

SECTION 42A REPORT

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

Hearing 5: Chapter 13 Definitions

Report prepared by: Anita Copplestone and Megan Yardley

Date: 5 November 2019



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List of submitters and further submitters addressed in this report

Submitter Name	Submitter Number
Aggregate and Quarry Association (AQA) and Straterra	860
Andrea Millar for The Department of Corrections	496
Andrew Wood for CKL	471
Anna Noakes	524
Blue Wallace Surveyors Ltd	662
Brendan Balle for Balle Bros Group Limited	466
Counties Power Limited	405
Envirofert Limited	425
Ethan Findlay	418
Federated Farmers of New Zealand	680
Fellrock Developments Limited and TTT Products Limited	543

Fiona McNabb for Whaingaroa Raglan Affordable Housing Project	310
Fire and Emergency New Zealand	378
Fonterra Limited	797
Gabrielle Parson on behalf of Raglan Naturally	831
Greig Developments No 2 Limited	689
Greig Metcalfe	602
Gwenith Sophie Francis	394
Hampton Downs Motorsport Park	657
Housing New Zealand Corporation	749
Jeremy Talbot for Barker & Associates Limited on behalf of EnviroWaste New Zealand Limited	302
Jeska McHugh for NZ Pork	197
Jonathan Quigley for J and T Quigley Ltd	389
Jordyn Landers for Horticulture New Zealand	419
Kelvin Norgrove	411
Kirriemuir Trustee Limited	182
Leigh Michael Shaw & Bradley John Hall	877
Lyndendale Farms Limited	761
McPherson Resources Limited	691
Michael Briggs for Harrison Grierson Cosultants Limited on behalf of Rangitahi Limited	343
Mike Wood for New Zealand Transport Agency	742
Ministry of Education	781
Mischa Davis for Auckland Waikato Fish and Game Council	433
Murray & Cathy McWatt for Grandeur Investments Limited	548
New Zealand Defence Force	796
New Zealand Steel Holdings Ltd	827
Pam Butler on behalf of KiwiRail Holdings Limited (KiwiRail)	986
Penny Gallagher for Synlait Milk Ltd	581
Ports of Auckland Limited	578
Radio New Zealand Limited	777
Rebecca Dearden on behalf of Powerco	836
Sharp Planning Solutions Ltd	695
Sherry Reynolds on behalf of Heritage New Zealand Lower Northern Office	559
Stevenson Waikato Ltd	591

T&G Global Limited	676
Tamahere Eventide Home Trust on behalf of Atawhai Assisi Retirement Village	765
Tamahere Eventide Trust on behalf of Tamahere Eventide Retirement Village	769
TaTa Valley Limited	574
The Poultry Industry Association of New Zealand; I Brinks NZ Chicken; The Egg Producers Federation of on behalf of	821
The Surveying Company	746
Transpower New Zealand Ltd	576
Tuakau Proteins Limited	402
Tyler Sharratt on behalf of Winstone Aggregates	723
Waikato District Council	697
Waikato District Health Board	923
Waikato Regional Council	81
WEL Networks Limited	692
Withers Family Trust	598
Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited for 'Oil Companies'	785
Zeala Ltd for Trading as Aztech Buildings	281

Further submitter Name	Further submitter number
Andrew and Christine Gore	FSI062
Ara Poutama Aotearoa (Department of Corrections)	FSI210
Bathurst Resources Limited and BT Mining Limited	FSI198
Blue Wallace Surveyors Ltd	FSI287
Bootleg Brewery	FSI264
Charlie Harris	FSI303
Counties Power Limited	FSI134
Department of Conservation	FSI293
Federated Farmers	FSI342
First Gas Limited on behalf of First Gas	FSI211
Fonterra Limited	FSI333
Fulton Hogan Limited	FSI334
Gary Bogaart / Meremere Dragway Inc for Brookfields Lawyers	FSI118
Gary Bogaart / Meremere Dragway Inc.	FSI304

Genesis Energy Limited	FSI345
Gleeson Quarries Huntly Limited on behalf of	FSI146
Hamilton City Council	FSI379
Havelock Village Limited	FSI291
Havelock Village Limited	FSI377
Heritage New Zealand Pouhere Taonga	FSI323
Horticulture New Zealand	FSI168
Housing New Zealand Corporation	FSI269
Hynds Foundation	FSI306
Hynds Pipe Systems Limited	FSI341
Lakeside Development Limited	FSI371
Mainland Poultry Limited	FSI265
McPherson Resources Limited	FSI292
Mercury NZ Limited	FSI223
Mercury NZ Limited for Mercury C	FSI386
Mercury NZ Limited for Mercury D	FSI387
Mercury NZ Limited for Mercury E	FSI388
Meridian Energy Limited	FSI258
Middlemiss Farm Holdings Limited	FSI330
Ministry of Education on behalf of Ministry of Education	FSI113
New Zealand Health Food Park Limited	FSI301
New Zealand Pork Industry Board	FSI076
New Zealand Steel Holdings Limited	FSI319
New Zealand Transport Agency	FSI202
Ngati Tamaoho Trust	FSI369
NZTE Operations Limited	FSI339
Pareoranga Te Kata	FSI035
Perry Group Limited	FSI313
Perry International Trading Group Limited	FSI348
Phoebe Watson for Barker & Associates on behalf of T&G Global	FSI171
Ports of Auckland Limited	FSI087
Radio New Zealand	FSI375
Rosita Dianne-Lynn Darnes	FSI368
Ryburn Lagoon Trust Limited	FSI083
Simon Dromgool	FSI038
Synlait Milk	FSI322
Synlait Milk Limited	FSI110

Tamahere Eventide Home Trust - Atawhai Assisi Retirement Village	FSI005
Tamahere Eventide Home Trust - Tamahere Eventide Retirement Village	FSI004
TaTa Valley Limited	FSI340
Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	FSI108
Terra Firma Mining Limited	FSI285
The Village Church Trust	FSI131
Transpower New Zealand Limited	FSI350
Tuakau Proteins Limited	FSI353
Turangawaewae Trust Board	FSI139
Viaduct Harbour Nominees Limited	FSI318
Waikato Regional Council	FSI277
Watercare Services Ltd	FSI176
Whaingaroa Environmental Defence Inc. Society	FSI276
Winstone Aggregates	FSI332
Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited for 'Oil Companies'	FSI089
Zeala Limited trading as Aztech Buildings	FSI374
Zeala Limited trading as Aztech Buildings	FSI275

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

I Introduction

1. This report has been jointly prepared by Anita Copplestone and Megan Yardley.

1.1 Qualifications and experience

2. Our respective qualifications and experience are set out below.

1.1.1 Anita Copplestone

3. My name is Anita Copplestone and I am a Senior Planner with Perception Planning Limited, a resource management planning consultancy.
4. I hold a Bachelor of Resource and Environmental Planning and Post Graduate Diploma in Business and Administration from Massey University in Palmerston North, New Zealand. I recently completed and passed the Making Good Decisions Course (July 2019). I hold a Project Management Qualification from the Association for Project Management (UK). I have 20 years of planning experience in both policy and consenting and have worked for private planning practices, large multidisciplinary consultancies and local government in the United Kingdom and New Zealand.

1.1.2 Megan Yardley

5. My name is Megan Yardley and I am a Resource Management Advisor with Perception Planning Limited. My qualifications and experience are as follows.
6. I hold a Bachelor of Arts (History) and a Bachelor of Laws from Canterbury University in Christchurch, New Zealand. I have nine years of relevant experience working as a planning advisor, RMA lawyer and legal counsel, both in New Zealand and in the United Kingdom. I have worked for central government and private legal practices.
7. We have read the Council's Section 32 Reports, submissions and further submissions relevant to the provisions addressed in this report, and are familiar with the Proposed Plan.

1.2 Code of Conduct

8. We confirm that we have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that we have complied with it when preparing this report. Other than when we state that we are relying on the advice of another person, this evidence is within our area of expertise. We have not omitted to consider material facts known to us that might alter or detract from the opinions that we express.
9. We are authorised by the Council to give this evidence to the Proposed District Plan Hearing Panel.

1.3 Conflict of Interest

10. We were not involved in the preparation of the proposed Waikato District Plan (Proposed Plan). We were contracted by the Waikato District Council (Council) in 2019, after the submission period had closed, to provide recommendations to the Hearing Panel in the form of a Section 42A report.
11. Megan Yardley wishes to declare that she previously worked as legal counsel for the New Zealand Fire Service between 2008-2009 and in an acting legal counsel role (on secondment) in 2015. She has also represented the New Zealand Fire Service in RMA matters in private practice, but has no involvement with Fire and Emergency New Zealand in her current role.
12. Perception Planning Limited, being a consultancy that provides services to clients throughout New Zealand, has previously provided, and in some cases currently provides, services and advice on other matters to a number of parties who have submitted on the Proposed Plan. However Perception Planning has not been engaged by, involved in or provided any advice to those parties in relation to the Waikato District Plan process.
13. We confirm that we have no real or perceived conflict of interest.

1.4 Preparation of this report

14. We are the joint authors of this 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 3.3 to 3.111 of this report are therefore drafted in the first person.
15. In preparing this report we have relied on expert advice sought from Red Bull Powder Company with respect to a submission on the definition of 'blasting'.

2 Scope of report

2.1 Matters addressed by this report

16. This report is prepared in accordance with section 42A of the RMA. This report reviews, evaluates and makes recommendations on the submissions and further submissions that were received by the Council in relation to the provisions in Chapter 13: Definitions within the Proposed Plan. It does not cover the 'Glossary of Maori terms' which appear at the end of Chapter 13.
17. Definitions are important to the interpretation of objectives, policies and rules in the Proposed Plan. Any recommended amendments to a defined term are likely to have consequences for how that term is applied elsewhere in the Proposed Plan. Conversely, there will be amendments recommended to other parts of the Proposed Plan that will have a bearing on the interpretation of definitions. This S42A report is being considered early in the hearing timetable, without the benefit of a detailed, substantive assessment of how the definitions are used in practice. However, there are advantages and disadvantages to any hearing timetable, and considering the best way to assess the interconnectedness of a Plan's

provisions is never an easy task. The mandatory directions in Standard 14. Definitions of the National Planning Standards are an added complication, which in many cases, result in the need for consequential amendments.

18. In light of this, wherever possible, we have provided a recommendation to assist the Panel. It remains the case that the majority of definitions will require further consideration, once the full extent of amendments and arising consequential amendments have been considered in future hearings. To assist the Panel, we have included a table in Section 3.1 of the report which indicates which definitions we consider require further consideration at future hearings. The Panel may wish to consider whether a further report on Definitions would assist in their deliberations, once other topics have been heard and the implications identified.

2.2 Overview of the topic / chapter

19. Chapter 13: Definitions of the Plan sets out how certain terms used in the Proposed Plan are to be interpreted and applied. Where a definition has been adopted in the Proposed Plan from the RMA or other legislation, this is stated, but the definition is not set out in full. For example: "Allotment: has the meaning in section 218 of the Resource Management Act."

2.3 Statutory requirements

20. The statutory considerations which are relevant to the provisions and/or submissions within the scope of this report are largely set out in the opening legal submissions by counsel for Council (23 September 2019) and the opening planning submissions for Council (23 September 2019), see paragraphs 18 - 32. The opening planning submissions from the Council also detail the relevant iwi management plans (paragraphs 35-40), and other relevant plans and strategies (paragraphs 41-45). The following section identifies any additional statutory documents which are relevant to this report that are not covered in the Council's opening submissions. It also identifies the particular relevance of certain statutory documents to this s42A report.

2.3.1 National Planning Standards

21. Paragraphs 67 – 74 of the Council's opening legal submissions set out the relevance and application of the National Planning Standards ('Planning Standards'). The Planning Standards were introduced to improve the consistency of council plans and policy statements.

2.3.1.1 Standard 17 Implementation

22. Standard 17: Implementation Standard, sets out the timeframes by which various authorities must comply with specified planning standards. This is addressed in the opening legal submissions from the Council at paragraphs 69-71.

2.3.1.2 Standard 14 Definitions

23. Standard 14. Definitions ('the Definitions Standard') is comprised of a list of definitions ('the Definitions List') and the mandatory directions to be followed when adopting a specified

definition into a plan or policy statement. Section 2.5 of this report sets out the details of the Definitions Standard in more detail and describes how the Planning Standards have been applied in the context of this s42A Report.

24. The following documents informed the development of the Definitions Standard and have been referred to in preparing this s42A report:

Table 1: Planning standards documents referred to in preparing this report

Name of document	Description
<p>21 Definitions Standard - Recommendations on Submissions Report for the first set of National Planning Standards</p> <p>https://www.mfe.govt.nz/sites/default/files/media/RMA/21-definitions-standard.pdf</p>	<p>Assesses the submissions received on the draft Definitions Standard and makes recommendations to the Minister for the Environment and Minister of Conservation to consider when approving the final standard.</p>
<p>Guidance for 14. Definitions Standard</p> <p>https://www.mfe.govt.nz/sites/default/files/media/RMA/guidance-for-definitions-standard.pdf</p>	<p>Guidance to aid user's interpretation of the Definitions Standard so that it can be implemented efficiently and effectively. It contains explanations of:</p> <ul style="list-style-type: none"> - when Planning Standard definitions apply - subcategories and narrower definitions - definitions in district and regional plans - definitions in policy statements and plans - defining terms not included in the Planning Standards - diagrams, nesting tables or venn diagrams, and - scope of consequential changes to plan provisions as a result of new definitions.

Planning Standards Evaluation Report Part 2C – Definitions https://www.mfe.govt.nz/sites/default/files/media/RMA/Part_2C - Draft Definitions s32..pdf	Evaluation report prepared in accordance with s32 of the RMA, which sets out the reasoning behind the recommendations made on the Definitions Standard.
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2.3.2 Waikato Regional Council

2.3.2.1 *Waikato Regional Policy Statement (Operative 20 May 2016) (RPS)*

25. Section 75(3)(c) of the Act requires that the District Plan give effect to the operative regional policy statement.
26. In the context of the Definitions section of the Proposed Plan, there are a number of similar or comparable terms that are used in the RPS and the Proposed Plan. While ‘giving effect’ to the RPS does not require that the same terms and definitions are used, it is relevant to consider consistency between the two documents. The RPS has not yet been updated to incorporate the Definitions Standard in the Planning Standards.

2.3.2.2 *Waikato Regional Plan and Regional Coastal Plan*

27. The Waikato Regional Plans are required to give effect to the RPS, national policy statements and national planning standards. As with the RPS, the Waikato Regional Plans have not been amended to incorporate the Definitions Standard.
28. Section 75(4)(b) requires that a district plan must not be inconsistent with a regional plan, while s74 requires that the Council must have regard to a proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility.
29. As set out in the opening planning submissions from the Council (paragraph 32), submissions are currently being heard on Proposed Regional Plan Change I: Healthy Rivers Wai Ora (notified October 2016) and when its final form is known, a review will be needed to consider consistency.

2.3.2.3 *Regional Infrastructure Technical Specifications (RITS)*

30. This document sets out how to design and construct transportation, water supply, wastewater, stormwater and landscaping infrastructure. The purpose of RITS is to provide a single regional guide for participating Councils¹ in the form of specifications for building public infrastructure. The RITS has been prepared by the Waikato Local Authority Shared

¹ The participating Councils are: Hamilton, Hauraki, Matamata-Piako, Otorohanga, South Waikato, Waikato, Waipa and Waitomo.

Services (updated May 2018) and is available to view at: <https://waikatolass.co.nz/wp-content/uploads/2019/01/Regional-Infrastructure-Technical-Specification-V1.0.pdf>

31. Reference to the RITS is made in this s42A report, where these specifications have guided our recommendations.

2.3.2.4 **Waikato Stormwater Management Guideline (Waikato Regional Council Technical Report 2018/01) (29 June 2018)**

32. This guideline covers the selection, design, construction and maintenance of stormwater management systems for urban areas, with a focus on encouraging a low impact design approach. The guideline was prepared by Aqua Terra International Limited on behalf of the Waikato Regional Council and is available to view at: <https://www.waikatoregion.govt.nz/services/publications/tr201801/>
33. The design criteria and standards outlined in this guidance are recommended by the Waikato Regional Council. This guidance has helped inform recommendations in this s42A report in relation to the management of stormwater and to achieve a level of consistency with regional planning documents.

2.3.3 **Other relevant Acts**

34. References are made to provisions in the following Acts in this report:

Table 2: Relevant Acts referred to in this report

Act	Purpose and coverage of the Act
Interpretation Act 1999	An Act to state the purposes and rules for the interpretation of legislation.
Building Act 2004	The primary legislation governing the building industry and contains the rules for the construction, alteration, demolition and maintenance of new and existing buildings in New Zealand. The Building Code is contained in the regulations under this Act.
Property Law Act 2007	To restate, reform and codify certain aspects of the law relating to real and personal property.
Land Transfer Survey Act 2017	To continue and maintain the Torrens system of land title in New Zealand and to retain the fundamental principles of that system.
Residential Tenancies Act 1986	Sets out the rights and responsibilities of landlords and tenants and governs the legal arrangements between the two groups.
Retirement Villages Act 2003	To protect the interests of residents of retirement villages and to enable the development of retirement villages under a

	legal framework readily understandable by residents and operators.
Crown Minerals Act 1991	To promote prospecting for, exploration for, and mining of Crown-owned minerals for the benefit of New Zealand.
Soil Conservation and Rivers Control Act 1941	To make provision for the conservation of soil resources, the prevention of damage by erosion and to make better provision for the protection of property from damage by floods.
Defence Act 1990	Establishes the New Zealand Defence Force and defines the respective roles of, and relationships between, the Minister of Defence, the Chief of Defence Force and the Secretary of Defence.
Land Transport Act 1998	Sets out the legislative framework for land transport regulation and safety. It: <ul style="list-style-type: none"> - establishes the primary responsibilities for participants in the land transport system - sets out the requirements of the driver licensing regime - provides offences, penalties, and enforcement powers, and - contains administrative and miscellaneous provisions.
Maritime Transport Act 1994	Sets out the broad principles of maritime law. It also sets out that environmental controls inside the 12 nautical mile limit are to be managed under the RMA. Thus, in the coastal marine area, the Maritime Transport Act has a management component which overlaps with the RMA.
Public Works Act 1981	Under the Public Works Act, the Crown has the power to acquire land to ensure that public works, such as infrastructure and services, can proceed.
Civil Defence and Emergency Management Act 2002	Creates a framework within which New Zealand can prepare for, deal with, and recover from local, regional and national emergencies.
Health and Disability Services (Safety) Act 2001	The legislation that underpins the certification of health care services.

Health and Safety in Employment (Pressure Equipment, Cranes and Passenger Ropeways) Regulations 1999	Outlines the duties of equipment controllers, designers, manufacturers and suppliers, as well as workers.
Health and Safety at Work Act 2015	New Zealand's fundamental work health and safety legislation. All work and workplaces are covered by this Act unless specifically excluded.
Health and Safety at Work (Hazardous Substances) Regulations 2015	The regulation of hazardous substances that affect human health and safety in the workplace sit under the Health and Safety at Work (Hazardous Substances) Act.

2.4 Procedural matters

35. No pre-hearing meetings or Clause 8AA meetings on the submissions relating to Chapter 13 – Definitions were held prior to the finalisation of this s42A report.
36. No further consultation with any parties regarding Chapter 13 – Definitions has been undertaken since notification of the provisions, other than with the Waikato District Council, acting in its joint role as submitter and proponent of the Proposed Plan.

2.5 Application of the National Planning Standards –14: Definitions Standard

37. The Planning Standards were gazetted and came into effect on 5 April 2019. There are 17 standards in total, of which three standards are relevant to this report:
 - Standard 1: Foundation Standard
 - Standard 14: Definitions Standard
 - Standard 17: Implementation Standard
38. Standard 1 sets out the purpose of the Planning Standards, which is to improve the efficiency and effectiveness of the planning system by providing nationally consistent structure, format and content in policy statements and plans under the RMA. It states that the Planning Standards do not alter the effect or outcomes of policy statements or plans.
39. Standard 14 provides a Definitions List. This list includes defined terms. The Mandatory Directions in Standard 14 (Clause 1) require that, where terms defined in the Definitions List are used in a policy statement or plan, and they are used in the same context as the definition, local authorities must use the definition in the Definitions List. However if required, they may define:
 - Terms that are a subcategory of, or have a narrower application than, a defined term in the Definitions List. Any such definitions must be consistent with the higher level definition in the Definitions List.

- Additional terms that do not have the same or equivalent meaning as a term defined in the Definitions List.
40. Standard 17 sets out timeframes for compliance with the planning standards. The applicable timeframes for Stage 1 of the Proposed Plan are addressed in paragraphs 68-71 of the Council's opening legal submissions. In summary, Council is required to meet the following implementation timeframes in respect of the Proposed Plan:
- Meet basic electronic accessibility and functionality requirements within one year of 5 April 2019; and
 - Adopt the planning standards within five years, and the Definitions Standard within 7 years of 5 April 2019.
41. Paragraphs 72 – 73 of the Council's opening legal submissions explain that, under Section 581(3) of the RMA, adoption of any mandatory directions (this includes the Definitions Standard if the term defined in the Definitions List is used in the same context in the Proposed Plan) must be made without using the Schedule 1 process and must include any consequential amendments to any document as necessary to avoid duplication or conflict with the amendments. Consequential changes can also be made without using the Schedule 1 process.
42. This means that Council can make the mandatory changes and consequential changes to give effect to the Definitions Standard, without:
- having to use the district plan review process; or
 - reliance on relief sought in submissions on the Proposed Plan, if it chooses to adopt the definitions as part of this plan review process (and whether or not that relief is within the scope of the Proposed Plan).
43. Changes that go beyond consequential changes however, must be made using the Schedule 1 plan review process and can only be made if there is scope within the submissions on the Proposed Plan to do so.
44. We have given careful regard to the Planning Standards definitions on the basis of the directions set out above.
45. Paragraph 72 of the Council's opening legal submissions acknowledges the cost and time efficiencies to be gained in adopting some of the Planning Standards through the hearing process, including, as an example, giving effect to the mandatory directions in the Definitions Standard.
46. Section 18A of the RMA prescribes that every person performing functions and exercising powers under the Act must take all practicable steps to:
- use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised; and

- ensure that policy statements and plans:
 - include only those matters relevant to the purpose of this Act; and
 - are worded in a way that is clear and concise; and
 - promote collaboration between or among local authorities on their common resource management issues.
47. Although changes to give effect to the mandatory directions in the Definitions Standard can be made without having to rely on the scope of submissions, submissions have nevertheless been received requesting that the Planning Standards definitions be adopted now. Housing New Zealand Corporation [749.26] has asked that “Chapter 13: Definitions is amended to align with the final set of National Planning Standards when that is gazetted in 2019, along with any consequential or additional relief as necessary to address this matter.” A further submission was received by Transpower New Zealand [FS/350.52] which supports this submission. Other submitters have requested amendments to the proposed definitions by reference to the draft definitions in the draft Planning Standards (as the final version had not been gazetted at the time submissions were due on the Proposed Plan).

2.5.1 Reasons for applying the Definitions Standard now

48. We have given careful consideration as to whether to incorporate definitions from the Definitions List into the Proposed Plan as part of the current plan review process. We took the view that where definitions in the Definitions List have been submitted on, the Planning Standards definitions should be adopted through this plan review process. Our reasons for taking that approach are explained below.
49. This plan review process began in February 2014. The hearings are the culmination of five years’ work by the Council. A decision following the Proposed Plan hearings will not necessarily complete the process, and it is probable that the review process will ultimately conclude once all appeals are resolved. In other words, the plan development process is in train, rather than complete or nearing completion, and the terms of the Proposed Plan are far from settled.
50. This plan review has a high level of community and stakeholder engagement. There are approximately 989 submissions (9766 individual submission points) and 423 further submissions (13,908 further submission points). This level of engagement provides an opportunity for submitters and the Council to consider the definitions in the Definitions Standard, debate how they may impact the application of potential provisions within the Proposed Plan, and propose possible amendments to resolve unintended consequences created by adopting the Planning Standards definitions. The wide-ranging submitter involvement means the likelihood of interested parties not being involved in the current process is low.
51. A number of the submitters on the Proposed Plan were involved in the consultation stages of the Planning Standards and are likely to have a good understanding as to how the Planning

Standards definitions affect their interests. In our view, this insight will be beneficial to the development of potential provisions that will work with the new definitions.

52. The relationship between definitions and provisions that rely on those definitions is often complex. Community and stakeholder input can help ensure that there are no unintended changes to provisions that may be affected by the adoption of a Planning Standard definition. The current Schedule 1 process allows for that input, as compared with the Council undertaking the amendments via s581(3). In our view, looking at the adoption of the definitions in this review process provides a layer of transparency and community input.
53. If the Planning Standards definitions were not considered during this process, the Council would need to adopt the Definitions Standard within the next six and a half years. This is a relatively short period of time, taking into account that decisions and more importantly resolution of appeals on the Proposed Plan are still years away.
54. Finally, if the Planning Standards definitions were not considered during this process, it would render redundant the work done through this plan review process to refine those definitions and provisions that are not consistent with the Planning Standards. Any provisions settled by the plan review that may be affected by the adoption of a Planning Standards definition in the future, and any amendments consequential on the adoption of a definition, would need to be reworked not long after the Council had adopted the definition and its amendments in order to give effect to the National Planning Standards.
55. In conclusion, our view, on balance, is that this is an appropriate time to adopt the definitions from the Definitions Standard, given:
 - (a) the direction in s18A RMA to adopt timely, efficient, consistent, and cost-effective processes, and
 - (b) the plan review process has been five years in the making and has generated substantial community and stakeholder engagement.
56. The above recommendation has required us to consider the mechanics of how this can be done. For example, can we recommend adopting some Planning Standards definitions but not others? While there is nothing in the Planning Standards to prevent this given the interrelationship between many of the definitions, it became apparent that it is not possible to be selective, and that an 'all or nothing' approach was required. This is best illustrated with an example:
 - a. The term 'building coverage' is defined in the Definitions Standard as meaning:

"the percentage of the *net site area* covered by the *building footprint*".
 - b. 'Building coverage' is defined in the Proposed Plan as meaning:

"the proportion of the net site area which is covered by any building.

It includes:

 - (a) overhanging or cantilevered parts of buildings or structures;

(b) covered decks.

It excludes:

- (a) eaves of a building that project less than 750mm horizontally from the exterior wall of the building;
- (b) fences, terraces, and retaining walls;
- (c) uncovered decks less than 1m above ground level; and
- (d) uncovered swimming pools”.

57. The Definitions Standard defines 'net site area' and 'building' differently to the Proposed Plan, while 'building footprint' is not currently defined or used in the Proposed Plan. It follows that further definition changes are required and relevant to the definition of 'building coverage', and must be considered at the same time.
58. The 'all or nothing' approach that we have adopted does not however extend to those Planning Standards definitions which have not been submitted on (or any sub-definitions which are affected by those definitions). While now would be the ideal time to do this, time and capacity constraints imposed by the hearing timetable have meant that this has not been possible. However, we consider there is time, within the overall hearing programme, for this work to be undertaken and reported to the Hearing Panel, if this would be of benefit.

2.5.2 Application of Definition Standard

59. In reviewing the relationship between the Proposed Plan and Planning Standards definitions, we have applied the advice set out in 'Guidance for 14. Definitions Standard² (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. Where changes to plan rules are required to maintain the original meaning and application of the rules once the definitions are included, those changes are *“likely to be considered to be consequential and must be made without the Schedule 1 process”*. The Guidance notes that it is expected that most councils will choose to include the definitions as part of a fuller plan review process.
60. We have relied on the Guidance as well as the 'Recommendations on Submissions Report 21 Definitions Standard'³, ('Recommendations on Submissions Report') in preparing this report.
61. The following guidance in those documents has informed our recommendations:
- Policy statements and plans must use the definitions set out in the Definitions List for any terms that have the meaning set out in the Definitions List. There is no discretion for a

² Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment.

³ 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.

council to choose whether to apply the definition. If the term is used in the same context, then the definition applies.

- Synonyms of the terms defined in the Definitions List cannot be used.
- Councils are only required to use the definitions from the Definitions List that are used in the same context as the definition in that policy statement or plan.
- Councils may define terms or phrases used within a definition (i.e. a subcategory definition). Any such subcategory must be defined accurately and in a way that is appropriate for the main definition.
- Narrower definitions are also appropriate “*where this is needed to manage specific issues*”, and where these are consistent with the meaning of the main definition. For example “ancillary activity” is defined in the Definitions List, and it may be appropriate to provide a narrower application, such as “ancillary industrial activity”.
- Where a definition in the Definitions Standard applies, the defined term should be highlighted or marked, in accordance with I0. Format Standard, so it is clear to users that a defined meaning applies. (We note this is a ‘whole-of-plan’ issue, and not one that solely applies to Chapter 13).
- Councils may define additional terms other than those in the Definitions Standard.
- Diagrams may be used to illustrate complex definitions. The Planning Standards don’t include these, nor do they preclude their use.

2.5.3 Drafting principles

62. Finally, the Guidance document 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 plan. 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...”).

3 Consideration of submissions received

3.1 Overview of submissions

63. Over 300 submission points were received on definitions, and around 160 definitions or terms are considered in this report. Those 160 terms include definitions that:
- are defined in the Proposed Plan,
 - are not defined but submitters ask to be included in the Proposed Plan,
 - are defined in the Definitions List in the Planning Standards and are used in the same context as the definitions that have been submitted on,
 - Are sub-definitions of those definitions in the Definitions Standard and therefore also need to be considered.
64. Broadly, the relief sought by the submissions falls into one or more of the following categories:
- submissions requesting that the Planning Standards definitions be adopted now,
 - submissions expressing support for definitions as notified,
 - requests for amendments or deletion of proposed definitions in Chapter 13,
 - requests for rationalisation of definitions, especially for terms which are largely synonymous,
 - requests for new terms to be defined, often to support a request for new rules,
 - requests for definitions in the Operative District Plan to be carried forward into the new Plan.
65. The following list highlights some of the definitions which attracted a significant number of submissions:

Table 3: Overview of submissions on definitions which attracted significant numbers of submissions

Definition	Scope of submissions
'building'	Scope and coverage of the definition, including potential inclusions or exclusions.
'minor dwelling'	Relationship of the definition to the wider issue of housing density and 'residential unit'.
'noise sensitive activity', 'sensitive land use', 'reverse sensitivity'	Rationalise the definitions of 'noise sensitive activity' and 'sensitive land use', and include or exclude various land uses in these terms. Include a definition of 'reverse sensitivity' in the Proposed Plan.
'extractive industry', 'aggregate extraction activities', 'mineral extraction and processing'	Rationalise the definitions, include or exclude various activities which are considered to be 'typical' of these operations.
'cleanfill' and 'fill material'	Definitions of 'cleanfill' and 'fill material' are inconsistent with WasteMINZ guidance and cause confusion.
'earthworks'	Requests to include or exclude various activities, and to clarify the relationship with 'ancillary rural earthworks'.
'rural activities' and 'productive rural activities'	Scope and coverage of definition and relationship with the definition of 'farming'.

66. Not all the submissions on definitions that have been received are assessed in this s42A report. Some definitions will be considered in the topic or zone-specific s42A reports, especially where they are unique to, or closely tied to, the interpretation of provisions in that topic / zone.
67. Submissions which request amendments to definitions which appear in multiple instances in the Proposed Plan have been considered in this report, rather than in the s42A report which addresses 'whole-of-plan' submissions.
68. As stated earlier in this report, there is often a close relationship between a definition and the interpretation of rules in a Plan. Many of the decisions around how to resolve the differences between the Planning Standards definitions and the definitions in the Proposed Plan rely on consideration of the rules, in combination with the issues raised by submitters on those rules. (This is because under the Definitions Standard, we cannot recommend a list of exclusions (or inclusions) to a definition.⁴ To provide for such exclusions/inclusions with the adoption of the Planning Standards definitions, they will need to be incorporated into the rules). In those circumstances, short of doing the full substantive analysis that should be done in the proper context, we are not in a position to make a recommendation.

⁴ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment, Mandatory Direction 1.

Consequently, there are a number of recommendations in this report which will need to be revisited in the context of considering other submissions in the hearings that follow.

69. Where we consider that our recommendation should be reviewed in light of other submissions on a particular topic, and any assessment of those submissions, we have drawn this to the Panel's attention. In some cases we have recommended that the definition be considered during a future hearing rather than at this hearing, because of the broader complexity of the topic it relates to. The table in Appendix 3 identifies those definitions which we consider will require further deliberation at topic or zone-specific hearings.
70. We note that the Waikato District Council has sought relief on a number of the definitions, in its capacity as a submitter. The Council's submission states that this is primarily for the purpose of improving the clarity and consistency of defined terms. We have treated the submissions from Council in the same way as any other submission points on the Proposed Plan, that is, on their own merits. Ms Parham addresses this in paragraph 10 of her opening legal submission for the Council.

3.2 Structure of this report

71. Given the number, nature and extent of the submissions and further submissions received, we have structured the Section 42A report based on groupings of terms which are often considered or interpreted together, rather than in the alphabetical order that the definitions appear in the Proposed Plan. The order of appearance is broadly based on the most commonly applied and used definitions first, and on those definitions which have a greater level of complexity. We have considered the following definitions, in the order set out below:

Table 4: List of definitions in the order in which they are considered in this report

Report Section Number	Definition
3.3	'Allotment' and 'Lot'
3.4	'Utility Allotment'
3.5	'Record of Title'
3.6	'Rear Record of Title'
3.7	'Viable Record of Title'
3.8	'Boundary'
3.9	'Boundary adjustment'
3.10	'Notional Boundary'
3.11	'Front', 'side' and 'rear' 'boundary'
3.12	'Continuous landholding'
3.13	'Contiguous'
3.14	'Site'
3.15	'Net Site area'

3.16	‘Structure’
3.17	‘Building’
3.18	‘Building coverage’
3.19	‘Gross floor area’ and ‘GFA’
3.20	‘Building platform’
3.21	‘Residential activity’
3.22	‘Residential unit’ and ‘dwelling’
3.23	‘Household’
3.24	‘Minor dwelling’ and ‘minor residential unit’
3.25	‘Accessory building’
3.26	‘Sleepout’
3.27	‘Apartment’
3.28	‘Multi-unit development’
3.29	‘Travellers’ accommodation’ and ‘Visitor accommodation’
3.30	‘Homestay’
3.31	‘Workers’ accommodation’
3.32	‘Rest Home’ and ‘Retirement Village’
3.33	‘Boarding House’
3.34	‘Special Housing Development’
3.35	‘Noise-sensitive activity’
3.36	‘Sensitive land use’ and ‘reverse sensitivity’
3.37	‘Habitable building’, ‘non-habitable building’ and ‘habitable room’
3.38	‘Living court’ and ‘outdoor living space’
3.39	‘Communal service court’
3.40	‘Service Court’
3.41	‘Height’, and ‘ground level’
3.42	‘Height control plane’ and ‘height in relation to boundary’
3.43	‘Earthworks’
3.44	‘Industrial activity’
3.45	‘Aggregate Extraction Area’
3.46	‘Mineral extraction and processing’, ‘Aggregate Extraction Activities’ and ‘Extractive Industry’
3.47	‘Blasting’
3.48	‘Mineral’
3.49	‘Cleanfill’ and ‘fill material’
3.50	‘Cleanfill facility’
3.51	‘Landfill’
3.52	‘Waste management’

3.53	'Waste management facility'
3.54	'Disposal'
3.55	'Contaminated land'
3.56	'Rural industry'
3.57	'Rural activities' and 'productive rural activities'
3.58	'Forestry'
3.59	'High class soils'
3.60	'Lifestyle uses'
3.61	'Boarding, breeding or animal training establishment'
3.62	'Commercial activity', 'commercial services' and 'retail activity'
3.63	'Service station'
3.64	'Public floor area'
3.65	'Neighbourhood centre'
3.66	'Community facility', 'community activity' and 'place of assembly'
3.67	'Health facility'
3.68	'Education facility' and 'childcare facility'
3.69	'Community corrections activity'
3.70	'Correctional facility'
3.71	'Emergency services'
3.72	'Emergency services training and management activities'
3.73	'Temporary military training activity'
3.74	'Functional need' and 'operational need'
3.75	'Temporary event'
3.76	'Access', 'accessible' and 'accessibility'
3.77	'Informal recreation'
3.78	'Day-to-day activity'
3.79	'Maimai'
3.80	'Motorised sport and recreation'
3.81	'Airfield'
3.82	'Circuit training' and 'flight training school'
3.83	'General aviation' and 'recreational flying'
3.84	'Urban subdivision, use and development'
3.85	'Comprehensive Land Development Consent'
3.86	'Comprehensive Subdivision Consent'
3.87	'Indicative Road'
3.88	'Village Green'
3.89	'Sign'

3.90	'Real estate header sign' and 'real estate sign'
3.91	'Construction noise'
3.92	'Lux'
3.93	'Noxious, dangerous, offensive or toxic activities'
3.94	'Heavy vehicle'
3.95	'Identified area'
3.96	'Environmental protection area'
3.97	'AEP'
3.98	'Impervious Surface'
3.99	'Low impact design', 'floodplain' and 'flood risk area'
3.100	'Overland flow path'
3.101	'Stormwater management plan' and 'Catchment Management Plan'
3.102	'Wastewater treatment plant'
3.103	'Community-scale wastewater system'
3.104	'Watercourse'
3.105	'Reservoir'
3.106	'Lake'
3.107	'River'
3.108	'Water'
3.109	'Waterbody'
3.110	'Wetland'
3.111	Miscellaneous

72. Our recommendations on further submissions are set out in Appendix I of this report. They follow our recommendations on the original submission points in most cases, with the exception of the further submission points from Mercury Energy. Our recommendation has been to reject these further submission points, because we do not consider the relief sought is relevant to the matters considered in this report.
73. We have not provided a section 32AA evaluation after each recommended amendments section. Instead, we provide this analysis at section 4 of the report.

3.3 ‘Allotment’ and ‘Lot’

3.3.1 Introduction

75. The following terms are relevant to my analysis:

Allotment (Proposed Plan)	Has the meaning in section 218 of the Resource Management Act 1991
Allotment (Planning Standards)	<p>Has the same meaning as in section 218 of the RMA (as set out in the box below). Means—</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <ul style="list-style-type: none"> a. any parcel of land under the Land Transfer Act 1952 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not— <ul style="list-style-type: none"> i. the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or ii. a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or b. any parcel of land or building or part of a building that is shown or identified separately— <ul style="list-style-type: none"> i. on a survey plan; or ii. on a licence within the meaning of Part 7A of the Land Transfer Act 1952; or c. any unit on a unit plan; or d. any parcel of land not subject to the Land Transfer Act 1952. </div>
Lot (Proposed Plan)	Means a parcel of land held, or proposed to be held, under a Record of Title

3.3.2 Submissions

76. One submission point was received on the definition of ‘Lot’ from the Waikato District Council. The Council considered that it would be more efficient if the terms ‘Lot’ and ‘Allotment’ could be used interchangeably, and sought that the definition be changed so that the definition of ‘Lot’ is “Means the same as allotment”. There is one further submission.

77. The following submission was made:

Submission point	Submitter	Summary of submission
697.397	Waikato District Council	Amend the definition of ‘Lot’ to have the same meaning as ‘Allotment’.
FS1387.556	Mercury	<i>Opposed 697.397: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.3.3 Analysis

78. The definition of 'Allotment' in the Proposed Plan is almost identical to the definition in the Planning Standards, with the exception that the Planning Standards sets out the wording of the relevant section of the Act. The Planning Standards were drafted on the basis that "any definition already contained in the RMA, should be applied in the national planning standard where it is fit for purpose⁵". I consider that it is appropriate to adopt the Planning Standards definition and that this would not result in any consequential changes to the Proposed Plan provisions. It would also improve clarity if the relief sought by Waikato District Council [697.397] to use the terms 'Allotment' and 'Lot' interchangeably were adopted.

3.3.4 Recommendations

79. I recommend that the definition of 'Allotment' is amended so that it is consistent with the definition of this term in the Planning Standards. It is further recommended that the definition of 'Lot' is amended as requested by Waikato District Council [697.397].
80. The submission from Waikato District Council [697.397] is accepted.

3.3.5 Recommended amendments

81. The following amendments are recommended:

<p>Allotment</p> <p><u>allotment</u></p>	<p>Has the meaning in section 218 of the Resource Management Act 1991</p> <p><u>has the same meaning as in section 218 of the Resource Management Act 1991 (as set out in the box below)</u></p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>a. <u>any parcel of land under the Land Transfer Act 1952 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not—</u></p> <ul style="list-style-type: none"> i. <u>the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or</u> ii. <u>a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or</u> <p>b. <u>any parcel of land or building or part of a building that is shown or identified separately—</u></p> <ul style="list-style-type: none"> i. <u>on a survey plan; or</u> ii. <u>on a licence within the meaning of Part 7A of the Land Transfer Act 1952; or</u> <p>c. <u>any unit on a unit plan; or</u></p> <p><u>any parcel of land not subject to the Land Transfer Act 1952.</u></p> </div>
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⁵ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment

Lot	Means the same as allotment a parcel of land held, or proposed to be held, under a Record of Title.
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3.3.6 Consequential amendments

82. There are no consequential amendments arising from this recommendation.

3.4 'Utility Allotment'

83. The following term is relevant to my analysis:

Utility Allotment (Proposed Plan)	Means an allotment used exclusively for the purposes of accommodating infrastructure.
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3.4.1 Submissions

84. Two original submission points and three further submission points were received. Four of the five submissions supported the definition and sought that this be retained as notified.

85. The following submissions were made:

Submission point	Submitter	Summary of submission
405.16	Counties Power Limited	Retain the definition of 'Utility Allotment' as notified.
FS1211.40	First Gas	Support 405.16
692.2	WEL Networks Limited	Retain the definition of 'Utility Allotment' as notified.
FS1176.233	Mark Bourne	Support 692.2
FS1258.91	Meridian Energy Limited	Oppose 692.2 on the basis that Meridian requests higher height limits for meteorological installations.

3.4.2 Analysis

The support for the definition of 'Utility Allotment' in the Proposed Plan is noted. The opposing further submission from Meridian Energy Limited relates to the rules associated with the definition term, rather than the term itself (the term itself does not refer to structures or height). The definition provides clarity for the reader and I recommend that it is retained as notified.

3.4.3 Recommendations

86. I recommend that the definition of 'Utility Allotment' is retained, as requested by Counties Power Limited [405.16] and WEL Networks Limited [692.2], and that those submissions are accepted.

3.4.4 Consequential amendments

87. There are no consequential amendments arising from this recommendation.

3.5 'Record of Title'

88. The term 'Record of Title' is not currently defined in the Proposed Plan.
89. There is no definition in the Planning Standards that approximates this term.

3.5.1 Submissions

90. Two submission points were received. Waikato District Council sought that a definition for 'Record of Title' be included in the plan. Blue Wallace Surveyors supported the inclusion of a definition of Record of Title that reflects the most recent terminology within the Land Transfer Survey Act 2017.
91. The following submissions were made:

Submission point	Submitter	Summary of submission
697.495	Waikato District Council	<p>Include a new definition for Record of Title, as per section 12 of the Land Transfer Act 2017, as follows:</p> <p>"Record of Title: Means a record of title issued pursuant to section 12 of the Land Transfer Act 2017. Where more than one record of title is issued under that section for multiple concurrent interests in the same parcel of land (including for example a lease, or for an undivided share in the land), Record of Title includes, for the purposes of this plan, all records of title issued in respect of the same parcel of land, as if only one record of title had issued.</p> <p>Where the context requires, Record of Title includes the land comprised in that record of title".</p>
662.32	Blue Wallace Surveyors	<p>Include the following definition, given it reflects the most recent terminology in the Land Transfer Act 2017:</p> <p>"Record of Title: Means a Computer Freehold Register (also referred to as a Certificate of Title)".</p>

3.5.2 Analysis

92. I agree with both submitters that a definition for 'Record of Title' would assist in providing clarity, as it is a term used in a number of provisions, including rules, in the Proposed Plan. The definition proposed by Waikato District Council is consistent with the definition in the Land Transfer Act 2017. The definition proposed by Blue Wallace Surveyors [662.32] is not

as complete as that proposed by Waikato District Council [697.495], and would rely on further reference to either the legislation that more fully defines the term (i.e. the Land Transfer Act 2017), or an additional definition would need to be added to the Proposed Plan for 'computer freehold title'. The term 'Certificate of Title' is not used in the Proposed Plan.

93. In my view, the last part of the definition proposed by Waikato District Council is unnecessary. This is the wording that says: "*Where the context requires, Record of Title includes the land comprised in that record of title*". It appears to have been included in the proposed definition to address drafting in the subdivision rules that refers to the subdivision of a record of title. In practice a record of title is not subdivided, rather the land contained in a record of title is subdivided. The last part of the definition could be deleted if certain subdivision rules⁶ are amended to refer to 'the land' within a record of title being subdivided. For example, rule 22.4.1.2 RDI (a)(i) could be reworded:

“(i) ~~The land~~ ~~The record of Title~~ to be subdivided must be included in a Record of Title issued prior to 6 December 1997.”

94. Rule 22.4.1.4 RDI (a)(i) and (ii) could be reworded:

(i) Relocate a common boundary or boundaries between the land in two existing Records of title that existed prior to 18 July 2018.

(ii) The land in the records of title must form a continuous landholding. ”

95. In my view the definition proposed by Waikato District Council can be shortened without losing any intent as follows:

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.

3.5.3 Recommendations

96. I recommend that a definition of 'Record of Title' is included in the Plan. I recommend minor amendments to the definition proposed by Waikato District Council [697.495].
97. I recommend that the submissions from Waikato District Council [697.495] and Blue Wallace Surveyors [662.32] are accepted in part.

3.5.4 Recommended amendments

98. The following insertion is recommended:

<u>Record of Title</u>	<u>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</u>
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⁶ Rules 22.4.1.1, 22.4.1.2 and 22.4.1.4

	<u>example for a lease, or undivided share in the land) as if only one record of title had been issued.</u>
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3.5.5 Consequential amendments

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

3.6 'Rear Record of Title'

100. The following term is relevant to my analysis:

Rear Record of Title (Proposed Plan)	Means an allotment which is situated generally to the rear of another and has access to a road by means of an access leg, or which has a frontage to a road of less than 6m.
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3.6.1 Submissions

101. Two submission points were received. Waikato District Council sought that the definition be deleted, as it is not a term used in the Proposed Plan. Sharp Planning Solutions Ltd sought that the definition be amended to describe the situation where an allotment, although approved, has not yet had a Record of Title issued.

102. The following submissions were made:

Submission point	Submitter	Summary of submission
697.496	Waikato District Council	Delete the definition of 'Rear Record of Title' as this term is not used in the Plan.
695.77	Sharp Planning Solutions Ltd	Amend the definition to describe the situation where an allotment although approved, has not yet had a Record of Title issued.

3.6.2 Analysis

103. Waikato District Council [697.496] has submitted that the term is not used in the Plan, therefore the definition is not required. I have checked the Proposed Plan and confirm that the term is not currently used. As such, having the term in the definitions chapter is unnecessary.
104. The issue that Sharp Planning Solutions Ltd [695.77] raises is not unique to a title which is situated to the rear of another. The relief sought may be partially met by the recommendation to include the Planning Standards definition of 'site' (see section 3.14 of this report). This new definition of 'site' covers the situation where a new allotment has been approved, but not yet had the Record of Title issued.

3.6.3 Recommendations

105. I recommend that the definition of 'Rear Record of Title' is deleted, as requested by Waikato District Council [697.496] and that submission is accepted.
106. I recommend that the submission from Sharpe Planning Solutions Ltd [695.77] is rejected.

3.6.4 Consequential amendments

107. There are no consequential amendments arising from this recommendation.

3.7 'Viable Record of Title'

108. The following term is relevant to my analysis:

Viable Record of Title (Proposed Plan)	Means in the Rural Zone, a Record of Title that contains at least 5000m ² , is not a road severance, and can accommodate a suitable building platform as a permitted activity under Rule 22.4.9 (subdivision rule for building platform).
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3.7.1 Submissions

109. Three submission points were received. Waikato District Council sought that the definition for 'Viable Record of Title' be amended, so that it addresses the scenario of a 'stopped' road. Sharp Planning Solutions Ltd opposed the definition and sought that it be deleted. The Surveying Company also opposed the definition, and sought an amendment.
110. The following submissions were made:

Submission point	Submitter	Summary of submission
697.512	Waikato District Council	Amend the definition to include a 'stopped road'.
695.80	Sharp Planning Solutions Ltd	Delete the definition, as it is likely to be ultra-vires. The Act does not provide for active discrimination in defining which record of title is viable or not, only in specific zones. The same rules have to apply to all lots in all zones if they are to be applied.
746.23	The Surveying Company	Amend the definition as it is a simplistic interpretation that will change the status of existing lawfully established titles with existing use rights. The amendment sought is as follows: Means in the Rural Zone, a Record of Title that contains at least 5000m ² , is not a road severance, and can accommodate a suitable building platform as a permitted activity under Rule 22.1.9 (subdivision rule

		<p>for building platform), which satisfies one of the following criteria:</p> <ul style="list-style-type: none"> • contains at least 5000m², or • is a lot approved or granted consent by a territorial local authority, or • was separately recorded on the valuation roll of the former Franklin County Council as at 22 September 1977, or • had the right to erect one dwelling as a Permitted activity as at 30 May 1994 in terms of the Transitional District Plan of the Franklin District Council.
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3.7.2 Analysis

- I 11. My understanding of the intention of this definition is to define a Record of Title that ‘qualifies’ for the purposes of providing a lot which can be built on. The term is defined for the purposes of relocating a boundary under Rule 22.4.1.4 ‘Boundary relocation’ or to create a Rural Hamlet under Rule 22.4.1.5 ‘Rural Hamlet Subdivision’ in the Rural Zone. The term ‘Viable Record of Title’ does not currently appear in either of these rules, but I am aware that the intention to incorporate this is sought in other submissions by the Waikato District Council [697.827 and 697.828]. As these submissions have not been considered by the Hearing Panel yet, any recommendation I make is provisional.
- I 12. I agree that in order for the rules to function as intended, one option is that the term ‘Viable Record of Title’ is referenced in Rules 22.4.1.4 and Rule 22.4.1.5, as a consequential amendment. I also agree with the Waikato District Council [697.512] that it would assist in providing clarity if the term were amended to include the scenario of a ‘stopped road’, as such a situation would be unlikely to generate a ‘viable’ Record of Title. I note that as worded, this definition contains a subjective reference to a “suitable” building platform, which is unnecessary and redundant.
- I 13. An alternative option, if the substantive submissions (697.827 and 697.828) are to be accepted), is to incorporate the words of the proposed definition in the amendments to the rules. For example, this could be achieved by adding a new sub-paragraph (v) to Rule 22.4.1.4 RDI (a) as follows:
- “(v) comprise existing Records of Title for parcels which each contain at least 5000m², are not road severance or stopped road, and can accommodate a building platform as a permitted activity under Rule 22.4.9.”
- I 14. The submitters (Sharp Planning Solutions Ltd [695.80] and The Surveying Company [746.23] question whether this definition is ultra vires, and whether it is too simplistic to capture existing use rights. It seems reasonable to me that a minimum lot size and other necessary requirements would be defined in this context. The intention of the definition is to define a specific term to be used in the context of the application of subdivision rules and, in this context, I do not consider it to be ultra vires. However I do agree with Sharp Planning Solutions Ltd that the definition could be deleted and the text I set out above included in the

rules instead. Similarly, I do not consider that there is an existing use right which is extinguished by this definition. I understand that this definition is used in the Franklin section of the Operative District Plan, however this does not by itself create an existing use right. I therefore do not support the amendment put forward by The Surveying Company.

3.7.3 Recommendations

- I 15. I provisionally recommend that if the substantive submissions from Waikato District Council (697.827 and 697.828) are accepted, that the definition of 'Viable Record of Title' is deleted and the relief sought is met by adopting the amendment as set out above. I recommend that the submission from Waikato District Council [697.512] is accepted in part.
- I 16. I provisionally recommend that the submission from Sharp Planning Solutions (695.80) is accepted (in that I recommend deletion of the definition of 'Viable Record of Title').
- I 17. I recommend that the submission from The Surveying Company [746.23] is rejected.

3.7.4 Recommended amendments

- I 18. The following amendments are recommended:

Viable Record of Title	Means in the Rural Zone, a Record of Title that contains at least 5000m², is not a road severance or stopped road, and can accommodate a suitable building platform as a permitted activity under Rule 22.4.9 (subdivision rule for building platform).
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3.7.5 Consequential amendments

- I 19. Consequential amendments are required to Rule 22.4.1.4 and Rule 22.4.1.5 to insert the following text, as a result of this provisional recommendation.

“comprise existing Records of Title for parcels which each contain at least 5000m², are not road severance or stopped road, and can accommodate a building platform as a permitted activity under Rule 22.4.9.”

3.8 'Boundary'

- I 20. The following term is relevant to my analysis:

Boundary (Proposed Plan)	Means in relation to: (a) a Record of Title - the site boundary; (b) cross-lease titles - the boundary of any restrictive covenant area; and (c) unit titles - the boundary of the accessory unit associated with the principal unit”.
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- I 21. There is no definition in the Planning Standards that approximates this term.

3.8.1 Submissions

122. Three submission points were received, one in support and two requests to amend the definition.

123. The following submissions were made:

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.

3.8.2 Analysis

124. The term 'boundary' is frequently used in the Proposed Plan, including in a number of rules. It is therefore useful to include a definition for this term. The relief sought by both Waikato District Council [697.368] and Sharp Planning Solutions [695.59] refers to 'exclusive use areas' as the appropriate terminology to use when referring to the internal boundaries of cross-leases. My understanding is that this terminology has been supported by legal advice to the Council.

125. Sharp Planning Solutions Ltd [695.59] has requested that the definition of 'boundary' be broadened to include external boundaries of cross-lease sites. My understanding is that if this wording were adopted, this would have unintended consequences for the application of a number of rules in the Proposed Plan, including those that relate to setbacks, building footprints and daylight angles, and could create an inequitable advantage or disadvantage to a particular unit title owner. For those reasons, I do not recommend this amendment.

3.8.3 Recommendations

126. I recommend that the definition of 'Boundary' is amended as requested by Waikato District Council [697.368], and that the submission is accepted.

127. I recommend that the submissions from Housing New Zealand Corporation [749.31] and Sharp Planning Solutions Ltd [695.59] are accepted in part.

3.8.4 Recommended amendments

128. The following amendments are recommended:

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

129. There are no consequential amendments arising from this recommendation. The term ‘restrictive covenant’ is not used in the Proposed Plan, other than in this definition.

3.9 ‘Boundary adjustment’

130. The following terms are relevant to my analysis:

Boundary adjustment (Planning Standards)	means a <i>subdivision</i> that alters the existing boundaries between adjoining <i>allotments</i> , without altering the number of <i>allotments</i> .
Subdivision (Proposed Plan)	Has the meaning in section 218 of the Resource Management Act 1991.
Subdivision (Planning Standards)	Has the same meaning as “subdivision of land” in section 218 of the RMA (as set out in the box below) means— <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>a. the division of an allotment—</p> <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 </div>

	<div style="border: 1px solid black; padding: 5px;"> 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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131. The term ‘Boundary adjustment’ is not currently defined in the Proposed Plan.

3.9.1 Submissions

132. Two original and one further submission points were received. Federated Farmers of New Zealand sought that a definition be provided as this is a valid form of reorganisation of parcels. Greig Metcalfe sought a definition on the basis that the term is not defined in the plan, which leads to ambiguity and uncertainty.

133. The following submissions were made:

Submission point	Submitter	Summary of submission
680.130	Federated Farmers of New Zealand	Include a definition, in recognition that this is a valid form of reorganisation of land parcels. A definition is proposed: “means a subdivision of adjoining allotments to adjust the position of boundaries, in a manner that produces the same number of allotments”.
602.33	Greig Metcalfe	Include an appropriate definition. This term is not defined in the Plan, which leads to ambiguity and uncertainty.
FS1339.73	NZTE Operations	Oppose 602.33
FS1388.1041	Mercury NZ Limited	Oppose 602.33

3.9.2 Analysis

134. The term ‘boundary adjustment’ is frequently used in the Proposed Plan, including in policies and rules. I consider it is useful to include a definition for this term.

135. I note that there is an inconsistency in the wording in the Proposed Plan as ‘boundary adjustment’ is used in the Residential Zone (Rules 16.4.5, 16.4.6), Business Zone (Rules 16.4.1.2, 16.4.1.3) and other urban zones. It appears in the Rural Zone Rule 22.4.1.1 PR3 (c) in “boundary relocation or adjustment” but not in Rule 22.4.1.4 which refers only to “boundary relocation.” In my view the only difference between boundary ‘relocations’ and ‘adjustments’ is that ‘relocation’ suggests a more radical alteration to the shapes and sizes of affected lots. Introducing a definition of ‘boundary adjustment’ causes a practical problem in that it implies that ‘boundary relocation’ is something different. I therefore recommend a consequential amendment to replace the term ‘boundary relocation’ throughout the Proposed Plan with ‘boundary adjustment.’

136. Federated Farmers of New Zealand [680.130] has proposed a definition which closely resembles that in the Planning Standards. As the Planning Standards directs that a council must use the term as defined in the Planning Standards where that term is used in the same context in a Plan⁷, I recommend that the definition, as set out in the Planning Standards, is adopted.

3.9.3 Recommendations

137. I recommend that a definition of 'Boundary adjustment' is added to Chapter 13 as requested by Federated Farmers of New Zealand [680.130], and that submission is accepted in part.
138. I recommend that the submission from Greig Metcalfe [602.33] is accepted.

3.9.4 Recommended amendments

139. The following insertion is recommended:

<u>boundary adjustment</u>	<u>means a subdivision that alters the existing boundaries between adjoining allotments, without altering the number of allotments.</u>
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3.9.5 Consequential amendments

140. As a consequential amendment of adopting 'boundary adjustment', I recommend that all references to 'boundary relocation' are deleted and replaced with the term 'boundary adjustment', to avoid any implied difference in interpretation between these terms.
141. The definition of 'boundary adjustment' uses the term 'subdivision', which is defined in the Definitions Standard. I recommend that, as a consequential amendment, the definition of 'subdivision' in the Proposed Plan include the additional wording in section 218 of the RMA, as set out in the Definitions Standard.
142. The following additional insertion is recommended:

⁷ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

<p><u>subdivision</u></p>	<p><u>has the same meaning as “subdivision of land” in section 218 of the RMA (as set out in the box below) means—</u></p> <div data-bbox="469 293 1394 990" style="border: 1px solid black; padding: 10px;"> <p><u>a. the division of an allotment—</u></p> <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 </div> <p><u>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.</u></p>
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3.10 'Notional Boundary'

143. The following terms are relevant to my analysis:

Notional Boundary (Proposed Plan)	Means a line measured 20 metres, and parallel to any side of a residential unit or a building occupied by a sensitive land use, or the site boundary where this is closer to the residential unit or sensitive land use.
Notional Boundary (Planning Standards)	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.

3.10.1 Submissions

144. Three original submission points and five further submissions were received. Sharp Planning Solutions Ltd considers that the definition is inconsistent with Section 218 of the RMA and with other councils and its application is likely to be ultra vires and an inappropriate 'virtual encumbrance'. Waikato District Council sought an amendment to increase clarity. Synlait Milk supported the definition as notified.

145. The following submissions were made:

Submission point	Submitter	Summary of submission
695.76	Sharp Planning Solutions Ltd	Delete the definition, it is unnecessary, inappropriate and likely to be ultra-vires. It stifles potential intensification of land use in residential areas and is not an effects based consideration under s95 or s104 where future subdivision is not clearly a consideration. Section 87BA would override this definition. The application of this definition by the Council is not consistent with normal practice elsewhere.
FS1345.120	Genesis Energy Limited	Support 695.76
697.492	Waikato District Council	Seeks a minor amendment to the definition to refer to a situation where the site boundary is 'less than 20 metres from', rather than 'closer to'.
FS1168.128	Horticulture New Zealand	Support 697.492 'Notional boundary' is a term that is used in noise standards and is defined in the National Planning Standards. The NPS definition should be used in the Plan.
FS1087.22	Ports of Auckland	Support 697.492
FS1264.13	Bootleg Brewery	Oppose 697.492 on the basis that operators will be unnecessarily restricted and will face additional costs. The submitter believes that the anticipated effects are either negligible or can be managed through commercial outcomes.

581.15	Synlait Milk Ltd	Retain the definition as notified. It provides appropriate interpretation in administration of the District Plan.
FS1341.31	Hynds Pipe Systems Limited	Support 581.15

3.10.2 Analysis

146. The term ‘notional boundary’ is used widely in the Proposed Plan, including in a number of rules. I consider it useful to include a definition for this term. The definition as proposed is very similar to that in the Definitions Standard. As the Definitions Standard states that a Council must use the term as defined in the Definitions List where that term is used in the same context in a plan⁸, I recommend that the definition in the Definitions Standard adopted. I note that the amendment sought by Waikato District Council [697.492] would be less consistent with the Planning Standards definition.
147. It appears, but is not completely clear to me, that the submission from Sharp Planning Solutions Ltd [695.76] relates to the use of the term “notional boundaries” in the multi-unit subdivision rules in the Plan. The term is used there in relation to subdivision layout. In that context, my understanding, on plain reading, is that the term ‘notional’ refers to boundaries which are ‘speculative’ or ‘suggested’. This is not the same context in which the definition of “Notional boundary” is applied in the Proposed Plan, which relates to the management of noise effects. I agree however, that the almost identical wording has the potential to create confusion for the plan reader, and that it would be appropriate to use a different term in the multi-unit subdivision rules [17.4.1.1 and 18.4.2]. I have suggested alternative wording to this effect, as a consequential amendment (see section 3.10.5 below).

3.10.3 Recommendations

148. I recommend that the definition of ‘Notional boundary’ is amended to be consistent with the definition in the Planning Standards. Therefore I recommend that the submission from Waikato District Council [697.492] is rejected.
149. I recommend that the submission from Synlait Milk Ltd [581.15] is accepted in part (the definition is retained, but amended to be consistent with the Planning Standards definition).
150. I recommend that the submission from Sharp Planning Solutions Ltd [695.76] is rejected.

3.10.4 Recommended amendments

151. The following amendments are recommended:

⁸ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

Notional boundary	Means a line measured 20 metres, and parallel to any side of a residential unit or a building occupied by a sensitive land use, or the site boundary where this is closer to the residential unit or sensitive land use.
<u>notional boundary</u>	<u>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.</u>

3.10.5 Consequential amendments

Provision	Reasons for consequential amendment	Proposed wording
Rule 26.2.2 Noise – Business and Industrial Area Precinct B and Minor Race Track Area – Precinct C, Motorsport and Recreation Zone	The rule includes a definition of ‘notional boundary’ in (b), with reference to NZS 6801:2008. I recommend deletion of this clause, as the term is already defined. In addition, the Planning Standards reflects the more recent definition of ‘notional boundary’ in NZS 6808:2010.	b) The notional boundary means a line 20 m from the façade of any dwelling or the legal boundary whichever is the closer to the dwelling as defined in NZS 6801:2008 ‘Acoustics—Measurement of environmental sound’.
Rule 22.2.2 Glare and Artificial Light Spill, Rural Zone	The rule refers to the ‘notional boundary’ in measuring lux. The effect that is being managed here does not relate to noise. A consequential amendment is needed to this rule to remove reference to ‘notional boundary’ and instead specify a distance which would be consistent with this.	(a) Illumination from glare and artificial light spill shall not exceed 10 measured horizontally and vertically at the notional <u>legal</u> boundary, <u>or at a line 20 metres from any side of a residential unit or other building</u> on any other site in the Rural Zone; at any road boundary or within any other site in the Residential, Village or Country Living Zones;
Rule 17.4.1.1 Subdivision – Multi-unit Development, Business Zone	The term ‘notional boundaries’ is used in this multi-unit development rule (and in this, context refers to future potential subdivision layouts). This is in a different context to the use of ‘notional boundary’ in the noise rules. To avoid confusion, it may be appropriate to choose another synonym to use in this rule.	(b) The Council’s discretion shall be limited to the following matters: (i) Subdivision layout including notional <u>proposed</u> boundaries for the multi-unit development;
Rule 18.4.2 Subdivision – Multi-unit subdivision, Business Town Centre Zone	As above	(b) The Council’s discretion shall be limited to the following matters: (i) Subdivision layout including notional <u>proposed</u> boundaries for the multi-unit development;

152. There are consequential amendments arising from this recommendation. The term ‘noise sensitive activity’ (which is a term already defined in the Proposed Plan) replaces ‘sensitive

land use' (another defined term in the Proposed Plan) in the Definitions Standard definition of 'notional boundary'. This will achieve a level of consistency with the majority of the rules in the Proposed Plan as notified, which all use 'noise sensitive activity' already.

153. There are four rules where the proposed amendment to the definition will require a consequential amendment, as follows:

Table 5: Consequential amendments for the definition of 'notional boundary'

3.1.1 'Front', 'side' and 'rear' 'boundary'

154. The terms 'front boundary', 'side boundary' and 'rear boundary' are not currently defined in the Proposed Plan.
155. The Planning Standards do not define these terms.

3.1.1.1 Submissions

156. One submission point was received from Waikato District Council, requesting that definitions for these terms be included. There was one further submission.
157. The following submission was made:

Submission point	Submitter	Summary of submission
697.482	Waikato District Council	It would be helpful to insert the following new definitions for boundaries: Front boundary: Means a site boundary adjoining a public road. Side boundary: Means a site boundary that intersects with a front boundary. Rear boundary: Means a site boundary that does not intersect with a front boundary or a road.
FS1387.575	Mercury	<i>Opposed 697.482: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.1.1.2 Analysis

158. The terms 'front boundary', 'road boundary', 'side boundary' and 'rear boundary' are used in the following places in the Proposed Plan:

Table 6: Use of 'boundary' terminology in the Proposed Plan

Appearance of terms in Proposed Plan			
Front boundary	Road boundary	Side boundary	Rear boundary

Rule 27.3.4 Building setbacks – General, in relation to Precinct C or D in this rule, which is within the Te Kowhai Airpark Zone.	Rule 16.5.8.7 ‘Building setbacks – All boundaries’ in the Residential Zone	Rule 16.5.8.7 ‘Building setbacks – All boundaries’ in the Residential Zone	Rule 16.5.8.7 ‘Building setbacks – All boundaries’ in the Residential Zone
	Rule 18.3.4 Display windows and building facades, in the Business Town Centre Zone	Rule 17.3.4.1 Building setbacks – Zone Boundaries in the Business Zone	Rule 17.3.4.1 Building setbacks – Zone Boundaries in the Business Zone
		18.3.6 – Building setbacks – zone boundaries	18.3.6 – Building setbacks – zone boundaries
		Rule 20.2.2 Landscape Planting in the Industrial Zone	Rule 20.2.2 Landscape Planting in the Industrial Zone
		Rule 21.2.2 Landscape Planting – Industrial Zone Heavy.	Rule 21.2.2 Landscape Planting – Industrial Zone Heavy.

159. The application of these rules relies on understanding what is meant by these terms, therefore it would be useful to include definitions for these terms. (I note that it may also be useful to define ‘road boundary’, although the submission does not request this), given that the term ‘front boundary’ is used in one rule and ‘road boundary’ is used in two rules, as proposed. There would need to be consequential amendments to those rules to change ‘road boundary’ to ‘front boundary’, if the definition as suggested by the submitter were adopted.
160. The definitions proposed by the Council may not be interpreted in the way that the definitions are intended. For example, the definition of ‘rear boundary’ is problematic in the context of rear lots, where all of the boundaries could qualify as ‘rear boundaries’, and presumably this was not the Council’s intention. In another context, a lot may front a private road or accessway but not a public road, in which case there would be no ‘front boundary’, and by default, no side boundary either. The Council’s proposed definition for ‘front boundary’ would not work for Rule 27.3.4 P2 for example, because it refers only to public roads, whereas the Te Kowahi Airpark will include private roads, which include setbacks.
161. While the request to provide clarity is commended, the definitions as currently proposed are problematic in the context of the building setback rules, and do not cover all eventualities. My recommendation is to reject this submission. If the Council wishes to pursue the submission point, it would be helpful for the Council to produce evidence to support the inclusion of these definitions.

3.11.3 Recommendations

162. For the reason outlined above, it is recommended that the request to insert new definitions for 'front', 'side' and 'rear' boundary requested by Waikato District Council [697.482] is rejected, as the definitions as currently suggested are not clear.

3.11.4 Consequential amendments

No consequential amendments are required.

3.12 'Continuous landholding'

163. The following term is relevant to my analysis:

Continuous landholding (Proposed Plan)	Means a series of adjoining Records of Title, including titles that may only be separated by a road.
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3.12.1 Submissions

164. Two submission points were received. Waikato District Council sought an amendment to the definition to improve the clarity of the Plan. Housing New Zealand Corporation supported the definition, however consider it is unclear how the definition of 'contiguous' relates to the definition of 'continuous landholding', and that an illustration would assist the reader.
165. The following submissions were made:

Submission point	Submitter	Summary of submission
697.378	Waikato District Council	Amend the definition to provide greater clarity, by inserting reference to 'multiple' adjoining Records of Title 'in the same ownership'.
749.43	Housing New Zealand Corporation	Supports the definition but seeks amendments: to clarify how the term relates to the definition of 'contiguous' and that an illustration be provided with the definition.

3.12.2 Analysis

166. The term 'continuous landholding' is used in two rules in the Plan: Rule 22.4.1.4 'Boundary relocation' and Rule 22.4.1.5 'Rural Hamlet Subdivision'. I agree with Waikato District Council (697.378] that the amendments sought would provide greater clarity that the term refers to multiple adjoining Records of Title *in the same ownership*, especially in the context of Rule 22.4.1.4.

167. Housing New Zealand Corporation [749.43] submit that it is unclear how the definition of ‘contiguous’ relates to the definition of ‘continuous landholding’. The word ‘contiguous’ is not used in the Proposed Plan in the context or interpretation of the two rules which refer to a ‘continuous landholding’. It would not, therefore, add clarity to insert this word. In addition, Housing New Zealand seeks that an illustration be provided, however no illustration is provided to demonstrate what relief is sought. The submitter may wish to provide evidence to further this point.

3.12.3 Recommendations

168. I recommend that the definition of ‘Continuous landholding’ is amended, as requested by Waikato District Council [697.378], and that submission is accepted.
169. I recommend that the submission from Housing New Zealand Corporation [749.43] is rejected.

