary structures. It includes electricity lines of less than 110kV.
Works arborist	Means a person who: <ul style="list-style-type: none"> (a) possesses a recognised arboricultural degree, diploma or certificate and on-the-job experience and is familiar with the tasks, equipment and hazards involved in arboricultural operations; and (b) has demonstrated competence to obtain a Level 4 NZQA Certificate in Horticulture Services (Arboriculture) or equivalent standard.

4 Definitions recommended to be retained as notified, amended, added to, or deleted, but largely settled

28. The following definitions are recommended to be retained as notified, added as new, amended, or deleted following submissions, but are now largely settled because there was no expert evidence disagreeing with our s42A recommendations after the exchange of evidence and discussion at the hearing. The table also notes definitions that submitters asked to be added to the plan, but we recommend not be included. This is subject to the testing of the practical application of the definitions through the upcoming topic hearings. This list includes recommended new definitions. Definitions shaded grey are from the Definitions List in the Standard.
29. We have also recommended further minor amendments to these definitions that we consider would improve their clarity and accuracy. These minor amendments are not set out here. They are set out in Appendix 3.

Term	Updated definition as at 10 December 2019
Access/accessibility	We recommend that new definitions of 'access' and 'accessibility' are not included in the Proposed Plan.
accessory building	means a detached building, the use of which is ancillary to the use of any building, buildings, or activity that is or could be lawfully established on the same site, but does not include a minor residential unit.
AEP	We recommend this acronym is included in a separate table, in accordance with the Planning Standards.

Aerodrome	<p>(1) means any defined area of land or water intended or designed to be used either wholly or partly for the landing, departure, and surface movement of aircraft; and</p> <p>(2) includes any buildings, installations, and equipment on or adjacent to any such area used in connection with the aerodrome or its administration.</p>
allotment	<p>has the same meaning as in section 218 of the Resource Management Act 1991 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>(2) In this Act, the term allotment means</p> <p>(a) any parcel of land under the Land Transfer Act 2017 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not—</p> <p style="margin-left: 20px;">(i) the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or</p> <p style="margin-left: 20px;">(ii) a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or</p> <p>(b) any parcel of land or building or part of a building that is shown or identified separately—</p> <p style="margin-left: 20px;">(i) on a survey plan; or</p> <p style="margin-left: 20px;">(ii) on a licence within the meaning of subpart 6 of Part 3 of the Land Transfer Act 2017; or</p> <p>(c) any unit on a unit plan; or</p> <p>(d) any parcel of land not subject to the Land Transfer Act 2017.</p> <p>(3) For the purposes of subsection (2), an allotment that is –</p> <p style="margin-left: 20px;">(a) subject to the Land Transfer Act 2017 and is comprised in 1 record of title or for which 1 record of title could be issued under the Act; or</p> <p style="margin-left: 20px;">(b) not subject to that Act and was acquired by its owner under 1 instrument of conveyance - shall be deemed to be a continuous area of land notwithstanding that part of it is physically separated from any other part by a road or in any other matter whatsoever, unless the division of the allotment into such parts has been allowed by a subdivision consent granted under this Act or by a subdivisional approval under any former enactment relating to the subdivision of land.</p> <p>(4) For the purposes of subsection (2), the balance of any land from which any allotment is being or has been subdivided is deemed to be an allotment.</p> </div>
ancillary activity	means an activity that supports and is subsidiary to a primary activity.
Animal boarding, daycare, breeding or training establishment	Means an activity carried out on land or within buildings where board, day care and lodging, breeding or training is provided or intended to be provided for more than five domestic animals (excluding offspring up to 3 months of age). This does not include dog kennels, calf rearing, stables or similar activities for private farming uses, agricultural and horticultural research activities or agricultural research centres.
Annual exceedance probability or AEP	Means the probability of an event occurring in any one year. The probability is expressed as a percentage and generally refers to storm events of a particular magnitude occurring in any given year. For example, a large flood which may be calculated to have a 1% chance to occur in any one year, is described as 1% AEP.

Blasting	Means the detonation of a single explosive charge or a series of connected explosive charges within an array of blast-holes. The detonation of a group of explosive charges within a period of less than ten seconds is counted as one blast.
Boarding establishment/boarding house	We recommend a new definition of 'boarding establishment' is not included in the Proposed Plan.
boundary adjustment	means a subdivision that alters the existing boundaries between adjoining allotments, without altering the number of allotments.
building	means a temporary or permanent, movable or immovable physical construction that is: (a) partially or fully roofed; and (b) fixed or located on or in land; but excludes any motorised vehicle or other mode of transport that could be moved under its own power.
building coverage	means the percentage of the net site area covered by the building footprint.
building footprint	means, in relation to building coverage, the total area of buildings at ground floor level together with the area of any section of any of those buildings that extends out beyond the ground floor level limits of the building and overhangs the ground.
Building platform	Means land that is suitable and practical for building developments, having regard to soil conditions, geotechnical stability, gradient, access and natural hazards.
cleanfill material	means virgin excavated natural materials including clay, gravel, sand, soil and rock that are free of: (a) combustible, putrescible, degradable or leachable components; (b) hazardous substances and materials; (c) products and materials derived from hazardous waste treatment, stabilisation or disposal practices; (d) medical and veterinary wastes, asbestos, and radioactive substances; (e) contaminated soil and other contaminated materials; and (f) liquid wastes.
commercial activity	means any activity trading in goods, equipment or services. It includes any ancillary activity to the commercial activity (for example administrative or head offices).
community corrections activity	means the use of land and buildings for non-custodial services for safety, welfare and community purposes, including probation, rehabilitation and reintegration services, assessments, reporting, workshops and programmes, administration, and a meeting point for community works groups.
community facility	means land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare, or worship purposes. It includes

	provision for any ancillary activity that assists with the operation of the community facility.
Community-scale wastewater system	Means a wastewater treatment system for the purpose of treating wastewater from more than one site. It does not include a wastewater system which is connected to a public, reticulated wastewater network.
Communal service court	Means an area of outdoor space for three or more residential units for the communal use of garbage storage, refuse and recycling materials, excluding any space required for an outdoor living space, parking, manoeuvring, or buildings.
Comprehensive Land Development Consent	<p>Means a bundle of land use consents that apply to an area of land of 5ha or more which provides for staged and integrated development within the Te Kauwhata Lakeside Precinct Plan Area and can cover a range of Residential, Business and Rural zonings.</p> <p>A Comprehensive Land Development Consent includes the provision of earthworks, roading networks, wastewater infrastructure including treatment plants, pipelines and associated wetlands, stormwater infrastructure, network utilities and other infrastructure, open space, ecological restoration, works in the flood plain, landscaping and planting, community facilities, walkways and cycle ways and associated land decontamination.</p> <p>A Comprehensive Land Development Consent may be applied for concurrently with a Comprehensive Subdivision Consent, or separately.</p>
Comprehensive Subdivision Consent	<p>Means a comprehensive subdivision consent that relates to the Te Kauwhata Lakeside Precinct Plan. A comprehensive subdivision is a subdivision of 5ha or more which provides for staged and integrated development within the Te Kauwhata Lakeside Precinct Plan Area and can cover a range of Residential, Business and Rural zonings.</p> <p>A Comprehensive Subdivision Consent includes the provision of sites for roading, walking and cycling trails, sites for open space and community facilities, dedicated sites for wastewater and stormwater infrastructure and development sites for housing, business and other activities provided for within the relevant zone/structure plan. It also includes sites for associated infrastructure.</p> <p>A Comprehensive Subdivision Consent may be applied for concurrently with a Comprehensive Land Development Consent or separately.</p>
Concept management plan	Means in the context of the development of Maaori land, a concept plan that provides an overview of foreseeable uses of Maaori land over time.
Construction noise	We recommend a new definition of 'construction noise' is not included in the Proposed Plan.
contaminated land	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>means land that has a hazardous substance in or on it that—</p> <ul style="list-style-type: none"> (a) has significant adverse effects on the environment; or (b) is reasonably likely to have significant adverse effects on the environment. </div>
Continuous landholding	Means multiple adjoining Records of Title in the same ownership, including titles that are only separated by a road.

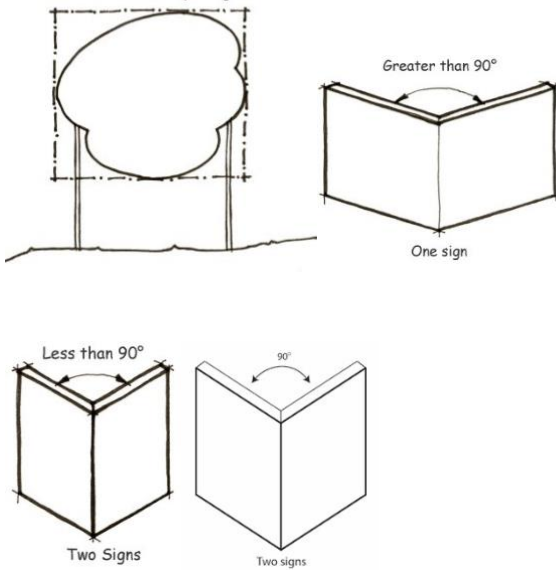
Correctional facility	Means a facility where people are detained in the justice system. It includes a prison, detention centre, youth detention centre and secure unit.
cultivation	means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) for the purpose of sowing, growing or harvesting of pasture or crops.
Disposal	We recommend that a new definition of 'disposal' is not included in the Proposed Plan.
Dwelling	This definition is deleted and replaced by residential unit.
earthworks	means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.
educational facility	means land or buildings used for teaching or training by childcare services, schools, or tertiary education services, including any ancillary activities.
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.
environment	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>includes—</p> <ul style="list-style-type: none"> (a) ecosystems and their constituent parts, including people and communities; and (b) all natural and physical resources; and (c) amenity values; and (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters. </div>
Controlled fill material	Means predominantly clean fill material that may also contain inert construction and demolition materials and soils from sites that may have contaminant concentrations in excess of local background concentrations, but with total concentrations that will not restrict future land use.
Front, side and rear boundary	We recommend that new definitions of 'front boundary', 'side boundary' and 'rear boundary' are not included in the Proposed Plan.
functional need	means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.
gross floor area	<p>means the sum of the total area of all floors of a building or buildings (including any void area in each of those floors, such as service shafts, liftwells or stairwells), measured:</p> <ul style="list-style-type: none"> (a) where there are exterior walls, from the exterior faces of those exterior walls; (b) where there are walls separating two buildings, from the centre

	<p>lines of the walls separating the two buildings;</p> <p>(c) where a wall or walls are lacking (for example a mezzanine floor) and the edge of the floor is discernible, from the edge of the floor.</p>
GFA	We recommend this definition is deleted.
ground level	<p>means:</p> <p>(a) the actual finished surface level of the ground after the most recent subdivision that created at least one additional allotment was completed (when the record of title is created);</p> <p>(b) if the ground level cannot be identified under paragraph (a), the existing surface level of the ground;</p> <p>(c) if, in any case under paragraph (a) or (b), a retaining wall or retaining structure is located on the boundary, the level on the exterior surface of the retaining wall or retaining structure where it intersects the boundary.</p>
habitable room	means any room used for the purposes of teaching or used as a living room, dining room, sitting room, bedroom, office or other room specified in the Plan to be a similarly occupied room.
Habitable building	means a building that contains one or more habitable rooms.
Health facility	Means a facility for the care and welfare of people and includes non- residential day hospitals, medical practitioners, dentists, optometrists, acupuncturists, osteopaths, and persons involved in alternative forms of medicine.
Heavy vehicle	<p>Means:</p> <p>(a) a 'Single Unit Heavy Goods Vehicle' (being a motor vehicle comprising a single unit having a gross laden weight exceeding 3500kg); or</p> <p>(b) a 'Multi-Unit Heavy Goods Vehicle' (being a motor vehicle comprising more than one unit, having a gross laden weight exceeding 3500kg).</p>
height	means the vertical distance between a specified reference point and the highest part of any feature, structure or building above that point.
height in relation to boundary	<p>means the height of a structure, building or feature, relative to its distance from either the boundary of:</p> <p>(a) site; or</p> <p>(b) another specified reference point.</p>
Homestay	Means accommodation provided to guests who pay a daily tariff to stay in a home with the permanent occupants of the household.
Household	We recommend that a new definition of 'household' is not included in the Proposed Plan.
industrial activity	means an activity that manufactures, fabricates, processes, packages, distributes, repairs, stores, or disposes of materials (including raw, processed, or partly processed materials) or goods. It includes any ancillary activity to the industrial activity.

Informal recreation	Means any activity whose primary aim is the enjoyment of leisure of a primarily non-competitive, casual nature. It includes amenity and conservation plantings, children's play areas, shelters, public toilets and accessory buildings necessary for the maintenance of the park.
lake	has the same meaning as in section 2 of the RMA (as set out in the box below) <div>means a body of fresh water which is entirely or nearly surrounded by land.</div>
landfill	means an area used for, or previously used for, the disposal of solid waste. It excludes cleanfill areas.
lifestyle uses	We recommend a new definition of 'lifestyle uses' is not included in the Proposed Plan.
Living accommodation	For the purposes of a residential activity, includes one or more residential units for: (a) emergency and refuge accommodation, (b) accommodation for supervision staff and residents, where residents are subject to care or supervision (e.g. homes for people with disabilities), (c) home detention (as defined in the Criminal Justice Act 1985), but not prisons or other places where residents are subject to detention, (d) workers' accommodation.
Living court	This definition is deleted and replaced by outdoor living space.
Lot	We recommend this definition is deleted.
Low impact design (LID)	Means a design approach for site and catchment development or re-development that protects and conserves and incorporates natural site features into stormwater management design and implementation.
Lux	We recommend this definition is deleted.
Maimai	Means a shelter or structure used for game bird shooting.
Mineral	Has the same meaning as in section 2 of the Crown Minerals Act 1991. Means a naturally-occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945.
minor residential unit	means a self-contained residential unit that is ancillary to the principal residential unit, and is held in common ownership with the principal residential unit on the same site.
Motorised vehicle and vehicle	Means any motorised vehicle or vehicle (including a vehicle or motor vehicle as defined in section 2 of the Land Transport Act 1998). It excludes an immovable vehicle that is occupied by people on a permanent or long-term basis.

Multi-unit development	<p>Means multiple residential units or buildings, being attached or detached, which are planned and designed in an integrated and comprehensive manner, and achieve compatibility between all buildings on a single or multiple sites. It includes:</p> <ol style="list-style-type: none"> 1. an apartment; 2. a duplex; 3. terraced housing; and 4. town houses. <p>It excludes:</p> <ol style="list-style-type: none"> 1. retirement villages; 2. papakaainga housing development; and 3. papakaainga building.
Neighbourhood centre	Means a single or small grouping of commercial activities that service the day-to-day needs of the local community. Neighbourhood centres are identified in structure plans or master plans.
net site area	<p>means the total area of the site, but excludes:</p> <ol style="list-style-type: none"> (a) any part of the site that provides legal access to another site; (b) any part of a rear site that provides legal access to that site; (c) any part of the site subject to designation that may be taken or acquired under the Public Works Act 1981.
Non-habitable building	Non-habitable building means a building that does not contain one or more habitable rooms.
notional boundary	means a line 20 metres from any side of a residential unit or other building used for a noise sensitive activity, or the legal boundary where this is closer to such a building.
operational need	means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.
outdoor living space	means an area of open space for the use of occupants of the residential unit or units to which the space is allocated.
Overland flow path	Means a route taken by stormwater runoff not captured in a reticulated or natural stormwater system. It includes a primary or secondary stormwater flow path.
primary production	<p>means:</p> <ol style="list-style-type: none"> (a) any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and (b) includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a); (c) includes any land and buildings used for the production of the commodities

	from a) and used for the initial processing of the commodities in b); but excludes further processing of those commodities into a different product.
Productive rural activities	We recommend a new definition of 'productive rural activities' is not included in the Proposed Plan.
Public floor area	We recommend that a new definition of 'public floor area' is not included in the Proposed Plan. We recommend that a note be added to define this term in Table 14.12.5.7.
quarry	means a location or area used for the permanent removal and extraction of aggregates (clay, silt, rock or sand). It includes the area of aggregate resource and surrounding land associated with the operation of a quarry and which is used for quarrying activities.
quarrying activities	means the extraction, processing (including crushing, screening, washing, and blending), transport, storage, sale and recycling of aggregates (clay, silt, rock, sand), the deposition of overburden material, rehabilitation, landscaping and cleanfilling of the quarry, and the use of land and accessory buildings for offices, workshops and car parking areas associated with the operation of the quarry.
Real estate sign	Means a real estate sign advertising a property or business for sale, for lease, or for rent.
Record of title	Means a Record of title issued under section 12 of the Land Transfer Act 2017, and includes concurrent records of title issued for the same parcel of land (for example for a lease, or undivided share in the land) as if only one record of title had been issued.
Rear Record of Title	We recommend that this definition is deleted.
Reservoir	Means a structure (above or below ground) for the purposes of storing water for municipal supply or firefighting, but excludes rainwater tanks that supply a single site.
Rest home	This definition is deleted and replaced by retirement village.
residential activity	means the use of land and building(s) for people's living accommodation.
residential unit	means a building(s) or part of a building that is used for residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities.
retirement village	means a managed comprehensive residential complex or facilities used to provide residential accommodation for people who are retired and any spouses or partners of such people. It may also include any of the following for residents within the complex: recreation, leisure, supported residential care, welfare and medical facilities (inclusive of hospital care) and other non-residential activities.