3.12.4 Recommended amendments

170. The following amendments are recommended:

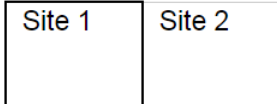
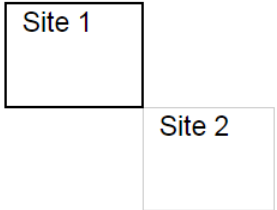
Continuous landholding	Means a series of <u>multiple</u> adjoining Records of Title <u>in the same ownership</u> , including titles that may are only be separated by a road.
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3.12.5 Consequential amendments

171. The definition uses the term ‘Record of Title’. To enable correct interpretation of this definition, ‘Record of Title’ should be defined. This is addressed in section 3.5 in this report.

3.13 ‘Contiguous’

172. The following term is relevant to my analysis:

Contiguous (Proposed Plan)	<p>Means abutting or touching at some any point, e.g.</p>  
Adjoining site (Proposed Plan)	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.

3.13.1 Submissions

173. Three submission points were received. Waikato District Council sought a minor amendment to the definition to improve the clarity of the Proposed Plan. Housing New Zealand Corporation and the New Zealand Transport Agency opposed the definition as worded.
174. The following submissions were made:

Submission point	Submitter	Summary of submission
697.377	Waikato District Council	Amend the definition to provide greater clarity, by deleting the word 'some'.
749.42	Housing New Zealand Corporation	The submitter does not consider "touching at some any point" to be contiguous. Amend wording to state "Means abutting or touching at some any point". Delete the second example in the illustration.
742.68	New Zealand Transport Agency	Amend the diagram associated with the definition so that it correctly displays two sites touching.

3.13.2 Analysis

175. The term 'contiguous' is used in one rule in the Plan – '22.4.1.6 Conservation Lot Subdivision'. My understanding is that the intention of this rule is to ensure that any land put aside for conservation purposes satisfies ecological requirements in relation to managing 'edge effects' and providing sufficient habitat for species. For that reason, the submissions on this definition warrant further consideration by the s42A author for the Rural Zone Hearing, because as drafted the definition may not best achieve that intention. (As "contiguous" has a settled dictionary definition and only appears in one rule in the Proposed Plan, there is arguably no need for a definition to be included in Chapter 13).
176. The definition of 'contiguous' in the Merriam-Webster dictionary is "being in actual contact: touching along a boundary or at a point"⁹. This website also notes that contiguous "*implies* having contact on all or most of one side" (italics are my emphasis). This appears to be the context in which the submissions from Housing New Zealand Corporation [749.42] and the New Zealand Transport Agency [742.68] are made.
177. I note that there is a definition in the Proposed Plan for 'adjoining site' which would more closely align with this concept. In the context of the Proposed Plan, I consider that contiguous is intended to cover situations where either there is contact on all or most of one side, or, there is only contact at one or more points. The New Zealand Transport Agency has not provided a diagram to show how the diagram should be amended to correctly display two sites touching, so it is difficult to recommend relief in that respect.

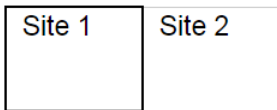
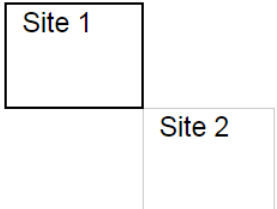
⁹ See <https://www.merriam-webster.com/dictionary/contiguous> accessed 26/08/2019.

3.13.3 Recommendations

178. I provisionally recommend that the definition of ‘Contiguous’ is retained and amended to remove the word ‘some’, subject to the term and its use being considered further in the Rural Zone Hearing.
179. I recommend that the submission from Waikato District Council [697.377] is accepted.
180. I recommend that the submissions from Housing New Zealand Corporation [749.42] and the New Zealand Transport Agency [742.68] are rejected.

3.13.4 Recommended amendments

181. The following amendments are recommended:

Contiguous	<p>Means abutting or touching at some any point.</p>  
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3.13.5 Consequential amendments

182. There are no consequential amendments arising from this recommendation.

3.14 ‘Site’

3.14.1 Introduction

183. The following terms are relevant to my analysis:

Site (Proposed Plan)	<p>Means:</p> <p>(a) any area of land comprised in one Record of Title, or</p> <p>(b) two or more Records of Title linked pursuant to s37 of the Building Act 1991, or s75 of the Building Act 2004, or s220 of the Resource Management Act 1991;</p> <p>(c) in the case of land developed under the Unit Titles Act 2010, the area comprised in a principal unit or accessory unit excluding any common property;</p> <p>(d) in the case of cross-leases, the area for exclusive use comprised within the cross-lease, excluding any common property.</p>
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site (for district plans and the district plan component of combined plans) (Planning Standards)	means a. an area of land comprised in a single record of title as per Land Transfer Act 2017; or 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 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 as per Land Transfer Act 2017 could be issued without further consent of the Council; or d. except that in relation to each of sub clauses (a) to (c), in the case of land subdivided under the Unit Title Act 1972 or 2010 or a cross-lease system, a site is the whole of the land subject to the unit development or cross-lease.
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3.14.2 Submissions

184. There are three submissions on the term 'site'. Waikato District Council seeks to amend the term as it applies to cross-leases and unit developments. Blue Wallace Surveyors Limited seeks to provide for recently subdivided sites that do not yet have a record of title. Housing New Zealand Corporation supports the definition, but notes it is slightly different to the Planning Standards definition.

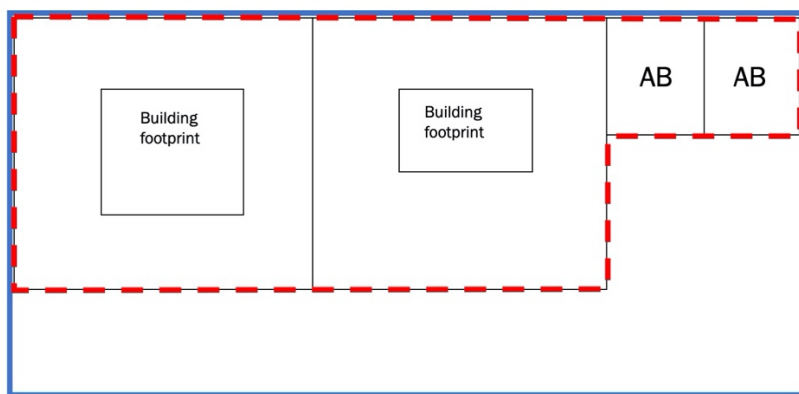
Submission point	Submitter It is	Summary of submission
662.33	Blue Wallace Surveyors Ltd	Add new clause (5) to the definition of "Site" in Chapter 13 Definitions, as follows: Site Means: ... (a) any area of land comprised in one Record of Title, or (b) two or more Records of Title linked pursuant to s37 of the Building Act 1991, or s75 of the Building Act 2004, or s220 of the Resource Management Act 1991; (c) in the case of land developed under the Unit Titles Act 2010, the area comprised in a principal unit or accessory unit excluding any common property; (d) in the case of cross-leases, the area for exclusive use comprised within the cross-lease, excluding any common property. (e) Subdivided land that requires no further consent from Council.
697.509	Waikato District Council	Amend the definition for "Site" as follows: ... (a) any area of land comprised in one Record of Title, or

		<p>(b) two or more Records of Title linked pursuant to s37 of the Building Act 1991, or s75 of the Building Act 2004, or s220 of the Resource Management Act 1991;</p> <p>(c) in the case of land developed under the Unit Titles Act 2010, the area comprised in a principal unit or <u>and</u> <u>associated</u> accessory unit excluding any common property; in the case of land developed under the Unit Titles Act</p> <p>(d) in the case of cross-leases, <u>the flat, and any</u> the <u>area reserved for the exclusive use of the lease of that flat,</u> comprised within the cross-lease, <u>but</u> excluding any common <u>areas</u> property.</p>
749.62	Housing New Zealand Corporation	<p>Retain the definition of "Site" as notified.</p> <p>The submitter supports the proposed definition. It notes the draft Planning Standards proposed a definition for site that is slightly different to the Proposed Plan definition.</p>

3.14.3 Analysis

185. The definitions of 'site' in the Planning Standards and the Proposed Plan are similar, but not the same. The critical difference is in relation to unit title and cross-lease property arrangements. This is discussed below.
186. The Planning Standards definition of 'site' includes all of the land subject to a unit development or cross-lease. The Proposed Plan definition applies only to the area within unit titles or cross-leases that is for the unit-holders' exclusive use. It excludes common areas in unit developments and cross-leases from the definition of 'site'.
187. Changing the definition of 'site' to align with the Planning Standards definition will have the following implications for different aspects of the Proposed Plan.
188. It will impact on the calculation of building coverage for cross-lease and unit development properties. Building coverage under the Definitions Standard is the percentage of the 'net site area' covered by the building footprint. In simple terms, the 'net site area' under the Definitions Standard is the total area of a 'site' excluding any access areas. For cross-lease and unit developments this will be the whole of the land subject to the cross-lease or unit development, minus any relevant access area. Building coverage is therefore shared by the 'site' owners of cross-leases or unit developments. This means buildings on an individual's unit can impact the building coverage rights of their fellow cross-lease or unit title holders. If one owner alters the building footprint of their building(s), it can affect the building coverage of the wider site.

Diagram 1: Illustration of relationship between 'site', 'building coverage' and 'net site area'



Building coverage on site and net site area – Planning Standards (cross lease).

189. The Definitions Standard definition will also create difficulty in determining the number of residential units that may be permitted on a 'site'. For example, Rule 16.3.1 Land Use – Building (Residential Zone) permits one dwelling per site. This means that one dwelling on the whole of the land subject to a unit title development is permitted, and more than one dwelling is a discretionary activity. There will need to be consequential changes to the rules to account for this change in definition. Those changes will need to specifically provide for the number of permitted residential units on a cross-lease or unit development site. Similarly, the rules for signs also permit one sign per site, for example Rule 16.2.7.1 Signs – General (Residential Zone), and these may also need to be amended to recognise cross-lease and unit development sites.
190. The rules that provide for homestay¹⁰ and home occupation¹¹ as permitted activities limit the number of non-permanent residents who are employed at the site to two people at any one time. Applying the Planning Standards definition of 'site', those rules would impact differently on homestay and home occupations operating from fee simple sites compared with those operating from cross-lease or unit development sites. For example, on a unit development site that contains four residential units, the total number of non-permanent residents able to be employed across all four units would be the same as would be permitted for a single residential unit on a fee simple title. From an effects perspective, the underlying land ownership structure of the property on which the activity is occurring would seem to make little difference to the effects of a homestay or home occupation, particularly if the standards associated with the permitted activity rules (such as for parking) are able to be met.
191. Other rules in the Proposed Plan provide for earthworks, infrastructure and ancillary office activities. Those rules include standards that specify a numerical limit on a per site basis. These rules will need to be reviewed to ensure that those numerical limits appropriately manage cross-lease or unit development arrangements.

¹⁰ Rules 16.1.2, 16.5.2, and 24.1.1

¹¹ Rules 16.1.2, 16.5.2, 22.1.2, 22.7.1.1, 22.8.2, 23.1.1, 24.1.1, and 28.1.1

192. Adoption of the Definitions Standard definition for 'site' will also impact on effects that are measured on other or 'adjoining sites'. These include noise, glare and artificial light. By way of example, Rule 16.2.3 Glare and artificial light spill (Residential Zone) states: "*Glare and artificial light spill must not exceed 10 lux measured horizontally and vertically within any other site.*" That standard will not apply internally within a cross-lease or unit development because other units within the cross-lease or unit development are within the same site as the unit from which light is being emitted (i.e. the internal units are not on 'another' site). To address this issue, amendments to these rules are needed. One approach may be for the reference to 'another site' and 'other site' in these rules to be qualified by adding the following words after 'site' '*and in the case of a cross-lease or unit development, neighbouring units of the same site*'. Alternatively, depending on the rule, the term 'boundary' may be used instead of 'site'. This is discussed below.
193. Changing the definition of 'site' to align with the Planning Standards definition should not have the same implications on building setback and daylight admission rules. This is because these rules use, or can use, the term 'boundary' instead of 'site' as a reference point. The term 'boundary' in the Proposed Plan excludes common areas (like the definition of 'site' in the Proposed Plan). It does not create a problem for cross-lease or unit development properties. This is because the definition of 'boundary' contemplates the exclusive area of a cross-lease property, unlike the Planning Standards definition of 'site', which refers to the whole of a site subject to the cross-lease.
194. Housing New Zealand Corporation [749.62] asks for the retention of the definition of 'site'. However, I also note Housing New Zealand Corporation asked for the adoption of Planning Standards definitions in submission 749.26.
195. Blue Wallace Surveyors Limited [662.33] seeks a definition that allows recently subdivided land to be considered as a 'site' without needing a record of title. This submission would be addressed through the adoption of the Planning Standards definition of 'site'. Subclause (c) of the Planning Standards definition includes 'land comprised in a single allotment or balance area on an approved survey plan of subdivision for which a separate record of title as per Land Transfer Act 2017 could be issued without further consent of the Council'.
196. Waikato District Council [697.509] also seeks amendments to the definition for 'cross-lease' and 'unit title arrangements'. Adopting the Planning Standards definition of 'site' will not resolve the issues that Waikato District Council seeks to address through its requested amendment to the definition for 'cross-lease'. As set out above, to ensure that owners and occupiers of cross-lease and unit development sites are not prevented from using their land in the same way as the owner and occupier of a fee simple property, changes will need to be made to a number of rules within the Proposed Plan. These are summarised under the heading 'Consequential amendments' at section 3.14.6 below.

3.14.4 Recommendations

197. I recommend that the definition of 'site' from the Planning Standards replace the definition of 'site' in the Proposed Plan.

198. I recommend that the submission from Blue Wallace Surveyors Ltd [662.33] is accepted in part and that the submissions from Waikato District Council [697.509] and Housing New Zealand Corporation [749.62] are rejected.

3.14.5 Recommended amendments

199. The following amendments are recommended:

<p>Site</p>	<p>Means:</p> <p>(a) any area of land comprised in one Record of Title, or</p> <p>(b) two or more Records of Title linked pursuant to s37 of the Building Act 1991, or s75 of the Building Act 2004, or s220 of the Resource Management Act 1991;</p> <p>(c) in the case of land developed under the Unit Titles Act 2010, the area comprised in a principal unit or accessory unit excluding any common property;</p> <p>(d) in the case of cross-leases, the area for exclusive use comprised within the cross-lease, excluding any common property.</p>
<p><u>site</u></p>	<p><u>means</u></p> <p><u>a. an area of land comprised in a single record of title as per Land Transfer Act 2017; or</u></p> <p><u>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</u></p> <p><u>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 as per Land Transfer Act 2017 could be issued without further consent of the Council; or</u></p> <p><u>d. except that in relation to each of sub clauses (a) to (c), in the case of land subdivided under the Unit Title Act 1972 or 2010 or a cross lease system, a site is the whole of the land subject to the unit development or cross lease.</u></p>

3.14.6 Consequential amendments

200. Adoption of the Planning Standards definition for 'site' requires consequential amendments for provisions that affect cross-leases and unit developments.
201. Given the extensive use of this term throughout the Proposed Plan, I recommend that all other section 42A report writers of the relevant hearing topics consider the implications of the use of this term. In particular, whether its use may compromise or unintentionally benefit cross-lease and unit development properties, and if so, whether an additional provision, or alternative term, such as 'boundary', should be used in the relevant provisions to provide for cross-lease and unit development. The main issues to consider are set out below. I also recommend that after all relevant hearings, the Hearings Panel should review the decisions made to ensure the cohesive integration the definition of 'site' into the Proposed Plan.

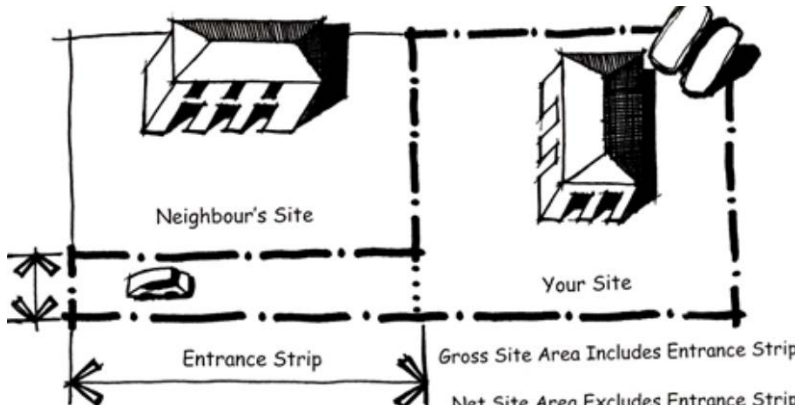
202. The term 'site' is used in rules for multi-use development and retirement villages, which are often established as unit developments. I recommend that its use (and the use of 'net site area' and 'building coverage') is reviewed in each of those rules and their associated policies.
203. Rules that limit the number of activities on a 'per site' basis should be reviewed. These include rules for dwellings and minor dwellings, home occupation, homestay, earthworks, infrastructure, hazardous substances, ancillary office activity and signs.
204. The Land Use - Building Rules, in particular for 'net site area' and 'building coverage', should be reviewed. I recommend that consideration is given to adding a qualifying statement to those rules about how they apply to cross-leases and unit developments. The Planning Standards do not prohibit such a statement, as the purpose in I. Foundation Standard makes it clear that "the planning standards do not alter the effect or outcomes of...plans." Further, mandatory direction (I) in I4. Definitions Standard makes it clear that "when a definition in the Definitions List is used, consequential amendments may be required to the plan to ensure the application of the definition does not alter the effect or outcomes of Plans."
205. The Land Use-Effects Rules, for noise, glare and artificial light spill should be reviewed. I recommend that consideration is given to adding a qualifying statement to those rules about how they apply to cross-leases and unit developments. References to 'site', may be qualified by adding the following words after site: *'and in the case of a cross-lease or unit development, neighbouring units on the same site'*. Alternatively, the term 'boundary' may be used instead of 'site'.
206. The Daylight admission rules and building setback rules should be reviewed. I recommend considering using the term 'boundary' instead of 'site' as the reference point from which measurements are taken, where appropriate. It may not need to be changed in all situations. For example, where effects such as privacy and shading are referred to as a consideration for 'an adjoining site', that qualifying statement might read: *"Extent of shading on adjoining sites and, in the case of a cross-lease or unit development, neighbouring units on the same site."*
207. I recommend that the use of the term 'site' is reviewed in the subdivision rules, to check that its application to cross-lease and unit development is appropriate.
208. Where the defined term 'adjoining site' is used, (which I note is not defined in the Definitions Standard), I recommend adding a qualifying statement, if appropriate in the context, as follows: *"on an adjoining site, and in the case of a cross-lease or unit development, on other units on the same site."*

3.15 'Net Site area'

3.15.1 Introduction

209. The following terms are relevant to my analysis:

Net site area (Proposed Plan)	means the area of a site, or the area of an allotment in the context of subdivision, excluding:
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	<p>(a) any access or access leg less than 6 metres wide; and</p> <p>(b) any land subject to a right of way to any other allotment.</p> 
net site area (Planning Standards)	<p>means the total area of the site, but excludes</p> <ul 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 used for access to the site; d. any part of the site subject to designation that may be taken or acquired under the Public Works Act 1981.

3.15.2 Submissions

210. There are two submissions in support of the definition of 'net site area'.

211. The following submissions were made:

Submission point	Submitter	Summary of submission
578.75	Ports of Auckland Limited	Supports the definition as notified and asks for it to be retained.
749.57	Housing New Zealand Corporation	Supports the definition as notified and asks for it to be retained.

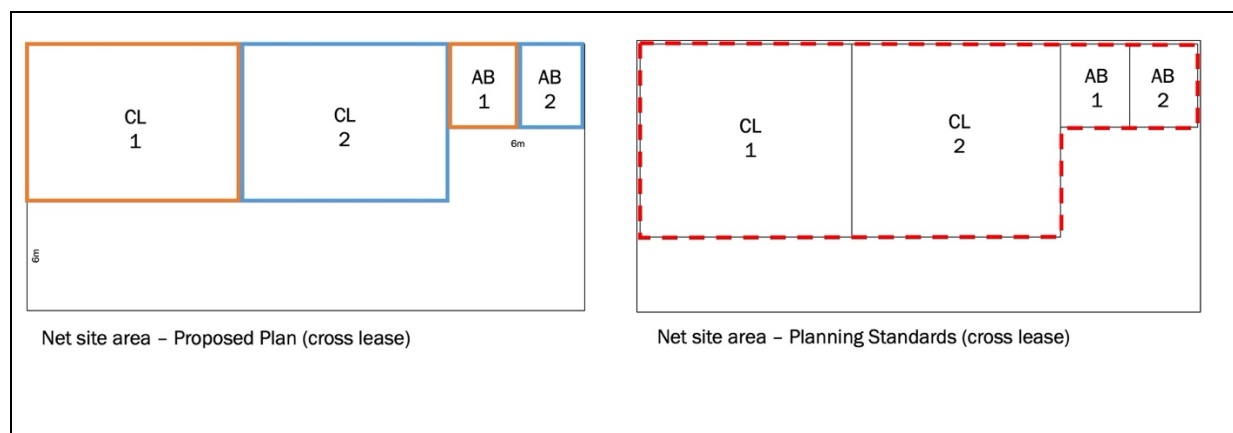
3.15.3 Analysis

212. There are two main differences between the definitions of 'net site area' in the Proposed Plan and the Planning Standards. Both definitions exclude access areas. However, the Proposed Plan limits the excluded width of an access area to less than 6 metres. There is no limit in the Planning Standards definition. This will need to be addressed with a consequential amendment to the rules to which the net site area definition applies.

213. The Planning Standards definition includes an additional exclusion not addressed in the Proposed Plan definition: part of a site subject to a designation that may be taken under the Public Works Act 1981.

214. As discussed in the section above in relation to the definition for 'site', the Definitions Standard definition of 'site' incorporates a broader area for properties that involve a cross-lease or unit title developments than is currently the case with the definition in the Proposed Plan. This has implications on the use of the term 'net site area' in the Proposed Plan if the Planning Standards definitions are adopted.
215. The 'net site area' is the total area of a 'site', excluding any access areas. For cross-lease and unit developments, this is the whole of the land subject to the cross-lease or unit development (including common property), minus any relevant access area. Put another way, the 'net site area' is the combined area of the shared 'site' for owners of cross-leases or unit developments.

Diagram 2: 'Net site area' for cross-lease or unit developments



216. This may have unintended consequences for rules that provide for buildings or dwellings on a 'per net site area' basis. For example, Rule 16.3.2 Minor Dwelling (Residential Zone) provides for minor dwellings. The permitted 'net site area' for a minor dwelling is 900m² or more. This may allow for one cross-lessee to erect a minor dwelling as a permitted activity on a cross-lease site of 900m² (i.e a site where the total combined area of units and common space is 900m²), when in fact the exclusive area available to each cross-lessee is much less than 900m². If another cross-lessee on the same cross-lease 'site' wanted to do the same thing in the future, this 'development right' may no longer apply once the net site area building coverage rule is applied (Rule 16.3.6). Under the Proposed Plan as notified, each cross-lessee would only be able to erect a minor dwelling, as a permitted activity, if their individual unit had an area of 900m² or more.
217. In addition, the subdivision rules govern the net site area of proposed lots. For example, Rule 16.4.2 Subdivision – Te Kauwhata Ecological Residential Area (Residential Zone) provides:

"Proposed lots in the Te Kauwhata Ecological Residential Area identified on the planning maps must comply with all of the following conditions:

- (i) Have a minimum net site area of 750m²;
- (ii) Have a minimum average net site area of 875m²;

(iii) *Must be able to be connected to public-reticulated water supply and wastewater;*

(iv) *Where roads are to be vested in Council, they must follow a grid layout;*

(v) *Where 4 or more proposed lots are being created, rear lots must not exceed 15% of the total number of lots being created.”*

218. If a subdivision under this rule involved a unit development, applying the Planning Standards definition for ‘net site area’ may mean that the rule would allow for smaller allotments (i.e. multiple unit titles within a unit development) than what I expect this rule was intended to allow, namely individual units with an average of 875m². I note that Rule 16.4.4 Subdivision – Multi-unit development specifically contemplates the creation of a freehold lot (fee simple) and a unit title separately.
219. Finally, the Planning Standards exclude land subject to a designation that may be taken or acquired under the Public Works Act 1981 from the calculation of a ‘net site area’. The Proposed Plan definition does not contain the same exclusion. The Definitions Standard definition of ‘net site area’ relates to land that is available for development, which land subject to a designation is not (without the prior approval of the requiring authority). For this reason, I do not expect any consequential amendments to result from including this exclusion.
220. These issues are matters that will need to be addressed in the rule sections of the relevant chapters.

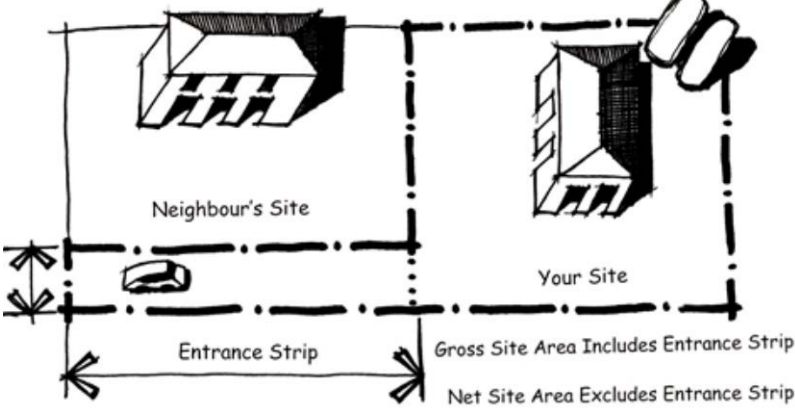
3.15.4 Recommendations

221. I recommend that the Planning Standards definition of ‘net site area’ replace the term ‘net site area’ in the Proposed Plan.
222. I recommend that the submissions from Ports of Auckland [578.75] and Housing New Zealand Corporation [749.57] are rejected.

3.15.5 Recommended amendments

223. The following amendments are recommended:

Net site area	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.
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<p><u>net site area</u></p>	 <p>[This diagram is recommended to be deleted]</p> <p>means the total area of the site, but excludes</p> <p>a. any part of the site that provides legal access to another site;</p> <p>b. any part of a rear site that provides legal access to that site;</p> <p>c. any part of the site used for access to the site;</p> <p>(a) d. any part of the site subject to designation that may be taken or acquired under the Public Works Act 1981.</p>
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3.15.6 Consequential amendments

224. Consequential amendments are authorised (14. Definitions Standard, mandatory direction 3) to ensure that the definition in the Definitions List does not alter the effect or outcomes of the plan. The Proposed Plan contemplates that only accessways up to 6m in width will be excluded from the net site area calculation, whereas the Planning Standards definition contains no limit. 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 include any areas of an accessway that are greater than 6m in width. A statement within relevant rules identifying this exclusion may be as follows: *For the purposes of the calculation of a net site area, the maximum width of an access to a site excluded from that calculation is 6m.* I also recommend that after all relevant hearings, the Hearings Panel should review the decisions made to ensure the cohesive integration the definition of 'net site area' into the Proposed Plan.
225. This should be considered by the s42A report writers for the following rules: 16.3.2, 16.4.1, 16.4.2, 16.4.3, 16.4.4, 16.5.2, 16.5.9.1, 16.5.9.2, 17.4.1, 18.4.1, 20.4.1, 21.3.1, 21.4.1, 23.4.2, 24.3.2, 24.4.1, 24.4.2, 26.4. 27.4.2, 27.3.12, 27.3.13, 28.3.2.
226. The rules in which 'net site area' is used also require consideration for situations that may involve cross-lease or unit title arrangements. The following rules should be reviewed as part of the s42A report for the relevant hearing topics (where those provisions are to be addressed). Those rules are: 16.3.2, 24.3.2, 27.3.12, 27.3.13, 28.3.2.
227. The rules for subdivision also require consideration for situations that may involve cross-lease or unit title arrangements. The following rules should be reviewed as part of the s42A

report for the relevant hearing topics (where those provisions are to be addressed). Those rules are: 16.4.1, 16.4.2, 16.4.3, 16.4.4, 16.5.2, 16.5.9.1, 16.5.9.2, 17.4.1, 18.4.1, 20.4.1, 21.4.1, 23.4.2, 24.4.1, 24.4.2, 26.4. 27.4.2.

228. Rule 21.3.1 in the Industrial Heavy Zone provides for a maximum height of a building over 2% of the net site area. The s42A report writer for that hearing should give consideration to whether there is a need to provide for a cross-lease or unit development arrangement in this rule.

3.16 'Structure'

229. The following terms are relevant to my analysis:

Structure (Planning Standards)	has the same meaning as in section 2 of the RMA (as set out in the box below)
	means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft.

230. The term 'structure' is used in the Proposed Plan, but is not defined in Chapter 13.

3.16.1 Submissions

231. There are two submission points - both seek a definition of the term 'structure'. There are four further submissions.

232. The following submissions were made:

Submission point	Submitter	Summary of submission
697.510	Waikato District Council	Include a new definition for the term "structure." <u>Structure</u> <u>Means a man-made object.</u>
FS1340.130	TaTa Valley Limited	<i>Supports 697.510. The submitter supports submission 697.510 in that it provides clarification that a structure is required to be manmade.</i>
FS1377.226	Havelock Village Limited	<i>Supports 697.510. HVL supports amendments to the Plan that provide for a greater development potential and a wider variety of densities and zones. HVL has an interest in any amendments to definitions that may affect these matters.</i>
FS1168.110	Horticulture New Zealand	<i>Opposes 697.510. The submitter (Council) seeks that a definition be added for structure meaning a man-made object. There is a definition of structure in the RMA and the National Planning Standards and the definition for structure should be consistent with those definitions.</i>

749.66	Housing New Zealand Corporation	<p>Include a new definition for the term "structure":</p> <p><u>Structure</u></p> <p><u>Means any building, equipment, device or other facility made by people and which is fixed to or located on land; and includes any raft, but excludes motorised vehicles that can be moved under their power.</u></p> <p>Add a list of exclusions to the new definition of 'Structure'.</p>
FS1387.1018	Mercury	<p><i>Oppose 749.66: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i></p>

3.16.2 Analysis

233. I agree with the submitters that, given its frequent use in the Proposed Plan, it is beneficial to define the term 'structure'.
234. The definition proposed by Housing New Zealand Corporation [749.66] is similar to, but not the same as, the definition in the Planning Standards. The definition in the Planning Standards adopts the RMA definition for 'structure', and does not include any exclusions, as sought by Housing New Zealand Corporation.
235. There is one notable aspect of the Planning Standards definition of 'structure'. The definition refers to a structure that is "fixed to land". This is different to a 'building', as defined in the Planning Standards, which may be "fixed or located on land". This means that while the definition of 'structure' includes buildings, only buildings that are 'fixed to land' are structures.
236. Both of the definitions suggested by Waikato District Council [697.510] and Housing New Zealand Corporation [749.66] contemplate fixed and unfixed objects. The draft version of the Planning Standards definition for 'structure' contemplated both fixed and unfixed objects. However, following feedback, the RMA definition was adopted, and a decision was made to provide for objects that are not fixed to land in the Planning Standards definition for 'building'.

3.16.3 Recommendations

237. I recommend that the term 'structure' is defined in the Proposed Plan and that the Planning Standards definition of the term 'structure' should be used.
238. I recommended that the submissions from Waikato District Council [697.510] and Housing New Zealand [749.66] are accepted in part.

3.16.4 Recommended amendments

239. The following amendments are recommended:

<u>structure</u>	<u>has the same meaning as in section 2 of the RMA (as set out in the box below)</u> <div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: fit-content;"> <u>means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft.</u> </div>
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3.16.5 Consequential amendments

240. Given the frequent use of this term throughout the Proposed Plan, I recommend that all other section 42A report writers consider any implications of the use of this term, in particular whether it should be used in conjunction with the term “building” (as it often is) or on its own, and whether its use is appropriate in the context of its application to fixed structures only.
241. Given the Planning Standards adopt the RMA definition of ‘structure’ (albeit with a different definition of building), and there was no definition in the Proposed Plan when it was notified, I consider that the consequential amendments arising from the inclusion of this definition are likely to be limited, with potentially none at all (because plan users seeking a definition of the term would naturally refer to the RMA in the first instance).

3.17 ‘Building’

3.17.1 Introduction

242. The following terms are relevant to my analysis:

Building (Proposed Plan)	Has the meaning in the Building Act 2004, excluding: <ul style="list-style-type: none"> (a) a pergola, not roofed or enclosed, less than 3 metres in height; or a swimming pool, ornamental pool, deck; or (b) other structure not roofed or enclosed, less than 1.5 metre in height; or a fence, or a wall other than a retaining wall, less than 2 metres in; or public or cultural art in a public place less than 3 metres in; or (c) a retaining wall or retaining structure less than 1.5 metres in height, provided that where a fence or non-retaining wall is placed at the top of the retaining wall, the combined height is less than 2 metres; or (d) a tank with a total capacity of no more than 35,000 litres, provided that no part of the tank protrudes more than 1 metre above natural ground level; or (e) a structure that is permeable and less than 4 metres in height to protect crops for agricultural use.
Building (Planning Standards)	means a temporary or permanent movable or immovable physical construction that is: <ul style="list-style-type: none"> a. partially or fully roofed, and b. is fixed or located on land, but c. excludes any motorised vehicle or other mode of transport that could be moved under its own power.

<p>Section 8, Building Act 2004</p> <p>Building: what it means and includes</p>	<p>(1) In this Act, unless the context otherwise requires, building—</p> <p>(a) means a temporary or permanent movable or immovable structure (including a structure intended for occupation by people, animals, machinery, or chattels); and</p> <p>(b) includes—</p> <p>(i) a mechanical, electrical, or other system; and</p> <p>(ii) any means of restricting or preventing access to a residential pool; and</p> <p>(iii) a vehicle or motor vehicle (including a vehicle or motor vehicle as defined in section 2(1) of the Land Transport Act 1998) that is immovable and is occupied by people on a permanent or long-term basis; and</p> <p>(iv) a mast pole or a telecommunication aerial that is on, or forms part of, a building and that is more than 7 m in height above the point of its attachment or base support (except a dish aerial that is less than 2 m wide); and</p> <p>(c) includes any 2 or more buildings that, on completion of building work, are intended to be managed as one building with a common use and a common set of ownership arrangements; and</p> <p>(d) includes the non-moving parts of a cable car attached to or servicing a building; and</p> <p>(e) after 30 March 2008, includes the moving parts of a cable car attached to or servicing a building.</p> <p>(2) Subsection (1)(b)(i) only applies if—</p> <p>(a) the mechanical, electrical, or other system is attached to the structure referred to in subsection (1)(a); and</p> <p>(b) the system (i) is required by the building code; or (ii) if installed, is required to comply with the building code.</p> <p>(3) Subsection (1)(c) only applies in relation to—</p> <p>(a) subpart 2 of Part 2; and</p> <p>(b) a building consent; and</p> <p>(c) a code compliance certificate; and</p> <p>(d) a compliance schedule.</p> <p>(4) This section is subject to section 9.</p>
<p>Section 9, Building: what it does not include</p>	<p>(1) In this Act, building does not include—</p> <p>(a) a NUO system, or part of a NUO system, that—</p> <p>(i) is external to the building; and</p> <p>(ii) is connected to, or is intended to be connected to, the building to provide for the successful functioning of the NUO system in accordance with the system's intended design and purpose; and</p> <p>(iii) is not a mast pole or a telecommunication aerial that is on, or forms part of, a building; or</p> <p>(ab) a pylon, free-standing communication tower, power pole, or telephone pole that is a NUO system or part of a NUO system; or</p> <p>(ac) security fences, oil interception and containment systems, wind turbines, gantries, and similar machinery and other structures (excluding dams) not intended to be occupied that are part of, or related to, a NUO system; or</p> <p>(b) cranes (including any cranes as defined in regulations made under the Health and Safety at Work Act 2015); or</p>

	<p>(c)any of the following, whether or not incorporated within another structure:(i)ski tows: (ii)other similar stand-alone machinery systems; or</p> <p>(d)any description of vessel, boat, ferry, or craft used in navigation</p> <p>(i)whether or not it has a means of propulsion; and (ii)regardless of what that means of propulsion is; or</p> <p>(e)aircraft (including any machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth); or</p> <p>(f)any offshore installation (as defined in section 222 of the Maritime Transport Act 1994) to be used for petroleum mining; or</p> <p>(g)containers as defined in regulations made under the Health and Safety at Work Act 2015; or</p> <p>(h)magazines as defined in regulations made under the Health and Safety at Work Act 2015; or</p> <p>(i)scaffolding used in the course of the construction process; or</p> <p>(j>falsework.</p>
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3.17.2 Submissions

243. There are ten original submissions and fourteen further submissions on the definition of 'building'. The submissions support use of the definition from the Building Act 2004, and focus on five categories for exclusion from the term 'building': network utility infrastructure (power poles and pylons in particular), crop protection structures, cargo and containers, mobile pig shelters, and water tanks.
244. The following submissions were made:

Submission point	Submitter	Summary of submission
197.13	NZ Pork	Amend the definition for "Building" to clearly exclude mobile shelters for outdoor pigs from the definition of building.
FS1342.53	Federated Farmers	Supports the amendment sought by NZ Pork (197.13).
FS1386.197	Mercury	It is not clear, from a land management perspective, how effects from a flooding event would be managed.
576.32	Transpower New Zealand Ltd	Retain the definition as notified, as it refers to the Building Act 2004 definition of 'building': it specifically excludes an NUO pylon from the definition.
FS1134.26	Counties Power Limited	Supports the submission from Transpower New Zealand Limited (576.32) on the basis it retains the definition from the Building Act 2004.
692.41	WEL Networks Limited	Retain the definition as notified, as it refers to the Building Act 2004 definition of 'building'.

FS1134.27	Counties Power Limited	<i>Supports the submission from WEL Networks Ltd (692.41) on the basis it retains the definition from the Building Act 2004.</i>
405.8	Counties Power Limited	Amend the definition of "Building", to exclude power poles, support structures and mast poles as excluded under section 9 (a), (ab) and (ac) of the Building Act 2004.
578.43	Ports of Auckland Limited	Amend the definition of "building", as follows: Building Has the meaning in the Building Act 2004, excluding: ... (e) a structure that is permeable and less than 4 metres in height to protect crops for agricultural use.; <u>or</u> : <u>(f) cargo and containers associated with industrial activities within the Horotiu Industrial Park.</u>
FS1388.850	Mercury	<i>Oppose 578.43: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
419.116	Horticulture New Zealand	Delete (e) in the definition of "Building", and replace it with the following: Has the meaning the Building Act 2004, excluding: ... (e) <u>artificial crop protection structures and crop support structures</u> OR Amend (e) in the definition of "Building" as follows: Has the meaning in the Building Act 2004, excluding.. (e) a structure that is permeable and less no greater than <u>4-8</u> metres in height to protect crops from agricultural use. OR Delete the definition of "Building", and replace with the following: <u>Means any impervious structure, whether temporary or permanent, moveable or fixed, that is enclosed, with 2 or more walls and a roof, or any structure that is similarly enclosed.</u>
FS1171.54	T & G Global Limited	<i>Support 419.116: This submission proposes a new definition of building that excludes artificial crop protection structures. This submission is supported to the extent that this submission is consistent with the relief sought in the submission of T & G Global in respect of confirming that permeable structures are excluded from the definition of a building, including such crop protection structures.</i>
FS1388.227	Mercury	<i>Oppose 419.116: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1342.88	Federated Farmers	<i>Opposes Horticulture New Zealand's submission (419.116); Federated Farmers has no concerns with the</i>

		<i>proposal to exempt artificial crop protection structures and crop support structures from the definition or to provide a height based exemption. However, it opposes the proposed new definition in Horticulture New Zealand on the basis it is too broad and all encompassing.</i>
419.31	Horticulture New Zealand	Amend the definition of 'Building' in Chapter 13 Definitions (the specific amendments sought are addressed elsewhere in the submission) OR Amend Rule 22.3.7.1 P2 (a) Building Setbacks - All boundaries, as follows: (a) A non-habitable building (excluding artificial crop protection structures) located on a Record of Title less than 1.6ha must be set back a minimum of: ... AND Amend Rule 22.3.7.1 P4 (a) Building Setbacks - All boundaries, as follows: (a) A non-habitable building (excluding artificial crop protection structures) located on a Record of Title 1.6ha or more must be set back a minimum of: ... AND Add a new permitted activity to Rule 22.3.7.1 Building Setbacks - All boundaries, as follows: PX Artificial crop protection structures that comply with Rule 22.1.2 PX Artificial crop protection structures AND Amend Rule 22.3.7.1 RDI (a) Building Setbacks - All boundaries, as follows: (a) A building that does not comply with Rule 22.3.7.1 P1, P2, P3 or P4 or PX AND Any consequential or additional amendments as a result of changes sought in the submission.
FS1171.25	T & G Global Limited	<i>Support 419.31: This submission seeks to exclude artificial crop protection structures from Rule 22.3.7 Building setbacks. In the alternative to excluding artificial crop protection structures from the definition of building, specific provision should be made for the set back of these structures from the boundary as it is appropriate, given the permeable nature of these structures, to enable them to locate closer to the boundary than other buildings.</i>
676.8	T&G Global Limited	Retain the definition of "Building" which excludes structures that are permeable and less than 4m in height to protect crops for agricultural use, except for the amendments sought below. AND Amend the definition of "Building" in Chapter 13 Definitions to exclude buildings that protect crops for horticultural use.
FS1168.90	Horticulture New Zealand	<i>Support 676.8: submitter supports amendment to exclude crop protection structures from building definition.</i>
FS1387.143	Mercury	<i>Oppose 676.8: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

697.369	Waikato District Council	Amend the definition of "building", as follows: Building Has the meaning in the Building Act 2004, excluding: ... d) a tank with a total capacity of not more than 35,000 litres, provided that no part of the tank protrudes no more than 2 metre above natural ground level
FS1387.547	Mercury	<i>Opposed 697.369: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1342.178	Federated Farmers	<i>Supports the submission of Waikato District Council (697.368) for the reasons given by the submitter.</i>
749.32	Housing New Zealand Corporation	Amend the definition to include the full text of the Building Act definition as part of (a) of the definition, and amend the definition to restructure the list of exclusions, inserting it as part (b) of the definition as follows: (b) Excludes: a) a pergola, not roofed or enclosed, less than 3 metres in height; or a swimming pool, ornamental pool, deck; or b) other structure not roofed or enclosed, less than 1.5 metre in height; or c) a fence, or a wall other than a retaining wall, less than 2 metres in height; or d) public or cultural art in a public place less than 3 metres in height; or e) a retaining wall or retaining structure less than 1.5 metres in height, provided that where a fence or non-retaining wall is placed at the top of the retaining wall, the combined height is less than 2 metres; or f) a tank with a total capacity of no more than 35,000 litres, provided that no part of the tank protrudes more than 1 metre above natural ground level; or g) a structure that is permeable and less than 4 metres in height to protect crops for agricultural use.
FS1387.1007	Mercury	<i>Oppose 749.32: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1134.28	Counties Power Limited	<i>Supports the submission from Housing New Zealand Corporation (749.32) on the basis it retains the definition from the Building Act 2004.</i>

3.17.3 Analysis

245. The term 'building' is used extensively throughout the Proposed Plan. In addition, it is critical to the application of other important definitions (e.g. 'structure' and 'residential unit').
246. There are several important differences between the definition of 'building' in the Definitions Standard and that in the Proposed Plan. These are summarised and discussed below, before I analyse the submission points on the definition of 'building'.

3.17.3.1 *Differences between the Planning Standards and Proposed Plan definitions*

247. In the Definitions Standard, the definition of building does not refer to the term 'structure'. Rather, it uses the term 'physical construction'. This term is intended to denote a human-made tangible object, the same as a structure.¹² However, the Definitions Standard uses 'physical construction' deliberately, as a synonym for 'structure,' to avoid circularity in the definitions of 'structure' and 'building'.¹³

3.17.3.2 *Partially or fully-roofed*

248. Under the Definitions Standard definition, a building must be partially or fully-roofed. There is no requirement for any form of roofing under the definition of 'building' in the Proposed Plan. This means that structures such as fences and retaining walls, power pylons and telephone poles are not 'buildings' under the Definitions Standard definition (I note that, subject to some height restrictions for open pergolas, fences and walls, these structures were specifically excluded from the definition of 'building' in the Proposed Plan).

3.17.3.3 *Fixed or located on land*

249. Under the Definitions Standard definition, a building can be either 'fixed to, or located on or in land'. The Proposed Plan, relying on the Building Act 2004, refers to a building being a structure that is temporary or permanent, movable and immovable. This definition includes unfixed as well as fixed structures.¹⁴ It appears that the Proposed Plan definition therefore intended to include both structures that are 'fixed to' and 'located on land' for the purposes of the 'building' definition. This aligns with the definition for 'structure' that Waikato District Council included in its submission [697.510]. The RMA definition adopted by the Definitions Standard only contemplates a structure that is 'fixed to land' (see definition of 'structure' in section 3.16 above).

¹² 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 51,

¹³ Ibid

¹⁴ The term 'structure' is not defined in the Building Act 2004.

3.17.3.4 Vehicles

250. The definition of 'building' in the Proposed Plan, relying on section 8 of the Building Act 2004, only includes motor vehicles¹⁵ and vehicles¹⁶ if they are immovable, and occupied by people on a permanent or long term basis.¹⁷ The Planning Standards definition excludes motorised vehicles or other modes of transport, if they can be moved under their own power. This means that under the Planning Standards, a vehicle that cannot move on its own, but is movable, such as a caravan or tiny home, falls with the definition of a building. The inclusion of these vehicles in the definition does not depend on whether the vehicles are occupied, or not. Therefore, an immovable vehicle that is occupied on a permanent or long term basis is a building under both definitions.

3.17.3.5 Inclusions and exclusions under the Proposed Plan

251. The Proposed Plan definition is made up of the definition of 'building' in sections 8 and 9 of the Building Act 2004 and a bespoke list of exclusions. Section 8 of the Building Act 2004 sets out structures that are included as buildings, while section 9 sets out a list of structures that are not included as buildings. These lists of inclusions and exclusions (in the Building Act) are not carried over to the Planning Standards definition. The only specific similar exclusion is motorised vehicles (and other modes of transport) that can be moved under their own power but, as identified above, there is no qualifier that those vehicles must be occupied to be a 'building' under the Planning Standards. It does not exclude movable vehicles that cannot be moved under their own power.

252. Section 8 of the Building Act 2004 specifically provides the following structures are buildings:

- a mechanical, electrical or other system¹⁸ that is attached to a structure and required by the Building Code¹⁹
- any means of restricting or preventing access to a residential pool (swimming pool fencing)²⁰

¹⁵ Motor vehicle is defined in section 2 of the Land Transport Act 1998 as (a) means a vehicle drawn or propelled by mechanical power; and (b) includes a trailer; but (c) does not include— (i) a vehicle running on rails; or (ii) [Repealed] (iii) a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or (iv) a trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or (v) a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or (vi) a pedestrian-controlled machine; or (vii) a vehicle that the Agency has declared under section 168A is not a motor vehicle; or (viii) a mobility device.

¹⁶ Vehicle is defined in section 2 of the Land Transport Act 1998 as (a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and (b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but (c) does not include a perambulator or pushchair: (ii) a shopping or sporting trundler not propelled by mechanical power: (iii) a wheelbarrow or hand-trolley: (iv) [Repealed] (v) a pedestrian-controlled lawnmower: (vi) a pedestrian-controlled agricultural machine not propelled by mechanical power: (vii) an article of furniture: (viii) a wheelchair not propelled by mechanical power: (ix) any other contrivance specified by the rules not to be a vehicle for the purposes of this definition: (x) any rail vehicle.

¹⁷ Section 8(a)(ii) Building Act 2004

¹⁸ Section 8(1)(a)(i) of the Building Act 2004

¹⁹ Section 8(2) of the Building Act 2004

²⁰ Section 8(1)(b)(ii) of the Building Act 2004

- mast poles and telecommunication aerials attached to a building greater than 7m in height from their base support or point of attachment to a building (but not dish aerials of less than 2m wide)²¹
- immovable vehicles (that are occupied by people on a long term, permanent basis)²²
- the moving and non-moving parts of a cable car²³²⁴.

253. In my view, swimming pool fencing (unless roofed in some way), mast poles and telecommunication aerials of the required dimensions are unlikely to fall within the definition of a building under the Planning Standards. Whether an 'electrical, mechanical or other system', and a 'cable car' falls within the definition will depend on how they are integrated into a building, and the level of roofing. My understanding is that these types of systems are likely to remain covered by the Planning Standards definition. Vehicles that cannot be moved under their own power are buildings.

254. By definition, a number of the structures listed in section 9 of the Building Act 2004 (being structures excluded from the definition of building) are also likely to fall outside of the definition of building in the Planning Standards. This is because they are unlikely to have any level of roofing or could be moved under their own power. These include:

- Network Utility Operator (NUO) systems²⁵
- security fences
- oil interception and containment systems
- wind turbines
- gantries
- aircraft
- navigable vessels and boats.
- falsework²⁶
- scaffolding used in the construction process.²⁷

²¹ Section 8(1)(a)(iv) of the Building Act 2004

²² Section 8(1)(a)(iii) of the Building Act 2004

²³ Section 8(1)(d) of the Building Act 2004

²⁴ Section 2 of the Building Act 2004 defines 'cable car' means a vehicle—(i)that carries people or goods on or along an inclined plane or a suspended cable; and(ii)that operates wholly or partly outside of a building; and (iii)the traction for which is supplied by a cable or any other means; but (b)does not include a lift that carries people or goods between the floors of a building.

²⁵ Section 2 of the Building Act 2004 defines an 'NUO system': means a system owned or controlled by a network utility operator. A network utility operator is defined in section 2 of the Building Act 2014 as meaning a person who (a)undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or (b) operates or proposes to operate a network for the purpose of (i)telecommunication as defined in section 5 of the Telecommunications Act 2001; or(ii)radiocommunications as defined in section 2(1) of the Radiocommunications 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.

²⁶ Falsework, is defined in section 2 of the Building Act as in relation to building work or the maintenance of a building, (a) means any temporary structure or framework used to support materials, equipment, or an assembly; and (b)includes steel tubes, adjustable steel props, proprietary frames, or other means used to support a permanent structure until it becomes self-supporting; but(c)does not include scaffolding or cranes used for support.

²⁷ Scaffolding used in the course of the construction process(a)means a structure, framework, swinging stage, suspended scaffolding, or boatswain's chair, that is of a temporary nature and that is used or intended to be

255. However, there are some exemptions in section 9 that may fall within the Planning Standards definition of building. These include:
- cranes²⁸
 - magazines²⁹
 - ski tows and other similar systems³⁰
 - containers³¹
256. Whether these structures fall within the definition will depend on whether they are partially or fully-roofed.
257. Most of the structures in the list of exclusions in the Proposed Plan definition of 'building' remain outside the Planning Standards definition of 'building'. These include:
- an unroofed pergola
 - a swimming pool or ornamental pool
 - an unroofed deck
 - other unroofed structures
 - fences, walls and retaining walls
 - unroofed public or cultural art.
258. Tanks and crop protection structures are likely to fall within the definition of building, if they are partially or fully-roofed. A partially or fully-roofed deck is also a building under the Definitions Standard.

used for(i) the support or protection of workers engaged in, or in connection with, construction work for the purpose of carrying out the work; or(ii)the support of materials used in connection with the work; and(b)includes any plank, coupling, fastening, fitting, or device used in connection with the construction, erection, or use of scaffolding.

²⁸ Crane is defined in Schedule 1 of the Health and Safety in Employment (Pressure Equipment, Cranes and Passenger Ropeways) Regulations 1999 as (a) means a powered device—(i) that is equipped with mechanical means for raising or lowering loads suspended by means of a hook or other load-handling device; and (ii) that can, by the movement of the whole device or of its boom, jib, trolley or other such part, reposition or move suspended loads both vertically and horizontally; and (b) includes all parts of the crane down to and including the hook or load-handling device, and all chains, rails, ropes, wires, or other devices used to move the hook or load-handling device; but (c) does not include lifting gear that is not an integral part of the crane

²⁹ Magazine is defined in Health and Safety at Work (Hazardous Substances) Regulations 2017 as meaning a place in which explosives or partly manufactured explosives are stored, but does not include a room or building in an explosives factory in which explosives or partly manufactured explosives are stored for use in manufacturing processes in the factory.

³⁰ Passenger ropeway is defined in Schedule 1 of the Health and Safety in Employment (Pressure Equipment, Cranes and Passenger Ropeways) Regulations 1999 as meaning a cableway or ropeway (a) to which the motion of machinery is transmitted; and (b)that is or could be used for conveying in a horizontal or inclined plane persons who are (i) on skis; or (ii) supported by chairs; or (iii) in enclosed cars that are (A) attached to or supported by a moving cable or rope; or (B) attached to a moving cable or rope but supported by a standing cable or rope or some other overhead structure.

³¹ Container is defined in the Health and Safety at Work (Hazardous Substances) Regulations 2017 as (a) means any receptacle, whether movable or fixed, in which hazardous substances or gases under pressure may be encased, covered, enclosed, contained, or packaged; and (b) includes (i) a receptacle that forms an integral part of a vehicle (other than part of a vehicle's fuel system, electrical system, control system, or emergency system); and (ii) a stationary tank or a process container; and (iii) a package; and (iv) a supporting structure for a receptacle.

259. Many of the structures listed as excluded from the definition of building in the Proposed Plan were only excluded if they met certain criteria. For example, specific height limits applied to the pergolas, fences and walls and retaining walls and structures that were excluded. There was a 3m height limit and public location requirement for public art. Only tanks of a certain capacity and height (1 metre) fell within the exclusion. Crop protection structures had a 4m height limit.
260. This means that fences, walls, retaining walls, pergolas, other structures and public art that did not meet those height (and location) requirements would be considered 'buildings' under the Proposed Plan. Under the Definitions Standard definition, those structures are excluded from the definition of building, regardless of their height.
261. Provided they are partially or fully-roofed, crop protection structures and tanks are 'buildings', regardless of their height and capacity.

3.17.3.6 ***Practical implications of the differences between the definitions***

262. If the Definitions Standard definition for 'building' is adopted, things that would not have been classified as 'buildings' in the Proposed Plan will be controlled by rules in the Plan (assuming no consequential changes are made to the rules). These are:
- Immovable vehicles that are not occupied on a permanent or long term basis.
 - Vehicles that cannot be moved under their own power, but are movable (vehicles that need to be towed to move), such as: caravans, tiny homes, and coffee carts.
 - Buildings that are partially or fully-roofed, but are excluded from the definition of 'building' in section 9 of the Building Act 2004, such as cranes, passenger ropeways, magazines and containers.
 - Buildings that are specifically excluded in the Proposed Plan definition, being: tanks up to 1m in height and with a maximum capacity of 35,000l, partially or fully-roofed crop protection structures of up to 4m in height, and partially or fully-roofed decks.
263. The main types of rules that will apply to these structures, if the Definitions Standard definition of building is adopted, are set out below. This list is not exhaustive because of the frequent use of the term 'building' in the Proposed Plan. However, it does cover the critical provisions that apply in most Chapters. There will need to be consequential changes to these rules to account for this change in definition.
264. As buildings, they will be subject to the relevant 'height', 'daylight admission', 'building setback', and 'building coverage', 'gross floor area' and 'gross leasable floor area' rules, as well as the rules for 'signs' where they apply to buildings. For example, this means that the likes of caravans will be subject to building setback rules and may contribute to the building coverage calculation of a site.
265. In addition, if a vehicle that cannot move under its own power, but is moveable, (e.g. a tiny home or caravan) is used for accommodation, it may fall within the definition of a residential

unit (dwelling³²), or minor residential unit (minor dwelling)³³, and any relevant activity rules controlling the number of residential units or minor residential units on site will apply. Rules identifying the minimum site area required for a residential unit or minor residential unit will also apply. For example, Permitted activity Rule 16.3.2 states that a minor dwelling contained on a site must have a minimum net site area of 900m² or more. A minor dwelling that does not comply is a Discretionary activity. I note that to qualify as a 'residential unit' or 'minor residential unit', these types of buildings would need to be self-contained, and be used exclusively by a household for residential activity. In the case of a minor residential unit, it would also have to be held in the same ownership as the principal residential unit on site. If a tiny home or caravan could not meet the residential activity requirements for a residential unit or minor residential unit, it could fall within the definition of an accessory building. Parking a tiny home or caravan (as an accessory building) on a piece of land for the purposes of residential activity is an unconditional Permitted activity in the residential zone. The same rule would apply if the caravan or tiny home was not a 'building', (Rule 16.1.2). However, the Rural zone Permitted activity Rule 22.1.7.5 limits the number of accessory buildings in a development area to one per dwelling. This may unintentionally limit the ability to erect a fixed accessory building while also keeping a caravan on site.

266. Permitted activity rules for home occupation refer to the use of a 'building'. See for example Rule 22.1.2 – a home occupation is permitted, provided it is wholly contained within the building. This means that a home occupation can occur in a caravan. Under the Proposed Plan, this could be a Non-complying activity in the Rural zone.
267. The Permitted activity Rule 16.3.1.1.5 (All heritage items – site development) states that for the development of a site containing a heritage item, a building must not be located between the front of a heritage item and the road. Any activity that does not comply is a Restricted Discretionary activity. For example, a coffee cart parked between the road and a heritage item would breach this rule.
268. There are a number of definitions that refer to the term 'building'. If the Planning Standards definition is adopted, any reference to 'building' within those definitions would include vehicles that are movable, but need to be towed to move, a building excluded by section 9 of the Building Act 2004, partially or fully-roofed decks, tanks, and crop protection structures. For many definitions this will not have an impact, but for others it may. For example, under the Proposed Plan, 'accessory building' would include a caravan.
269. The subdivision rules also refer to buildings. Effects on existing buildings, the likely location of future buildings, geotechnical suitability for building, and any additional building infringements, are often matters over which Council has reserved discretion in subdivision rules. Reference to 'building' in these rules now covers movable vehicles that need to be

³² I recommend replacing the term 'dwelling' in the Proposed Plan with the definition of 'residential unit' from the Planning Standards.

³³ I recommend replacing the term 'minor dwelling' in the Proposed Plan with the definition of 'minor residential unit' from the Planning Standards.

towed to move (as well as the other buildings that fall under the Planning Standard definition).

270. To address consequential amendments associated with the adoption of the Planning Standards definition of 'building', the types of structures that were not intended to be captured by the rules in the Proposed Plan will need to be excluded from the rules by way of specific amendments to those rules.
271. In relation to structures, some structures that are buildings under the Proposed Plan would no longer be classified as buildings, should the Planning Standards definition be adopted. These are:
- unroofed pergolas over 3m in height,
 - unroofed structures over 1.5m in height,
 - fences or walls more than 2m in height,
 - unroofed public or cultural art over 3m high in a public place,
 - retaining walls or structures over 1.5m in height,
 - retaining walls attached to fences or non-retaining structures that are over 2m in height,
 - mast poles and telecommunication aerials attached to a building less than 7m in height from their base support or point of attachment to a building (but not dish aerials of less than 2m wide).
272. These structures will not be subject to the relevant 'height', 'daylight admission', 'building setback', and 'building coverage' rules that may have applied to them under the Proposed Plan definition. Again, this can be resolved by making consequential amendments to the relevant rules in the Plan.

3.17.3.7 **Submissions**

273. Housing New Zealand Corporation [749.32] asks to retain the definition of building from the Proposed Plan, but suggests setting out that definition in full, and with the additional exclusions separated out for clarity. I acknowledge the submission point of Housing New Zealand Corporation and agree with their submission point in principle. However, use of the Planning Standard definition of building renders the requested relief unnecessary.
274. Broadly, the submission points from Transpower New Zealand Limited [576.32], WEL Networks Limited [692.41], and Counties Power Limited [405.8] seek a definition of 'building' that excludes network utility infrastructure. My understanding of the definition of building in the Planning Standards is that it aligns with the submission points from these submitters. The Planning Standards require a building to be partially or fully-roofed. My understanding is that power pylons, towers, mast poles and other network utility infrastructure fall outside of this definition. If however, there is a possibility that certain infrastructure operated and managed by these submitters falls under the definition of 'building' under the Planning Standards, where it is otherwise excluded by section 9 of the Building Act 2004, then consideration should be given to an appropriate exclusion using either a sub-definition or through changes to the rules. This is a matter that will be better

informed by evidence from these submitters on the effect of the Planning Standards definition of ‘building’ on their infrastructure.

275. Ports of Auckland Limited [578.43] seeks an exclusion for cargo and containers associated with industrial activities within the Horotiu Industrial Park from the definition of ‘building’. My interpretation of the Planning Standards definition is that cargo and containers can fall within the definition of ‘building’. Under the Planning Standards, I cannot create a list of exclusions to a definition.³⁴ Where terms defined in the Definitions List are used in the same context in a plan, the definition, as defined in the Definitions List, must be used. In this case, the rules in the Horotiu Industrial Park will need to be reviewed, by the s42A report writer for that hearing, to consider how cargo and containers should be controlled in that zone.
276. NZ Pork [197.13] seeks a specific exclusion for mobile pig shelters from the definition. I appreciate the concern raised by this submission. My interpretation of the Planning Standards definition is that mobile pig shelters would fall within the definition of building if they are partially or fully-roofed. In this case, the rules in Rural Zone (Chapter 22) should be reviewed by the s42A report writer for that Chapter, to consider the application of the rules for buildings generally to mobile pig shelters, and provide relief from those rules, as appropriate.
277. Horticulture New Zealand [419.116] supports the specific exemption for crop protection structures, but submits that the 4m height restriction on that exclusion renders it impractical. I acknowledge the concern raised by this submission. My interpretation is that crop protection structures can fall within the Planning Standards definition of building if they are partially or fully-roofed. In my view, the rules in the Rural and Country Living Zones should be reviewed to consider the application of the rules for buildings generally to crop protection structures, and provide relief from those rules, as appropriate. I note that this aligns with the submission of Horticulture New Zealand.
278. I note that Horticulture New Zealand [419.116] suggests a definition for Crop Protection Structure as being: “any impervious structure, whether temporary or permanent, movable or fixed, that is enclosed with 2 or more walls and a roof, or any structure that is similarly enclosed”.
279. T&G Global Limited [676.8] supports the exclusion given within the Proposed Plan definition of ‘building’ for structures that are permeable and less than 4 metres in height, to protect crops for agricultural use. For clarity, the submitter seeks that this exclusion also refer to the protection of crops for horticultural use.
280. In my view, a definition of ‘crop protection structure’ would assist to provide clarity about the type of rules that apply, or not, to crop protection structures (i.e. building setback and height rules). If rules specifically contemplating crop protection structures are included in the Rural and Country Living Zones, my view is that a definition for crop protection

³⁴ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

structures should be included in Chapter 13, as a consequential amendment, to ensure that definitions do not alter the outcome of the Proposed Plan³⁵.

281. The related submission point from Horticulture New Zealand [419.31] will need to be dealt with in the Rural and Country Living Zones hearings.
282. I note, in a further submission, that Federated Farmers New Zealand [FS1342.88] opposed the definition proposed by Horticulture New Zealand, on the basis that it is too broad. In my view, this proposed definition is consistent with the wording in the exclusion for crop protection structures in the Proposed Plan definition of 'building'.
283. I also note that the Horticulture New Zealand submission [419.115] includes an alternative definition altogether for 'crop protection structure'. It is not clear which definition the submitter prefers. My understanding is that this submission point has been allocated to the Rural Zone Hearing (21A). In my view, these definitions are best discussed together, and I recommend that these submission points are picked up in that hearing and Horticulture New Zealand clarify its position.
284. Waikato District Council [697.369] seeks to increase the size of tanks that it excludes from the definition of 'building'. The definition of building in the Proposed Plan excludes a tank with a total capacity of no more than 35,000 litres, provided that no part of the tank protrudes more than 1 metre above natural ground level. Waikato District Council seeks to increase the height a tank can protrude to 2m above natural ground level. This is to allow for the common dimensions of water tanks. In my view, the exemption allowed for tanks should reflect their common dimensions. Tanks would fall within the definition of building in the Planning Standards. Practically, this means that tanks may trigger building setback and building coverage rules. The rules applicable to buildings generally across the Proposed Plan should be reviewed, with a view to appropriately continuing the exemption for tanks of the size sought by Waikato District Council (2m), to ensure that the Definitions List definition does not alter the outcome of the Proposed Plan.³⁶

3.17.3.8 Exclusions

285. I have carefully considered how to exclude the 'buildings' that are covered by the Planning Standards definition, but not the Proposed Plan definition, from the rules that may now apply to them.
286. At the time of writing this report, my view is the simplest way to address the necessary consequential amendments is to consider whether the following terms provide a simple and complete list of the buildings that need to be excluded from the application of the Planning Standards definition of 'building' via rules in the Proposed Plan:

³⁵ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment, Mandatory direction 3

³⁶ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment, Mandatory direction 3

- ‘motorised vehicles and vehicles’,
- ‘buildings listed in section 9 of the Building Act 2004’,
- ‘tanks of up to a capacity of 35,000l and no more than 2m in height’,
- ‘crop protection structures’, and
- ‘partially and fully roofed decks’.

287. If the definition of ‘building’ from the Definitions List is adopted, I recommend introducing a defined term ‘motorised vehicle or vehicle’. The purpose of this sub-definition is to create a category of ‘physical constructions’, which can be used to exclude the things listed in that sub-definition from any rules that may apply to buildings. This is on the basis that under the Proposed Plan definition of ‘building’, the physical constructions listed in the sub-definition of ‘motorised vehicle or vehicle’ do not fall within the definition of building, and will not subject to rules regulating buildings. It is a consequential amendment. I recommend the following proposed sub-definition:

288. “Motorised vehicle or 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”.

289. In my view the proposed sub-definition is consistent with a the higher level definition of building, which is a requirement of the Planning Standards.³⁷ It also consistent with the use of the term ‘vehicle’ in its usual use in transport (rather than building) related provisions.

3.17.3.9 *General discussion*

290. As set out at the beginning of this analysis, the term ‘building’ is used extensively throughout the Proposed Plan. For this reason, I have given particular consideration to whether it is sensible to adopt the Definitions List definition of ‘building’ as part of the hearing process, or whether it is prudent to leave it to be addressed after the hearings. These are both options available to the Hearings Panel.

291. If the definition of ‘building’ from the Definitions List is adopted during this plan review process, it will require a careful and detailed analysis from all other section 42A writers to ensure the necessary consequential amendments are picked up. This adds a layer of complexity to this current plan review process, with evaluation and solutions constrained by the hearing timetable.

292. However, if adoption of the Planning Standards ‘definition’ of building is left until after the hearing, it will impact on a number of other Planning Standards definitions that also need to be introduced into the Plan. This is because those definitions rely on the definition of ‘building’ for their proper interpretation. These definitions are: ‘accessory building’, ‘building

³⁷ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment, Mandatory Direction 1.a.

coverage', 'building footprint', 'residential unit', 'minor residential unit', 'structure', 'gross floor area', 'height', 'height in relation to boundary' and 'notional boundary'. As discussed elsewhere in this report, a significant number of those definitions (or close variants of them) are already used in the Plan and so not including the Planning Standards definition of 'building' would be problematic in terms of the effectiveness of those definitions and their associated provisions.

293. After careful thought, my view is that, because of its extensive use throughout the Proposed Plan and the reliance of other definitions on the term 'building' for their scope, it is sensible to adopt the Definitions List definition of 'building' through the current process. The reasons set out at 2.5.1 of this report remain applicable. My view is that adopting the term 'building' during this hearing process aligns with section 18A of the RMA, in that it provides for an efficient, timely, consistent and cost-effective process.

3.17.4 Recommendations

294. I recommend that the definition of 'building' in the Proposed Plan is replaced by the definition of 'building' from the Planning Standards. I also recommend that a new definition of 'motorised vehicle and vehicle' is included in Chapter 13.
295. I recommend that the submission from Counties Power [405.8] is accepted.
296. The submissions from Waikato District Council [697.369], WEL Networks [692.41], Transpower [576.32], Counties Power Ltd [405.8] are accepted in part.
297. The submission from Housing New Zealand Corporation [749.32] is rejected.
298. The submission from New Zealand Pork NZ [197.13] should be referred for consideration to the Rural Zone hearing.
299. The submission from Ports of Auckland Limited [578.43] should be referred for consideration to the Horotiu Industrial Zone hearing.
300. The submissions from Horticulture New Zealand [419.31], [419.116] and T&G Global Ltd [676.8] should be referred for consideration to the Rural and Country Living zone hearings.

3.17.5 Recommended amendments

301. The following amendments are recommended:

Building	<p>Has the meaning in the Building Act 2004, excluding:</p> <p>(a) a pergola, not roofed or enclosed, less than 3 metres in height; or a swimming pool, ornamental pool, deck; or</p> <p>(b) other structure not roofed or enclosed, less than 1.5 metre in height; or a fence, or a wall other than a retaining wall, less than 2</p>
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building	<p>metres in height; or public or cultural art in a public place less than 3 metres in height; or</p> <p>(c) a retaining wall or retaining structure less than 1.5 metres in height, provided that where a fence or non-retaining wall is placed at the top of the retaining wall, the combined height is less than 2 metres; or</p> <p>(d) a tank with a total capacity of no more than 35,000 litres, provided that no part of the tank protrudes more than 1 metre above natural ground level; or</p> <p>(e) a structure that is permeable and less than 4 metres in height to protect crops for agricultural use.</p> <p><u>means a temporary or permanent movable or immovable physical construction that is:</u></p> <p><u>a. partially or fully roofed, and</u></p> <p><u>b. is fixed or located on or in land, but</u></p> <p><u>c. excludes any motorised vehicle or other mode of transport that could be moved under its own power.</u></p>
<u>Motorised vehicle and vehicle</u>	<p><u>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.</u></p>

3.17.6 Consequential amendments

302. Adoption of the Planning Standards definition for ‘building’ requires consequential amendments for provisions that affect buildings that are excluded from the Proposed Plan definition. These fall within the Planning Standards definition of ‘building’ on the basis that they are:
- a) Immovable vehicles that are not occupied on a permanent long term basis
 - b) Vehicles that cannot be moved under their own power, but are movable (e.g. caravans, tiny homes, coffee carts)
 - c) excluded by section 9 of the Building Act 2004 but not by the Planning Standards definition
 - d) a type of structure deliberately excluded in the definition (being partially or fully-roofed decks, water tanks and crop protection structures of certain dimensions).
303. Given the extensive use of ‘building’ throughout the Proposed Plan, I recommend that all other section 42A report writers in the relevant hearing topics consider the implications of

the use of this term. In particular, whether there are additional controls on immovable vehicles that are not occupied on a permanent or long term basis, 'vehicles that are movable, but need to be towed to move, or buildings that were otherwise excluded from the definition through section 9 of the Building Act, and the bespoke list created for the definition in the Proposed Plan. If additional controls would now apply, the s42A report writers should consider whether those controls require statements excluding their application to vehicles that need to be towed to move, or buildings that were excluded by section 9, and the bespoke list of exclusions in the Proposed Plan. The main issues to consider are set out below. This list is not exhaustive, and other rules may require consequential amendments. These are likely to be more Chapter or issue-specific. I also recommend that after all relevant hearings, the Hearings Panel should review the decisions made to ensure the cohesive integration the definition of 'building' into the Proposed Plan.