river	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>means a continually or intermittently flowing body of fresh water, and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal).</p> </div>
Rural activities	We recommend that a new definition of 'rural activities' is not included in the Chapter 13, but may be included in Rule 14.12.1.2, following consideration by the Rural Zone Hearing s42A author.
rural industry	means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production.
Service court	Means an area of outdoor space for the exclusive use of the residential unit for domestic requirements, such as garbage storage and clothes line, but excludes any space required for outdoor living space, parking, manoeuvring, or buildings.
Service station	We recommend that a new definition of 'service station' is not included in the Proposed Plan.
sign	<p>Sign Dimensions are calculated by measuring the rectangular area which encloses the uneven shaped sign.</p>  <p>means any device, character, graphic or electronic display, whether temporary or permanent, which:</p> <p>(a) is for the purposes of:</p> <ul style="list-style-type: none"> (i) identification of or provision of information about any activity, property or structure or an aspect of public safety; (ii) providing directions; or (iii) promoting goods, services or events; and <p>(b) is projected onto, or fixed or attached to, any structure or natural object; and</p>

	(c) includes the frame, supporting device and any ancillary equipment whose function is to support the message or notice.
site	<p>means:</p> <p>(a) an area of land comprised in a single record of title under the Land Transfer Act 2017; or</p> <p>(b) an area of land which comprises two or more adjoining legally defined allotments in such a way that the allotments cannot be dealt with separately without the prior consent of the council; or</p> <p>(c) the land comprised in a single allotment or balance area on an approved survey plan of subdivision for which a separate record of title under the Land Transfer Act 2017 could be issued without further consent of the Council; or</p> <p>(d) despite paragraphs (a) to (c), in the case of land subdivided under the Unit Titles Act 1972 or the Unit Titles Act 2010 or a cross lease system is the whole of the land subject to the unit development or cross lease.</p>
Sleepout	We recommend that a new definition of 'sleepout' is not included in the Proposed Plan.
Special housing development	We recommend that a new definition of 'Special Housing Development' is not included in the Proposed Plan.
structure	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft.</p> </div>
Temporary event	Means a social, cultural or recreation event, including entertainment events, carnivals, festivals, fairs, markets, and exhibitions, and associated temporary buildings and car parks.
temporary military training activity	<p>means a temporary activity undertaken for the training of any component of the New Zealand Defence Force (including with allied forces) for any defence purpose. Defence purposes are those purposes for which a defence force may be raised and maintained under section 5 of the Defence Act 1990 which are:</p> <p>(a) the defence of New Zealand, and of any area for the defence of which New Zealand is responsible under any Act;</p> <p>(b) the protection of the interests of New Zealand, whether in New Zealand or elsewhere;</p> <p>(c) the contribution of forces under collective security treaties, agreements, or arrangements;</p> <p>(d) the contribution of forces to, or for any of the purposes of, the United Nations, or in association with other organisations or States and in accordance with the principles of the Charter of the United Nations;</p> <p>(e) the provision of assistance to the civil power either in New Zealand or elsewhere in time of emergency;</p> <p>(f) the provision of any public service.</p>

Travellers' accommodation	This definition is deleted and replaced by visitor accommodation.
Urban subdivision, use and development	We recommend that a new definition of 'urban subdivision, use and development' is not included in the Proposed Plan.
Utility allotment	Means an allotment used exclusively for the purposes of accommodating infrastructure.
Viable Record of Title	We recommend that this definition is deleted.
Village Green	Means the area of land adjacent to the Business Zone Tamahere shown as Village Green on the planning maps.
visitor accommodation	means land and/or buildings used for accommodating visitors, subject to a tariff being paid, and includes any ancillary activities.
Waste management	Means activities relating to the minimisation or reduction of waste material and reuse, recycling, recovery, treatment, storage and disposal processes.
Waste management facility	Means a facility which provides waste management storage, disposal services or waste remediation and materials recovery services, in relation to solid waste. Waste management facilities include: landfills, commercial composting operations, recovery operations, transfer stations, recycling centres and resource recovery centres but excludes cleanfill areas.
water	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px;"> <p>(a) means water in all its physical forms whether flowing or not and whether over or under the ground;</p> <p>(b) includes fresh water, coastal water, and geothermal water;</p> <p>(c) does not include water in any form while in any pipe, tank, or cistern.</p> </div>
waterbody	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px;"> <p>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.</p> </div>
wetland	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px;"> <p>includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.</p> </div>

5 Definitions deferred for consideration at future hearings

30. Appendix 3 of our s42A report (updated in our rebuttal evidence), set out those definitions that we considered required further consideration at future hearings. That list included:
- (a) definitions that we provided our interim thoughts on, but concluded that it was premature for us to make a conclusive recommendation;
 - (b) definitions from the Definitions List which required consequential amendments (to retain the original intent of the notified plan) where we felt that the consequential amendments should be given further consideration by the relevant s42A officers; and
 - (c) definitions that we recommended should be deferred directly to other hearings (and which we did not give an initial recommendation on).
31. Appendix 2 in this addendum report provides an updated list of deferred definitions and replaces Appendix 3 in our s42A report. It now:
- (a) includes all definitions, or potential new definitions, which received submissions, and which will be considered at future topic or zone hearings.
 - (b) does not include consequential amendments that we felt should be given further consideration by the relevant s42A officers.
 - (c) does not include any Planning Standards definitions.⁶

6 National Planning Standards definitions

6.1 National Planning Standards definitions not addressed in the s42A report

32. In our s42A report we recommended adopting the Planning Standards definitions where a synonymous term in the Proposed Plan had been submitted on, and those submissions had been allocated to Hearing 5 for consideration. Several planning witnesses who submitted evidence in response to the s42A report felt that this did not go far enough. Their preference was that all Planning Standards definitions are adopted now, to enable the application and use of the definitions to be rechecked at relevant topic and zone hearings, including any consequential amendments that may be required. We agreed. The following section reviews the 'remaining' definitions that will need to be incorporated into the Proposed Plan under the mandatory directions in the Definitions Standard, and identifies the consequential amendments required as a result.

⁶ As the Panel has signalled its intention to adopt the Planning Standards definitions through this plan review process, we are treating those definitions from the Definitions List as being settled. Planning Standards definitions that we recommend should be adopted into the Plan, and which we have not dealt with previously in the s42A report, are considered in section 11 below).

33. As set out in section 2.5.2 of the s42A report, we applied the advice set out in ‘Guidance for 14. Definitions Standard’⁷ (Ministry for the Environment, April 2019) (the ‘Guidance’). The Guidance states that there is no intention for any definition (in the Definitions Standard) to change the meaning or application of rules. This is further confirmed by the recently issued ‘Guidance on consequential amendments to policy statements and plans’.⁸
34. We relied on the Guidance as well as the ‘Recommendations on Submissions Report 21 Definitions Standard’,⁹ (‘Recommendations on Submissions Report’) in preparing this addendum report, including in particular, the guidance we set out at paragraph 61 of the s42A report.
35. We identified the following definitions from the Definitions List as potentially relevant to the Proposed Plan.

Definitions Standard definition	Commentary
amenity values	RMA definition. Recommended for inclusion.
ancillary activity	Additional consequential amendments required. See section 8.1.1 of this report.
bed	RMA definition. Recommended for inclusion.
best practicable option	Term is not required as the Proposed Plan refers to ‘best practice’.
coastal water	RMA definition. Recommended for inclusion.
contaminant	RMA definition. Recommended for inclusion.
cultivation	Additional consequential amendments required. See section 8.1.6 of this report.
discharge	RMA definition. Recommended for inclusion.
drain	Recommended for inclusion.
dust	Recommended for inclusion.
effect	RMA definition. Recommended for inclusion.
esplanade reserve	RMA definition. Recommended for inclusion.
esplanade strip	RMA definition. Recommended for inclusion.

⁷ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment.

⁸ Ministry for the Environment. 2020. *Guidance on the consequential amendments to policy statements and plans*. Wellington. Ministry for the Environment.

⁹ Ministry for the Environment. 2019. *21 Definitions Standard – Recommendations on Submissions Report for the first set of National Planning Standards*. Wellington: Ministry for the Environment.

fertiliser	Recommended for inclusion as a consequential amendment of including 'dust'.
green infrastructure	Similar terms are not synonymous. Not recommended for inclusion.
greywater	Recommended for inclusion as a consequential amendment of adopting 'wastewater'.
groundwater	Recommended for inclusion.
hazardous substance	RMA definition. Recommended for inclusion, along with a definition for 'radioactive material'.
historic heritage	RMA definition. Recommended for inclusion.
home business	Replace the Proposed Plan definition of 'home occupation' with 'home business'. Requires consequential amendments to the rules.
industrial and trade waste	Recommended for inclusion as a consequential amendment of adopting 'wastewater'.
intensive indoor primary production	Recommended for inclusion. The term 'intensive farming' used in the Proposed Plan contemplates these activities, along with a wider range of activities, so will need to be redrafted to include this definition.
L_{AEQ}	Recommended for inclusion.
L_{AF(MAX)}	Recommended for inclusion.
land	RMA definition. Recommended for inclusion.
land disturbance	Recommended for inclusion.
L_{dn}	Recommended for inclusion.
natural hazard	RMA definition. Recommended for inclusion.
network utility operator	RMA definition. Recommended to be retained but amended to reflect drafting conventions in the Definitions List.
noise	RMA definition. Recommended for inclusion.
noise rating level	Recommended for inclusion. The plan uses 'noise level' currently.
official sign	The Proposed Plan uses the terminology 'public information sign'. There is some degree of overlap, but it is not clear that the use is consistent. Not recommended for inclusion.
peak particle velocity	Not required. This term is not used in the Proposed Plan.
quarry	Recommended for inclusion.

quarrying activities	Recommended for inclusion as a consequential amendment of adopting 'quarry'.
road	RMA definition. Recommended for inclusion.
sewage	Recommended for inclusion as a consequential amendment of adopting 'wastewater'.
special audible characteristic	The term is not used in the Proposed Plan. There are no synonymous descriptors.
stormwater	Recommended for inclusion.
subdivision	RMA definition. Recommended for inclusion.
sustainable management	Not required.
territorial authority	Not required. The term is not used in the Proposed Plan.
wastewater	Recommended for inclusion.

36. The following sections provide our detailed assessment and recommendations in relation to the above terms, where we considered that assessment required further explanation.

6.2 'amenity values'

6.2.1 Introduction

37. The following term is relevant to my analysis:

amenity values (Planning Standards)	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.</p> </div>
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6.2.2 Analysis

38. The definition of 'amenity values' in the Definitions List adopts the RMA definition of that term. The term 'amenity values' is used in the Proposed Plan, but is not defined. The term appears in a number of places across the Plan, including in objectives, policies and as 'matters of discretion' in the rule tables, and is used in the same context in the Definitions List.

6.2.3 Recommendations

39. I recommend that the term 'amenity values' from the Definitions List is included in Chapter 13 of the Plan.

6.2.4 Recommended amendments

40. The following amendments are recommended:

amenity values	has the same meaning as in section 2 of the RMA (as set out in the box below)
	<div>means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.</div>

6.2.5 Consequential amendments

41. No consequential amendments are required.

6.3 'bed'

6.3.1 Introduction

42. The following terms are relevant to my analysis:

Bed (Proposed Plan)	Has the meaning in section 3 of the Resource Management Act 1991.
bed (Planning Standards)	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div> <p>means—</p> <p>a. in relation to any river—</p> <p>(i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the river cover at its annual fullest flow without overtopping its banks:</p> <p>(ii) in all other cases, the space of land which the waters of the river cover at its fullest flow without overtopping its banks; and</p> <p>b. in relation to any lake, except a lake controlled by artificial means,—</p> <p>(i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the lake cover at its annual highest level without exceeding its margin:</p> <p>(ii) in all other cases, the space of land which the waters of the lake cover at its highest level without exceeding its margin; and</p> <p>c. in relation to any lake controlled by artificial means, the space of land which the waters of the lake cover at its maximum permitted operating level; and</p> <p>d. in relation to the sea, the submarine areas covered by the internal waters and the territorial sea.</p> </div>

6.3.2 Analysis

43. The definition of 'bed' in the Definitions List adopts the RMA definition of that term. The definition of 'bed' in the Proposed Plan is identical to that in the Planning Standards (although the Plan refers to section 3 of the RMA in error). The only difference is the way in which this is presented, in that the definition as proposed in Chapter 13 does not set out the full wording of the defined term.

6.3.3 Recommendations

44. I recommend that the term 'bed' in the Proposed Plan is amended to reflect the drafting conventions in the Definitions Standard.

6.3.4 Recommended amendments

45. The following amendments are recommended:

bed	<p>Has the meaning in section 3 of the Resource Management Act 1991. <u>has the same meaning as in section 2 of the RMA (as set out in the box below)</u></p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p>means—</p> <ul style="list-style-type: none"> (a) <u>in relation to any river—</u> <ul style="list-style-type: none"> (i) <u>for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the river cover at its annual fullest flow without overtopping its banks;</u> (ii) <u>in all other cases, the space of land which the waters of the river cover at its fullest flow without overtopping its banks;</u> and (b) <u>in relation to any lake, except a lake controlled by artificial means,—</u> <ul style="list-style-type: none"> (i) <u>for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the lake cover at its annual highest level without exceeding its margin;</u> (ii) <u>in all other cases, the space of land which the waters of the lake cover at its highest level without exceeding its margin; and</u> (c) <u>in relation to any lake controlled by artificial means, the space of land which the waters of the lake cover at its maximum permitted operating level; and</u> (d) <u>in relation to the sea, the submarine areas covered by the internal waters and the territorial sea.</u> </div>
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6.3.5 Consequential amendments

46. No consequential amendments are required.

6.4 'coastal water'

6.4.1 Introduction

47. The following term is relevant to my analysis:

coastal water (Planning Standards)	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div data-bbox="421 360 1369 510"> <p>means seawater within the outer limits of the territorial sea and includes—</p> <ul style="list-style-type: none"> a. seawater with a substantial fresh water component; and b. seawater in estuaries, fiords, inlets, harbours, or embayments. </div>
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6.4.2 Analysis

48. The definition of 'coastal water' in the Definitions List adopts the RMA definition of that term. It is not defined in Chapter 13. The term 'coastal water' is used once in the Proposed Plan, in Objective 5.2.1 – Rural Resources. Although this is the only reference to this term, I consider it is useful to provide the definition in Chapter 13, if the wording of this Objective is retained.

6.4.3 Recommendations

49. I recommend that the term 'coastal water' from the Definitions List is included in Chapter 13 of the Plan.

6.4.4 Recommended amendments

50. The following amendments are recommended:

<u>coastal water</u>	<p><u>has the same meaning as in section 2 of the RMA (as set out in the box below)</u></p> <div data-bbox="443 1171 1369 1379"> <p><u>means seawater within the outer limits of the territorial sea and includes—</u></p> <ul style="list-style-type: none"> <u>(a) seawater with a substantial fresh water component; and</u> <u>(b) seawater in estuaries, fiords, inlets, harbours, or embayments.</u> </div>
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6.4.5 Consequential amendments

51. No consequential amendments are required.

6.5 'contaminant'

6.5.1 Introduction

52. The following term is relevant to my analysis:

contaminant (Planning Standards)	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <p>includes any substance (including gases, odorous compounds, liquids, solids, and microorganisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat—</p> <p>(a) when discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or</p> <p>(b) when discharged onto or into land or into air, changes or is likely to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged.</p>
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6.5.2 Analysis

53. The definition of ‘contaminant’ in the Definitions List adopts the RMA definition of that term. It is not defined in Chapter 13.
54. The term ‘contaminants’ is used in two policies in the Proposed Plan: 6.4.5 Policy – Roding Infrastructure and 10.2.2 Policy – managing the use of contaminated land. It is also referenced in Chapter 1: Introduction at Section 1.5.7.4 Air Quality. The section 42A reporting officer for Hearing 8: Hazardous Substances/Contaminated Land reviewed this definition and recommended that the Planning Standards definition be adopted at section 10: Topic 8: Definitions of her report, paragraph 269.

6.5.3 Recommendations

55. I recommend that the term ‘contaminant’, as set out in the Definitions List, is included in Chapter 13, if the references to ‘contaminants’ are retained in the policies identified above.

6.5.4 Recommended amendments

56. The following amendments are recommended:

<u>contaminant</u>	<p><u>has the same meaning as in section 2 of the RMA (as set out in the box below)</u></p> <p><u>includes any substance (including gases, odorous compounds, liquids, solids, and microorganisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat—</u></p> <p><u>(a) when discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or</u></p> <p><u>(b) when discharged onto or into land or into air, changes or is likely to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged.</u></p>
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6.5.5 Consequential amendments

57. No consequential amendments are required.

6.6 ‘discharge’

6.6.1 Introduction

58. The following term is relevant to my analysis:

discharge (Planning Standards)	has the same meaning as in section 2 of the RMA (as set out in the box below) includes emit, deposit, and allow to escape.
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6.6.2 Analysis

59. The definition of ‘discharge’ in the Definitions List adopts the RMA definition of that term. It is not defined in Chapter 13.

60. The term ‘discharge’ is used frequently in the Proposed Plan, including in policies (4.7.3 Policy – Residential subdivision, and 9.4.2.7 Policy – managing effluent disposal (Business Zone Tamahere)) and rules (14.11.1 Permitted Activities. PI – Stormwater systems for new development or subdivision and the rules relating to Notable Trees – Activities within the dripline, see for example 16.2.6.3). Given the frequent use of the term, I consider it appropriate to include the defined term from the Definitions List.

6.6.3 Recommendations

61. I recommend that the term ‘discharge’ from the Definitions List is included in Chapter 13 of the Plan.

6.6.4 Recommended amendments

62. The following amendments are recommended:

discharge	has the same meaning as in section 2 of the RMA (as set out in the box below) includes emit, deposit, and allow to escape.
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6.6.5 Consequential amendments

63. There is one use of the term ‘discharge’ in the Introduction Chapter, section 1.7.2.3 Strategy for the Waikato River (b), which uses the term ‘discharges’ in a different sense - it states that Council ‘discharges’ a statutory duty. It is not considered that this would cause any confusion.