304. The Land Use - Building Rules (or area specific rules), in particular for 'height', 'daylight admission', 'building setbacks' 'building coverage', 'gross floor area' and 'gross leasable area' should be reviewed, to provide a qualifying statement about how they apply to buildings that would have been excluded from the definition of 'building' in the Proposed Plan.
305. In addition, if a movable vehicle that needs to be towed to move is used for accommodation (e.g. a tiny home or caravan), it may fall within the definition of a 'residential unit', or 'minor residential unit', and any relevant activity rules controlling the number of residential units or minor residential units on site will apply. Rules identifying the minimum site area required for a 'residential unit' or 'minor residential unit' may also apply. Section 42A report writers should consider whether a qualifying statement is needed to confirm whether rules controlling residential units and minor units apply to movable vehicles that need to be towed to move.
306. Section 42A report writers should review whether home occupation rules, where applicable, require a qualifying statement excluding their application to movable vehicles that need to be towed to move.
307. Section 42A report writers should review whether the rules regarding site development for heritage items require qualifying statements excluding their application to movable vehicles that need to be towed to move.
308. The s42A report writer for the Horotiu Industrial Park will need to consider whether cargo and containers should be managed as buildings in that zone.
309. The s42A report writer for the Rural Zone (Chapter 22) will need to consider the application of the rules for buildings generally to mobile pig shelters, and provide relief from those rules, as appropriate.
310. The s42A report writer for the Rural Zone (Chapter 22) and Country Living Zone (Chapter 23) will need to consider the application of the rules for buildings generally to crop protection structures, and provide relief from those rules, as appropriate.

311. There are a number of definitions that contain the term 'building' within them. Any reference to 'building' within those definitions now includes immovable vehicles that are not occupied on a permanent and long term basis, movable vehicles that need to be towed to move, a building excluded by section 9 of the Building Act 2004, decks, tanks and crop protection structures. For many definitions this will not have an impact, but for others it may. For example, accessory building now includes a caravan. Section 42A report writers should consider whether a qualifying statement is needed to exclude immovable vehicles that are not occupied on a permanent or long term basis, vehicles that are movable, but need to be towed to move, tanks and decks, from rules controlling activities that refer to 'building'.
312. Section 42A report writers should consider whether additional provisions are needed to cover structures that are no longer buildings under the Proposed Plan. Those provisions are likely to be rules controlling relevant 'height', 'daylight admission', 'building setback', and 'building coverage, and will need to be considered for:
- unroofed pergolas over 3m in height,
 - unroofed structures over 1.5m in height,
 - fences or walls more than 2m in height,
 - unroofed public or cultural art over 3m high in a public place,
 - retaining walls or structures over 1.5m in height,
 - retaining walls attached to fences or non-retaining structures that are over 2m in height,
 - mast poles and telecommunication aerials attached to a building less than 7m in height from their base support or point of attachment to a building (but not dish aerials of less than 2m wide).
313. For subdivision rules, effects on existing buildings, the likely location of future buildings, geotechnical suitability for building, and any additional building infringements are often matters over which Council has reserved discretion. Section 42A report writers should review any applicable subdivision rules to consider whether these types of criteria require a qualifying statement excluding certain buildings (i.e. unoccupied immovable vehicles, vehicles that are movable but need to be towed to move) from the existing or future buildings that Council needs to turn its mind to.

3.18 'Building coverage'

3.18.1 Introduction

314. The following terms are relevant to my analysis:

Building coverage (Proposed Plan)	<p>Means the proportion of the net site area which is covered by any building.</p> <p>It includes:</p> <ul style="list-style-type: none"> a) overhanging or cantilevered parts of buildings or structures; b) covered decks. <p>It excludes:</p> <ul style="list-style-type: none"> a) eaves of a building that projects less than 750mm horizontally from the exterior wall of the building;
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	<ul style="list-style-type: none"> b) fences, terraces, and retaining walls; c) uncovered decks less than 1m above ground level; and d) uncovered swimming pools.
Building coverage (Planning Standards)	means the percentage of the net site area covered by the <i>building footprint</i> .
Building footprint (Planning Standards)	means, in relation to <i>building coverage</i> , 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.
Net site area (Planning Standards)	means the total area of the site, but excludes: <ul 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 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.

3.18.2 Submissions

315. There are four submissions on the term ‘building coverage’. Two submissions support the content of the definition, while two other submissions seek to amend the list of exclusions and inclusions.

316. The following submissions were made:

Submission point	Submitter It is	Summary of submission
578.44	Ports of Auckland Limited	Retain the definition of “building coverage” as notified.
697.370	Waikato District Council	<p>Amend the definition of ‘Building coverage to provide clarity with respect to covered swimming pools to match the parameters for covered decks, as follows:</p> <p>Building coverage Means the proportion of the net site area which is covered by any building.</p> <p>It includes:</p> <ul style="list-style-type: none"> a) overhanging or cantilevered parts of buildings or structures; b) covered decks. <p>It excludes:</p> <ul style="list-style-type: none"> a) eaves of a building that projects less than 750mm horizontally from the exterior wall of the building; b) fences, terraces, and retaining walls; c) uncovered decks less than 1m above ground level; and

		d) uncovered swimming pools <u>that do not protrude more than 1 metre above ground level.</u>
749.33	Housing New Zealand	Supports the proposed definition in part: it suggests amending the definition from “building coverage” to “coverage” to align with the draft planning standards.
419.117	Horticulture New Zealand	<p>If the definition of building is not amended as requested by the submitter, Horticulture New Zealand asks the definition of building coverage excludes artificial crop protection structures and crop support structures as follows:</p> <p>Means the proportion of the net site area which is covered by any building.</p> <p>It includes:</p> <ul style="list-style-type: none"> a) Overhanging or cantilevered parts of buildings or structures; b) covered decks. <p>It excludes:</p> <ul style="list-style-type: none"> a) eaves of a building that projects less than 750mm horizontally from the exterior wall of the building; b) fences, terraces, and retaining walls; c) uncovered decks less than 1m above ground level; and d) <u>uncovered swimming pools.; and</u> e) <u>(e) artificial crop protection structures and crop support structures.</u>

3.18.3 Analysis

317. The definition of ‘building coverage’ in the Planning Standards relies on the Planning Standards definitions of ‘building footprint’, ‘building’, ‘net site area’, and ‘site’. This means that the Planning Standards definition of “building coverage” does not apply to ‘structures’ that are not buildings (see discussion of the relationship between ‘structures’ and ‘buildings’ in section 3.16 and 3.17 of this report).
318. The Proposed Plan definition of ‘building coverage’ excludes several structures (fences, terraces and retaining walls). Those structures are also not captured within the definition of ‘building’ in the Planning Standards. Therefore, the definitions associated with the Planning Standards definition of ‘building coverage’ are consistent with the Proposed Plan’s approach to those excluded structures (in both cases those structures will not be captured in the definition of building coverage).
319. Freestanding swimming pools that are not partially or fully-roofed do not fall within the definition of ‘building’ in the Planning Standards, therefore will not be captured in ‘building coverage’ if the Planning Standards definition of that term is adopted. This aligns with the Proposed Plan definition of ‘building coverage’, provided the swimming pool is not more than 1 metre in height.

320. Covered swimming pools would not be excluded from the definition of 'building' (and therefore 'building coverage') under the Planning Standards definition, whereas they are excluded under the Proposed Plan definition of 'building coverage'.
321. Uncovered decks are also excluded from the definition of 'building' in the Planning Standards. Again, this aligns with the Proposed Plan definition of 'building coverage', provided the deck is no more than 1 metre in height. I note at this point that the definition of 'building' in the Proposed Plan excludes 'decks' from the definition. The definition of 'building coverage' in the Proposed Plan specifically includes covered decks and decks of more than 1 metre in height.
322. Eaves, which are excluded from the definition in the Proposed Plan, will fall within the definition of 'building coverage' if the Planning Standards definition is adopted.
323. The Planning Standards definition of 'building coverage' may include things that previously fell outside of the definition of 'building', i.e., unoccupied immovable vehicles, vehicles that need to be towed to move, but are movable, buildings listed in section 9 of the Building Act 2004, partially or fully-roofed decks, tanks up to a certain height and volume and crop protection structures. 'Building coverage' is limited to coverage of a building in the 'net site area of a site', which excludes any part of a site used for access to the site and at ground level. This means that buildings such as caravans that are located in an access leg, do not contribute to building coverage.
324. Reliance on the Planning Standards terms of 'site' and 'net site area' means that the term 'building coverage' will impact cross-lease and unit development sites. As discussed under the headings for those definitions, the building coverage percentage is shared across a unit development and cross-lease; it does not apply to the exclusive use areas of a cross-lease or unit title.
325. The building coverage rules will need to be altered, as consequential amendments to the Proposed Plan, to account for specific differences if the Planning Standards definition is adopted.
326. In submission [697.370] Waikato District Council seeks to align the height of swimming pools that are excluded from the term, with the parameters for decks. It is not clear to me why Waikato District Council included the height of 1 metre as a qualifier for building coverage for a swimming pool or deck, given that height has no bearing on building coverage. Whether a deck is covered or not does not have a bearing on building coverage, and I note the definitions of 'building' and 'building coverage' in the Proposed Plan create an inconsistency as to whether covered decks are subject to building coverage rules (given that they are excluded from the definition of building).
327. A freestanding uncovered swimming pool (or deck) does not fall within the definition of 'building', and therefore does not fall within the definition of 'building coverage' under the Proposed Plan. To carry over an exclusion for covered swimming pools and uncovered decks of up to 1 m high from building coverage calculations, the rules for building coverage

will need to be amended to clarify how such structures are to be addressed if the Planning Standards definitions are adopted.

328. Under the Planning Standards, I cannot recommend a list of exclusions to a definition.³⁸ To provide these exclusions with the adoption of the Planning Standards definition, they will need to be incorporated into the rules that relate to building coverage. Those rules need to clarify how a building coverage calculation applies in a particular case. For example, the building coverage rule may be qualified with a statement along the lines of: “This rule does not apply to eaves of buildings that project horizontally from the exterior wall of a building, and uncovered decks.”
329. I acknowledge the submission from Horticulture New Zealand [419.117]. Crop protection structures or crop support structures will fall within the definition of building coverage if they are partially or fully-roofed, and fall within the definition of building. My view is that the building coverage rules should clarify their application (or not) to crop protection and crop support structures. This is a matter that the s42A report writers for the Country Living and Rural hearings can address.
330. I acknowledge Ports of Auckland Limited’s [578.44] submission in support of the notified definition. Housing New Zealand also supported the definition in part [749.33] and sought alignment with the Planning Standards definition. The changes to this definition arise as a result of adoption of the Planning Standards definition.

3.18.4 Recommendations

331. I recommend that the definition of ‘Building coverage’ from the Proposed Plan is replaced with the Planning Standards definitions of ‘building coverage’ and ‘building footprint’. Recommendations are made elsewhere in this report in relation to the definitions of ‘building’, ‘structure’, ‘site’ and ‘net site area’.
332. The submission from Horticulture New Zealand [419.117] should be referred for consideration to the Rural and Country Living zone hearings.
333. I therefore recommend that the submission from Housing New Zealand Corporation [749.33] is accepted in part, and the submissions from Waikato District Council [697.370] and Ports of Auckland Limited are rejected [578.44].

3.18.5 Recommended amendments

334. The following amendments are recommended:

Building coverage	Means the proportion of the net site area which is covered by any building. It includes: a) overhanging or cantilevered parts of buildings or structures;
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³⁸ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment, Mandatory Direction 1.

<p><u>building coverage</u></p>	<p>b) covered decks. It excludes: a) eaves of a building that projects less than 750mm horizontally from the exterior wall of the building; b) fences, terraces, and retaining walls; c) uncovered decks less than 1m above ground level; and uncovered swimming pools.</p> <p><u>means the percentage of the net site area covered by the building footprint.</u></p>
<p><u>building footprint</u></p>	<p><u>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</u></p>

3.18.6 Consequential amendments

335. Adoption of the Planning Standards definitions of ‘building coverage’ and ‘building footprint’ to replace the proposed definition of ‘building coverage’ will result in the need for consequential amendments to rules.
336. The definition of ‘building footprint’ from the Planning Standards will need to be added to Chapter 13.
337. The rules for ‘building coverage’ will need to be reviewed by s42A report writers to provide a qualifying statement confirming what is included and excluded from the building coverage calculation for their hearing topics. To carry over the exclusions from the Proposed Plan, a building coverage rule may be qualified as follows:
- This rule does not apply to eaves of buildings that project less than 750mm horizontally from the exterior wall of a building, covered and uncovered decks and swimming pools, vehicles and motorised vehicles, buildings listed in section 9 of the Building Act 2004, tanks that are up to 2m in height with a total capacity of no more than 35,000 litres, and crop protection structures.*
338. I also recommend that after all relevant hearings, the Hearings Panel should review the decisions made to ensure the cohesive integration the definition of ‘building coverage’ into the Proposed Plan.
339. The rules for building coverage also require consideration for situations that may involve a cross-lease or unit title arrangements. The rules set out below should be reviewed as part of the s42A report for the relevant hearing topics (where those provisions are to be addressed) to consider whether the relationship between ‘building coverage’ and ‘net site area’ is appropriate, together with other controls, in the context of a unit development or cross-lease.

340. It may be that a separate rule is required for these types of sites. That rule could provide for the allocation of the building coverage calculation to the exclusive areas of a cross-lease or unit development.
341. The following rules are relevant to these consequential amendments 16.1.2, 16.1.3, 16.3.6, 16.5.2, 16.5.8.3, 20.5.8, 22.1.3, 22.3.6, 22.4.2, 22.5.2, 22.5.5, 22.8.3, 23.3.6, 23.4.4, 24.1.1, 24.4.5, 25.3.3, 25.5.1, 25.5.3.2, 27.2.2, 27.4.3, 28.3.5.

3.19 'Gross floor area' and 'GFA'

3.19.1 Introduction

342. The following terms are relevant to my analysis:

Gross floor area (Proposed Plan)	Means the sum of the gross area of all floors of a building, measured either from the exterior faces of the exterior walls, or from the centre line of walls separating two tenancies, as circumstances may require.
Gross floor area (Planning Standards)	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 stair wells), i. where there are exterior walls, measured from the exterior faces of those exterior walls, ii, where there are walls separating two buildings, measured from the centre lines of the walls separating the two buildings, iii, where a wall or walls are lacking (for example a mezzanine floor, and the edge of the floor is discernible, measured from the edge of the floor.
GFA (Proposed Plan)	Refer to the definition of Gross floor area.

3.19.2 Submissions

343. There are four submissions and one further submission on the terms “GFA” and “Gross floor area”.
344. The following submissions were made:

Submission point	Submitter	Summary of submission
697.390	Waikato District Council	Amend the term gross floor area to clarify how to measure gross floor area as follows: 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 stair wells), measured from the exterior faces of those exterior walls, or from the centre lines of walls separating two buildings, and in the absence of a wall on any side it shall be measured from to the exterior edge of the floor.

FS1377.220	Havelock Village Limited	Support 697.390 <i>HVL supports amendments to the Plan that provide for a greater development potential and a wider variety of densities, zones and housing types. HVL has an interest in any amendments to definitions that may affect these matters.</i>
749.47	Housing New Zealand Corporation	Housing New Zealand generally supports the proposed definition. However it notes there are no exclusions listed, and there is no reference to gross leasable floor area. It seeks an amendment to include some of the exclusions listed in the definition of gross leasable floor area, and to link the definition of gross floor area to gross leasable floor area.
578.47	Ports of Auckland Limited	Retain the definition as notified.
697.389	Waikato District Council	Delete the term GFA from the definitions and amend the definition of gross floor area to include GFA.

3.19.3 Analysis

345. The definition of ‘gross floor area’ in the Planning Standards aligns with the definition of gross floor area in the Proposed Plan.
346. The amendment that Waikato District Council [697.389] seeks reflects the definition for gross floor area from the Planning Standards. This amendment includes provision for buildings that may lack walls from which a measurement can be taken. This addition provides for clarity for a situation involving, for example, a mezzanine floor.
347. Housing New Zealand Corporation [749.47] seeks specific exclusions from the definition, and its submission reflects feedback referred to by the Ministry for the Environment on the definition of ‘gross floor area’. That report noted:³⁹
- We do not agree with the submissions requesting itemised exclusions because it is intended that the term ‘net floor area’ be used where the concept of a pared-down floor area excluding parts of buildings is required. Councils will be able to choose whether to use ‘net floor area’ or ‘gross floor area’ in any plan provision. Instead of excluding carparking specifically from the definition, it can be addressed in the rules; for example, “xx number of car parks shall be provided for zz m2 of gross floor area. Any floor space being provided for carparking and vehicular access on the site shall be excluded from the carparking calculation.*
348. In my view, the reasoning provided by the Ministry for the Environment holds true in this instance too. If Waikato District Council wishes to exclude particular areas from the gross floor area, the applicable rules can manage those exclusions.
349. In the absence of any reason justifying their linkage, I cannot see the need to link the terms ‘gross floor area’ and ‘gross leasable floor area’ as sought by Housing New Zealand Corporation [749.47].

³⁹ 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 103.

350. I agree with Waikato District Council [697.389] that a separate entry for the acronym GFA is not required. The Planning Standards include an Abbreviations Chapter, which is where GFA would sit if those Standards were fully implemented. I recommend adding an Abbreviations Chapter that follows the Definitions Chapter, which includes the abbreviation GFA.

3.19.4 Recommendations

351. I recommend that the definition for 'gross floor area' is amended to match the definition in the Planning Standards.
352. I recommend adding an Abbreviations Chapter to follow the Definitions Chapter, which includes the abbreviation GFA.
353. I recommend that the submission by Waikato District Council [697.390] is accepted in part, and that the submissions from Ports of Auckland Limited [578.47] and Housing New Zealand Corporation [749.47] is rejected.
354. I recommend that the submission from Waikato District Council [697.389] on the acronym GFA is rejected.

3.19.5 Recommended amendments

Gross floor area	Means the sum of the gross area of all floors of a building, measured either from the exterior faces of the exterior walls, or from the centre line of walls separating two tenancies, as circumstances may require.
<u>gross floor area</u>	<u>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 stair wells).</u> i. where there are exterior walls, measured from the exterior faces of those exterior walls, ii. ii, where there are walls separating two buildings, measured from the centre lines of the walls separating the two buildings, <u>iii, where a wall or walls are lacking (for example a mezzanine floor, and the edge of the floor is discernible, measured from the edge of the floor).</u>
GFA	Refer to the definition of Gross floor area.

3.19.6 Consequential amendments

355. The rules that refer to gross floor area or GFA should be reviewed to ensure that the term 'gross floor area' or 'GFA' does not unintentionally include an inclusion or exclusion to the defined term. For example, Rule 20.5.2 provides the GFA for a caretaker dwelling as 'gross floor area of 70m² (excluding a garage, carport or decking)'. Terms that are defined in the Definitions List must be used as defined in the Definitions List: they should not be altered

with a list of exclusions or by identifying inclusions to the definition. The correct way to include or exclude areas in the GFA calculations is as follows: “Any area covered by a garage, carport or deck on the site shall be excluded from the calculation of gross floor area for the dwelling.”

356. Section 42A report writers should consider whether to provide a qualifying statement confirming what buildings are subject to the rules for gross floor areas for their hearing topics. For example, to carry over the exclusions from the definition of ‘building’ from the Proposed Plan, a rule for gross floor area may be qualified as follows:

This rule does not apply to vehicles or motorised vehicles, buildings listed in section 9 of the Building Act 2004, partially or fully-roofed decks, tanks that are up to 2m in height with a total capacity of no more than 35,000 litres, and crop protection structures.

3.20 ‘Building platform’

357. The following term is relevant to my analysis:

Building Platform (Proposed Plan)	Means land that is suitable and practical for building developments, having regard to soil conditions, geotechnical stability, gradient, access and natural hazards.
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358. There is no definition in the Planning Standards that approximates this term.

3.20.1 Submissions

359. Two submissions were received, one in support and the other in opposition.

360. The following submissions were made:

Submission point	Submitter	Summary of submission
578.45	Ports of Auckland Limited	Retain the definition as notified.
749.34	Housing New Zealand Corporation	Delete the definition, as it is not clear why the term is included or how it relates to ‘building coverage’.

3.20.2 Analysis

361. The term ‘building platform’ is frequently used in the Proposed Plan, including in a number of rules. It is therefore useful to include a definition for this term. The support for the definition from Ports of Auckland Limited [578.45] is noted, and I recommend that this definition is retained. I do not agree with Housing New Zealand Corporation [749.34] that there is a relationship between ‘building coverage’ and ‘building platform’ that needs to be articulated in the Proposed Plan. There is a relationship between ‘building coverage’ and ‘building footprint’, but those terms are addressed elsewhere in this report (see section 3.18).

3.20.3 Recommendations

362. For the reason outlined above, it is recommended that the definition of 'Building platform' is retained as proposed, as requested by Ports of Auckland Limited [578.45]. I therefore recommend that the submission is accepted.
363. I recommend the submission from Housing New Zealand Corporation [749.34] is rejected.

3.20.4 Consequential amendments

364. There are no consequential amendments arising from this recommendation.

3.21 'Residential activity'

365. The following terms are relevant to my analysis:

residential activity (Proposed Plan)	Means the use of land and buildings by people for living accommodation in a household unit, where the occupants will generally refer to the site as their home and permanent address. For the purpose of this definition, includes emergency and refuge accommodation, or accommodation for supervision staff and residents, where residents are subject to care or supervision (e.g. homes for people with disabilities). Residential activity includes home detention (as defined in the Criminal Justice Act 1985), but not prisons or other places where residents are subject to detention
residential activity (Planning Standards)	Means the use of land and building(s) for people's living accommodation.

3.21.1 Submissions

366. Six original submission points and five further submission points were received on the definition 'residential activity'. The majority sought amendments, with just one submitter (The Department of Corrections) supporting the definition as notified.
367. The following submissions were made:

Submission point	Submitter	Summary of submission
496.4	The Department of Corrections	Retain the definition as notified. The proposed definition reflects living and care arrangements within the community, including that undertaken by the Department in its self-care units. The definition refers to "household", but no definition is provided for this term. For clarity, a definition of "household" should be included in the Plan.
697.497	Waikato District Council	Seeks a minor amendment (insert the word 'it') to improve readability.

749.58	Housing New Zealand Corporation	<p>Opposes the definition, as it is not clear how it links to the definitions of 'residential unit' and 'dwelling'. The current definition is too complex. There should be a linkage between the three terms as there is a relationship between them. An alternative definition is proposed:</p> <p>"Means the use of land and a building or group of buildings for residential units. This includes:</p> <ul style="list-style-type: none"> - emergency and refuge accommodation, or accommodation for supervision staff and residents, - where residents are subject to care or supervision (e.g. homes for people with disabilities), and - home detention (as defined in the Criminal Justice Act 1985), but not prisons or other places where residents are subject to detention.
FS1387.1016	Mercury	<i>Oppose 749.58: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
761.13	Lyndendale Farms Limited	A retirement village is clearly a residential activity, and this should be expressly stated within the definition.
FS1379.306	Hamilton City Council	<i>Opposes 761.13. The submitter does not oppose the inclusion of 'retirement villages' in the definition of 'residential activities', however is concerned that, in combination with WDC's submission point 697.748, this submission (761.13), if accepted, is likely to allow for retirement villages as a permitted activity in the Rural Zone.</i>
FS1387.1119	Mercury	<i>Oppose 761.13: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
765.14	Atawhai Assisi Retirement Village	A retirement village is clearly a residential activity, and this should be expressly stated within the definition.
FS1387.1137	Mercury	<i>Oppose 765.14: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
769.14	Tamahere Eventide Retirement Village	A retirement village is clearly a residential activity, and this should be expressly stated within the definition.

FS1387.1166	Mercury	Oppose 769.14: It is not clear, from a land management perspective, how effects from a flooding event would be managed.
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3.21.2 Analysis

368. The term ‘residential activity’ has been defined in the Planning Standards, therefore I consider it appropriate to adopt that definition now, if possible. As Housing New Zealand [749.58] have submitted, the definition in the Proposed Plan is complex, which goes against the drafting principles for the Planning Standards. However, the broadly-crafted Planning Standards definition may not adequately capture the local ‘articulation’ of this term in a way that was intended by the Proposed Plan⁴⁰. The Guidance for the Planning Standards indicates that one way to achieve this local context is to adopt a sub-definition. A definition of ‘living accommodation’ for example, would be a means to retain this meaning. The following wording is suggested:

“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”.

369. I have included the wording ‘one or more residential units’, as I recommend that the Definitions Standard definition of ‘residential unit’ is adopted (see section 3.22). A ‘residential unit’ is defined in the Definitions Standard to mean: “a building(s) or part of a building that is used for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities.”

370. I disagree with the submissions from the retirement villages [761.13, 765.14, 769.14] that it is necessary to include the term ‘retirement village’ in the definition of ‘residential activity’ or ‘living accommodation’. ‘Retirement village’ has its own definition in the plan, which clearly includes a residential element. However, a retirement village often has a range of other land uses (such as hospitals etc.) which would not be considered residential activities.

371. The submission from the Department of Corrections [496.4] in relation to ‘household’, is considered further in section 3.23 of this report. I note the support for the definition as notified. My recommendation to create a sub-definition for ‘living accommodation’ that

⁴⁰ The authors of: 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. noted at section 3.90.3, page 180 that: “We consider the listing of examples of included or excluded residential activities is best achieved by the different councils rather than being required in all plans throughout the country. This can be achieved through either sub-definition or rule”.

retains this wording should meet the relief sought. I agree with Housing New Zealand [749.58] that the definition could be simplified, and that it would be easier to follow if it were broken down into a series of points. I have recommended that the Planning Standards definition of 'residential activity' is adopted, but have recommended similar wording for a sub-definition of 'living accommodation', to reflect the local circumstances, as envisaged by the National Planning Standards, Guidance Document and Recommendations on Submissions Report for the NPS (see footnote 37).

3.21.3 Recommendations

372. I recommend that the definition of 'residential activity' is deleted and replaced with the Planning Standards definition, and a new sub-definition of 'living accommodation' is inserted in the Plan.
373. I recommend that the submissions from the Department of Corrections [496.4] and Housing New Zealand [749.58] are accepted in part.
374. I recommend that the submissions from Waikato District Council [697.497], Lyndendale Farms Limited [761.13], Atawhai Assisi Retirement Village [765.14], and Tamahere Eventide Retirement Village [769.14] are rejected.

3.21.4 Recommended amendments

375. The following amendments are recommended:

<u>Residential activity</u>	Means the use of land and buildings by people for living accommodation in a household unit, where the occupants will generally refer to the site as their home and permanent address. For the purpose of this definition, includes emergency and refuge accommodation, or accommodation for supervision staff and residents, where residents are subject to care or supervision (e.g. homes for people with disabilities). Residential activity includes home detention (as defined in the Criminal Justice Act 1985), but not prisons or other places where residents are subject to detention.
<u>residential activity</u>	<u>means the use of land and building(s) for people's living accommodation.</u>
<u>Living accommodation</u>	<u>For the purposes of a residential activity, includes one or more residential units for:</u> <u>(a) emergency and refuge accommodation,</u> <u>(b) accommodation for supervision staff and residents, where residents are subject to care or supervision (e.g. homes for people with disabilities),</u> <u>(c) home detention (as defined in the Criminal Justice Act 1985), but not prisons or other places where residents are subject to detention,</u> <u>(d) workers accommodation.</u>

3.21.5 Consequential Amendments

376. No consequential amendments are required.

3.22 'Residential unit' and 'dwelling'

3.22.1 Introduction

377. The following terms are relevant to my analysis:

Dwelling (Proposed Plan)	means a self-contained residential unit for living accommodation.
Residential unit (Proposed Plan)	means a building or group of buildings or part of a building or group of buildings that is: (a) Used, or intended to be used, only or mainly for residential activities; (b) Occupied, or intended to be occupied, exclusively as the home or residence of not more than one household
Residential unit (Planning Standards)	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.

378. For completeness, I note that the RMA defines the term 'dwellinghouse', and the Building Act 2004 defines the term 'household unit'. While I have looked at these definitions, they are not set out in this report.

3.22.2 Submissions

379. There are three submission points on the term "residential unit" which seek to clarify how this term relates to other related terms, such as 'sleepout', 'dwelling', residential activity and 'household'. There are four further submission points.

380. The following submissions were made:

Submission point	Submitter	Summary of submission
697.498	Waikato District Council	Amend the definition to clarify that a residential unit is self-contained, and differentiate from a sleepout, which would be an accessory building. "Residential unit" Means a building or group of buildings, or part of a building or group of buildings that is: (a) used, or intended to be used, only or mainly for residential activities; and (b) occupied, or intended to be occupied, exclusively as the home or residence of not more than one household.; and (c) <u>is self-contained for living accommodation.</u>
FS1291.24	Havelock Village Limited	<i>Opposes Submission Point 697.498. Submits that the definition proposed by Waikato District Council is too broad and asks for adoption of the RMA definition.</i>
FS1377.225	Perri Unthank	<i>Opposes Submission Point 697.498. Submits that the definition proposed by Waikato District Council is too broad and asks for adoption of the RMA definition.</i>

FS1387.582	Mercury	<i>Opposed 697.498: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
749.59	Housing New Zealand Corporation	Amend the definition of “residential unit to better link with the definitions of “dwelling” and “residential activity”. Residential unit Means a building or group of buildings , or part of a building or group of buildings that is: a) used, or intended to be used as a dwelling or intended to be used, only or mainly for residential activities, a) occupied, or intended to be occupied, exclusively as the home or residence of not more than one <u>a single</u> household.
496.11	The Department of Corrections	Retain the definition of “residential unit” and introduce a new definition of household unit.
FS1388.497	Mercury	<i>Oppose 496.11: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

381. There are three submissions on the term ‘dwelling’. Two of these submissions seek to clarify its relationship to a household unit, and one seeks to identify a number of exclusions (The Surveying Company Limited). There are five further submissions on the term “dwelling”.

382. The following submissions were made:

Submission point	Submitter	Summary of submission
697.381	Waikato District Council	Amend the definition to confirm the terms dwelling and residential unit can be used interchangeably. <u>Dwelling" Means the same as a self-contained residential unit for living accommodation.</u>
FS1291.17	Havelock Village Limited	<i>Supports Submission Point 697.381. HVL supports amendments to the Plan definitions to provide clarity for plan users.</i>
FS1377.218	Perri Unthank	<i>Supports Submission Point 697.381. HVL supports amendments to the Plan definitions to provide clarity for plan users.</i>
FS1387.553	Mercury	<i>Opposed 697.381: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
749.45	Housing New Zealand Corporation	Amend the definition of dwelling to clarify it must be used by a single household for residential purposes. Amend as follows: <u>Means a self-contained residential unit for living accommodation used for a residential purpose as a single household residence contained within one or more buildings, and served by a kitchen.</u>

FS1387.1011	Mercury	<i>Oppose 749.45: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
746.5	The Surveying Company Limited	<i>Amend the definition to ensure consistency with definitions of 'dwelling' and 'household unit' in the RMA and BA04. Amendments are sought to exclude: mobile home, campervan, tent, caravan, cabin, motel, boarding house, hotel, traveller's accommodation, Special Housing Development.</i>
FS1318.1	Viaduct Harbour Nominees Limited	<i>Supports submission point 746.5, to support greater density and growth.</i>
FS1387.905	Mercury NZ Limited	<i>Opposes 746.5. At the time of lodging this further submission, neither natural hazard flood provisions nor adequate flood maps were available, and it is therefore not clear from a land use management perspective, either how effects from a significant flood event will be managed, or whether the land use zone is appropriate from a risk exposure. Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i>

3.22.3 Analysis

383. Waikato District Council [697.381] submits that the term 'dwelling' should be defined as capable for use interchangeably with the term 'residential unit'. This would result in duplicate terms for the same type of land use. The Definitions Standard prohibits use of a term in the same context as a definition from the Definitions List⁴¹. To comply with the Definitions Standard, the term 'residential unit' should replace the term 'dwelling'. 'Dwelling' is not defined in the Definitions Standard.
384. There are four noticeable differences between the definitions of residential unit in the Planning Standards and the Proposed Plan. Firstly, the definition in the Planning Standards does not refer to 'intended use or intended occupation' of the residential unit. Rather, it simply refers to use and occupation.
385. Secondly, the Planning Standards do not quantify the use for residential activity with the words 'only' or 'mainly'. Removing these words removes a degree of subjectivity from the definition, and provides greater certainty regarding use of a unit for residential activity.

⁴¹ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

386. Thirdly, the definition in the Planning Standards does not require a 'residential unit' to be the home or residence of the household. This means that the Planning Standards definition covers short-term rental arrangements, which the Proposed Plan definition does not cover.
387. The definition of 'residential unit' in the Planning Standards requires sleeping, cooking, bathing and toilet facilities, therefore a residential unit must be self-contained. A building that does not include all of those facilities is not a 'residential unit'. This addresses the concern raised by Waikato District Council [697.498]; it seeks to differentiate a sleepout, which may not be self-contained, from a residential unit.
388. Under a separate heading (see section 3.23 of this report) I recommend that the term 'household' is not included as a definition. It is not defined in the Definitions Standard. However, the concern that the Department of Corrections [496.11] seeks to resolve through a definition of 'household' is addressed through a recommended definition of 'living accommodation' (see section 3.21 of this report).
389. Housing New Zealand Corporation [749.45 and 749.59] seeks confirmation that a 'dwelling' is used for a residential purpose as a single household unit and contains a kitchen. The definition of 'residential unit' in the Planning Standards requires that a residential unit is used for residential activity exclusively by one household, and includes sleeping, cooking, bathing and toilet facilities. In my view, adopting the definition of 'residential unit' from the Definitions List resolves the concerns of Housing New Zealand Corporation [749.45 and 749.59] for the terms 'dwelling' and 'residential unit'.
390. The Surveying Company [746.5] submits that the term 'dwelling' is vague, and suggests using an already existing definition of 'dwelling' or 'household unit'. Replacing the term "dwelling" with the term "residential unit" from the Planning Standards aligns with this aspect of the Surveying Company's submission.
391. The Surveying Company [746.5] also seeks to exclude the following types of accommodation from the definition: mobile home, campervan, tent, caravan, cabin, motel, boarding house, hotel, traveller's accommodation, and special housing development.
392. Theoretically, the definition of 'residential unit' can include a tent, cabin or caravan. A mobile home or campervan only falls within the definition of a building if it could not be moved under its own power. However, for the definition of 'residential unit' to apply, the building must contain sleeping, cooking, bathing and toilet facilities, and be used for residential activity, i.e. living accommodation, rather than visitor's accommodation.
393. A boarding house can only fall within the definition of a 'residential unit' if used exclusively by one 'household'. There may be some uncertainty around whether the occupants of a boarding house constitute a 'household'. I do not recommend a definition of 'household' (see section 3.23), or a definition of 'boarding house' (see section 3.33). There are no rules in the Proposed Plan that seek to regulate 'boarding houses' differently from other households, therefore I have not recommended adoption of a definition of 'boarding house'. For a similar reason, elsewhere in this report I reject inclusion of a definition of 'Special Housing Development', as the term is not used in the Proposed Plan (see section 3.34).

394. The Proposed Plan and Planning Standards include definitions for ‘travellers’ and ‘visitor accommodation’ respectively. This report recommends adopting the Planning Standards definition of ‘visitor accommodation’. That definition refers to accommodation for paying visitors. Hotels, motels and other forms of visitor accommodation are provided for paying visitors, rather than falling within a residential activity.
395. While I cannot recommend exclusions to a Definitions Standard definition⁴², I consider it aligns with the Proposed Plan to exclude the likes of caravans and tiny homes (which are vehicles) from the definition of ‘residential unit’, via the rules. This would be a consequential amendment if the Planning Standards definition were adopted.

3.22.4 Recommendations

396. I recommend that the definitions of ‘Dwelling’ and ‘Residential Unit’ from the Proposed Plan are replaced with the single Planning Standards definition of ‘residential unit’.
397. I recommend that the submission from Housing New Zealand [749.45] is accepted. The submissions from Waikato District Council [697.498] [697.381], Department of Corrections [496.11], Surveying Company [746.5] and Housing New Zealand [749.59] are accepted in part.

3.22.5 Recommended amendments

398. The following amendments are recommended:

Residential Unit	Means a building or group of buildings or part of a building or group of buildings that is: (a) Used, or intended to be used, only or mainly for residential activities; (b) Occupied, or intended to be occupied, exclusively as the home or residence of not more than one household.
<u>residential unit</u>	<u>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.</u>
Dwelling	means a self-contained residential unit for living accommodation.

3.22.6 Consequential amendments

399. There are consequential amendments arising from this recommendation.
400. References to ‘dwelling’ in the Proposed Plan should be replaced with the term ‘residential unit’ in these references.

⁴² Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

401. To align with the definition of 'building' in the Proposed Plan, section 42A report writers should identify the rules for residential units and review whether motorised vehicles and vehicles should be excluded from their application. This recommendation applies across all Chapters of the Proposed Plan.

3.23 'Household'

3.23.1 Introduction

402. The Proposed Plan does not define 'household'. The Planning Standards do not define this term either.

3.23.2 Submissions

403. One submission was received from the Department of Corrections [496.12]. It submits that the term 'household' is used in the Proposed Plan, and a definition can clarify what the term includes. There are two further submissions.
404. The following submission was made:

Submission point	Submitter	Summary of submission
496.12	Department of Corrections	The term 'household' is used in the definitions of residential activity and residential unit. There is no definition to provide clarity about what a household may encompass. Add a definition that captures modern living arrangements including the sort that are provided by the Department as follows: <u>Household means a person or group of people who live together as a unit whether or (a) any or all of them are members of the same family; or (b) one or more of the members of the group (whether or not they are paid) provides day to day support and supervision to any other member(s) of the group.</u>
FS1269.137	Housing New Zealand Corporation	Support 496.12 to the extent it is consistent with its primary submission.
FS1388.498	Mercury	Oppose 496.12: It is not clear, from a land management perspective, how effects from a flooding event would be managed.

3.23.3 Analysis

405. The term 'household' is not used in the rules in the Proposed Plan. Rather, its significance is in its use within the definitions of 'residential activity', 'residential unit', 'service court', 'homestay' and 'commercial services', which appear in, and are pivotal to, the application of certain parts of the Proposed Plan.

406. The Ministry for the Environment elected not to provide a definition for the term ‘household’ in the Planning Standards. It said this was because its early testing of definitions of ‘household’ created uncertainty and were considered ‘subject to interpretation’.⁴³ Further, it said:⁴⁴

The commonly understood meaning of a household is sufficient to understand the term. It is commonly understood that people do not have to be related to form a household. In addition, carers within a household – whether as a parent, a nanny, an au-pair, or carers in supported living accommodation (e.g. IHC houses) – are all members of a household and enable those households to function.

Temporary residential accommodation or emergency housing may or may not fit under this definition, dependent on how the accommodation is constructed. However, there is nothing that precludes councils from preparing particular provisions to specifically enable temporary residential or emergency accommodation.

407. I am swayed by the Ministry’s recommendation not to provide a definition for household. While the Ministry did not elaborate on the type of uncertainty created by the definitions it tested, I am wary of creating uncertainty through the insertion of a particular definition. The Ministry confirmed that the type of living arrangements the Department of Corrections contemplates in its proposed definition, falls within the common understanding of a ‘household.’⁴⁵
408. In addition, the relief the Department for Corrections seeks may be granted through the recommended definition of ‘living accommodation’. This report recommends adopting the Planning Standards definition of ‘residential activity’, and as part of that definition I recommend adopting a new definition of ‘living accommodation’ which includes:

“(b) accommodation for supervision staff and residents, where residents are subject to care or supervision (e.g. homes for people with disabilities);”.

3.23.4 Recommendations

409. I recommend that a definition of ‘household’ is not included in the Proposed Plan and the submission by the Department of Corrections [496.12] is rejected.

3.23.5 Consequential amendments

410. No consequential amendments are required.

3.24 ‘Minor dwelling’ and ‘minor residential unit’

⁴³ 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, pg 183.

⁴⁴ Ibid, pg 183.

⁴⁵ Ibid, pg 183.

3.24.1 Introduction

411. The following terms are relevant to my analysis:

Minor dwelling (Proposed Plan)	Means a second dwelling independent of the principal dwelling(s) on the same site.
Minor residential unit (Planning Standards)	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.

3.24.2 Submissions

412. There are five submissions on the term ‘minor dwelling’, two in support and three seeking amendments. There are six further submission points.

413. The following submissions were made:

Submission point	Submitter	Summary of submission
697.401	Waikato District Council	Amend the term minor dwelling to clarify that a minor dwelling is in the same ownership as the principal residential unit, and that it can be attached or detached from the principal dwelling: Minor dwelling: 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. A minor dwelling can be attached to the principal residential unit, or a detached standalone building.
FS1291.21	Havelock Village Limited	<i>Supports submission point 697.401 on the basis it promotes greater development potential and wider variety of densities, housing types and zones.</i>
FS1377.222	Perri Unthank	<i>Supports submission point 697.401 on the basis it promotes greater development potential and wider variety of densities, housing types and zones.</i>
FS1387.557	Mercury	<i>Opposed 697.401: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
749.55	Housing New Zealand Corporation	Housing New Zealand supports the proposed definition. It notes that it is different to the proposed Planning Standards definition for minor residential unit.
FS1387.1014	Mercury	<i>Oppose 749.55: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
695.74	Sharp Planning Services	Amend the definition of minor dwelling to exclude decks and garages from the dwelling area.

310.15	Whaingaroa Raglan Affordable Housing Project	Amend the definition to allow more than one minor dwelling per site.
FS1276.24	Whaingaroa Environmental Defence Inc	<i>Supports the Submission point 310.15</i>
FS1379.69	Hamilton City Council	<i>Opposes submission point 310.15 on the basis that the definition is applied across more than one zone, and the proposed amendment has the potential to increase the density of development in the rural zone.</i>
FS1386.370	Mercury	<i>Oppose 310.15: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
197.14	NZ Pork	NZ Pork supports recognition of the need for additional dwellings on rural properties that are ancillary to the principal dwelling. However, it considers there is insufficient provision for onsite farm workers accommodation of a size sufficient to support a family. It submits retaining the definition of minor dwelling, and provide a new definition for farm workers accommodation.

3.24.3 Analysis

414. The term ‘minor dwelling’ relies on use of the term ‘dwelling’, which this report recommends replacing with the Planning Standards definition of “residential unit”. It follows that I recommend replacing the term “minor dwelling” with the Planning Standards definition of ‘minor residential unit’.
415. The submission from NZ Pork [197.14] seeks to retain the definition of ‘minor dwelling’ (on the basis that it provides for ancillary living accommodation), but asks to include a new definition for ‘farm workers’ accommodation’. In my view, replacing the term ‘minor dwelling’ with ‘minor residential unit’ aligns with the first part of the submission from NZ Pork. This report recommends introducing a new definition to accommodate workers’ accommodation.
416. The definition of ‘minor residential unit’ is similar to the amended definition of ‘minor dwellings’ which Waikato District Council [697.401] seeks. The draft Planning Standards definition for ‘minor residential unit’ included words stating that a minor residential unit can be either attached to or detached from a principal residence. These words were deleted from the final definition on the basis that “ *The specificity of minor dwellings being either detached or attached to the principal residential unit is unnecessary because these are the only configurations possible, as the definition requires both units to be on the same site.*⁴⁶”
417. Sharp Planning Solutions [695.74] asks that garages and decks are excluded from the dwelling area. I agree that there is merit in providing clarity in the rules for the treatment of decks

⁴⁶ 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, pg 154.

and garages. In my view, an everyday user of the Proposed Plan should be able to navigate the provisions of the Proposed Plan for common residential structures and buildings. I note in relation to the term ‘accessory building’ that the Ministry for the Environment provides the following commentary:⁴⁷

“We do not agree that the requirement for an accessory building to be detached should be removed. We consider that the concept of an accessory building is more certain and enforceable if it is defined clearly as a separate building. We confirm our view that if a building such as a garage is connected to a dwelling, it can be regulated as part of the dwelling. We note New Plymouth District Council’s request that if the requirement for separation is retained, then the definition of ‘building’ needs to clarify that it encompasses garages that are integral to the design of the building. However, the broadness of the definition of ‘building’ would clearly encompass such a connected garage. This can also be clarified in guidance”.

- 418. I confirm my view that if a building such as a garage is connected to a dwelling, it can be regulated as part of the dwelling. I note Waikato District Council’s request that if the requirement for separation is retained, then the definition of ‘building’ needs to clarify that it encompasses garages that are integral to the design of the building. However, the broadness of the definition of ‘building’ would clearly encompass such a connected garage. This can also be clarified in guidance.
- 419. The Proposed Plan excluded decks from the definition of the term ‘building’. Relying on the definition of ‘building’ in the Proposed Plan means decks should not form a ‘minor residential unit’.
- 420. Under the Planning Standards, I cannot create a list of exclusions to a definition.⁴⁸ Where terms defined in the Definitions List are used in the same context in a plan, the definition, as per the Definitions List, must be used. However, whether a garage or deck makes up part of the calculation of the area of minor residential unit is matter that can be addressed in the gross floor area rules controlling minor residential units.
- 421. A key difference between the definition of ‘minor residential unit’ in the Planning Standards and the definition in the Proposed Plan is the reference in the Proposed Plan to a minor dwelling as a ‘second’ dwelling on site. The Planning Standards definition does not limit the number of units on a particular site. This resolves one of the concerns raised in the submission of Whaingaroa Raglan Affordable Housing Project [310.15].⁴⁹ In turn, this means that the number of minor dwellings allowed on a particular site requires management via the rules relevant to each zone where minor dwellings are to be controlled. It appears that within the Rural rules⁵⁰ (and other zones), reference is made to a singular minor dwelling as

⁴⁷ 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, pg Page 33.

⁴⁸ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

⁴⁹ This submission point also asked for an amendment to Rule 16.3.1 to allow for more than one primary dwelling and more than one minor dwelling per site. This aspect of the submission point will need to be considered in the section 42A Report covering Chapter 16.

⁵⁰ Rule 22.3.2. Non-compliance with this rule renders the activity discretionary.

a permitted activity. In my view, zoning rules are the appropriate mechanism to manage the number of minor dwellings on site (rather than definitions).

422. Housing New Zealand Corporation's submission [749.55] seeks clarification that a 'minor residential unit' is not an 'accessory building'. This submission is resolved if the Planning Standards definition of 'accessory building' is adopted, as recommended. It clarifies that an accessory building does not include a minor residential unit.
423. Finally, to align with the definition of 'building' in the Proposed Plan, the rules for minor residential unit should be qualified to exclude vehicles that need to be towed to be moved.

3.24.4 Recommendations

424. I recommend that the term 'minor dwelling' is replaced with 'minor residential unit' and the corresponding definition from the Planning Standards is adopted. I therefore recommend that the submission from Whaingaroa Raglan Affordable Housing [310.15] is accepted. I recommend that the submissions from Waikato District Council [697.401], Sharp Planning Solutions Ltd [695.74] and NZ Pork [197.14] are accepted in part, and the submission from Housing New Zealand Corporation is rejected [749.55].

3.24.5 Recommended amendments

425. The following amendments are recommended:

Minor dwelling	Means a second dwelling independent of the principal dwelling(s) on the same site.
<u>minor residential unit</u>	<u>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.</u>

3.24.6 Consequential amendments

426. The term 'minor residential unit' from the Planning Standards should replace the term 'minor dwelling' in Chapters 14 (Infrastructure and Energy), 16 Residential Zone, 22 (Rural Zone), 23 (Country Living Zone), 24 (Village Zone), 27 (Te Kowhai Airpark), and 28 (Rangitahi Peninsula Zone).
427. To align with the definition of 'building' in the Proposed Plan, section 42A report writers should identify the rules for minor residential units and review whether motorised vehicles and vehicles should be excluded from their application. The relevant chapters are: 16 (Residential Zone), 22 (Rural Zone), 24 (Village Zone), 27 (Te Kowhai Airpark), and 28 (Rangitahi Peninsula Zone).
428. The rules that refer to 'gross floor area' or 'GFA' should be reviewed to confirm whether decking and garaging are included in the calculations for the gross floor area of a minor

residential unit. I note that Rule 20.5.2, specifically excludes garages, carports and decks from the gross floor area of a dwelling.

3.25 'Accessory building'

3.25.1 Introduction

429. The following terms are relevant to my analysis:

Accessory building (Proposed Plan)	Means a building, the use of which is incidental to the use of the principal land use or building on that site. A garage that is integrated into and forms part of a dwelling is not an accessory building.
accessory building (Planning Standards)	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.

3.25.2 Submissions

430. There are four submission points on the definition of 'accessory building'. Two submissions seek amendments to provide clarity about what constitutes an 'accessory building'. Horticulture New Zealand sought recognition of a synonymous term it proposed. There are seven further submissions.

431. The following submissions were made:

Submission point	Submitter	Summary of submission
697.483	Waikato District Council	Amend the definition to provide greater clarity as follows: <u>Accessory building means a building that is detached from the principal building on the site, the use of which is incidental to the principal building or the land use. Where no principal building has been established, an accessory building means a building that is incidental to a permitted use on the site.</u>
FS1340.127	Tata Valley Limited	Supports the amended definition proposed by Waikato District Council.
FS1342.184	Tata Valley Limited	Supports the clarification by Waikato District Council.
FS1387.1635	Mercury	Opposed 697.483: It is not clear, from a land management perspective, how effects from a flooding event would be managed.
FS1171.99	T&G Global	Support 697.483 This submission is supported in so far as it includes buildings accessory to horticultural activities.
578.42	Ports of Auckland Limited	Retain the definition as notified

FS1388.849	Mercury	<i>Oppose 578.42: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
749.28	Housing New Zealand	Amend the definition to clarify that dwellings and minor dwellings are excluded. Accessory building Means a building, the use of which is incidental to the use of the principal land use or building on that site. A garage that is integrated into and forms part of a dwelling is not an accessory building. <u>Dwellings and minor dwellings are excluded.</u>
FS1387.1006	Mercury	<i>Oppose 749.28: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
419.112	Horticulture New Zealand	Seeks alignment with the term 'auxiliary building' that it seeks to use in its proposed definition of 'primary production.'
FS1388.225	Mercury	<i>Oppose 419.112: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.25.3 Analysis

432. The definition of 'accessory building' in the Planning Standards aligns with the amended definition proposed by Waikato District Council [697.483]. It contemplates a detached building, and that the use of that building is not the principal use of the land or building(s) on the site. The Planning Standards clarify that a 'minor dwelling' is not an 'accessory building'. The definition in the Proposed Plan clarified that a garage that was integrated into and formed part of a dwelling was not an accessory building. This clarification is no longer needed, as an accessory building, by definition, must be detached.
433. To align with the Planning Standard definition of 'building' (which I recommend should be substituted for the definition of 'building' in the Proposed Plan), the rules for accessory buildings should be qualified to exclude motorised vehicles and vehicles, buildings listed in section 9 of the Building Act 2004 that are included in the Definitions Standard but not the Proposed Plan, tanks, crop protection structures or partially or fully-roofed decks.
434. Horticulture New Zealand [419.112] seeks to introduce a new term of 'primary production' in the Proposed Plan, and its proposed definition uses the term 'auxiliary building'. It asks for the definition to note that 'auxiliary building' has the same meaning as 'accessory building' [419.112]. This report recommends rejecting Horticulture New Zealand's proposed definition of 'primary production'. The directions of the Definition Standard prohibit the use of terms used in the same context as a definition from the Definitions List⁵¹. For these

⁵¹ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

reasons, I propose that the submission from Horticulture New Zealand in relation to the definition of ‘accessory building’ is not accepted.

435. Housing New Zealand Corporation [749.28] supports the definition as notified, but seeks an amendment to clarify that dwellings and minor dwellings are excluded. The Planning Standards definition specifically excludes ‘minor residential units’. The guidance from the Ministry for the Environment specifically noted that it retained this exclusion because a common cause of confusion is between a sleep-out, which is an accessory building, and a minor residential unit.⁵² The exclusion is to avoid common confusion. My reading of the definition is that a ‘dwelling’ could be an accessory building, if it is accessory to the principal use of the land, which could be a commercial or industrial use, for example. The definition in the Proposed Plan is consistent with the Planning Standards on this matter. Therefore I do not consider that exclusion is appropriate, even if it could be included, which is not possible with a Planning Standards definition⁵³. If the Council wishes to regulate residential units (i.e. dwellings) as accessory buildings, this is an issue which will need to be picked up in the rules for accessory buildings.

3.25.4 Recommendations

436. I recommend that the definition of ‘accessory building’ from the Planning Standards replace the definition of ‘accessory building’ in the Proposed Plan.
437. I recommend that the submissions from Waikato District Council [697.483] and Housing New Zealand [749.28] are accepted in part, and the submissions from Horticulture New Zealand [419.112] and the Ports of Auckland Limited [578.42] are rejected.

3.25.5 Recommended amendments

438. The following amendments are recommended:

Accessory building	Means a building, the use of which is incidental to the use of the principal land use or building on that site. A garage that is integrated into and forms part of a dwelling is not an accessory building.
<u>accessory building</u>	<u>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.</u>

3.25.6 Consequential amendments

439. The term ‘apartment’ needs to be amended as a consequence of the adoption of the definition of ‘accessory building’ from the Planning Standards. The term ‘apartment’ refers

⁵² 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, pg 33.

⁵³ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

to a residential unit that is attached to an ‘accessory building’. By definition, an accessory building is detached. An ‘apartment’ cannot be attached to an ‘accessory building’.

440. If the Council wishes to regulate residential units (i.e. dwellings) as accessory buildings, this is an issue which will need to be picked up in the rules for accessory buildings. This applies to Rules 16.5.7.1, 17.4.1.3, 18.4.4, 22.2.3.1, 28.1.3, 28.3.6, 28.4.3.
441. To align with the definition of ‘building’ in the Proposed Plan, section 42A report writers should identify the rules for accessory buildings which do not apply to motorised vehicles and vehicles, buildings listed in section 9 of the Building Act 2004 that are included in the Definitions Standard but not the Proposed Plan, tanks and crop protection structures of specific dimensions, and partially or fully-roofed decks.

3.26 ‘Sleepout’

3.26.1 Introduction

442. The Proposed Plan does not define ‘sleepout’. The Planning Standards do not define this term either.

3.26.2 Submissions

443. There are two submissions seeking a definition for the term “sleepout”. There are two further submissions.
444. The following submissions were made:

Submission point	Submitter	Summary of submission
746.17	The Surveying Company Ltd	Include a new definition for the term sleepout. Use the definition from the Franklin District Plan.
FS1387.916	Mercury	<i>Oppose 746.17: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
877.6	Leigh Michael Shaw and Bradley John Hall	Include a new definition for the term sleepout. Use the definition from the Franklin District Plan.
FS1387.1452	Mercury	<i>Oppose 877.6: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.26.3 Analysis

445. The submitters [746.17] and [877.6] both ask to include the definition ‘sleepout’ from the Franklin District Plan.

446. The term ‘sleepout’ is defined in the operative Franklin District Plan as “an accessory building which is ancillary to the dwellinghouse on the site and can include bedrooms and ablution facilities but does not include facilities for the preparation and cooking of food (which includes a sink, bench top, oven and other facilities for a kitchen).”
447. The Proposed Plan does not use the term ‘sleepout’. The submitters do not seek new provisions specifically referring to the term ‘sleepout’. In my view, the term ‘sleepout’ is covered by the term ‘accessory building’. For these reasons, I do not see a need to include the term ‘sleepout’ in the Proposed Plan.

3.26.4 Recommendations

448. I recommend that the submissions from The Surveying Company [746.17], and Leigh Michael Shaw and Bradley John Hall [877.6] are rejected.

3.26.5 Consequential amendments

449. There are no consequential amendments.

3.27 ‘Apartment’

3.27.1 Introduction

450. The following term is relevant to my analysis:

Apartment (Proposed Plan)	Means three or more attached residential units, connected by one or more accessory buildings, such as a garage or carport.
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451. The Planning Standards do not define “Apartment”.

3.27.2 Submissions

452. There are two submission points on the term ‘Apartment’. The submissions concern how the units within an apartment are attached, and whether the term apartment refers to a building or unit.
453. The following submissions were made:

Submission point	Submitter	Summary of submission
697.366	Waikato District Council	Amend the definition of ‘Apartment’ to clarify the residential units can be directly attached to each other, as follows:

		Means three or more attached residential units. <u>The residential units can be directly attached to each other, or connected by one or more accessory buildings, such as a garage or carport.</u>
749.29	Housing New Zealand Corporation	<p>Amend the definition of ‘Apartment’ to clarify the term apartment refers to a building. Alternatively, Housing New Zealand Corporation considered whether the term apartment should refer to an individual unit.</p> <p>Apartment</p> <p>Means <u>a building containing</u> three or more attached residential units connected by one or more accessory buildings, such as a garage or carport.</p> <p>An alternative definition</p> <p>Apartment</p> <p>Means <u>a self-contained residential unit that occupies in a building with</u> three or more attached residential units connected by one or more accessory buildings, such as a garage or carport.</p>

3.27.3 Analysis

454. The term ‘apartment’ is referred to a number of times in the Proposed Plan. It is used in the context of a building, and also an individual unit (see Rules 16.1.2 and 16.1.3 as an example). However, it is more frequently used in the context of an apartment building. I note that the term ‘duplex’, which is often used alongside apartment, denotes the concept of a building rather than an individual unit. Duplex is defined as meaning “two residential units connected by an accessory building such as a garage or carport”. The definition of a multi-unit development refers to an apartment building and a duplex.
455. I agree with the submitters that the term ‘apartment’ requires clarification. It is not clear if it refers to a building, or an individual unit. I recommend altering the term ‘apartment’ to identify that the term refers to a building, as requested by Housing New Zealand Corporation [749.29]. Further, I think it should be clarified that an apartment building could have other uses along with residential, for example a ground floor in retail and upper floors in residential units. The Business Town Centre Zone contemplates above-ground level residential living, and makes it clear that an apartment can be part of a building. I have recommended an amendment to capture this.
456. This amendment will affect references in the Proposed Plan where the term ‘apartment’ refers to an individual unit. In these circumstances, the term ‘residential unit’ can replace ‘apartment’. An example of the application of these terms is in Rule 28.1.3.
457. Waikato District Council [697.366] asks to clarify that residential units within an apartment may be attached to each other, or by one or more accessory buildings. Without amendment, residential units within an apartment would have to be attached to a garage, carport or similar structure to fall within the definition.

458. The definition of ‘apartment’ refers to residential units connected by an “accessory building”. The term “accessory building” is defined in the Planning Standards, and this report recommends adopting that Planning Standards definition. The definition in the Planning Standards specifies that an accessory building is a detached building. This means that an accessory building cannot be attached to a residential unit within an apartment building. In our view there are three options to resolve this issue:

459. That the suggested amendment from Waikato District Council is accepted, together with the simple deletion of the term ‘accessory building’, as follows:

“Apartment: Means a building that contains three or more attached residential units. The residential units can be attached to each other directly, or connected by one more other buildings, such as a garage or carport.”

460. That the suggested amendment from the Waikato District Council is accepted, together with the replacement of the term ‘accessory building’ with a similar term as follows:

“Apartment: Means a building that contains three or more attached residential units. The residential units can be directly attached to each other, or connected by one or more ancillary buildings, such as a garage or carport.”

461. That the suggested amendment from the Waikato District Council is rejected, and the reference to the attachment of residential units to accessory buildings is deleted in full, as follows:

“Apartment: Means a building that contains three or more attached residential units”.

462. I recommend the option c. I do not consider it necessary to clarify how the apartments may be attached. Practically, the configurations for attachment of the residential units 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.

3.27.4 Recommendations

463. I recommend that the definition of ‘Apartment’ is amended to clarify that the definition refers to a type of building.

464. The submission from Housing New Zealand [749.29] is accepted. The submission from Waikato District Council [697.366] is rejected.

3.27.5 Recommended amendments

465. The following amendments are recommended:

Apartment	Means <u>a building, or part of a building, that contains</u> three or more attached residential units.
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3.27.6 Consequential amendments

466. My review of the Proposed Plan identified that the term ‘apartment’ is used in Chapter 4 (Urban Environment), 9 (Specific Zone), 16 (Residential Zone and Lakeside Te Kauwhata), 17 (Business Zone), 18 (Business Zone Town Centre), 26 (Hampton Downs Motor Sport and Recreation Zone), and 28 (Rangitahi Peninsula Zone). The use of the term ‘apartment’ should be checked by the section 42A report writers for those hearings, and replaced with the term ‘residential unit’, where the term apartment is not used in the context of an apartment building.
467. While it was not submitted on, I recommend a similar change to the term ‘duplex’ to resolve the same set of issues.

3.28 ‘Multi-unit development’

3.28.1 Introduction

468. The following terms are relevant to my analysis:

Multi-unit development (Proposed Plan)	Means multiple residential units which are integrated in a comprehensive manner.’ It includes: 1. an apartment building; and 2 a duplex. It excludes: 1. retirement villages; 2. papakaainga housing development; and 3. papakaainga building.
Multi-unit Development (Appendix 3: Multi Unit Development: Waikato Urban Design Guidelines)	means multiple residential units or buildings which are planned and designed in an integrated and comprehensive manner, and achieve compatibility between all buildings on a single site or multiple sites.

469. The Planning Standards do not define multi-unit development.

3.28.2 Submissions

470. There are four submissions on the definition of ‘multi-unit development’. Two submissions seek the inclusion of terraced housing and clarification that units can be attached or un-attached. Waikato District Council seeks the exclusion of a minor dwelling. Housing New Zealand Corporation notes that the Appendix 3: Design Guidelines provide a definition for multi-unit development, and prefers this definition. There are three further submissions.

Submission point	Submitter	Summary of submission
689.33	Greig Developments No.2 Ltd	Amend the definition as follows: Means multiple residential units, <u>being attached or detached</u> which are integrated in a comprehensive manner It includes: (a) an apartment building; and (b) a duplex (c) <u>Terraced housing</u> ...
FS1387.294	Mercury	<i>It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
746.20	The Surveying Company	Amend the definition follows: Means multiple residential units <u>being attached or detached</u> which are integrated in a comprehensive manner. It includes: a) an apartment building; b) a duplex.; c) <u>terraced housing</u> .
697.489	Waikato District Council	Amend the definition as follows: ... It excludes: (a) retirement villages; (b) papakaainga housing development; and (c) papakaainga building.; and (d) <u>a minor dwelling</u>
FS1387.579	Mercury	<i>Oppose 697.489: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
749.56	Housing New Zealand	Amend the definition as follows: Means multiple residential units or buildings which are planned and designed in an integrated in a and comprehensive manner and achieve compatibility between all buildings on a single site or multiple sites. It includes: a) an apartment; building; and b) a duplex.; c) <u>terrace housing; and d) townhouses.</u>
FS1387.1015	Mercury	<i>Oppose 749.56: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.28.3 Analysis

471. There are two different definitions for multi-unit development within the Proposed Plan (one in the Definitions chapter and one in Appendix 3). There should only be one, and it should be used consistently. In terms of looking at the two definitions, the definition used in Appendix 3 provides for residential units and buildings and may also allow for stand-alone garaging, or other accessory buildings. The definition in Appendix 3 specifically provides for a multi-unit development on one or more sites, whereas the definition in Chapter 13 is silent. In my view, the wording in Appendix 3 provides greater clarity about what a multi-unit development may involve.
472. The submissions from Housing New Zealand Corporation [749.56], The Surveying Company [746.20] and Greig No 2. Developments [689.33] ask for the definition to include terraced houses and town houses. My understanding of the definitions of ‘apartment’ and ‘duplex’ is that they would include terraced housing, and the term ‘residential unit’ includes a town house. Therefore, I consider that it is unnecessary to include those housing types in the definition of ‘multi-unit development’. That said, I acknowledge that the term ‘terraced housing’ denotes a different style of housing than is necessarily covered by the term

‘apartment’. My understanding of terraced housing is that it is a series of residential units arranged side by side in a row or ‘terrace’, with the residential units sharing one or two walls.

473. Including the terms ‘terraced housing’ and ‘town house’ in the list of housing types contemplated by a multi-unit development is consistent with Policy 4.2.8, which provides that multi-unit developments should provide for a range of housing types. My view is that listing these housing types is consistent with the provisions in the Proposed Plan generally, and can provide contextual clarity for the term ‘multi-unit development’. Including the term ‘townhouse’ as a housing type identifies a multi-unit development which includes detached buildings.
474. I am not comfortable with excluding minor residential units from the definition of multi-unit development without further reasons supporting that submission (from Waikato District Council [697.489]). As set out above, Policy 4.2.8 provides that multi-unit developments should provide a range of housing types. In my view, excluding a housing type, such as minor residential units, which require a principal and ancillary residential unit to be held in the same ownership on the same site, undermines that policy.

3.28.4 Recommendations

475. I recommend that the term ‘multi-unit development’ is retained, and amended to reflect the definition set out in the Appendix. I also recommend additions to that definition to include that the residential units and buildings that make up a residential unit can be ‘detached or attached’. The list of housing types that are included in a multi-unit development should be amended to include terraced housing and town houses.
476. I recommend that the submission from Housing New Zealand Corporation [749.56], Surveying Company [746.20], and Greig Developments No. 2 Ltd [689.33] are accepted.
477. The submission from Waikato District Council [697.489] is rejected.

3.28.5 Recommended amendments

478. The following amendments are recommended:

Multi-unit development (Proposed Plan)	<p>Means multiple residential units <u>or buildings, being attached or detached</u>, which are <u>planned and designed in an</u> integrated in a and comprehensive manner, <u>and achieve compatibility between all buildings on a single or multiple sites</u>. It includes:</p> <p>I. an apartment; building; and</p> <p><u>2 a duplex;</u></p> <p><u>3. terraced housing; and</u></p> <p><u>4. town houses.</u></p> <p>It excludes:</p> <p>I. retirement villages;</p>
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	2. papakaainga housing development; and 3. papakaainga building.
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3.28.6 Consequential amendments

479. The definition of Multi-unit development in Appendix 3 Multi Unit Development: Waikato Urban Design Guidelines should be reviewed to ensure it is consistent with the definition in Chapter 13.

3.29 'Travellers' accommodation' and 'visitor accommodation'

3.29.1 Introduction

480. The following terms are relevant to my analysis:

Traveller's accommodation (Proposed Plan)	Means land and buildings for transient residential accommodation for a person, family or group of persons, which is offered at a daily tariff, where the occupiers will not generally refer to it as their home or permanent address. It may include some centralised services or facilities such as food preparation, dining and sanitary facilities and conference and recreation facilities for the use of the guests staying at the site. It includes hotels, motels, camping grounds and tourist cabins, studios and apartments, but excludes the accommodation used by the permanent resident.
visitor accommodation (Planning Standards)	means land and/or buildings used for accommodating visitors, subject to a tariff being paid, and includes any ancillary activities.

3.29.2 Submissions

481. There are three submissions. Hampton Downs Motorsport Park asked to retain the definition. TaTa Valley Limited asked for the definition to be expanded to allow for activities that people not staying onsite may also use, while Federated Farmers New Zealand asked that the definition exclude 'homestay' activities. There are six further submissions.

482. The following submissions were made:

Submission point	Submitter	Summary of submission
574.14	TaTa Valley Limited	It is commonplace for members of the public to use certain amenities or facilities at accommodation whilst not necessarily staying onsite (e.g. hotel restaurant). Amend the definition for 'Travellers' Accommodation': <u>...and recreation facilities for the use of the guests staying at the site.</u> It includes hotels...

FS1301.56	New Zealand Health Food Park Limited	Health Food Park supports the improved tourism offerings that TaTa Valley Resort development will provide for the area. This in turn brings more consumers to the area, showcase New Zealand's rural character and significantly enrich the region socially and economically.
FS1303.56	Charlie Harris	Charlie Harris supports the improved tourism offerings that the TaTa Valley Resort development will provide for the area, showcase New Zealand rural character and significantly enrich the region socially and economically.
FS1369.15	Ngati Tamaoho Trust	Oppose including Hotels under travellers' accommodation.
FS1388.823	Mercury	Oppose 574.14: It is not clear, from a land management perspective, how effects from a flooding event would be managed.
657.53	Hampton Downs Motorsport Park	Retain the definition for 'Travellers' Accommodation' in Chapter 13 Definitions as notified.
FS1387.91	Mercury	Opposed 657.53: It is not clear, from a land management perspective, how effects from a flooding event would be managed.
680.270	Federated Farmers of New Zealand	Amend the definition of "Travellers' accommodation": ...excludes the accommodation used by the permanent resident. <u>Provided that Travellers accommodation does not include activities defined in this Plan as Homestay activities.</u>
FS1387.234	Mercury	Opposed 680.270: It is not clear, from a land management perspective, how effects from a flooding event would be managed.

3.29.3 Analysis

483. The definition of 'visitor accommodation' in the Planning Standards generally aligns with the definition of 'travellers' accommodation'. I discuss the differences below.
484. The definition in the Planning Standards refers to visitors, while the Proposed Plan refers to transient residential accommodation for a person, family or group of persons. Further, it says occupiers will not generally refer to it as their home or permanent address. In my view, the term 'visitor accommodation' encompasses the wording in the Proposed Plan. A visitor is not somebody who would refer to a property as their home or permanent address. Their status is transient. The term 'visitor(s)' covers the range of occupiers referred to in the Proposed Plan.
485. 'Visitor accommodation' refers to a tariff, whereas 'travellers' accommodation' refers to a daily tariff. I cannot identify a material difference between the requirement to calculate a tariff daily and a different rate of calculation.
486. The definition in the Proposed Plan lists ancillary activities, and types of accommodation that the definition includes. The Planning Standards simply say that ancillary activities are included. I note that the definition in the Proposed Plan refers to ancillary facilities, such as conference and recreation facilities, that may be used by guests staying on the site. In my

view, this qualification is restrictive. Restaurants and conference facilities at hotels or other types of visitor accommodation, are often frequented by guests staying at the facility, as well as others who are not staying at the facility.

487. Finally, the definition of travellers' accommodation excludes accommodation used by the permanent resident. The Planning Standards do not include this exemption. In my view, this exemption does not need articulating. By definition, a permanent resident is not a visitor. Any accommodation lived in by a permanent resident should fall within the definition of a 'residential unit'. A residential unit is used for residential activity, exclusively by one household.
488. The amendment sought by Federated Farmers New Zealand [680.270] is consequential to the amendment it seeks to 'homestay'. I have recommended that the amendment sought to 'homestay' by the submitter is rejected. The amendment identifying homestay activities as excluded from 'travellers' accommodation' is not needed.
489. Hampton Downs Motorsport Park [657.53] seeks the retention of the definition of 'travellers' accommodation'. This type of activity remains defined, albeit as 'visitor accommodation'.
490. The submission from TaTa Valley Limited [574.14] is recommended to be accepted, by adoption of the Planning Standards definition of 'visitor accommodation'. It provides for activities ancillary to visitor accommodation. This enables the likes of restaurants and conference facilities in hotels, which may be used by people who are not staying on site.

3.29.4 Recommendations

491. I recommend that the definition of 'visitor accommodation' from the Planning Standards replace the definition of 'Travellers' accommodation' from the Proposed Plan.
492. The submission from TaTa Valley Limited [574.14] is accepted. The submission from Hampton Downs Motorsport Park [657.53] is accepted in part. The submission from Federated Farmers of New Zealand [680.270] is rejected.

Recommended amendments

Travellers' accommodation	Means land and buildings for transient residential accommodation for a person, family or group of persons, which is offered at a daily tariff, where the occupiers will not generally refer to it as their home or permanent address. It may include some centralised services or facilities such as food preparation, dining and sanitary facilities and conference and recreation facilities for the use of the guests staying at the site. It includes hotels, motels, camping grounds and tourist cabins, studios and apartments, but excludes the accommodation used by the permanent resident.
<u>visitor accommodation</u>	<u>means land and/or buildings used for accommodating visitors, subject to a tariff being paid, and includes any ancillary activities</u>

3.29.5 Consequential amendments

493. There are consequential amendments as a result of this recommendation. Where the term ‘travellers accommodation’ appears in the Proposed Plan, it should be replaced by the term ‘visitors accommodation’. This includes in the definitions of ‘sensitive land use’ and ‘noise-sensitive activity’.

3.30 ‘Homestay’

3.30.1 Introduction

494. The following term is relevant to my analysis:

Homestay (Proposed Plan)	Means accommodation provided to guests who pay a daily tariff to stay in a home with the permanent occupants of the household.
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495. The Planning Standards do not define ‘homestay’. The terms ‘travellers’ accommodation’ and ‘visitors accommodation’ are defined in the Proposed Plan and Planning Standards respectively. They are relevant to my consideration of this definition (see section 3.29 of this report).

3.30.2 Submissions

496. There are two submissions. Sharp Planning Solutions Ltd notes that there is no maximum duration noted within the definition. Federated Farmers of New Zealand seeks to amend the definition to provide for accommodation that may be provided on a site, albeit where the host is a permanent resident. There are two further submissions.

497. The following submissions were made:

Submission point	Submitter	Summary of submission
695.70	Sharp Planning Solutions Ltd	Notes there is no maximum duration of stay listed.
FS1387.322	Mercury	<i>Opposed 695:70: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
680.138	Federated Farmers of New Zealand	Amend the definition to provide for accommodation in buildings other than the home of the hosts, as follows: Homestay: Means accommodation provided to guests who pay a daily tariff to stay in accommodation <u>where it is ancillary to the residential and farming activity on the site and where the host is a permanent resident on the site.</u> This could be in a home with the permanent occupants of the household <u>or in a separate building.</u>

FS1387.190	Mercury	<i>Oppose: 680.138:It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
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3.30.3 Analysis

498. Federated Farmers New Zealand [680.138] seeks to amend the definition of ‘homestay’ to provide for paid accommodation in buildings other than the home of the permanent occupants of the household. The Proposed Plan includes a definition for ‘travellers’ accommodation’⁵⁴. This term provides for the use of land and buildings for visitors, subject to the payment of a tariff. Elsewhere in this report I recommend replacing the term ‘travellers’ accommodation’ with the Planning Standards definition of ‘visitors’ accommodation’. There is no requirement in the Planning Standards for ‘visitors’ accommodation’ to be in the home of the permanent occupants of the household. The definition of ‘visitors’ accommodation’ in the Planning Standards therefore provides for the type of accommodation sought by Federated Farmers within its submission. The definition of ‘homestay’ specifically contemplates accommodation within the home itself. For this reason, I do not think it is appropriate to extend the definition to other buildings in this way, and this issue would be more appropriately dealt with by the s42A author for the Rural Zone hearing.
499. In the absence of reasoning from Sharp Planning Services Ltd [695.70], I cannot see an effects-based reason to include a maximum duration of stay within the definition of ‘homestay’.

3.30.4 Recommendations

500. I recommend that the definition of ‘homestay’ is retained as notified.
501. I recommend that the submissions from Sharp Planning Solutions Ltd [695.70] and Federated Farmers of New Zealand [680.138] are rejected.

Recommended amendments

Homestay (Proposed Plan)	Means accommodation provided to guests who pay a daily tariff to stay in a home with the permanent occupants of the household.
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3.30.5 Consequential amendments

502. There are no consequential amendments.

3.31 ‘Workers accommodation’

503. The term ‘workers accommodation’ is not currently defined in the Proposed Plan. The term is not defined in the Planning Standards either.

⁵⁴ The Definitions Standard includes the term ‘visitors accommodation’.

3.31.1 Submissions

504. Two original submissions seeking a definition for ‘workers accommodation’ were made (and 9 further submission points).

505. The following submissions were made:

Submission point	Submitter	Summary of submission
574.22	TaTa Valley Limited	Add a definition of ‘workers accommodation’ to Chapter 13 Definitions, as follows: “Means a dwelling for people whose duties require them to live onsite. This definition includes seasonal workers” and any consequential amendments or relief to give effect to this. The operation of the proposed Resort and other activities is likely to require some staff to live onsite and as such, a definition is required.
FS1171.61	T&G Global	<i>Support 574.22: This submission proposes a definition of workers accommodation. This submission is supported to the extent that such a definition would assist with the application of a rule providing for worker accommodation for those reasons provided for in the submission by T&G Global.</i>
FS1108.95	Te Whakakitenga o Waikato Incorporated	<i>Oppose 574.22. Inappropriate amendment.</i>
FS1139.86	Turangawaewae Trust Board	<i>Oppose 574.22. Inappropriate amendment.</i>
FS1301.64	New Zealand Health Food Park Limited	<i>Support 574.22.</i>
FS1303.64	Charlie Harris	<i>Support 574.22.</i>
FS1348.16	Perry International Trading Group Limited	<i>Support 574.22 in that a definition of ‘workers accommodation’ should be included. An amendment is suggested as follows: “Farm Workers accommodation: Accommodation for people whose duties require them to live on-site, and in the rural zones for people who work on the site or in the surrounding rural area”. The proposed wording acknowledges that a broader range of activities in the Rural Zone can require accommodation or people whose duties require them to live on-site. PITGL also request that in addition to the amendments sought above, worker accommodation should become a permitted activity in the Rural Zone, subject to the appropriate standards.</i>
578.80	Ports of Auckland Limited	Provision has been sought for worker's accommodation within the Industrial Zone

		<p>elsewhere in the Ports of Auckland submission. A corresponding definition is therefore proposed.</p> <p>Add a definition of ‘workers accommodation’ to Chapter 13 Definitions, as follows:</p> <p>“A dwelling for people whose duties require them to live on-site, and in the rural zones for people who work on the site or in the surrounding rural area. Includes:</p> <ul style="list-style-type: none"> a) accommodation for rangers; b) artists in residence; c) farm managers and workers; and d) staff. <p>and any consequential amendments or relief to give effect to this.</p>
FS1168.133	Horticulture New Zealand	<p>Support 578.80:</p> <p><i>The submitter seeks to add a definition of workers accommodation. HortNZ seeks specific recognition of seasonal worker accommodation which is a particular type of worker accommodation.</i></p>
FS1171.117	T&G Global	<p>Support 578.80:</p> <p><i>This submission proposes a definition for workers accommodation. This submission is supported. The proposed definition recognises that workers in rural zones may or may not work on the same site as their accommodation.</i></p>
FS1269.52	Housing New Zealand Corporation	<p>Oppose 578.80 Housing New Zealand opposes the proposed amendment, to the extent it is inconsistent with its primary submission.</p>

3.31.2 Analysis

506. There is currently only one reference to ‘workers accommodation’ in the Proposed Plan, in Policy 5.3.4. ‘Density of dwellings and buildings within the rural environment’, which states that: “(b) Additional dwellings support workers’ accommodation for large productive rural activities”.
507. TaTa Valley Limited [574.22] and Ports of Auckland Limited [578.80] have made submissions requesting that a definition of ‘workers accommodation’ is adopted, alongside provision in the rules for this activity. Other submitters have sought similar relief, for example there is a submission from Waikato District Council [697.372] requesting a definition for ‘caretaker accommodation’, which is being considered in Hearing 7 – Industrial Zones. NZ Pork have made a related submission [197.14] seeking retention of the definition for ‘minor dwelling’ on the basis that this supports additional dwellings on rural properties, ancillary to the principal dwelling, and that the Proposed Plan should include provisions for onsite farmer workers accommodation of sufficient size to accommodate a family.

508. The submissions indicate that there is demand for this type of accommodation. As the introduction of a definition for ‘workers accommodation’, as requested by the submitters, would have an impact on the rules in the applicable zones, I consider that this is an issue that is best addressed by the s42A authors for the hearings for those topics. If those submissions are accepted, I agree it would be useful to include a definition of workers accommodation.

3.3.1.3 Recommendations

509. For the reasons set out above, it is recommended that the submissions and a definition for ‘workers accommodation’ is given further consideration by the section 42A authors for the hearings for the Industrial Zone, Heavy Industrial Zone, Rural Zone, Country Living Zone and potential TaTa Valley Resort Zone (as requested by the landowner/submitter) .
510. The submission from TaTa Valley Limited [574.22] should be deferred to the TaTa Resort Valley Zone hearing.
511. The submission from the Ports of Auckland Limited [578.80] should be deferred to in the Industrial Zone hearing.

3.3.1.4 Consequential amendments

512. There are no consequential amendments.

3.32 ‘Rest Home’ and ‘Retirement Village’

513. The following terms are relevant to my analysis:

Rest Home (Proposed Plan)	Means buildings, services and facilities that provide residential-based health care with on-site support to residents requiring nursing care or significant support with the activities of daily living. This may include respite care and rest home-based hospital specialist geriatric care, but excludes people who require nursing or hospice support in a dwelling.
Retirement Village (Proposed Plan)	Means any land, building or site that: <ul style="list-style-type: none"> (a) is used for accommodation predominantly for persons in their retirement, or persons in their retirement and their spouses or partners; and (b) satisfies either of the following: <ul style="list-style-type: none"> i. it is registered as a retirement village under the Retirement Villages Act 2003 or will be so registered prior to it being occupied by any resident; or ii. it is a rest home within the meaning of s58(4) of the Health and Disability Services (Safety) Act 2001; and

	<p>(c) includes not less than two residential units; and</p> <p>(d) may include any or all of the following facilities or services for residents on the site:</p> <ul style="list-style-type: none"> i. a care home within a retirement village; ii. a hospital within a retirement village; iii. nursing, medical care, welfare, accessory non-residential and/or recreation facilities and/or services. <p>Accessory non-residential, recreation facilities and services may include, but not limited to such things as commercial activities that are for the benefit of residents and guests, active or passive recreation for the benefit of residents and guests whether casual or organised and whether a charge is made for the activity or not.</p> <p>Care home within a retirement village is a facility providing rest home care within the meaning of the Health and Disability Services (Safety) Act 2001, or a home for residential care of older persons and/or any land or buildings used for the care of older persons within a retirement village.</p> <p>Hospital within a retirement village is a facility providing hospital care within the meaning of the Health and Disability Services (Safety) Act 2001 within a retirement village.</p>
Retirement village (Planning Standards)	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.

514. The term 'rest home' is not defined in the Planning Standards.

3.32.1 Submissions

515. Four original submission points and six further submission points were received relating to the definition 'rest home'. All of these submissions sought to delete this term, as it is not necessary.

516. The following submissions were made:

Submission point	Submitter	Summary of submission
Rest home:		

697.499	Waikato District Council	There is considerable crossover and duplication between the terms 'rest home' and 'retirement village'. It would be more efficient to rationalise these into a single term which recognised all the different living options and levels of care available. Delete all references to 'rest home' and replace with 'retirement village'.
FS1004.10	Tamahere Eventide Home Trust-Tamahere Eventide Retirement Village (submitter 769)	Support 697.499
FS1005.14	Tamahere Eventide Home Trust-Atawhai Assisi Retirement Village (submitter 765)	Support 697.499
FS1387.583	Mercury	<i>Opposed 697.499: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
761.14	Lyndendale Farms Limited	There are no rules relating to the definition. There are no reasons to differentiate between a "retirement village" and a "rest home". The definition for rest home should be deleted in its entirety.
FS1387.1120	Mercury	<i>Oppose 761.14: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
765.15	Atawhai Assisi Retirement Village	There are no rules relating to this definition. There is no reason to differentiate between a "retirement village" and a "rest home".
FS1387.1137	Mercury	<i>Oppose 765.14: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
769.15	Tamahere Eventide Retirement Village	There are no rules relating to the "Rest home" definition. There is no reason to differentiate between a "retirement village" and "rest home".
FS1387.1167	Mercury	<i>Oppose 769.15: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
Retirement village:		
697.500	Waikato District Council	Amend the definition to recognise that retirement villages may have independent residential units, and that some retirement villages may have higher levels of care and no residential units.
FS1004.11	Tamahere Eventide Trust - Tamahere Eventide Retirement Village	Support 697.500 Support the addition of an additional provision ((iv) independent residential units) to the definition for a retirement village.

FS1387.584	Mercury	<i>Oppose 697.500: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
761.15	Lyndendale Farms Limited	Retain the definition as notified.
FS1387.1121	Mercury	<i>Oppose 761.15: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
765.16	Atawhai Assisi Retirement Village	Retain the definition as notified.
FS1387.1139	Mercury	<i>Oppose 765.16: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
769.16	Tamahere Eventide Retirement Village	Retain the definition as notified.
FS1387.584	Mercury	<i>Opposed 697.500: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.32.2 Analysis

517. I agree with the submitters (Waikato District Council [697.499], Lyndendale Farms Limited [761.14], Atawhai Assisi Retirement Village [765.15] and Tamahere Eventide Retirement Village [769.15]) that the term ‘rest home’ is a duplication of ‘retirement village’, and that the terms would be helpfully rationalised into one – ‘retirement village’. The definition of ‘retirement village’ is supported as notified by three submitters. However, this term is also defined in the Planning Standards, therefore it is appropriate to adopt that definition now, as it is used in the same context in the Proposed Plan (‘rest home’ is not defined in the Planning Standards).
518. I note that by adopting the Definitions Standard definition of ‘retirement village’, I am not able to address the relief sought by Waikato District Council [697.500] to make specific reference to independent residential units or higher-care facilities in the definition.
519. A particular characteristic of the definition in the Proposed Plan is that it refers to registration as either a retirement village (under the Retirement Villages Act 2003) or as a rest home (within the meaning of s58(4) of the Health and Disability Services (Safety) Act 2001). Reference to these acts was deliberately excluded from the Planning Standards definition. The Recommendations on Submissions Report states in this respect:

“...we consider the definition does not need to include references to the Retirement Villages Act or Health and Disability Services (Safety) Act 2001. We acknowledge that including these specific statutory references would provide more certainty in their application (i.e., as it would be clear whether a village met the registration criteria or not), but in line with our drafting approach for national level definitions, we consider a slightly broader definition is more appropriate and note that

*local authorities still wanting to include the additional registration requirements could do so in their rule framework*⁵⁵.

520. The Recommendations on Submissions report also refers to the Auckland IHP decision, where the Panel came to a view that *“the focus of the Plan needs to remain on the resource management reasons relating to retirement villages”* (e.g. typical site/building size and scale and management of effects associated with accessory activities), *“matters which are not determined by a particular ownership model”*⁵⁶.
521. I agree with the conclusions of the IHP Panel and the Planning Standards authors that references to the Retirement Villages Act or Health and Disability Services (Safety) Act are not required. My recommendation is that the Planning Standards definition of ‘retirement village’ is adopted in the Plan and the definition of ‘rest home’ is deleted. The Council may wish to consider further whether the registration requirements should be incorporated into the rules in the Plan, as a consequential amendment of adopting this definition. This issue is best addressed by the s42A authors for the Residential Zone hearing and the Country Living Zone hearing.

3.32.3 Recommendations

522. I recommend that the submissions from Waikato District Council [697.499], Lyndendale Farms Limited [761.14], Atawhai Assisi Retirement Village [765.15] and Tamahere Eventide Retirement Village [769.15] are accepted and the definition of ‘rest home’ is deleted from Chapter 13.
523. I recommend that the Planning Standards definition of ‘retirement village’ is adopted and that the submissions from Waikato District Council [697.500], Lyndendale Farms Limited [761.15], Atawhai Assisi Retirement Village [765.16] and Tamahere Eventide Retirement Village [769.16] are rejected.

3.32.4 Recommended amendments

524. The following amendments are recommended:

Rest home	Means buildings, services and facilities that provide residential-based health care with on-site support to residents requiring nursing care or significant support with the activities of daily living. This may include respite care and rest home-based hospital specialist geriatric care, but excludes people who require nursing or hospice support in a dwelling.
Retirement Village	Means any land, building or site that: (a) is used for accommodation predominantly for persons in their retirement, or persons in their retirement and their spouses or partners; and

⁵⁵ 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, pg 186.

⁵⁶ See Auckland IHP report to AC Topic 059 Residential zones. 2016-07-22, referenced on page 186, in 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.

<p><u>retirement village</u></p>	<p>(b) satisfies either of the following:</p> <p>(ii) it is registered as a retirement village under the Retirement Villages Act 2003 or will be so registered prior to it being occupied by any resident; or</p> <p>(iii) it is a rest home within the meaning of s58(4) of the Health and Disability Services (Safety) Act 2001; and</p> <p>(c) includes not less than two residential units; and</p> <p>(d) may include any or all of the following facilities or services for residents on the site:</p> <p>(i) a care home within a retirement village;</p> <p>(ii) a hospital within a retirement village;</p> <p>(iii) nursing, medical care, welfare, accessory non-residential and/or recreation facilities and/or services;</p> <p>(iv) independent residential units;</p> <p>Accessory non-residential, recreation facilities and services may include, but not limited to such things as commercial activities that are for the benefit of residents and guests, active or passive recreation for the benefit of residents and guests whether casual or organised and whether a charge is made for the activity or not.</p> <p>Care home within a retirement village is a facility providing rest home care within the meaning of the Health and Disability Services (Safety) Act 2001, or a home for residential care of older persons and/or any land or buildings used for the care of older persons within a retirement village.</p> <p>Hospital within a retirement village is a facility providing hospital care within the meaning of the Health and Disability Services (Safety) Act 2001 within a retirement village.</p> <p><u>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.</u></p>
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3.32.5 Consequential amendments

525. There will be consequential amendments arising from this recommendation. The references to 'rest home' and 'care home' in the definition of 'noise-sensitive activity' and 'sensitive land use' should be deleted.

3.33 'Boarding House'

526. The term 'boarding establishment' appears in the Proposed Plan, but there is no definition in Chapter 13.
527. There is no similar term defined in the Planning Standards.

3.33.1 Submissions

528. One submission point was received from Housing New Zealand Corporation. There is one further submission in opposition.

529. The following submission was made:

Submission point	Submitter	Summary of submission
749.156	Housing New Zealand Corporation	The term boarding establishment is found in the Proposed Plan but there is no definition. Add a definition of boarding house which reflects section 66B of the Residential Tenancies Act 1986.
FS1387.1062	Mercury	<i>Oppose 749.156: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.33.2 Analysis

530. I agree with Housing New Zealand that it is often helpful to define terms that are used in the Plan. The term ‘boarding establishment’ appears in the definition of ‘noise-sensitive activity’, in reference to this being a ‘residential activity’, but is not used elsewhere in the Plan. The Proposed Plan definition of ‘residential activity’ does not currently include ‘boarding establishments’ specifically. I consider that the term would fall within this definition, especially if the Planning Standards definition of ‘residential activity’ is adopted (see my recommendation at section 3.21 of this report) as the Planning Standards definition is broadly framed: “means the use of land and building(s) for people’s living accommodation”. Section 66B of the Residential Tenancies Act 1986 provides a definition as follows:

Means residential premises:

(a) containing one or more boarding rooms along with facilities for communal use by the tenants of the boarding house; and

(b) occupied, or intended by the landlord to be occupied, by at least six tenants at any one time.

531. I consider that this definition could be problematic however, as it would also cover other shared housing arrangements. In any event, I am not aware of a reason that this ‘residential activity’ should need to be treated differently from other residential activities. The Proposed Plan does not distinguish this land use from other residential activities. For this reason, I do not consider it is necessary to adopt a definition of ‘boarding establishment/boarding house’.

3.33.3 Recommendations

532. I recommend that a definition of ‘boarding establishment /boarding house’ is not included in the Plan, as requested by Housing New Zealand Corporation [749.156], and that the submission is rejected.

3.33.4 Consequential amendments

533. No consequential amendments are required.

3.34 'Special Housing Development'

534. The following term is relevant to my analysis:

Special Housing Development (Operative District Plan – Franklin Section)	Means a residential development intended to suit the particular residential needs and characteristics of a homogenous group of people and includes any building or buildings used to provide board, lodging or any form of live-in or on-site physical or mental health support for five (5) or more people. The development may involve one or more housing or accommodation types (such as detached or attached units, or boarding or shared-room accommodation) and may include ancillary facilities for medical care, recreation, fitness, counselling, training, dining, or other communal or personal services provided they are available only to the residents of the development. For the avoidance of doubt Special Housing Development includes housing for the elderly constructed by the Council or other public body, licensed rest homes or 'homes for the aged', 'retirement villages', papakaainga, 'half way houses', and housing for the physically or mentally challenged but does not include camping ground or motor camp.
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535. The term is not defined in the Proposed Plan, nor is it defined in the Planning Standards.

3.34.1 Submissions

536. One submission point was received from Greig Developments No 2 Limited.

537. The following submission was made:

Submission point	Submitter	Summary of submission
689.30	Greig Developments No 2 Limited	Adopt the Waikato District Plan – Franklin Section definition of Special Housing Development.

3.34.2 Analysis

538. The term 'Special Housing Development' is defined in the Operative District Plan – Franklin Section. The term is not used in the Proposed Plan as notified, and the submitter (Greig Developments No 2 Limited [689.30]) does not provide any reasons or justification for seeking to incorporate this term in the Proposed Plan, including through any other submission points. I am therefore not aware of any basis on which to introduce it. The submitter is welcome to present evidence to explain their submission point.

3.34.3 Recommendations

539. In the absence of any further information, I recommend that the submission from Greig Developments No 2 Limited [689.30] is rejected.

3.34.4 Consequential amendments

540. No consequential amendments are required.

3.35 'Noise-sensitive activity'

541. The following term is relevant to my analysis:

Noise-sensitive activity (Proposed Plan)	Means the following: (a) buildings used for residential activities, including boarding establishments, rest homes, retirement villages, papakainga housing development, in-house aged care facilities, travellers' accommodation, and other buildings used for residential accommodation but excluding camping grounds; (b) marae and marae complex; (c) hospital; (d) teaching areas and sleeping rooms in an education facility
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542. The Planning Standards do not define the term 'noise-sensitive activity' and there is no other term that approximates this.

3.35.1 Submissions

543. Seven original submission points and nine further submission points were received, including three in support of the definition as notified. Five submitters felt that the terms 'noise-sensitive activity' and 'sensitive land use' are used interchangeably in the Proposed Plan, and that the two terms could be rationalised. Amendments were sought from Waikato District Council, Ports of Auckland, Horticulture New Zealand, KiwiRail and Ministry of Education (as a further submitter).

544. The following submissions were made:

Submission point	Submitter	Summary of submission
419.130	Horticulture New Zealand	Amend the definition to refer to 'sensitive land uses within marae complex', so that it is limited to the buildings where sensitive activities are undertaken.
578.76	Ports of Auckland Limited	Amend the definition to incorporate an exclusion for worker's accommodation which is required to be located on land where noisy activities are likely to occur. Without the amendment, workers accommodation in the Industrial Zone will require resource consent as noise sensitive activities.
581.14	Synlait Milk Ltd	Retain the definition as notified. It provides appropriate interpretation in administration of the District Plan.
FS1341.30	Hynds Pipe Systems Limited	Support 581.14

697.491	Waikato District Council	A consequential amendment is needed to this definition as a result of seeking to rationalise the definitions of 'rest home' and 'retirement village' into one term.
FS1004.9	Tamahere Eventide Home Trust-Tamahere Eventide Retirement Village (submitter 769)	Support 697.491
FS1005.13	Tamahere Eventide Home Trust-Atawhai Assessi Retirement Village (submitter 765)	Support 697.491
FS1264.12	Bootleg Brewery	Oppose 697.491 on the basis that operators will be unnecessarily restricted and will face additional costs. The submitter believes that the anticipated effects are either negligible or can be managed through commercial outcomes.
777.18	Radio New Zealand Limited	Retain the definition as notified.
FS1387.1184	Mercury	Oppose 777.18: It is not clear, from a land management perspective, how effects from a flooding event would be managed.
923.139	Waikato District Health Board	The concept of the definition is broadly supported, but it is used interchangeably and inconsistently in the Proposed Plan with the definition of 'sensitive land use', which is similar but not identical. Only one of these two definitions should be required. Delete this definition and change all uses of the term to 'sensitive land use'.
FS1258.87	Meridian Energy Limited	Support or opposition for 923.139 not stated, but submitter states it has an interest in any amendments to the definitions or other provisions relating to 'sensitive land use.'
986.48	KiwiRail Holdings Limited	The definitions of 'noise sensitive activity' and 'sensitive land use' are used interchangeably in the Proposed Plan. Amend the definition as requested to refer to 'education facilities, including sleeping rooms and student accommodation' and 'places of assembly', to better align it with its proposed noise and vibration standards to address reverse sensitivity in the plan. The definition of 'noise sensitive activity' proposed is wider than the proposed definition for 'sensitive activity'. KiwiRail would support consolidation of these terms.
FS1113.2	Ministry of Education	Oppose 986.48. An Educational facility is already defined as a sensitive land use and the definition of noise sensitive activity should only include specific activities within that category of land use i.e. teaching areas and sleeping rooms that are noise-sensitive. Other activities within the land-use such as play areas are clearly not noise-sensitive and therefore it is

		<p>unnecessary to include the whole of an Education Facility as a noise-sensitive activity by definition.</p> <p>Student accommodation is not an activity that is specifically included in either the notified definition of 'Educational Facility' or the amended definition of 'Educational Facility' proposed in the Ministry of Education's further submission above. Student accommodation may be either an "ancillary activity" in the Ministry's definition and is covered in the phrase "sleeping rooms" in the definition, or a residential activity already listed in paragraph (a) of the definition of 'noise-sensitive activity' as "...other buildings used for residential accommodation...", it therefore, does not need to be included in paragraph (d).</p> <p>The Ministry supports the inclusion of paragraph (e), 'Places of Assembly' in the definition.</p>
FS1340.200	TaTa Valley Limited	Support 986.48
FS1345.143	Genesis Energy Limited	Support 986.48

3.35.2 Analysis

545. The term 'noise-sensitive activity' is used widely in the Proposed Plan, including in a large number of rules. There is no national definition for this term in the Planning Standards yet⁵⁷, but I consider it is useful to include a definition for this term in the Proposed Plan.
546. I have reviewed the rules in the Proposed Plan where the terms 'noise-sensitive activity' and 'sensitive land use' are used. I do not consider that these terms are intended to be used interchangeably, as suggested by the Waikato District Health Board [923.139] and KiwiRail [986.48]. The term 'noise-sensitive activity' appears in those rules that seek to manage the effects of noise. The term 'sensitive land use' appears in a more limited number of rules, which manage a wider range of effects, including, but not limited to, noise (Rule 16.3.9.2 'Sensitive land use' – Building setback, Rule 23.3.7.3 – Building setbacks from Tamahere Commercial Areas and A and B and Rule 24.3.6.2 Building setback – sensitive land use). I do not consider that it is appropriate to consolidate/rationalise these terms.
547. I do not agree with Horticulture New Zealand [419.130] that it would be appropriate to amend the definition to restrict this definition to those buildings within marae complex which are noise-sensitive. As the spaces outside buildings are used in a cultural context, I consider that these spaces would be noise-sensitive in a way that is different from other noise-sensitive uses, for example an educational facility.
548. KiwiRail [986.48] have requested inclusion of 'student accommodation' and 'places of assembly' in the definition. I agree that 'places of assembly' (a term which is also defined in

⁵⁷ A number of submitters sought that one should be included in the Planning Standards, but the Ministry for the Environment felt that a definition for this term would require wider consultation. See page 144 of 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.

Chapter 13) are likely to be ‘noise-sensitive activities’ (although they can also generate noise). ‘Student accommodation’ would be considered a ‘residential activity’ if the definition of ‘residential activity’ in the Planning Standards is adopted through this plan review (as per my recommendation at section 3.21), and therefore it would be unnecessary to include it again in clause (d), as it is covered under (a). As the Ministry for Education notes in their further submission [FS1113.2], student accommodation is also covered by ‘sleeping rooms in an education facility’ in clause (d), although stand-alone student accommodation may not be. I agree with the Ministry of Education [FS1113.2], that it is not necessary to widen clause (d) to refer to the entire ‘education facility’, as not all aspects of such a facility will be noise-sensitive.

549. Ports of Auckland [578.76] have requested that workers accommodation should be excluded from the definition, with the effect that this would make such accommodation a permitted activity in the Industrial Zone. Ports of Auckland are seeking rules to provide for such accommodation in the Industrial and Rural zones, alongside a definition of ‘workers accommodation’ (see section 3.31 of this report). I am aware that other submitters have requested similar relief, including Waikato District Council, which has recommended a definition of ‘caretakers accommodation’ and provision for such accommodation in the Industrial Zone. These issues will be given consideration by the S42A authors for the Industrial Zone, Heavy Industrial Zone, Rural Zone and Country Living Zone hearings. At this stage, I consider it is premature for me to adopt a recommendation in relation to this submission point.
550. I agree with Waikato District Council [697.491] that consequential amendments are required to the definition to rationalise the definitions of rest home and retirement village into one term (see also section 3.32 of this report).
551. I note that as a consequence of my recommendations, the definitions of residential activity’, ‘educational facility’ and ‘visitors accommodation’ in the Planning Standards may be adopted. I have proposed consequential amendments to the below definition to reflect these recommendations (see sections 3.21, 3.68 and 3.29 of this report).

3.35.3 Recommendations

552. I recommend that the definition of ‘noise-sensitive activity’ is amended. The submissions from Waikato District Council [697.491] and KiwiRail Holdings Limited [986.48] are accepted in part (in that amendments are made, but further amendments are also recommended).
553. I recommend that the submissions from Synlait Milk Ltd [581.14] and Radio New Zealand Limited [777.18] are accepted in part (the definition is retained, but proposed to be amended, as set out below).
554. I recommend that the submissions from Horticulture New Zealand [419.130], Waikato District Health Board [923.139] and Ports of Auckland Limited [578.76] are rejected.

3.35.4 Recommended amendments

555. The following amendments are recommended:

Noise-sensitive activity	<p>Means the following:</p> <p>(a) buildings used for residential activities, including boarding establishments, rest homes, retirement villages, papakainga housing development, in-house aged care facilities, visitor travellers' accommodation, and other buildings used for residential accommodation but excluding camping grounds;</p> <p>(b) marae and marae complex;</p> <p>(c) hospitals;</p> <p>(d) teaching areas and sleeping rooms in an educational facility;</p> <p>(e) places of assembly.</p>
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3.35.5 Consequential amendments

556. There are consequential amendments arising from this recommendation. Radio New Zealand has pointed out in their submission [777.18] that Policy 5.3.15(a)(v) Policy – Noise and vibration refers to ‘sensitive land uses’, but in this context it would be more appropriate if this referred to ‘noise-sensitive activities’. This policy should be amended as follows:

“(a) Adverse effects of noise and vibration are minimised by...

(v) Managing the location of noise-sensitive activities ~~sensitive land uses~~, particularly in relation to lawfully-established activities;...”

557. Appendix I: Acoustic Insulation. I. Application, clause (b) should be amended as follows:

(b) This appendix applies to any building containing a noise-sensitive activity. ~~including:~~

~~(i) Any building used for a residential activity~~

~~(ii) Homes for elderly persons~~

~~(iii) Retirement Villages~~

~~(iv) In-house aged care facilities~~

~~(v) travellers accommodation, excluding camping grounds~~

~~(vii) Marae and marae complex~~

~~(viii) Hospitals~~

(ix) Teaching areas and sleeping rooms in an educational facility.

3.36 ‘Sensitive land use’ and ‘reverse sensitivity’

558. The following term is relevant to my analysis:

Sensitive land use (Proposed Plan)	Means an education facility including a childcare facility, waananga and koohanga reo, a residential activity, papakaainga building, rest home,
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	retirement village, travellers accommodation, home stay, health facility or hospital.
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559. The Planning Standards do not define the term ‘sensitive land use’ and there is no other term that approximates this.

3.36.1 Submissions

560. Ten original submission points were received and 25 further submissions on the definition of ‘sensitive land use’, including six in support of the definition as notified. Five submitters felt that the terms ‘noise-sensitive activity’ and ‘sensitive land use’ are used interchangeably in the Proposed Plan, and that the two terms could be rationalised into one. A number of amendments were sought, to both include or exclude certain land uses. Two submitters noted that as currently drafted, it could be construed as meaning that all ‘sensitive land uses’ are education facilities.
561. Six original submissions were received requesting that a definition for ‘reverse sensitivity’ be included in the Proposed Plan, and 30 further submissions, the majority of which supported the inclusion of a definition.
562. The following submissions were made:

Submission point	Submitter	Summary of submission
‘sensitive land use’		
742.75	New Zealand Transport Agency	The definitions for ‘noise-sensitive activity’ and ‘sensitive land use’ appear to be used interchangeably and inconsistently throughout the Plan. The definitions are similar but not identical. Extend sensitive land use to cover everything in ‘noise-sensitive activity’ and delete the term ‘noise sensitive activity.’ Include ‘student accommodation’ and ‘places of assembly’ in the definition, as both are activities which can be sensitive to noise.
FS1258.86	Meridian Energy Limited	Support or opposition for 742.75 not stated, but submitter states it has an interest in any amendments to the definitions or other provisions relating to ‘sensitive land use.’
FS1387.874	Mercury	Oppose 742.75: It is not clear, from a land management perspective, how effects from a flooding event would be managed.
FS1342.200	Federated Farmers	Support 742.75
FS1375.27	Radio New Zealand	Support 742.75
197.16	NZ Pork	Sensitive land use activities from a pork production perspective are broader than the activities listed in

		the proposed definition and are activities often located or seeking to locate in rural areas. Amend the definition to include: café, restaurants, tourism/entertainment activity, community services.
FS1168.108	Horticulture New Zealand	Support 197.16 <i>The submitter correctly identifies that sensitive land use activities are broader than the activities listed in the proposed definition and are activities often located or seeking to locate in rural areas.</i>
FS1386.199	Mercury	Oppose 197.16: <i>It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1340.32	TaTa Valley Limited	Opposes 197.16 on the basis that it considers the submission to be 'overly restrictive'.
576.45	Transpower New Zealand Ltd	The definition is supported insofar as it is applied to the National Grid corridor management provisions in the Proposed Plan. Retain the definition as notified.
578.79	Ports of Auckland Limited	Exclude worker's accommodation from the definition of sensitive land uses. Without the amendment sought, workers accommodation within the Industrial Zone will require resource consent as sensitive land uses.
FS1171.116	T&G Global	Support 578.79: <i>This submission seeks to specifically exclude workers accommodation from the definition of sensitive land use. This submission is supported in so far as it is consistent with T&G Global's submission. Workers accommodation is not sensitive to rural activities in the same way as other residential activities are because rural workers are aware of and familiar with the effects associated with rural production activities.</i>
FS1388.867	Mercury	Oppose 578.79: <i>It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1269.51	Housing Corporation New Zealand	Opposes 578.79 to the extent that it is inconsistent with its primary submission.
581.16	Synlait Milk Ltd	Retain the definition as notified. It provides appropriate interpretation in administration of the District Plan.
FS1388.951	Mercury	Oppose 581.16: <i>It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1341.32	Hynds Pipe Systems Limited	Support 581.16
FS1341.33	Hynds Pipe Systems Limited	Support 581.16

680.266	Federated Farmers of New Zealand	Homestays and residential activity, as defined in the Plan, do not need to be elevated to this status and subject to the associated planning response.
FSI258.79	Meridian Energy Limited	<i>Opposes 680.266. The submitter has an interest in any amendments to the definitions or other provisions relating to 'sensitive land use.'</i>
FSI345.40	Genesis Energy Limited	<i>Opposes 680.266. Genesis does not support the removal of 'residential activity' and 'homestay' from the definition of sensitive land use. These two activities are as sensitive as an activity such as a retirement village, and in the context of reverse sensitivity (i.e. a residential activity being undertaken next to the boundary of an existing industrial site) these two activities need to have the same planning response as other sensitive activities/land uses.</i>
FSI350.50	Transpower New Zealand	<i>Opposes 680.266 on the basis that residential activities and home stays are considered sensitive land uses in the context of the proposed plan. The submitter states that specific to the National Grid, the NPSET explicitly includes residential buildings within the definition of a sensitive activity.</i>
FSI375.29	Radio New Zealand	<i>Opposes 680.266 on the basis that residential activities and home stays are land uses which are sensitive to RNZ's operations (and other infrastructure) and therefore should not be excluded from the definition.</i>
FSI387.233	Mercury	<i>Opposes 680.266. Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i>
FSI171.96	T&G Global	<i>The exclusion of residential activities from the definition of sensitive land use should relate to an exclusion of residential uses that are related to farming activities on the land. Otherwise this may give rise to reverse sensitivity issues.</i>
777.19	Radio New Zealand Limited	<i>The notified definition implies that all "sensitive land uses" are education facilities, yet it expands to include places and activities that are not strictly 'educational'. The definitions for "noise-sensitive activity" and "sensitive land use" are very similar and may therefore be able to be merged into a single definition. Suggest restructuring by clauses and refer to "buildings used for residential activities..."</i>
FSI258.89	Meridian Energy Limited	<i>Support or opposition for 777.19 not stated, but submitter states it has an interest in any amendments to</i>

		<i>the definitions or other provisions relating to 'sensitive land use.'</i>
797.24	Fonterra Limited	Retain the definition as notified.
FS1387.1268	Mercury	<i>Opposed 797.24: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1313.29	Perry Group Limited	<i>Support 797.29</i>
923.140	Waikato District Health Board	The definition is used to define where controls are required to protect certain land-use activities from noise, which is appropriate. The definition covers most but not all sensitive land uses, and amendments are requested to include student accommodation and places of assembly. It should also be adapted to avoid the need for a separate definition of 'noise-sensitive activity.'
FS1387.1539	Mercury	<i>Oppose 923.140: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1258.88	Meridian Energy Limited	<i>Meridian's own submission seeks that additional rules be inserted to require setback of sensitive land use activities and noise sensitive activities from lawfully established large scale windfarms. For that reason Meridian also has an interest in any amendments to the definitions or other provisions relating to Sensitive Land Use</i>
986.49	KiwiRail Holdings Limited	The definition is supported, but should be amended to provide clarity as to the activities that fall within the definition. As notified, the definition could read as saying that all sensitive land uses are education facilities. An amendment is proposed to address this.
FS1387.1633	Mercury	<i>Oppose 986.49: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
'reverse sensitivity'		
986.46	KiwiRail Holdings Ltd	Add a definition for 'reverse sensitivity' to Chapter 13 Definitions based on the Proposed National Planning Standards as follows (or similar amendments to achieve the requested relief): "means the potential for the operation of an existing lawfully established activity to be compromised, constrained, or curtailed by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by an existing activity" AND Any consequential amendments to link and/or accommodate the requested changes.

FS1076.21	New Zealand Pork Industry Board	Support 986.46 Reverse sensitivity is now defined in the National Planning Standards
FS1098.20	NZ Pork Industry Board	Support 986.46 Reverse sensitivity issues can be a significant problem for established pork producers. The encroachment of sensitive activities into rural areas can threaten the long standing legitimacy of pig farming activities. The inclusion of a definition for reverse sensitivity is supported to assist in the avoidance and management of reverse sensitivity effects when implementing council policies and rules. Reverse sensitivity is now defined in the National Planning Standards.
FS1118.11	Gary Bogaart / Meremere Dragway Inc	Support 986.46 Meremere Dragway supports the addition of a definition for “reverse sensitivity” to Chapter 13 Definitions based on the Proposed National Planning Standards (or similar amendments to achieve the requested relief). The definition supports measures to avoid and manage reverse sensitivity effects.
FS1258.23	Meridian Energy Limited	Support 986.46 Meridian agrees that it would be useful for the Plan to include a definition of 'reverse sensitivity'. However, the wording proposed by the submitter differs from the RPS definition and should align better with that definition.
FS1304.16	Gary Bogaart/Meremere Dragway Inc	Support 986.46 Same as FS1118.11
FS1339.76	NZTE Operations Limited	Oppose 986.46 NZTE oppose the amalgamation of the two definitions on the grounds that they concern different activities therefore need to be separately defined in the plan.
FS1340.199	TaTa Valley Limited	Oppose 986.46 The submitter opposes the relief sought as the proposed national planning standards are still in a proposed state and are not yet operative.
FS1350.47	Transpower New Zealand Limited	Support 986.46 The submission is supported as the provision of a definition of “reverse sensitivity” (reflecting that in the Waikato RPS) would assist in plan interpretation and application.
797.21	Fonterra Limited	The term is referenced in various plan provisions. Term is undefined. Add a definition of "reverse sensitivity" to Chapter 13 as follows (or words to similar effect): “the vulnerability of a lawfully established activity to a new activity or land use. It arises when a lawfully

		established activity causes potential, actual or perceived adverse environmental effects on the new activity, to a point where the new activity may seek to restrict the operation or require mitigation of the effects of the established activity". AND Any consequential amendments or further relief.
FS1087.26	Ports of Auckland Limited	Support 797.21 Ports of Auckland Limited agrees with the relief sought.
FS1089.2	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited for 'Oil Companies'	Support 797.21 The Oil Companies did not seek to include a definition of 'reverse sensitivity' within the Proposed Waikato District Plan. That said, should a definition of 'reverse sensitivity' be included, then it is considered that it should adopt the definition of the Waikato Regional Policy Statement 2016. Therefore, the Oil Companies support the approach by the submitter insofar as to incorporate the definition of 'reverse sensitivity' as defined within the definition of 'reverse sensitivity' as defined within the Waikato Regional Policy Statement as sought.
FS1110.32	Synlait Milk Limited	Support 797.21 Reverse sensitivity is a significant land management issue that must be addressed in the District Plan. To ensure consistency in interpretation and administration it is appropriate to define reverse sensitivity.
FS1168.85	Horticulture New Zealand	Support 797.21 Seeks to add a definition of "reverse sensitivity". The term is referenced within various plan provisions. HortNZ has sought that a definition is included in the Plan.
FS1198.40	Bathurst Resources Limited and BT Mining Limited	Not stated. Mineral extraction should be included in the definition of "productive rural activities" or that term should be deleted from the plan. Reverse sensitivity issues are relevant to more than existing activities, they are also relevant where potential future mineral extraction that by its nature has a functional need to be located in specific places is effectively sterilised by the establishment of sensitive activities on or adjacent to mineral deposits.
FS1313.28	Perry Group Limited	Oppose 797.21 The amendment seeks a definition of reverse sensitivity. We support the inclusion of a definition of reverse sensitivity, however the definition of reverse sensitivity refers to actual or 'perceived' adverse environmental effects on the new activity. Effects much be either actual or predictable. Seek that the definition be amended as follows: "That arises when a lawfully established activity causes actual or potential adverse environmental effects of the new activity." The amendment will ensure that the provision addresses potential and predictable effects.

FS1319.37	New Zealand Steel Holdings Limited	<p>Oppose 797.21</p> <p>A definition of "reverse sensitivity" is unnecessary.</p> <p>NZS seeks that the whole of the submission point be disallowed. However, if a definition is included, then NZS requests that it is refined to the following (or words to similar effect): "The potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment of other activities which are sensitive to the pre-existing activity."</p>
FS1322.6	Synlait Milk	<p>Support 797.21</p> <p>Reverse sensitivity is a significant land management issue that must be addressed in the District Plan. To ensure consistency in interpretation and administration it is appropriate to define reverse sensitivity.</p>
FS1342.223	Federated Farmers	<p>Support 797.21</p> <p>FFNZ supports inclusion of the new 'reverse sensitivity' definition.</p>
FS1345.34	Genesis Energy Limited	<p>Support 797.21</p> <p>For the reasons provided in the Fonterra submission.</p>
FS1375.28	Radio New Zealand	<p>Support 797.21</p> <p>A definition of reverse sensitivity is supported although in the context of wider plan provisions it is noted that care needs to also be taken in ensuring the effects of reverse sensitivity and the effects on potentially affected neighbours are both managed by the plan. There is otherwise a risk that reverse sensitivity effects (i.e. those on established activities) are conflated with the effects from such an activity on others.</p>
FS1387.1266	Mercury NZ Limited for Mercury D	<p>Oppose 797.21</p> <p>Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</p>
466.55	Brendan Balle for Balle Bros Group Limited	<p>Terms used in the plan should be defined. The Draft National Planning Standards includes a definition of 'reverse sensitivity'.</p> <p>Add a definition for "Reverse Sensitivity" into Chapter 13 Definitions as follows: "means the potential for the operation of an existing lawfully established activity to be compromised, constrained, or curtailed by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by an existing activity".</p>

FS1168.107	Horticulture New Zealand	Support 466.55 Seeks to add a definition for "Reverse Sensitivity" into Chapter 13 Definitions.
FS1353.7	Tuakau Proteins Limited	Support 466.55 TPL support the inclusion of a definition of 'reverse sensitivity'.
FS1388.426	Mercury NZ Limited for Mercury E	Oppose 466.55 Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.
742.77	New Zealand Transport Agency	Add a definition of 'reverse sensitivity' as per the RPS definition, as follows: "Means the vulnerability of a lawfully established activity to a new activity or land use. It arises when a lawfully established activity causes potential, actual or perceived adverse environmental effects on the new activity, to a point where the new activity may seek to restrict the operation or require mitigation of the effects of the established activity". AND Request any consequential changes necessary.
FS1062.98	Andrew and Christine Gore	Oppose 742.77 It is important that the definition is accurate so that it does not disadvantage the existing activity. This definition is not clear.
FS1131.5	The Village Church Trust	Oppose 742.77 The Village Church Trust does not oppose the principle of a reverse sensitivity definition but opposes reference to "potential" adverse effects. Potential is considered too broad and subjective.
FS1350.46	Transpower New Zealand Limited	Support 742.77 The submission is supported as the provision of a definition of reverse sensitivity (reflecting that in the Waikato RPS) would assist in plan interpretation and application.
FS1387.876	Mercury NZ Limited for Mercury D	Oppose 742.77 Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.

419.133	Horticulture New Zealand	<p>Terms used in the plan should be defined. The Draft National Planning Standard includes a definition of "reverse sensitivity".</p> <p>Add a definition for "Reverse Sensitivity" to Chapter 13 Definitions, as follows: "means the potential for the operation of an existing lawfully established activity to be compromised, constrained, or curtailed by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by an existing activity". AND Any consequential or additional amendments as a result of changes sought in the submission.</p>
FS1171.58	Phoebe Watson for Barker & Associates on behalf of T&G Global	<p><i>Support 419.133</i></p> <p><i>A number of the submissions in relation to the rural environment and rural zones seek to protect against the issue of reverse sensitivity and therefore it is appropriate that such effects should be defined within the Plan.</i></p>
FS1087.1	Ports of Auckland Limited	<p><i>Support 419.133</i></p> <p><i>Ports of Auckland Limited agrees with the submitter that a definition for 'reverse sensitivity' should be provided within the District Plan.</i></p>
FS1342.102	Federated Farmers	<p><i>Support 419.133</i></p> <p><i>For reasons stated by the submitter.</i></p>
FS1340.56	TaTa Valley Limited	<p><i>Support 419.133</i></p> <p><i>The submitter supports the submission in principle subject to amendments to drafting.</i></p>
FS1258.22	Meridian Energy Limited	<p><i>Not stated</i></p> <p><i>Meridian agrees that it may be useful to include a definition of 'reverse sensitivity' but considers that the wording proposed could be simplified. For example, by adopting the wording of the definition in the Waikato Regional Policy Statement ('the vulnerability of a lawfully established activity to a new activity or land use. It arises when a lawfully established activity causes potential, actual or perceived adverse environmental effects on the new activity, to a point where the new activity may seek to restrict the operation or require mitigation of the effects of the established activity') or Greater Wellington Regional Council's proposed Natural Resources Plan ('the vulnerability of an existing lawfully-established activity to other activities in the vicinity which are sensitive to adverse environmental effects that may be generated by such existing, thereby creating the potential for the operation of such existing activity to be constrained') or similar.</i></p>
FS1388.231	Mercury NZ Limited	<p><i>Oppose 419.133</i></p> <p><i>At the time of lodging this further submission, neither natural hazard flood provisions nor adequate flood maps were available, and it is therefore not clear from a land</i></p>

		<i>use management perspective, either how effects from a significant flood event will be managed, or whether the land use zone is appropriate from a risk exposure. Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i>
695.78	Sharp Planning Solutions	Include a definition of 'reverse sensitivity' in Chapter 13 of the Plan.
FS1387.324	Mercury NZ Ltd for Mercury D	<i>Oppose 695.78 Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i>

3.36.2 Analysis

563. The term 'sensitive land use' is used in a number of policies and rules in the Proposed Plan. As stated in section 3.35 above, I have reviewed the rules in the plan where the terms 'noise-sensitive activity' and 'sensitive land use' are used. I do not consider that these terms are intended to be used interchangeably or that they could be merged into one term, as suggested by the New Zealand Transport Agency [742.75], Radio New Zealand Limited [777.19] and Waikato District Health Board [923.140]. The term 'sensitive land use' is used in rules which manage reverse sensitivity. Reverse sensitivity is not limited to the adverse effects of noise (for example see Rule 16.3.9.2 'Sensitive land use' – Building setback, Rule 23.3.7.3 – Building setbacks from Tamahere Commercial Areas and A and B and Rule 24.3.6.2 Building setback – sensitive land use). For this reason, I do not consider it appropriate to consolidate/rationalise these terms.
564. I agree with Radio New Zealand [777.19] and KiwiRail Holdings Limited [986.49] that clarity would be achieved by restructuring the definition into clauses, so that it does not appear that all 'sensitive land uses' are education facilities.
565. Federated Farmers (680.266) have requested that 'residential activities' and 'homestays' are deleted from the definition. I agree with the further submissions [FS1258.79, FS1345.40, FS1350.50, FS1375.29] on this submission point, that 'residential activities' and 'homestays' are sensitive land uses that are appropriate to include in the definition of 'sensitive land use'.
566. The New Zealand Transport Agency [742.75], KiwiRail [986.48] and the Waikato District Health Board [923.140] have requested inclusion of 'student accommodation' and 'places of

assembly' in the definition. I agree that 'places of assembly' are likely to be sensitive land use activities and that it would be useful to include these in the definition. 'Student accommodation' will come under the definition of 'residential activity' if the definition of 'residential activity' in the Planning Standards is adopted (as per my recommendation); however I do not have an objection to student accommodation being listed in the 'sensitive land use' definition, given that the list of 'residential activities' is not exclusive. There is potential to simplify clauses (a) and (b) by removing all of the inclusions after the words 'educational facility' and 'residential activities', as these lists are probably redundant. I am not sure that the submissions received provide the scope to do this.

567. I disagree with NZ Pork [197.16] that the definition should be broadened to include "café, restaurants, tourism/entertainment activity, community services". I agree that reverse sensitivity effects can arise when such land uses are located in rural areas, but these activities can also be similarly affected by reverse sensitivity in other zones. Rules relating to 'sensitive land uses' apply in a wide range of zones in the district, including: the Infrastructure and Energy Zone, Residential Zone, Rural Zone, Country Living Zone, Village Zone, and Rangitahi Peninsula Zone. I consider that this amendment would be significantly broadening the scope of the rules. This is something that should be considered further by the s42A authors for the above zones, as reverse sensitivity may not be an issue when such uses (café, restaurants, tourism/entertainment activity, community services) are located in those zones. Therefore, I consider that the relief sought may be more appropriately addressed in the applicable rules in the Rural Zone, rather than in a definition which is applied widely across the Proposed Plan.
568. Ports of Auckland [578.79] have requested that 'workers accommodation' be excluded from the definition, with the effect that this would make such accommodation a permitted activity in the Industrial Zone. As stated in section 3.35 above, Ports of Auckland are seeking rules to provide for such accommodation in the Industrial and Rural zones, alongside a definition of 'workers accommodation' (see section 3.31 of this report) and I am aware that other submitters have requested similar relief. These issues will be given consideration by the S42A authors for the Industrial and Rural Zone hearings. At this stage, I consider it premature for me to adopt a recommendation in relation to this submission point.
569. A consequential amendment is required to this definition, as a result of the recommendation to rationalise the terms 'rest home' and 'retirement village' (see section 3.32). Further consequential amendments are required to substitute 'visitor accommodation' for 'travellers' accommodation', on the basis that the Planning Standard definition is adopted (as per my recommendation in section 3.29 of this report) and to substitute 'educational facility' from the Planning Standards, for 'education facility' (as per my recommendation at section 3.58 of this report). I have recommended wording to that effect.
570. KiwiRail [986.46], Fonterra Ltd [797.21], The New Zealand Transport Agency [742.77] Balle Bros Group Limited [466.55] Horticulture New Zealand [419.133] and Sharp Planning Solutions Ltd [695.78] all request that a definition of 'reverse sensitivity' is included in Chapter 13. KiwiRail, Horticulture New Zealand and Balle Bros Group Limited request that a definition is adopted based on the Proposed National Planning Standards. The New

Zealand Transport Agency propose using the definition of ‘reverse sensitivity’, as set out in the Regional Policy Statement. I have considered these submissions alongside ‘sensitive land use’, as these terms are closely related.

571. The authors of the Recommendations on Submissions Report for the Planning Standards record in detail in that report, the difficulties at the present time with providing a definition of ‘reverse sensitivity’⁵⁸, given that case law is still evolving⁵⁹ and that the NPS for Renewable Electricity Generation is currently in conflict with case law on the ‘existing environment’. The Ministry for the Environment concluded that it was not appropriate to define this term in the Planning Standards at the present time, and thus the draft definition for ‘reverse sensitivity’ was not retained. I am swayed by the recommendation in that report, and therefore recommend that a definition of ‘reverse sensitivity’ is not included in the Proposed Plan.

3.36.3 Recommendations

572. I recommend that the definition of ‘sensitive land-use’ is amended, and that the submissions from New Zealand Transport Agency [742.75], KiwiRail [986.49], Radio New Zealand Limited [777.19] and Waikato District Health Board [923.140] are accepted in part (in that amendments are recommended to address the relief sought, but further amendments are also recommended).
573. I recommend that the submissions from Transpower New Zealand Ltd [576.45], Synlait Milk Ltd [581.16] and Fonterra Limited [797.24] are accepted in part (the definition of ‘sensitive land use’ is retained, but amended to address relief sought by others).
574. I recommend that the submission from Ports of Auckland [578.79] should be given further consideration in the Hearing on the Industrial Zone, and that the submission from NZ Pork [197.16] be given further consideration in the hearings on Infrastructure and Energy Zone, Residential Zone, Rural Zone, Country Living Zone, Village Zone, and Rangitahi Peninsula Zone.
575. I recommend that the submission from Federated Farmers of New Zealand [680.266] is rejected.
576. I recommend that a definition of ‘reverse sensitivity’ is not included in the Proposed Plan, and the submissions from Sharp Planning Solutions Ltd [695.78], Fonterra Ltd [797.21], Balle Bros Group Limited [466.55], KiwiRail Holdings Ltd [986.46], Horticulture New Zealand Ltd [419.133] and the New Zealand Transport Agency [742.77] are rejected.

⁵⁸ 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. Section 393, pg 187 - 191

⁵⁹ Ibid. With respect to consented but unimplemented activities and activities permitted by rules.

3.36.4 Recommended amendments

577. The following amendments are recommended:

Sensitive land use	<p>Means:</p> <p>(a) an educational facility, including a childcare facility, waananga and koohanga reo;</p> <p>(b) a residential activity, including papakaainga building, rest home, retirement village, visitor travellers accommodation, <u>student accommodation</u>, home stay;</p> <p>(c) health facility or hospital;</p> <p>(d) <u>place of assembly</u>.</p>
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3.36.5 Consequential amendments

578. There are consequential amendments arising from this recommendation. Where policies refer to ‘sensitive activities’, for greater clarity, the term ‘sensitive land use activities’ should be used. Policy 5.3.15(a)(v) Policy – Noise and vibration refers to ‘sensitive land uses’ but, as pointed out by Radio New Zealand, it would be more accurate if this referred to ‘noise-sensitive activities’ (see section 3.35.5 above).

3.37 ‘Habitable building’, ‘non-habitable building’ and ‘habitable room’

3.37.1 Introduction

579. The following term is relevant to my analysis:

Habitable room (Planning Standards)	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.
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580. The Proposed Plan does not define ‘habitable room’, ‘habitable building’, or ‘non-habitable building’.

3.37.2 Submissions

581. There is one submission seeking a definition of both “habitable building” and “non-habitable building” in the Proposed Plan. Lyndendale Farms says the definition of habitable building and non-habitable building is not clear. In particular, they are uncertain about whether particular buildings associated with a retirement village would be habitable or non-habitable. There is one further submission.

Submission point	Submitter	Summary of submission
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761.16	Lyndendale Farms	Include definitions of the terms habitable and non-habitable buildings in the Proposed Plan to provide clarity. The differentiation between 'habitable' and 'non habitable' buildings is unclear and should not apply to a Retirement Village. Neither term is defined in Chapter 13 of the PDP; and there are a number of buildings and shared facilities that form an integral part of a retirement village, but could arguably be deemed 'non—habitable' (for example, it is not clear whether the proposed Community Centre, or the shared Recreation Facilities would be deemed 'habitable' or 'non—habitable').
FS1387.1122	Mercury	<i>Oppose 761.16: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

582. There are eight references to 'non-habitable buildings' (including non-habitable accessory building and non-habitable garage) in the rules in the Proposed Plan. There are two references to the term 'habitable building'. The terms 'habitable room' and 'habitable space' are also both used.
583. In terms of the references to 'non-habitable buildings', Rule 14.4.1 permits non-habitable buildings in the National Grid Yard in certain zones. The remaining five references to non-habitable buildings are in rules for building setbacks on all boundaries. Those rules are: Rules 16.3.9.1 (Residential), 22.3.7.1 (Rural Zone), 24.3.6.1 (Village Zone) and 28.3.9.1 (Rangitahi Peninsula Zone). Residential Rule 16.5.7.1 covers noise and vibration on the North Island Main Trunk Line. It provides building setbacks for a non-habitable accessory building and a non-habitable garage. This rule also refers to noise limits for habitable rooms and habitable spaces.
584. The references to 'habitable building' are found in Rural Rule 22.3.7.1. This provides building setbacks for habitable buildings.
585. The term 'habitable room' is also used in the Rules in the Proposed Plan in the context of a dwelling, and the proximity of the living court to habitable rooms. It is also referred to in Appendix I: Acoustic Insulation for Waikato Regional Airport, Te Kowhai Airpark and Horotiu Acoustic Area. In Appendix I, the term 'habitable room' appears to be used synonymously with 'habitable space'.
586. I accept that there is value providing a definition to clarify the terms 'habitable' and 'non-habitable' building. The Definitions Standard definition provides a level of guidance on what the term 'habitable' means. For this reason, I suggest that an appropriate definition for the term 'habitable building' and 'non-habitable building' refer to the term "habitable room". For example, "habitable building: means a building that contains one or more habitable rooms". "Non-habitable building: means a building that does not contain any habitable rooms".
587. Turning to the concern raised by the submitter (Lyndendale Farms [761.16]), my view is that a recreation facility or community centre in a retirement village does not easily fall into the description of a similarly-occupied room, contemplated by the definition of 'habitable room'. Such facilities would need to be specifically identified as a similarly-occupied room in

the Proposed Plan, to fall within the definition of a habitable room, under the Definitions Standard.

588. To align with the definition of ‘building’ in the Proposed Plan, section 42A report writers should identify the rules for habitable buildings and non-habitable buildings that do not apply to motorised vehicles and vehicles, buildings listed in section 9 of the Building Act 2004, tanks and crop protection structures of certain dimensions, and partially and fully-roofed decks. This is a consequential amendment needed if the definition of ‘building’ from the Definitions List is adopted.

3.37.3 Recommendations

589. I recommend that the following terms are included as definitions in the Proposed Plan: ‘habitable building’, ‘non-habitable building’ and ‘habitable room’, and that the submission from Lyndendale Farms Limited [761.16] is accepted.

3.37.4 Recommended amendments

590. The following amendments are recommended.

<u>Habitable building</u>	<u>means a building that contains one or more habitable rooms.</u>
<u>Non-habitable building</u>	<u>means a building that does not contain any habitable rooms.</u>
<u>Habitable room</u>	<u>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.</u>

3.37.5 Consequential amendments

591. Residential Rule 16.5.7.1 and the Rules in Appendix I appear to refer to the terms ‘habitable room’ and ‘habitable space’ synonymously. Other terms such as ‘teaching space’, and ‘sensitive activity building space’ are also used in these rules. If the term ‘habitable room’ is adopted, use of these similar terms should be reviewed, to ensure that their use complies with the requirements of the Definitions Standard. Where a term that is defined in the Definitions List is used in a plan or policy in the same context, the definition must be adopted.⁶⁰ This is a matter that should be considered by the writers of the section 42A Reports where Appendix I applies. Under the Planning Standards, I cannot recommend a list of exclusions to a definition.⁶¹

⁶⁰ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment, Mandatory Direction 1.

⁶¹ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment, Mandatory Direction 1.

592. To align with the definition of ‘building’ in the Proposed Plan, section 42A report writers should identify the rules for habitable buildings and non-habitable buildings that do not apply to motorised vehicles and vehicles, buildings listed in section 9 of the Building Act 2004, tanks and crop protection structures of certain dimensions, and partially and fully-roofed decks. This is a consequential amendment needed if the definition of ‘building’ from the Definitions List is adopted.

3.38 ‘Living court’ and ‘outdoor living space’

3.38.1 Introduction

593. The following terms are relevant to my analysis:

Living Court (Proposed Plan)	Means an area of outdoor space directly related to the living area of a household unit, and for the household’s exclusive use. It does not include parking, manoeuvring areas and buildings, but does include swimming pools, pergolas and similar open-framed structures
outdoor living space (Planning Standards)	Means an area of open space for the use of the occupants of the residential unit or units to which the space is allocated.

3.38.2 Submissions

594. There are five submissions on the definition of ‘living court’. The main concern for submitters is whether certain structures, such as covered decks and pools, should form part of a living court.

595. The following submissions were made:

Submission point	Submitter	Summary of submission
697.396	Waikato District Council	Amend the definition by replacing the term household unit with residential unit. Living Court Means an area of outdoor space directly related to the living area of a household <u>residential unit</u> , and for the household’s <u>residential unit’s</u> exclusive use. It does not include parking, manoeuvring areas and buildings, but does include swimming pools, pergolas and similar open—framed structures.
749.54	Housing New Zealand Corporation	Amend the definition to align with the definition of outdoor living space from the Planning Standards. Living Court <u>Outdoor Living Space</u> Means an area of outdoor <u>open</u> space directly related to the living area of a household unit, and for the household's exclusive use. It does not include parking, manoeuvring areas

		<p>and buildings, but does include swimming pools, pergolas and similar open—framed structures.</p> <p>Housing New Zealand notes there will be a number of consequential amendments or further amendments required to the Proposed WDP to give effect and reference the new term 'Outdoor living space'.</p>
695.73	Sharp Planning Solutions Ltd	<p>The definition does not state proximity on a site to downstairs or upstairs of a dwelling.</p> <p>It is considered that a swimming pool on its own is not sufficient for living court purposes for all residents year - round.</p> <p>Living Courts should be able to include covered areas such as porticos, decks, and conservatories and indoor-outdoor flow areas as some persons value indoor space more than outdoors.</p>
746.19	The Surveying Company	<p>Amend the definition to include covered decks.</p> <p>Living Court: Means an area of outdoor space directly related to the living area of a household unit, and for the household's exclusive use. It does not include parking, manoeuvring areas and buildings, but does include swimming pools, pergolas and similar open—framed structures <u>including a covered deck</u>.</p>
689.32	Greig Developments No2 Limited	<p>Amend the definition to include covered decks.</p> <p>Living Court: Means an area of outdoor space directly related to the living area of a household unit, and for the household's exclusive use. It does not include parking, manoeuvring areas and buildings, but does include swimming pools, pergolas and similar open—framed structures <u>including a covered deck</u>.</p>

Analysis

596. The term “living court” aligns with the definition of “outdoor living space” in the Planning Standards. However, there are some key differences, which are discussed below.
597. Firstly, the Proposed Plan definition requires a ‘living court’ to be ‘directly related’ to the living area of a household. This is not required in the definition of ‘outdoor living space’ in the Planning Standards. In my view, the proximity of an outdoor living space to the indoor living space is a matter that rules can manage. I have reviewed the Land Use – Building Rules in the Proposed Plan and identified that proximity of a ‘living court’ to the living area of a

residential unit or minor residential unit is a matter that the rules already manage by requiring it to be “readily accessible”.⁶²

598. Secondly, the definition of ‘living court’ in the Proposed Plan requires the living court to be for the exclusive use of a household. This is different to the definition of outdoor living space in the Planning Standards, which specifically contemplates that outdoor living space may be allocated to more than one household. It provides that outdoor living space is for the exclusive use of the occupants of the residential unit or units to which it is allocated. While the Planning Standards definition of outdoor living space provides for a level of sharing among certain households, it also denotes a level of exclusivity. Again, the exclusivity of outdoor living space is a matter that rules can manage. My review of the Land Use – Building Rules in the Proposed Plan indicates that those rules provide an indication that a living court is exclusive (see Rule 16.3.7). However, the wording used in rules is inconsistent between individual dwellings and multi-unit developments⁶³. Given that the Proposed Plan definition specifies exclusive use, I think that the rules should be reviewed to confirm whether this is the intention. A good example of an explicit statement to this effect is in Rule 16.3.7, which states “*A living court... is for the exclusive use of the occupants of the dwelling*”.
599. The third key difference between the definitions of ‘living court’ and ‘outdoor living space’ is that the definition of ‘living court’ provides a list of inclusions and exclusions. The level of guidance in the Planning Standards is limited to the requirement that the living space must be open. Turning to the inclusions provided in the Proposed Plan, being swimming pools, pergolas, and similar open-framed structures, my view is that these inclusions can fall within the definition of ‘outdoor living space’ in the Planning Standards. The Proposed Plan definition of ‘living court’ specifically excludes parking, manoeuvring areas and buildings. It is not possible to include a list of exclusions to a definition prescribed in the Definitions List. To ensure that parking, manoeuvring areas and buildings are excluded from the area for outdoor living space, rules should clarify the exclusion of these areas from the calculations for the area of an outdoor living space.
600. Turning to the submissions, Waikato District Council [697.396] suggests replacing the term ‘household unit’ with the term ‘residential unit’. The reason provided for this change is consistent use of terminology. This point is resolved by adopting of the definition of ‘residential unit’ from the Planning Standards.
601. Housing New Zealand Corporation [749.54] suggests replacing the definition ‘living court’ with the term ‘outdoor living space’ for consistency with the planning standards. This submission is resolved by adoption of the definition of outdoor living space from the Planning Standards.
602. The Surveying Company [746.19] submits that covered decks should form part of an outdoor living court and should be included in the definition. The submitter suggests

⁶² See for example Rules 16.3.7, 17.3.7, 18.3.9, 27.3.8 [16.5.8.6 and 28.1.3].

⁶³ For example, see Rule 16.1.3 RDI, which does not explicitly state that each living court is for the exclusive use of each residential unit.

including the words ‘a covered deck’ after ‘open framed structures’. Greig Developments Number 2 Ltd [689.32] seeks the same change. Adopting the definition of ‘outdoor living space’ from the Definitions List means that I cannot consider inclusions or exclusions to a prescribed term. My view is that it is not clear whether covered decks fall within the definition of an outdoor living court, and given there is a degree of ambiguity about the breadth of this definition, my view is that the rules should state whether a covered deck can form all or part of the area of outdoor living space. In my view, the definition of ‘outdoor living space’ in the Definitions List contemplates an open area, rather than a covered space. This is consistent with the definition in the Proposed Plan.

603. Sharp Planning Solutions [695.73] submits that swimming pools on their own are not sufficient for living court purposes, all year round. It also suggests including covered areas and indoor/outdoor flow areas within the definition. Adoption of the definition of ‘outdoor living space’ from the Definitions List means that I cannot consider inclusions or exclusions to a prescribed term. If covered areas are to be considered as a form of an outdoor living court, my view is that they will need to be provided for in the rules alongside the definition of outdoor living space. My view is that swimming pools fall within the definition of outdoor living space.
604. My view is that the definition of outdoor living space in the Planning Standards is sufficiently broad to include outdoor space at ground level and outdoor space on upper floors, as was contemplated in the definition in the Proposed Plan. My review of the rules in the Proposed Plan that relate to outdoor living courts found that the rules already describe outdoor living space both at, and above ground level. As such, it is not necessary for the definition to do so.

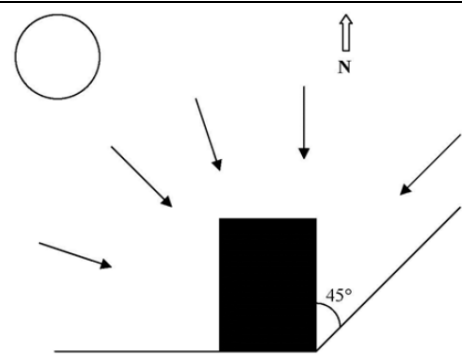
3.38.3 Recommendations

605. I recommend that the definition of ‘outdoor living space’ replace the term ‘living court’ in the Proposed Plan.
606. I recommend that the submission points from Waikato District Council [697.396] and Housing New Zealand Corporation [749.54] are accepted.
607. I recommend that the submission points from Sharp Planning Solutions Ltd [695.73], Greig Developments No.2 Limited [689.32] and the Surveying Company Ltd [746.19] are rejected.