6.7 ‘drain’

6.7.1 Introduction

64. The following term is relevant to my analysis:

drain (Planning Standards)	means any artificial watercourse designed, constructed, or used for the drainage of surface or subsurface water, but excludes artificial watercourses used for the conveyance of water for electricity generation, irrigation, or water supply purposes.
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6.7.2 Analysis

65. The term ‘drain’ is used frequently in the Proposed Plan although not defined. This includes:
- 3.2.6 Policy – providing for vegetation clearance, which relates to maintenance of ‘farm drains’ in Significant Natural Areas
 - The definition of ‘ancillary rural earthworks’, which refers to ‘farm drains’
 - Rule 14.12.1 Permitted Activities – which requires new public roads to have ‘swale drains’ on both sides of the carriageway
 - Rule 16.2.4.1 Earthworks – General – which refers to earthworks being a permitted activity where they are located more than 1.5m horizontally from an ‘open drain’ and similar rules 17.2.5.1, 18.2.4.1, 19.2.4, 20.2.5.1
 - 16.2.4.3 Earthworks – Significant Natural Areas, which provides for earthworks for maintenance of existing ‘drains’ within a Significant Natural Area, and similar rules in the other zone chapters, some of which refer to ‘farm drains’, e.g. 16.2.8 and 17.2.9.
66. The term is also used a couple of times as a verb, for example in the definition of ‘impervious surface’. It appears that the term is used in the same context as the term as defined in the Definitions List. Given the frequent use of the term, I consider it appropriate to include the defined term from the Definitions List in Chapter 13.

6.7.3 Recommendations

67. I recommend that the term ‘drain’ from the Definitions List is included in Chapter 13 of the Plan.

6.7.4 Recommended amendments

68. The following amendments are recommended:

drain	means any artificial watercourse, designed, constructed, or used for the drainage of surface or subsurface water, but excludes artificial watercourses used for the conveyance of water for electricity generation, irrigation, or water supply purposes.
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6.7.5 Consequential amendments

69. Some of the ‘earthworks in Significant Natural Areas’ rules in the Proposed Plan refer to ‘farm drains’, others to just ‘drains’. If this differentiation was intentional, we recommend that a sub-category definition for ‘farm drain’ is drafted and included in Chapter 13. This issue should be given consideration by the s42A author for the Rural Zone hearing.

6.8 ‘dust’

6.8.1 Introduction

70. The following terms are relevant to my analysis:

dust (Planning Standards)	means all non-combusted solid particulate matter that is suspended in the air, or has settled after being airborne. Dust may be derived from materials including rock, sand, cement, fertiliser, coal, soil, paint, animal products and wood.
fertiliser (Planning Standards)	<p>means a substance or biological compound or mix of substances or biological compounds in solid or liquid form, that is described as, or held out to be suitable for, sustaining or increasing the growth, productivity or quality of soils, plants or, indirectly, animals through the application to plants or soil of any of the following:</p> <ul style="list-style-type: none"> (a) nitrogen, phosphorus, potassium, sulphur, magnesium, calcium, chlorine, and sodium as major nutrients; or (b) manganese, iron, zinc, copper, boron, cobalt, molybdenum, iodine, and selenium as minor nutrients; or (c) fertiliser additives to facilitate the uptake and use of nutrients; or (d) non-nutrient attributes of the materials used in fertiliser. <p>It does not include livestock effluent, human effluent, substances containing pathogens, or substances that are plant growth regulators that modify the physiological functions of plants.</p>

6.8.2 Analysis

71. The term ‘dust’ is used in a number of policies and rules in the Proposed Plan. This includes policies relating to earthworks (4.2.15, 4.3.15, 5.4.41, 5.6.7), reverse sensitivity effects (5.3.7) and provision of roading access for the Rangitahi Peninsula Structure Plan Area (9.3.5.3 – Primary Access). It also appears in a number of rules, as an effect to be managed, as a ‘matter of discretion’.
72. The term is used in the same context in the Proposed Plan as in the Definitions Standard. I therefore recommend that the Planning Standards defined term is adopted. It is noted that adopting the term ‘dust’ also brings in the Planning Standards definition of ‘fertiliser’. The term ‘fertiliser’ is only used once in the Proposed Plan, in the definition of ‘Agricultural and horticultural research activities’. It is also used in the same context as in the Definitions Standard.

6.8.3 Recommendations

73. I recommend that the terms ‘dust’ and ‘fertiliser’ from the Definitions List are included in Chapter 13 of the Plan.

6.8.4 Recommended amendments

74. The following amendments are recommended:

dust	means all non-combusted solid particulate matter that is suspended in the air, or has settled after being airborne. Dust may be derived from materials including rock, sand, cement, fertiliser, coal, soil, paint, animal products and wood.
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fertiliser	<p>means a substance or biological compound or mix of substances or biological compounds in solid or liquid form, that is described as, or held out to be suitable for, sustaining or increasing the growth, productivity or quality of soils, plants or, indirectly, animals through the application to plants or soil of any of the following:</p> <ul style="list-style-type: none"> (a) nitrogen, phosphorus, potassium, sulphur, magnesium, calcium, chlorine, and sodium as major nutrients; or (b) manganese, iron, zinc, copper, boron, cobalt, molybdenum, iodine, and selenium as minor nutrients; or (c) fertiliser additives to facilitate the uptake and use of nutrients; or (d) non-nutrient attributes of the materials used in fertiliser. <p>It does not include livestock effluent, human effluent, substances containing pathogens, or substances that are plant growth regulators that modify the physiological functions of plants.</p>
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6.8.5 Consequential amendments

75. Other than adopting the Definitions Standard term 'fertiliser', there are no consequential amendments required.

6.9 ‘effect’

6.9.1 Introduction

76. The following term is relevant to my analysis:

effect (Planning Standards)	<p>has the same meaning as in section 3 of the RMA (as set out in the box below)</p> <div data-bbox="421 439 1377 913"> <p>includes—</p> <ul style="list-style-type: none"> (a) any positive or adverse effect; and (b) any temporary or permanent effect; and (c) any past, present, or future effect; and (d) any cumulative effect which arises over time or in combination with other effects— regardless of the scale, intensity, duration, or frequency of the effect, and also includes— (e) any potential effect of high probability; and (f) any potential effect of low probability which has a high potential impact. </div>
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6.9.2 Analysis

77. The definition of ‘effect’ in the Definitions List adopts the RMA definition of that term. The term ‘effect’ is used extensively in the Proposed Plan, but is not defined. I consider that in almost all instances, the term is used in the same context as set out in the Definitions Standard. It is used occasionally as a verb, i.e. “to give effect to”. I do not consider this would lead to confusion over the appropriate interpretation.

6.9.3 Recommendations

78. I recommend that the term ‘effect’ from the Definitions List is included in Chapter 13 of the Plan.

6.9.4 Recommended amendments

79. The following amendments are recommended:

effect	<p>has the same meaning as in section 3 of the RMA (as set out in the box below)</p> <div> <p>includes—</p> <ul style="list-style-type: none"> (a) any positive or adverse effect; and (b) any temporary or permanent effect; and (c) any past, present, or future effect; and (d) any cumulative effect which arises over time or in combination with other effects— regardless of the scale, intensity, duration, or frequency of the effect, and also includes— (e) any potential effect of high probability; and (f) any potential effect of low probability which has a high potential impact. </div>
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6.9.5 Consequential amendments

80. No consequential amendments are required.

6.10 ‘esplanade reserve’

6.10.1 Introduction

81. The following term is relevant to my analysis:

esplanade reserve (Planning Standards)	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div> <p>means a reserve within the meaning of the Reserves Act 1977—</p> <ul style="list-style-type: none"> (a) which is either— <ul style="list-style-type: none"> (i) a local purpose reserve within the meaning of section 23 of that Act, if vested in the territorial authority under section 239; or (ii) a reserve vested in the Crown or a regional council under section 237D; and (b) which is vested in the territorial authority, regional council, or the Crown for a purpose or purposes set out in section 229. </div>
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6.10.2 Analysis

82. The definition of ‘esplanade reserve’ in the Definitions list adopts the RMA definition of that term. It is not defined in Chapter 13.
83. The term ‘esplanade reserve’ is used frequently in the Proposed Plan in Policy 8.1.3 for Esplanade reserves and esplanade strips, and rules supporting that policy. The term is used in the same context as set out in the RMA and Definitions Standard.

6.10.3 Recommendations

84. I recommend that the term ‘esplanade reserve’ from the Definitions List is included in Chapter 13 of the Plan.

6.10.4 Recommended amendments

85. The following amendments are recommended:

esplanade reserve	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>means a reserve within the meaning of the Reserves Act 1977—</p> <p>(a) which is either—</p> <ul style="list-style-type: none"> (i) a local purpose reserve within the meaning of section 23 of that Act, if vested in the territorial authority under section 239; or (ii) a reserve vested in the Crown or a regional council under section 237D; and <p>(b) which is vested in the territorial authority, regional council, or the Crown for a purpose or purposes set out in section 229.</p> </div>
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6.10.5 Consequential amendments

86. When referred to together, the terms ‘esplanade reserve’ and ‘esplanade strip’ are sometimes abbreviated to ‘strip’ or ‘reserve’ in the Proposed Plan. The following policy and rules should be amended to ensure that the defined terms ‘esplanade reserve’ and ‘esplanade strip’ are used rather than the shortened terms: Policy 8.1.3, and Rules 16.1.14, 17.4.1.7, 18.4.7, 20.4.4, 21.4.4, 22.4.7, 23.4.12, 24.4.12 and 28.4.8.

6.11 ‘esplanade strip’

6.11.1 Introduction

87. The following term is relevant to my analysis:

esplanade strip (Planning Standards)	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>means a strip of land created by the registration of an instrument in accordance with section 232 for a purpose or purposes set out in section 229.</p> </div>
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6.11.2 Analysis

88. The definition of ‘esplanade strip’ in the Definitions List adopts the RMA definition of that term. It is not defined in Chapter 13.

89. The term 'esplanade strip' is used frequently in the Proposed Plan - in Policy 8.1.3 and rules supporting that policy. The term is used in the same context as set out in the RMA and Definitions Standard.

6.11.3 Recommendations

90. I recommend that the term 'esplanade strip' from the Definitions List is included in Chapter 13 of the Plan.

6.11.4 Recommended amendments

91. The following amendments are recommended:

esplanade strip	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div data-bbox="427 752 1316 887"> <p>means a strip of land created by the registration of an instrument in accordance with section 232 for a purpose or purposes set out in section 229.</p> </div>
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6.11.5 Consequential amendments

92. When referred to together, the terms 'esplanade reserve' and 'esplanade strip' are sometimes abbreviated to 'strip' or 'reserve' in the Proposed Plan. The following policy and rules should be amended to ensure that the defined terms of 'esplanade reserve' and 'esplanade strip' are used instead of the shortened terms: Policy 8.1.3, and Rules 16.1.14, 17.4.1.7, 18.4.7, 20.4.4, 21.4.4, 22.4.7, 23.4.12, 24.4.12 and 28.4.8.

6.12 'green infrastructure'

6.12.1 Introduction

93. The following term is relevant to my analysis:

green infrastructure (Planning Standards)	<p>means a natural or semi-natural area, feature or process, including engineered systems that mimic natural processes, which are planned or managed to:</p> <ul style="list-style-type: none"> (a) provide for aspects of ecosystem health or resilience, such as maintaining or improving the quality of water, air or soil, and habitats to promote biodiversity; and (b) provide services to people and communities, such as storm water or flood management or climate change adaptation.
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6.12.2 Analysis

94. The term 'green infrastructure' is not used in the Proposed Plan, although similar terms are used, including 'green spaces', 'green open space', 'green linkages' and 'green buffers'. The references include:

‘1.12.8 Strategic Objectives’ which refers to a list of ‘overarching directions’ including:

- (vi) Protect and enhance green open space, outstanding landscapes and areas of cultural, ecological, historic and environmental significance’
- 95. ‘4.7.3 Policy – Residential subdivision’ in Chapter 4: Urban Environment, which refers to “(vi) promoting connectivity and permeability by ensuring new connections to existing and future development, including green linkages”.
- 96. ‘9.3.3.1 Policy – Green spaces’ in the Rangitahi Peninsula zone refers to a range of ‘green buffers’ between urban development and the coast.
- 97. Having reviewed the use of similar terms in the Proposed Plan, and the definition as set out in the Definitions List, I consider that the terms used in the Proposed Plan are used in the same context as ‘green infrastructure’, as that is defined. However, the definition of green infrastructure in the Definitions Standard is much broader in concept than a green buffer or a green linkage.

6.12.3 Recommendations

- 98. I recommend that these terms are retained and the term ‘green infrastructure’ from the Definitions List is not adopted.

6.12.4 Consequential amendments

- 99. There are no consequential amendments from this recommendation.

6.13 ‘groundwater’

6.13.1 Introduction

- 100. The following term is relevant to my analysis:

groundwater (Planning Standards)	means water occupying openings, cavities, or spaces in soils or rocks beneath the surface of the ground.
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6.13.2 Analysis

- 101. The term ‘groundwater’ is used in several instances in the Proposed Plan, but is not defined in Chapter 13: Definitions. These include:

5.2.1 Objective – Rural Resources refers to maintaining or enhancing the quality of ‘ground water’.

‘9.4.2.7 Policy - managing effluent disposal’ in the Business Zone Tamahere

‘6.4.7 Policies – Groundwater’ refers at (vii) to ‘groundwater’ recharge.

- 102. These references are used in the same context as the definition in the Definitions List. There is also a reference to groundwater in Chapter 1: Introduction – 1.5.7.3 Water, in relation to sourcing water for industry, although that reference may be removed as a result of

recommendations from the s42A reporting officer (Ms Donaldson) to delete that reference. I therefore consider that the Definitions List term should be adopted into the Proposed Plan.

6.13.3 Recommendations

103. I recommend that the term ‘groundwater’, as defined in the Definitions List, is included in Chapter 13 of the Plan.

6.13.4 Recommended amendments

104. The following amendments are recommended:

groundwater	means water occupying openings, cavities, or spaces in soils or rocks beneath the surface of the ground.
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6.13.5 Consequential amendments

105. I recommend that Objective 5.2.1 and policy 9.4.2.7 are amended to use the singular term ‘groundwater’ (as opposed to ‘ground water’).

6.14 ‘hazardous substance’

6.14.1 Introduction

106. The following terms are relevant to my analysis:

Hazardous substance (Proposed Plan)	Means any substance with hazardous properties, including radioactivity, high BOD (Biological Oxygen Demand) and those properties defined as hazardous for the purpose of the Hazardous Substances and New Organisms Act 1996.
hazardous substance (Planning Standards)	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px;"> <p>includes, but is not limited to, any substance defined in section 2 of the Hazardous Substances and New Organisms Act 1996 as a hazardous substance. The Hazardous Substances and New Organisms Act 1996 defines hazardous substances as meaning, unless expressly provided otherwise by regulations or an EPA notice, any substance—</p> <p>(a) with 1 or more of the following intrinsic properties:</p> <ul style="list-style-type: none"> (i) explosiveness: (ii) flammability: (iii) a capacity to oxidise: (iv) corrosiveness: (v) toxicity (including chronic toxicity): (vi) ecotoxicity, with or without bioaccumulation; or <p>(b) which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a).</p> </div>

6.14.2 Analysis

- 107. The term ‘hazardous substance’ is defined in the Proposed Plan. It is used in the same context as the definition in the Definitions List in the Planning Standards. While the definitions are largely the same, there are a few differences that will need to be addressed.
- 108. The Proposed Plan definition includes ‘radioactivity’ and ‘high biological demand (BOD)’. These properties are not expressly included in the RMA/HSNO¹⁰ definition (which the Definitions List adopts), although the s2 RMA definition makes provision for additional substances by use of the words “includes but is not limited to”.
- 109. Tompkins Wake provided legal advice to the Council about the hazardous substances provisions in the Proposed Plan. It includes advice on the application of the definition of ‘hazardous substance’ from the Definitions List at paragraphs 36 – 44,¹¹ and how to deal with other substances in the Proposed Plan that are considered hazardous. To maintain the meaning of the definition as set out in the Proposed Plan, the rules would need to specify that the additional properties of radioactivity, and high BOD, are also captured.¹² They suggested that a way to do this would be to include a new definition for ‘substances with xyz properties’ and refer to that definition in the relevant rule.
- 110. The s42A author for Hazardous Substances analysed the submissions that were received on the definition of ‘hazardous substance’ at Chapter 10, Topic 8: Definitions, in her report. Ms Overwater notes at paragraph 269 her recommendation to adopt the Planning Standards definition of ‘hazardous substances’. Ms Overwater discusses in detail the implications of adopting this definition, and concludes that it would be appropriate to adopt a sub-definition of ‘radioactive material’, as taken from s5 of the Radiation Safety Act 2016, alongside the Definitions List definition of ‘hazardous substances’. I agree with her analysis and recommendations and the consequential amendments that she proposes.

6.14.3 Recommendations

- 111. I recommend that the term ‘hazardous substance’, as defined in the Definitions List, is included in Chapter 13 of the Plan, along with a definition of radioactive materials.