3.38.4 Recommended amendments

608. The following amendments are recommended:

Living Court	Means an area of outdoor space directly related to the living area of a household unit, and for the household's exclusive use. It does not include parking, manoeuvring areas and buildings, but does include swimming pools, pergolas and similar open-framed structures.
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<p><u>outdoor living space</u></p>	 <p>[This diagram is recommended to be deleted]</p> <p><u>means an area of open space for the use of occupants of the residential unit or units to which the space is allocated.</u></p>
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3.38.5 Consequential amendments

609. Adoption of the definition of ‘outdoor living space’ from the Definitions List will require consequential changes to the rules for living courts, including whether the rules should be more specific on how the outdoor living space is calculated. These rules will require consideration in the hearings for Chapters 16 (Residential Zone), 17 (Business Zone), 18 (Business Town Centre Zone), 23 (Country Living Zone), 27 (Te Kowhai Airpark Zone) and 28 (Rangitahi Peninsula Zone).
610. The rules for living courts should also be reviewed to confirm whether living courts (now outdoor living space) should be for the exclusive use of individual units and if so, an amendment made to this effect. A good example of an explicit statement to this effect is in Rule 16.3.7, which states “A living court... is for the exclusive use of the occupants of the dwelling”. The rules which require amendment are: Rules 16.1.3, 17.1.3, 18.1.3, and 28.1.3.
611. The rules for living courts should also be reviewed to confirm whether covered areas can form all or part of an outdoor living space.

3.39 ‘Communal service court’

3.39.1 Introduction

612. The following term is relevant to my analysis:

Communal service court (Proposed Plan)	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 a living court, parking, manoeuvring, or buildings.
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613. The Planning Standards do not define ‘communal service court’.

3.39.2 Submissions

614. There is one submission. It supports the definition and asks for it to be retained as notified.

Submission point	Submitter	Summary of submission
749.37	Housing New Zealand	Retain the definition of Communal Service Court as notified.

3.39.3 Analysis

615. I note the support for the definition of ‘Communal Service Court’ in the Proposed Plan. No other submissions on this definition have been made. The definition provides clarity for the reader.
616. The definition ‘communal service court’ refers to a ‘living court’. I recommend replacing the term ‘living court’ with ‘outdoor living space’ to align with the Planning Standards (see section 3.38 above).
617. As a minor point, I note that the definition in the online version of the Proposed Plan refers to ‘Community Service Court’ instead of ‘Communal service court’. The provisions in the Proposed Plan refer to ‘communal service court’. This appears to be a minor typographical error. The definition in the online version of the Proposed Plan should be amended to refer to ‘communal’ rather than ‘community’ ‘service court’.

3.39.4 Recommendations

618. I recommend that the definition of ‘communal service court’ is retained, as requested by Housing New Zealand [749.37], and that the submission point is accepted. I also recommend amending the definition of ‘communal service court’ to reflect a change from the term ‘living court’ to ‘outdoor living space’, to align with the Planning Standards (as a consequential amendment of my recommendation at 3.38 above).

3.39.5 Recommended amendments

619. The following amendments are recommended:

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 a a living court outdoor living space parking, manoeuvring, or buildings.
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3.39.6 Consequential amendments

620. References to “community service court” in the online version of the Proposed Plan should be replaced by the term “communal service court”. This appears to be a minor typographical error in the drafting of the Proposed Plan.

3.40 ‘Service Court’

3.40.1 Introduction

621. The following term is relevant to my analysis:

Service court (Proposed Plan)	Means an area of outdoor space for the exclusive use of the household unit for domestic requirements, such as garbage storage and clothes line, but excludes any space required for a living court, parking, manoeuvring, or buildings.
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622. The Planning Standards do not define ‘service court’.

3.40.2 Submissions

623. There is one submission. It supports inclusion of the definition and but seeks an amendment to the term living court to reflect a requested change to that defined term.

Submission point	Submitter	Summary of submission
749.61	Housing New Zealand Corporation	Minor amendment to the defined term of living court within the definition. “Service court Means an area of outdoor space for the exclusive use of the household unit for domestic requirements, such as garbage storage and clothes line, but excludes any space required for a living court outdoor living space, parking, manoeuvring, or buildings”.

3.40.3 Analysis

624. I note Housing New Zealand Corporation’s [749.61] support for the inclusion of the definition of ‘Service Court’ in the Proposed Plan. I agree that amending the definition of ‘service court’ to reflect a change from the term ‘living court’ to ‘outdoor living space’, to align with the Planning Standards, is appropriate. As a consequential amendment of adopting the Planning Standards definition of ‘residential unit’ (see section 3.22), I recommend that the term ‘household unit’ is replaced with ‘residential unit’.

3.40.4 Recommendations

625. I recommend that the definition of 'Service court' is amended, as sought by Housing New Zealand [749.61] and that the submission is accepted.

3.40.5 Recommended amendments

626. The following amendments are recommended:

Service Court	<p>Service court</p> <p>Means an area of outdoor space for the exclusive use of the <u>residential household</u> unit for domestic requirements, such as garbage storage and clothes line, but excludes any space required for <u>a living-cour outdoor living space</u>, parking, manoeuvring, or buildings.</p>
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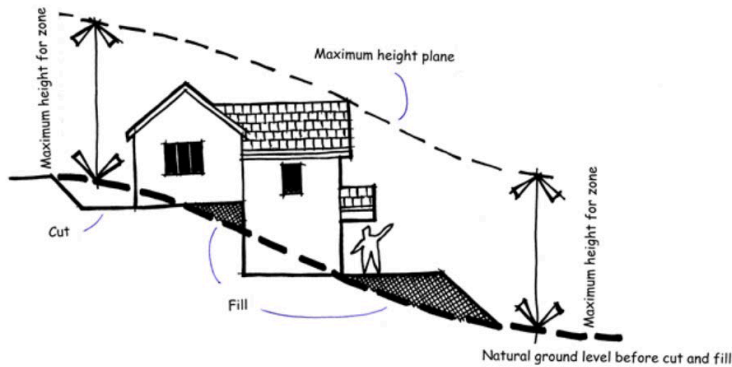
3.40.6 Consequential amendments

627. No consequential amendments are required.

3.41 'Height' and 'ground level'

3.41.1 Introduction

628. The following terms are relevant to my analysis:

Height (Proposed Plan)	<p>Means, in relation to a structure, the vertical distance between any part of the structure and natural ground level immediately below that part of the structure. In determining the height of any building, no account shall be taken of chimneys (not exceeding 1 metre in width) or finials, provided these do not exceed the maximum height for the zone by more than 2 metres.</p> 
height (Planning Standards)	means the vertical distance between a specified reference point and the highest part of any feature, structure or building above that point.
ground level	means—

(Planning Standards)	<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>
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3.41.2 Submissions

629. There are two submissions on the definition of 'height' from Ports of Auckland Limited and Housing New Zealand Corporation. Both submitters request an amendment to the definition to exclude certain structures. Housing New Zealand Corporation seeks clarification about how height is measured on a rolling contour. There are two further submissions.

630. The following submissions were made:

Submission Point	Submitter	Summary of Submission
578.51	Ports of Auckland Limited	<p>Amend the definition of 'height' as follows:</p> <p>"Means, in relation to a structure, the vertical distance between any part of the structure and natural ground level immediately below that part of the structure. In determining the height of any building, no account shall be taken of chimneys (not exceeding 1 metre in width) or finials, provided these do not exceed the maximum height for the zone by more than 2 metres.</p> <p><u>No account shall also be taken of:</u></p> <ul style="list-style-type: none"> • lift wells; • lift towers; • elevator and stair bulkheads; • roof water tanks; • machinery rooms; • plant, including cooling towers, air-conditioning units, including any access walkways and screening directly associated with the plant; • cranes;

		<ul style="list-style-type: none"> • derricks; • reefer gantries; • cargo stacking and lifting devices; • conveyors; • the stacking of cargo; • telecommunications equipment associated with industrial activities; • lighting poles and associated equipment that are ancillary to industrial activities; and • aerials that are ancillary to industrial activities”.
<i>FS1333.22</i>	<i>Fonterra</i>	<i>Support 578.51.</i>
<i>FS1345.1</i>	<i>Genesis Energy Limited</i>	<i>Support 578.51.</i>
749.50	Housing New Zealand Corporation	<p>Amend the definition of ‘height’ to include exclusions and method of measurements.</p> <p>The submitter notes that it has made a submission to the Ministry for the Environment on the draft National Planning Standards and in doing so expressed that the definition of ‘Height’ was overly simplistic and requires a method of measurement to be specified and explained (i.e. rolling height and/or average ground level) as well as contain a list of exclusions.</p> <p>Housing New Zealand supports the proposed definition, however notes there are only one or two exclusions listed and no reference to how height is measured on a hill/rolling contours.</p>

3.41.3 Analysis

631. There are key differences between the definitions of height in the Planning Standards and Proposed Plan.
632. The definition from the Planning Standards applies to structures, buildings and features. The definition in the Proposed Plan relates to structures. The Proposed Plan definition goes on to identify matters that are excluded when determining the height of a buildings.

633. The rules in the Proposed Plan provide height limits for structures, buildings, vegetation and other features such as coal stockpiles. To this end, the definition in the Planning Standards aligns with the way height is managed in the Proposed Plan for buildings and other features, not just structures. My view is that the breadth of the Planning Standards definition provides for buildings, structures and other features, which is consistent with the what the rules in the Proposed Plan intend to manage.
634. Another difference between the Proposed Plan and Planning Standards definitions relates to the points of reference for measurement. The Proposed Plan refers to the vertical distance between “any” part of the structure and natural ground level immediately below that part of the structure. The Planning Standards refer to the vertical distance between a specified reference point and the highest part of any feature, structure or building above that point. The difference is that the Planning Standards determine height at the highest part of the measured object from its specified measuring point, rather than ‘any’ part of the structure, although I expect that was the intended meaning in the Proposed Plan definition.
635. The Proposed Plan identifies the specified reference point as ‘natural ground level’ immediately below the measured part of a structure. Natural ground level is not defined in the Proposed Plan, and is not used consistently in the rules. The Planning Standards include a definition of ‘ground level’, which aligns with use of the term ‘ground level’ in the Proposed Plan. Where terms defined in the Definitions List are used in the same context in a plan, the definition, as defined in the Definitions List, must be used.⁶⁴ For this reason my view is that the Planning Standards definition of ‘ground level’ should be included in Chapter 13.
636. The Proposed Plan definition includes a small list of exclusions that are not included when determining height. The Planning Standards definition of height does not include any exclusions. The exclusions in the Proposed Plan definition cannot be carried over to the definition of ‘height’ from the Planning Standards, but they can be picked up within the rules that use the term ‘height’.
637. I note that the rules for earthworks refer to height. The Planning Standards definition of ‘height’ denotes a vertical distance *upwards* from the measuring point, which is more difficult to apply to cut and fill activities (which may go downwards from, for example, natural ground level). The specific measuring point for earthworks will need to be bottom of any cut or fill.
638. The submissions from Ports of Auckland [578.51] and Housing New Zealand Corporation [749.50] seek to include lists of exclusions from the definition. It is not possible to add a list of exclusions to the Planning Standards definition of height. Rather, any appropriate exclusions need to be addressed within the rules regulating height in the relevant zones.
639. I acknowledge Ports of Auckland’s concern about height controls over a number of aspects of their operations of industrial activities, such as inland freight facilities. A number of the structures that Ports of Auckland seeks to exclude are most closely aligned with industrial

⁶⁴ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

or infrastructure-type activities. These include cranes, derricks, reefer gantries, cargo stacking and lifting devices, conveyors, the stacking of cargo, telecommunications equipment and aerials associated with industrial activities, and lighting poles and associated equipment that are ancillary to industrial activities. In my view, how the height of these structures should be managed is best considered in the hearings which address industrial activities, and the permitted height limits in that zone, as well as the hearings for infrastructure.

640. A second set of structures that Ports of Auckland Limited seeks to exclude may be described as ancillary building features, and these are likely to fall for consideration across most chapters of the Proposed Plan. These structures and buildings include lift wells and towers, elevator and stair shafts, rain water tanks, and machinery rooms and plant such as air-conditioning units. Housing New Zealand has not identified the specific structures it considers appropriate to exclude from this definition. Exclusion of these types of buildings and structures is most appropriately addressed when considering the rules to which the exclusions may apply, rather than in the definition, so that the relevant building heights, height controls and setbacks can be considered at the same time.
641. Housing New Zealand Corporation [749.50] also seeks clarity about how the definition applies to rolling or hill contours. My understanding is that the Planning Standards definition allows for the measurement of height to the highest part of a building above the natural ground level immediately below that part of the building that is being measured. There may be more than one measurement, in particular, in a rolling contour situation.

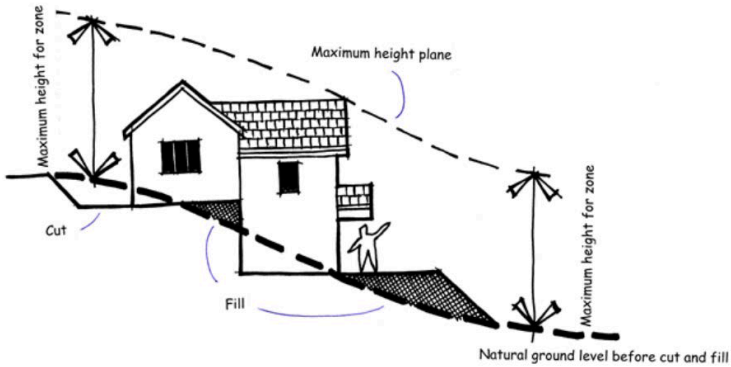
3.41.4 Recommendations

642. I recommend that the definition of 'height' in the Proposed Plan is replaced by the Planning Standards definition of 'height'.
643. I recommend that the submissions from Ports of Auckland Limited [578.51] and Housing New Zealand Corporation [749.50] be given further consideration in the s42A reports for all applicable zones.

3.41.5 Recommended amendments

644. The following amendments are recommended:

Height	Means, in relation to a structure, the vertical distance between any part of the structure and natural ground level immediately below that part of the structure. In determining the height of any building, no account shall be taken of chimneys (not exceeding 1 metre in width) or finials, provided these do not exceed the maximum height for the zone by more than 2 metres.
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<p><u>height</u></p>	 <p>[This diagram is recommended to be deleted]</p> <p>means the vertical distance between a specified reference point and the highest part of any feature, structure or building above that point.</p>
<p><u>ground level</u></p>	<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>

3.41.6 Consequential amendments

645. There are a number of consequential amendments arising from this recommendation.
646. The defined term 'ground level' should be included in Chapter 13.
647. Rules that use the term 'height' in the Proposed Plan must include the specified reference point from which the measurement of height is to be taken. In most cases, this is likely to be 'ground level'. 'Ground level' is defined in the Planning Standards, and this reference point will need to be inserted into the relevant rules to replace the measurement reference point contained in the previous definition. These are rules: 14.2.1, 14.3.1, 14.4.1, 14.5.1, 14.6.1, 14.8.1, 14.9.1, 16.3.3.1, 16.3.3.2, 16.3.3.3, 16.3.4, 16.5.8.2, 16.5.8.8, 17.2.3, 17.2.8, 17.2.7.1, 17.3.1.1, 17.3.1.2, 18.2.7.1, 18.2.8, 18.3.1.1, 19.2.6.1, 19.2.7, 19.3.1, 20.2.7.1, 20.2.8, 20.3.1, 20.3.2, 20.3.3, 20.5.8, 20.5.9, 21.2.7.1, 21.2.8, 21.3.1, 21.3.2, 22.1.2, 22.2.6.1, 22.2.8, 22.3.4.1, 22.3.4.2, 22.3.4.3, 22.3.4.4, 22.5.4, 22.6.4, 22.6.5, 22.6.6, 22.7.1.4, 22.8.2, 23.2.9, 22.8.3, 23.3.4.1, 23.3.4.2, 24.3.3.1, 24.3.3.2, 25.2.7.1, 25.3.1.1, 25.3.1.3, 25.5.2.1, 26.2.4, 26.3.2, 27.2.12, 27.2.15, 27.3.1, 28.1.3, 28.3.3.
648. Rules for earthworks will need to be considered separately. The specified reference point used to measure a cut or fill area will need to be the bottom of the cut or fill area. The

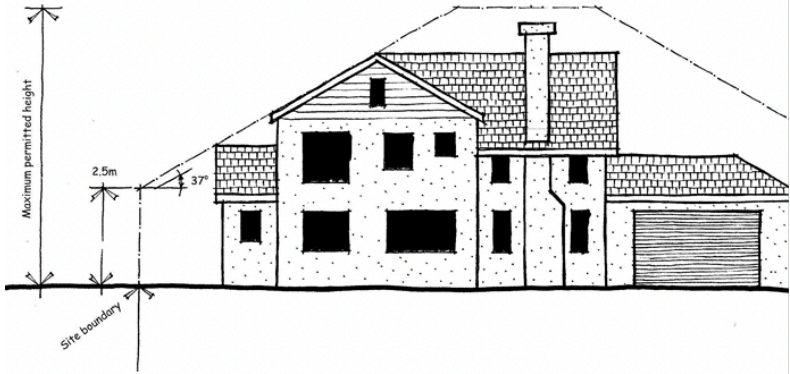
following earthworks rules should be reviewed to provide a specified reference point for earthworks height: Rules: 14.3.1, 14.3.3, 14.4.1, 14.12.2, 16.2.4.1, 16.2.4.4, 16.5.7.2, 17.2.5.1, 18.2.4.1, 18.2.5, 19.2.4, 20.2.5.1, 20.2.5.3, 21.2.5.1, 21.2.5.3, 22.2.3.1, 22.2.3.3, 22.2.3.4, 22.7.13, 23.2.3, 23.2.3.1, 23.2.3.4, 24.2.4.1, 24.2.4.4, 25.2.4.1, 25.2.4.4, 26.2.5, 27.2.10, 28.2.4.1.

649. The rules that use the term 'height' will need to include a list of structures that are excluded from the height rule. To be consistent with the Proposed Plan exclusions, this should include chimneys not greater than 1m in width, and finials, provided they do not exceed 2m in height.

3.42 'Height control plane' and 'height in relation to boundary'

3.42.1 Introduction

650. The following terms are relevant to my assessment:

<p>Height control plane</p> <p>(Proposed Plan)</p>	<p>Means a surface through which no part of a building other than chimneys, flues and similar projections not exceeding 2 metres in height and 1 square metre in area may protrude. It is defined by drawing height control lines from all points on the boundaries of an allotment or unit site area. Such lines commence at a specified vertical distance above the natural ground level at the boundary, point into the site at right angles to the boundary, and rise at an angle of 37 degrees.</p> 
<p>Height in relation to boundary</p> <p>(Planning Standards)</p>	<p>means the height of a structure, building or feature, relative to its distance from either the boundary of a:</p> <ul style="list-style-type: none"> a. site, or b. other specified reference point.

3.42.2 Submissions

651. There are six submissions on the definition of 'height control plane'. Ports of Auckland Limited supports the definition. Five submitters oppose the use of referenced angle degrees within the definition.

652. The following submissions were made:

Submission Point	Submitter	Summary of Submission
578.52	Ports of Auckland Limited	In support. Retain the definition as notified.
689.31	Greig Developments No 2 Limited	Amend the definition of 'height control plane' to rise at an angle of 45 degrees rather than 37 degrees.
695.68	Sharp Planning Solutions	Amend the definition of 'height control plane' to consider slopes and to use the 45 degree plane angle rather than 37 degrees. The submitter also stated that the height control plane needs to be subservient to building height from the ground and setbacks.
697.392	Waikato District Council	Amend the definition of 'height control plane' as follows: "Means a surface through which no part of a building other than chimneys, flues and similar projections not exceeding 2 metres in height and 1 square metre in area may protrude. It is defined by drawing height control lines from all points on the boundaries of an allotment <u>site</u> , or in <u>the case of a cross-lease it is boundary of the exclusive area</u> unit site area. Such lines commence at a specified vertical distance above the natural ground level at the boundary, point into the site at right angles to the boundary, and rise at an angle of 37 degrees <u>the specified angle</u> ". The submitters reasons are that "there are various angles for the height control planes within the rules so it is not appropriate for the definition to contain a specified angle".
746.9	The Surveying Company	Amend the definition of 'height control plane' and the illustration within it to refer to an angle of 45 degrees. Such lines commence at a specified vertical distance above the natural ground level at the boundary, point into the site at right angles to the boundary, and rise at an angle of 37 <u>45</u> degrees.
749.51	Housing New Zealand Corporation	The submitter opposes the angle degrees reference in the definition and seeks it is amended to align with changes sought to the daylight admission rules. The amendments sought are as follows: "Height control plane Means a surface through which no part of a building other than chimneys, flues and similar projections not exceeding 2 metres in height and 1 square metre in area may protrude. It is defined by drawing height control lines from all points on the boundaries of an allotment or unit site area. Such lines commence at a specified vertical distance above the natural ground level at the boundary, point into the site at right angles to the boundary, and rise at an angle of 37 degrees.

		<p><u>Recession Plane</u></p> <p><u>Means the height of a building or structure relative to its distance from the boundary of the site.</u></p> <p><u>The allowable height increases as the distance from the boundary increases up to the maximum height allowed.</u></p> <p><u>The Recession Plane is measured by lines that proceed at a prescribed angle (e.g. 45 degrees) from the horizontal, measured from any point at a prescribed height (e.g. 2m) vertically above ground level along site boundaries. The angle of the recessions plan and the height of the starting point vary by Zone.</u></p> <p><u>This control does not apply to chimneys, finials, or other similar decorative features flues and ventilation shafts, antennas, satellite dishes with a diameter not exceeding 0.6m, flagpoles or any other similar projections not exceeding 2 metres in height and 1 square metre in area."</u></p>
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3.42.3 Analysis

653. The Proposed Plan manages height in relation to boundary through 'height control planes' specified in daylight admission rules. The Planning Standards use the term 'height in relation to boundary'. These concepts are synonymous.
654. Waikato District Council [697.392] notes that there are various angles for height control planes within the daylight admission rules. This means that the definition managing height in relation to boundary does not need to include a specified angle. The term 'height in relation to boundary' from the Definitions Standard deliberately does not include a metric reference, to allow territorial authorities to provide the appropriate angles within the provisions of their plans, the intention being that those angles are to be contained within rules.
655. Specific submitter concerns (about a reference angle of 37 degrees being inappropriate) (Sharp Planning Solutions [695.68], Greig Developments No 2 Limited [689.31] and The Surveying Company [746.9]) will therefore need to be addressed within the s42A report on the relevant daylight admission rules.
656. Waikato District Council [697.392] seeks changes to specific rules for a cross-lease site. These changes relate to the definition of 'site'. My understanding is that the relief that Waikato District Council seeks through this change can be managed if the rules are amended to ensure that the reference point for measuring height in relation to boundary is the 'boundary' rather than the 'site'. This is because the definition of 'boundary' contemplates the exclusive area of a cross-lease property, unlike the definition of 'site', which refers to the whole of a site subject to the cross-lease.
657. The 'height in relation to boundary' definition in the Planning Standards does not include any exclusions. To carry over the exclusions from the definition of 'height control plane' in the Proposed Plan, the daylight admission rules will need to be amended to clarify that the rules do not apply to chimneys, flues or other similar projections that do not exceed 2m in height,

and 1m² in area. As with the previous issue, these changes are most appropriately addressed in the s42A report that addresses the relevant rules.

658. Housing New Zealand Corporation [749.51] suggested a change of term from 'height control plane' to 'recession plane'. Adopting the Planning Standards definition of 'height in relation to boundary' means this change cannot be accepted. The definition in the Definitions List must be used.
659. Housing New Zealand Corporation [749.51] seeks more exclusions from the application of this definition, and I accept that there is merit in clarifying more precisely what a 'similar projection' may include. Again however, I consider that this is most appropriately addressed when considering the rules to which the exclusions may apply, rather than in the definition itself.
660. Finally, Sharp Planning Solutions submits [695.68] that the height in relation to boundary rules should be subservient to height and building setback rules. This is a matter for the s42A report for the relevant zone chapters, as it relates to the operation of rules rather than definitions.

3.42.4 Recommendations

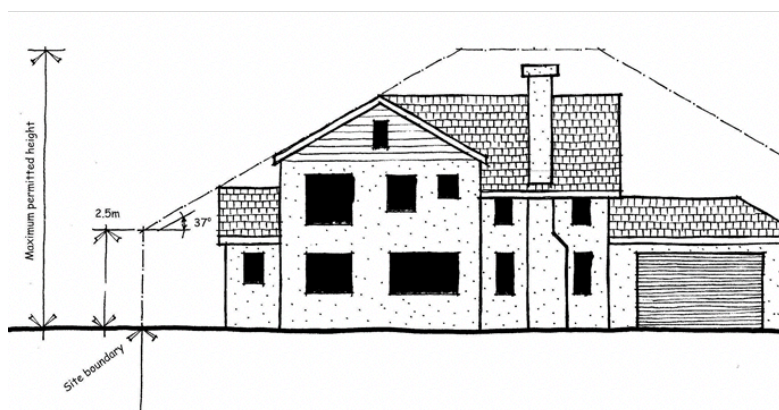
661. I recommend that the definition of 'height control plane' is replaced by the Planning Standards definition of 'height in relation to boundary'.
662. I recommend that the submissions from Waikato District Council [697.392] is accepted in part, and that the submissions from Ports of Auckland Limited [578.52], the Surveying Company [746.9], Greig No.2 Developments Limited [689.31] and Sharp Planning Solutions [695.68] are rejected.
663. I recommend that the submission from Housing New Zealand Corporation [749.51] be given further consideration in the s42A reports for all applicable zones.

3.42.5 Recommended amendments

664. The following amendments are recommended:

Height control plane	Means a surface through which no part of a building other than chimneys, flues and similar projections not exceeding 2 metres in height and 1 square metre in area may protrude. It is defined by drawing height control lines from all points on the boundaries of an allotment or unit site area. Such lines commence at a specified vertical distance above the natural ground level at the boundary, point into the site at right angles to the boundary, and rise at an angle of 37 degrees.
<u>height in relation to boundary</u>	<u>means the height of a structure, building or feature, relative to its distance from either the boundary of a:</u> <u>a. site, or</u>

b. other specified reference point.



[This diagram is recommended to be deleted.]

3.42.6 Consequential amendments

665. There are consequential amendments that will arise across the Proposed Plan from this recommendation. Firstly, I recommend replacing the term 'height control plane' in the daylight admission rules with the term 'line'. My reason for this is to avoid using a term ('height control plane') which is used in the same context as 'height in relation to boundary'. In my view, the term 'line' properly denotes the concept of a height control plane in the context of the relevant rules. This change affects the following rules: 16.3.5, 16.5.8.4, 17.3.2, 17.5.5, 18.3.2, 19.3.3, 20.3.3, 21.3.3, 22.3.5, 22.7.1.4, 23.3.5, 24.3.4, 25.3.2, 26.3.3, 27.3.2, 28.3.4.
666. Secondly, the daylight admission rules identified above should be reviewed to check that the reference point for the height control plane is 'boundary' rather than 'site boundary'.
667. Thirdly, I suggest that the heading 'daylight admission' and specific references to that term in the rules are replaced with the term 'height in relation to boundary', to provide consistency of terminology across the Proposed Plan. The affected headings and rules are: 16.3.5, 16.3.9.1, 16.4.7, 16.5.8.4, 17.3.2, 17.5.1, 17.5.5, 18.3.2, 19.3.3, 20.3.3, 20.4.2, 21.3.3, 21.4.2, 22.3.5, 22.4.2, 22.7.1.4, 22.8.2, 23.3.5, 23.3.7.1, 23.4.4, 24.3.4, 24.3.6.1, 24.4.5, 25.3.2, 26.3.3, 27.3.2, 28.3.4, 28.3.9.1.

3.43 'Earthworks'

3.43.1 Introduction

668. The following terms are relevant to my 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.
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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, <i>cultivation</i> , 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.

3.43.2 Submissions

669. Ten submission points were received on the definition of 'earthworks' (and 14 further submissions). Seven submitters request an amendment, while the remaining three submitters support the proposed definition.

670. The following submissions were made:

Submission point	Submitter	Summary of submission
418.2	Ethan Findlay	Rule 22.2.3.1 renders typical farming activities unsustainable, given the need to carry out many of the farming activities listed below on areas greater than 2000m per annum. This rule does not appear to allow common rural activities or other effects of areas over 2000m per annum. Amend the definition of "earthworks" in Chapter 13 so that it excludes common farming practices such as cropping, paddock contouring, drainage improvement and planting. OR Amend Rule 22.2.3.1 P2(i) Earthworks General to increase the area and volumes permitted. AND Amend other parts of the plan as necessary to give effect to the relief sought.
FS1388.160	Mercury	<i>Oppose 418.2: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
418.3	Ethan Findlay	The submitter considers that Rule 22.2.3.1 P2(a)(iii) contradicts P1(a)(iii), the latter of which permits earthworks for tracks, fences or drains. It is therefore unclear what earthwork activities are permitted within a 1.5m boundary setback. Amend the definition of "earthworks" to exclude common farming practices OR Amend Rule 22.2.3.1 P2(a)(iii) Earthworks - General to not apply to earthworks commonly carried out within 1.5m of boundaries such as planting, fencing, digging drains, tracks etc. AND Amend other parts of the plan as necessary to give effect to the relief sought.
FS1388.161	Mercury	<i>Oppose 418.3: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

197.31	NZ Pork	Amend the definition for "Earthworks" in Chapter 13 Definitions to include the following: <u>"burying of material infected by unwanted organisms as declared by Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993"</u> . The plan should identify this to avoid delay in responding to a biosecurity threat.
FS1168.91	Horticulture New Zealand	Support 197.31 <i>The submitter seeks the amendment of the definition for "Earthworks" in Chapter 13 Definitions to include the following: burying of material infected by unwanted organisms as declared by Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993. The plan should identify this to avoid delay in responding to a biosecurity threat.</i>
FS1277.129	Waikato Regional Council	Support <i>The amendments allow for the management of biosecurity issues.</i>
405.10	Counties Power Limited	Amend the definition of "earthworks" in Chapter 13 Definitions, to clarify as to whether all forms of earthworks are included in the definition e.g. thrusting/drilling. Thrusting and drilling as forms of trenchless excavation should not be included in the definition of 'earthworks'.
FS1176.63	Watercare Services Ltd	Supports 405.10. Watercare supports this submission as further clarification of the definition will assist with the provision of infrastructure.
FS1323.104	Heritage New Zealand Pouhere Taonga	Opposes 405.10. HNZPT considers that thrusting and drilling could have adverse effects on cultural and archaeological sites.
419.118	Horticulture New Zealand	The definition should exclude ancillary rural earthworks. There needs to be provision to enable a rapid response to biosecurity matters. Burying of plant material is one means of a biosecurity response and was applied during the PSA incursion on kiwifruit. Add the words: <u>"but excludes ancillary rural earthworks and burying of plant material that is infected by an unwanted organism as declared by the Ministry of Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993"</u> .
FS1098.13	NZ Pork Industry Board	Support <i>A permitted activity status and the exclusion of ancillary rural earthworks from the definition of earthworks is supported but should be amended to manage biosecurity responses.</i>
FS1323.105	Heritage New Zealand Pouhere Taonga	Oppose

		<i>HNZPT is concerned that by specifically excluding ancillary rural earthworks from the earthworks definition that these earthworks could occur within a Maaori Site or Area of Significance without the need for assessment.</i>
559.288	Heritage New Zealand Lower Northern Office	The submitter suggests the following amendment: “... <u>Ancillary rural earthworks and earthworks for landscaped areas and gardens or the stockpiling of coal are exempt</u> ” and supports the definition, as all earthworks within sites and areas of significance to Maaori are subject to resource consent. AND Amend rules to ensure earthworks are being assessed as a restricted discretionary activity should they occur in sites and areas of significance to Maaori.
581.43	Synlait Milk Ltd	Retain the definition of "Earthworks" in Chapter 13 Definitions as notified.
FS1341.60	Hynds Pipe Systems Limited	<i>Support</i> <i>This submission supports the industrial strategic growth node along McDonald Road and in particular the importance of appropriate land to enable heavy industrial use. Importantly the submission seeks to protect the location of Heavy Industrial Zone land from encroachment by sensitive activities and proposal for residential re-zoning.</i> <i>Hynds supports the submission as it relates to these matters because it is also concerned that rezoning of land adjacent to the Heavy Industrial land will create reverse sensitivity effects on the existing and proposed industrial business operations.</i> <i>Ensuring there is no encroachment by sensitive activities on the heavy industrial land is the most appropriate way for the Council to exercise its functions and to ensure the efficiency and effectiveness of the proposed plan provisions.</i>
680.131	Federated Farmers of New Zealand	The definition of ‘earthworks’ should clearly exclude Ancillary Rural Earthworks, lest the latter get needlessly caught up in a resource consent process which is triggered by the former. Add the words “ <u>but does not include Ancillary Rural Earthworks</u> ”.
FS1168.92	Horticulture New Zealand	<i>Support 680.131</i> <i>Seeks additional clarity that ‘ancillary rural earthworks’ are a different activity from earthworks for the purposes of this Plan.</i>
FS1275.9	Zeala Limited trading as Aztech Buildings	<i>Support 680.131</i> <i>The specific exclusion of ancillary rural earthworks from the definition of earthworks will remove confusion as to the need for consent for ancillary rural earthworks.</i>
FS1323.189	Heritage New Zealand Pouhere Taonga	<i>Oppose 680.131</i>

		<i>HNZPT is concerned that by specifically excluding ancillary rural earthworks from the earthworks definition that these earthworks could occur within a Maaori Site or Area of Significance without the need for assessment.</i>
697.382	Waikato District Council	Provide additional clarity that ancillary rural earthworks are a different activity from earthworks for the purposes of this Plan. Add the words: <u>"This does not apply to ancillary rural earthworks"</u> .
FSI168.94	Horticulture New Zealand	Support 697.382 <i>Seeks additional clarity that ancillary rural earthworks are a different activity from earthworks for the purposes of this Plan.</i>
FSI323.106	Heritage New Zealand Pouhere Taonga	Oppose 697.382 <i>HNZPT is concerned that by specifically excluding ancillary rural earthworks from the earthworks definition that these earthworks could occur within a Maaori Site or Area of Significance without the need for assessment.</i>
FSI333.20	Fonterra	Support 697.382 <i>For the reasons stated in the submission.</i>
749.46	Housing New Zealand Corporation	The submitter notes that the draft National Planning Standards proposed a definition for Earthworks and Land Disturbance. The submitter has made a submission to the Ministry for the Environment on the draft National Planning Standards and in doing so expressed that the definition of a Earthworks needs to include a number of exclusions. The submitter generally supports the proposed definition, however notes there are no exclusions listed. Amend definition to include exclusions (doesn't state these).
FSI134.29	Counties Power	Support 749.46 <i>This aligns with Counties Power's submission to exclude thrusting and drilling as they are forms of trenchless excavation which have minimal impact on the surface of the land. This definition will also match the draft National Planning Standards.</i>
785.36	Oil Companies	Supports the definition. Retain the definition for "earthworks" in Chapter 13: Definitions without further modification.
FSI350.51	Transpower New Zealand Limited	Support 785.36 <i>The submission point is supported as the proposed plan definition of earthworks assists in plan interpretation and application and appropriately covers the range of activities covered by earthworks.</i>
836.9	Powerco	Retain the definition of "Earthworks" in Chapter 13: Definitions as notified.

3.43.3 Analysis

671. The term ‘earthworks’ is defined in the Definitions Standard and is used in the same context as the term in the Proposed Plan. I therefore recommend that the Planning Standards definition is adopted. As a consequence of adopting this term, the Planning Standards definition of ‘cultivation’ will also need to be adopted.
672. Turning to the submissions, Ethan Findlay [418.2 and 418.3] considers that Rule 22.3.2.1 ‘Earthworks – General’ renders typical farming activities unsustainable and that P2 (a) (iii) (earthworks) contradicts P1 (a)(iii) (ancillary rural earthworks). He seeks changes to these rules, or alternatively, amendments to the definition of ‘earthworks’ to include common farming practices. By adopting the Planning Standards definition, the consideration of any additional exclusions will fall to the rules⁶⁵. However, the relief sought may be partly met by the exclusions included in the Planning Standards definition, which include cultivation and installation of fence posts. Any further exclusions requested, e.g. ‘paddock contouring’ and ‘drainage improvement’ are best considered by the s42A authors for the Rural Zone and Country Living Zone hearings.
673. NZ Pork [197.31] and Horticulture New Zealand [419.118] have requested an exclusion from the definition for burying of material under the Biosecurity Act 1993. Again, this exclusion for biosecurity purposes should be considered in the context of the rules, and is not possible under the Planning Standards definition⁶⁶. This is an issue that should be considered by the s42A authors for the Rural and Country Living Zones hearings.
674. Horticulture New Zealand [419.118] have also requested an exclusion for ‘ancillary rural earthworks’ (as have Federated Farmers of New Zealand [680.131] and Waikato District Council [697.382]) from the definition of ‘earthworks’. As it is not possible to include an exclusion in a Planning Standards definition, the general rule of interpretation must be relied on. That is, where a more specific term is defined, it is that term that applies. A definition of ‘ancillary rural earthworks’ is included in the Proposed Plan and Rule 22.3.1 Earthworks – General in the Rural Zone and Rule 23.2.3.1 Earthworks – General in the Country Living Zone both state that ‘Ancillary Rural Earthworks’ are a permitted activity. Therefore, the relief sought is already set out in the Plan.
675. Heritage New Zealand [559.288], [FS1323.105], [FS1323.189], [FS1323.106] is concerned that an exclusion for ‘ancillary rural earthworks’ from the definition of ‘earthworks’ could result in ancillary rural earthworks occurring within a Maaori Site or Area of Significance without the need for assessment. However, the original submission from Heritage New Zealand - Lower Northern Office [559.288] indicates that they support an exclusion for ancillary rural earthworks, (along with earthworks for landscaping, gardening and the stockpiling of coal) so it is not clear which position is preferred. The Planning Standards definition includes an exclusion for gardening but not the stockpiling of coal. However,

⁶⁵ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

⁶⁶ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

stockpiling of coal would not fall within the Planning Standards definition of earthworks as it is not soil, clay, sand or rock. Any amendment to the rules within a site and area of significance to Maaori should be considered by the section 42A author for the Hearing on Maaori Sites of Significance.

676. Counties Power Limited [405.10] have requested the exclusion of ‘thrusting and drilling’ in the definition, on the basis that these are forms of trenchless excavation which should not be included in the definition of earthworks. It is not clear whether ‘excavation’ includes thrusting and drilling⁶⁷. For the avoidance of doubt, such an exclusion is best considered in the context of the rules in the Infrastructure and Energy Zone, by the s42A author for this hearing.
677. Housing New Zealand Corporation [749.46] state that they submitted on the draft definition of earthworks in the Planning Standards but expressed concern that that definition required a number of exclusions. Several exclusions are now included in the adopted Planning Standards definition, but the submission does not state which exclusions they supported. The relief sought may be met by the final Planning Standards definition.
678. Overall, I consider that the Planning Standards definition is appropriate and that any necessary exclusions or refinements to the control of earthworks activities is best addressed through the Plan’s policies and rules. Exclusions cannot be made to the Definitions Standard definition.

3.43.4 Recommendations

679. I recommend that the definition of ‘earthworks’ in the Proposed Plan is replaced by the Planning Standards definition.
680. I recommend that the submissions from Ethan Findlay [418.2 and 418.3] and Housing New Zealand Corporation [749.46] are accepted in part.
681. I recommend that the submissions from Heritage New Zealand Lower Northern Office [559.288], Synlait Milk Ltd [581.43], Oil Companies [785.36], Powerco [836.9], Waikato District Council [697.382] and Federated Farmers of New Zealand [680.131] are rejected.
682. I recommend that the submissions from Ethan Finlay [418.2 and 418.3], NZ Pork [197.31] and Horticulture New Zealand [419.118] be given further consideration in the Rural Zone hearings.

⁶⁷ The authors of the Recommendations on Submissions report noted that “... we do not recommend excluding subsurface activities (e.g., trenching and laying of pipes) from the definition. Controls and limits on these activities are sometimes required to mitigate effects on water quality or natural hazard risks and therefore it is appropriate these activities are included within the definition of earthworks” (see 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, pg 84).

683. I recommend that the submission from Counties Power Limited [405.10] be given further consideration in the Infrastructure hearing.

3.43.5 Recommended amendments

The following amendments are recommended:

Earthworks <u>earthworks</u>	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. <u>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.</u>
<u>cultivation</u>	<u>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.</u>

3.43.6 Consequential amendments

684. There are consequential amendments arising from this recommendation, in particular, the adoption of the Planning Standards definition of ‘cultivation’. Rule 14.4.1 Permitted Activities P3 ‘Earthworks activities within the National Grid’ states that (b) ‘earthworks undertaken as part of agricultural or domestic cultivation’ are exempt from Rules 14.4.1.3(1) and (2). This wording can be removed if the Planning Standards definitions for earthworks and cultivation are adopted.
685. I note that the term ‘cultivation’ is used in the Proposed Plan definition of ‘ancillary rural earthworks’ and that there is some overlap between the Definitions Standard definition of ‘cultivation’ and the Proposed Plan definition of ‘ancillary rural earthworks’. By adopting the Definitions Standard definition of ‘cultivation’, it will be necessary to amend the definition of ancillary rural earthworks to remove this overlap (or amend ‘rural ancillary earthworks’, whichever of those two synonymous definitions is retained). (My recommendation is that ‘ancillary rural earthworks’ is the definition that is retained). Submissions on the definition of ‘ancillary rural earthworks’ have been allocated for consideration in the Rural Zone hearings. They should also be considered by the s42A author for the Country Living Zone hearing.

3.44 ‘Industrial activity’

3.44.1 Introduction

686. The following terms are relevant to my analysis:

Industrial Activity (Proposed Plan)	Means the production, processing, bulk moving or storage in bulk of any materials, goods or products: Production includes: (a) manufacturing; and (b) assembly from components. Processing includes: (a) repair; (b) servicing; (c) maintenance; and (d) assembly of materials, goods or product. Bulk storage includes: (a) warehousing
Industrial Activity (Planning Standards)	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 <i>ancillary activity</i> to the industrial activity.

3.44.2 Submissions

687. Five submission points were received on the definition of ‘industrial activity’ (and six further submissions). All but two submitters requested that the definition be modified and/or expanded.

688. The following submissions were made:

Submission point	Submitter	Summary of submission
402.10	Tuakau Proteins Limited	<p>Tuakau Protein Limited does not consider that the definition of ‘Industrial activity’ is adequately described. Being an activity that has been changed from located in the Business to Industrial Zone, it is interpreted that Tuakau Protein Limited would therefore fit within the Rural Industry and subsequently the Industrial Activity definitions to ensure consistency.</p> <p>Amend the definition of ‘Industrial Activity’ as follows (or words to similar effect): “Means the production, processing, bulk moving or storage in bulk of any materials, goods or products: Production includes:</p> <p>(a) manufacturing; and (b) assembly from components.</p> <p>Processing includes:</p> <p>(a) repair; (b) servicing; (c) maintenance; and (d) assembly of materials, goods or product.</p>

		<p>Bulk storage includes:</p> <p>(a) warehousing.</p> <p><u>Rural industry activities are included within the definition of industrial activity".</u> OR</p> <p>Amend policies such as Policy 4.1.10 Tuakau that only mention "industrial activity" to also refer to "rural industry" (or words to similar effect). AND</p> <p>Any consequential amendments and/or additional relief to give effect to the concerns raised in the submission.</p>
543.2	Fellrock Developments Limited and TTT Products Limited	<p>Supports the inclusion of a definition for industrial activities. This definition needs to be expanded to include activities that are accessory or incidental to the primary industrial activities such as fuel tanks, lunch rooms, etc.</p> <p>Amend the definition of 'industrial activity' in Chapter 13 Definitions, as follows: Means the production, processing, bulk moving or storage in bulk of any materials, goods or products: <u>and other accessory activities: ...</u></p>
FS1388.751	Mercury	<i>Oppose 543.2: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
578.54	Ports of Auckland Limited	Retain the definition of 'Industrial activity' in Chapter 13 Definitions as notified.
FS1388.855	Mercury	<i>Oppose 578.54: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
581.20	Synlait Milk Ltd	<p>The definition in the Proposed District Plan is too limiting and does not take account of ancillary activities associated with industrial activities. The definition in the Proposed District Plan is inconsistent with the Draft National Planning Standard.</p> <p>Amend the definition of "industrial activity" in Chapter 13 Definitions to be consistent with the definition proposed in the Draft National Planning Standard. OR Amend the definition of "industrial activity" in Chapter 13 Definitions to include <u>ancillary activities such as research facilities, laboratories, yard-based activities, logistics and transport related activities.</u></p>
FS 1306.31	Hynds Foundation	<p>Support 581.20</p> <p><i>Hynds Foundation support amendment of the definition in accordance with the National Planning Standards. Hynds Foundation agree Industrial Activities definition is too limiting. The Industrial Zone provisions need to provide and enable these activities otherwise the</i></p>

		<i>alternative is these activities seek to establish in inappropriate areas such as the Rural Zone.</i>
<i>FS 1345.59</i>	<i>Genesis Energy Ltd</i>	<i>Support 581.20 For the reasons provided in the Synlait Milk submission and subject to the exact wording of the amendments.</i>
<i>FS 1341.37</i>	<i>Hynds Pipe Systems Limited</i>	<i>Support 581.20 This submission supports the industrial strategic growth node along McDonald Road and in particular the importance of appropriate land to enable heavy industrial use. Importantly the submission seeks to protect the location of Heavy Industrial Zone land from encroachment by sensitive activities and proposal for residential re-zoning. • Hynds supports the submission as it relates to these matters because it is also concerned that rezoning of land adjacent to the Heavy Industrial land will create reverse sensitivity effects on the existing and proposed industrial business operations. • Ensuring there is no encroachment by sensitive activities on the heavy industrial land is the most appropriate way for the Council to exercise its functions and to ensure the efficiency and effectiveness of the proposed plan provisions.</i>
<i>821.4</i>	<i>The Poultry Association of New Zealand, Brinks NZ Chicken, The Egg Producers Federation</i>	<i>Due to the effects, poultry hatcheries can be an activity provided for in the Rural or Industrial Zones. Amend the definition of "Industrial activity" in Chapter 13 Definitions, as follows: Means the production, processing, bulk moving or storage in bulk of any materials, goods or products <u>and includes poultry hatcheries</u>: Production includes:</i>
<i>FS1265.44</i>	<i>Mainland Poultry Limited</i>	<i>Support the intent of the submission as poultry hatcheries activities include processing and bulk storage of eggs and chicks in a manner that is consistent with industrial activities.</i>

3.44.3 Analysis

689. The Definitions Standard includes a definition of ‘industrial activity’, which is used in the same context as the term used in the Proposed Plan. I therefore recommend that the Planning Standards definition is adopted⁶⁸. The inclusion of ‘ancillary activity’ in this definition would meet the relief sought by Fellrock Developments Limited and TTT Products Limited [543.2]. I note that the final definition of ‘industrial activity’ in the Planning Standards is not the same as the draft definition, which Synlait Milk Ltd [581.20] indicated that they

⁶⁸ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

preferred. However, the relief sought in relation to ancillary activities should partially satisfy that submitter. I note that the Planning Standards definitions are mandatory⁶⁹.

690. By adopting the Definitions Standard definition, the definition of 'rural industrial activities' becomes a subset of 'industrial activity'. However, to fully meet the relief sought by Tuakau Proteins Ltd [402.10] in relation to the policies, I would recommend that this submission point is further considered and addressed by the s42A author for the Industrial Zone hearing.
691. In relation to the submission regarding poultry hatcheries from The Poultry Association of New Zealand, Brinks NZ Chicken, and The Egg Producers Federation [821.4], the Planning Standards definition does not provide for such specificity. In any event, I consider that this is an activity which is best considered in the Rural, Industrial or Heavy Industrial Zones hearings, so that the effects of providing for such an activity can be considered and addressed in the rule framework. If necessary, a definition of poultry hatcheries could be included in the Plan, alongside any rules. I understand that there is a submission point requesting a definition of 'poultry hatcheries' [746.12] which is being considered in Hearing 21A.

3.44.4 Recommendations

692. I recommend that the definition of 'industrial activity' is replaced with the corresponding Planning Standards definition.
693. I recommend that the submissions from Tuakau Proteins Limited [402.10] and Synlait Milk Ltd [581.20] are accepted in part, in that the Planning Standards definition is proposed for adoption, which would encompass such activities.
694. I recommend that the submission from Fellrock Developments Limited and TTT Products Limited [543.2] is accepted in part, in that the relief sought will be met by the Planning Standards definition being adopted.
695. I recommend that the submissions from Ports of Auckland Limited [578.54] and The Poultry Association of New Zealand, Brinks NZ Chicken, and The Egg Producers Federation [821.4] are rejected.

3.44.5 Recommended amendments

696. The following amendments are recommended:

Industrial activity	Means the production, processing, bulk moving or storage in bulk of any materials, goods or products: Production includes: (a) manufacturing; and
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⁶⁹ Ibid.

industrial activity	<p>(b) assembly from components.</p> <p>Processing includes:</p> <p>(a) repair;</p> <p>(b) servicing;</p> <p>(c) maintenance; and</p> <p>(d) assembly of materials, goods or product.</p> <p>Bulk storage includes:</p> <p>(a) warehousing.</p> <p><u>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.</u></p>
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3.44.6 Consequential amendments

697. The Planning Standards definition of ‘ancillary activity’ will also need to be adopted as a result of using the Planning Standards definition of ‘industrial activity’. This is addressed in section 3.44 of this report.

3.45 ‘Aggregate Extraction Area’

3.45.1 Introduction

698. The following term is relevant to my analysis:

Aggregate Extraction Area (Proposed Plan)	Means an area identified on the planning maps.
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699. The term is not defined in the Planning Standards.

3.45.2 Submissions

700. One original submission point was received on the definition of ‘Aggregate Extraction Area’ from John Rowe (and three further submissions). John Rowe suggests amendment of the definition so that it refers to the consented extraction area, rather than the title boundary of the subject site.

701. The following submissions were made:

Submission point	Submitter	Summary of submission
922.16	John Rowe	The submitter has stated that some resource consent applications involving an Aggregate Extraction Area have been incorrectly assessed by Council staff and expensive legal opinions have had

		<p>to be sought in order to confirm how the separation distance is to be calculated.</p> <p>Amend Rule 22.3.7.2 Building setback - sensitive land use, by adding text to P1 (a) (iv) and (v) to confirm that the specified separation distances are measured from the identified Aggregate Extraction Area rather than the title boundaries that contain this extraction area. OR Amend the definition of 'Aggregate Extraction Area' in Chapter 13: Definitions so that it refers to the consented extraction area, rather than the title boundary of the subject site.</p>
FS1292.81	McPherson Resources Limited	<p>Support 922.16</p> <p><i>Mineral and aggregate extraction is an important activity that can only occur on sites where the resource is present. Therefore, it is important that sensitive activities be setback appropriately to avoid reverse sensitivity effects.</i></p> <p><i>McPherson agree that it is not necessary that the setback be measured from the boundary of the title. However, given the importance of the industry, it is appropriate that sensitive land uses be setback from the boundary of the identified Aggregate Extraction Area overlay to provide for new extraction activities and expansion of existing activities. Furthermore, the protection provided by a setback should be applied to existing extraction activities that are not within the Aggregate Extraction Area. It is noted that the Aggregate Extraction Area overlay has not been applied to McPherson's existing quarry operations. This relief is sought as per submission point 691.9.</i></p>
FS1334.84	Fulton Hogan Limited	<p>Oppose 922.16</p> <p><i>Mineral and aggregate extraction is an important activity that can only occur on sites where the resource is present. Therefore, it is important that sensitive activities be setback appropriately to avoid reverse sensitivity effects.</i></p> <p><i>Fulton Hogan agree that it is not necessary that the setback be measured from the boundary of the title. However, given the importance of the industry, it is appropriate that sensitive land uses be setback from the boundary of the identified Aggregate Extraction Area overlay to provide for new extraction activities and expansion of existing activities. Furthermore, the protection provided by a setback should be applied to existing extraction activities that are not within the Aggregate Extraction Area.</i></p>
FS1387.1477	Mercury	<p>Oppose 922.16: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</p>

1.1.1 Analysis

702. The submitter John Rowe [922.16] has raised an issue about how the rules in the Proposed Plan are interpreted, in particular how a separation distance from an 'Aggregate Extraction Area' is calculated. I appreciate the need for clarity, however at present the definition is silent on this issue. Amending the text of the definition would therefore have a bearing on the interpretation of those rules. If this submission has merit, then any change should be in the wording of the relevant rules, not the definition. I consider that this issue is more appropriately dealt with by the S42A author for the Rural Zone hearing.

3.45.3 Recommendations

703. For the reasons set out above, it is provisionally recommended that the definition for 'Aggregate Extraction Area' is retained as notified, until such time as the submission is given further consideration in the Rural Zone hearing.
704. I recommend that the submission from John Rowe [922.16] is rejected.

3.45.4 Consequential Amendments

705. No consequential amendments are required.

3.46 'Mineral extraction and processing', 'Aggregate Extraction Activities' and 'Extractive Industry'

706. The following terms are relevant to my analysis:

Mineral extraction and processing (Proposed Plan)	Means the excavation, blasting, processing (crushing, screening, washing and blending), storage, distribution and sale of mineral products and includes ancillary activities such as earthworks, landscaping and rehabilitation works (including cleanfill) and treatment of stormwater and wastewater, together with ancillary buildings and structures (including caretaker's accommodation).
Aggregate extraction activities (Proposed Plan)	Means those activities associated with aggregate extraction, including: (a) aggregate excavation, blasting, processing (crushing, screening, washing and blending); (b) the storage, distribution and sale of aggregates by wholesale to industry or by retail; (c) ancillary earthworks; (d) the removal and deposition of overburden; (e) treatment of stormwater and wastewater; (f) landscaping and rehabilitation works including cleanfilling; (g) ancillary buildings and structures; and

	(h) residential accommodation necessary for security purposes.
Extractive industry (Proposed Plan)	<p>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.</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>

707. These terms are not defined in the Planning Standards.

3.46.1 Submissions

708. Six original submission points (and 24 further submissions) were received. The following submissions were made:

Submission point	Submitter	Summary of submission
691.1	McPherson Resources Limited	<p>There are three different definitions in the PDP covering a range of extractive industries: aggregate extraction activities, mineral extraction and processing, and the extractive industry. This adds unnecessary confusion that can be avoided by removing the superfluous definitions and retaining only one for “mineral and aggregate extraction activities” as proposed.</p> <p><u>“Mineral and Aggregate Extraction Activities Means those activities associated with mineral and aggregate extraction, including:</u></p> <p><u>(a) Excavation, blasting, processing (crushing, screening, washing and blending);</u></p> <p><u>(b) The storage, distribution and sale of minerals and aggregates by wholesale to industry or by retail;</u></p> <p><u>(c) Ancillary earthworks;</u></p> <p><u>(d) The removal and deposition of overburden;</u></p> <p><u>(e) Treatment of stormwater and wastewater;</u></p>

		<p><u>(f) Landscaping and rehabilitation work, including cleanfilling;</u></p> <p><u>(g) Ancillary buildings and structures; and</u></p> <p><u>(h) Residential accommodation necessary for security purposes.</u></p>
FS1319.22	New Zealand Steel Holdings Limited	Support 691.1. NZS's original submission (point 827.28, 827.29 and 827.50) has also sought amendments to these definitions to reduce duplication and inconsistency. 'Mineral extraction and processing,' 'Aggregate Extraction Activities' and 'Extractive Industry' are all defined in the Proposed District Plan. There is overlap between the terms and creates potential for confusion and inconsistency.
FS1334.11	Fulton Hogan Limited	Supports 691.1. Support the intent of the submission point to ensure there is a definition that provides for all activities undertaken at a quarry or other extractive industry. We note that there is confusion created by the overlap in the definitions for "Aggregate Extraction Activities", "Extractive Industry" and "Mineral and Extraction and Processing."
FS1146.7	Gleeson Quarries Huntly Limited on behalf of	Supports 691.1. We seek that part of the submission is allowed. It is supported that the different definitions are merged into a single definition, but we recommend that the extractive activities as listed by Submission 591.7 is included in the definition.
Extractive industry		
827.50	New Zealand Steel Holdings Ltd	<p>'Mineral extraction and processing', 'Aggregate Extraction Activities' and 'Extractive Industry' are all defined in the Proposed District Plan. There is overlap between the terms and creates potential for confusion and inconsistency. Definitions need to be streamlined. There is no clear reasons for distinguishing between aggregate and mineral extraction activities and therefore it is considered that it is more efficient to regulate and assess those activities jointly.</p> <p>Keep a definition of 'extractive industry' but rename to 'extractive activity' and broaden to cover sand mining, quarrying, coal mining and other extractive-type activities as well as key associated activities.</p> <p><u>"Extractive Activity: 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.</u></p> <p><u>The term includes:</u></p> <ul style="list-style-type: none"> 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.

		<ul style="list-style-type: none"> • removal, stockpiling and filling of overburden source from the same site. • all activities and structures associated with underground coal gasification, including pilot and commercial plants and the distribution of gas. • excavation, blasting, processing (crushing, screening, washing and blending). • ancillary earthworks. • storage, management and disposal of tailings. • treatment of stormwater and wastewater. • landscaping and rehabilitation works including cleanfilling. • ancillary buildings and structures. • residential accommodation necessary for security purposes. <p><u>The term excludes prospecting and exploration activities.</u></p> <p>AND Any other further or consequential amendments required.</p>
FS1198.42	Bathurst Resources Limited and BT Mining Limited	<i>Supports 827.50. The plan is confusing with several overlapping definitions for the same or similar activities. There needs to be a rationalisation of definitions into a single one for extractive activities.</i>
FS1292.18	McPherson Resources Limited	<i>Supports 827.50. Support the submission as there is confusion created by the overlap in the definitions for "Aggregate Extraction Activities," "Extractive Industry" and "Mineral and Extraction and Processing."</i>
FS1334.18	Fulton Hogan Limited	<i>Supports 827.50. Support the submission as there is confusion created by the overlap in the definitions for "Aggregate Extraction Activities," "Extractive Industry" and "Mineral and Extraction and Processing."</i>
FS1342.234	Federated Farmers	<i>Supports 827.50: FFNZ agrees there are definitions in the plan that need to be streamlined to avoid duplication and confusion. With regards to these activities FFNZ's concern is to ensure any new definition does not inadvertently capture farm quarries.</i>
591.7	Stevenson Waikato Ltd	<p>The definition does not include all the activities commonly carried out at a quarry or other extractive industry.</p> <p>Amend the definition as follows:</p>

		<p>“Extractive industry</p> <p>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. 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. The term also includes the removal, stockpiling and filling of overburden sourced from the same site <u>and the following activities:</u></p> <ul style="list-style-type: none"> • blasting; • storing, distributing and selling mineral products; • accessory earthworks; • treating storm water and waste water; • landscaping and rehabilitation of quarries; • clean fills and managed fills; • recycling or reusing aggregate from demolition waste such as concrete, masonry, or asphalt; • accessory activities and accessory buildings and structures such as weighbridges, laboratories and site offices. <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>
FS1146.8	Gleeson Quarries Huntly Limited	<i>We seek that the whole of the submission is allowed in order to enable the efficient operation of extractive industries and all associated activities.</i>
FS1292.10	McPherson Resources Limited	<i>Support intent of submission to ensure there is a definition that provides for all activities undertaken at a quarry or other extractive industry. We note that there is confusion created by the overlap in the definitions for "Aggregate Extraction Activities," "Extractive Industry" and "Mineral and Extraction and Processing."</i>
FS1334.10	Fulton Hogan Limited	<i>Support the intent of the submission point to ensure there is a definition that provides for all activities undertaken at a quarry or other extractive industry. We</i>

		<i>note that there is confusion created by the overlap in the definitions for "Aggregate Extraction Activities," "Extractive Industry" and "Mineral and Extraction and Processing."</i>
FS1377.170	Peri Unthank	<i>As an alternative to residential zoning, HVL seeks that land it controls be rezoned as Aggregate Extraction Zone. HVL supports amendments that provide greater flexibility for extractive industries.</i>
680.133	Federated Farmers of New Zealand	Farm quarries should be excluded from the definition of Extractive Industry, consistent with our relief sought in relation to the definition of Ancillary Rural Earthworks. Add to end of the first sentence " <u>... but does not include a Farm Quarry...</u> "
697.384	Waikato District Council	<p>This term is covered by three definitions (aggregate extraction activities, extractive industry and mineral extraction and processing) which would be more efficiently rationalised into one.</p> <p>Amend the definition of "Extractive industries" as follows: 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. <u>This may include one or more of the following:</u></p> <p><u>(a) blasting, processing (crushing, screening, washing, chemical separation and blending);</u></p> <p><u>(b) the storage, distribution and sale of aggregates by wholesale to industry or by retail;</u></p> <p><u>(c) the removal, stockpiling and deposition of overburden;</u></p> <p><u>(d) treatment of stormwater and wastewater;</u></p> <p><u>(e) landscaping and rehabilitation works including cleanfilling;</u></p> <p><u>(f) ancillary buildings and structures;</u></p> <p><u>(g) a single residential unit for security purposes; and</u></p> <p><u>(h) internal roads and access tracks</u></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. The term also includes the removal, stockpiling and filling of overburden sourced from the same site. 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. It does not include a farm quarry or ancillary rural earthworks. AND Replace aggregate extraction activities and mineral extraction and processing with the term "Extractive industries" throughout the rules of the Proposed District Plan.</p>

FS1198.43	Bathurst Resources Limited and BT Mining Limited	<p>Not Stated</p> <p>The plan is confusing with several overlapping definitions for the same or similar activities. There needs to be a rationalisation of definitions into a single one for extractive activities.</p> <p>The proposed deletions from the definitions are opposed and should be reinstated.</p>
FS1291.18	Havelock Village Limited	<p>Support</p> <p>As an alternative to residential zoning, HVL seeks that land it controls be rezoned as Aggregate Extraction Zone. HVL supports amendments that provide greater clarity and flexibility for extractive industries.</p>
FS1292.12	McPherson Resources Limited	<p>Support</p> <p>Support the submission as there is confusion created by the overlap in the definitions for "Aggregate Extraction Activities," "Extractive Industry" and "Mineral and Extraction and Processing."</p>
FS1319.30	New Zealand Steel Holdings Limited	<p>Support</p> <p>NZS's original submission (points 827.28, 827.29 and 827.50) has also sought amendments to these definitions to reduce duplication and inconsistency.</p> <p>NZS notes that "earthworks" associated with Extractive Activities/Industries need to be clearly provided for, either in the definition or the rules.</p> <p>The Waikato District Council's proposed amended definition excludes "ancillary rural earthworks" but potentially introduces confusion about whether earthworks associated with Extractive Activities/Industries are included or not. This needs to be made clear in the definition or the rules.</p>
FS1323.108	Heritage New Zealand Pouhere Taonga	<p>Oppose</p> <p>HNZPT is concerned that with the exclusion of farm quarries from the defined term Extractive Industries, they can no longer be subject to assessment and this may result in adverse effects to cultural and archaeological sites.</p>
FS1333.21	Fonterra	<p>Support</p> <p>For the reasons stated in the submission.</p>
FS1334.12	Fulton Hogan Limited	<p>Support</p> <p>Support the submission as there is confusion created by the overlap in the definitions for "Aggregate Extraction Activities," "Extractive Industry" and "Mineral and Extraction and Processing."</p>
FS1342.179	Federated Farmers	<p>Support</p> <p>Support is extended to the exclusion of farm quarries and earthworks.</p>
FS1377.219	Perri Unthank	<p>Support</p>

		<i>As an alternative to residential zoning, HVL seeks that land it controls be rezoned as Aggregate Extraction Zone. HVL supports amendments that provide greater clarity and flexibility for extractive industries.</i>
860.18	Aggregate and Quarry Association (AQA) and Straterra	<p>Amend the definition of "Extractive Industry" in Chapter 13 Definitions to include all the activities associated with the extraction and processing of minerals. It should explicitly include:</p> <ul style="list-style-type: none"> • blasting; • storing, distributing and selling mineral products; • accessory earthworks; • treating storm water and waste water; • landscaping and rehabilitation; • clean fills and managed fills; • recycling or reusing aggregate from demolition waste such as concrete, masonry, or asphalt; • accessory activities and accessory buildings and structures such as weighbridges, laboratories and site offices.
FS1292.19	McPherson Resources Limited	<p><i>Support</i></p> <p><i>Support intent of submission to ensure there is a definition that provides for all activities undertaken at a quarry or other extractive industry. We note that there is confusion created by the overlap in the definitions for "Aggregate Extraction Activities," "Extractive Industry" and "Mineral and Extraction and Processing."</i></p>
FS1319.38	New Zealand Steel Holdings Limited	<p><i>Support</i></p> <p><i>NZS's original submission (points 827.28, 827.29 and 827.50) has also sought amendments to this definition to reduce duplication and inconsistency.</i></p>
FS1332.18	Attention: Tyler Sharratt	<p><i>Support</i></p> <p><i>The submission point reflects the matters that affect the aggregate industry as a whole.</i></p>
FS1334.19	Fulton Hogan Limited	<p><i>Support</i></p> <p><i>Support the intent of the submission point to ensure there is a definition that provides for all activities undertaken at a quarry or other extractive industry. We note that there is confusion created by the overlap in the</i></p>

		definitions for "Aggregate Extraction Activities," "Extractive Industry" and "Mineral and Extraction and Processing."
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3.46.2 Analysis

709. I agree with the submitters (McPherson Resources Limited [691.1], New Zealand Steel Holdings Ltd [827.50] and Waikato District Council [697.384]) that there is substantial overlap between these three definitions. The term “extractive industry” is used in the rules, the other terms only appear once each, in a policy context⁷⁰ (see below). The submitters suggest that one term is needed. The Waikato District Council’s [697.384] preference is that the term ‘extractive industry’ is retained, and the other terms are deleted. I agree with this on the basis that this is the term used in the rules and it appears that the policies are intended to refer to the same activity. New Zealand Steel Holdings [827.50] has recommended that ‘extractive industry’ is renamed ‘extractive activity’. I agree that this would be more consistent with other defined terms in the Proposed Plan (e.g. ‘industrial activity’, ‘commercial activity’ etc) and prefer this wording. I recommend that the definitions of ‘aggregate extraction activities’ and ‘mineral extraction and processing activities’ are deleted.
710. Two submitters (McPherson Resources Limited [691.1] and New Zealand Steel Holdings Ltd [827.50]) have asked for the inclusion of the term ‘excavation’ in the newly-combined term. I consider that this would be appropriate, on the basis that it could be an important part of any extractive activity and was included in the two definitions which are recommended for deletion.
711. McPherson Resources Limited [691.1] and Stevenson Waikato Ltd [591.7] have requested that the storage, distribution and sale of aggregates by wholesale to industry or by retail is extended to include minerals. I consider that this is fair, given that the definition of ‘extractive industry’ is intended to cover both minerals and aggregates activities, and that such activities were also covered by the definition of ‘mineral extraction and processing activities’.
712. McPherson Resources Limited [691.1] and New Zealand Steel Holdings Ltd [827.50] have requested the inclusion of “ancillary earthworks” within the definition and Stevenson Waikato Ltd [591.7] has requested “accessory earthworks”. I consider that this could potentially be problematic for the application of the rules, as it would not be possible to distinguish what was ancillary from what was the principal activity. I also consider that a resource consent for such activities would be likely to incorporate earthworks, such that it would not be necessary to list ‘ancillary earthworks’ in the definition. However, I do note that ancillary earthworks is included in the definitions which are proposed for deletion. There is a further submission from New Zealand Steel Holdings [FS1319.30] on this point, which states that Waikato District Council’s [697.384] proposed amended definition excludes “ancillary rural earthworks” but potentially introduces confusion about whether

⁷⁰ The term ‘Aggregate extraction activities’ appears in Policy 5.3.15 - noise and vibration. ‘Mineral extraction and processing activities’ appears in Policy 5.3.7 – reverse sensitivity.

other ancillary earthworks associated with extractive activities/industries are included or not.

713. I agree that there is a level of inconsistency in the Councils approach between the definitions put forward in the Proposed Plan and the Council submission. It would assist me, and the Panel, if the submitters, including the Council, could provide evidence to explain the practical implications of the inclusion or exclusion of ancillary earthworks from this definition. My preliminary opinion is that ancillary earthworks should be included within the definition, provided that the rules controlling the activity take into account the effects of the ancillary earthworks (which I understand will be the case because the rules require resource consent for 'extractive industry' as a discretionary activity).
714. McPherson Resources Limited [691.1] and New Zealand Steel Holdings Ltd [827.50] have requested that the wording from the definition of 'aggregate extraction activities' in relation to "residential accommodation necessary for security purposes" is retained. Waikato District Council has requested in their submission that "a single residential unit for security purposes" is included within the definition. I note that this relief sought is consistent with their submission to provide for 'caretakers accommodation' in the Proposed Plan.
715. I consider that "residential accommodation necessary for security purposes" is not particularly precise, and could potentially enable residential development in close proximity to industrial uses, thereby creating unwanted reverse sensitivity issues. I prefer the Council's submission [697.384], which provides some certainty and enforceability, but acknowledge that this wording is included in the definition of "aggregate extraction activities". Overall however, I think this is an issue which is better addressed through the rules. For example, a rule which states that a single residential unit is allowed as a permitted activity within a site used for an extractive activity, subject to the following standards.
716. New Zealand Steel Holdings Ltd [827.50] have requested the inclusion of "storage, management and disposal of tailings" in the definition. My understanding is that there are often chemical processes associated with the management and disposal of tailings. These activities potentially go beyond the effects anticipated in the extractive process, but would be considered through the consent process. My initial recommendation is to reject this, but I consider that this is a matter which should be given further consideration in the Rural, Industrial and Heavy Industrial zone hearings, by those s42A authors.
717. Stevenson Waikato Ltd [591.7] have requested the inclusion of "accessory activities and accessory buildings and structures such as weighbridges, laboratories and site offices". I consider that 'weighbridges, laboratories and site offices' would fall within the definition of 'ancillary buildings and structures', however I do not see any harm in including these. I do not think it is necessary to include the word 'accessory activities', as I consider that these activities are already captured by the broad range of activities described in the definition.
718. Stevenson Waikato Ltd [591.7] has also sought that 'managed fills' are included alongside 'clean fills'. 'Cleanfill' is currently defined in the Proposed Plan, and I have recommended elsewhere in this report that the definition of 'cleanfill' is amended to reflect the definition of 'cleanfill material' in the Planning Standards (which is of a higher environmental standard). My

understanding is that 'managed fill', does not meet the higher standards of 'cleanfill material'. Again, my initial recommendation is to reject this, but I consider that this proposed addition is a matter which should be given further consideration in the Rural, Industrial and Heavy Industrial zone hearings, by those s42A authors.