6.14.4 Recommended amendments

- 112. The following amendments are recommended:

¹⁰ Hazardous Substances and New Organisms Act 1996

¹¹ Letter from Bridget Parham/Kirsty Dibley, addressed to Katherine Overwater, dated 22 November 2019. Accessed from the hearing website at: https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/hearings/hearing-8a/hearing-8a-hazardous-substances---appendix-6-legal-opinion-from-tompkins-wake.pdf?sfvrsn=a4ff87c9_2

¹² Ibid, paragraph 43.

hazardous substance	<p>Means any substance with hazardous properties, including radioactivity, high BOD (Biological Oxygen Demand) and those properties defined as hazardous for the purpose of the Hazardous Substances and New Organisms Act 1996. has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p>includes, but is not limited to, any substance defined in section 2 of the Hazardous Substances and New Organisms Act 1996 as a hazardous substance. The Hazardous Substances and New Organisms Act 1996 defines hazardous substances as meaning, unless expressly provided otherwise by regulations or an EPA notice, any substance—</p> <p>(a) with 1 or more of the following intrinsic properties:</p> <ul style="list-style-type: none"> (i) explosiveness: (ii) flammability: (iii) a capacity to oxidise: (iv) corrosiveness: (v) toxicity (including chronic toxicity): (vi) ecotoxicity, with or without bioaccumulation; or <p>(b) which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a).</p> </div>
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6.14.5 Consequential amendments

113. Consequential amendments will be required, as set out in paragraphs 281 – 284 of the s42A report for Hazardous Substances & Contaminated Land.

6.15 ‘historic heritage’

6.15.1 Introduction

114. The following terms are relevant to my analysis:

Historic heritage (Proposed Plan)	Has the meaning in s2 of the Resource Management Act 1991.
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historic heritage (Planning Standards)	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px;"> <p>(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:</p> <ul style="list-style-type: none"> (i) archaeological: (ii) architectural: (iii) cultural: (iv) historic: (v) scientific: (vi) technological; and <p>(b) includes—</p> <ul style="list-style-type: none"> (i) historic sites, structures, places, and areas; and (ii) archaeological sites; and (iii) sites of significance to Māori, including wāhi tapu; and (iv) surroundings associated with the natural and physical resources. </div>
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6.15.2 Analysis

The definition in the Definitions List is the same as the Definition in the Proposed Plan. Both definitions adopt the definition of 'historic heritage' from section 2 of the RMA.

6.15.3 Recommendations

I 15. I recommend that the term 'historic heritage' is retained, but amended to reflect the drafting conventions in the Definitions Standard.

6.15.4 Recommended amendments

I 16. The following amendments are recommended:

historic heritage	<p>Has the meaning as in s2 of the Resource Management Act 1991. has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:</p> <ul style="list-style-type: none"> (i) archaeological: (ii) architectural: (iii) cultural: (iv) historic: (v) scientific: (vi) technological; and <p>(b) includes—</p> <ul style="list-style-type: none"> (i) historic sites, structures, places, and areas; and (ii) archaeological sites; and (iii) sites of significance to Māori, including wāhi tapu; and (iv) surroundings associated with the natural and physical resources. </div>
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6.15.5 Consequential amendments

117. None.

6.16 'home business' and 'home occupation'

6.16.1 Introduction

118. The following terms are relevant to my analysis:

Home occupation (Proposed Plan)	Means an occupation, or trade/craft, or profession, excluding panel beating or car wrecking, where the principal use of the site is for residential activities and the principal operator of the Home occupation is a permanent resident on-site.
home business (Planning Standards)	means a <i>commercial activity</i> that is: <ul style="list-style-type: none"> (a) Undertaken or operated by at least one resident of the <i>site</i>; and (b) Is incidental to the use of the site for a <i>residential activity</i>.

6.16.2 Analysis

119. The definition of 'home occupation' in the Proposed Plan is used in the same context as the defined term 'home business' in the Definitions List. There are a number of differences however, which will need to be addressed through consequential amendments to the rules. I note that no submissions were received on this definition.

120. 'Home occupation' is typically managed as a 'permitted activity' in the Proposed Plan, subject to a number of standards. The Proposed Plan definition states that the 'principal operator' must be a 'permanent resident', whereas the Planning Standards definition is broader, and an activity would qualify where 'at least one resident' is undertaking or operating the activity. The Proposed Plan definition restricts the activity by excluding 'panel beating or car wrecking'. Such exclusions are not provided for by the Planning Standards definition, and would need to be picked up in the permitted activity standards. The Proposed Plan definition is wide enough to include some industrial activities (other than panel beating and car wrecking), whereas the Planning Standards definition is confined to commercial activities. I note that the use of the terms 'principal use', 'principal operator' and 'permanent' in the Proposed Plan definition could be problematic, in that they could be ambiguous. The Definitions List definition avoids this.

6.16.3 Recommendations

121. I recommend that the definition of 'home business' from the Definitions List replaces the definition of 'home occupation' in Chapter 13 of the Plan.

6.16.4 Recommended amendments

122. The following amendments are recommended:

Home occupation	Means an occupation, or trade/craft, or profession, excluding panel beating or car wrecking, where the principal use of the site is for residential activities and the principal operator of the Home occupation is a permanent resident on-site.
home business	means a <i>commercial activity</i> that is: (a) undertaken or operated by at least one resident of the site; and (b) incidental to the use of the site for a <i>residential activity</i> .

6.16.5 Consequential amendments

123. Consequential amendments will be required to Policy 5.3.11 Policy – Home occupations to replace the term 'home occupation' with 'home business', as well as in the activity rules: 16.1.2, 16.5.2, 22.1.2, 2.7.1.1, 22.8., 23.1.1, 24.1.1, 27.1.1, 28.1.1, and Table 11: Internal design sound levels in 4.1 Conditions for Permitted Activities – Horotiu Acoustic Area. Conditions attached to the activity standards will need to exclude 'sites used for panel beating and car wrecking'.

6.17 'intensive indoor primary production'

6.17.1 Introduction

124. The following terms are relevant to my analysis:

Intensive farming (Proposed Plan)	Means farming which is not dependent on the fertility of the soils on which it is located and which may be under cover or within an outdoor enclosure, and be dependent on supplies of food produced on and/or off the land where the operation is located. It includes:
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	<ul style="list-style-type: none"> (a) intensive pig farming undertaken wholly or principally in sheds or other shelters or buildings; (b) free-range pig farming; (c) poultry or game bird farming undertaken wholly or principally within sheds or other shelters or buildings; (d) free-range poultry or game bird farming; (e) mushroom farming; and (f) intensive goat farming. <p>It excludes the following, provided the building is used for the purpose for which it was built:</p> <ul style="list-style-type: none"> (a) woolsheds; (b) dairy sheds; (c) calf pens or wintering accommodation for less than 30 stock (except where stock are being reared for the replacement of breeding stock to be used on the same property); and (d) glasshouse production or nurseries.
intensive indoor primary production (Planning Standards)	means primary production activities that principally occur within buildings and involve growing fungi, or keeping or rearing livestock (excluding calf-rearing for a specified time period) or poultry.

6.17.2 Analysis

125. The Proposed Plan definition of ‘intensive farming’ contemplates activities that take place both indoors and outdoors, as provided for by the words ‘within an outdoor enclosure’. It therefore covers a broader range of activities than those provided for by the definition of ‘intensive indoor primary production’ in the Definitions List. Having reviewed the MfE report 21 Definitions Standard - Recommendations on Submissions which discusses the scope of the NPS definition, I am of the opinion that the two terms are not synonymous, but do overlap, with intensive farming encompassing ‘intensive indoor primary production’, as well as a broader range of activities. The settled wording of the definition of ‘farming’ is also relevant to this consideration.
126. I consider that it will be necessary to redraft the definition of intensive farming to include intensive indoor primary production, along with the additional activities contemplated. I consider it would be premature for me to recommend wording along these lines until after the definitions of intensive farming and farming have been given consideration through the Rural Zone hearing.

6.17.3 Recommendations

127. I recommend that the term ‘intensive indoor primary production’ is adopted. I further recommend redrafting the definition of ‘intensive farming’ to accommodate the definition of ‘intensive indoor primary production’. The redrafting of ‘intensive farming’ should be given further consideration at the Rural Zone hearing.

6.17.4 Recommended amendments

128. I recommend adoption of the following definition:

intensive indoor primary production	means primary production activities that principally occur within buildings and involve growing fungi, or keeping or rearing livestock (excluding calf-rearing for a specified time period) or poultry.
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6.17.5 Consequential amendments

129. Whether consequential amendments will be required as a result of this recommendation will depend on how the definition of 'intensive farming' is redrafted.

6.18 L_{Aeq} , $L_{AF(max)}$ and L_{dn}

6.18.1 Introduction

130. The following terms are relevant to my analysis:

L_{Aeq} (Planning Standards)	has the same meaning as 'time-average A-weighted sound pressure level' in New Zealand Standard 6801:2008 Acoustics -Measurement of Environmental Sound.
$L_{AF(max)}$ (Planning Standards)	has the same meaning as the 'maximum A-frequency weighted, F-time weighted sound pressure level' in New Zealand Standard 6801:2008 Acoustics –Measurement Of Environmental Sound.
L_{dn} (Planning Standards)	has the same meaning as the 'Day night level, or day-night average sound level' in New Zealand Standard 6801:2008 Acoustics – Measurement of Environmental Sound.

6.18.2 Analysis

131. Some of the noise rules in the Proposed Plan use ' L_{Aeq} '¹³ and ' $L_{AF(max)}$ ' as measures of sound to manage noise. Those sound level measures are consistent with the conventions in the New Zealand Noise Standards. However, some of the rules use ' L_{eq} ', ' L_{Amax} '¹⁴ or ' L_{max} '¹⁵. The sound level measurement unit ' L_{dn} ' is used in Appendix I: Acoustic Insulation as a sound level for the Waikato Regional Airport and Te Kowhai Airpark.

132. The sound level measurements used in the Proposed Plan are not defined or explained. Rather, the rules state that noise levels should be determined using "methods consistent with NZ Standards", or "in accordance with NZS", or "in accordance with the requirements of NZS 6801:2008 Acoustics – Measurement of Environmental Sound and NZS 6802: 2008

¹³ The 'A' refers to use of the A-weighting standard, which is a standard weighting of audible frequencies, used to represent the response of the human ear to loudness. Where the equivalent continuous sound level ' L_{eq} ' has been measured using this standard, the term is properly known as ' L_{Aeq} '.

¹⁴ We understand L_{Amax} and L_{AFmax} are often used interchangeably. L_{Amax} is the A-weighted, maximum, sound level. L_{AFmax} is the A-weighted, fast time-constant, maximum, sound level. This means that the measurement instrument is set to 'Fast' and responds quickly to changes in the noise level. We understand that F is sometimes omitted from notations when describing an L_{max} , but that an LAF measurement would be applied to measure a noise level identified as L_{Amax} .

¹⁵ The NZS 6802:2008 states that ' L_{max} ' is an acceptable typed expression for ' $L_{AF(max)}$ '.

Acoustic – Environmental noise”. Those NZ Standards for noise include explanations of the terms ‘L_{Aeq}’ and ‘L_{AF(max)}’. The Definitions List definitions for these noise levels have been taken from, and are consistent with, NZS 6801:2008 Acoustics – Measurement of Environmental Sound.

133. The National Planning Standards include Standard 15: Noise and Vibration Metrics Standard. Mandatory direction 1 of that Standard states that:

“Any plan rule to manage noise emissions must be in accordance with the mandatory noise measurement methods and symbols in the applicable New Zealand Standards incorporated by reference into the planning standards and listed below....”

134. To be consistent with the NZ Standards for noise and the Planning Standards (Standards 14 Definitions and 15 Noise and Vibration Metrics Standard), I recommend that the Proposed Plan adopts a consistent approach and uses L_{Aeq} and L_{AF(max)} in all relevant instances. It would also be useful to include the Definitions Standard definition of ‘L_{dn}’, since that measurement unit is used in Appendix 1.

6.18.3 Recommendations

135. I recommend that the terms ‘L_{Aeq}’, ‘L_{AF(max)}’ and ‘L_{dn}’ from the Definitions List are included in Chapter 13 of the Plan.

6.18.4 Recommended amendments

136. The following amendments are recommended:

L _{Aeq}	has the same meaning as ‘time-average A-weighted sound pressure level’ in New Zealand Standard 6801:2008 Acoustics - Measurement of Environmental Sound.
L _{AF(max)}	has the same meaning as the ‘maximum A-frequency weighted, F-time weighted sound pressure level’ in New Zealand Standard 6801:2008 Acoustics – Measurement of Environmental Sound.
L _{dn}	has the same meaning as the ‘Day night level, or day-night average sound level’ in New Zealand Standard 6801:2008 Acoustics – Measurement of Environmental Sound.

6.18.5 Consequential amendments

137. Rules 16.2.1.1, 17.2.1.1, 18.2.1.1, 19.2.1.1, 20.2.3.1, 21.2.3.1, 21.2.3.2, 22.2.1.1, 23.2.1.1, 24.2.1, 25.2.1.1, 28.2.1.2 use a measurement of (L_{Amax}). To be consistent with the Planning Standards this should refer to L_{AF(max)}. Table 8: Noise limits for ventilation systems in Appendix 1: Acoustic Insulation should refer to L_{Aeq} not L_{eq}. I note that the rules in relation to the Hampton Downs Zone use the outdated NZS6801.1991. This reflects a resource consent dated 2006. I also note that at paragraph 63, page 208, Ms Major, the section 42A report writer for Hearing 13 on the Hampton Downs Motorsport Zone recommends adopting L_{Aeq} measurements under the NZS 6801 and 6802: 2008 standards.

6.19 'land'

6.19.1 Introduction

138. The following term is relevant to my analysis:

land (Planning Standards)	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px;"> <p>(a) includes land covered by water and the airspace above land; and</p> <p>(b) in a national environmental standard dealing with a regional council function under section 30 or a regional rule, does not include the bed of a lake or river; and</p> <p>(c) in a national environmental standard dealing with a territorial authority function under section 31 or a district rule, includes the surface of water in a lake or river.</p> </div>
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6.19.2 Analysis

139. The definition of 'land' in the Definitions List adopts the RMA definition of that term. The term 'land' is not defined in the Proposed Plan, although it is used frequently. The term is used in the same context as set out in the RMA and Definitions Standard.

6.19.3 Recommendations

140. I recommend that the term 'land' from the Definitions List is included in Chapter 13 of the Plan.

6.19.4 Recommended amendments

141. The following amendments are recommended:

land	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px;"> <p>(a) includes land covered by water and the airspace above land; and</p> <p>(b) in a national environmental standard dealing with a regional council function under section 30 or a regional rule, does not include the bed of a lake or river; and</p> <p>(c) in a national environmental standard dealing with a territorial authority function under section 31 or a district rule, includes the surface of water in a lake or river.</p> </div>
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6.19.5 Consequential amendments

142. No consequential amendments are required.

6.20 'land disturbance'

6.20.1 Introduction

I43. The following term is relevant to my analysis:

land disturbance (Planning Standards)	means alteration or disturbance of land, (or any matter constituting the land including, soil, clay, sand and rock), that does not permanently alter the profile, contour or height of the land.
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6.20.2 Analysis

I44. The term 'land disturbance' is not used in the Proposed Plan, although a related term is used - 'soil disturbance' - in those rules which relate to activities within the dripline of notable trees (Rules 16.2.6.3, 17.2.6.3, 18.2.6.3, 22.5.3, 23.2.5.3, 24.2.6.3, and 25.6.3). The term 'soil disturbance' is not defined. Those rules state:

"No excavation, compaction, sealing or soil disturbance and placement of fill material, except for the sealing of an existing road or footpath".

I45. The term 'soil disturbance' is used in the same context as 'land disturbance'. The rules will need amending to replace 'soil disturbance' with 'land disturbance'.

I46. The term 'disturbance' is used in 3.5.4 Policy – Protecting the natural character of wetlands, and lakes and rivers and their margins, in clause (ii), which refers to:

'minimising to the extent practicable, indigenous vegetation clearance and modification (including earthworks, disturbance and structures);

It is not clear to me whether this clause refers to 'land disturbance', or 'disturbance' in a more general sense.

I47. The other use of 'disturbance' is in the definition of 'ancillary rural earthworks' / 'rural ancillary earthworks', which refers to 'any earthworks or disturbance of soil'. I consider that 'disturbance of soil' is used in a similar context to 'land disturbance', and it would be appropriate to modify the definition to refer to 'land disturbance'. I note that the definition of ancillary rural earthworks will also need to be modified to refer to the Planning Standards definitions of 'earthworks' and 'cultivation'. This is picked up in the discussion on 'cultivation' at section 8.1.6 of this report.

6.20.3 Recommendations

I48. I recommend that the term 'land disturbance' from the Definitions List is adopted.

6.20.4 Recommended amendments

I49. The following amendments are recommended:

land disturbance	means alteration or disturbance of land, (or any matter constituting the land including, soil, clay, sand and rock), that does not permanently alter the profile, contour or height of the land.
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6.20.5 Consequential amendments

I50. No consequential amendments are required (other than to the definition of ancillary rural earthworks/rural ancillary earthworks discussed above).

6.21 'natural hazard'

6.21.1 Introduction

151. The following term is relevant to my analysis:

natural hazard (Planning Standards)	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <p>means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment.</p>
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6.21.2 Analysis

152. The definition of 'natural hazard' in the Definitions List adopts the RMA definition of that term. It is not defined in Chapter 13.
153. The term 'natural hazard' is used in rules relating to subdivision (Rules 16.4.7, 22.4.2, and 24.4.5) and in the introductory chapter of the Proposed Plan. The term is used in the same context as in the RMA and the Definitions Standard.

6.21.3 Recommendations

154. I recommend that the term 'natural hazard', as defined in the Definitions List, is adopted in Chapter 13: Definitions.