719. Stevenson Waikato Ltd [591.7] has sought that "recycling or reusing aggregate from demolition waste such as concrete, masonry, or asphalt" is included in the definition. However, I consider that this activity may result in the use of different equipment, and increased traffic movements to and from the site, beyond what would be anticipated by extractive activities. From my review of the three existing definitions, I do not consider that such activities were envisaged as being included. My interim recommendation therefore, is to not broaden the definition in this manner.
720. Waikato District Council [697.384] and several other submitters have sought inclusion of the term 'blasting'. This seems appropriate in the context of this activity.
721. Federated Farmers of New Zealand [680.133] and Waikato District Council [697.384] have both sought that the definition exclude farm quarries, and the Council also wishes to see ancillary rural earthworks excluded. I agree with these submitters that the definition should not capture these activities, as they are of a different scale and level of effects. However, as discussed above, New Zealand Steel Holdings Ltd have raised an important point in their further submission, in that Waikato District Council's proposed amended definition excludes "ancillary rural earthworks" but potentially introduces confusion about whether earthworks associated with Extractive Activities/Industries are included or not.
722. New Zealand Steel Holdings Ltd [827.50] request that the wording 'at or near the site where the minerals have been taken, won or excavated' is retained in the definition. I do not think that this wording adds any further meaning to the definition. Likewise, I do not consider it is necessary to retain the wording "for sale by wholesale or retail", and prefer the more simple wording put forward by Stevenson Waikato Ltd [591.7] and Aggregate and Quarry Association (AQA) and Straterra [860.18], which appears in the definition of 'aggregate extraction activities and 'mineral extraction and processing'.
723. I am aware that by retaining just one of three definitions, and incorporating aspects of the other definitions in that definition, I am potentially broadening the scope of the rules. For that reason, I consider that the implications of my interim recommendations for this definition should be given further consideration and deliberation in the zone hearings for the Rural, Industrial and Heavy Industrial zones.

3.46.3 Recommendations

724. I recommend that the definitions of 'aggregate extraction activities' and 'mineral extraction and processing activities' are deleted. My interim recommendation is that the definition of 'extractive industry' is retained and renamed 'extractive activity' with the amendments set out below.

725. I recommend that the submissions from McPherson Resources Limited [691.1], New Zealand Steel Holdings [827.50], Stevenson Waikato Ltd [591.7], Aggregate and Quarry Association (AQA) and Straterra [860.18] and Waikato District Council [697.384] are accepted in part.
726. I recommend that the submission from Federated Farmers of New Zealand [680.133] is accepted.

3.46.4 Recommended amendments

727. The following amendments are recommended:

Aggregate extraction activities	<p>Means those activities associated with aggregate extraction, including:</p> <ul style="list-style-type: none"> (a) aggregate excavation, blasting, processing (crushing, screening, washing and blending); (b) the storage, distribution and sale of aggregates by wholesale to industry or by retail; (c) ancillary earthworks; (d) the removal and deposition of overburden; (e) treatment of stormwater and wastewater; (f) landscaping and rehabilitation works including cleanfilling; (g) ancillary buildings and structures; and (h) residential accommodation necessary for security purposes.
Extractive activity industry	<p>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. <u>This may include one or more of the following:</u></p> <ul style="list-style-type: none"> <u>(a) excavation, blasting, processing (crushing, screening, washing, chemical separation and blending);</u> <u>(b) the storage, distribution and sale of aggregates and mineral products;</u> <u>(c) the removal, stockpiling and deposition of overburden;</u> <u>(d) treatment of stormwater and wastewater;</u> <u>(e) landscaping and rehabilitation works including cleanfilling;</u> <u>(f) ancillary earthworks;</u> <u>(g) ancillary buildings and structures, such as weighbridges, laboratories and site offices; and</u> <u>(h) internal roads and access tracks.</u> <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>

	<u>It does not include a farm quarry or ancillary rural earthworks.</u>
<u>Mineral extraction and processing</u>	<u>Means the excavation, blasting, processing (crushing, screening, washing and blending), storage, distribution and sale of mineral products and includes ancillary activities such as earthworks, landscaping and rehabilitation works (including cleanfill) and treatment of stormwater and wastewater, together with ancillary buildings and structures (including caretaker's accommodation).</u>

3.46.5 Consequential Amendments

728. There will be consequential amendments arising from this recommendation. The reference in Policy 5.3.15 – Noise and Vibration, clause (a)(vii), to ‘aggregate extraction activities’ should be deleted and replaced with “extractive industry”. The reference in Policy 5.3.7 – Reverse sensitivity effects to “existing mineral extraction and processing activities” in clause (a)(iii) should be replaced with “existing extractive mineral extraction and processing activities”.

3.47 ‘Blasting’

3.47.1 Introduction

729. The following terms are relevant to my analysis:

Blasting (Proposed Plan)	Means the detonation of a single explosive charge or a series of connected explosive charges within a regular array of blast-holes. The detonation of a group of regularly-spaced explosive charges within a period of less than ten seconds is counted as one blast.
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3.47.2 Submissions

730. One original submission point (and one supporting further submission) was received on the definition of ‘Blasting’.

731. The following submission was made:

Submission point	Submitter	Summary of submission
695.58	Sharp Planning Solutions Ltd	While there may be a legal definition of blasting, it is considered the definition should include an irregular array of blast holes as well, because the potential and actual effect of both, is likely to be very similar. The potential and actual effect of both irregular and regular blast holes is likely to be similar.
FS1285.1	Terra Firma Mining Limited	<i>Support</i> <i>TFM agrees that the potential and actual effect of both irregular and regular blast holes is likely to be similar.</i>

3.47.3 Analysis

732. The submitter Sharp Planning Solutions Ltd [695.58] considers that the effects of irregular and regular blast holes is likely to be similar. I have sought technical advice on this issue from Red Bull Powder Company Ltd. They have advised me that there is little difference whether the blast hole array has regular or irregular spacing or whether the explosives in the hole are regularly or irregularly spaced, as a poorly prepared shot can still give a poor blast outcome, i.e. overpressure or excessive noise, fly rock, etc. The array of the blast holes, or explosive in the blast holes, does not always determine the blast outcome or effect. They advise that the definition is revised to just “an array of blast holes”. I recommend that such an amendment would meet the relief sought by the submitter.

3.47.4 Recommendations

733. For the reasons outlined above it is recommended that the definition of ‘Blasting’ is amended.
734. The submission from Sharp Planning Solutions Ltd is accepted.

3.47.5 Recommended amendments

Blasting	Means the detonation of a single explosive charge or a series of connected explosive charges within an regular array of blast-holes. The detonation of a group of regularly-spaced explosive charges within a period of less than ten seconds is counted as one blast.
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3.47.6 Consequential Amendments

735. No consequential amendments are required.

3.48 ‘Mineral’

3.48.1 Introduction

736. The following term is relevant to my analysis:

Mineral (Proposed Plan)	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 – including coal, precious stones, industrial rocks and building stone, and a prescribed substance within the meaning of the Atomic Energy Act 1945.
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737. That term is not defined in the Planning Standards.

3.48.2 Submissions

738. One original submission point (and one further submission in support) was received on the definition of 'Mineral'. The submitter suggests amendment to cross-reference the Crown Minerals Act 1991.
739. The following submissions were made:

Submission point	Submitter	Summary of submission
827.31	New Zealand Steel Holdings Ltd	'Coal Mining Area' is separately defined and includes reference to the Crown Minerals Act 1991. This approach is supported and therefore it is proposed that the definition of 'minerals' should cross reference the Crown Minerals Act 1991. Amend the definition of "Mineral" in Chapter 13: Definitions to cross-reference the Crown Minerals Act 1991.
FSI 198.44	Bathurst Resources Limited and BT Mining Limited	<i>Support</i> <i>It is appropriate to cross-reference the definition of "mineral" to the Crown Minerals Act.</i>

3.48.3 Analysis

740. The term 'mineral' appears in the plan in relation to commentary on 'mineral resources' in the introduction to the Proposed Plan, in policies in the Rural Environment chapter, and in rules relating to the Huntly Power Station in the Rural Zone (Rules 22.6.2 and 22.6.8). Submitter New Zealand Steel Holdings Ltd [827.31] states that the definition of 'Coal Mining Area' in Chapter 13 of the Proposed Plan does not provide a cross-reference to the Crown Minerals Act 1991. I appreciate that if a definition from an Act is used, the definition should be referenced, to prevent confusion. I note that the definition in the Proposed Plan is more or less identical, with some inconsistencies. If it was the Council's intention to replicate the definition in the Crown Minerals Act 1991, then I agree with the submitter that the definitions should be consistent and a cross-reference should be included.

3.48.4 Recommendations

741. I recommend that the definition is amended to reflect that set out in section 2 of the Crown Minerals Act 1991, and that reference is made to the Crown Minerals Act 1991.
742. The submission from New Zealand Steel Holdings Ltd [827.31] is accepted.

3.48.5 Recommended amendments

743. The following amendments are recommended:

Mineral	<u>Has the same meaning as in section 2 of the Crown Minerals Act 1991.</u> 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 —including coal, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945.
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3.48.6 Consequential amendments

744. No consequential amendments are required.

3.49 'Clean fill' and 'fill material'

3.49.1 Introduction

745. The following terms are relevant to my analysis:

Cleanfill (Proposed Plan)	Means inert material such as concrete, brick or demolition products (excluding asphalt) and other inorganic materials which may be mixed with materials of natural origin, such as clay, soil, sand, aggregate (rock). When buried will have no adverse effect on people or the environment, and is free of: (a) combustible, decaying, putrescible, degradable or leachable components; (b) contamination from hazardous substances; (c) materials likely to create leachate by biological or chemical breakdown; (d) products or materials derived from the treatment, disposal or stabilisation of hazardous waste; (e) materials that may present a risk to human or animal health such as medical and veterinary materials; and/or (f) liquid waste.
Cleanfill material (Planning Standards)	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.

Fill material (Proposed Plan)	Means material used for filling activities including soil, clay or aggregate.
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746. Fill material is not defined in the Planning Standards.

3.49.2 Submissions

747. Five submission points were received on the definition of 'Cleanfill' (and one further submission), and three submission points on the definition of 'Fill material'.

748. The following submissions were made:

Submission point	Submitter	Summary of submission
Cleanfill		
548.3	Grander Investments Limited	Support the inclusion of a definition of cleanfill. Amend definition to define what material can be used for cleanfill activities (e.g. re-contouring for roads and building platforms) to minimise risk of contamination of land and water from the use of inappropriate material. Definition of cleanfill is inconsistent with the national technical document for waste management in New Zealand - WasteMINZ Technical Guidelines for Disposal to Land. Different cleanfill standards can lead to inconsistencies between the Regional and District council acceptance criteria. The proposed District Plan definition of cleanfill is more akin to 'Controlled Cleanfill' in the WasteMINZ guidelines. See submission for full comparison of the definitions. Amend the definition of "cleanfill" in Chapter 13 Definitions, to be more consistent with WasteMINZ definition.
746.6	The Surveying Company	Cleanfill is distinct from other waste given the low risk for contamination of land, water and air. Unlike other 'waste', cleanfill can be used to re-contouring for roads and building platforms. It is therefore important to define what material can be used for these activities to minimise the risk of contamination of land and water from the use of inappropriate material. The definition of cleanfill in the Proposed Plan is inconsistent with the leading national technical document for waste management in New Zealand - WasteMINZ Technical Guidelines for Disposal to Land. Different cleanfill standards can lead to inconsistencies between the Regional and District Council acceptance criteria and require different levels of monitoring/testing. The definition

		<p>in the Proposed Plan is more akin to 'Controlled Cleanfill' in the WasteMINZ guidelines.</p> <p>Amend the definition of "clean fill" in Chapter 13: Definitions to be consistent with the WasteMINZ definition as follows:</p> <p>“Virgin excavated natural materials (VENM) such as clay, soil and rock that are free of:</p> <ul style="list-style-type: none"> combustible, putrescible, degradable or leachable components; hazardous substances or materials (such as municipal solid waste) likely to create leachate by means of biological breakdown; products or materials derived from hazardous waste treatment, stabilisation or disposal practices; materials such as medical and veterinary waste, asbestos, or radioactive substances that may present a risk to human health if excavated; contaminated soil and other contaminated materials; and liquid waste. <p>When discharged to the environment, clean fill material will not have a detectable effect relative to the background”.</p>
723.8	Winstone Aggregates	Retain the definition as notified.
81.241	Waikato Regional Council	<p>The definition for 'cleanfill' does not fully align with the latest sector guidelines from WasteMINZ Technical Guidelines for Disposal to Land (August 2018). Currently the definition specifically limits cleanfill to that which has no adverse effects on people or the environment. This should be removed from the definition, with the rule framework providing the basis for managing effects of cleanfill.</p> <p>Amend the definition for "Cleanfill" in Chapter 13: Definitions to reflect the definition in WasteMINZ Technical Guidelines for Disposal to Land (August 2018).</p>
302.49	EnviroWaste New Zealand Limited	<p>Amend the definition for "Clean Fill" in Chapter 13 Definitions to be consistent with the clean fill Material definition in the WasteMINZ Technical Guidelines for Disposal to Land. This reads:</p> <p>Clean Fill Material Virgin excavated natural materials (VENM) such as clay, soil and rock that are free of:</p> <ul style="list-style-type: none"> - combustible, putrescible, degradable or leachable components; - hazardous substances or materials (such as municipal solid waste) likely to create leachate by means of biological breakdown; - products or materials derived from hazardous waste treatment, stabilisation or disposal practices;

		<ul style="list-style-type: none"> - materials such as medical and veterinary waste, asbestos, or radioactive substances that may present a risk to human health if excavated; - contaminated soil and other contaminated materials; and - liquid waste <p>When discharged to the environment, clean fill material will not have a detectable effect relative to the background.</p> <p>AND Amend the Proposed District Plan to make consequential amendments or additional amendments to address the matters raised.</p>
FS1374.5	Zeala Limited	<p><i>Support</i></p> <p><i>It is noted that Fill Material is also defined leading to possible confusion, particularly where the definition seems exclusive of material that could be used for filling. A more inclusive definition/s is required than in the Proposed Waikato District Plan.</i></p>
fill material		
281.16	Aztech Buildings	Clarify that the list is not inclusive - other materials could be fill, such as sand. Amend the definition of "Fill Material" in Chapter 13: Definitions as follows: Means material used for filling activities including, but not limited to, materials such as sand, soil, clay or aggregate.
524.30	Anna Noakes	Clarify that the list is not inclusive - other materials could be fill, such as sand. Retain definition of "Fill material" except for the amendments sought below AND Amend the definition of "Fill material" as follows: Means material used for filling activities including, but not limited to, materials such as sand, soil, clay or aggregate.
598.20	Withers Family Trust	<p>The list of allowable fill materials needs to be expanded and should include sand.</p> <p>Amend the definition of "Fill material" as follows: Means material used for filling activities including, but not limited to, materials such as sand, soil, clay or aggregate.</p>

3.49.3 Analysis

749. The term 'cleanfill' is used frequently in the Proposed Plan. The term 'fill material' is also used in a number of rules. The Planning Standards provide a definition of 'cleanfill material'. As this term is used in the same context in the Proposed Plan, I consider that it should be adopted now.

750. The submitters have requested a number of amendments to the definitions of ‘cleanfill’ and ‘fill material’. The authors of the Planning Standards Recommendations on Submissions Report describe in some detail how they arrived at a definition of ‘cleanfill material’. They considered a number of definitions, including the WasteMINZ definition from the ‘Technical Guidelines for Disposal to Land (2018)⁷¹’, the Auckland Unitary Plan definition and the definition from the ‘A Guide to the Management of Cleanfills’ (2002) prepared by MfE⁷². The WasteMINZ definition in particular, is preferred by the submitters Grander Investments Limited [548.3], The Surveying Company [746.6], Waikato Regional Council [81.241], EnviroWaste New Zealand Limited [302.49].
751. The Planning Standards ultimately adopted a term which is more consistent with that proposed by WasteMINZ. As such, the Planning Standards definition should satisfy the submitters’ requests for a definition which more closely follows the WasteMINZ guidelines. I recommend that this definition is adopted.
752. It appears from my reading, that the term ‘fill material’ in the Proposed Plan, is more likely to be consistent with ‘cleanfill’ as per the definition set out in the Planning Standards. I consider that the term ‘fill material’ should be deleted from the definitions and from the rules, and the term ‘cleanfill material’ used in replacement. This will require a number of consequential amendments.
753. The Surveying Company [746.6] have submitted that the definition of ‘cleanfill’ in the Proposed Plan is more closely aligned with the definition of ‘controlled fill material’ in the WasteMINZ Guidelines. The further submission from Zeala Limited [FS1 370.5] also raises a valid issue regarding confusion with the definition of ‘fill material’. I consider it appropriate to replace use of the term ‘cleanfill’ in the Proposed Plan with the definition of ‘controlled cleanfill’ in the WasteMINZ Guidelines (with exception of the words “with maximum specified” ...concentrations’, as these are not specified in the rules), and to make consequential amendments to the Plan to reflect this. This would more closely preserve the intent of the Proposed Plan provisions.

3.49.4 Recommendations

754. I recommend that the Planning Standards definition of ‘cleanfill material’ replaces ‘cleanfill’ in Chapter 13 and the definition for ‘controlled cleanfill material’ in the WasteMINZ is adopted in Chapter 13 as a replacement for ‘fill material’.
755. I recommend that the submissions from Grander Investments Limited [548.3], The Surveying Company [746.6], Waikato Regional Council [81.241] and EnviroWaste New Zealand Limited [302.49] are accepted in part.

⁷¹ WasteMinz. 2018. *Technical Guidelines for Disposal to Land*. Auckland: WasteMinz.

⁷² Beca Carter Hollings & Ferner Ltd. 2002. *A Guide to the Management of Cleanfills*. Wellington: Ministry for the Environment.

756. I recommend that the submissions from Aztech Buildings [281.16], Anna Noakes [524.30] and Withers Family Trust [598.20] are accepted in part, as this relief has been met by amending the definition of 'cleanfill material'.
757. I recommend that the submission from Winstone Aggregates [723.8] is rejected.

3.49.5 Recommended amendments

758. The following amendments are recommended:

Cleanfill material	Means inert material such as concrete, brick or demolition products (excluding asphalt) and other inorganic materials which may be mixed with materials of natural origin, such as clay, soil, sand, aggregate (rock). When buried will have no adverse effect on people or the environment, and is free of: (a) combustible, decaying, putrescible, degradable or leachable components; (b) contamination from hazardous substances; (c) materials likely to create leachate by biological or chemical breakdown; (d) products or materials derived from the treatment, disposal or stabilisation of hazardous waste; (e) materials that may present a risk to human or animal health such as medical and veterinary materials; and/or (f) liquid waste.
<u>cleanfill material</u>	<u>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.</u>
<u>Controlled Fill material</u>	Means predominantly clean fill material used for filling activities including soil, clay or aggregate, 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.

3.49.6 Consequential amendments

759. There will be a number of consequential amendments arising from this recommendation. Wherever the term 'fill material' appears in the Proposed Plan, (other than in Chapter 13, which is amended by my recommendation), this should be replaced with 'cleanfill material'. Wherever the term 'cleanfill' appears in the Proposed Plan, this term should be replaced

with ‘controlled fill material’, (other than in Chapter 13, which is amended by my recommendation). Although this appears contradictory, this will ensure that the intention of the Proposed Plan provisions is retained.

3.50 ‘Cleanfill facility’

3.50.1 Introduction

760. The following terms are relevant to my analysis:

Cleanfill area (Planning Standards)	Means an area used exclusively for the disposal of cleanfill material.
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761. The term ‘cleanfill facility’ is not defined in the Proposed Plan, and it is not a term that is used in the Proposed Plan currently. There is a related definition of ‘waste management facility’, which includes ‘cleanfills’.

3.50.2 Submissions

762. Two submission points have been received on the definition of ‘cleanfill facility’ from The Surveying Company and Grander Investments Limited. Both submitters seek to have “cleanfill facility” added to Chapter 13: Definitions. There are two further submissions.

763. The following submissions were made:

Submission point	Submitter	Summary of submission
746.11	The Surveying Company	<p>The submitter seeks a definition for an operation that accepts cleanfill for disposal, distinct from where cleanfill is imported for rural production purposes, or to form buildings sites, roads etc. Cleanfills pose less risk to the environment than other types of waste management facilities and are a necessary consequence of urban growth. Therefore, ‘cleanfill facilities’ should be provided for in appropriate zones (Rural and Industrial Zones) where the effects can be managed.</p> <p>Add a new definition for "Cleanfill Facility" to Chapter 13: Definitions as follows:</p> <p>“A facility where clean fill material is accepted for disposal. Excludes:</p> <ul style="list-style-type: none"> - storage and use of cleanfill material within an earthworks site for the purpose of engineering contours for specific activities;

		<ul style="list-style-type: none"> - placement of cleanfill material associated with road construction and road maintenance activities; and - onsite storage and use of overburden or aggregate by-product that is cleanfill material associated with mineral extraction activities”.
FS1387.910	Mercury	<i>Oppose 746.11: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
548.10	Grander Investments Limited	<p>Cleanfill is distinct from other waste given the low risk for contamination of land, water and air. Unlike other ‘waste’ it can be used for re-contouring roads and building platforms. It is important to define what material can be used to minimise risk of contamination. The definition in the Plan is inconsistent with the leading national technical document: WasteMINZ Technical Guidelines for Disposal to Land. Different cleanfill standards can lead to inconsistencies between the Regional and District Council acceptance criteria and require different levels of monitoring/testing. The definition in the Proposed Plan is more akin to ‘controlled cleanfill’ in the WasteMINZ guidelines. Add a new definition for "Cleanfill facility" in Chapter 13 Definitions, as follows: “A facility where clean fill material is accepted for disposal</p> <p>Excludes:</p> <ul style="list-style-type: none"> - Storage and use of clean fill material within an earthworks site for the purpose of engineering contours for specific activities; - Placement of clean fill material associated with road construction and road maintenance activities; and - Onsite storage and use of overburden or aggregate by-product that is clean fill material associated with mineral extraction activities”.
FS1388.774	Mercury	<i>Oppose 548.10: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.50.3 Analysis

764. The submitters (The Surveying Company [746.11]) and (Grander Investments Limited [548.10]) have requested a new definition of ‘cleanfill facility’.
765. The Planning Standards includes a definition of ‘cleanfill area’, which I consider is used in the same context in the Proposed Plan as the requested definition for ‘cleanfill facility’. I therefore recommend that if the submissions are accepted, the Planning Standards definition of ‘cleanfill area’ should be adopted⁷³.
766. I consider that the submissions are effectively asking for a new rule in the Plan. This is beyond the remit of this s42A report, and should be given consideration by the authors of the s42A reports for the Industrial, Heavy Industrial and Rural Zones. If this activity is deemed appropriate to provide a rule for, then it would be appropriate to adopt the Planning Standards definition of ‘cleanfill area’, and the exclusions sought will need to become conditions in that rule.
767. I agree with Grander Investments Limited [548.10] that the definition of ‘cleanfill’ in the Proposed Plan is more akin to ‘controlled cleanfill’ in the WasteMINZ guidelines, and have made recommendations to amend the definition of ‘cleanfill’ in the Proposed Plan, so that ‘cleanfill’ reflects the Planning Standards definition, and ‘fill material’ reflects the WasteMINZ definition of ‘controlled cleanfill’ (see section 3.49 above), which essentially means switching the definitions around.

3.50.4 Recommendations

768. I provisionally recommend that a definition of ‘cleanfill area’ is added to the Proposed Plan.
769. I recommend that the submissions from The Surveying Company [746.11] and Grander Investments Limited [548.10] are accepted in part.

3.50.5 Recommended amendments

770. The following amendments are recommended, subject to agreement that a rule is needed for ‘cleanfill area’:

<u>Cleanfill area</u>	<u>Means an area used exclusively for the disposal of cleanfill material.</u>
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3.50.6 Consequential amendments

771. There may be consequential amendments arising from this recommendation, as a result of the adoption of the term ‘cleanfill area’. For example, ‘cleanfill material’ will have to be adopted, rather than ‘cleanfill’.

⁷³ It will also be required as a consequential amendment of adopting the Planning Standards definition of ‘landfill’.

3.51 'Landfill'

3.51.1 Introduction

772. The following term is relevant to my analysis:

Landfill (Planning Standards)	"means an area used for, or previously used for, the disposal of solid waste. It excludes <i>cleanfill areas</i> ".
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773. The term 'landfill' is not defined in the Proposed Plan, but is used in the Plan.

3.51.2 Submissions

774. One submission point was received on the definition of 'Landfill' from Sharp Planning Solutions Ltd (and one further submission). The submitter requests that a definition for 'landfill' be added to Chapter 13.

775. The following submissions were made:

Submission point	Submitter	Summary of submission
695.72	Sharp Planning Solutions Ltd	Add a definition of "Landfill" to Chapter 13 Definitions.
FS1387.323	Mercury	<p><i>Oppose</i></p> <p><i>At the time of lodging this further submission, neither natural hazard flood provisions nor adequate flood maps were available, and it is therefore not clear from a land use management perspective, either how effects from a significant flood event will be managed, or whether the land use zone is appropriate from a risk exposure.</i></p> <p><i>Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i></p>

3.51.3 Analysis

776. I consider it useful to include a definition of 'landfill' as requested by Sharp Planning Solutions Ltd [695.72], as it is a term used in the Proposed Plan, including in the definition of 'waste management'. As the term is defined in the Planning Standards, this definition should be adopted. This will require a consequential definition of 'cleanfill area' (see section 3.50) and

‘cleanfill material’ (see section 3.49 above). ‘Cleanfill material’ is defined in the Planning Standards, but currently has a different interpretation to that used in the Proposed Plan. I have considered this definition in detail in section 3.49 of this report. ‘Cleanfill area’ is not currently used in the Plan, but will need to be included as a result of adopting ‘landfill’ and if the submissions requesting a rule to provide for such activities is accepted (see section 3.50 above).

777. A consequence of adopting the term ‘landfill’ is that it encompasses all forms of ‘solid waste’, including, for example, animal carcasses. A further submission [FS/342.166] from Federated Farmers of New Zealand on their own submission [680.272] seeks amendment to the definition of ‘waste management’ to ensure that “*day-to-day farming activities, such as on-site disposal of dead stock, plant waste, or agricultural packaging waste, are not captured by the definition of waste management where this would trigger requirement for resource consent*”.
778. It is my understanding that the District Plan does not seek to regulate offal holes / pits, as this is a matter which is regulated under the Regional Plan. As the definition of ‘landfill’ would capture such activities (through the definition of ‘waste management facility’, see section 3.53), consequential amendments will be required to the ‘waste management’ rules in the Rural Zone to ensure that ‘offal holes’ are not captured in this way.

3.51.4 Recommendations

779. For the reasons outlined above it is recommended that a definition for ‘landfill’ is added to Chapter 13: Definitions, as requested by Sharp Planning Solutions [695.72]. That the submission is accepted.

3.51.5 Recommended amendments

780. The following amendment is recommended:

<u>landfill</u>	<u>Means an area used for, or previously used for, the disposal of solid waste. It excludes cleanfill areas.</u>
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3.51.6 Consequential amendments

781. As a consequential amendment arising from this recommendation, the adoption of the Planning Standards term for ‘cleanfill area’ is required. Consequential amendments will also be required to the rules in the Rural Zone, to exclude ‘offal pits’. This is an issue which will require further consideration by the s42A author for that zone, alongside other submissions which may have been received on that subject.

3.52 ‘Waste management’

3.52.1 Introduction

782. The following term is relevant to my analysis:

Waste management (Proposed Plan)	“Means activities relating to the minimisation or reduction of waste material and reuse, recycling, recovery, treatment, storage and disposal processes”.
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3.52.2 Submissions

783. Two submission points were received on the definition of ‘Waste management’ from Envirofert Limited and Federated Farmers of New Zealand (and two further submissions). Envirofert support the definition, Federated Farmers of New Zealand request that an amendment be made.

784. The following submissions were made:

Submission point	Submitter	Summary of submission
425.1	Envirofert Limited	Retain the definition for "Waste management" in Chapter 13 Definitions.
FS1038.7	Simon Dromgool	<i>Oppose</i> <i>Envirofert seeks application of a more appropriate zone such as a "Specific Area zone." Oppose any special rules for a company that has been in breach of its consents on many occasions and in multiple ways. Neighbouring land had to be purchased because the site was built in breach of consent requirements. RMA consent rules should be consistent and without favour and breaches should result in revocation.</i>
680.272	Federated Farmers of New Zealand	Amend the definition of "Waste management" in Chapter 13 Definitions, as follows: Means <u>industrial or commercial</u> activities relating to the minimisation or reduction of waste material and reuse, recycling, recovery, treatment, storage and disposal processes. AND Any consequential changes needed to give effect to this relief.
FS1342.166	Federated Farmers of New Zealand	<i>Support</i> <i>By way of further clarification, FFNZ would like to ensure the day-to-day farming activities, such as on-site disposal of dead stock, plant waste, or agricultural packaging waste, are not captured by the definition of waste management where this would trigger requirement for resource consent. Having to obtain resource consent for all manner of farm waste management, would subject farm operations to onerous, unnecessary costs and delays.</i>

3.52.3 Analysis

785. Federated Farmers of New Zealand [680.272] seek an amendment to the definition of ‘waste management’ to restrict the definition to ‘industrial or commercial’ activities only. Their

further submission seeks to clarify that they wish to see an exclusion for ‘day-to-day farming activities’. I do not think that the relief sought would necessarily address the concern raised. As this is a definition which is intended to apply across multiple zones, I do not consider that the requested wording is appropriate. Providing for waste management activities which are particular to farming, is an issue which is more appropriately addressed through the Rural Zone rules. This submission point should be given further consideration by the s42A author for the Rural Zone hearing.

3.52.4 Recommendation

786. I recommend that the definition is retained as notified, and that the submission from Envirofert Limited [425.1] is accepted.
787. I recommend that the submission from Federated Farmers New Zealand [680.272] is rejected.

3.52.5 Consequential amendments

788. There are no consequential amendments arising from this recommendation.

3.53 ‘Waste management facility’

3.53.1 Introduction

789. The following term is relevant to my analysis:

Waste management facility (Proposed Plan)	“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, cleanfills, commercial composting operations, recovery operations, transfer stations, recycling centres and resource centres”.
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3.53.2 Submissions

790. Three submission points have been received on the definition of ‘waste management facility’ (and two further submissions). Two submissions support the definition, while one suggests that the definition be revised in accordance with the WasteMINZ Technical Guidelines for Disposal to Land.
791. The following submissions were made:

Submission point	Submitter	Summary of submission
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425.2	Envirofert Limited	Retain the definition for "Waste management facility" in Chapter 13 Definitions.
FS1038.1	Simon Dromgool	<p><i>Oppose</i></p> <p><i>Envirofert seeks application of a more appropriate zone such as a "Specific Area zone." I oppose any special rules for a company that has been in breach of its consents on many occasions and in multiple ways. Neighbouring land had to be purchased because the site was built in breach of consent requirements. RMA consent rules should be consistent and without favour and breaches should result in revocation.</i></p>
548.4	Grander Investments Limited	<p>Definition needs to be revised in accordance with the WasteMINZ Technical Guidelines for Disposal to Land. The current definition only refers to Landfill and Cleanfill, it needs to include all types of waste disposal to land classes excluding cleanfill. Support the inclusion of ancillary activities.</p> <p>Amend definition to accept cleanfill for disposal, distinct from where cleanfill is imported for rural production purposes, or to form building sites, roads etc. Cleanfill facilities should be provided for in appropriate zones (Rural and Industrial Zones) where the effects can be managed. Amend the definition for "Waste management facility" in Chapter 13 Definitions, as follows: "waste management facilities include: <u>disposal of waste to land (excluding cleanfill)</u>, landfills, cleanfills, commercial composting operations, recovery operations, transfer stations, recycling centres and resource recovery centres". A definition for 'cleanfill' facility should be included in the plan – see submission on this.</p>
746.10	The Surveying Company	<p>The submitter supports this definition being revised to include all types of waste disposal to land classes excluding cleanfill (solid waste landfill, construction and demolition waste fill, managed fill, controlled fill), in accordance with the leading technical document for waste management in New Zealand - WasteMINZ Technical Guidelines for Disposal to Land. The definition recognises ancillary activities associated with waste disposal including recycling centres.</p> <p>Amend the definition of "Waste Management Facility" in Chapter 13: Definitions as follows: Waste management facilities include: <u>disposal of waste to land (excluding cleanfill)</u>, landfill, cleanfills, commercial composting operations, recovery operations, transfer stations, recycling centres and resource recovery centres.</p>
FS1342.207	Federated Farmers	<i>Oppose 746.10</i>

		<i>FFNZ opposes the amendment and would like to ensure the day-to-day farming activities, such as on-site disposal of dead stock, plant waste, or agricultural packaging waste, is not captured by any definition where this would trigger requirement for resource consent. Having to obtain resource consent for all manner of farm waste management, would subject farm operations to onerous, unnecessary costs and delays.</i>
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3.53.3 Analysis

792. A 'waste management facility' is a 'discretionary' land use activity in the Industrial, Industrial Zone Heavy, Rural and Lakeside Te Kauwhata Precinct Zones (see Rules 20.1.2, 21.1.2, 22.1.5, 22.8.4) and a non-complying activity in the Country Living and Reserve Zones (see Rules 23.1.3 and 25.1.4) or where located within an Outstanding Natural Feature or Landscape, High or Outstanding Natural Character Area (see Rule 22.1.5) (I note the plan is silent on this activity in the Residential or Business zones). I agree with The Surveying Company [746.10] that it should be clear that the definition of 'waste management facility' includes all types of solid waste disposal. However, the amendment proposed is not necessary if the Planning Standards definition of 'landfill' is adopted (see section 3.51 above). As a consequential amendment of adopting the Planning Standards definition of 'landfill', 'cleanfill area' must be excluded from the definition of 'waste management facility'.
793. However as a result of excluding 'cleanfill area' from this definition, such an area would become a non-complying activity, unless new rules for 'cleanfill areas' are included in the rules⁷⁴. The submission from Grander Investments Limited [548.4] picks up on this issue and requests new rules for 'cleanfill facilities' in appropriate zones (Rural and Industrial Zones), where the effects can be managed, and consequentially seeks to separate out disposal of 'cleanfill' from other waste management activities/facilities. I agree that such a rule is needed, and that this submission needs to be considered alongside the submissions on 'cleanfill facility' (see section 3.50 above) and in particular by the s42A report authors for the Industrial, Heavy Industrial and Rural Zones.

3.53.4 Recommendations

794. I recommend that the definition for 'Waste management Facility' is amended to exclude cleanfill areas.
795. I recommend that the submissions from Grander Investments Limited [548.4] and The Surveying Company [746.10] are accepted in part.
796. I recommend that the submission from Envirofert Limited [425.2] is rejected, as the definition is proposed to be retained, but amended.

⁷⁴ For example see Rule 20.1.2 where a waste management facility is a discretionary activity.

3.53.5 Recommended amendments

797. The following amendment is recommended:

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, cleanfills commercial composting operations, recovery operations, transfer stations, recycling centres and resource centres <u>but excludes cleanfill areas</u> .
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3.53.6 Consequential amendments

798. There are consequential amendments arising from this recommendation. The Planning Standards definition of ‘cleanfill area’ must be adopted, and amendments to the rules are required to ensure that ‘cleanfill areas’ are still provided for in the Plan.

3.54 ‘Disposal’

799. The term ‘disposal’ is not defined in the Proposed Plan. The term is not defined in the Planning Standards either.

3.54.1 Submissions

800. One original submission point was received from Sharp Planning Solutions Ltd and one further submission in opposition to that original submission point. The following submissions were made:

Submission point	Submitter	Summary of submission
695.64	Sharp Planning Solutions Ltd	Add a definition for ‘disposal’ to Chapter 13 Definitions. The term is not defined, it should be.
FS1342.175	Federated Farmers	<p>Oppose 695.64.</p> <p><i>It is difficult to determine the merits of the submission point, as no wording is included and no reasoning given as to why a definition is required. FFNZ would like to ensure the day-to-day farming activities, such as on-site disposal of dead stock, plant waste, or agricultural packaging waste, is not captured by any ‘disposal’ definition where this would trigger requirement for resource consent. Having to obtain resource consent for all manner of farm waste management, would subject farm operations to onerous, unnecessary costs and delays.</i></p>
FS1387.319	Mercury	<p>Oppose 695.64.</p> <p><i>It is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is</i></p>

		<i>intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk of exposure for all land use and development in the Waikato River Catchment is appropriate.</i>
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1.1.2 Analysis

801. Sharp Planning Solutions Ltd [695.64] has requested the inclusion of a definition for ‘disposal’, but does not provide any further explanation as to why a definition is required. This term appears in many contexts in the plan. It is a term that I consider to be in common use and therefore well understood. For this reason I do not consider that a definition is necessary. The submitter is welcome to provide further explanation as to why a definition is necessary in their evidence to the Panel.

3.54.2 Recommendations

802. I recommend that a definition of ‘disposal’ is not included in the Plan, and that the submission from Sharp Planning Solutions Ltd [695.64] is rejected.

3.55 ‘Contaminated land’

803. The following terms are relevant to my analysis:

Contaminated land (Proposed Plan)	Has the same meaning as that in the Resource Management Act 1991.
Contaminated land (Planning Standards)	has the same meaning as in section 2 of the RMA (as set out in the box below) <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>

3.55.1 Submissions

804. One original submission point was received from Shand Properties Ltd and three further submissions. The following submissions were made:

Submission point	Submitter	Summary of submission
738.8	Shand Properties Ltd	The definition of ‘contaminated land’ refers to the RMA definition. This does not include any objective standards but requires a judgement to be made on effects. Given that this definition determines which

		rules apply to subdivision it could create uncertainty and difficulties in interpretation. Define 'contaminated land' with reference to standards and/or mapped locations.
FS1089.1	'Oil Companies'	Support 738.8
FS1342.197	Federated Farmers	Oppose 738.8 on the basis that it considers it important for the Stage 2 process to be completed first.
FS1349.11	Allen Fabrics Ltd	Support 738.8

3.55.2 Analysis

805. Shand Properties Ltd [738.8] seeks a definition which references standards or mapped locations. I consider that this would be inconsistent with the Planning Standards Guidance for the Definitions Standard in three respects. Firstly, the Guidance requires councils to adopt any definition that is included in the Planning Standards and used in the same context in the Plan. Secondly, it states that any definition already contained within the RMA should be applied in the Planning Standards where it is fit for purpose. Thirdly, definitions should avoid containing (or becoming) de facto rules.
806. The Planning Standards Recommendations on Submissions Report considered the appropriateness of the draft definition of 'contaminated land' (which was the definition in the RMA). Only one submission on the definition of 'contaminated land' was received in the national consultation, and that was a submission in support of that definition⁷⁵. I consider that the definition in the RMA is therefore 'fit for purpose' for the Proposed Plan. Including 'standards' in the definition would result in that definition becoming a 'de facto' rule. That element of the relief sought is therefore more appropriately addressed in the Hearing on Hazardous Substances and Contaminated Land. I recommend that this submission point is given further consideration by the s42A author for Hearing 8.

3.55.3 Recommendations

807. I recommend that the definition of 'contaminated land' is retained, but amended to reflect the exact wording in the Planning Standards. It is recommended that the submission from Shand Properties Ltd [738.8] is rejected.

3.55.4 Recommended amendments

808. The following amendments are recommended:

<u>Contaminated land</u> <u>contaminated land</u>	<u>Has the same meaning as that in the Resource Management Act 1991.</u> <u>has the same meaning as in section 2 of the RMA (as set out in the box below)</u>
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⁷⁵ 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, pg 75.

		<p><u>means land that has a hazardous substance in or on it that—</u></p> <p><u>(a) has significant adverse effects on the environment; or</u></p> <p><u>(b) is reasonably likely to have significant adverse effects on the environment.</u></p>	
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3.55.5 Consequential Amendments

809. No consequential amendments are required.

3.56 ‘Rural industry’

3.56.1 Introduction

The following terms are relevant to my analysis:

Rural industry (Proposed Plan)	“Means an industry that involves the direct handling or processing to the first stage of manufacture of any raw produce harvested from farming, rural contractors' depots, or any other land-related agricultural activity, but excludes waste disposal, and electricity generation”.
rural industry (Planning Standards)	“means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production”.
primary production (Planning Standards)	means: 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 d. excludes further processing of those commodities into a different product.
Farming (Proposed Plan)	“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”.

3.56.2 Submissions

810. One original submission point (and two further submissions in opposition) was received from J and T Quigley Ltd on the definition of ‘rural industry’. The submitter requests the

definition to be amended to include childcare and to provide more examples of what rural industry activities will be.

811. The following submission was made:

Submission point	Submitter	Summary of submission
389.10	J and T Quigley Ltd	Amend the definition of "Rural Activities" in Chapter 13: Definitions to confirm that childcare is included or provide more examples of what rural industry activities would be. AND Amend the Proposed District Plan to include all necessary, consequential or further relief required to give effect to the submission. This is necessary to recognise JTQL activities.
FS1168.129	Horticulture New Zealand	<i>Oppose 389.10</i> <i>Rural activities should not include childcare facilities as this should be included as part of educational facilities.</i>
FS1342.66	Federated Farmers	<i>Oppose 389.10: It is unclear what the submitter is referring to by the term 'childcare'. If it relates to childcare facilities then that is inappropriate to be defined as rural activity. The activity may be able to occur in the rural zone, with any effects managed via the rules framework. FFNZ opposes the inclusion of childcare into the definition of Rural activities</i>

3.56.3 Analysis

812. The submitter (J and T Quigley Ltd [389.10]) seeks to widen the remit of the definition of 'rural industry' in the Proposed Plan to include childcare facilities. I do not consider that 'childcare' would fall within the remit of 'rural industry' under either the Proposed Plan definition or the Planning Standards definition.

813. As a submission has been received on this definition, I consider that the Planning Standards definition should be considered for adoption. The definition of 'rural industry' in the Proposed Plan is narrower than that set out in the Planning Standards, and sets out a number of inclusions and exclusions. To ensure that there are no unintended implications arising from adopting the Planning Standards definition on the scope and effect of the plan provisions, consequential changes will need to be made to the policies and rules to capture the inclusions and exclusions that are currently listed in the Proposed Plan definition of 'rural industry'. I consider that this should be relatively straight forward, as the term 'rural industry' is only used in one policy and two rules:

- Policy 5.3.3 Policy – 'Industrial and commercial activities',
- Rule 22.1.3 Land Use Activities - 'Rural Industry' is a restricted discretionary activity in the Rural Zone, and

- Rule 22.8.3 in Lakeside Te Kauwhata Precinct - 'Rural Industry' is a restricted discretionary activity.
814. However, I think that such changes should be given further consideration by the s42A author for Rural Zone Hearing 21A, as I note that there is a submission from the Waikato District Council [697.385] which addresses the significant overlap between the definitions of 'farming' and 'rural industry' and the potential for a single activity to be covered by both terms, with different activity statuses. The adoption of the Planning Standards definition of 'rural industry' would assist to reduce that overlap.
815. There is an added complication in that the Planning Standards definition of 'rural industry' also introduces the term 'primary production', which results in the Planning Standards definition of that term being brought into the Plan as well. The definition of 'primary production' introduces 'mining' (not defined in the Planning Standards) and 'quarrying activities' (defined in the Planning Standards)⁷⁶ into the definition of 'rural industry', including as standalone activities (ie not associated with other types of primary production activities).
816. The inclusion of 'mining and "quarrying activities' in the Planning Standards definition of 'primary production' will require careful consideration if rules are introduced into the Proposed Plan that specifically manage 'primary production', especially given mining and quarrying activities do not need to be associated with the other types of primary production activities (such as agriculture). I comment on the potential relationship between 'extractive activities' and 'quarrying activities' in section 3.46 of this report.
817. At present, there are two references in the Plan to 'primary production', both appear in the Introduction to the Plan (section 1.4.2.1 Economic sectors and 1.4.3.2 Protecting the rural environment'). There is no reference to the term "primary production" in the objectives, policies or rules. There are a number of related terms used however, including 'primary industries', 'rural production', and 'productive rural activities,' as well as 'farming'. The terms 'farming' and 'rural activities' appear in the rules. (I consider the terms 'rural production' and 'productive rural activities' below, at section 3.57).
818. Submissions have been received on the definition of 'farming', including from the Waikato District Council (697.385), but these submissions are being considered in Hearing 21A – Rural Zone. It will be important for the Hearing 21A – Rural Zone s42A author to consider the implications that I have outlined above of adopting the Planning Standards term 'primary production', in order to preserve that intention.

3.56.4 Recommendations

819. I recommend that the definition of 'Rural industry' in Chapter 13 is replaced by the Definitions Standard definition for that term, and the definition of 'primary production' in the Definitions Standard is included.

⁷⁶ And 'quarrying activities' introduces 'quarry'.

820. I recommend that the submission from J and T Quigley Ltd [389.10] is rejected.

3.56.5 Recommended amendments

821. The following amendments are recommended:

Rural industry	Means an industry that involves the direct handling or processing to the first stage of manufacture of any raw produce harvested from farming, rural contractors' depots, or any other land-related agricultural activity, but excludes waste disposal, extractive industries and electricity generation.
<u>rural industry</u>	<u>means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production.</u>
<u>primary production</u>	<u>means:</u> <u>a. any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and</u> <u>b. includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a);</u> <u>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</u> <u>d. excludes further processing of those commodities into a different product.</u>

3.56.6 Consequential amendments

822. There will be a number of consequential amendments arising from this recommendation. Rule 22.1.3 Land Use Activities - 'Rural Industry' and Rule 22.8.3 in Lakeside Te Kauwhata Precinct - 'Rural Industry' in the Plan will require amendment to incorporate the specific inclusions and exclusions that were in the Proposed Plan definition of 'rural industry', namely rural contractors' depots (included), and waste disposal, extractive industries and electricity generation (excluded). Wording to the following effect could be included: *"For the purposes of this rule, rural industry includes rural contractors' depots, but excludes waste disposal, extractive industry and electricity generation"*. Alternatively, these inclusions and exclusions could be inserted as conditions within rules, as follows:

"Rural Industry, that meets all of the following conditions:

(a) *It does not include:*

(i) *waste disposal;*

(ii) *extractive industry;*

(iii) *electricity generation.*

(b) *It may include:*

(i) *rural contractors depots".*

823. A further consequence of adopting the definitions of 'rural industry' and 'primary production' will be that the Definitions Standard definitions of 'quarrying activities' and

‘quarry’ are introduced to the Proposed Plan. The following additional insertions are recommended:

<u>quarry</u>	<u>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.</u>
<u>quarrying activities</u>	<u>means:</u> <u>a. any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and</u> <u>b. includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a);</u> <u>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</u> <u>d. excludes further processing of those commodities into a different product.</u>

3.57 ‘Rural activities’ and ‘productive rural activities’

3.57.1 Introduction

824. The term ‘rural activities’ or ‘productive rural activities’ is not defined in the Proposed Plan, nor in the Planning Standards, although it is very similar to the definition of ‘primary production’ in the Planning Standards.

825. That definition is:

primary production (Planning Standards)	means: 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 d. excludes further processing of those commodities into a different product.
Farming (Proposed Plan)	“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”.

3.57.2 Submissions

826. Two submissions by New Zealand Transport Agency and Fonterra Limited (and seven further submissions) were received on the absence of a definition for 'productive rural activities' and 'rural activities'. Both submitters request that a definition for 'productive rural activities' and 'rural activities' be added to Chapter 13: Definitions.

827. The following submissions were made:

Submission point	Submitter	Summary of submission
742.80	New Zealand Transport Agency	The term rural 'activities' is used in Rule 14.12.1.2(1)(a)(iv) but is not defined. This could be interpreted as any activity occurring in a rural zone, or any activity of a rural nature. A definition is needed to clarify what the term "rural activities" covers. Add a definition for "rural activities" to Chapter 13: Definitions. AND Request any consequential changes necessary to give effect to the relief sought in the submission.
FS1168.130	Horticulture New Zealand	Support 742.80 <i>The submitter seeks a definition for 'rural activities' as the term is used in the Plan, but specific wording is not sought. Interested parties should be consulted as to what comprises rural activities.</i>
FS1379.285	Hamilton City Council	Support 742.80 <i>HCC support the relief sought by the submitter for the inclusion of a definition for 'rural activities', subject to the particular wording of the term. HCC is interested in the potential effects the definition may have for land uses within Hamilton's Area of Interest.</i>
FS1342.201	Federated Farmers	Oppose 742.80 <i>FFNZ understands the submission point but considers the concerns can be addressed by changing the term in rule to 'farming'. There is no need for another definition.</i>
797.20	Fonterra Limited	The term 'productive rural activities' is referenced within various plan provisions but is undefined. Add a definition of "productive rural activities" to Chapter 13 Definitions as follows (or words to similar effect): "farming, forestry, horticulture and mineral extraction". AND Any consequential amendments or further relief to give effect to the concerns raised in the submission.
FS1168.84	Horticulture New Zealand	Support 797.20 <i>Seeks to add a definition of "productive rural activities". The term is referenced within various plan provisions. Term is undefined.</i>

FS1198.39	Bathurst Resources Limited and BT Mining Limited	Submitted on 797.20. Position not stated. Mineral extraction should be included in the definition of "productive rural activities" or that term should be deleted from the plan. Reverse sensitivity issues are relevant to more than existing activities, they are also relevant where potential future mineral extraction that by its nature has a functional need to be located in specific places is effectively sterilised by the establishment of sensitive activities on or adjacent to mineral deposits.
FS1319.36	New Zealand Steel Holdings Limited	Supports 797.20. NZS does not see the need for a definition of "productive rural activities" but supports the references in Section 1.4.3 to productive rural activities including mining.
FS1342.222	Federated Farmers	Supports 797.20. FFNZ supports inclusion of a definition but is concerned that it may create confusion with the definition of 'farming'. In our view there only needs to be one, robust, definition.

3.57.3 Analysis

828. The term 'rural activities' is only used once in a rule, and that is Rule 14.12.1.2 – On-site parking and Loading. The New Zealand Transport Agency [742.80] requests that a definition of 'rural activities' is included in the Proposed Plan, on the basis that the term is used in that rule but is not defined. I consider that given this is such a wide-ranging term, it might be more helpful for a definition of 'rural activities' for the purposes of that rule (which is to govern parking and loading), to be included within the rule itself. Alternatively, Rule 14.12.1.2 could be reviewed to consider whether it would be better to amend the phrase "residential and rural activities" to better fit that context. That is an issue which is more appropriately considered by the section 42A author for the Rural Zone Hearing (21A).
829. The 'Introduction' to the Plan includes commentary on 'productive rural activities', and this term appears in Objective 5.1.1 – The Rural Environment and Policy 5.3.2 – Productive rural activities'.
830. Section 1.4.3.1 'Rural activities' in the Introduction to the Plan, explains the term 'productive rural activities'. It states: "*Productive rural activities are those activities that use rural resources for economic gain or which cannot be carried out easily or appropriately in an urban setting*". It goes on to state that: "*Farming activities, including dairy, dry stock, horse breeding/training, honey production, horticulture, pig and poultry, mining, and forestry are all significant industries in economic terms for the Waikato district*".
831. I therefore consider that the Plan does give an indication of what is meant by 'productive rural activities', although this is not set out in Chapter 13. The above explanation and the submission from Fonterra Limited [797.20] requests a definition is included which more closely approximates the definition of 'primary production' in the Planning Standards. Further submitters New Zealand Steel Holdings Limited [FS1319.36] and Bathurst Resources Limited and BT Mining Limited [FS1198.39] have also identified their support for a definition of 'rural activities' which includes mineral extraction or mining. As a consequence of adopting the Planning Standards definition of 'rural industry', the Planning

Standards definition of ‘primary production’ is also introduced. I consider that if the definition of ‘primary production’ from the Definitions Standard is adopted, that this would go some way to achieving the relief sought. Again, this is an issue which is best addressed through the Rural Zone hearing.

832. As a consequence of introducing ‘primary production’, changes may be required to the Introduction to the Plan (and elsewhere), to ensure that there are no unintentional implications. One of these changes would be to replace the term ‘productive rural activities’ with ‘primary production’. I note that the term ‘productive rural activities’ is used in Objective 5.1.1 – The rural environment, which is a strategic objective with primacy over all other objectives in Chapter 5 – Rural Environment. I consider that the s42A author for the Rural Environment chapter should consider whether the replacement of the word ‘primary production’ with ‘productive rural activities’ in Objective 5.1.1 would require any further amendments to this objective, to retain the intended outcomes.
833. In my analysis of the definition for ‘rural industry’ at section 3.56, I raise the issue of the potential for overlap between the Planning Standards definition of ‘primary production’ and ‘farming’. Submissions on the definition of ‘farming’ have been referred for consideration to the Rural Zone hearing. I acknowledge the concerns of Federated Farmers [FS1342.222] and [FS1342.201] but consider these are best addressed at that hearing.

3.57.4 Recommendations

834. I recommend that a definition of ‘rural activities’ is included in Rule 14.12.1.2 – On-site parking and Loading. Alternatively, Rule 14.12.1.2 could be reviewed to consider whether it would be better to amend the phrase “residential and rural activities” to better fit that context. That definition and the wording of Rule 14.12.1.2 should be given consideration in the s42A report for the Rural Zone (Hearing 21A). I do not consider it necessary to include a definition of ‘productive rural activities’.
835. I recommend the submission from New Zealand Transport Agency [742.80] is accepted in part, in that a definition should be provided for the purposes of the rule, but that definition should sit within the rule.
836. I recommend that the submission from Fonterra Limited [797.20] is rejected.

3.57.5 Consequential amendments

837. As a result of the adoption of the definition of ‘primary production’ from the Planning Standards, changes to the ‘Introduction’ to the Plan will be required to ensure that there are no unintentional changes. The term ‘productive rural activities’ should be replaced with ‘primary production’. The s42A author for the Rural Environment chapter should consider whether the replacement of the word ‘primary production’ with ‘productive rural activities’ in Objective 5.1.1 would require any further amendments to this objective, to retain the intended wording.

3.58 'Forestry'

3.58.1 Introduction

838. The following terms are relevant to my analysis:

Forestry (Proposed Plan)	Means the planting and growing of trees and is an integrated land use including land preparation, roading, tree planting and maintenance (i.e. thinning, pruning, noxious weeds and animal control) and harvesting of trees and includes the use of accessory buildings, but not the establishment and/or use of permanent sawmills or other methods of timber processing.
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839. The term was considered for inclusion, but is not defined in the Planning Standards.

3.58.2 Submissions

840. One submission point was received on the definition of 'forestry' from KiwiRail Holdings Limited. KiwiRail is concerned that the planting of shelterbelts and wood lots within proximity to rail corridors can lead to the intrusion of sightlines and branches falling onto tracks, which can ultimately lead to derailment.

841. The following submission was made:

Submission point	Submitter	Summary of submission
986.50	KiwiRail Holdings Limited	The planting of shelterbelts and woodlots poses a similar risk and danger to the operation of the railway network as commercial forestry. Modifying the Plan's definition of forestry as sought, supports a new rule seeking a 10m setback from the operational rail corridor. The definition of 'forestry' should be amended to read: "Means the planting and growing of trees (<u>including shelterbelts and woodlots</u>) and is an integrated land use including land preparation, roading, tree planting and maintenance (i.e. thinning, pruning, noxious weeds and animal control) and harvesting of trees and includes the use of accessory buildings, but not the establishment and/or use of permanent sawmills or other methods of timber processing. AND Any consequential amendments to link and/or accommodate the requested changes.

1.1.3 Analysis

842. 'Forestry' and the activity of 'afforestation' are regulated by a number of rules in the Proposed Plan. The submitter KiwiRail Holdings Limited [986.50] has requested amendments

to the definition of 'forestry' which call for greater regulatory control, and will have an impact on how the rules are interpreted. I consider that this is a matter which is more appropriately dealt with by the author of the s42A report for the Rural Zone.

3.58.3 Recommendations

843. For the reasons set out above, it is recommended that the submission from KiwiRail Holdings Limited (986.50] is deferred to the Rural Zone hearing for consideration.

3.58.4 Consequential Amendments

844. No consequential amendments are required.

3.59 'High class soils'

3.59.1 Introduction

845. The following terms are relevant to my analysis:

High class soils (Proposed Plan)	Means those soils in Land Use Capability Classes I and II (excluding peat soils) and soils in Land Use Capability Class IIle1 and IIle5, classified as Allophanic Soils, using the New Zealand Soil Classification.
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3.59.2 Submissions

846. Six original submissions and four further submissions were received on the definition of 'high class soils'.

847. The following submissions were made:

Submission Point	Submitter	Summary of Submission
81.244	Waikato Regional Council	The definition is supported and it aligns with the definition in the Waikato Regional Policy Statement, however peat soils are excluded and there is no definition of peat soils in the Plan. The submitter requests the addition of the peat soil definition, as per the Waikato Regional Policy Statement.
394.30	Gwenith Sophie Francis	Delete the definition of 'high class soils' and replace with definitions for 'Elite Soils (Class I)' and 'Prime Soils (Class II)'.
FS1168.103	Horticulture New Zealand	<i>Oppose 394.30</i> <i>Seeks the deletion of the definition of "High class soils" in Chapter 13 Definitions, and replace with the following:</i> <i>(i) Elite soils (Class I); and</i> <i>(ii) Prime Soils (Class II) and</i> <i>The definition proposed by the submitter does not align with the Waikato Regional Policy Statement.</i>

419.124	Horticulture New Zealand	Amend the definition of 'high class soils' as follows: Means those soils in Land Use Capability Classes I and II (excluding peat soils) and soils in Land Use Capability Class IIIe1 and IIIe5 , classified as Allophanic Soils , and III , using the New Zealand Soil Classification. The submitter believes that the proposed definition is too limited, noting that there are areas of peat soil which are currently high producing for commercial vegetable growing.
FS1330.36	Middlemiss Farm Holdings Limited	<i>Opposes 419.124 on the basis that "such a wide classification will encompass significant areas of the District that may otherwise be appropriate for non-traditional rural production activities".</i>
FS1342.95	Federated Farmers	<i>Supports 419.124.</i>
466.54	Balle Bros Group Limited	In support of the definition, however considers that other soils should be included, such as peat soil. The submitter suggested that consultation with Pukekohe Vegetable Growers Association and HortNZ is carried out to further define High Class soils.
680.142	Federated Farmers of New Zealand	In support. Retain definition as notified.
FS1171.82	T&G Global	<i>Support 680.142: Submitter seeks the retention of high class soils.</i>
695.69	Sharp Planning Solutions	Add reference to the Planning Maps in the definition of 'high class soils' and add maps of high class soils to the Proposed Plan.

3.59.3 Analysis

848. Submissions have been received to both expand the definition, and to narrow it. The definition in the Proposed Plan is identical to that set out in the Waikato Regional Policy Statement. Waikato Regional Council [81.244] have submitted that the definition of 'peat soils' also be included in the Proposed Plan, as defined in the WRPS. That definition is: "peat soils – those soils defined as Organic Soils in the New Zealand Classification System".
849. At this stage, I consider that it would be premature to amend the definition of 'high class soils', on the basis that a consultation document for the National Policy Statement for Highly Productive Land' is currently out for consultation, and that document signals that the NPS is anticipated to be gazetted by early 2020. The NPS will set out a 'default' definition of 'highly productive land' based on LUC Classes I to III, which will be in place until such time as Regional Councils have defined what constitutes 'highly productive land' for the purposes of their region. Regional definitions may be broader than just the soil classification, and may include or exclude some LUC class I to III land, on the basis of factors such as climate, size and cohesion of the area, availability of water, transport routes, and labour, and rural processing infrastructure, for example. I therefore suggest that this definition be given further consideration at the 'Other Matters' hearing at the end of the Proposed Plan Stage 1 hearing programme, by which time the NPS is likely to be gazetted. At that time, a recommendation could be made as to whether to adopt the national definition, or retain the

WRPS definition until such time as the Waikato Regional Council has defined highly-productive land for the purposes of the region.

3.59.4 Recommendations

850. I recommended that the submissions received from Waikato Regional Council [81.244], Gwenith Sophie Francis [394.30], Horticulture New Zealand [419.124], Balle Bros Group Limited [466.54], Federated Farmers of New Zealand [680.142] and Sharp Planning Solutions [695.69] and a definition for ‘high class soils’, are given further consideration at the ‘Other Matters’ hearing, towards the end of the Proposed Plan hearing programme.

3.59.5 Consequential amendments

851. There are no consequential amendments at this point in time, given that this is an interim recommendation.

3.60 ‘Lifestyle uses’

3.60.1 Introduction

852. The term ‘lifestyle uses’ is not defined in the Proposed Plan, nor is it defined under the Planning Standards.

3.60.2 Submissions

853. One original submission and four further submissions were received on the term ‘lifestyle uses’.
854. The following submissions were made:

Submission Point	Submitter	Summary of Submission
797.19	Fonterra Limited	The term ‘lifestyle uses’ is used in various Plan provisions. Include a definition for ‘lifestyle uses’ as follows: <u>Residential activity outside a defined urban area or village boundary.</u> And any consequential amendments or further relief.
FS1168.83	Horticulture New Zealand	Support 797.19. Seeks to add a definition for "Lifestyle Uses". The term "lifestyle uses" is referenced within various plan provisions. Term is undefined.
FS1110.31	Synlait	Support 797.19. In support of entire submission.
FS1322.5	Synlait	Support 797.19.

		<i>The submitter considers that further clarification of activities will assist in interpretation and administration of the District Plan. In particular, Synlait agrees that further clarity of lifestyle uses within the rural environment would be beneficial as part of managing potential reverse sensitivity effects.</i>
FS1387.1265	Mercury	<i>Opposed 797.19: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.60.3 Analysis

855. References to ‘lifestyle uses’, ‘lifestyle activities’ and ‘rural lifestyle’ are currently found in the Introduction section to the Plan. There is one reference to ‘lifestyle options’ in Policy 5.2.3 Policy – Effects of subdivision and development on soils. As these are the only references in the plan, and there is no reference to these terms in any of the rules, I do not agree with the submitter (Fonterra Limited [797.19]) that it is necessary to provide a definition of ‘lifestyle uses’. I consider that this term is commonly understood in the context in which it is used in the Proposed Plan.

3.60.4 Recommendations

856. I recommend that a definition for ‘lifestyles uses’ is not included in the Proposed Plan.
857. I recommend that the submission from Fonterra Limited [797.19] is rejected.

3.60.5 Consequential amendments

858. No consequential amendments are required.

3.61 ‘Boarding, breeding or animal training establishment’

859. The following term is relevant to my analysis:

Boarding, breeding or animal training establishment (Proposed Plan)	Means an activity carried out on land or within buildings where board and lodging, breeding and training is provided or intended to be provided for more than five animals (excluding offspring up to 3 months of age). This does not include dog kennels, calf rearing sheds, stables and similar shelters for private farming uses.
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860. There is no such term defined in the Planning Standards.

3.61.1 Submissions

861. Three submissions were received, all seeking minor amendments to the definition to improve clarity.

862. The following submissions were made:

Submission point	Submitter	Summary of submission
749.30	Housing New Zealand Corporation	Minor amendment sought to make it clear that the term is only for animal purposes.
680.129	Federated Farmers of New Zealand	The submitter supports the exemptions included in this definition. Amend definition as requested to ensure there is no confusion or uncertainty when the rules framework is applied. “Means an activity carried out on land or within buildings where board and lodging, breeding and training is provided or intended to be provided for more than five animals (excluding offspring up to 3 months of age). This does not include dog kennels, calf rearing sheds , stables, and or similar <u>activities shelters</u> for private farming uses, and <u>activities defined as Agricultural and horticultural research activities and Agricultural research centres</u> .
697.367	Waikato District Council	Minor amendment sought to improve clarity, and include daycare facilities for animals.

3.61.2 Analysis

863. Rules which provide for a ‘boarding, breeding or animal training establishment’ appear in the activity tables in the Industrial Zone (Rule 20.5.2) and Rural Zone (Rule 22.1.5, Lakeside Te Kauwhata Precinct, Rule 22.8.4). Housing New Zealand Corporation [749.30] and Waikato District Council [697.367] have raised minor points of clarification to ensure that there is a clear distinction that the term relates to animal uses only. I recommend that these amendments are adopted. Federated Farmers of New Zealand [680.129] has suggested amendments which would also assist in clarifying the distinction between this term and ‘Agricultural and horticultural research activities’ and ‘Agricultural research centres’ and I recommend that these are included. I agree that the definition can be widened to refer to ‘activities’ rather than ‘shelters’, as the first sentence refers to activities “on land or within buildings”.

3.61.3 Recommendations

864. I recommend that the definition of “boarding, breeding or animal training establishment” is amended as requested by Waikato District Council (697.367] and Federated Farmers of New Zealand [680.129]. I recommend that those submissions are accepted.
865. I recommend that the submission from Housing New Zealand Corporation [749.30] is accepted in part.

3.61.4 Recommended amendments

866. The following amendments are recommended:

<u>Animal</u> B boarding, <u>daycare</u> , breeding or animal -training establishment	Means an activity carried out on land or within buildings where board, <u>daycare</u> and lodging, breeding and or training is provided or intended to be provided for more than five <u>domestic</u> animals (excluding offspring up to 3 months of age). This does not include dog kennels, calf rearing sheds , stables and-or similar <u>activities shelters</u> for private farming uses, <u>Agricultural and horticultural research activities or Agricultural research centres</u> .
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3.61.5 Consequential amendments

867. There are consequential amendments arising from this recommendation. The reference in Rule 20.5.2, P8 will require amendment to read “Animal boarding, daycare, breeding or ~~animal~~ training establishment...”

868. The same amendment is required for Rule 22.1.5, D16, and Rule 22.8.4, D14.

3.62 ‘Commercial activity’, ‘commercial services’ and ‘retail activity’

3.62.1 Introduction

869. The following terms are relevant to my analysis:

Commercial activity (Proposed Plan)	Means activities involving the sale or distribution of goods and services.
commercial activity (Planning Standards)	means any activity trading in goods, equipment or services. It includes any ancillary activity to the commercial activity (for example administrative or head offices).
Commercial services (Proposed Plan)	Means a business providing personal, property, financial, household, private or business services to the general public. It includes: (a) authorised betting shops; (b) copy and quick print services; (c) financial and banking facilities; (d) postal services; (e) counter insurance services; (f) dry cleaning and laundrette services; (g) electrical goods repair services; (h) footwear and leather goods repair services; (i) hairdressing, beauty salons and barbers; (j) internet and computer services; (k) key cutting services; (l) real estate agents and valuers; (m) travel agencies, airline and entertainment booking services; (n) optometrists;

	(o) movie and game hire; and (p) animal welfare and/or grooming services.
Retail activity (Proposed Plan)	Means the sale or hire of goods or services or equipment directly to the public.

3.62.2 Submissions

870. Four submission points and one further submission were received on the definition of 'commercial activity'. One submission point was received on the definition of 'commercial services' (and one further submission). One submission point was received on the definition of 'retail activity'.