6.21.4 Recommended amendments

155. The following amendments are recommended:

<u>natural hazard</u>	<p><u>has the same meaning as in section 2 of the RMA (as set out in the box below)</u></p> <p><u>means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment.</u></p>
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6.21.5 Consequential amendments

156. No consequential amendments are required.

6.22 ‘network utility operator’

6.22.1 Introduction

157. The following terms are relevant to my analysis:

Network utility operator (Proposed Plan)	Has the same meaning as in s166 of the Resource Management Act 1991.
network utility operator (Planning Standards)	<p>has the same meaning as in s166 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px;"> <p>means a person who—</p> <ul style="list-style-type: none"> (a) undertakes or proposes to undertake the distribution or transmission by pipeline of (b) operates or proposes to operate a network for the purpose of— <ul style="list-style-type: none"> (i) telecommunication as defined in section 5 of the Telecommunications Act 2001; or (ii) radio communication as defined in section 2(1) of the Radio Communications Act 1989; or (c) is an electricity operator or electricity distributor as defined in section 2 of the Electricity Act 1992 for the purpose of line function services as defined in that section; or (d) undertakes or proposes to undertake the distribution of water for supply (including irrigation); or (e) undertakes or proposes to undertake a drainage or sewerage system; or (f) constructs, operates, or proposes to construct or operate, a road or railway line; or (g) is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or (h) is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or (i) undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act,— <p>and the words network utility operation have a corresponding meaning.</p> </div>

6.22.2 Analysis

158. The definition in the Definitions List is the same as the definition in the Proposed Plan. Both definitions adopt ‘network utility operator’ from section 166 of the RMA.

6.22.3 Recommendations

159. I recommend that the term ‘network utility operator’ is retained, but amended to reflect the drafting conventions in the Definitions Standard.

6.22.4 Recommended amendments

160. The following amendments are recommended:

network utility operator	<p>Has the same meaning as in s166 of the Resource Management Act 1991.</p> <p><u>has the same meaning as in s166 of the RMA (as set out in the box below)</u></p> <div style="border: 1px solid black; padding: 10px;"> <p><u>means a person who—</u></p> <ul style="list-style-type: none"> <u>(a) undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or</u> <u>(b) operates or proposes to operate a network for the purpose of—</u> <ul style="list-style-type: none"> <u>(i) telecommunication as defined in section 5 of the Telecommunications Act 2001; or</u> <u>(ii) radio communication as defined in section 2(1) of the Radio Communications Act 1989; or</u> <u>(c) is an electricity operator or electricity distributor as defined in section 2 of the Electricity Act 1992 for the purpose of line function services as defined in that section; or</u> <u>(d) undertakes or proposes to undertake the distribution of water for supply (including irrigation); or</u> <u>(e) undertakes or proposes to undertake a drainage or sewerage system; or</u> <u>(f) constructs, operates, or proposes to construct or operate, a road or railway line; or</u> <u>(g) is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or</u> <u>(h) is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or</u> <u>(i) undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act,—</u> <p><u>and the words network utility operation have a corresponding meaning.</u></p> </div>
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6.22.5 Consequential amendments

161. None.

6.23 'noise'

6.23.1 Introduction

162. The following terms are relevant to my analysis:

Farming noise (Proposed Plan)	Means noise generated by agricultural vehicles, any aircraft used for aerial spraying, agricultural machinery or equipment and farm animals, including farm dogs. It does not include bird scaring devices and frost fans.
noise (Planning Standards)	has the same meaning as in section 2 of the RMA (as set out in the box below) <div>includes vibration.</div>

6.23.2 Analysis

163. The term in the Definitions List adopts the definition of ‘noise’ from the RMA.
164. ‘Noise’ is not defined in the Proposed Plan. However, there is a definition of ‘farming noise’ in the Proposed Plan, as set out above.
165. The term ‘noise’ is used extensively in the policies and rules in the Proposed Plan. Its use is generally consistent with the definition of ‘noise’ in the Definitions List. I note however, that in some policies and rules, ‘vibration’ is listed as a separate effect from noise.¹⁶ The definition of noise includes vibration. This means that there is not always a need to refer to vibration as a separate effect. However, specific recognition of the term vibration may be appropriate where the effects of vibration are specifically discussed.¹⁷
166. My review of the use of the term ‘noise’ identified that in every zone, the Proposed Plan regulates noise generally, and also ‘construction noise’. ‘Farming noise’ is regulated as a separate category of noise in the Rural, Country Living, Village and Rangitahi Peninsula Zones.
167. I recommend that the definition of noise, as defined in the Definitions List, is adopted. The definition of ‘farming noise’ has been assigned to the Rural Zone Hearing (21A) for consideration. I note that if a definition of farming noise is adopted, it must be consistent with the definition of noise in the Definitions List, as it will essentially form a sub-category of that definition.

6.23.3 Recommendations

168. I recommend that the term ‘noise’ from the Definitions List is included in Chapter 13 of the Proposed Plan.

6.23.4 Recommended amendments

169. The following amendments are recommended:

noise	has the same meaning as in section 2 of the RMA (as set out in the box below) <div>includes vibration.</div>
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¹⁶ Policies 4.1.2, 4.2.23, 4.3.12, 5.3.15, Rules 14.12.2, 16.5.7.1

¹⁷ Policy 5.3.15, Rules 14.12.2, 16.5.7.1

6.23.5 Consequential amendments

170. If a definition of farming noise is recommended to be adopted following the Rural Zone hearing, that definition must be consistent (as a sub-definition) with the definition of ‘noise’ in the Definitions List.

6.24 ‘noise rating level’

6.24.1 Introduction

171. The following term is relevant to my analysis:

noise rating level (Planning Standards)	means a derived noise level used for comparison with a noise limit.
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6.24.2 Analysis

172. The term ‘noise level’ is used in a number of rules in the Proposed Plan, including 16.5.7. Noise and Vibration – North Island Main Trunk Line (NIMT), 26.2.1 Noise – Motorsport and Recreation Activity, 26.2.2 Noise – Business and Industrial Area Precinct B and Minor Race Track Area – Precinct C and in Appendix 1: Acoustic Insulation. This term is used in the same context as the Definitions Standard term ‘noise rating level’ and therefore the Definitions Standard term should be used and adopted.

6.24.3 Recommendations

173. I recommend that the term ‘noise rating level’ from the Definitions List is included in Chapter 13 of the Proposed Plan.

6.24.4 Recommended amendments

174. The following amendments are recommended:

noise rating level	means a derived noise level used for comparison with a noise limit.
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6.24.5 Consequential amendments

175. References to ‘noise level’ in the rules identified above should be replaced with the term ‘noise rating level’, with the exception of the introductory paragraph in Appendix 1: Section 3: Te Kowhai Airpark, where ‘high noise levels’ is used as a more general description of an effect.

6.25 ‘official sign’

6.25.1 Introduction

176. The following term is relevant to my analysis:

official sign (Planning Standards)	means all signs required or provided for under any statute or regulation, or are otherwise related to aspects of public safety.
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6.25.2 Analysis

177. The Proposed Plan does not use the term ‘official sign’. A related term is used - ‘public information signs’, and more specifically, ‘a public information sign erected by a government agency’ (see Rule 16.2.7.1 Signs – General. This rule is repeated in the other zones), but the term ‘public information sign’ is not defined in Chapter 13.
178. I consider that the term ‘public information sign’ in the Proposed Plan has, in some respects, a broader application than the Definitions Standard definition of ‘official sign’, as it relates to any ‘information’ for the public (not just safety information). In other aspects, ‘public information sign’ could have a narrower interpretation, as it does not provide, for example, for health and safety signs required to be provided by non-government agencies, such as oil companies. I note that the definition of ‘road network activities’ includes reference to a number of types of sign which would fall within the definition of an ‘official sign’, but these references are quite specific.
179. Having reflected on the use of signage terminology in the Proposed Plan, I do not consider that the definition of ‘official sign’ is used in the same context as ‘public information sign’ in the Proposed Plan. Therefore, I do not consider that the definition from the Planning Standards should be adopted.

6.25.3 Recommendations

180. I recommend that the term ‘official sign’ is not included in Chapter 13 of the Proposed Plan.

6.26 ‘quarry’

6.26.1 Introduction

181. The following terms are relevant to my analysis:

Farm quarry (Proposed Plan)	Means the extraction of minerals taken for use ancillary to farming and horticulture, and only used within the property of extraction. No extracted material (including any aggregate) shall be exported or removed from the property of origin and there shall be no retail or other sales of such material. For example, farm quarries include the extraction of material for farm and forestry tracks, access ways and hardstand areas on the property of origin.
quarry (Planning Standards)	means a location or area used for the permanent removal and extraction of aggregates (clay, silt, rock or sand). It includes the area of aggregate resource and surrounding land associated with the operation of a quarry and which is used for <i>quarrying activities</i> .

6.26.2 Analysis

182. The term ‘quarry’ appears in the Proposed Plan in 5.3.13 Policy – Waste management activities, in reference to the ‘Huntly Quarry’ in Rule 14.12.1 – Permitted activities, in the definition of ‘farm quarry’ and in the schedule of Designations. I therefore consider that the definition of ‘quarry’ from the Definitions List should be adopted. This will require, as a consequential amendment, adoption of the term ‘quarrying activities’ (see below).

183. Adopting the Definitions List definition of ‘quarry’ will also require consequential amendments to the definition of ‘farm quarry’ and to the rule which relates to farm quarries (22.2.3.1 Earthworks – General), to ensure that it is consistent with the Definitions List definition. The definition of farm quarry adopts the term ‘quarry’ as a verb, whereas the Definitions List uses it as a noun.

6.26.3 Recommendations

184. I recommend that the term ‘quarry’ from the Definitions List is included in Chapter 13 of the Plan.

6.26.4 Recommended amendments

185. The following amendments are recommended:

quarry	means a location or area used for the permanent removal and extraction of aggregates (clay, silt, rock or sand). It includes the area of aggregate resource and surrounding land associated with the operation of a quarry and which is used for quarrying activities.
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6.26.5 Consequential amendments

186. Consequential amendments will be required to the definition of ‘farm quarry’, so that it is consistent with the definition of quarry. I recommend that this definition is reworded as follows:

Farm quarry	Means a quarry the extraction of minerals taken for use ancillary to farming and horticulture, and only used within the property of extraction. A farm quarry is not an extractive activity. No extracted material (including any aggregate) shall be exported or removed from the property of origin and there shall be no retail or other sales of such material. For example, farm quarries include the extraction of material for farm and forestry tracks, access ways and hardstand areas on the property of origin
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187. Consequential amendments will be required to Rule 22.2.3.1 Earthworks – General to pick up the exclusions in the Proposed Plan definition for farm quarries in relation to export or removal from the property of origin, and in relation to retail or sales. Amendments will also be required to ensure that the rule picks up the activities contemplated by the Proposed Plan definition, as well as the location.

6.27 ‘quarrying activities’

6.27.1 Introduction

188. The following term is relevant to my analysis:

quarrying activities (Planning Standards)	means the extraction, processing (including crushing, screening, washing, and blending), transport, storage, sale and recycling of aggregates (clay, silt, rock, sand), the deposition of overburden material, rehabilitation, landscaping and
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	cleanfilling of the quarry, and the use of land and <i>accessory buildings</i> for offices, workshops and car parking areas associated with the operation of the <i>quarry</i> .
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6.27.2 Analysis

189. The term ‘quarrying activities’ is not used in the Proposed Plan, although all of the activities contemplated by that definition are included within the proposed definition of ‘extractive activity’ (as recommended to be amended). However, the term is used within other Definitions List terms which we recommend to adopt - in particular the definition of ‘quarry’.
190. We consider that the Definitions List definition of ‘primary production’ (which includes ‘quarrying activities’) is used in the same context as the term ‘productive rural activities’ in the Proposed Plan (see our rebuttal evidence at 4.1.11). This definition will be given further consideration in the Rural Zone hearing. If the term ‘primary production’ is adopted into the Plan, this will also require that the definition of ‘quarrying activities’ is introduced as a consequential amendment.

6.27.3 Recommendations

191. I recommend adopting the term ‘quarrying activities’ as a consequential amendment of introducing the Definitions List term ‘quarry’ into Chapter 13 of the Plan.

6.27.4 Recommended amendments

192. The following amendments are recommended:

quarrying activities	<u>means the extraction, processing (including crushing, screening, washing, and blending), transport, storage, sale and recycling of aggregates (clay, silt, rock, sand), the deposition of overburden material, rehabilitation, landscaping and cleanfilling of the quarry, and the use of land and accessory buildings for offices, workshops and car parking areas associated with the operation of the quarry.</u>
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6.27.5 Consequential amendments

193. No consequential amendments are required.

6.28 ‘road’

6.28.1 Introduction

194. The following terms are relevant to my analysis:

<p>road (Planning Standards)</p>	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>has the same meaning as in section 315 of the Local Government Act 1974; and includes a motorway as defined in section 2(1) of the Government Roding Powers Act 1989 Section 315 of the Local Government Act 1974 road definition: road means the whole of any land which is within a district, and which—</p> <ul style="list-style-type: none"> (a) immediately before the commencement of this Part was a road or street or public highway; or (b) immediately before the inclusion of any area in the district was a public highway within that area; or (c) is laid out by the council as a road or street after the commencement of this Part; or (d) is vested in the council for the purpose of a road as shown on a deposited survey plan; or (e) is vested in the council as a road or street pursuant to any other enactment;— <p>and includes—</p> <ul style="list-style-type: none"> (f) except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988: (g) every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;— <p>but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roding Powers Act 1989</p> <p>Section 2(1) of the Government Roding Powers Act 1989 motorway definition motorway—</p> <ul style="list-style-type: none"> (a) means a motorway declared as such by the Governor-General in Council under section 138 of the Public Works Act 1981 or under section 71 of this Act; and (b) includes all bridges, drains, culverts, or other structures or works forming part of any motorway so declared; but (c) does not include any local road, access way, or service lane (or the supports of any such road, way, or lane) that crosses over or under a motorway on a different level. </div>
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6.28.2 Analysis

195. The definition of 'road' in the Definitions List adopts the RMA definition of that term. It is not defined in Chapter 13, but appears frequently in the Proposed Plan. Due to the frequency of use, I have not reviewed every instance in which this term appears, but consider that the term is used in the same context as the Definition Standard and RMA.

6.28.3 Recommendations

196. I recommend that the term 'road' from the Definitions List is included in Chapter 13 of the Proposed Plan.

6.28.4 Recommended amendments

197. The following amendments are recommended:

road	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>has the same meaning as in section 315 of the Local Government Act 1974; and includes a motorway as defined in section 2(1) of the Government Roding Powers Act 1989 Section 315 of the Local Government Act 1974 road definition:</p> <p>road means the whole of any land which is within a district, and which—</p> <ul style="list-style-type: none"> (a) immediately before the commencement of this Part was a road or street or public highway; or (b) immediately before the inclusion of any area in the district was a public highway within that area; or (c) is laid out by the council as a road or street after the commencement of this Part; or (d) is vested in the council for the purpose of a road as shown on a deposited survey plan; or (e) is vested in the council as a road or street pursuant to any other enactment;— <p>and includes—</p> <ul style="list-style-type: none"> (f) except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988; (g) every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;— <p>but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roding Powers Act 1989</p> <p>Section 2(1) of the Government Roding Powers Act 1989 motorway definition motorway—</p> <ul style="list-style-type: none"> (a) means a motorway declared as such by the Governor-General in Council under section 138 of the Public Works Act 1981 or under section 71 of this Act; and (b) includes all bridges, drains, culverts, or other structures or works forming part of any motorway so declared; but (c) does not include any local road, access way, or service lane (or the supports of any such road, way, or lane) that crosses over or under a motorway on a different level. </div>
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6.28.5 Consequential amendments

198. No consequential amendments have been identified at this stage.

6.29 'sewage'

6.29.1 Introduction

199. The following term is relevant to my analysis:

sewage (Planning Standards)	means human excrement and urine.
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6.29.2 Analysis

200. The term 'sewage' is not used in the Proposed Plan¹⁸. However, the definition will be adopted as a consequential amendment of adopting the Definitions List definition of 'wastewater' - see section 6.34.

6.29.3 Recommendations

201. I recommend that the term 'sewage' from the Definitions List is included in Chapter 13 of the Plan.

6.29.4 Recommended amendments

202. The following amendments are recommended:

sewage	means human excrement and urine.
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6.29.5 Consequential amendments

203. No consequential amendments are required.

6.30 'stormwater'

6.30.1 Introduction

204. The following term is relevant to my analysis:

stormwater (Planning Standards)	means run-off that has been intercepted, channelled, diverted, intensified or accelerated by human modification of a land surface, or run-off from the surface of any structure, as a result of precipitation and includes any contaminants contained within.
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¹⁸ The related term 'sewerage' is used in just two instances, in the definition of 'infrastructure', in reference to a 'drainage or sewerage system' and in the appendix of Significant Natural Areas in relation to urban allotments.

6.30.2 Analysis

205. The term 'stormwater' is used frequently in the Proposed Plan, including in a large number of rules (often as a matter of discretion or in relation to standards for permitted activities). A key rule is 14.11.1 Permitted Activities (PI) Stormwater systems for new development or subdivision. I consider that the term is used in the same context in the Proposed Plan as in the Definitions List.

6.30.3 Recommendations

206. I recommend that the term 'stormwater' from the Definitions List is included in Chapter 13 of the Proposed Plan.

6.30.4 Recommended amendments

207. The following amendments are recommended:

stormwater	means run-off that has been intercepted, channelled, diverted, intensified or accelerated by human modification of a land surface, or run-off from the surface of any structure, as a result of precipitation and includes any contaminants contained within.
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6.30.5 Consequential amendments

208. No consequential amendments are required.

6.31 'subdivision'

6.31.1 Introduction

209. The following terms are relevant to my analysis:

Subdivision (Proposed Plan)	Has the meaning in section 218 of the Resource Management Act 1991.
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subdivision (Planning Standards)	<p>has the same meaning as “subdivision of land” in section 218 of the RMA (as set out in the box below)</p> <div data-bbox="456 288 1398 958" style="border: 1px solid black; padding: 10px;"> <p>means—</p> <ul style="list-style-type: none"> (a) the division of an allotment— <ul style="list-style-type: none"> (i) by an application to the Registrar-General of Land for the issue of a separate certificate of title for any part of the allotment; or (ii) by the disposition by way of sale or offer for sale of the fee simple to part of the allotment; or (iii) by a lease of part of the allotment which, including renewals, is or could be for a term of more than 35 years; or (iv) by the grant of a company lease or cross lease in respect of any part of the allotment; or (v) by the deposit of a unit plan, or an application to the Registrar-General of Land for the issue of a separate certificate of title for any part of a unit on a unit plan; or (b) an application to the Registrar-General of Land for the issue of a separate certificate of title in circumstances where the issue of that certificate of title is prohibited by section 226. </div>
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6.31.2 Analysis

210. The term in the Definitions List is the same as the definition in the Proposed Plan. Both definitions adopt ‘subdivision’ from section 218 of the RMA.