Submission point	Submitter	Summary of submission
Commercial activity		
411.1	Kelvin Norgrove	The definition provides flexibility for a range of activities (such as restaurants, cafes, shops and offices) within both the Business Zone and Town Centre Business Zone, thus enabling mixed use developments in town centres. Retain the definition of "commercial activity" in Chapter 13 Definitions, as notified.
749.35	Housing New Zealand Corporation	The submitter supports the definition and notes there is a definition for "commercial services." The defined term "commercial services" is not included in this definition or referenced. Amend the definition of "commercial activity" in Chapter 13 Definitions as follows: "Means activities involving the sale or distribution of goods and <u>commercial services</u> ".
FS1387.1008	Mercury	<i>Oppose 749.35: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
785.32	'Oil Companies'	The submitter opposes in part the definition of 'commercial activities' and 'retail activities' as these definitions are uncertain and ambiguous and service stations could be included within both. Submitter supports making specific provision for a definition of 'service stations' and seeks to either specifically exclude service stations from either activity or to include them in both. As currently drafted commercial and retail activities can be interchangeable insofar as an activity that involves the sale of goods and services falls under both definitions. While the definition of retail activity specifies that the sale is to be directly to the public, there is nothing stopping direct sales to the public as also being a commercial activity. There does not

		<p>appear to be any particular effects based justification for differentiating between the two activities based on the consumer.</p> <p>Amend the definition of "commercial activity" in Chapter 13: Definitions to be more detailed and specific and based on the effects that the activity generates as opposed to being based on the nature of the consumer. AND Amend the definition of "commercial activity" in Chapter 13: Definitions to include service stations. AND Amend the definition of "commercial activity" in Chapter 13: Definitions to specifically exclude service stations if separate and specific provision is made for service stations as an activity. OR Amend the definition of "commercial activity" in Chapter 13: Definitions to specifically exclude service stations if separate and specific provision is made for service stations as an activity. AND Any consequential amendments or further relief to give effect to the submission.</p>
81.155	Waikato Regional Council	<p>These rules allow for Commercial activity and Commercial services as permitted activities in both the Business and Business Town Centre zones. Allowing the same activities to occur in both zones creates unnecessary and inappropriate competition between the Town Centre and Business Zones, and does not promote a supportive, complimentary role for them. This is not consistent with the policy approach set out in Section 4.5, which seeks to encourage a wide range of commercial activities in both zones, the town centres focusing on retail, administration, commercial and civic centre activities, the Business Zone discouraging small scale retail and focusing on large format retail. The submitter seeks clarification about the rationale behind the rules, and is concerned that they do not give proper effect to the WRPS Policy 6.16 or the policy framework for these zones contained in Section 4.5: of the Proposed Plan.</p> <p>Amend the definitions of "Commercial activity" and "Commercial services" to better distinguish large format from small scale activities.</p> <p>AMEND Rule 17.1.2 Permitted Activities – P1 Commercial activity and P2 Commercial services.</p> <p>AMEND Rule 18.1.2 P1 Commercial activity and P3 Commercial services to clarify which particular activities are appropriate for each zone.</p>
Commercial services		
749.36	Housing New Zealand Corporation	Amend the definition of "commercial services" in Chapter 13 Definitions as follows:

		<p>Means a business providing personal, property, financial, household, private or business services to the general public. It includes <u>but is not limited to</u>:</p> <ul style="list-style-type: none"> a) authorised betting shops; b) copy and quick print services; c) financial and banking facilities; d) postal services; e) counter insurance services; f) dry cleaning and laundrette services; g) electrical goods repair services; h) footwear and leather goods repair services; i) hairdressing, beauty salons and barbers; j) internet and computer services; k) key cutting services; l) real estate agents and valuers; m) travel agencies, airline and entertainment booking services; n) optometrists; o) movie and game hire; and p) animal welfare and/or grooming services.; <u>and</u> q) <u>government and administration services.</u> AND Amend the Proposed District Plan as consequential or additional relief as necessary to address the matters raised in the submission as necessary.
FS1387.1009	Mercury	<p><i>Opposed 749.36</i></p> <p><i>It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i></p>
697.374	Waikato District Council	<p>The term 'commercial services' overlaps with the term 'commercial activity' and creates confusion. Activities of a commercial nature only need to be covered by a single term.</p> <p>Delete from Chapter 13: Definitions the definition for "Commercial services" AND Delete all instances where 'commercial services' appears as an activity in the Plan and replace with 'commercial activities'.</p>
FS1387.550	Mercury	<p><i>Opposed 697.374: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i></p>
FS1340.123	TaTa Valley Limited	<p><i>The submitter supports submission 697.374 as it is confusing throughout the plan as to the difference with a "Commercial Activity", which is also defined in the proposed plan. Deletion of this will eliminate confusion.</i></p>
Retail activity		
785.33	'Oil Companies'	<p>The submitter opposes in part the definition of 'commercial activities' and 'retail activities' as these definitions are uncertain and ambiguous and service stations could be included within both. Submitter</p>

		<p>supports making specific provision for service stations and seeks to either specifically exclude service stations from either activity or to include them in both. As currently drafted commercial and retail activities can be interchangeable insofar as an activity that involves the sale of goods and services falls under both definitions. While the definition of retail activity specifies that the sale is to be directly to the public, there is nothing stopping direct sales to the public as also being a commercial activity.</p> <p>There does not appear to be any particular effects based justification for differentiating between the two activities based on the consumer.</p> <p>And amend the definition of "retail activity" in Chapter 13: Definitions to specifically exclude service stations if separate and specific provision is made for service stations as an activity. AND Any consequential amendments or further relief to give effect to the submission.</p>
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3.62.3 Analysis

871. The Definitions Standard definition of 'commercial activity' is used in the same context as the definition in the Proposed Plan, therefore I recommend that the Planning Standards definition is adopted now⁷⁷. For this reason, I do not recommend retaining the definition as notified, as sought by Kelvin Norgrove [411.1].
872. Waikato District Council [697.374] has identified the overlap between the definitions of 'commercial activity' and 'commercial services'. I agree that activities of a commercial nature only need to be covered by a single term, which should be the Planning Standards definition of 'commercial activity'. As a result of this, there is no need for a cross reference between the two definitions, as requested by Housing New Zealand Corporation [749.35]. I am recommending deletion of the term 'commercial services', but I consider that the relief sought by Housing New Zealand Corporation [749.36] to include 'government and administrative services' would be partly met by adopting the Definitions Standard definition of 'commercial activity'. Administrative services comprise a form of 'service', and are further contemplated as an ancillary activity. 'Government services' would not be covered by the definition however, unless ancillary to a commercial activity.
873. I note that there is a potential conflict in the Proposed Plan between Policy 4.5.8 – Role and Function of the Business Zone (which seeks to discourage 'administration and commercial services' within the Business Zone, in order to ensure the role of the Business Zone is complementary to the Business Town Centre Zone) and Rule 17.1.2 in the Business Zone, where 'commercial services' are a permitted land use activity, with no conditions⁷⁸. I

⁷⁷ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

⁷⁸ Rule 18.1.2 also provides for 'commercial services' as a permitted activity.

consider that the relief sought by Housing New Zealand Corporation [749.36] to add 'government and administrative services' to the definition of 'commercial services, whilst not possible if the Planning Standards definition of 'commercial activity' is adopted, requires further consideration by the s42A authors for the Business and Business Town Centre zones, as a potential land use activity to be contemplated in those zones.

874. The Oil Companies [785.32] and [785.33] have requested a rationalisation of the terms 'commercial activity' and 'retail activity'. Again, I agree that both these terms are not necessary, and there is no 'effects based justification' for differentiating between the two activities based on the consumer. My recommendation is that the definition of 'retail activity' be deleted. The further request for a definition of 'service station' is considered in section 3.63 of this report.
875. The submission from Waikato Regional Council [81.155] relates to the application of Rules 17.1.2, 18.1.2 (and 19.1.1) and a permissive approach to commercial activities and services. As a result of my recommendation, a broad definition of 'commercial activity' will be adopted, which does not give any steer on whether the activity is 'small scale retail' or 'large format retail'. As it is not possible to amend the Planning Standard definition, I consider that the relief sought would be better considered by the S42A officers for the Business Zone, Business Town Centre Zone and Business Zone Tamahere hearings.

3.62.4 Recommendations

876. I recommend that the definition of 'Commercial activity', in the Planning Standards replaces the definition in the Proposed Plan. The definitions of 'commercial services' and 'retail activity' should be deleted.
877. I recommend that the submissions from Housing New Zealand Corporation [749.3], Waikato District Council [697.374] and Oil Companies [785.32] [785.33] are accepted in part.
878. I recommend that the submissions from Kelvin Norgrove [411.1] and Housing New Zealand [749.35] are rejected.
879. I recommend that the submissions from Waikato Regional Council [81.155] and Housing New Zealand Corporation [749.36] be given further consideration in the Business Zone, Business Town Centre Zone and Business Zone Tamahere hearings.

3.62.5 Recommended amendments

880. The following amendments are recommended:

Commercial activity commercial activity	Means activities involving the sale or distribution of goods and services. means any activity trading in goods, equipment or services. It includes any ancillary activity to the commercial activity (for example administrative or head offices).
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Commercial services	Means a business providing personal, property, financial, household, private or business services to the general public. It includes: (a) authorised betting shops; (b) copy and quick print services; (c) financial and banking facilities; (d) postal services; (e) counter insurance services; (f) dry cleaning and laundrette services; (g) electrical goods repair services; (h) footwear and leather goods repair services; (i) hairdressing, beauty salons and barbers; (j) internet and computer services; (k) key cutting services; (l) real estate agents and valuers; (m) travel agencies, airline and entertainment booking services; (n) optometrists; (o) movie and game hire; and (p) animal welfare and/or grooming services.
Retail activity	Means the sale or hire of goods or services or equipment directly to the public.

3.62.6 Consequential amendments

881. There will be a number of consequential amendments arising from this recommendation. The Planning Standards definition of ‘ancillary activity’ will be adopted and should be included in Chapter 13. As a result of the deletion of the term ‘retail activity’, all references to this term in the Proposed Plan should be replaced with the term ‘commercial activity’, except where this would result in repetition. This includes: 4.5.8 Policy – Role and function of the Business Zone, Table 14.12.5.7 - Required parking spaces and loading bays, Table 14.12.5.13 – Traffic generation rates, Rule 18.1.2 Permitted Activities, Rule 19.1.1 Permitted Activities, Rule 20.1.2 Discretionary Activities, Rule 20.5.2 Permitted Activities and Rule 21.1.2 Discretionary Activities.
882. As a result of the deletion of the term ‘commercial services’, all references to this term in the Proposed Plan should be replaced with the term ‘commercial activity’, except where this would result in repetition. This includes: 4.5.2 Policy – Commercial function and purpose, 4.5.8 Policy – Role and function of the Business Zone, 4.5.13 Policy – Town centre built form, Rule 17.1.2 Permitted Activities and Rule 18.1.2 Permitted Activities.
883. Adopting the Planning Standards definition of ‘commercial activity’ will require a consequential amendment to adopt the term ‘ancillary activity’ as well. The following insertion to the Definitions Chapter is recommended:

<u>ancillary activity</u>	<u>means an activity that supports and is subsidiary to a primary activity.</u>
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3.63 ‘Service station’

3.63.1 Introduction

884. The term ‘service station’ is used in the Proposed Plan, but is not defined. The term was considered for inclusion in the Planning Standards, but not defined⁷⁹.

3.63.2 Submissions

885. One submission point was received on the definition of ‘service stations’ from Oil Companies. The submitter considered that a definition for service station activities should be defined and included in Chapter 13: Definitions.

Submission point	Submitter	Summary of submission
785.34	Oil Companies	<p>The submitter considers that a separate and specific definition for service station activities should be included in the Proposed Plan. Such a definition would appropriately ensure service stations (including activities accessory to service stations) are explicitly provided for and would avoid ambiguity around whether service stations are considered to be a commercial activity or a retail activity (or both). Requested definition as follows: “A facility where the primary business is selling motor vehicle fuels and can include the following accessory activities:</p> <ul style="list-style-type: none"> - Retail - Administrative, storage and ablution facilities; - Car wash facilities; - Mechanical repair, servicing and testing of motor vehicles; - Sale of lubricating oils, kerosene, LPG, or spare parts and accessories for motor vehicles; - Trailer hire”.

⁷⁹ 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, pg 231-232.

3.63.3 Analysis

886. The term 'service station' is used in the hazardous substances rules in the Proposed Plan (see Rules 17.2.5.4 C1, 18.2.5 C2, 20.2.6 C1, 22.2.4 C2). The rules are solely concerned with limiting the quantities of petrol, diesel and LPG stored on sites (as a controlled activity). Given this is the only context in which the term appears, I disagree with the submitter Oil Companies (785.34) that it is necessary to provide a definition of 'service station'. The proposed wording would make no practical difference to the operation of those rules.

3.63.4 Recommendations

887. I recommend that a definition for 'service station' is not included in the Proposed Plan and that the submission from Oil Companies [785.34] is rejected.

3.63.5 Consequential amendments

888. No consequential amendments are required.

3.64 'Public floor area'

3.64.1 Introduction

889. The term 'public floor area' is not defined in the Proposed Plan, nor is it defined in the Planning Standards.

3.64.2 Submissions

890. One original submission was received by Waikato District Council on the term 'public floor area'. There is one further submission.

Submission point	Submitter	Summary of submission
697.502	Waikato District Council	Include a definition for 'public floor area'. The submitters reasons were that it believed this term would benefit from being defined for additional clarity. It requested the following wording: <u>Public floor area</u> <u>Means the undercover floor area usually accessible by the public.</u>
FS1387.586	Mercury	<i>Opposed 697.502: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.64.3 Analysis

891. The term 'public floor area' is used twice in the Proposed Plan in Table 14.12.5.7, which outlines the minimum required parking spaces.
892. I agree with the submitter that definition of this term would benefit plan users by increasing clarity and certainty. However, I believe that this term would be more appropriately defined within the rule itself, as it does not appear anywhere else in the Proposed Plan, other than in Table 14.12.5.7. I consider the wording provided by the submitter is appropriate, but recommend a minor change to correct a typographical error, by separating the term 'undercover' by a hyphen.

3.64.4 Recommendations

893. I recommend that amendment is made to Table 14.12.5.7 to clarify the meaning of the term 'public floor area'.
894. The submission by Waikato District Council [697.502] is accepted in part.

3.64.5 Recommended amendments

895. The following amendments are recommended:

Table 14.12.5.7	Activity	Minimum Required Parking Spaces	Minimum Required Loading Bays
	Hospitality services (e.g. cafes, taverns)	<p>1 car space per 10m² net public floor area, except that in the Rangitahi Residential Zone 1 car space per 15m² net public floor area is required</p> <p><u>Note: For the purpose of this table, public floor area means the under-cover floor area usually accessible by the public.</u></p>	1 HGV, except that in the Rangitahi Residential Zone 1 HGV per 1000m ² GFA of Rangitahi commercial activity is required

3.64.6 Consequential amendments

896. No consequential amendments are required.

3.65 'Neighbourhood centre'

3.65.1 Introduction

897. The following term is relevant to my analysis:

Neighbourhood centre (Proposed Plan)	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 on the planning maps.
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3.65.2 Submissions

898. Two submission points were received on the definition of 'neighbourhood centre' (and six further submissions). Both submitters seek amendments to the proposed definition for 'neighbourhood centre'.

899. The following submissions were made:

697.490	Waikato District Council	These are not shown on the planning maps so the amendment is needed to correct the error. Delete reference to "or on the planning maps".
FS1377.224	<i>Havelock Village Limited</i>	<i>Oppose 697.490 Neighbourhood centres should be identified on the planning maps with the appropriate zoning (ie commercial and the definition should reflect that).</i>
862.25	Havelock Village Limited	<p>The submitter seeks to amend the definition of Neighbourhood Centres to enable residential activities above the ground floor. With a focus on Neighbourhood Centres being within a walkable catchment and convenient for the community they serve, it is logical that residential activities are provided for. The Business Zone and Business Town Centre Zone under the Proposed Waikato District Plan and the Neighbourhood Centre Zone under the Auckland Unitary Plan all provide for residential activities above the ground floor.</p> <p>Amend the definition of "Neighbourhood centre" in Chapter 13: Definitions as follows: Means a single or small grouping of commercial activities that service the day-to-day needs of the local community. <u>Residential use above ground floor is provided.</u> Neighbourhood centres are identified in <u>masterplans</u>, structure plans or on the planning maps.</p>
FS1086.25	<i>Yashili Dairy Company Limited</i>	<p><i>Support</i></p> <p><i>Havelock Village Limited and related companies control land in southern Pokeno at 88, 242 (in part) and 278 Bluff Road (the site). That land is in proximity to the submitters land holding. Havelock Village's submissions seeks, amongst other things, the rezoning of the site to Residential zone in order to provide for approximately 1025 new residential lots and new neighbourhood centre. In the alternative it seeks the rezoning of the site to Aggregate Extraction Zone.</i></p> <p><i>The submitter is strongly supportive of the ongoing growth and development of Pokeno. As a result, it</i></p>

		<p><i>supports the additional housing and population that would be created by the rezoning of the site. The additional population will assist to improve the economic vitality of Pokeno. In addition, the proposed new neighbourhood centre will provide a range of amenities and commercial services to cater for the da-to-day needs of the local community.</i></p> <p><i>An additional benefit of the Havelock Village Development is the direct linkage between the Pokeno Town Centre and Potter Road proposed on the Havelock Village Masterplan allowing the residents on Potter Road, Ewing Road and Trig Road to be more connected to the Pokeno community.</i></p>
FS1186.25	Pokeno Nutritional Park Limited	<p>Support</p> <p>As above</p>
FS1301.25	New Zealand Health Food Park Limited	<p>Support</p> <p>As above</p>
FS1303.25	Charlie Harris	<p>Support</p> <p>As above</p>
FS1340.172	TaTa Valley Limited	<p>Support</p> <p><i>The submitter supports submission 862 in its entirety. In particular, the submitter supports rezoning TaTa Valley as requested in its submission to provide for additional economic opportunities and amenities with Pokeno. There are also potential efficiencies in the delivery of infrastructure if both TaTa Valley and Havelock Village are rezoned and developed.</i></p>

3.65.3 Analysis

900. Waikato District Council [697.490] has requested a minor amendment to remove the reference to the Planning Maps, as these centres are not shown on the maps. On the basis that this will reduce confusion, I agree with this amendment.
901. Havelock Village Limited [862.25] have requested an amendment to the definition to enable residential activities above the ground floor. I agree with the submitter that the principle of residential above commercial would be consistent with the approach adopted in the Business Zones. As ‘neighbourhood centres’ only appear in the Residential Zone rules, where ‘residential activity’ is a permitted activity and where ‘neighbourhood centres’ are a permitted activity (subject to being within a defined area), I do not consider it necessary to include this wording. It is more appropriate for such matters to be provided for in the rules, rather than in a definition.

3.65.4 Recommendations

902. I recommend that the definition of ‘neighbourhood centre’ is amended to remove reference to the planning maps, but include reference to ‘master plans’.

903. I recommend that the submission from Waikato District Council [697.490] is accepted.

904. I recommend that the submission from Havelock Village Limited [862.25] is accepted in part.

3.65.5 Recommended amendments

905. 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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3.65.6 Consequential amendments

906. No consequential amendments are required.

3.66 ‘Community facility’, ‘community activity’ and ‘place of assembly’

3.66.1 Introduction

907. The following terms are relevant to my assessment:

Community facilities (Proposed Plan)	Means in the Business Zone Tamahere, land or building used for community activities, generally established on a not-for-profit basis, and includes library, council offices, police station, public toilets or public rooms.
Community facility (Planning Standards)	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 activity (Proposed Plan)	Means the construction and use of public land and buildings which provides for individual or community health, welfare, care, safety, recreation, cultural, ceremonial, spiritual, art and craft purposes and includes cemeteries.
Community activity (Te Kauwhata Lakeside Precinct) (Proposed Plan)	Means a community activity that relates to the Te Kauwhata Lakeside Precinct Plan area and involves the use of land and buildings that provide for individual or community health, welfare, care, safety, recreation, cultural, ceremonial, spiritual, and art and craft purposes. It includes any preschool or education facility, place of worship, community hall or centre or recreation facility.
Place of assembly (Proposed Plan)	Means land and/or buildings used principally for the public or private assembly of people for recreation activities, cultural activities or entertainment activities. It includes community centres and halls.

3.66.2 Submissions

908. Six original submission points (and eight further submissions) were received on the definition of 'community activity', one submission on the definition of 'community activity (Te Kauwhata Lakeside Precinct)', two original submissions on 'community facility' and one further submission (seeking that this be widened to apply across the district), and 'place of assembly' attracted one original submission and two further submissions.

Submission point	Submitter	Summary of submission
Community activity		
378.11	Fire and Emergency New Zealand	Fire and Emergency New Zealand supports the definition on the assumption that the definition is intended to encompass emergency services. However, Fire and Emergency New Zealand considers that, in order to provide clarity, the definition should be expanded to make explicit mention of emergency services as follows: "Means the use of land and buildings which provides social and cultural services and facilities for the general public in respect of emergency services, education, and religion. Community facilities and leisure, may be associated with health clinics, schools, churches, probation and periodic detention centres"
FS1388.22	Mercury	<i>Oppose 378.11: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1035.116	Pareoranga Te Kata	<i>Supports 378.11. Fire safety and fire prevention to undertake training activities for fire fighters within the region.</i>
697.375	Waikato District Council	There is no need for three separate terms 'community activity, community activity (Te Kauwhata Lakeside Precinct) and 'community facilities' when the terms are similar. A more efficient approach would be to rationalise into a single defined term. The preferred term is not stated.
FS1387.551	Mercury	<i>Opposed 697.375: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1210.3	The Department of Corrections	<i>Not Stated</i> <i>The rationalisation of these definitions could present interpretation issues as the Department sought in its primary submission (refer submission points 496.1 and 496.2) that 'community corrections activities' be added to the 'community activity' definition as a separate definition. The rationalisation of the definitions is supported insofar as any new definition includes reference to 'community corrections activities.'</i>
FS1340.124	TaTa Valley Limited	<i>Support</i>

		<i>The submitter supports submission 697.375 as there is no need for three definitions which are all so similar. Amalgamation of the three into one definition would be more conducive.</i>
<i>FS1371.26</i>	<i>Lakeside Development Limited</i>	<i>Support Lakeside Development Limited supports the proposed amendments to the Plan to help improve the clarity and accuracy of rules within the Lakeside Te Kauwhata Precinct.</i>
<i>695.60</i>	<i>Sharp Planning Solutions Ltd</i>	<i>Amend the definition of 'community activity' in Chapter 13 to include 'sporting activity'.</i>
<i>FS1387.315</i>	<i>Mercury NZ Limited</i>	<i>Opposes 695.60. At the time of lodging this further submission, neither natural hazard flood provisions nor adequate flood maps were available, and it is therefore not clear from a land use management perspective, either how effects from a significant flood event will be managed, or whether the land use zone is appropriate from a risk exposure. Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i>
<i>496.2</i>	<i>The Department of Corrections</i>	<i>A definition is provided for community activity but it does not specifically incorporate community corrections activities. Community corrections activities are essential social infrastructure and play a valuable role in reducing reoffending. They enable people and communities to provide for their social and cultural well-being and for their health and safety. To allow for their reference and integration with the Plan, the submitter seeks an amendment to the definition of community activity to result in community corrections activities becoming a subset of this definition, alongside a new definition for 'community corrections activities'. Adopting this approach means that community corrections activities can be considered together with community activities throughout the Plan where this is appropriate, whilst also allowing reference to them specifically where this is necessary. Amend the definition of "community activity" in Chapter 13 Definitions, as follows: "Means the construction and use of public land and buildings which provides for individual or community health, welfare, care, safety, recreation, cultural, ceremonial, spiritual, <u>community corrections activities</u>, art and craft purposes and includes cemeteries. AND Any other consequential amendments</i>
<i>FS1269.135</i>	<i>Housing New Zealand Corporation</i>	<i>Housing New Zealand supports the proposed amendment, to the extent it is consistent with its primary submission.</i>

749.38	Housing New Zealand Corporation	<p>The submitter supports the proposed definition, however notes that land and buildings (other than public) could be used for community activities, including Crown land. Amend the definition of "community activity" as follows:</p> <p>Means the construction and use of public land and buildings... OR Amend the definition of "community activity" as follows:</p> <p>Means the construction and use of public or Crown land and buildings... AND Amend the Proposed District Plan as consequential or additional relief as necessary.</p>
343.11	Rangitahi Ltd	<p>The definition is broad and needs to be updated to specifically exclude 'child care facilities' so there is no confusion, particularly to make it clear that the maximum floor area limits for those activities are not relevant to child care facilities.</p> <p>Amend the definition for 'Community Activity' in Chapter 13 Definitions to exclude 'childcare facilities'. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.</p>
Community facility		
697.376	Waikato District Council	<p>Delete the reference to a specific zone so that this term may be used (as appropriate) in other zones.</p> <p>Amend the definition of "Community facilities" as follows: Means in the Business Zone Tamahere, land or building used for community activities...</p>
FS1340.125	TaTa Valley Limited	<p>Support 697.376.</p> <p>The submitter supports submission 697.376 as the definition should not be exclusive to one zone throughout the entire district.</p>
749.39	Housing New Zealand Corporation	<p>The submitter does not support the proposed term solely relating to, and only applying in, the Business Zone Tamahere. It is inappropriate to have general terms used for a specific zone and limit the application and use to a specific area. The term should be allowed to apply in all zones. There would be wider interest for the use of the term in the Proposed District Plan.</p> <p>Amend the definition of "Community facilities" as follows: Means in the Business Zone Tamahere, land or building used for community activities...</p>
Place of assembly		
697.494	Waikato District Council	<p>The definitions of 'place of assembly' and 'community activity' encompass common activities which could create confusion as to which term, and therefore activity status applies. Using a single defined term would result in clearer rules.</p> <p>Amend the definitions for "Place of assembly and Community activity" to ensure that there is no overlap</p>

		between the activities that each of the terms encompass.
FS1387.580	Mercury	<i>Opposed 697.494: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1210.4	The Department of Corrections	<i>The relief sought could present interpretation issues as the Department sought in its primary submission (refer submission points 496.1 and 496.2) that 'community correction activities' be added to the 'community activity' definition as a separate definition. The amendment of the definitions is supported insofar as any new definition includes reference to 'community corrections activities.'</i>

3.66.3 Analysis

909. The Proposed Plan includes several closely-related terms – ‘community facilities’, ‘community activity’ and ‘community activity (Te Kauwhata Lakeside Precinct)’. I agree with Waikato District Council [697.375] that it would be appropriate to rationalise these terms into one. The Definitions Standard includes a definition of ‘community facility’, which is used in more or less the same context as the term ‘community activity’ in the Proposed Plan. I recommend that the Definitions Standard definition of ‘community facility’ is adopted, and the definition of ‘community activity’ is deleted. (I note the need to consider the implications for other proposed definitions, as raised by the Department of Corrections in their further submission [FS1210.3 and FS1210.4]. (These terms are dealt with in section 3.69 of this report).
910. Fire and Emergency New Zealand [378.11] have requested that ‘emergency services’ are included in the definition of ‘community activity’. As I have recommended deletion of this term, and use of the term ‘community facility’ in the Definitions Standard instead, I have considered whether such a use falls into this definition. I do not think it does, but consider it would be appropriate instead to adopt a separate definition of ‘emergency services’⁸⁰. This is considered further in section 3.71 of this report.
911. Sharp Planning Solutions Ltd [695.60] has requested that the definition of ‘community activity’ be amended to include ‘sporting activity’. This relief will be met by adopting the Definitions Standard term ‘community facility’.
912. Rangitahi Ltd [343.11] seek to exclude ‘childcare facility’ from the definition of ‘community activity’, so that there is no confusion regarding the maximum floor area limits between a ‘community activity’ and a ‘childcare facility’. The relief sought should be met by adopting the definition of ‘community facility’ from the Definitions Standard, as that definition does not refer to such facilities, or more widely, to ‘education facilities’, and a more specific definition of ‘childcare facility’ is included in the Proposed Plan. However, it is not clear to me whether the Council intended to exclude ‘childcare facilities’ from the definition or rules

⁸⁰ This would be consistent with the relief sought by FENZ in their submission on the definitions in the Planning Standards.

to regulate ‘community activity’ (Rules 16.1.2 – Permitted Activities, 16.5.2 Permitted Activities - Lakeside Te Kauwhata Precinct (Residential Zone). I consider that the need for an explicit exclusion for ‘childcare facilities’ from any rules that relate to ‘community activities’ should be considered by the s42A author for the Residential Zone hearings, as it is not possible to include an exclusion to a Definitions Standard definition⁸¹.

913. The Department of Corrections [496.2] seeks an amendment to the definition of ‘community activity’ to result in ‘community corrections activities’ becoming a subset of this definition, alongside a new definition for ‘community corrections activities’. I consider that the Definitions Standard definition of ‘community facility’ would encompass this activity as a subset, which would have implications for the rules in the Proposed Plan. The request for a definition of ‘community corrections activities’ is supported, subject to adopting amendments to rules in the Residential Zone, and is dealt with further in section 3.69 of this report.
914. There are two definitions of ‘community activity’ in the Proposed Plan - one that relates only to the Te Kauwhata Precinct. A submission on that definition has been made (Terra Firma Mining Ltd [732.8]) which is being considered in the Lakeside Te Kauwhata hearing.
915. The definition of ‘community facilities’ is specific to the Business Zone Tamahere, however there have been submissions from Waikato District Council [697.376] and Housing New Zealand Corporation [749.39] requesting that this specific reference is removed, so that this definition can be applied in other zones. On the basis of my recommendation to adopt the Planning Standards definition of ‘community facility’, this term should be deleted from the Plan, which will meet the relief sought.
916. Housing New Zealand Corporation [749.38] suggests an amendment on the basis that land and buildings (other than public) could be used for community activities, including Crown land. I agree this is the case. The Definitions Standard definition of ‘community facility’ is silent on land ownership, but I consider that such use would be provided for under the Definitions Standard definition.
917. Waikato District Council [697.494] have requested further rationalisation of the term ‘place of assembly’. I note that this term was considered for inclusion in the Planning Standards, but ultimately was not included. I consider that this term is partly a ‘subset’ of the term ‘community facility’, but encompasses a ‘private’ element of use, which does not overlap. In addition, there may be particular effects associated with this subset of activities, for example in relation to parking requirements and noise. I therefore recommend that this definition is retained. I agree that the activities could be rationalised in terms of the rules, but that is more appropriately considered by the authors of the s42A reports for the Business Zone, Business Town Centre Zone, Business Zone Tamahere, Rural Zone and Country Living Zones.

⁸¹ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

3.66.4 Recommendations

918. I recommend that the definitions of ‘community activity’ and ‘community facilities’ in the Proposed Plan are deleted and replaced with the term ‘community facility’ in the Planning Standards. The definition of ‘place of assembly’ should be retained.
919. The need to rationalise the activity rules for ‘community facility/activity’ and ‘place of assembly’ should be given further consideration by the s42A authors for the following zones: Business Zone, Business Town Centre Zone, Business Zone Tamahere, Rural Zone and Country Living Zone.
920. The need to explicitly exclude ‘childcare facilities’ from the rules in the Residential Zone for ‘community activity’ should be further considered by the s42A author for the Residential Zone.
921. I recommend that the submissions from Waikato District Council (697.375) and Sharp Planning Solutions Ltd [695.60] are accepted.
922. I recommend that the submissions from Rangitahi Ltd [343.11], Department of Corrections [496.2], Waikato District Council [697.376] and Housing New Zealand Corporation [749.38] and [749.39] are accepted in part.
923. I recommend that the submissions from Fire and Emergency New Zealand [378.11] and Waikato District Council [697.494] are rejected.

3.66.5 Recommended amendments

924. The following amendments are recommended:

Community activity	Means the construction and use of public land and buildings which provides for individual or community health, welfare, care, safety, recreation, cultural, ceremonial, spiritual, art and craft purposes and includes cemeteries.
Community facilities	Means in the Business Zone Tamahere, land or building used for community activities, generally established on a not-for-profit basis, and includes library, council offices, police station, public toilets or public rooms.
<u>community facility</u>	<u>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.</u>

3.66.6 Consequential amendments

925. There are consequential amendments arising from this recommendation. All references to ‘community activities’ in the Proposed Plan should be changed to ‘community facility’, with the exception of where this relates to the Te Kauwhata Precinct. The definition of ‘ancillary

activity’ in the Planning Standards is also adopted, as a consequence of being a defined term within the definition of ‘community facility’.

3.67 ‘Health facility’

3.67.1 Introduction

926. The following term is relevant to my analysis:

Health facility (Proposed Plan)	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.
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3.67.2 Submissions

927. Two submission points were received on the definition for ‘health facility’, one in support, and one requesting an amendment. There are two further submissions.

928. The following submissions were made:

Submission point	Submitter	Summary of Submission
695.67	Sharp Planning Solutions Ltd	A business, such as the Caci Clinic in Hamilton, which provides for a range of health as well as beauty and skincare services, would not fit easily into this definition.
FS1387.321	Mercury	<i>Opposed 695.67: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
923.141	Waikato District Health Board	The submitter supports the definition. Retain the definition of ‘Health’ facility in Chapter 13: Definitions as notified.
FS1387.1540	Mercury	<i>Oppose 923.141: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.67.3 Analysis

929. I agree with Waikato District Health Board [923.141] that it is useful to retain a definition of health facility, as it is a term used in the activity rules in the Proposed Plan. I note the support for the proposed wording. Sharp Planning Solutions Ltd [695.67] has not proposed any alternative wording to address the issue they raise. In the absence of any further evidence, I do not consider it is appropriate to amend the definition to account for the circumstances of individual businesses. I also note that this business is not located in the district.

3.67.4 Recommendations

930. I recommend that the definition of 'health facility' be retained and the submission from Waikato District Health Board [923.141] is accepted.
931. I recommend the submission from Sharp Planning Solutions Ltd [695.67] is rejected.

3.68 'Education facility' and 'childcare facility'

3.68.1 Introduction

932. The following terms are relevant to my analysis:

Education facility (Proposed Plan)	Means premises where groups of people are given tuition and training on a formal basis and includes childcare facilities, schools, tertiary education institutions and specialised training facilities, and their ancillary administrative, cultural and health facilities.
Educational facility (Planning Standards)	Means land or buildings used for teaching or training by child care services, schools, and tertiary education services, including any <i>ancillary activities</i> .
Childcare facility (Proposed Plan)	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 (b) a school.

3.68.2 Submissions

933. Two submission points were received on the definition for 'education facility' from Waikato District Council and Ministry of Education seeking amendments to that definition (along with five further submissions). Two submission points (and two further submission points) were received on the definition for 'childcare facility', requesting amendments to the definition.

Submission point	Submitter	Summary of submission
Education facility		
697.383	Waikato District Council	Recognition that childcare facilities are a separate activity from an education facility for the purposes of this Plan. Amend the definition of "Education facility" as follows: Means premises where groups of people are given tuition and training on a formal basis and includes childcare facilities , schools, tertiary education institutions and specialised training facilities, and their ancillary administrative, cultural and health facilities. <u>This does not include childcare facilities.</u>

FS1168.115	Horticulture New Zealand	<p>Oppose 697.383</p> <p>The submitter seeks to delete 'child care facility' from the definition of educational facilities. This is opposed as the effects of such centres are similar to other educational facilities and they should be included as educational facilities.</p>
FS1113.1	Ministry of Education	<p>Oppose 697.383</p> <p>The Ministry supports the principle that education facilities are defined. However, in order to comprehensively recognise the range of activities that may be provided at an education facility, the Ministry seeks a change to the title and definition as outlined in the decision sought below. This will accurately reflect the activities that may be required to support the efficient and effective provision of education. This includes childcare facilities.</p> <p>This will also reflect the first set of National Planning Standards released on the 5th April 2019 from the Ministry for the Environment which sets out the definition recommended for 'educational facility.' It is noted that the District Plan must use the definitions set out in the Definitions list. There is no discretion for a Council to choose whether to apply the definition.</p>
781.1	Ministry of Education	<p>In order to comprehensively recognise the range of activities that may be provided at an education facility, the submitter seeks amendments which will accurately reflect the activities that may be required to support the efficient and effective provision of this education. The proposed definition is consistent with the Ministry's national standards for all education facilities.</p> <p>Replace the notified definition with the following wording:</p> <p>"Education Facilities: means land and/or buildings used to provide regular instruction or training and includes schools, community education, early childhood education, tertiary education institutions, work skills training centres, outdoor education centres and sports training establishments and includes their ancillary administrative and support facilities (including cultural, recreational, communal or accommodation)".</p>
FS1168.116	Horticulture New Zealand	<p>Support 781.1</p> <p>The submitter seeks that the definition of 'educational facility' is amended and include early childhood education. This is supported as the effects of such centres are similar to other educational facilities however for clarity the definition should specifically state 'child care facilities'.</p>
FS1202.135	New Zealand Transport Agency	Support 781.1

		<i>Transport Agency supports Council maintaining discretion b. the extent to which the activity may adversely impact on the transport network.</i>
FS1387.1210	Mercury	<i>Oppose 781.1: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
Childcare facility		
697.373	Waikato District Council	Include a child 'daycare' activity in the defined term to cover those activities.
FS1387.549	Mercury	<i>Opposed 697.373: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
781.2	Ministry of Education	The notified definition does not accurately reflect the broad range of activities associated with a child care facility, including other education facilities. The requested definition of 'education facility' includes facilities for early childhood education as addressed elsewhere in the submission. Delete the definition of "Child care facility" from Chapter 13: Definitions.
FS1387.1211	Mercury	<i>Opposed 781.2. It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1168.114	Horticulture New Zealand	<i>Supports 781.2. The submitter seeks that the definition of child care facility is deleted and included within the definition of educational facilities. This is supported as the effects of such centres are similar to other educational facilities.</i>
343.9	Rangitahi Ltd	Supports the inclusion of a definition for childcare. Retain the definition for 'childcare facility' in Chapter 13: Definitions.
FS1386.477	Mercury	<i>Opposed 343.9 It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.68.3 Analysis

934. Considering 'education facility' first, this term is used in the same context as 'educational facility' in the Definitions Standard. I consider that it is appropriate to adopt the Definitions Standard definition, as requested in the relief sought by the further submission from the Ministry of Education [FS1113.1]. I disagree with Waikato District Council [697.383] that the definition of 'education facility' should exclude childcare facilities. For the purposes of the Proposed Plan, the term 'childcare facility' can be retained as a sub-definition, to account for the distinction in the rules (in particular in relation to parking and traffic generation).

935. Turning to the definition of ‘childcare facility’, I note the support for the definition from Rangitahi Ltd [343.09]. I consider it appropriate to incorporate ‘daycare facilities’ within this definition, as requested by Waikato District Council [697.373]. I disagree with the Ministry of Education [781.2] that the definition should be deleted, primarily on the basis that childcare facilities are treated differently in the rules. In addition, playcentres, which fall within the definition of ‘childcare facility’, may not be ‘education facilities’, that is ‘premises where groups of people are given tuition and training on a formal basis’, as they are primarily run by parents. If there are elements of this activity which the definition of ‘childcare facility’ does not cover and which it should, the Ministry is invited to expand on these in their evidence.

3.68.4 Recommendations

936. I recommend that the definition of ‘educational facility’ in the Planning Standards replace ‘education facility’ and that the minor amendment proposed by Waikato District Council [697.373] to the definition of childcare facility is adopted, and that their submission is accepted.
937. I recommend that the submission from Rangitahi Ltd [343.09] is accepted.
938. I recommend that the submissions from Waikato District Council [697.383] and Ministry of Education [781.1] and [781.2] are rejected.

3.68.5 Recommended amendments

939. The following amendments are recommended:

Education facility <u>educational facility</u>	Means premises where groups of people are given tuition and training on a formal basis and includes childcare facilities, schools, tertiary education institutions and specialised training facilities, and their ancillary administrative, cultural and health facilities <u>means land or buildings used for teaching or training by childcare services, schools, and tertiary education services, including any ancillary activities.</u>
Childcare facility (Proposed Plan)	Means any land or buildings used for the care or training of predominantly pre-school children and includes a P playcentre, kindergarten <u>or daycare</u> . It excludes: (a) children residing overnight on the property; and (b) a school.

3.68.6 Consequential amendments

940. The definition of ‘ancillary activity’ in the Planning Standards will need to be adopted as a consequential amendment of this recommendation, as it is a defined term within the Planning Standards.

941. Rule 14.12.5.13 – Traffic generation rates refers to “childcare and day care facility”. As a consequence of my recommendation, the reference to ‘day care’ can be deleted.

3.69 ‘Community corrections activity’

3.69.1 Introduction

942. The following term is relevant to my analysis:

Community Corrections Activity (Planning Standards)	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.
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943. The Proposed Plan does not define ‘Community Corrections activity’.

3.69.2 Submissions

944. There is one submission point on the term ‘community corrections activity’. The Department of Corrections seeks to include this definition from the Planning Standards. There is one further submission.

945. The following submission was made:

Submission point	Submitter	Summary of submission
496.1	Department of Corrections	Include a new definition for the term ‘community corrections facility’, as follows: <u>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.</u>
FS1388.490	Mercury	Oppose 496.1 <i>It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
FS1269.134	Housing New Zealand Corporation	Supports 496.1. The submitter supports the proposed amendment, to the extent it is consistent with its primary submission.

3.69.3 Analysis

946. The Department of Corrections asks that a definition of community corrections activity is included in the Proposed Plan. The Proposed Plan does not refer to community corrections activities. The Department of Corrections notes that the Proposed Plan does not specifically provide for non-custodial corrections activities (and the associated facilities), and asks for amendments to the rules to provide for community corrections activities, as it considers appropriate, depending on the zone. If amendments to the Proposed Plan result in references to community corrections activities, we consider that a definition for the term “community corrections activity” should be included to provide clarity, in particular to distinguish a community corrections activity from a correctional facility.
947. The Definitions List includes a definition for ‘community corrections activity’. I recommend using the definition from the Planning Standards (as this is mandatory), if a definition of community corrections activity is included in the Proposed Plan.

3.69.4 Recommendations

948. I recommend that, if the Proposed Plan is amended to refer to community corrections activity, the definition of ‘community corrections activity’ from the Planning Standards be included in the Definitions chapter of the Proposed Plan.
949. I recommend that the submission from the Department of Corrections [496.1] is accepted in part.

3.69.5 Recommended amendments

950. The following amendments are recommended:

<u>community corrections activity</u>	<u>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.</u>
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3.69.6 Consequential amendments

951. There are no consequential amendments. This amendment is dependent on acceptance of other submission points raised by the Department of Corrections.

3.70 ‘Correctional facility’

3.70.1 Introduction

952. The following term is relevant to my analysis:

Correctional facility (Proposed Plan)	Means a facility where people are detained in the justice system. It includes a prison, detention centre, youth detention centre and secure unit.
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953. The Planning Standards do not define “Correctional facility”.

3.70.2 Submissions

954. There is one submission on the term ‘Correctional facility’. The Department of Corrections seeks to retain this definition as notified.

955. The following submission was made:

Submission point	Submitter	Summary of submission
496.3	Department of Corrections	Retain the definition of ‘Correctional facility’ as notified.

3.70.3 Analysis

956. The Department of Corrections asks that the definition of Correctional facility is retained as notified. It submits that the definition enables custodial corrections activities to be considered and provided for appropriately. I agree with the Department’s submission, and note that the definition of “correctional facility” works together with the definition of ‘community corrections facility’ to provide clarity about how the Proposed Plan manages the two types of corrections facility.

3.70.4 Recommendations

957. I recommend that the definition of ‘Correctional facility’ is retained as notified and that the submission from the Department of Corrections [496.3] is accepted in part.

3.70.5 Consequential amendments

958. There are no consequential amendments arising from this recommendation.

3.71 ‘Emergency services’

3.71.1 Introduction

959. The Proposed Plan does not define “Emergency services”. The Planning Standards do not define this term either.

3.71.2 Submissions

960. There is one submission point on the term ‘Emergency services’. Fire and Emergency New Zealand (FENZ) seeks to include a definition of the term “emergency services”. There are three further submissions in support of this submission point, and one further submission from Mercury in opposition.

961. The following submissions were made:

Submission point	Submitter	Summary of submission
378.12	Fire and Emergency New Zealand	Include a new definition for the term ‘emergency services’. <u>Emergency Services Means the New Zealand Police, Fire and Emergency New Zealand, and hospital and health services.</u>
FS1035.117	Pareoranga Te Kata	<i>Supports the proposed definition in submission point 378.12</i>
FS1035.118	Pareoranga Te Kata	<i>Supports the proposed definition in submission point 378.12</i>
FS1269.116	Housing New Zealand	<i>Supports the proposed definition in submission point 378.12</i>
FS1388.23	Mercury	<i>Oppose 378.12. It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.71.3 Analysis

962. FENZ asks that the definition of ‘emergency services’ is included in the Proposed Plan. The proposed definition reflects the definition in the Civil Defence Emergency Management Act 2002.

963. There is no specific reference to ‘emergency services’ in the Proposed Plan. The FENZ submission asks that the term ‘community facilities’ is amended to specifically refer to ‘emergency services’. This report rejects that submission point [378.11], but recommends adopting the defined term of ‘emergency services’ (see section 3.71). The FENZ submission also seeks to include emergency services as either a permitted, restricted discretionary, or discretionary activity, depending on the zone, in the rules in Chapters 16 (Residential Zone), 17 (Business Zone), 18 (Business Town Centre), 19 (Business Zone Tamahere), 20 (Industrial Zone), 21 (Industrial Zone Heavy), 22 (Rural Zone), 23 (Country Living Zone) and 24 (Village Zone), to enable emergency service facilities. It also seeks to amend certain relevant Policies in Chapters 4 and 5 to support these rule changes. If amendments to the Proposed Plan result in references to emergency services and emergency service facilities being inserted, I consider that a definition of ‘emergency services’ should be included.

964. The definition of emergency services proposed by FENZ has been taken from the Civil Defence and Emergency Management Act 2002.⁸² I consider the definition of “emergency services” proposed by FENZ is appropriate, subject to one amendment.
965. The definition refers to ‘health services’, which is defined in the Civil Defence and Emergency Services Act 2002 as meaning ‘personal health services and public health services’. This is a broad term that can include hospitals, ambulance stations, and personal medical facilities. The Proposed Plan uses the term ‘health facility’ as a ‘facility for the care and welfare of people and includes non-residential day hospitals, medical practitioners, dentists, optometrists, acupuncturists, osteopaths and other persons involved in alternative forms of medicine’. The Proposed Plan provides for health facilities and hospitals. For this reason, to avoid duplicating provisions for health facilities and hospitals, I recommend replacing the term ‘health services’ in the proposed definition with ‘ambulance services’.

3.71.4 Recommendations

966. I recommend that, if the Proposed Plan is amended to refer to “emergency services” and “emergency service facilities”, then, for ease of reference and clarity, a definition of “emergency services” should be included in the Definitions chapter of the Proposed Plan. I recommend that the definition proposed by FENZ is adopted, subject to the replacement of the term ‘health services’ with ‘ambulance services’.
967. I recommend that the submission from Fire and Emergency New Zealand (FENZ) [378.12] is accepted in part.

3.71.5 Recommended amendments

968. The following amendments are recommended:

<u>Emergency Services</u>	<u>Means the New Zealand Police, Fire and Emergency New Zealand, and ambulance services.</u>
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3.71.6 Consequential amendments

969. There are no consequential amendments. This amendment is dependent on acceptance of other submission points raised by FENZ.

3.72 ‘Emergency services training and management activities’

⁸² Section 4, Interpretation Civil Defence and Emergency Management Act 2002.

3.72.1 Introduction

970. The Proposed Plan does not define “Emergency services training and management activities”. The Planning Standards do not define this term either.

3.72.2 Submissions

971. There is one submission on the term ‘Emergency services training and management activities’. FENZ asks to include this definition. There is one further submission in support, and a further submission from Mercury in opposition.
972. The following submissions were made:

Submission point	Submitter	Summary of submission
378.13	Fire and Emergency New Zealand	Include a new definition for the term ‘emergency services training and management activities’ as follows: <u>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 health services.</u>
FS1035.119	Pareoranga Te Kata	<i>Supports the proposed definition in submission point 378.13</i>
FS1388.24	Mercury	<i>Oppose 378.13: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.72.3 Analysis

973. There is no specific reference to ‘emergency services training and management activities’ in the Proposed Plan. I note that the FENZ submission asks that “emergency services training and management activities” is included as a permitted activity in the Rules in Chapters 16 (Residential Zone), 17 (Business Zone), 18 (Business Town Centre Zone), 19 (Business Zone Tamahere), 20 (Industrial Zone), 21 (Industrial Zone Heavy), 22 (Rural Zone), 23 (Country Living Zone), and 24 (Village Zone). If amendments to the Proposed Plan result in references to emergency services training and management activities, I consider that a definition should be included in the Proposed Plan. A definition is not needed unless the Proposed Plan specifically provides for, and refers to, emergency services training and management activities.
974. I consider that the definition of emergency services training and management activities proposed by FENZ is appropriate, subject to the replacement of the term ‘health services’ with ‘ambulance services’. The reason for this is discussed under the heading ‘emergency services’.

3.72.4 Recommendations

975. I recommend that, if the Proposed Plan is amended to refer to emergency services training and management activities, a definition of ‘emergency services training and management activities’ should be included in the Definitions chapter of the Proposed Plan. I recommend that the definition proposed by FENZ is adopted, subject to the replacement of the term ‘health services’ with ‘ambulance services’.
976. I recommend that the submission from Fire and Emergency New Zealand (FENZ) [378.13] is accepted in part.

3.72.5 Recommended amendments

977. The following amendments are recommended:

<u>Emergency services training and management activities</u>	<u>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.</u>
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3.72.6 Consequential amendments

978. There are no consequential amendments. This amendment is dependent on acceptance of other submission points raised by FENZ.

3.73 ‘Temporary military training activity’

3.73.1 Introduction

979. The following term is relevant to my analysis:

Temporary military training activity (Planning Standards)	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: a. the defence of New Zealand, and b. of any area for the defence of which New Zealand is responsible under any Act: c. the protection of the interests of New Zealand, whether in New Zealand or elsewhere: d. the contribution of forces under collective security treaties, agreements, or arrangements: e. 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: e. the provision of assistance to the civil power either in New Zealand or elsewhere in time of emergency: f. the provision of any public service.
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980. The Proposed Plan does not define 'Temporary Military Training Activity'.

3.73.2 Submissions

981. There is one submission point on the term 'temporary military training activity'. The New Zealand Defence Force seeks to include a definition of the term "Temporary Military Training Activity". There is one further submission.

982. The following submissions were made:

Submission point	Submitter	Summary of submission
796.1	New Zealand Defence Force	Include a new definition for the term 'Temporary Military Training Activities, as follows: <u>Temporary Military Training Activity means a temporary training activity undertaken for defence purposes in accordance with the Defence Act 1990.</u>
FS1387.1259	Mercury	<i>Opposed 796.1: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.73.3 Analysis

983. The New Zealand Defence Force asks that a definition of 'temporary military training activity' is included in the Proposed Plan. The Proposed Plan does not refer to temporary military training activities. The New Zealand Defence Force notes that the Proposed Plan does not specifically provide for temporary military activities, and seeks permitted activity status for such activities. If amendments to the Proposed Plan result in references to temporary military training activities, I consider that a definition for the term 'temporary military training activity' should be included.

984. The Planning Standards include a definition for 'temporary military training activity'. The New Zealand Defence Force also provided a proposed definition in its submission.⁸³ The proposed definition is similar to the definition in the Planning Standards. I understand that the New Zealand Defence Force accepted that the Planning Standards definition is the appropriate definition to include in the Definitions Standard.⁸⁴ I recommend using the Planning Standards definition, if a definition of 'temporary military training activity' is included in the Proposed Plan.

⁸³ This is the same as the definition the New Zealand Defence Force provided as a draft Planning Standards definition.

⁸⁴ 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, pg 218.

3.73.4 Recommendations

985. I recommend that, if the Proposed Plan is amended to refer to temporary military activities, the definition of ‘temporary military training activity’ as set out in the Planning Standards should be included in the Definitions chapter of the Proposed Plan.
986. I recommend that the submission from the Defence Force [796.1] is accepted in part.

3.73.5 Recommended amendments

987. The following amendments are recommended:

<u>temporary military training activity</u>	<p><u>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:</u></p> <p><u>a. The defence of New Zealand, and of any area for the defence of which New Zealand is responsible under any Act:</u></p> <p><u>b. the is protection of the interests of New Zealand, whether in New Zealand or elsewhere:</u></p> <p><u>c. the contribution of forces under collective security treaties, agreements, or arrangements:</u></p> <p><u>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:</u></p> <p><u>e. the provision of assistance to the civil power either tin New Zealand or elsewhere in time of emergency:</u></p> <p><u>f. the provision of any public service.</u></p>
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3.73.6 Consequential amendments

988. There are no consequential amendments. This amendment is dependent on acceptance of other submission points raised by the New Zealand Defence Force.

3.74 ‘Functional need’ and ‘operational need’

989. The following terms are relevant to my analysis:

Functional need (Proposed Plan)	Means for Chapter 14 Infrastructure and Energy, the need for a proposal or activity to traverse, locate or operate in a particular environment because it can only occur in that environment.
Functional need (Planning Standards)	Means the need for a proposal or activity to traverse, locate or operate in a particular <i>environment</i> because the activity can only occur in that <i>environment</i> .
Operational need (Proposed Plan)	Means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical or operational characteristics or constraints.

Operational need (Planning Standards)	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.
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3.74.1 Submissions

990. One original submission point was received from Transpower New Zealand Ltd (and one further submission in support of that original point). The following submissions were made:

Submission point	Submitter	Summary of submission
576.34	Transpower New Zealand Ltd	The term 'Functional need' is used within Policy 6.1.2a)(i) noting that the term 'functional' is also elsewhere in the plan but is not specific to 'need'. On the basis the Proposed Plan also contains the term 'Operational need' and this term is also used within Policy 6.2.1, the definition is supported. Retain definition as notified.
FS1211.35	First Gas	Support 576.34

3.74.2 Analysis

991. The submitter, Transpower New Zealand Ltd [576.34] supports the definition as notified. I note that the Planning Standards definition of 'functional need' is almost identical to that in the Proposed Plan, and consider that definition should be adopted now. I note that the reference to Chapter 14 should be removed, as in fact the term 'functional need' appears in a number of policies in the Plan, not just those that relate to infrastructure and energy⁸⁵.
992. The Planning Standards Recommendations on Submissions Report noted that it was important to include a definition of 'operational need' alongside a definition of 'functional need'⁸⁶. The submission from Transpower New Zealand also indicates the importance of having both. A definition of 'operational need' is included in the Proposed Plan, which is nearly identical to the definition in the Planning Standards. For this reason, I recommend a minor change to the definition of 'operational need', to reflect the exact wording in the Planning Standards, as a consequence of adopting the Planning Standards definition of 'functional need'.

⁸⁵ For example, the term appears in Policy 4.3.8 - Residential amenity and function with respect to non-residential activities in the Village Zone, Policy 5.6.8 - Non-residential activities, with respect to industrial activities in the Country Living Zone, as well as Policy 6.1.2 Development, operation and maintenance, as referenced by the submitter. The term also appears in a number of rules, including Electrical Distribution: Rule 14.5.2, RDI in relation to overhead lines and Rule 14.11.2 - Water, wastewater and stormwater, RD4 with respect to below ground pipes.

⁸⁶ 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, pg 95-97.

3.74.3 Recommendations

993. I recommend that the definitions for ‘functional need’ and ‘operational need’ in the Planning Standards are adopted, and that the submission from Transpower New Zealand Ltd [576.34] is accepted in part.

3.74.4 Recommended amendments

994. The following amendments are recommended:

Functional need <u>functional need</u>	Means for Chapter 14 Infrastructure and Energy, the need for a proposal or activity to traverse, locate or operate in a particular environment because it can only occur in that environment. <u>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.</u>
Operational need <u>operational need</u>	Means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical or operational characteristics or constraints. <u>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.</u>

3.74.5 Consequential amendments

995. A minor amendment to the term ‘operational need’ is proposed as a result of adopting the Planning Standards definition of ‘functional need’. The definition of ‘environment’ will also need to be adopted as a consequential amendment, as it is a defined term used within the definition of ‘functional need’.

<u>environment</u>	<u>Has the same meaning as in section 2 of the RMA (as set out in the box below)</u> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <u>includes –</u> <u>a. ecosystems and their constituent parts, including people and communities; and</u> <u>b. all natural and physical resources; and</u> <u>c. amenity values; and</u> <u>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.</u> </div>
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3.75 ‘Temporary event’

3.75.1 Introduction

996. The following term is relevant to my analysis:

Temporary event (Proposed Plan)	means a social, cultural or recreation event that has a duration of less than 72 hours, including entertainment events, carnivals, festivals, fairs, markets, and exhibitions, and associated temporary buildings and car parks.
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997. The Planning Standards do not define ‘temporary event’ or ‘temporary activity’.

3.75.2 Submissions

998. There are two submission points on the definition of ‘temporary event’. Both sought to remove the time duration from the definition. There are five further submissions. The following submissions were made:

Submission point	Submitter	Summary of submission
697.511	Waikato District Council	Amend the definition to remove reference to a duration of time. The standards associated with temporary events already provide a duration. temporary event means a social, cultural or recreation event that has a duration of less than 72 hours including entertainment events, carnivals, festivals, fairs, markets, and exhibitions, and associated temporary buildings and car parks.
FS1340.131	TaTa Valley Limited	<i>TaTa Valley opposes submission 697.111. It says a timeframe is required but less than 73 hours is too restrictive.</i>
574.16	TaTa Valley Limited	The term ‘temporary event’ is defined in the proposed plan as “temporary event means a social, cultural or recreation event that has a duration of less than 72 hours including entertainment events, carnivals, festivals, fairs, markets, and exhibitions, and associated temporary buildings and car parks.
FS1108.93	Te Whakakitenga o Waikato Incorporated	<i>Oppose: Submits the amendment proposed by TaTa Valley is inappropriate.</i>
FS1139.84	Turangawaewae Trust Board	<i>Oppose: Submits the amendment proposed by TaTa Valley amendment is inappropriate.</i>
FS1301.58	New Zealand Health Food Park Limited	<i>Supports the improved tourism offerings that the TaTa Valley Resort will bring.</i>
FS1301.58	Charlie Harris	<i>Supports the improved tourism offerings that the TaTa Valley Resort will bring.</i>

3.75.3 Analysis

999. Both submitters (Waikato District Council [697.511] and TaTa Valley Limited [574.16]) ask that the timeframe set out in the definition is removed, although the further submission from TaTa Valley Limited contradicts its original submission on this point.
1000. I agree that a clear duration is required for the management of temporary events, but this does not need to be specified in the definition of ‘temporary event’. Providing for the duration of a temporary event in a specific rule, rather than in the definition, provides greater flexibility to manage temporary events, depending on their location.

3.75.4 Recommendations

1001. I recommend that the definition of ‘temporary events’ is amended to remove any reference to duration.
1002. I recommend that the submissions from Waikato District Council [697.510] and Tata Valley [574.16] are accepted.

3.75.5 Recommended amendments

1003. The following amendments are recommended:

temporary event	means a social, cultural or recreation event that has a duration of less than 72 hours , including entertainment events, carnivals, festivals, fairs, markets, and exhibitions, and associated temporary buildings and car parks.
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3.75.6 Consequential amendments

1004. This amendment requires a consequential amendment to ensure that the rules for temporary events specify the duration of a temporary event. The following rules (Rule 24.1.1, (Village Zone), Rule 25.1.2 (Reserve Zone), Rule 27.2.14 (Te Kowahi Airpark Zone), Rule 28.1.1 (Rangitahi Peninsula Zone)) require the following clause to be inserted:

“(b) The duration of each event is less than 72 hours;”

3.76 ‘Access’, ‘accessible’ and ‘accessibility’

3.76.1 Introduction

1005. The terms ‘access’, ‘accessible’ and ‘accessibility’ are not defined in the Proposed Plan or in the Planning Standards.

3.76.2 Submissions

I006. One submission point was received on the definition of ‘access’, ‘accessible’ and ‘accessibility’ from the Waikato District Health Board. The submitter considers that definitions of these terms should be provided due to the district’s projected growth and changing population. There was one further submission.

I007. The following submissions were made:

Submission Point	Submitter	Summary of Submission
923.136	Waikato District Health Board	<p>The submitter requested the inclusion of the following definitions:</p> <p>“Access: The means or opportunity to approach or enter a place or facility”.</p> <p>“Accessible: Means able to be easily accessed by all members of the community, including those with sight and mobility impairment”.</p> <p>“Accessibility: Means the ease with which activities (either economic or social) or facilities, can be reached or accessed by people”</p> <p>Including any consequential amendments.</p> <p>The submitter stated that “there are two broad meanings of access. The first dimension is around availability i.e. whether or not a facility has been made available to use. That is an important first step. However, it is the second dimension; focusing on the use of facilities, services and amenities such as greenspace, that is critical. If the population is to have access to a facility, then the facility itself should be able to accommodate a variety of personal needs. This requires a built environment that is appropriate to a wide range of people and their needs, whether it is a person in a wheelchair with visual impairments; a child or elderly person, a mother with a pushchair, all with physical needs; or that it is accessible to people who may speak different languages or have social or cognitive needs”.</p>
FS1387.1538	Mercury	<p><i>Oppose 923.16:</i></p> <p><i>It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i></p>

3.76.3 Analysis

I008. The term ‘access’ is used many times in the Proposed Plan and the context in which it is used varies considerably. The definition as requested by the submitter is almost identical to that of the Oxford English Dictionary - with the only difference being that Waikato District Health Board have proposed reference to a ‘facility’, in addition to ‘a place’. I consider

'access' is a universally understood term, with little to no ambiguity in the context of the Proposed Plan. For these reasons, I believe that it is unnecessary to define this term.

1009. With respect to the term 'accessible', I note that this term is also used in multiple different contexts. The term is used in relation to facilities, outdoor living courts, town centre living environments, spaces, open spaces, transport modes, public open space and reserves, and in relation to general public access. With regard to the Proposed Plan rules, the term is used in the following contexts:

- Transportation Rule 14.12.1,
- Table 14.12.5.9, which outlines the 'Required accessible parking spaces',
- 'Living Court' rules in Chapters 16, 17, 18, 27 and 28,
- Rule 26.2.7 (C2) in relation to a motor sport and recreation event.

1010. I consider that there is merit to the submitter's request (Waikato District Health Board [923.136]), as the term 'accessible' is ambiguous in nature. There are a number of widely understood meanings of 'accessible'. These are reflected in the Oxford English Dictionary as:

- "(of a place) able to be reached or entered",
- "Able to be easily obtained or used",
- "Easily understood or appreciated",
- "Able to be reached, entered, or used by people who have a disability".

1011. I believe that the context in which the term 'accessible' is used in the Proposed Plan is synonymous with the definition requested by the submitter. I therefore recommend that the definition requested by the Waikato District Health Board is accepted.

1012. Adoption of the definition as requested by the submitter may require consequential changes. Rule 16.3.7 states that: "(a) A living court must be provided for each dwelling that meets all of the following conditions... (ii) it is readily accessible from a living area of the dwelling". I am unclear as to whether the rule intends there to be physical access to the living court from a living area (access being the 'means or opportunity to enter a place', Oxford English Dictionary), or whether the rule intends to capture the meaning of accessible as sought by the submitter.

1013. I envisage that use of the term 'accessible' in the Living Court rules in Chapters 16, 17, 18, 27 and 28 was meant to represent a physical access or link from the living area of the dwelling, to the living court. As the adoption of the recommended definition would substantively alter the meaning of these rules, I propose that the Living Court rules are amended to replace the wording "it is readily accessible from..." with "it is able to be accessed from...". (I further note that as a consequential amendment of adopting the

Planning Standards term ‘outdoor living space’, the term ‘living court’ will be replaced (see section 3.38)).

1014. Consequential changes will also be required to Rule 26.2.7(a)(ii), where provision is made for emergency vehicles. I recommend that the wording “...that is accessible from Hampton Downs Road...” is replaced with “...that can be accessed from Hampton Downs Road...” as it is clear from this rule that the intent is to provide for efficient access to and from the site, as opposed to access for those with sight and mobility impairments.
1015. The term ‘accessibility’ is used six times in the Proposed Plan. It is used in Transportation Rule 14.12.2, where on-site parking and loading that does not comply with the conditions of Rule 14.12.1.2, and discretion is restricted to... “(c) accessibility of parking areas from on-site activities”. Rule 14.12.1.2 requires that the parking requirements comply with the New Zealand Building Code for ‘Design for Access and Mobility’, as well as Table 14.12.5.9 which outlines the number of ‘required accessible parking spaces’. I consider that in this context, use of the term ‘accessibility’ was intended to encompass access for those sight or mobility impairments. The definition requested by the submitter would be inappropriate in this context.

3.76.4 Recommendations

1016. I recommend that a definition for ‘accessible’ is included in the Proposed Plan, but that definitions of ‘access’ and ‘accessibility’ are not included, and that the submission by Waikato District Health Board [923.136] is accepted in part.

3.76.5 Recommended amendments

1017. The following amendments are recommended:

<u>Accessible</u>	<u>Means able to be easily accessed by all members of the community, including those with sight and mobility impairment.</u>
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3.76.6 Consequential amendments

1018. I recommend that consequential amendments are made to Rules 16.3.7PI(a)(ii), 16.3.7P2(a)(ii), 16.5.8.6PI(a)(i), 16.5.8.6P2(b), 17.3.7PI(a)(ii), 18.3.9PI(a)(ii), 26.2.7C2(a)(ii), 27.3.8 PI(a)(ii), 27.3.8 P2(a)(iii), 28.3.7PI (a)(iii) and 28.3.7 P2(a)(iii), as set out in the analysis above, and shown in the table below⁸⁷.

Table 7: Consequential amendments for the definition of ‘accessible’.

16.3.7 Living court

⁸⁷ These amendments do not show the consequential amendments arising from the adoption of the Planning Standards terms ‘residential unit’ and ‘outdoor living space’.

P1	<p>(a) A living court must be provided for each dwelling that meets all of the following conditions:</p> <p>(i) It is for the exclusive use of the occupants of the dwelling;</p> <p>(ii) It is readily-accessible <u>able to be accessed</u> from a living area of the dwelling...</p>
P2	<p>(a) A living court must be provided for each minor dwelling that meets all of the following conditions:</p> <p>(i) It is for the exclusive use of the occupants of the minor dwelling;</p> <p>(ii) It is readily-accessible <u>able to be accessed</u> from a living area of the minor dwelling...</p>
16.5.8.6 Living court	
P1	<p>(a) A living court must be provided for each dwelling in the Medium Density Precinct as shown on Te Kauwhata Lakeside Precinct Plan Rule 16.5.1(3)(a) which meets all of the following conditions:</p> <p>(i) the living court is readily-accessible <u>able to be accessed</u> from a living area of the dwelling...</p>
P2	<p>(a) A living court must be provided for each dwelling in the High Density Precinct as shown on Te Kauwhata Lakeside Precinct Plan Rule 16.5.1(3)(a) which meets either Rule (a)(v) or condition (a) (ii):</p> <p>(i) it complies with the living court rules for the medium density precinct, except that the ground floor living court must have a minimum area of 50m²; or</p> <p>(ii) Communal open space is provided and:</p> <p>(b) the communal open space is accessible <u>able to be accessed</u> from all dwellings subject to this provision...</p>
17.3.7 Living court	
P1	<p>(a) A living court shall be provided for each dwelling that meets all of the following conditions:</p> <p>(i) It is for the exclusive use of the occupants of the dwelling;</p> <p>(ii) It is readily-accessible <u>able to be accessed</u> from a living area of the dwelling...</p>
18.3.9 Living court	
P1	<p>(a) A living court must be provided for each dwelling that meets all of the following conditions:</p> <p>(i) It is for the exclusive use of the occupants of the dwelling;</p>

	(ii) It is readily accessible <u>able to be accessed</u> from a living area of the dwelling...
26.2.7 Motor sport and event traffic management – all precincts	
C2	<p>(a) The operation of the Hampton Downs Motorsport Park for a motor sport and recreation event is a Controlled Activity if the following is complied with:</p> <p>(i) Total travel time of non-Motorsport Park related traffic shall not be greater than 6 minutes for travel from the bottom of the appropriate interchange ramp to the intersection of the Springhill Corrections Facility access road with Hampton Downs Road.</p> <p>(ii) Provision shall be made for emergency service vehicles (e.g. fire, police, ambulance, military, Department of Corrections, vehicles needing emergency access to any site or dwelling located on, or with access from Hampton Downs Road) such that the travel time for such vehicles, from the bottom of the interchange ramps to any facility that is accessible <u>able to be accessed</u> from Hampton Downs Road shall not be more than 4 minutes...</p>
27.3.8 Living Court	
PI	<p>(a) Construction or alteration of a dwelling in PRECINCT C, or within the Airside Overlay of PRECINCT D, must provide an outdoor living court complying with the following conditions:</p> <p>(i) It is for the exclusive use of the occupants of a dwelling, and</p> <p>(ii) It is accessible <u>able to be accessed</u> from a living area of a dwelling, and either...</p>
P2	<p>(a) A living court must be provided for each minor dwelling that meets all of the following conditions:</p> <p>(i) It is for the exclusive use of the occupants of the minor dwelling;</p> <p>(ii) It is located between 45 degrees northeast through north to 90 degrees west of the minor dwelling measured from the southernmost part of the minor dwelling;</p> <p>(iii) It is accessible <u>able to be accessed</u> from a living area of the minor dwelling, and either...</p>
28.3.7 Living court	
PI	<p>(a) A living court must be provided for each dwelling that meets all of the following conditions:</p> <p>(i) It is for the exclusive use of the occupants of the dwelling;</p>

	<p>(ii) It is located between 45 degrees northeast through north to 90 degrees west of the dwelling measured from the southernmost part of the dwelling;</p> <p>(iii) It is readily-accessible <u>able to be accessed</u> from a living area of the dwelling and either...</p>
P2	<p>(a) A living court must be provided for each minor dwelling that meets all of the following conditions:</p> <p>(i) It is for the exclusive use of the occupants of the minor dwelling;</p> <p>(ii) It is located between 45 degrees northeast through north to 90 degrees west of the minor dwelling measured from the southernmost part of the minor dwelling;</p> <p>(iii) It is readily-accessible <u>able to be accessed</u> from a living area of the minor dwelling and either...</p>

3.77 'Informal recreation'

3.77.1 Introduction

I019. The following term is relevant to my assessment:

Informal recreation (Proposed Plan)	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 other buildings necessary for the maintenance of the park.
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3.77.2 Submissions

I020. One submission was received on the definition of 'informal recreation' by TaTa Valley Limited. Two further submissions were received in support.

I021. The following submissions were made:

Submission Point	Submitter	Summary of Submission
574.21	TaTa Valley Limited	<p>Amend the definition of 'informal recreation' as follows:</p> <p>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, <u>and</u> public toilets and other buildings necessary for the maintenance of the park.</p>

		The submitter's reasons are that providing for 'other buildings necessary for the maintenance of the park' is "too loose of a statement".
FS1301.63	New Zealand Health Food Park Limited	Supports 574.21. <i>"TaTa Valley Limited controls land in southern Pokeno at 242 Bluff Road, Pokeno. TaTa Valley's submission is to amend the plan to enable the development of its site into a major tourism destination, known as the 'TaTa Valley Resort'. Health Food Park supports the improved tourism offerings that this will provide for the area, This is turn brings more consumers to the area, showcase New Zealand's rural character and significantly enrich the region socially and economically"</i> .
FS1303.63	Charlie Harris	Supports 574.21. <i>"TaTa Valley Limited controls land in southern Pokeno at 242 Bluff Road, Pokeno. TaTa Valley's submission is to amend the plan to enable the development of its site into a major tourism destination, known as the 'TaTa Valley Resort'. I support the improved tourism offerings that this will provide for the area, showcase New Zealand rural character and significantly enrich the region socially and economically"</i> .

3.77.3 Analysis

- I022. The term 'informal recreation' is only used three times in the Proposed Plan: in Chapter 13 where it is defined, in Chapter 22.8.2 'Lakeside Te Kauwhata Precinct' in the Rural Zone and in Chapter 25 'Reserve Zone'. In both zones, the activity is a permitted activity, with no activity -specific conditions.
- I023. Rule 22.8.2(a) describes the rules that apply to a permitted activity in the Lakeside Te Kauwhata Precinct. These include standards in relation to maximum height, daylight admission, building coverage and building setbacks. All of these standards would govern any new building in a park.
- I024. In the Reserve Zone, Rule 25.1.2(1) describes how a permitted activity must meet Rules 25.2 Land Use – Effects and 25.3 Land Use – Building. Under these rules, maximum height is restricted to 10m, or 5m in more sensitive settings (25.3.1.1), total building coverage must not exceed 5% of the site (25.3.3), and the gross floor area of a building must not exceed 250m² (25.3.4). Non-compliance with any of these rules will trigger a discretionary resource consent.
- I025. I acknowledge the submitter's concern that the definition does not define the allowable size of maintenance buildings, however I consider that the rules in the Proposed Plan provide a level of regulation of such effects. If the permitted standards are breached, a discretionary resource consent will be required, and any effects arising from the proposals will be assessed through a resource consent application.
- I026. I do however, agree with the submitter that the wording "and other buildings necessary for the maintenance of the park" could benefit from a minor modification. I recommend

inclusion of the word ‘accessory’ to provide more certainty that the use of the building must be ancillary to the primary building or activity established on the site. This follows from incorporation of the Planning Standards definition of ‘accessory building’ (see section 3.25 of this report).

3.77.4 Recommendations

I027. I recommend that the definition for ‘informal recreation’ is amended as shown below.

I028. I recommend that the submission from TaTa Valley Limited [574.21] is accepted in part.