6.31.3 Recommendations

211. I recommend that the term ‘subdivision’ is retained, but amended to reflect the drafting conventions in the Definitions Standard, and updated as published in the amendments to the Planning Standards.

6.31.4 Recommended amendments

212. The following amendments are recommended:

subdivision	<p>Has the meaning in section 218 of the Resource Management Act 1991. <u>has the same meaning as “subdivision of land” in section 218 of the RMA (as set out in the box below)</u></p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p><u>means—</u></p> <p>(a) <u>the division of an allotment—</u></p> <ul style="list-style-type: none"> (i) <u>by an application to the Registrar-General of Land for the issue of a separate certificate of title for any part of the allotment; or</u> (ii) <u>by the disposition by way of sale or offer for sale of the fee simple to part of the allotment; or</u> (iii) <u>by a lease of part of the allotment which, including renewals, is or could be for a term of more than 35 years; or</u> (iv) <u>by the grant of a company lease or cross lease in respect of any part of the allotment; or</u> (v) <u>by the deposit of a unit plan, or an application to the Registrar-General of Land for the issue of a separate certificate of title for any part of a unit on a unit plan; or</u> <p>(b) <u>an application to the Registrar-General of Land for the issue of a separate certificate of title in circumstances where the issue of that certificate of title is prohibited by section 226.</u></p> </div>
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6.31.5 Consequential amendments

213. Consequential amendments will be required to the rural subdivision rules to align with the definitions of allotment and subdivision from the Definitions List. The rules will need to be amended so that they recognise that subdivision refers to the subdivision of *land* for which a record of title was issued, and which results in more than one additional allotment, rather than the subdivision of a *record of title*, which results in an additional allotment. This amendment will be addressed in the s42A report for Rural Subdivision.

6.32 ‘sustainable management’

6.32.1 Introduction

214. The following term is relevant to my analysis:

sustainable management (Planning Standards)	<p>has the same meaning as in section 5 of the RMA (as set out in the box below)</p> <div> <p>means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—</p> <ul style="list-style-type: none"> (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment. </div>
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6.32.2 Analysis

215. The definition of ‘sustainable management’ in the Definitions List adopts the RMA definition of that term. The term is not defined in Chapter 13 but appears in Chapter 1 of the Proposed Plan, although Ms Donaldson (the author of the s42A report Chapter 1 Introduction) has recommended amendments to that Chapter that would remove all but one of those references. If those amendments are adopted, I do not consider that it is necessary to define the term ‘sustainable management’ in Chapter 13: Definitions.

6.32.3 Recommendations

216. I recommend that the term ‘sustainable management’ from the Definitions List is not adopted, if the proposed amendments to Chapter 1, as recommended by Ms Donaldson, are adopted.

6.32.4 Consequential amendments

217. No consequential amendments are required.

6.33 ‘territorial authority’

6.33.1 Introduction

218. The following term is relevant to my analysis:

territorial authority (Planning Standards)	<p>has the same meaning as in section 5 of the Local Government Act 2002 (as set out in the box below)</p> <div> <p>means a city council or a district council named in Part 2 of Schedule 2.</p> </div>
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6.33.2 Analysis

219. The definition of ‘territorial authority’ in the Definitions List adopts the RMA definition of that term. The term is not defined in Chapter 13, but is used in a limited number of instances in Chapters 1 and 2, in relation to Iwi Management Plans. Ms Donaldson (the author of the Chapter 1 Introduction s42A report) has recommended amendments to Chapter 1 that would

remove most of those references. I am also aware that amendments may be proposed to Chapter 2 as a result of further discussions between submitters and Council staff following the minute issued by the Panel on the 20 November 2019. If amendments which result in removal of the term are adopted, I do not consider that it is necessary to define the term 'territorial authority' in Chapter 13: Definitions.

6.33.3 Recommendations

220. I recommend that the term 'territorial authority' from the Definitions List is not adopted, if proposed amendments to Chapter 1 and 2 result in removal of that term from the Proposed Plan.

6.33.4 Consequential amendments

221. No consequential amendments are required.

6.34 'wastewater'

6.34.1 Introduction

222. The following term is relevant to my analysis:

wastewater (Planning Standards)	means any combination of two or more the following wastes: sewage, greywater or industrial and trade waste.
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6.34.2 Analysis

223. The term 'wastewater' is used in a large number of instances in the Proposed Plan, including in a number of activity, building and subdivision rules. In some contexts, it is used within the terms 'public wastewater' (see Rule 16.4.4), 'wastewater network' (see Rule 17.5.2) or 'wastewater treatment facility/plant' (see Rules 14.11.3, 14.11.4). The term is not defined in Chapter 13. Adopting this definition will also require adopting the sub-definitions of 'sewage', 'greywater' and 'industrial and trade waste'.

6.34.3 Recommendations

224. I recommend that the term 'wastewater' from the Definitions List is included in Chapter 13 of the Plan.

6.34.4 Recommended amendments

225. The following amendments are recommended:

<u>wastewater</u>	<u>means any combination of two or more the following wastes: sewage, greywater or industrial and trade waste.</u>
<u>greywater</u>	<u>means liquid waste from domestic sources including sinks, basins, baths, showers and similar fixtures, but does not include sewage, or industrial and trade waste.</u>

industrial and trade waste	means liquid waste, with or without matter in suspension, from the receipt, manufacture or processing of materials as part of a commercial, industrial or trade process, but excludes sewage and greywater.
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6.34.5 Consequential amendments

226. The sub-definitions of ‘sewage’, ‘greywater’ and ‘industrial and trade waste’ should also be adopted into the Plan.

7 Recent amendments to the Planning Standards Definitions

227. In November 2019 MfE issued minor changes to a number of the definitions in the Definitions Standard. There are minor changes to the following definitions which will be adopted into the Proposed Plan:

RMA definitions
allotment
historic heritage
network utility operator
road
Non-RMA definitions
bore
building
cleanfill area
cultivation
drain
earthworks
educational facility
gross floor area
ground level
height in relation to boundary
home business
landfill
net site area*
notional boundary
operational need
sign
site
wastewater

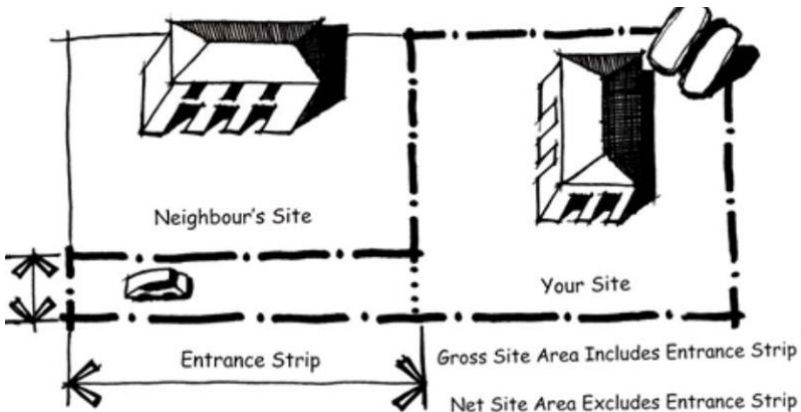
*material change

228. Only one of these minor changes is considered a material change. We address this material change and the required consequential amendments in section 7.1.1 below.
229. The other minor amendments update certain definitions to correctly reflect their RMA definition, and generally tidy up punctuation, hyperlinks and the bracketing of alpha-numerics.

These changes have been picked up in 'Appendix I: Recommended amendments to Chapter 13', but do not otherwise affect the analysis of our s42A report.

7.1.1 'net site area'

230. The minor changes to the Definitions Standard introduced a material change to the definition of 'net site area'. To illustrate this material change, we include the following table, which sets out the original definition from the Definitions List and the updated definition. We also include the Proposed Plan definition for completeness.

net site area (original Definitions List published April 2019)	means the total area of the site, but excludes: a. any part of the site that provides legal access to another site; b. any part of a rear site that provides legal access to that site; c. any part of the site used for access to the site; d. any part of the site subject to a designation that may be taken or acquired under the Public Works Act 1981.
net site area (amended Definitions List November 2019)	means the total area of the site, but excludes: (a) any part of the site that provides legal access to another site; (b) any part of a rear site that provides legal access to that site; (c) any part of the site subject to a designation that may be taken or acquired under the Public Works Act 1981.
Net site area (Proposed Plan)	means the area of a site, or the area of an allotment in the context of subdivision, excluding: (a) any access or access leg less than 6 metres wide; and (b) any land subject to a right of way to any other allotment. 

231. The definition of 'net site area' has been amended (in the Definitions List) to delete a clause (former clause 'c.'). Former clause 'c.' excluded any part of a site used for access to the site from the calculation of a net site area. This amendment means that paragraph 212 of the s42A report is no longer correct, and our recommended wording to address the required consequential amendments at paragraph 224 of that report should also be updated.
232. At paragraph 224 of the s42A report we note the Proposed Plan definition of net site area contemplates that all accessways up to 6m wide are excluded from the net site area calculation. The Planning Standards definition now includes accessways unless they provide legal access to another site or the legal access for a rear site (regardless of their width).

233. To carry the exclusion in the Proposed Plan over, the rules that relate to net site area will need to be amended to clarify that the calculations for net site area only include any areas of an accessway that are greater than 6m in width.
234. Our revised recommendation is that a statement is included within the relevant rules identifying the following exclusion:

“For the purposes of the calculation of a net site area, any access to a site of up to a maximum of 6m wide is excluded from that calculation.”

8 Consequential amendments required as a result of adopting the Planning Standards Definitions – update on those definitions considered in the Section 42A Report

235. In this section, we record any further consequential amendments that came to light during the exchange of evidence or through discussions at the hearing.

8.1.1 ‘ancillary activity’

236. This definition was recommended for adoption as a consequential amendment of adopting other Planning Standards definitions that use this term. We reviewed the use of the term in the Proposed Plan. The term ‘an activity that is ancillary to’ is used in Rule 22.6.2 Permitted Activities – Huntly Power Station. PI (a)(v). A consequential amendment is required to address this.

8.1.2 Consequential amendments

237. If Rule 22.6.2 is retained as proposed, the text should be redrafted to read:

(v) an **ancillary** activity **that is ancillary** to those listed in (i) – (iv) above.

8.1.3 ‘annual exceedance probability’

238. In paragraph 1189 of our s42A report we recommended an amendment to refer to ‘or AEP’ in the definition of ‘annual exceedance probability’. However, this recommendation is inconsistent with the Planning Standards, Introduction and General Provisions Standard 6, which requires that all abbreviations be located in the Abbreviations chapter, using Table 7 (see Clause 12 of that standard).

8.1.4 Recommendations

239. We recommend that the abbreviation for AEP is included in a stand-alone Abbreviations chapter.

8.1.5 Recommended amendments

240. The following amendments are recommended:

Annual exceedance probability or AEP	Means the probability of an event occurring in any one year. The probability is expressed as a percentage and generally refers to storm events of a particular magnitude occurring in any given year. For example, a large flood which may be calculated to have a 1% chance to occur in any one year, is described as 1% AEP.
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8.1.6 'cultivation'

241. The following terms are relevant to this analysis:

Earthworks (Proposed Plan)	Means modification of land surfaces by blading, contouring, ripping, moving, removing, placing or replacing soil or earth, or by excavation, or by cutting or filling operations.
Ancillary rural earthworks (Proposed Plan)	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.
Rural ancillary earthworks (Proposed Plan)	Means the disturbance of soil associated with cultivation, land preparation (including of sediment and erosion control measures), for planting and growing operations and harvesting of agricultural and horticultural crops and forests; and 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, and fencing and sediment control measures.
Vegetation clearance (Proposed Plan)	Includes the modification, burning, cutting, crushing, spraying and removal by physical, mechanical, chemical or other means, of all forms of vegetation, including indigenous, and may include exotic plants. It does not include vegetation clearance relating to routine cultivation or grazing.
Mahinga kai	Garden, cultivation, food-gathering place (http://maoridictionary.co.nz/)
earthworks (Planning Standards)	means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.
cultivation (Planning Standards)	means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock), for the purpose of sowing, growing or harvesting of pasture or crops.

8.1.7 Analysis

242. In the s42A report, we recommended adopting the definition of ‘cultivation’, as a result of adopting the definition of ‘earthworks’ (see section 3.43.6).
243. The term ‘cultivation’ is used in the definitions for ‘ancillary rural earthworks’, ‘rural ancillary earthworks’, ‘vegetation clearance’ and ‘mahinga kai’. The term ‘domestic cultivation’ is used in Rule 14.4.1 Permitted Activities (National Grid) P3 – Earthworks activities within the National Grid Yard. The term is also used in describing the values associated with a Maaori Site of Significance and a Maaori Area of Significance.
244. As a result of adopting the Definitions List definition of cultivation, consequential amendments will be required.
245. The term ‘domestic cultivation’ in Rule 14.4.1 is inconsistent with the Definitions Standard definition, which refers to activities associated with ‘pasture or crops’, which are not typically ‘domestic’ in scale. We therefore recommend that the term ‘domestic cultivation’ is replaced with the term ‘domestic gardening’.
246. We do not consider that the definition of ‘mahinga kai’ requires amending, nor do the descriptions of individual Maaori sites or areas of significance. The use of the term ‘cultivation’ in this context is consistent with the meaning in the Definitions List.

8.1.8 Consequential amendments

247. Consequential amendments will be required to the definition of ‘rural ancillary earthworks’ or ‘ancillary rural earthworks’, whichever of these two synonymous definitions is retained. When those two definitions are considered in the rural zone hearing, the definition of ‘cultivation’ in the Definitions List also needs to be carefully considered. There are two issues to address: removing the duplication in the definition, but retaining the additional activities contemplated by the proposed definitions. By way of example, the definition of ancillary rural earthworks could be amended to address these issues as follows:

Means any earthworks or **land** disturbance **of soil** associated with:

- (a) cultivation, **or**
- (b)** land preparation (including establishment of sediment and erosion control measures), **for planting and growing operations; or**
- (bc)** harvesting of **agricultural and horticultural crops (farming) and** forests (forestry); **or and**
- (cd)** 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.

248. The term ‘domestic cultivation’ in Rule 14.4.1 should be replaced with the term ‘domestic gardening’.

9 Updated recommendations on non-Planning Standard definitions

249. At the Hearing, the Panel requested that us give further consideration to our recommendations with respect to a number of definitions. Having reviewed those definitions, we set out below our updated recommendations in this section.

9.1.1 'boundary'

250. The Panel asked me to reconsider the definition of 'boundary'. In particular, they asked me to ensure that the recommended term 'flat' was correct, and to consider the requirement for any 'exclusive use area' to be contiguous with the buildings referred to in the definition. They asked what the outcome would be if the exclusive area was not contiguous.

251. I have been advised that the term 'flat' is no longer an up-to-date reference for cross lease property. I understand that Rule 5.5 of the Rules for Cadastral Survey 2010 provides that 'area' is the correct reference for certain non-primary parcels of land, including cross leases. The term 'area' incorporates features such as swimming pools and garden sheds, as well as the principal building on a cross lease property. The correct expression for a parcel of land subject to a cross lease is therefore 'area' not 'flat'. I update my recommendation to refer to the term 'area' when talking about cross lease properties within the definition of boundary.

252. I have given careful consideration to whether the definition of 'boundary' should exclude exclusive use areas that are not contiguous with a principal unit or flat. My recommendation is that the definition should include exclusive use areas regardless of whether they are contiguous with a principal unit or flat. This is different to my original recommendation, but aligns with the scope of the definition of boundary in the Proposed Plan. It is also consistent with the submissions of Waikato District Council, Sharp Planning Solutions and Kāinga Ora, the three submitters on this definition.

Submission point	Submitter	Summary of submission
697.368	Waikato District Council	Amend the definition to refer to the boundary of 'exclusive use areas' with respect to cross-lease titles, rather than the boundary of the 'restrictive covenant.'
695.59	Sharp Planning Solutions Ltd	Amend the definition to be more comprehensive for cross-leases, covering internal boundaries associated with registered exclusive use areas and external boundaries covering the whole of the cross-lease site.
749.31	Housing New Zealand Corporation	Retain the definition as notified.

253. The term 'boundary' is used consistently in the Proposed Plan as a reference point in the daylight admission, building and earthworks setback rules. In the Residential Chapter, these are Rules 16.3.5, 16.3.9.1 and 16.2.4.1.
254. If the definition of 'boundary' includes all exclusive use areas, and accessory units associated with principal units, whether or not they are contiguous, then the daylight admission, building and earthworks setback rules serve to protect those exclusive use areas and buildings. This means that a neighbouring owner would be required to meet the setback requirements from a boundary that includes an accessory unit that is not contiguous with a unit title development, or an exclusive use area that is not contiguous with a flat (area) subject to a cross lease.
255. If the definition of 'boundary' only includes exclusive use areas and accessory units that are contiguous with a flat or unit title, a cross-lessee or unit title owner could carry out earthworks right up to the 'boundary' of a non-contiguous exclusive use area of their co-lessee or neighbouring unit title owner. This could potentially undermine the stability and amenity of their neighbour's property. Buildings could be erected without regard to the daylight admission or building setback rules.
256. Finally, I note that my recommended approach, (i.e. including all exclusive use areas and buildings in cross-lease and unit-title properties within the definition of 'boundary'), is consistent with the treatment of land and buildings contained within a fee simple title.

9.1.2 Recommendation

257. I recommend using the term 'exclusive use area' as the term to describe the boundary of a cross-lease site. I recommend that for unit title properties the definition of boundary refers to the principal unit and any associated units with the principal unit. I recommend removing the previous recommended amendment for exclusive use areas or accessory units to be 'contiguous' with the principal unit from the definition.

9.1.3 Recommended amendment

258. The following amendments are recommended:

Boundary	<p>Means in relation to:</p> <p>(a) a Record of Title - the site boundary;</p> <p>(b) cross-lease titles - the boundary of a flat and any restrictive covenant exclusive use area; contiguous with a flat; and</p> <p>(c) unit titles - the boundary of the principal unit and any associated accessory units associated with the that are contiguous with the principal unit.</p>
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9.1.4 Consequential amendments

259. As set out in our rebuttal evidence, the term boundary is used in different contexts. I recommend that the term is carefully considered by other s42A report writers, to ensure that the 'boundary' is a suitable measuring point, or whether an alternative, such as site, may be better suited to the relevant control.

9.1.5 'Apartment'

260. The Panel asked me to consider whether the recommended definition of 'apartment' reflected the common usage of the term 'apartment'.
261. In the 42A report¹⁹ I considered whether the term 'apartment' referred to a building or a residential unit within a building. I found the term was used in both contexts, but more frequently referred to a building. I recommended that the term be clarified to recognise that it referred to an apartment building. I also recommended that the words 'connected by one or more accessory buildings, such as a garage or carport' be deleted. This was on the basis that the configurations for attachment of residential units within an apartment building are limited - a unit is only likely to be attached to another unit (either directly or via a connecting space like a corridor), or a form of utility building.²⁰ This also resolved an issue with the Planning Standards definition of 'accessory building' which specifies that an accessory building must be detached.
262. I agree that, in everyday language, the term 'apartment' usually refers to an individual residential unit, rather than a building. The definition should be amended to ensure it reflects ordinary language.

9.1.6 Recommendation

263. I recommend that the definition of the term 'apartment' is renamed 'apartment building' to reflect that the definition refers to a building complex made up of individual 'apartments'.

9.1.7 Recommended amendment

264. The following amendment is recommended:

Apartment building	Means a building, or part of a building, that contains three or more attached residential units connected by one or more accessory buildings, such as a garage or carport.
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9.1.8 Consequential amendments

265. The following policies and rules should be amended to refer to apartment building(s) instead of apartment: 4.2.17, 9.1.2, 17.4.1.1, 18.4.2, 26.1.14, 26.1.1.4, and 26.3.4. In Rules 16.1.2, P3, 16.3.7 P1 and P2, and 16.5.2, the phrase 'residential unit in an apartment building' should replace the term 'apartment'.
266. The definition of 'Rangitahi Integrated Development' should also be updated to refer to 'apartment building' instead of 'apartment'.

9.1.9 'Emergency services'

267. The Panel asked me to consider whether this definition refers to the organisations or the activities that they undertake.

¹⁹ Paragraph 454 of the s42A report

²⁰ Paragraph 462 of the s42A report

268. In my view, the definition of ‘emergency services’ refers to the organisations listed, not the activities undertaken by them. The definition of ‘emergency services’ based on the definition from the Civil Defence and Emergency Management Act 2002. That definition simply refers to a list of organisations, and there is no mention of any activities undertaken by those organisations.
269. The definition of ‘emergency services’ is intended to be used to identify the scope of other terms that are proposed for use in the plan, i.e. ‘emergency service facility’ and ‘emergency services training and management activities’. This aligns with an interpretation that refers to the organisations, rather than the activities they carry out.
270. This interpretation means that where the Proposed Plan provides for emergency services activities, it should refer to ‘emergency service activities’, or for example, if part of a broader definition, ensure that the term ‘emergency services’ is used in the context of a list of organisations. This leads on to two points of note in relation to emergency service activities in this planning process.
271. In its submission, FENZ asked for a definition of ‘community activity’ in the Proposed Plan to include the use of land and buildings by emergency services. In the s42A report I recommended deleting the definition of ‘community activity’ and instead adopting the Planning Standards definition of ‘community facility’.²¹ That definition does not include emergency service facilities.
272. The MfE report on submissions on the Planning Standards definitions notes FENZ asked for ‘emergency services’ to be excluded from the Planning Standards definition of ‘community facility’.²² This submission was accepted, and in its report MfE said:²³
- “The buildings used by volunteer-staffed fire and emergency facilities are not readily accessible by general members of the community and are not a community facility.”*
273. The MfE assessment that emergency facilities are not ‘community facilities’ is consistent with the relief sought in the FENZ submission on the Proposed Plan, which seeks specific provision for emergency service facilities across the district.
274. Whether emergency services activities are fully provided for, as sought by FENZ through its submission on the definition of ‘community activity’, is a matter that remains to be resolved. This issue is discussed more broadly in Section 10 of this Report. Section 10 looks at the provision in the Proposed Plan for both activities and the facilities used to carry out those activities.

9.1.10 Recommendation

275. I recommend that if the Proposed Plan is amended, as sought by FENZ, to provide for emergency services activities and facilities, a definition of ‘emergency services’ should be

²¹ Paragraph 910 of the s42A report

²² Ministry for the Environment 2019. *21 Definitions Standard – Recommendations on Submissions Report for the first set of National Planning Standards*. Wellington: Ministry for the Environment, page 72

²³ Ibid, page 73

adopted to clarify the organisations who may carry out and use emergency service activities and facilities. This recommendation is the same as that in the original section 42A report.

9.1.11 Recommended amendment

276. I recommend adopting the definition of ‘emergency services’ recommended in the original section 42A report.

Emergency services	means the New Zealand Police, Fire and Emergency New Zealand, and ambulance services.
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9.1.12 ‘accessible’

277. The Panel questioned the inclusion of the term ‘all’ in the proposed definition of ‘accessible’. They felt it was too absolute.
278. I agree that the term ‘all’ provides an absolute requirement of accessibility. I also note that the term ‘easily’ within the proposed definition is a subjective term.

9.1.13 Recommendation

279. I recommend rewording the definition to exclude subjective and absolute terms.

9.1.14 Recommended amendment

280. The following amendments are recommended:

Accessible	means able to be easily accessed by all has features that allow access by members of the community, including those with sight and mobility impairment.
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9.1.15 ‘Neighbourhood centre’

281. The Panel asked me to look at the use of the subjective term ‘small’ within the definition of ‘neighbourhood centre’.
282. The s42A report recommended the following definition:

Neighbourhood centre	Means a single or small grouping of commercial activities that service the day-to-day needs of the local community. Neighbourhood centres are identified in structure plans or master plans. or on the planning maps.
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283. I agree that the definition of ‘small’ is a subjective term, that could create uncertainty for users of the Plan. A ‘single’ grouping is also open to interpretation. I consider that these words can be removed without changing the intent, especially given that the scale of neighbourhood centres will be identified in structure plans or master plans.

9.1.16 Recommendation

284. I recommend that the definition is amended to remove the subjective and ambiguous terms 'single or small'.

9.1.17 Recommended amendment

285. The following amendments are recommended:

Neighbourhood centre	Means a single or small grouping of commercial activities that service the day-to-day needs of the local community. Neighbourhood centres are identified in structure plans or master plans. or on the planning maps.
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9.1.18 'Indicative road'

286. The Panel asked me to review the wording of the proposed definition of 'Indicative road' to assess whether it could be made less cumbersome.

9.1.19 Recommendation

287. I recommend restructuring this definition to make it clearer. I recommend clarifying that an indicative road is one of two types of roads. It is either a roading route identified on the planning maps, or an alternative roading layout that may be authorised under the RMA that achieves the same roading outcomes as a route identified on the planning maps. This wording ensures that an alternative roading layout remains within the definition of indicative road, and therefore building setback rules (see Rules 16.3.9.1, 22.3.7.1 and 23.3.7.1) remain applicable to that roading route.

9.1.20 Recommended amendment

288. The following amendments are recommended:

Indicative road	Means either: (a) a connective roading route that is identified on the planning maps as an indicative road; or but does not include an indicative road identified on the planning maps where (b) an alternative connective roading layout route that; (i) is authorised by resource consent or designation; and (ii) achieves the same road network outcomes and property access outcomes as a roading route described in (a) that would have been achieved by the indicative road.
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9.1.21 'Identified area'

289. The Panel asked me to review the definition of 'Identified area' to ensure the scope of the definition is clear.

9.1.22 Recommendation

290. I recommend that the definition is amended to clarify that it only applies to Chapter 14 Infrastructure.

Recommended amendment

291. The following amendments are recommended:

Identified Area	<p>Means, for the purposes of Chapter 14, Infrastructure, any of the following areas and items identified within this plan:</p> <ul style="list-style-type: none"> a. Urban Expansion Area b. Significant Natural Area c. Outstanding Natural Feature d. Outstanding Natural Landscape e. Significant Amenity Landscape f. Outstanding Natural Character g. High Natural Character h. Heritage Precinct i. Heritage Items j. Maaori Sites of Significance k. Maaori Areas of Significance l. Notable Trees
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9.1.23 ‘wastewater treatment plant’

292. The Panel asked me to consider the scope of the definition for ‘wastewater treatment plant’.
293. Under Rule 14.11.3, a wastewater treatment plant is a discretionary activity. Having reviewed this rule, I consider that the intention of the rule was to capture municipal-scale wastewater treatment plants rather than individual and small-scale community systems.
294. To ensure that the rule only applies to larger wastewater treatment plants, the definition should be amended to exclude on-site wastewater treatment plants and community-scale wastewater treatment plants.
295. The definition can be further simplified. My understanding is that receiving and treating wastewater is part of the processing of wastewater. My proposed amendments remove unnecessary words but do not alter the meaning of the definition.

9.1.24 Recommendation

296. I recommend amendments to the recommended definition to exclude on-site and community-scale wastewater systems, and to remove extraneous wording.

9.1.25 Recommended amendment

297. The following amendments are recommended:

Wastewater treatment plant	means a facility that receives wastewater to processes and treats wastewater before disposal and is connected to a public wastewater network. It includes excludes on-site wastewater treatment plants, and community scale wastewater treatment plants., and wastewater treatment plants that are connected to a public, reticulated wastewater network.
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9.1.26 ‘Educational facility’

298. The Panel asked me to consider whether the rules manage a facility or an activity. The relevant rules are activity-based, and this is an issue that requires resolution. This issue is discussed more broadly in Chapter 10 of this Report.

9.1.27 ‘Childcare facility’

299. The Panel asked me to consider whether the definition should be ‘childcare facility’ or ‘childcare services.’ This is a question as to whether the definition should refer to a facility or an activity.

9.1.28 Recommendation

300. On review, I recommend that the definition refer to a ‘facility’ rather than ‘services’. This aligns with the Planning Standards definition of ‘educational facility’ and the rules framework.

Recommended amendment

301. The following amendment is recommended:

Childcare facility Services facility	Means any land or buildings used for the care of training of predominantly preschool children and includes a Pplay centre, kindergarten or day-care. It excludes (a) children residing overnight on the property; and (b) a school.
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9.1.29 ‘Extractive activity’

302. The Panel asked me to review the wording of ‘at or near the site’ within the proposed definition.

303. On review, I consider that the words ‘at or near the site’ should be removed from the definition. These words could create uncertainty as to the actual extent of the activity covered by the Plan. In practice, the location of an extractive activity should be clear from the relevant consent allowing that activity (extractive activities are not permitted activities in the Plan).

9.1.30 Recommended amendment

304. The following amendment is recommended:

Extractive activity industry	Means taking, winning or extracting by whatever means, the naturally-occurring minerals (including but not limited to coal, rock, sand, and gravel) and peat from under or on the land surface. This may include one or more of the following:
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	<p>activities: at or near the site where the minerals have been taken, won or extracted:</p> <p>(a) excavation, blasting, processing (crushing, screening, washing, chemical separation and blending);</p> <p>(b) the storage, distribution and sale of aggregates and mineral products;</p> <p>(c) the removal, stockpiling and deposition of overburden;</p> <p>(d) treatment of stormwater and wastewater;</p> <p>(e) storage, management and disposal of tailings;</p> <p>(ef) landscaping and rehabilitation works including cleanfilling;</p> <p>(fg) ancillary earthworks;</p> <p>(gh) ancillary buildings and structures, such as weighbridges, laboratories and site offices;</p> <p>(hi) internal roads and access tracks; and</p> <p>(ij) quarrying activities.</p> <p>The term includes the processing by such means as screening, crushing, or chemical separation of minerals at or near the site, where the minerals have been taken, won or excavated.</p> <p>The term also includes the removal, stockpiling and filling of overburden sourced from the same site.</p> <p>It includes all activities and structures associated with underground coal gasification, including pilot and commercial plants and the distribution of gas. It excludes prospecting and exploration activities.</p> <p>It does not include a farm quarry or ancillary rural earthworks.</p>
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9.1.31 'Impervious surface'

305. The Panel asked me to look at the definition of 'impervious surface' following the expert evidence presented by Mr Lindenberg for Kāinga Ora (Housing New Zealand).
306. The section 42A report recommended retaining the definition of 'impervious surface' as notified. That definition is:

Impervious surface	Means a surface such as a road, rooftop, footpath, paving, decking, swimming pool, patio, driveway, vehicle access and manoeuvring area or highly-compacted soil that is not vegetated and does not infiltrate runoff. It excludes wooden decks with spacing between boards of 4mm or more, where water is allowed to drain through to a permeable surface below the deck.
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307. Kāinga Ora put forward the following definition:

Impervious surface	<p>Means a surface that is not vegetated, does not infiltrate runoff and prevents or significantly retards the soakage of water into the ground. This includes:</p> <ul style="list-style-type: none"> - roofs, - paved areas including driveways and sealed/compacted metal parking areas, - patios, - sealed compacted roads, - layers engineered to be impervious such as highly-compacted soil.
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	<p>Excludes:</p> <ul style="list-style-type: none"> - wooden decks with spacing between boards of 4mm or more, where water is allowed to drain through to a permeable surface below the deck, - grass and bush areas, - gardens and other vegetated areas, - porous or permeable paving and living roofs, - permeable artificial surfaces, fields or lawns, - slatted decks; and - swimming pools, ponds and dammed water: and - rain tanks.
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308. Kāinga Ora's definition is based on the definition for 'impervious surface' in the Auckland Plan. The Proposed Plan definition is the same as the definition in the Hamilton City District Plan. I accept that the definition, as notified, can be refined to remove ambiguity, but I am not satisfied that Kāinga Ora's proposed definition is an appropriate direct substitute. I agree that including porous or permeable paving and green roofs in the list of exclusions removes any potential conflict with the inclusion of paving and rooftops within the category of impervious surfaces. However, as set out in the s42A report, some of the exclusions suggested by Kāinga Ora are intuitive, and fall within the category of 'a surface that does not infiltrate runoff'.

309. The objective of the rules setting restrictions on impervious surfaces within a site is to ensure that there is sufficient capacity, through permeable surfaces, to enable disposal of stormwater. I do not consider that a swimming pool, dam or rainwater tank perform that function.

9.1.32 Recommendation

310. I recommend that the definition is amended to exclude porous or permeable paving, green or living roofs.

9.1.33 Recommended amendments

311. The following amendments are recommended:

Impervious surface	<p>Means a surface <u>such as that does not infiltrate runoff. It includes a</u></p> <ul style="list-style-type: none"> (a) roads,; (b) rooftops,; (c) footpaths,; (d) paving,; (e) decking, (f) swimming pools,; (g) patios,; (h) driveway,; (i) vehicle access <u>and or</u> manoeuvring areas; or (j) highly-compacted soil that is not vegetated <u>and does not infiltrate runoff.</u> <p>It excludes <u>all or any of the following:</u></p> <ul style="list-style-type: none"> (a) wooden decks with spacing between boards of 4mm or more, <u>and</u> where water is allowed to drain through to a permeable surface below the deck;
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	<p>(b) porous or permeable paving;</p> <p>(c) green or living roofs.</p>
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9.1.34 'subdivision'

312. The Panel asked me to check whether the definition of subdivision, quoted in the s42A Report, correctly referenced section 226 of the RMA, and the wording in relation to that section.

313. I confirm that section 226 is the correct reference for inclusion in the definition, and the quoted wording is also correct.

314. On review however, I noted that the definition of subdivision in the Definitions List is missing the final line from section 218(1) of the RMA. That line is:

‘and the term **subdivide land** has a corresponding meaning.’

315. I raised this with MfE, who confirmed that this omission was intended, because the Planning Standards do not define: ‘subdivide land’.

9.1.35 Recommendation

316. I recommend that the definition of ‘subdivision’ is amended to reflect that set out in the Definitions List.

9.1.36 Recommended amendment

317. The following amendments are recommended:

subdivision	<p>has the same meaning as “subdivision of land” in section 218 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>means—</p> <p>(a) the division of an allotment—</p> <p>(i) by an application to the Registrar-General of Land for the issue of a separate certificate of title for any part of the allotment; or</p> <p>(ii) by the disposition by way of sale or offer for sale of the fee simple to part of the allotment; or</p> <p>(iii) by a lease of part of the allotment which, including renewals, is or could be for a term of more than 35 years; or</p> <p>(iv) by the grant of a company lease or cross lease in respect of any part of the allotment; or</p> <p>(v) by the deposit of a unit plan, or an application to the Registrar-General of Land for the issue of a separate certificate of title for any part of a unit on a unit plan; or</p> <p>(b) an application to the Registrar-General of Land for the issue of a separate certificate of title in circumstances where the issue of that certificate of title is prohibited by section 226.</p> </div>
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10 Review of the scope of definitions - activity or land and buildings

318. The Panel asked us to consider whether the land use activity rules in the Proposed Plan authorise a facility, or an activity carried out within a 'facility'.²⁴ The questions posed were:

- Is it the use, as opposed to the 'facility' itself, which is authorised?
- Is the activity covered by way of the definition or the rules?

319. In addressing these questions, we identified two broader issues with the structure of the 'land use activity' and 'building' rules that cannot be resolved by amending the definitions.

(c) Firstly, the Plan includes a catch-all non-complying activity rule in each zone chapter. For example, NC Rule 16.1.5 says '*Any other activity that is not listed as Prohibited, Permitted, Restricted Discretionary or Discretionary*'. That rule effectively means that any activity (or facility) that is not listed as another activity status falls as a non-complying activity. This has the effect of overriding the permitted presumption of section 9 of the RMA (i.e. where an activity does not contravene a rule in the Plan, s9 allows for that activity to occur). The non-complying activity rules mean that the Plan needs to specifically list *all* activities or uses that the Council does not intend to be non-complying activities; it is not sufficient to assume that an unlisted activity is deemed to be a permitted activity because, on plain reading of the Plan, such an activity is actually a non-complying activity.

(d) Secondly, there are no rules in the respective chapters that specifically state the activity status of a building. The building rules in each chapter are structured differently from the

²⁴ We use the term 'facility' in a broad sense to cover objects such as buildings, structures, machinery, and infrastructure.

land use activity rules. They are expressed as standards and conditions only, and do not include the precursor activity component (e.g. ‘The following activities are permitted activities provided they meet the following standards...’) that the land use activity rules do. Plan users must therefore make an assumption that, if all of the standard or condition rules for buildings are met, the construction/establishment of the building itself is a permitted activity. However, as explained in (a) above, the permitted presumption does not apply to this Plan.

320. The examples below demonstrate how these issues interact.

10.1.1 Example 1 – residential unit in the Rural Zone

321. In the Rural Zone, it is common for dwellings to be constructed (or relocated) on a site and used for residential activities. There are therefore two components that the Plan needs to account for living in the rural environment:

- (a) the establishment of buildings to be used as dwellings, and
- (b) the use of dwellings for residential activities.

322. A ‘dwelling’ is not *listed* in the land use activity rules in Chapter 22, either as a permitted activity or any other activity class. This means that establishing a dwelling in the Rural Zone is a non-complying activity because the catch-all rule NC5 provides that the following is a non-complying activity:

“Any other activity that is not listed as Prohibited, Permitted, Restricted Discretionary or Discretionary”.

323. On plain reading of rule NC5, it is necessary for an activity to be ‘listed’ in another rule in the Plan for it not to be regarded as a non-complying activity.²⁵

324. Living in a dwelling in the Rural Zone is also a non-complying activity, because ‘residential activity’ is not listed in the land use activity rules in Chapter 22 either.

325. This is not an isolated example. It is a problem for any rule that lists a facility as a permitted activity but does not expressly refer to the associated use of the facility. Even where the definition of a facility refers to the use, it is typically in the context of describing the purpose of the facility. Most of the definitions of facilities begin with ‘means any land or building used for...’, therefore the term refers to the land and buildings rather than the activities that occur on/within them.

10.1.2 Example 2 – Childcare facility

326. A childcare facility is defined in the Proposed Plan as:

Means any land or buildings used for the care or training of predominantly pre-school children and includes a Playcentre, kindergarten. It excludes:

- (a) children residing overnight on the property; and*

²⁵ Arguably, a dwelling might be ancillary to a listed permitted activity such as farming. However, this would not allow a new build dwelling on a small lifestyle block, where no farming takes place.

(b) a school.

327. Under Rule 17.1.2 Permitted Activities P6, a 'childcare facility' is a permitted activity. The way the definition is phrased means that it describes a childcare facility to be land and buildings. That means that the land or buildings that accommodate childcare are permitted by the rule, but not the use of the land and buildings for childcare. While the use of the childcare facility may be implied by the definition, it is not explicitly listed as a permitted activity. That becomes a problem because of the catch-all non-complying rule.

10.1.3 Example 3 – buildings required for farming

328. The previous examples show how the problem manifests for activities that are not provided for, despite an associated facility being specified in a rule. The opposite also exists where an activity is provided for by the land use activity rule, but the facilities in which the activity would take place are not. For example, 'farming' is defined as:

Means an agricultural, horticultural or apicultural activity having as its primary purpose the production of any livestock or crop using the in-situ soil, water and air as the medium for production.

It includes:

- (a) Ancillary produce stalls;
- (b) Processing of farm produce grown on the land, such as cutting, cleaning, grading, chilling, freezing, packaging and storage.

329. Under Rule 22.1.2 Permitted Activities P7 'farming' is a permitted activity, but not the buildings required to undertake farming, such as the sheds for the processing of farm produce (there is no rule that expressly states that buildings in the Rural Zone are permitted activities).
330. This is a systemic issue and needs to be dealt with broadly across the Plan. We note that this issue has been picked up by submitters and is discussed in the s42A report for the Industrial Zone at paragraphs 205 – 208.

10.1.4 Options for resolving the issues

331. There are several options to resolve this. One option is to modify the non-complying activity rule in each chapter to allow s9 of the RMA to come back into play for activities and facilities that are not listed in the rules. The Operative Waikato District Plan, Waikato section, takes the approach that activities are permitted if they are not mentioned in any rule. (Rule 18.2).
332. Another option is to specifically amend each of the land use activity rules in the Plan so that they expressly authorise both the facility and its associated use. However, if the non-complying rules were not changed, that option still wouldn't provide for other activities or facilities which are not currently listed in the Proposed Plan for that particular zone. Additional activities and facilities would need to be added to the rules. As a result, either:
- a) an exhaustive list of activities and facilities that people may choose to undertake would need to be added to each chapter, or
 - b) a catch-all permitted activity rule would need to be added to each chapter such as 'any building, or activity that is not specified elsewhere in the Plan as a permitted, controlled,

restricted discretionary, discretionary, non-complying or prohibited activity is a permitted activity, provided it complies with the standards’.

333. To address the issue of buildings not being expressly provided for as a permitted activity²⁶, additional permitted activity rules within the Land use - Activities rule tables could provide for ‘buildings’ and ‘structures’. Those buildings and structures would then have to meet the land use building rules to be permitted.
334. The author of the section 42A report for the Industrial Zone, Jane Macartney, recommended adding a new rule, shown as P15 in Rule 20.1 that reads:
- ‘construction or demolition of, or alteration or addition to, a building’.*
335. We consider this type of rule could be appropriate in the other zones. Alongside new permitted activity rules for buildings and structures, a generic rule would be needed to address those circumstances where only the facility is authorised, but the intent of the Plan is that the use would be authorised too. That rule could read:
- ‘where a building, structure or facility is specified in Rule [xxx] as permitted, controlled, restricted discretionary, discretionary or prohibited, the associated use of that building, structure, or facility has the same activity status’.*
336. To return to the Panel’s questions, the above discussion demonstrates that it is not a simple matter of amending the definitions to provide certainty as to whether the use, the facility, or both, is intended to be authorised. The matters above go beyond definitions and require resolution at a broader level. Amending the definitions is not an option for the Planning Standards definitions, but we acknowledge that amending non-Planning standards definitions may assist.

10.1.5 Recommendation

337. We recommend that the rule structure in the Proposed Plan is reviewed, to ensure that both the activities and facilities are appropriately captured by the Land use – Activities and Land use - Building rules.
338. Given the more structural nature of the issues we discuss above, we consider it would be premature to recommend any amendments to the definitions in isolation of a wider review of the rule structure.

11 Recommended minor amendments to non-Planning Standards definitions

339. At the hearing, the Panel identified several issues with the drafting of the notified definitions, and asked that we consider potential minor amendments to improve the clarity and accuracy

²⁶ Recognising tighter regulation of buildings may be appropriate in certain zones.

of those definitions.²⁷ The scope to make such changes is provided by Schedule 1, Clause 16(2), the general relief sought in the Council's own submission or other submissions, or as a consequence of adopting the Definitions Standard.

340. Clause 16(2), Schedule 1 of the RMA provides limited scope to make amendments. It allows an amendment to a proposed plan if the alteration is of minor effect, or it corrects a minor error. This power is independent of scope provided by submissions.
341. The test for 'minor effect' is whether the amendment affects the rights of some members of the public, and therefore might have drawn a submission, or whether it is merely neutral. An amendment can only be made if it is neutral.²⁸
342. A minor correction includes slips in spelling, punctuation, cross-referencing and the like, to correct a mistake or inaccuracy that has crept into the Plan. A correction only seeks to clarify what is clearly intended by the document and does not make a change which alters its meaning.
343. The Council's own submission on the Proposed Plan also provides scope to make certain minor amendments. In their submission, the Council sought general relief to:
- *“amend definitions and/or introduce new definitions to give effect to the specific relief sought in Table 1,*
 - *delete any definitions that are no longer necessary as a result of the relief sought in Table 1 or any consequential relief made, and*
 - *any other change necessary to give effect to the intent of the relief sought in Table 1 and to achieve the purpose of the RMA”.*
344. Table 1 was a list of submission points identifying errors or omissions to the text, mapping or cross-referencing.
345. Council summarised the key matters in its submission as including:
- *inconsistencies with rule structures across chapters*
 - *unclear rules*
 - *rules that are difficult to measure and enforce*
 - *defined terms requiring clarity*
 - *interpretation or intent of rules unclear.*
346. Where we consider there is no scope to make changes under the general relief sought in this submission or other submissions, as minor amendments under Schedule 1, Clause 16(2), or as a consequence of adopting the Definitions Standard, we recommend that those changes will need to be introduced by way of a future variation or plan change.

²⁷ The scope of our review included the non-Planning Standard definitions, whether or not these definitions attracted submissions.

²⁸ Re an Application by Christchurch City Council (1996) 2 ELRNZ 431, at p440.

11.1 Drafting Principles

347. The Guidance for 14. Definitions Standard sets out a number of drafting principles that were used in preparing the final form of definitions included in the Definitions Standard. It is recommended that councils apply these principles when drafting other definitions required in their plans. We have taken those principles into consideration in formulating our recommendations, including:
- where a term is also defined in a statute, regulation or New Zealand Standard (NZS) outside of the RMA, the proposed definition should copy verbatim the text of the statutory, regulatory, or NZS definition where it is fit for purpose; this will effectively set the definition in time and avoid any unforeseen consequences that future amendments may have on plan provisions
 - definitions should avoid containing (or becoming) de facto rules
 - definitions should avoid using subjective language, such as ‘high quality’, ‘appropriate’ or ‘approximate’
 - where possible, the definitions should be drafted in a clear, straightforward, certain and concise manner, using short sentences and avoiding unnecessary words and jargon
 - where a definition contains the word “includes” and is followed by a list, the list shall be non-exhaustive; conversely, if a definition “excludes” a list of matters, this shall be treated as exhaustive
 - definitions should not give interpretation rights exclusively to one person or organisation (e.g. “which in the opinion of council is...”).
348. We recommend using the same alpha-numeric formatting as the Planning Standards. That is shown below by way of example:
- [definition text] means:
- (a) x;
- (b) x;
- (i) x;
- (ii) x;
349. The Panel also asked us to check the definitions for potential ambiguity with the use of the terms ‘and’ and ‘or’ and to provide guidance about their use, for inclusion in the Plan.
350. We reviewed these terms using guidance from the Parliamentary Council Office.²⁹ It provides guidance for legislative drafting, and provides specific advice about the use of ‘and’ and ‘or’. The basic advice is to use ‘and’ to connote togetherness (conjunction), and ‘or’ to mean that you can take your pick (disjunction).³⁰ This reflects the way we ordinarily use ‘and’ and ‘or’. However, the advice from the PCO office goes on to say that ‘and’ has been construed in a

²⁹ Principles of clear drafting: www.pco.govt.nz/clear-drafting

³⁰ Paragraph 3.3 Principles of clear drafting: advice is from Thornton, Garth Legislative Drafting 4th ed, Butterworths, UK, 1996.

disjunctive sense, and ‘or’ in a conjunctive sense, so the rule is not clear cut.³¹ We reviewed how these words are used in the Plan, including for Planning Standards definitions. Their use is not standardised. For that reason, and given the rules for their use is not clear-cut, we recommend against providing definitive advice about the use of ‘and’ and ‘or’ in the Plan. Instead, we have tried to address any potential instances where ambiguity might arise by recommending minor amendments to individual definitions.

351. The table in Appendix 3 sets out our ‘minor amendments’ review of the proposed definitions in Chapter 13, and any additional definitions proposed to be included through the Plan review process. The table includes an assessment of whether or not the changes we recommend are within the scope of submissions, amendments that can be made under Schedule 1 Clause 16, or as a consequence of adopting the National Planning Standards and therefore, whether they can be adopted through this Plan review, or would need to be incorporated through a future variation.

11.2 Additional guidance on applying Chapter 13

352. As part of our review for potential minor amendments, the Panel asked us to provide additional guidance for plan users as to how lists in the definitions are to be interpreted.

11.3 Recommended amendment

353. We recommend that the following wording is added to the start of Chapter 13:

Guidance on Definitions

Definitions of terms are listed numerically and then alphabetically as one list.

Definitions from the National Planning Standards Definitions List are shaded grey.

Definitions may use lists to show whether matters are included or excluded from that definition.

A list in a definition that is preceded by the word “includes” is not limited to the matters listed.

A list in a definition that is preceded by the word “excludes” is limited to the matters listed.

Words in the singular include the plural and words in the plural include the singular.

12 Section 32AA evaluation

354. Section 32AA of the RMA requires a further evaluation of changes made to the Proposed Plan since the first evaluation report for the Proposed Plan was completed. This evaluation must cover changes to objectives and provisions (which are the policies, rules or other methods that implement or give effect to the objectives of the Plan) of the Proposed Plan.
355. As set out in section 4 of our s42A report for Hearing 5: Definitions, adopting terms defined in the Definition Standard, and any consequential amendments required to maintain the

³¹ Paragraph 3.4, Principles of clear drafting www.pco.govt.nz/clear-drafting

intended meaning of the Proposed Plan provisions, does not require a s32AA further evaluation. However, the changes we recommend to other definitions do require an assessment.

356. The recommended changes to the other definitions in the Proposed Plan in this report generally fall into the following categories:
- Changes to improve the accuracy and conciseness of the definitions, or to provide appropriate clarity for readers
 - Changes to improve the consistency of definitions with the drafting principles and formatting conventions in the Definitions Standard
 - Changes to rationalise terms and delete unnecessary definitions
 - Changes to ensure that there is a consistent approach to ‘activities’ or ‘facilities’ definitions, and the applicable rule framework.
357. This s32AA further evaluation summarises the recommended changes generally, rather than providing an assessment of each recommended change. This is appropriate because a s32AA further evaluation is not required for changes that are made without using the Schedule 1 planning process. The majority of changes seek to correct minor errors or are of no more than minor effect. The other changes arise out of an intent to implement the drafting principles and conventions of the Definitions Standard.
358. For those definitions or terms which are not covered by a Planning Standards definition, the options are to make changes within the scope of requests made in submissions on the Proposed Plan, or to retain the definitions as notified. The submission from Waikato District Council seeks general relief to improve the clarity and certainty of the Proposed Plan. The amendments recommended will provide a greater level of conciseness, clarity and certainty for plan users, and after considering submissions, expert evidence and the discussion at the hearing, we consider that the further proposed changes are more accurate than the notified text in Chapter 13. The recommended amendments will, in our opinion, improve the efficient application of the Plan for resource users and the Council.
359. Some of the changes recommended in this report result in the deletion of definitions, in order to avoid unnecessary repetition and confusion. This will result in a plan that is more concise and easier to interpret by plan users. For this reason, these recommendations are considered to be efficient and effective.
360. The benefits of the recommended changes are that Chapter 13 will provide a glossary of defined terms used in the Plan which are more precise, concise, nationally-consistent and easier to interpret by plan users.
361. The recommended amendments improve the efficiency and effectiveness of the Proposed Plan in implementing the provisions and provide suitable guidance to plan users for the interpretation of defined terms in the Plan. The reasons for the recommended amendments (as required by s32(1)(b)(iii)), are set out in sections 6-11 of this report.

13 Conclusion

362. This report provides an addendum to address the matters set out in our memorandum to the Hearing Panel filed on 16 December 2019. As a result of our assessment, a number of changes have been recommended to:
- adopt those remaining relevant Planning Standards definitions which were not submitted on, or considered in our original s42A report on definitions
 - identify any additional consequential amendments which are required as a result of adopting the Planning Standards definitions
 - ensure that the non-Planning Standards definitions are precise and consistent in structure, and follow the drafting principles and conventions of the Definitions Standard where possible
 - ensure that, where that was intended, land use activities and facilities are clearly captured by the definitions and the relevant rule framework
 - remove any definitions or extraneous wording in the definitions that are unnecessary for the interpretation and use of the Plan.
363. We recommend that provisions in Chapter 13 be amended, as set out in Appendix I below, for the reasons set out in sections 6 – 11 above.
364. We consider that the amended definitions will be efficient and effective in the contribution they make to achieving the relevant objectives of this Plan and other statutory documents, and ultimately the purpose of the RMA. We set out the reasons that we consider this to be the case in the Section 32AA evaluation (Section 11) of this report.

I4 APPENDIX I: Recommended amendments to Chapter 13: Definitions

I5 APPENDIX 2: Table of definitions that will require further consideration in topic or zone specific hearings

I 6 APPENDIX 3: Recommended amendments to improve accuracy and clarity of the definitions