3.77.5 Recommended amendments

I029. The following amendments are recommended:

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 other buildings necessary for the maintenance of the park.
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3.77.6 Consequential amendments

I030. No consequential amendments are required.

3.78 ‘Day-to-day activity’

3.78.1 Introduction

I031. The following term is relevant to my analysis:

Day-to-day activity (Proposed Plan)	Means, within the Hampton Downs Motor Sport and Recreation Zone: (a) driver training and education, testing and practice activities on the motor sport circuit; (b) activities with the business industrial area; (c) apartments, motor camp site, restaurant, convention centre, swimming pool and tennis court facilities and construction activities associated with the motor sport park; (d) the use of the go-kart track for go-karts; and (e) the use of the grounds for paintball, laser tag, outdoor skate parks and clay bird shooting.
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3.78.2 Submissions

I032. One submission was received on the definition of ‘day-to-day activity’ by Raglan Naturally.

I033. The following submission was made:

Submission Point	Submitter	Summary of Submission
831.67	Raglan Naturally	Amend the definition of 'day-to-day activity' to provide for new skateparks, as the existing Raglan skatepark is overcrowded.

3.78.3 Analysis

1034. The submitter has requested amendment to this definition to provide for new skateparks in Raglan. The definition of 'day-to-day activity' applies only to the Hampton Downs Motor Sport and Recreation Zone. I therefore consider that amendment of this definition would not provide the relief sought by Raglan Naturally and would be inappropriate.
1035. A number of submissions points were received from Hampton Downs Motorsport Park requesting amendments to definitions that are unique to the Hampton Downs Motorsport and Recreation Zone. The following submission points are being addressed through Hearing 13 – Hampton Downs Motorsport and Recreation Zone:

Submission point	Definition
657.29	'Motorsport and recreation event'
657.30	'Motorsport and recreation facilities'
657.31	'Automotive activities'
657.50	'Day-to-day activity'
657.51	'General warehousing'
657.52	'Non-automotive activities'
657.54	'Activities not provided for in Precinct B in the Motor Sport and Recreation Zone'
657.55	'Spectator'

1036. My provisional recommendation is to reject the submission by Raglan Naturally, but I consider that this is a matter which should be given further consideration by the s42A author for the Hampton Downs Motorsport and Recreation Zone Hearing.

3.78.4 Recommendations

1037. I provisionally recommend that the definition of 'day-to-day activity' is retained as notified, and that the submission from Raglan Naturally [831.67] is rejected.

3.78.5 Consequential amendments

1038. No consequential amendments are required.

3.79 'Maimai'

3.79.1 Introduction

I039. The term ‘mimai’ is not defined in the Proposed Plan, nor is it defined in the Planning Standards.

3.79.2 Submissions

I040. One submission was received on the definition of ‘mimai’ by Auckland Waikato Fish and Game. Three further submissions were received in support.

I041. The following submissions were made:

Submission Point	Submitter	Summary of Submission
433.19	Auckland Waikato Fish and Game	Include a definition of Mimai that is consistent with the Building Act, as follows: <u>Mimai - game bird shooting shelter structures.</u>
FS1083.7	Ryburn Lagoon Trust Limited	<i>Supports 433.19. The further submitter notes that the definition under the Building Act is for other purposes and may not be appropriate for resource management purposes.</i>
FS1223.77	Mercury NZ Limited	<i>Supports 433.19.</i>
FS1293.32	Director-General of the Department of Conservation	<i>Supports 433.19. However, requests further parameters to ensure mimai structures do not create significant adverse effects on waterbodies, including, but not limited to size restrictions.</i>

3.79.3 Analysis

I042. The term requested by the submitter does not appear in the Proposed Plan, therefore I do not consider that it would be appropriate to define this term.

3.79.4 Recommendations

I043. I recommend that the term ‘mimai’ is not added to Chapter 13. I recommend that the submission from Auckland Waikato Fish and Game [433.19] is rejected.

3.79.5 Consequential amendments

I044. No consequential amendments are required.

3.80 ‘Motorised sport and recreation’

3.80.1 Introduction

1045. The term 'motorised sport and recreation' is not defined in the Proposed Plan, nor is it defined in the Planning Standards.

3.80.2 Submissions

1046. One submission was received on the term 'motorised sport and recreation'. There is one further submission.

Submission point	Submitter	Summary of submission
697.488	Waikato District Council	<p>Include a definition of 'motorised sport and recreation' as follows:</p> <p><u>Motorised sport and recreation</u> <u>Means any facilities or events associated with motorised vehicles where a fee is charged.</u> <u>Vehicles may include dirt bikes, motorcycles, off-road 4 wheel drive vehicles, quad bikes, jet sprints, stockcars and race cars.</u> <u>This includes competitive racing or rallying of motorised vehicles, and includes training connected with that racing or rallying for people who do not reside at the property.</u> <u>The facilities may include:</u> <u>(a) race tracks, race pads and associated pit garages and support facilities;</u> <u>(b) race control, safety, emergency and media facilities;</u> <u>(c) food and beverage and merchandising retail areas;</u> <u>(d) administration buildings and facilities;</u> <u>(e) general ticketing, toilet and ablution facilities;</u> <u>(f) overnight accommodation;</u> <u>(g) parking;</u> <u>(h) driver training school inclusive of a skid pad;</u> <u>(i) spectator facilities including pedestrian access ways, tunnels, overbridges, spectator viewing platforms and seating areas;</u> <u>(j) a jet sprint course;</u> <u>(k) dirt track;</u> <u>(l) go-kart track and drifting pads;</u> <u>(m) accessory buildings, facilities and structures such as maintenance and storage sheds, decks, shade cloths and storage containers for all items listed above.</u></p>
FS1387.578	Mercury	<p><i>Opposed 697.488: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i></p>

3.80.3 Analysis

I047. The term ‘motorised sport and recreation’ does not appear in the Proposed Plan.

I048. Related terms used in the Proposed Plan include:

Term	Location in Proposed Plan
Motorised recreation activity	Chapter 22 Rural Zone
Motorised outdoor recreation	Chapter 27 Te Kowhai Airpark Zone
Motor sport and recreation facility	Chapter 9 Hampton Downs motorsport and recreation
Motor sport and recreation activities	Chapter 9 Hampton Downs motorsport and recreation
Motor sport and recreation events	Chapters 13 (defined), 23 and 26
Motor sport and recreational facilities	Chapter 26 Hampton Downs Motor Sport and Recreation Zone

I049. The term requested by the submitter is not used in the Proposed Plan, therefore I do not consider that it would be appropriate to define this term. I note that there are numerous similar terms used within the Proposed Plan (outlined above), and the definition of one or more of these may be helpful. In the rules, these terms are treated differently from one another, therefore it would be beneficial to either rationalise these terms, or to define their differences.

I050. I invite the submitter (Waikato District Council) to clarify the intended outcome of its submission [697.488] in evidence.

I051. A number of submissions points were received from Hampton Downs Motorsport Park requesting amendments to definitions that are unique to the Hampton Downs Motorsport and Recreation Zone. These submissions are noted in section 3.78 of this report.

I052. My initial recommendation is to reject the submission by Waikato District Council, but I consider that this is a matter which should be given further consideration by the s42A author for the Hampton Downs Motorsport and Recreation Zone Hearing.

3.80.4 Recommendations

I053. I recommend that the submission from Waikato District Council [697.488] is provisionally rejected, on the basis that further clarity is needed.

3.80.5 Consequential amendments

I054. No consequential amendments are required.

3.81 'Airfield'

3.81.1 Introduction

I055. The following terms are relevant to my analysis:

Airfield (Proposed Plan)	Means an area of land set aside from other uses for the purposes of enabling aircraft to land and take off.
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I056. There is no such term defined in the Planning Standards.

3.81.2 Submissions

I057. Three original submissions and four further submissions were received on the definition of 'airfield'.

I058. The following submissions were made:

Submission Point	Submitter	Summary of Submission
419.113	Horticulture New Zealand	Amend the definition of 'airfield' by adding the following wording: <u>and includes rural airstrips and helicopter landing areas.</u>
FS1339.74	NZTE Operations	<i>Supports 419.113.</i> <i>The further submitter states that if amended, the definition of Airfield should be amended to align with the definition of 'Aerodrome' in the CAA document Aviation Definitions and Abbreviations in Part 1 CAA Consolidation Document, dated 20 July 2018. This reads as follows:</i> <i>Aerodrome</i> <i>(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</i> <i>(2) includes any buildings, installations, and equipment on or adjacent to any such area used in connection with the aerodrome or its administration.</i>
695.57	Sharp Planning Solutions	Amend the definition to include areas for aircraft to be stored or maintained. The submitter stated that this could include some airport administration buildings.
FS1339.75	NZTE Operations	<i>Supports 695.57.</i> <i>The further submitter states that if amended, the definition of Airfield should be amended to align with the definition of 'Aerodrome' in the CAA document Aviation Definitions and</i>

		<p><i>Abbreviations in Part 1 CAA Consolidation Document, dated 20 July 2018. This reads as follows:</i></p> <p><i>Aerodrome</i></p> <p><i>(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</i></p> <p><i>(2) includes any buildings, installations, and equipment on or adjacent to any such area used in connection with the aerodrome or its administration.</i></p>
697.486	Waikato District Council	<p>Amend the definition of 'airfield' as follows:</p> <p>Means an area of land set aside from other uses for the purposes of enabling aircraft to land and take off.</p> <p><u>Does not include airstrips or landing sites used for farming.</u></p> <p>The submitter noted that fixed wing aircraft and helicopters are essential for farming including topdressing, animal recovery and aerial spraying. These are intermittently used whereas the term 'airfield' is intended to relate to permanent, formed commercial facilities.</p>
FS1168.113	Horticulture New Zealand	<p>Support 697.486</p> <p>The submitter seeks that the definition of airfield specifically excludes airstrips or landing areas used for farming. HortNZ has sought an amendment to the definition of airfield but the exclusion sought by the council would address HortNZ's concerns.</p>
FS1342.185	Federated Farmers	<p>Supports 697.486 and the proposed exclusion. The further submitter considers that the planning response was not drafted with these activities in mind.</p>

3.81.3 Analysis

1059. The term 'airfield' is used in the Proposed Plan a total of five times. Aside from Chapter 1 Introduction and Chapter 13 Definitions, this term is only used when reference is made to Appendix 9 Te Kowhai Airfield and Obstacle Limitation Surface. I note that the term 'airfield' and 'aerodrome' (and 'Airpark') are used interchangeably when referring to the Te Kowhai facility.
1060. With regard to the submission by Horticulture New Zealand [419.113], I note that this term is not presently used in a rural context within the Proposed Plan. I therefore consider that it would be inappropriate to amend the definition to provide for rural airstrips and helicopter landing areas. If at a later date rules are introduced which relate to the use of rural airfields, it may be useful to define this as a separate term.
1061. As I consider that rural airstrips and helicopter landing areas do not need to be provided for in a definition, I therefore also disagree with Waikato District Council [697.486] that an exclusion for airstrips or landing sites used for farming is necessary, considering the context

in which I understand the term is currently used within the Proposed Plan. However, my understanding of the intention of both of these submissions (from Waikato District Council and Horticulture New Zealand), is that the submitters are seeking to facilitate the use of rural airstrips and helicopter landing sites for farming purposes. To address this, I consider this issue best addressed by the s42A author for the Rural Zone hearing.

- I062. In my opinion there is merit to the request by further submitter NZTE Operations. The Civil Aviation Authority (CAA) is the government agency tasked with establishing civil aviation safety and security standards in New Zealand, and reference is made to the CAA of New Zealand in Appendix 9 Te Kowhai Airfield. The terms ‘airfield’ and ‘aerodrome’ are used interchangeably in the Proposed Plan, and considering that ‘aerodrome’ is a recognised and defined term by the CAA, I consider that the use of this term would be more appropriate. I recommend that the definition of ‘aerodrome’ requested by NZTE Operations adopted and that this replaces the definition of ‘airfield’.
- I063. A number of consequential amendments are required for consistency:
- Amend I.5.4 as follows: “... Te Kowhai ~~Airfield~~ Aerodrome...”
 - Amend the title of Appendix 9 to replace ‘Airfield’ with ‘Aerodrome’
 - Amend rules 25.3.1.2 and 27.3.2 to refer to the amended title of Appendix 9.
- I064. With regard to the submission by Sharp Planning Solutions, I consider that the recommendation to adopt the CAA definition of ‘aerodrome’ provides partial relief to what was sought by the submitter, as the definition includes “any buildings, installations, and equipment on or adjacent to any such area used in connection with the aerodrome or its administration”.

3.81.4 Recommendations

- I065. I recommend that the definition of ‘airfield’ is deleted and replaced with a new definition of ‘aerodrome’.
- I066. I recommend that the submissions from Horticulture New Zealand [419.113] and Waikato District Council [697.486] are rejected.
- I067. I recommend that the submission by Sharp Planning Solutions [695.57] is accepted in part and the further submissions by NZTE Operations [FSI 339.74 and FSI 339.75] are accepted.

3.81.5 Recommended amendments

- I068. The following amendments are recommended:

Airfield <u>Aerodrome</u>	Means an area of land set aside from other uses for the purposes of enabling aircraft to land and take off.
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	<p><u>(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</u></p> <p><u>(2) includes any buildings, installations, and equipment on or adjacent to any such area used in connection with the aerodrome or its administration.</u></p>
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3.81.6 Consequential amendments

I069. The following consequential amendments are required:

- Amend I.5.4 as follows: “... Te Kowhai ~~Airfield~~ Aerodrome...”
- Amend the title of Appendix 9 to replace ‘Airfield’ with ‘Aerodrome’
- Amend Rules 25.3.1.2 and 27.3.2 to refer to the amended title of Appendix 9.

3.82 ‘Circuit training’ and ‘flight training school’

3.82.1 Introduction

I070. The terms ‘circuit training’ and ‘flight training school’ are not defined in the Proposed Plan, nor are they defined in the Planning Standards.

3.82.2 Submissions

I071. Two original submissions were received by Greig Metcalfe - one on the term ‘circuit training’ and one on the term ‘flight training school’. Further submissions were received from NZTE Operations in opposition of each of these original submissions.

I072. The following submissions were made:

Submission Point	Submitter	Summary of Submission
602.33	Greig Metcalfe	Include a definition for ‘circuit training’. The submitter stated that currently this term is ambiguous and can create uncertainty.
FS1339.73	NZTE Operations	<p><i>Opposes 602.33. The further submitter opposes the inclusion of this proposed definition as the Rules provided for in Chapter 27 and the Air Noise Control Boundaries proposed in NZTE’s submission means that this specific definition is not required to be added to the PWDP.</i></p> <p><i>The Air Noise Control Boundaries designed by Marshall Day and sought in the NZTE submission require the Airfield operator to</i></p>

		<p><i>manage the type and frequency of aircraft movements used for any activity in order to comply.</i></p> <p><i>The proposed Marshall Day noise thresholds adequately control aircraft used for any activity, irrespective of whether it is a training flight or a circuit.</i></p>
FS1388.1041	Mercury NZ Limited	Oppose 602.33
602.33	Greig Metcalfe	Include a definition for 'flight training school'. The submitter stated that currently this term is ambiguous and can create uncertainty.
FS1339.73	NZTE Operations	<p><i>Opposes 602.33. The further submitter opposes the inclusion of this proposed definition as the Rules provided for in Chapter 27 and the Air Noise Control Boundaries proposed in NZTE's submission means that this specific definition is not required to be added to the PWDP.</i></p> <p><i>The Air Noise Control Boundaries designed by Marshall Day and sought in the NZTE submission require the Airfield operator to manage the type and frequency of aircraft movements used for any activity in order to comply.</i></p> <p><i>The proposed Marshall Day noise thresholds adequately control aircraft used for any activity, irrespective of whether it is a training flight or a circuit.</i></p>
FS1388.1041	Mercury NZ Limited	Oppose 602.33

3.82.3 Analysis

- I073. The terms requested by the submitter do not appear in the Proposed Plan, therefore I do not consider that it would be appropriate to define them.

3.82.4 Recommendations

- I074. I recommend that the terms 'circuit training' and 'flight training school' are not added to Chapter 13. I recommend that the submission from Greig Metcalfe [602.33] is rejected.

3.82.5 Consequential amendments

- I075. No consequential amendments are required.

3.83 'General aviation' and 'recreational flying'

3.83.1 Introduction

I076. The terms 'general aviation' and 'recreational flying' are not defined in the Proposed Plan, nor are they defined in the Planning Standards.

3.83.2 Submissions

I077. Two original submissions by Greig Metcalfe were received - one on the term 'general aviation' and one on the term 'recreational flying'. Further submissions were received from NZTE Operations in opposition to each of these original submissions.

I078. The following submissions were made:

Submission Point	Submitter	Summary of Submission
602.33	Greig Metcalfe	Include a definition for 'general aviation'. The submitter stated that currently this term is ambiguous and can create uncertainty.
FS1339.73	NZTE Operations	<p><i>Opposes 602.33. The further submitter opposes the inclusion of this proposed definition as the Rules provided for in Chapter 27 and the Air Noise Control Boundaries proposed in NZTE's submission means that this specific definition is not required to be added to the PWDP.</i></p> <p><i>The Air Noise Control Boundaries designed by Marshall Day and sought in the NZTE submission require the Airfield operator to manage the type and frequency of aircraft movements used for any activity in order to comply.</i></p> <p><i>The proposed Marshall Day noise thresholds adequately control aircraft used for any activity, irrespective of whether it is a training flight or a circuit.</i></p>
FS1388.1041	Mercury NZ Limited	Oppose 602.33
602.33	Greig Metcalfe	Include a definition for 'recreational flying'. The submitter stated that currently this term is ambiguous and can create uncertainty.
FS1339.73	NZTE Operations	<p><i>Opposes 602.33. The further submitter opposes the inclusion of this proposed definition as the Rules provided for in Chapter 27 and the Air Noise Control Boundaries proposed in NZTE's submission means that this specific definition is not required to be added to the PWDP.</i></p> <p><i>The Air Noise Control Boundaries designed by Marshall Day and sought in the NZTE submission require the Airfield operator to manage the type and frequency of aircraft movements used for any activity in order to comply.</i></p>

		<i>The proposed Marshall Day noise thresholds adequately control aircraft used for any activity, irrespective of whether it is a training flight or a circuit.</i>
FS1388.1041	Mercury NZ Limited	Oppose 602.33

3.83.3 Analysis

1079. The terms ‘general aviation’ and ‘recreational flying’ are both used once in the Proposed Plan - in Rule 27.1.1, which outlines the activity status in each of the four precincts of the Te Kowhai Airpark Zone. While I consider that definition of these terms may be useful in improving clarity for plan users, I note that submitter Greig Metcalfe has not provided any suggested wording for either of the terms. I invite the submitter to provide detailed wording in evidence to be presented at the Hearing, however at this stage, I recommend that the terms ‘general aviation’ and ‘recreational flying’ remain undefined in the Proposed Plan.

3.83.4 Recommendations

1080. I recommend that definitions for ‘general aviation’ and ‘recreational flying’ are not added to Chapter 13, and that the submission from Greig Metcalfe [602.33] is rejected.

3.83.5 Consequential amendments

1081. No consequential amendments are required.

3.84 ‘Urban subdivision, use and development’

3.84.1 Introduction

1082. The term ‘urban subdivision, use and development’ is not defined in the Proposed Plan. The term is not defined in the Planning Standards.

3.84.2 Submissions

1083. Two submission points were received requesting a definition of ‘urban subdivision, use and development’ or ‘urban subdivision’ (and two further submissions).
1084. The following submissions were made:

Submission point	Submitter	Summary of submission
433.48	Auckland and Waikato Fish and Game Council	Add a new definition to Chapter 13: Definitions for ‘urban subdivision, use and development’ and/or any

		alternative relief to address the issues and concerns raised in the submission.
FS1223.88	Mercury NZ Limited	<p><i>Support 433.48</i></p> <p><i>At the time of lodging this further submission, neither natural hazard flood provisions nor adequate flood maps were available, and it is therefore not clear from a land use management perspective, either how effects from a significant flood event will be managed, or whether the land use zone is appropriate from a risk exposure perspective.</i></p> <p><i>Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i></p>
777.12	Radio New Zealand	<p>A definition of "urban subdivision" would provide clarity.</p> <p>Add a new definition for "urban subdivision" to Chapter 13 Definitions.</p>
FS1387.1180	Mercury NZ Limited	<p><i>Oppose 777.12</i></p> <p><i>At the time of lodging this further submission, neither natural hazard flood provisions nor adequate flood maps were available, and it is therefore not clear from a land use management perspective, either how effects from a significant flood event will be managed, or whether the land use zone is appropriate from a risk exposure perspective.</i></p> <p><i>Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i></p>

3.84.3 Analysis

1085. Auckland and Waikato Fish and Game Council [433.48], has requested that a definition for 'urban subdivision, use and development' be added to Chapter 13: Definitions and Radio New Zealand Limited [777.12] has requested that a definition of 'urban subdivision' is added. This term is used in Objective 5.1.1 – The Rural Environment. Clause (a)(iii) seeks to 'avoid urban subdivision, use and development in the rural environment'. I consider that this term is widely understood and, as the objective is broadly framed, it would be unnecessary to define it.

3.84.4 Recommendations

- I086. I recommend that a definition for ‘urban subdivision, use and development’ or ‘urban subdivision’ is not included in the Proposed Plan, and that the submissions from Auckland and Waikato Fish and Game [433.48] and Radio New Zealand Limited [777.12] are rejected.

3.85 ‘Comprehensive Land Development Consent’

- I087. The following term is relevant to my analysis:

Comprehensive Land Development Consent (Proposed Plan)	<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>
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- I088. There is no such term defined in the Planning Standards.

3.85.1 Submissions

- I089. One submission point was received from Housing New Zealand Corporation. The submission seeks to amend the definition so that it does not exclusively apply in the Te Kauwhata Lakeside Precinct Plan Area. There are three further submission points.

- I090. The following submission was made:

Submission point	Submitter	Summary of submission
749.40	Housing New Zealand Corporation	Amend the definition as proposed (strike out reference to the Te Kauwhata Lakeside Precinct Plan), so that can be applied in any precinct area or zone. There would be wider interest for use of the term in the Proposed District Plan.
FS1387.1010	Mercury	<i>Oppose 740.40 It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

FS1371.31	Lakeside Development Limited	<p><i>Supports 749.40.</i></p> <ul style="list-style-type: none"> • It is accepted that Lakeside is not only the part of the district that will benefit from the comprehensive land development form of control. To that extent LDL supports the submission, however, this form of control may not be appropriate in all residential zones or areas within the district. • Will promote the sustainable management of resources and will achieve the purpose of the RMA 1991. • Will enable the well-being of the community. • Will meet the reasonably foreseeable need of future generations. • Will enable the efficient use and development of the district's assets. • Will represent the most appropriate means of exercising the Council's functions, having regard to the efficiency and effectiveness of the provisions relative to other means.
FS1368.13	Rosita Dianne-Lynn Darnes	<p><i>Supports 749.40. A definition of a general terminology such as for a 'Comprehensive Development', whether it be a land development or subdivision, to support a single development is inappropriate. The definition should include any bundled 'integrated' developments on 'greenfield' or larger underdevelopment infill areas subject to proximity to existing centres and serviceability.</i></p>

3.85.2 Analysis

1091. This definition is tied to a set of rules in the Lakeside Te Kauwhata Precinct, as identified on the planning maps. My understanding is that this definition was introduced through a private plan change and is therefore specific to that zone.
1092. I agree with the submitter that such a concept could be usefully applied elsewhere in the district, for example through another future private plan change, which would introduce rules such as those set out for the Lakeside Te Kauwhata Precinct. However, as there are elements of the definition that are quite specific to that Precinct, for example the reference to “works in the flood plain”, and “associated land decontamination”, I consider that it would be problematic to apply this definition elsewhere. My concern is the specificity in the way that the term is currently defined and how that could be adapted for other future, unknown areas, without altering the effect of the rules that apply to the Te Kauwhata

Lakeside Precinct. I also am of the view that a comprehensive evaluation of the costs and benefits of providing for this type of development elsewhere in the district would be required before being able to make a recommendation on its appropriateness.

- I093. The submitter has not sought to specifically amend the wording in the definition such that this definition could be used more widely, therefore I am not able to recommend an amendment which would meet the relief sought. The submitter is welcome to propose in evidence, alternative wording for the second sentence in the definition, for the Hearing Panel to consider. If any amendments are given favourable consideration, this submission point should be further considered by the s42A officer for Hearing 11: Te Kauwhata Lakeside Precinct Zone.

3.85.3 Recommendations

- I094. I recommend that the definition of “CLDC” is retained as notified, and that the submission from Housing Corporation New Zealand [749.40] is rejected.

3.85.4 Consequential amendments

- I095. No consequential amendments are required.

3.86 ‘Comprehensive Subdivision Consent’

- I096. The following term is relevant to my analysis:

Comprehensive Subdivision Consent (Proposed Plan)	<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>
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- I097. There is no such term defined in the Planning Standards.

3.86.1 Submissions

- I098. One submission point was received from Housing New Zealand Corporation (and one further submission in support of that submission). The submissions seek to amend the definition so that it does not exclusively apply in the Te Kauwhata Lakeside Precinct Plan Area.

1099. The following submissions were made:

Submission point	Submitter	Summary of submission
749.41	Housing New Zealand Corporation	Amend the definition as proposed, (strike out reference to the Te Kauwhata Lakeside Precinct Plan), so that can be applied in any precinct area or zone. There would be wider interest for use of the term in the Proposed District Plan.
FS1365.14	Rosita Dianne-Lynn Darnes	<p>Support 749.4.</p> <p><i>The submitter states that a definition of a general terminology such as for a 'Comprehensive Development', whether it be a land development or subdivision, to support a single development is inappropriate.</i></p> <p><i>The definition should include any bundled integrated developments on greenfield or larger under development infill areas subject to proximity to existing centres and serviceability.</i></p>

3.86.2 Analysis

1100. This term was introduced through the same private plan change as the definition 'Comprehensive Land Development Consent'. I agree with the submitters that these concepts could be usefully applied in other areas and zones in the future. As with 'Comprehensive Land Development Consent', my concern is the specificity in the way that the term is currently defined and how that could be adapted for other future, unknown areas, without altering the effect of the rules that apply to the Te Kauwhata Lakeside Precinct.
1101. The submitter has not sought to specifically amend the wording in the definition such that this definition could be used more widely, therefore I am not able to recommend an amendment which would meet the relief sought. The submitter is welcome to propose in evidence, alternative wording for the Hearing Panel to consider. If any amendments are given favourable consideration, this submission point should be also be given further consideration by the s42A officer for Hearing 11 Te Kauwhata Lakeside Precinct Zone.

3.86.3 Recommendations

1102. I recommend that the definition of "Comprehensive Subdivision Consent" is retained as notified, and that the submission from Housing Corporation New Zealand [749.41] is rejected.

3.86.4 Consequential amendments

I 103. No consequential amendments are required.

3.87 'Indicative Road'

I 104. The following term is relevant to my analysis:

Indicative road (Proposed Plan)	Means a connective roading route that is identified on the planning maps.
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I 105. There is no such term defined in the Planning Standards.

3.87.1 Submissions

I 106. Two submission points were received, requesting amendments to the definition to cover the situation where a road has been formed in an alternative location.

I 107. The following submissions were made:

Submission point	Submitter	Summary of submission
695.71	Sharp Planning Solutions Ltd	The submitters concern relates to application of the rules when the road has been constructed, but not removed from the planning maps. The definition must include phrasing that where an indicative road has been constructed and is open to the public, the indicative road classification is then redundant.
697.394	Waikato District Council	There may be instances where an indicative road has been formed, and there is no value in applying rules to the indicative road when it has been replaced by a formed road. An amendment is proposed to the definition to reflect this, as follows: “Means a connective roading route that is identified on the planning maps. <u>It shall not include any area identified on the planning maps as an indicative road where a resource consent has authorised an alternative roading layout, such that the need for the indicative road has become redundant</u> ”.

3.87.2 Analysis

1108. The term ‘indicative road’ appears in a number of rules across the Proposed Plan, including in relation to ‘construction of a building on an indicative road⁸⁸’ (non-complying activity), ‘building setbacks’ rules⁸⁹ and the ‘road access’ rule (Te Kowhai Airpark zone)⁹⁰.
1109. The submitters (Sharp Planning Solutions Ltd [695.71] and Waikato District Council [697.394]) both raise a concern about the application of rules to a road which has been constructed with an alternative roading layout, but not removed from the planning maps. I agree that it would seem useful to differentiate in the rule framework between an indicative future road and one which has been authorised and/or formed with an alternative layout/location. Whilst a definition may not be the most appropriate place to make this differentiation, I agree that the wording proposed by Waikato District Council will provide greater clarity.
1110. I have recommended a slight variation to this wording, to achieve the same outcome but provide more certainty.

3.87.3 Recommendations

1111. I recommend that the definition of ‘Indicative Road’ is amended to meet the relief sought by Sharp Planning Solutions Ltd [695.71] and Waikato District Council [697.394], and that those submissions are accepted.

3.87.4 Recommended amendments

1112. The following amendment is recommended:

Indicative Road	Means a connective roading route that is identified on the planning maps: <u>but does not include an indicative road identified on the planning maps where a where an alternative roading layout authorised by resource consent or designation achieves the road network outcomes and property access that would have been achieved by the indicative road.</u>
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3.87.5 Consequential amendments

1113. No consequential amendments are required.

3.88 ‘Village Green’

⁸⁸ For example, see Rule 18.1.5

⁸⁹ For example, see Rule 16.3.9.1 and 22.3.7.1

⁹⁰ Rule 27.4.5

3.88.1 Introduction

1114. The following term is relevant to my analysis:

Village Green (Proposed Plan)	Means the area of land adjacent to the Business Zone Tamahere shown as Village Green on the planning maps.
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1115. There is no such defined term in the Planning Standards.

3.88.2 Submissions

1116. One submission was received by Sharp Planning Solutions, as follows:

Submission point	Submitter	Summary of submission
695.81	Sharp Planning Solutions	Amend the definition of 'Village Green' in Chapter 13 Definitions to not be restricted only to Tamahere, so as to be later used as a general development term when Villages are more widely developed.

3.88.3 Analysis

1117. The term 'Village Green' is used 18 times in the Proposed Plan, including in a policy (Chapter 8.4 'Tamahere Park and Tamahere Village Green' and Chapter 9.4 Specific Zones) and in the rules (Chapter 19 – Specific Area 'Business Zone Tamahere' and Chapter 25.5 Reserves Zone – Specific Area 'Tamahere Park and Village Green').
1118. The term 'village green' is used very specifically in the Proposed Plan in relation to Tamahere. While I appreciate that this concept could be useful in other villages, as the Plan provisions and the definition is currently constructed, it would difficult to widen its scope to a general development term. If the term is used in other villages in the future, this could be incorporated through a plan change or variation at that stage.

3.88.4 Recommendations

1119. I recommend that the submission by the Sharp Planning Solutions [695.81] is rejected.

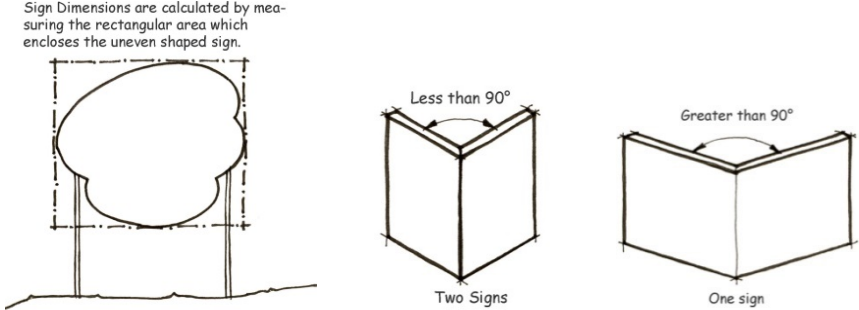
3.88.5 Consequential amendments

1120. No consequential amendments are required.

3.89 'Sign'

3.89.1 Introduction

1121. The following terms are relevant to my analysis:

<p>Sign (Proposed Plan)</p>	<p>Means any device, graphic or display of whatever nature that is visible from a public place, for the purposes of:</p> <ul style="list-style-type: none"> (a) providing information to the general public; (b) identifying and providing information about any activity, site or building; (c) providing directions; or (d) promoting goods, services or forthcoming events <p>Sign Dimensions are calculated by measuring the rectangular area which encloses the uneven shaped sign.</p> 
<p>Sign (Planning Standards)</p>	<p>Means any device, character, graphic or electronic display, whether temporary or permanent; which</p> <ul style="list-style-type: none"> a. is for the purposes of— <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 b. is projected onto, or fixed or attached to, any, structure or natural object; and c. includes the frame, supporting device and any ancillary equipment whose function is to support the message or notice.

3.89.2 Submissions

1122. Two original and two further submissions were received on the term 'sign'.

Submission point	Submitter	Summary of submission
742.81	New Zealand Transport Agency	Amend the diagram demonstrating "Two Signs" within the definition for "sign" to include the situation where signs are at 90 degrees.
FS1323.118	Heritage New Zealand Pouhere Taonga	<i>Support or opposition for 742.81 not stated.</i> <i>The submitter is concerned at the proposed amendments to the definitions and the adverse effects that these could cause to historic heritage.</i>
785.37	'Oil Companies'	Amend the definition of 'sign' as follows: Means any device, graphic or display of whatever nature that is visible from <u>directed to and legible to a person in</u> a public place, for the purposes of: (a) providing information to the general public; (b) identifying and providing information about any activity, site or building; (c) providing directions; or (d) promoting goods, services or forthcoming events. <u>A building or structure that is painted in whole or part in corporate colours does not, of itself, constitute a sign or signage.</u>
FS1323.117	Heritage New Zealand Pouhere Taonga	<i>Opposes 785.37.</i> <i>The submitter is concerned at the proposed amendments to the definitions and the adverse effects that these could cause to historic heritage.</i>

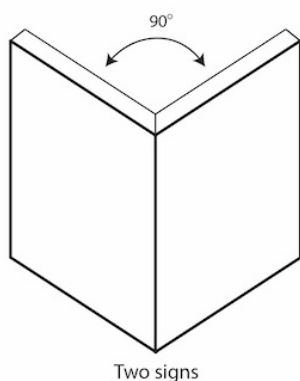
3.89.3 Analysis

- I123. The term 'sign', as defined in the Definitions Standard, is used in the same context as the term used in the Proposed Plan. I recommend therefore that the Definitions Standard definition is adopted.
- I124. The Definitions Standard term includes details of the scope of the definition, including in relation to its physical construction/attachment. The definition in the Proposed Plan contains a useful diagram to explain how sign dimensions are calculated in the Proposed Plan. I recommend that this diagram is retained, which is provided for under the Definitions Standard.
- I125. The New Zealand Transport Agency [742.81] requests clarity on how signs at 90 degrees are to be calculated. I consider that two signs at 90 degrees are designed to be visible at more than one viewpoint, therefore should be considered to be two signs. It would be helpful to add a drawing to illustrate this.

- I 126. The Oil Companies [785.37] request an amendment to the definition to exclude a building or structure “painted in whole or part in corporate colours”. Exclusions cannot be incorporated into Planning Standards definitions, but in any event, my conclusion is that a building painted in such a way (without use of letters or numbers) would not fall under the definition of ‘sign’, therefore such an exclusion in the applicable rule is unnecessary. With respect to structures, there may be instances where a structure that is painted in corporate colours will be considered a sign under the definition, and I consider that it would be appropriate for this to be subject to the Proposed Plan objectives, policies and rules.

3.89.4 Recommendations

- I 127. I recommend that the Planning Standards definition of ‘sign’ replace the definition in the Proposed Plan, but that the diagram in the Proposed Plan is retained. I further recommend that a drawing depicting two signs at right angles is included in the diagram, with the label ‘two signs’ (as set out below), and that the submission from the New Zealand Transport Agency [742.81] is accepted.



- I 128. I recommend that the submission by the Oil Companies [785.37] is rejected.

3.89.5 Recommended amendments

- I 129. The following amendments are recommended:

<p>Sign</p>	<p>Means any device, graphic or display of whatever nature that is visible from a public place, for the purposes of:</p> <ul style="list-style-type: none"> (a) providing information to the general public; (b) identifying and providing information about any activity, site or building; (c) providing directions; or (d) promoting goods, services or forthcoming events.
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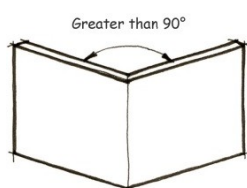
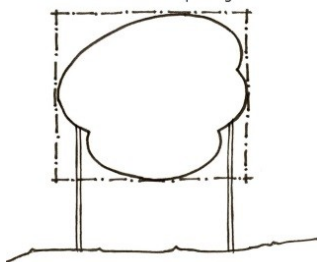
sign

means any device, character, graphic or electronic display, whether temporary or permanent; which

- a. is for the purposes of—
 - 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
- b. is projected onto, or fixed or attached to, any, structure or natural object; and
- c. includes the frame, supporting device and any ancillary equipment whose function is to support the message or notice.

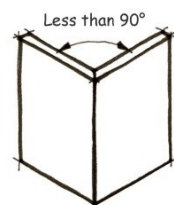
[Recommend that this diagram be retained]

Sign Dimensions are calculated by measuring the rectangular area which encloses the uneven shaped sign.



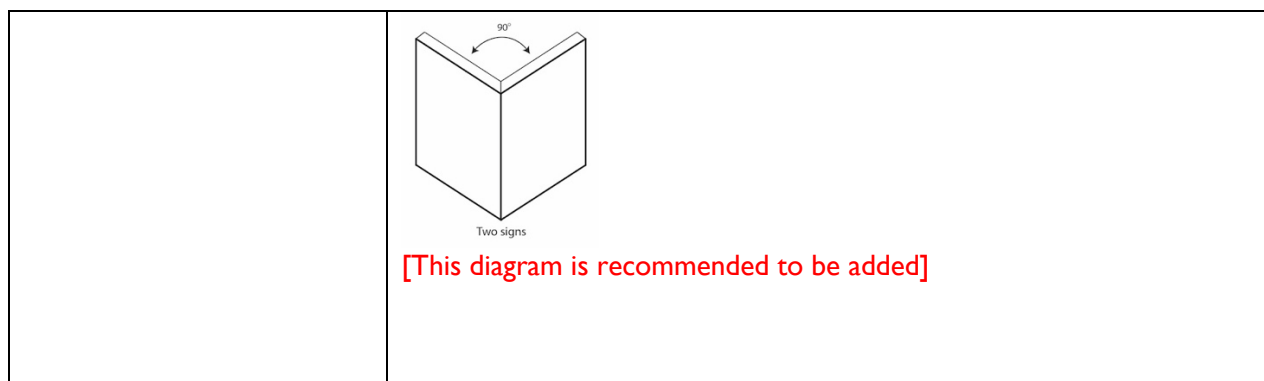
Greater than 90°

One sign



Less than 90°

Two Signs



3.89.6 Consequential amendments

1130. No consequential amendments are required.

3.90 'Real estate header sign' and 'real estate sign'

3.90.1 Introduction

1131. 'Real estate header sign' and 'real estate sign' are not defined in the Proposed Plan, nor are they defined under the Planning Standards.

3.90.2 Submissions

1132. One original submission by Greig Metcalfe and one further submission by NZTE Operations in opposition were received on the definition of 'real estate header sign'. There is also a further submission from Mercury.
1133. One original submission by Greig Metcalfe and one further submission by Heritage New Zealand Pouhere Taonga in opposition were received on the definition of 'real estate sign'. There is also a further submission from Mercury.

Submission point	Submitter	Summary of submission
602.33	Greig Metcalfe	Include a definition for 'real estate header sign'.
FS1339.73	NZTE Operations	Oppose 602.33
FS1388.1041	Mercury	Oppose 602.33: It is not clear, from a land management perspective, how effects from a flooding event would be managed.
602.27	Greig Metcalfe	Include a definition for 'real estate sign' as follows: <u>A real estate sign advertising a property or business for sale, for lease, for rent or by any other such method.</u>

FS1323.95	Heritage New Zealand Pouhere Taonga	Oppose 602.27 on the basis that the wording proposed by the submitter would expand the current meaning of the permitted activity real estate sign inferred through the rule. This may cause adverse effects to historic heritage.
FS1388.1039	Mercury	Oppose 602.27: It is not clear, from a land management perspective, how effects from a flooding event would be managed.

3.90.3 Analysis

- I 134. Greig Metcalfe [602.33] has requested inclusion of a definition for ‘real estate header sign’. The term is not used in the Proposed Plan. I consider that there is no benefit in defining a term that does not appear in the Proposed Plan.
- I 135. The term ‘real estate sign’ is used in rules throughout the Proposed Plan. I agree with the submitter Greig Metcalfe [602.27] that defining this term would be beneficial in improving clarity for plan users. I also agree that including ‘for lease’ and ‘for rent’ signs in a new definition is appropriate, considering that these are associated with real estate.
- I 136. I recommend that the definition suggested by Greig Metcalfe [602.27] is adopted, with the exception of the wording ‘...or by any other method’. I consider that this could make the definition ambiguous and have implications for the application of the permitted standard rule.
- I 137. Including a new definition of ‘real estate sign’ requires consequential changes to the permitted standards in each chapter of the Proposed Plan. Currently, any signs, including real estate signs, are a permitted activity, provided they meet the performance standard in the relevant chapters. The permitted standard for real estate signs refers only to ‘for sale’ signs. I recommend that the rule in each chapter is amended to remove reference to ‘for sale’ signs, and instead relies on the proposed definition of ‘real estate sign’, which encapsulates sale, lease and rental signs.
- I 138. With respect to the further submission by Heritage New Zealand Pouhere Taonga [FS1323.95], I disagree that defining ‘real estate sign’ and consequentially amending the rules to provide for ‘for lease’ and ‘for rent’ signs, will result in adverse effects on historic heritage. Where applicable, rules in the Proposed Plan require that signs are not attached to a heritage item, therefore I consider that the relevant adverse effects on heritage are already being managed.

3.90.4 Recommendations

- I 139. I recommend that a definition of ‘real estate header sign’ is not included in the Plan, and that the submission from Greig Metcalfe [602.33] is rejected.
- I 140. I further recommend that a definition of ‘real estate sign’ is adopted, as set out below, and that the submission from Greig Metcalfe [602.27] is accepted in part.

3.90.5 Recommended amendments

1141. The following amendment is recommended:

<u>Real estate sign</u>	<u>Means a real estate sign advertising a property or business for sale, for lease, or for rent.</u>
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3.90.6 Consequential amendments

1142. Consequential amendments are required to permitted activity rules 16.2.7.1 P3, 17.2.7.1 P3, 18.2.7.1 P3, 19.2.6.1 P3, 20.2.7.1 P3, 21.2.7.1 P3, 22.2.6.1 P3, 23.2.6.1 P3, 24.2.7.1 P3, 26.2.11 P2, 27.2.12 P3 and 28.2.6.1 P2 to remove the wording ‘for sale’ from “a real estate ‘for sale’ sign”.

1143. Where the following wording is used in the rules, amend as follows:

Relate to the sale, lease or rental of the site on which it is located; and

3.91 ‘Construction noise’

1144. The term ‘construction noise’ is not defined in the Proposed Plan. The term is not defined in the Planning Standards either. A definition was included in the Operative District Plan (Waikato Section) as follows:

Construction noise (Operative District Plan)	Means noise arising from any work in connection with the construction, erection, installation, carrying out, repair, maintenance, cleaning, painting, renewal, removal, alteration, dismantling, or demolition of any building, network utility, bridge, viaduct, dam, reservoir, earthworks, pipeline, aqueduct, culvert, drive, shaft, tunnel or reclamation. Construction noise also means noise arising from exploration and prospecting activities of a duration of no longer than 2 months per site in any 12 month period.
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3.91.1 Submissions

1145. One original submission point was received from Sharp Planning Solutions Ltd and one further submission in opposition to that original submission point. The following submissions were made:

Submission point	Submitter	Summary of submission
695.61	Sharp Planning Solutions Ltd	Add a definition for ‘construction noise’ to Chapter 13 Definitions. The term is not defined, it should be.
FS1387.316	Mercury	Oppose 695.61. <i>The submitter considers that it is necessary to analyse the results of the flood hazard assessment prior to</i>

		<i>designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i>
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3.91.2 Analysis

1146. Sharp Planning Solutions Ltd [695.61] has requested the inclusion of a definition for 'construction noise'. This term appears in many contexts in the plan, including in Rule 17.2.1.2 Noise - Construction. Rule 17.2.1.1 refers to NZS 6803:1999 Acoustics – Construction Noise and states that construction noise is to be measured and assessed in accordance with the requirements of the Standard. The NZS provides a definition of construction work and construction noise for the purposes of applying the Standard. Given that construction noise is defined for the purposes of that Standard, I do not think it is necessary to include a definition in the Proposed Plan. I also note that the definition in the Operative District Plan is not consistent with the definition in the NZS.

3.91.3 Recommendations

1147. I recommend that a definition of 'construction noise' is not included in the Plan, and that the submission from Sharp Planning Solutions Ltd [695.61] is rejected.

3.92 'Lux'

3.92.1 Introduction

1148. The following term is relevant to my analysis:

Lux (Proposed Plan)	Means the unit of illumination, where the Lux unit equals one lumen per metre square. In practical terms, the lumen is the number of rays of light falling on an area of one square metre.
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3.92.2 Submissions

1149. One submission was received by Waikato District Council on the term 'lux'.

Submission point	Submitter	Summary of submission
697.398	Waikato District Council	Delete the definition of 'lux' from Chapter 13 Definitions, on the basis that it is a standard unit of measure.

3.92.3 Analysis

1150. I agree with Waikato District Council [697.398] that the definition is not needed, as Lux is a standard unit of measure.

3.92.4 Recommendations

1151. I recommend that the definition of 'lux' is deleted from Chapter 13, and that the submission from Waikato District Council [697.398] is accepted.

3.92.5 Recommended amendments

1152. The following amendments are recommended:

Lux	Means the unit of illumination, where the Lux unit equals one lumen per metre square. In practical terms, the lumen is the number of rays of light falling on an area of one square metre.
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3.92.6 Consequential amendments

1153. No consequential amendments are required.

3.93 'Noxious, dangerous, offensive or toxic activities'

1154. The term 'noxious, dangerous, offensive or toxic activities' is defined in the Proposed Plan as: "Means those activities that emit or have the potential to emit odours, gases or other substances to air which would be so offensive as to impact on the amenity values of neighbouring sites or which could constitute a health risk for people in the vicinity. They include:
- (a) blood or offal treating, bone boiling or crushing, dag crushing, fellmongering, fish cleaning or curing, gut scraping and treating, tallow melting;
 - (b) flax pulping, flock manufacture or teasing of textile materials for any purpose and wood pulping;
 - (c) storage and disposal of night soil, septic tank sludge or refuse;
 - (d) slaughtering of animals for any purpose other than human consumption, storage, drying or preserving of bones, hides, hoofs or skins, tanning, wool scouring;
 - (e) the burning of waste oil in the open air, or in any combustion processes involving fuel-burning equipment, or other than any combustion processes involving fuel-burning equipment, if carried out primarily for the purposes of producing energy, which singly or together have a maximum fuel-burning rate of 1000kg/hr or more carbonaceous fuels or those containing hydrocarbons or sulphur;
 - (f) the open burning of coated or covered metal cable or wire, including metal coated with varnish or lacquers or covered with plastic or rubber.
 - (g) any activity with the potential to discharge asbestos to air, including the removal or disposal of friable asbestos, except where it complies with the Health, Safety, and

Employment Regulations for Asbestos and is supervised and monitored by Occupational Safety and Health.

- (h) burning out of the residual content of metal containers used for the transport or storage of chemicals.
- (i) the open burning of municipal, commercial or industrial wastes or the use of single-chamber incinerators for disposal of waste; and
- (j) any industrial wood pulp process in which wood or other cellulose material is cooked with chemical solutions to dissolve lining and the associated processes of bleaching and chemical and by-product recovery”.

I 155. The term is not defined in the Planning Standards.

3.93.1 Submissions

I 156. One original submission point was received from Horticulture New Zealand and one further submission in support of that original submission point. The following submissions were made:

Submission point	Submitter	Summary of submission
419.131	Horticulture New Zealand	Delete the definition for ‘noxious, dangerous, offensive or toxic activities’ from Chapter 13 Definitions. Discharges to air are managed by the Waikato Regional Council.
FS1342.101	Federated Farmers	Support 419.131

3.93.2 Analysis

I 157. Horticulture New Zealand [419.131] has requested the deletion of this definition. This term appears in one place in the Proposed Plan - Rule 26.1.4 Non-complying Activities – Precinct B in the Hampton Downs Motorsport and Recreation Zone. I agree with the submitter that discharges to air are managed primarily by the Waikato Regional Council. This definition reads as a de facto rule or resource consent condition. Given the very specific nature of this definition and that the relief sought would result in the rule being extinguished, I recommend that this submission is addressed by the S42A officer for the Hampton Downs Hearing (Hearing 13). If the decision is made at that hearing to retain this rule, I recommend that the wording appear in the Rule itself, rather than in Chapter 13.

3.93.3 Recommendations

I 158. I recommend that this submission Horticulture New Zealand [419.131] is considered by the s42A author for Hearing 13 on Hampton Downs. My interim recommendation is that the definition of ‘noxious, dangerous, offensive or toxic activities’ is deleted from Chapter 13 and incorporated into Rule 26.1.4. The submission from Horticulture New Zealand Ltd [419.131] is provisionally accepted.

3.93.4 Recommended amendments

1159. The following amendments are recommended:

<p>Noxious, dangerous, offensive or toxic activities</p>	<p>Means those activities that emit or have the potential to emit odours, gases or other substances to air which would be so offensive as to impact on the amenity values of neighbouring sites or which could constitute a health risk for people in the vicinity. They include:</p> <p>(a) blood or offal treating, bone boiling or crushing, dag crushing, fellmongering, fish cleaning or curing, gut scraping and treating, tallow melting;</p> <p>(b) flax pulping, flock manufacture or teasing of textile materials for any purpose and wood pulping;</p> <p>(c) storage and disposal of night soil, septic tank sludge or refuse;</p> <p>(d) slaughtering of animals for any purpose other than human consumption, storage, drying or preserving of bones, hides, hoofs or skins, tanning, wool scouring;</p> <p>(e) the burning of waste oil in the open air, or in any combustion processes involving fuel burning equipment, or other than any combustion processes involving fuel burning equipment, if carried out primarily for the purposes of producing energy, which singly or together have a maximum fuel burning rate of 1000kg/hr or more carbonaceous fuels or those containing hydrocarbons or sulphur;</p> <p>(f) the open burning of coated or covered metal cable or wire, including metal coated with varnish or lacquers or covered with plastic or rubber.</p> <p>(g) any activity with the potential to discharge asbestos to air, including the removal or disposal of friable asbestos, except where it complies with the Health, Safety, and Employment Regulations for Asbestos and is supervised and monitored by Occupational Safety and Health.</p> <p>(h) burning out of the residual content of metal containers used for the transport or storage of chemicals.</p> <p>(i) the open burning of municipal, commercial or industrial wastes or the use of single-chamber incinerators for disposal of waste; and</p> <p>(j) any industrial wood pulp process in which wood or other cellulose material is cooked with chemical solutions to dissolve lining and the associated processes of bleaching and chemical and by-product recovery.</p>
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3.93.5 Consequential Amendments

1160. A consequential amendment is required as a result of this interim recommendation. Rule 26.1.4 should be amended to include the description of activities currently set out in the definition (if that rule is retained).

3.94 'Heavy vehicle'

3.94.1 Introduction

1161. The following term is relevant to my analysis:

Heavy Vehicle (Proposed Plan)	Means: (a) a 'Single Unit Heavy Goods Vehicle' (being a motor vehicle comprising a single unit having a gross laden weight exceeding 3500kg); or (b) a 'Multi-Unit Heavy Goods Vehicle' (being a motor vehicle comprising more than one unit, having a gross laden weight exceeding 3500kg).
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3.94.2 Submissions

1162. Two original submissions were received on the definition of 'heavy vehicle' from Ports of Auckland Limited and New Zealand Transport Agency.

Submission point	Submitter	Summary of submission
578.50	Ports of Auckland Limited	In support. Retain the definition as notified.
742.70	New Zealand Transport Agency	In support. Retain the definition as notified.

3.94.3 Analysis

1163. The submitters request that the definition be retained as notified. I agree that this definition provides clarity and certainty and recommend that it is retained as notified.

3.94.4 Recommendations

1164. I recommend that the definition is retained, and that the submissions by Ports of Auckland [578.50] and New Zealand Transport Agency [742.70] are accepted.

3.94.5 Consequential amendments

1165. No consequential amendments are required.

3.95 'Identified area'

3.95.1 Introduction

1166. The term 'identified area' is not defined in the Proposed Plan, nor is it defined under the Planning Standards.

3.95.2 Submissions

1167. Four original submissions and six further submissions were received on the term 'identified area'.

Submission point	Submitter	Summary of submission
81.247	Waikato Regional Council	Include a new definition for 'identified area'. The submitters reasons are that it is unsure whether the term is intended to capture ONFL, Significant Amenity Landscapes, NC, SNA and non-SNA areas.
FS1087.30	Ports of Auckland Limited	Supports 81.247.
FS1258.15	Meridian Energy Limited	Support or opposition for 81.247 is not stated. The submitter agrees that the current absence of a definition for 'identified area' is potentially problematic. It points out that the submission point does not suggest specific wording for a definition.
602.33	Greig Metcalfe	Include a new definition for 'identified area', on the basis that not doing so can lead to ambiguity and uncertainty.
FS1339.73	NZTE Operations	Oppose 602.33.
FS1388.1041	Mercury NZ Limited	Oppose 602.33
697.501	Waikato District Council	<p>Include a new definition for 'identified area' as follows:</p> <p><u>In terms of Chapter 14 Infrastructure and Energy, includes the following areas and items identified within this plan:</u></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
FS1323.97	Heritage New Zealand Pouhere Taonga	Supports 697.501. The further submitter considers that inclusion of this definition provides clarity for plan users.

FS1387.585	Mercury	<i>Opposed 697.501: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
576.80	Transpower New Zealand Ltd	Include a new definition for 'identified area'. The submitter notes that the term is not defined in the Proposed Plan, but is used widely throughout the policies and rules. Lists of identified areas are included throughout the Plan, but these are not consistent.
FS1176.141	Watercare Services Ltd	<i>Support 576.80. This new definition as it will provide clarification and will assist with the implementation of the provisions which reference identified areas.</i>

3.95.3 Analysis

1168. Reference to the term 'identified area' (lower case) is made several times in Chapter 6: Infrastructure and Energy - objectives and policies. Chapter 14: Infrastructure and Energy rules list the following 'Identified Areas' (upper case), which are referenced in the activity tables:

- 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

1169. Reference to the term 'identified area' (lower case) is also made in Chapter 16 with respect to the Te Kauwhata Lakeside Precinct Plan, Chapter 5 in relation to the Huntly Power Station and Chapters 22 and 23 with respect to subdivision.

1170. It appears that when capitalised, use of the term 'Identified Area' is in relation to the list of identified areas at the start of Chapter 14 Infrastructure and Energy. This list is identical to the relief sought by Waikato District Council [697.501]. In Chapter 6, the term is currently used in lower case, despite being in the same context as Chapter 14 - which is in relation to Infrastructure and Energy.
1171. I agree with the submitters (Waikato Regional Council [81.247], Greig Metcalfe [602.33], Waikato District Council [697.501] and Transpower New Zealand Ltd [576.80] that defining the term 'Identified Area' would be beneficial in terms of reducing uncertainty and confusion. I consider that, to avoid confusion, amendments should also be made to Chapter 6 to capitalise instances of 'identified area'.

3.95.4 Recommendations

1172. I recommend that a definition of 'Identified Area' is included in the Plan, and that the submissions by Waikato Regional Council [81.247], Greig Metcalfe [602.33], Waikato District Council [697.501] and Transpower New Zealand Ltd [576.80] are accepted.

3.95.5 Recommended amendments

1173. The following amendments are recommended:

<u>Identified Area</u>	<p><u>Means the following areas and items identified within this plan:</u></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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3.95.6 Consequential amendments

1174. Consequential amendments are required to capitalise instances of 'identified area' in Chapter 6. This includes changes to Objective 6.1.8 and Policy 6.1.10.

3.96 'Environmental protection area'

3.96.1 Introduction

1175. The term 'environmental protection area' is not defined in the Proposed Plan but was defined in the Operative District Plan as follows:

Environmental Protection Policy Area (Operative District Plan)	Means an area of land shown on the planning maps that is an ecologically sensitive area as described in an ecological report or subject to flooding as described in the Catchment Management Plan. The purpose of the Policy Area is to avoid the flood hazard, encourage the protection and enhancement of ecosystems and ecological corridors, and protect the habitats of plants, birds and other wildlife.
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3.96.2 Submissions

1176. One submission was received on the term 'environmental protection area' by CKL. There is one further submission in opposition.
1177. The following submission was made:

Submission Point	Submitter	Summary of Submission
471.24	CKL	Include a definition of 'environmental protection area' in Chapter 13 and add 'Environmental Protection Area' to the planning maps, and any consequential amendments necessary. The current intent and extent is not clear.
FS1388.453	Mercury	<i>Oppose 471.24: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.96.3 Analysis

1178. There are a number of rules which relate to Environmental Protection Areas, including rules in relation to building setbacks and subdivision (Rule 16.3.9.4 Building Setback, 16.4.16 Subdivision of land containing an Environmental Protection Area, Rule 22.3.7.6 Building setback – Environmental Protection Area, Rule 22.4.6 Subdivision of land containing all or part of an Environmental Protection Area, 23.4.11 Subdivision of land containing all or part of an Environmental Protection Area). I note that the relief sought by the submitter in

relation to the planning maps is already met, as 'Environmental Protection Area' is shown in the legend to the Planning Maps and these areas are defined on the Planning Maps.

- I 179. However, I agree with the submitter that it would be useful to include a definition of this term. One option would be to adopt the definition from the Operative District Plan. A simpler alternative would be "Means an area shown on the Planning Maps as Environmental Protection Area".
- I 180. Provisions which relate to Natural Hazards (including flooding) are being dealt with during Stage 2 of plan review process. I am aware that there may be overlap between the environmental protection mapped areas submitted on by CKL and other flooding related mapped areas addressed through Natural Hazard provisions later in the hearing process. For this reason, my interim recommendation is to accept this submission and provide a simple definition as proposed above, until such point as the provisions for Natural Hazards are considered through Stage 2.

I 181.

3.96.4 Recommendations

- I 182. I provisionally recommend that a definition for 'environmental protection area' is included in the Proposed Plan and that the submission from CKL (471.24) is accepted.

3.96.5 Recommended amendments

- I 183. The following amendments are recommended:

<u>Environmental Protection Area</u>	<u>Means an area shown on the planning maps as Environmental Protection Area.</u>
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3.96.6 Consequential amendments

- I 184. No consequential amendments are required.

3.97 'AEP'

- I 185. 'AEP' is defined in the Proposed Plan as "AEP: Refer to definition of Annual Exceedance Probability". The term is not defined in the Planning Standards.

3.97.1 Submissions

- I 186. One submission point was received from Waikato District Council. There is one submission in opposition.
- I 187. The following submission was made:

Submission point	Submitter	Summary of submission
697.484	Waikato District Council	For clarity, include the abbreviation (AEP) with the full term.
FS1387.577	Mercury	<i>Opposed 697.484: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>

3.97.2 Analysis

- I188. I agree with Waikato District Council [697.484] that a separate entry for the acronym is not required, and that this should be referred to with the full term.

3.97.3 Recommendations

- I189. I recommend that the definition of 'AEP' is deleted and an amendment is made to the definition of 'Annual exceedance probability' to refer to 'AEP' in the title for the term.
- I190. I recommend that the submission from Waikato District Council [697.484] is accepted.

3.97.4 Recommended amendments

- I191. 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.
AEP	Refer to definition of Annual Exceedance Probability.

3.97.5 Consequential Amendments

- I192. No consequential amendments are required.

3.98 'Impervious Surface'

- I193. The following term is relevant to my analysis:

Impervious surface (Proposed Plan)	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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- I194. The term is not defined in the Planning Standards.

3.98.1 Submissions

1195. Ten submission points were received in total, five seeking amendments in the form of additional exclusions. One submission in support of the definition was received. Housing New Zealand Corporation sought completely different wording for the term. There are six further submissions, including two in support of an exclusion for farm tracks.

1196. The following submissions were made:

Submission point	Submitter	Summary of submission
197.34	NZ Pork	The definition must exclude farm tracks. Wording is proposed as follows: "...It excludes farm tracks comprised of compacted surfaces ancillary to rural production activities".
FS1168.105	Horticulture New Zealand	<i>Support 197.34</i> <i>Seeks that the definition of impervious surface must exclude farm tracks.</i>
FS1342.54	Federated Farmers	<i>Support 197.34</i>
FS1386.209	Mercury	<i>Oppose 197.34: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
281.17	Aztech Buildings	The definition is unduly restrictive and does not cater for 'pervious' materials that may be used for driveways etc. Wording is proposed as follows: "...It excludes wooden decks with spacing between boards of 4mm or more, or surfaces <u>such as gobi paving</u> , where water is allowed to drain through to a permeable surface below the deck".
524.31	Anna Noakes	The definition is unduly restrictive and does not cater for 'pervious' materials that may be used for driveways etc. Wording is proposed as per the submission point from 281.17 and 598.21.
578.53	Ports of Auckland Limited	Retain the definition as notified.
FS1388.854	Mercury	<i>Oppose 578.53: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
598.21	Withers Family Trust	The definition is unduly restrictive and does not cater for 'pervious' materials that may be used for driveways etc. Wording is proposed as per the submission point from 281.17 and 524.31.
FS1388.1018	Mercury	<i>Oppose 598.21: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
749.52	Housing New Zealand Corporation	Supports the inclusion of such a term, but the definition as currently proposed is too complex.

		<p>The term should be simplified with clear inclusions and exclusions listed. Alternative wording is proposed:</p> <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 and compacted metal roads, and - layers engineered to be impervious such as highly—compacted soil. <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: - swimming pools, ponds and dammed water: and - rain tanks.”
FS1387.1013	Mercury	<p><i>Oppose 749.52: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i></p>

3.98.2 Analysis

1197. I disagree with the submissions from Aztech Buildings [281.17], Anna Noakes [524.31] and Withers Family Trust [598.21] that the words “such as gobi paving” are necessary to cater

for pervious materials. The definition refers to a surface that is “not vegetated and does not infiltrate runoff”. My understanding is that gobi paving is permeable and typically supports a vegetated cover, therefore it will infiltrate rainfall. It therefore falls outside the definition.

- I198. NZ Pork [197.34] does not provide any justification for seeking to exclude farm tracks, so it is not clear to me why this relief is sought. The submitter may want to address this point in evidence.
- I199. The submission from Housing New Zealand [749.52] is that the definition is too complex, and should consist of a list of clear inclusions and exclusions. I have considered the proposed wording put forward by this submitter. I consider that the alternative wording offered would be more complex than the wording currently proposed. Many of the exclusions listed in the submission point are intuitive, and would fall within the definition as proposed. The proposed definition uses the words “such as”, therefore does not suggest that the list is exhaustive. I prefer the simpler definition as currently proposed, and consider that this is more consistent with the Guidance for the Planning Standards⁹¹. I agree with Ports of Auckland [578.53] that the definition should be retained as notified.

3.98.3 Recommendations

- I200. I recommend that the definition of ‘impervious surface’ is retained.
- I201. I recommend that the submission from Ports of Auckland Limited [578.53] is accepted.
- I202. I recommend that the submissions from Housing New Zealand Corporation [749.52], NZ Pork [197.34], Aztech Buildings [281.17], Anna Noakes [524.31] and Withers Family Trust [598.21] are rejected.

3.98.4 Consequential Amendments

- I203. No consequential amendments are required.

3.99 ‘Low impact design’, ‘floodplain’ and ‘flood risk area’

- I204. The terms ‘low impact design’, ‘floodplain’ and ‘flood risk area’ are not defined in the Proposed Plan. These terms are not defined in the Planning Standards either.

3.99.1 Submissions

- I205. One submission point was received from Waikato Regional Council.
- I206. The following submission was made:

⁹¹ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment.

Submission point	Submitter	Summary of submission
81.237	Waikato Regional Council	Suggest including definitions for 'low impact design', 'floodplain' and 'flood risk area' to assist with understanding and implementation of provisions that incorporate these terms. (No wording is proposed).

3.99.2 Analysis

3.99.2.1 'Low Impact Design'

1207. The term 'low impact design' appears in two rules in the Proposed Plan. 'Low impact design measures' is used in Rule 14.1.1.1 – Stormwater systems for new development or subdivision (PI) in relation to stormwater management. Clause (xiii) of Rule 19.1.2 Restricted Discretionary Activities (Business Zone Tamahere) refers to 'Use of low impact design principles' as a matter of Council discretion. It is not clear whether the term is used here in the context of stormwater management or urban design, as the terms 'Low Impact Urban Design', or 'low-impact urban design' are also used in policies in the plan⁹². However, the Council has confirmed that this is used in the context of stormwater.

1208. The Regional Council [81.237] has not suggested wording for this term in their submission. The notes at the end of Rule 14.1.1.1 make reference to the Regional Infrastructure Technical Specifications (RITS), which contains acceptable means of compliance for stormwater infrastructure, including 'low impact design' features. In the absence of any other direction, I consider that the definition of this term in the RITS would be appropriate⁹³. That wording is: "Low impact design (LID): 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."⁹⁴ The Regional Council may wish to provide evidence on the appropriateness of this definition.

3.99.2.2 'Flood plain'

1209. Turning to "flood plain", this term is used in the following places:

- Policy 6.4.7 – Stormwater,

⁹² See: 6.1.16 Policy – Water conservation – "low impact stormwater design", 6.4.7 Policies – Stormwater – "low impact design approach", 6.5.2 Policy - Construction and operation of the land transport network - "low impact design stormwater facilities" and 9.3.5.1 Policies – Integrated Transport – "low-impact urban design techniques".

⁹³ I note that this definition is also used in the recently adopted Waikato Regional Council. 2018. *Technical Report 2018/01: Waikato stormwater management guideline*. Waikato Regional Council; accessed from: <https://waikatoregion.govt.nz/assets/WRC/Services/publications/technical-reports/2018/TR201801.pdf> on 2 September 2019.

⁹⁴ Waikato Local Authority Shared Services. 2018. *Regional Infrastructure Technical Specifications*. Waikato Local Authority Shared Services; accessed from <https://waikatolass.co.nz/shared-services/regional-infrastructure-technical-specifications/> on 2 September 2019.

- Policy 4.1.12 Te Kauwhata (in relation to the Waikato River),
- Rule 16.5.7.2 Earthworks – general (Residential Zone),
- Rule 22.8.6 Earthworks – general (Rural Zone) in terms of effects on the Lake Waikare flood plain, and
- Rule 16.5.9.1 Subdivision Lakeside – general, in the Residential zone, in relation to the location of a building platform outside a flood plain⁹⁵.

1210. I agree with the Regional Council [81.237] that, as a consequential change, it would be useful to include a definition, although again, the Regional Council has not provided one. Looking to the RITS and Waikato Stormwater Management Guideline again for guidance, these documents define ‘flood plain as:

“Area that catchment flows cover when stream channel conveyance is exceeded. It is normally recognised as an area that becomes inundated in storms up to and including a 1 in 100-year runoff event”.

1211. An alternative definition is provided in the Waikato Regional Plan, as follows:

“The surface of relatively smooth land built of alluvium adjacent to a river channel, and covered with water during flooding of the river”.

1212. I note that this definition may be subject to change as a result of the current review of the Regional Plans.

1213. It would be helpful if the Regional Council could indicate which definition they prefer, as there is a level of inconsistency within their own documents.

1214. I am aware that Stage 2 of the Proposed Plan review will deal with natural hazards, and that a draft chapter on Natural Hazards is currently out for public consultation and will be publicly notified in 2020. This draft document makes reference to a ‘Flood Plain Management Area’. I therefore consider that it would be premature to settle on a definition for ‘flood plain’ at this point in time. Further consideration of this term should be deferred to Stage 2.

3.99.2.3 ‘Flood Risk Area’

1215. The term ‘Flood Risk Area’ is used in Rules 16.5.7.2 Earthworks – general (P1), (P3) (note P1 is capitalised but not P3) (Residential Zone), and Rule 22.8.6 Earthworks – General (Rural Zone) (P1) (capitalised). My understanding is that this term is to be reconsidered by the Council through a Variation to Stage 1 of the Plan, potentially to be replaced with alternative wording. This variation has not been notified, so the potential change has no statutory weight. As stated above, I am also aware that Stage 2 of the Proposed Plan review will deal with natural hazards. I therefore recommend that further consideration of this term is deferred to Stage 2.

⁹⁵ It is also included in the definition of Comprehensive Land Development Consent.

3.99.3 Recommendations

1216. I recommend that a definition for ‘low impact design’ is included in the Plan, as requested by the Waikato Regional Council [81.237].
1217. I recommend that a definition for ‘flood risk area’ and ‘flood plain’ is deferred for consideration until Stage 2. I recommend that the submission is accepted in part.

3.99.4 Recommended amendments

1218. The following amendments are recommended:

<u>Low impact design (LID)</u>	<u>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.</u>
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3.99.5 Consequential Amendments

1219. No consequential amendments are required at this point in time.

3.100 ‘Overland flow path’

1220. The following term is relevant to my analysis:

Overland flow path (Proposed Plan)	Means either a primary or secondary stormwater flow path.
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1221. This term is not defined in the Planning Standards.

3.100.1 Submissions

1222. One submission point was received from Waikato Regional Council.

1223. The following submission was made:

Submission point	Submitter	Summary of submission
81.238	Waikato Regional Council	The current definition for ‘overland flow path’ does not align with the definition in the Regional Council’s Waikato Stormwater Management Guideline 2018. Amend the definition to read “route taken by stormwater runoff not captured in a reticulated or natural stormwater system”.

3.100.2 Analysis

1224. The rules in the Proposed Plan use a number of similar but not identical terms, including:

- ‘primary overland flow path’ (see Rule 16.4.12 Subdivision – Building Platform),
- ‘overland flow path’ (see Rule 14.3.1 Permitted Activities – General Infrastructure, P4) and
- ‘secondary overflow’ (see Rule 14.11.1.1 Permitted Activities – Water, wastewater and stormwater’).

1225. I agree with Waikato Regional Council [81.238] that the wording that they propose provides more clarity as to what an ‘overland flow path is’. Adopting this wording will also support a consistent approach to the management of this issue between the regional and district councils. The wording of the rules suggests that it is important to retain the reference to ‘primary’ and ‘secondary’ flow paths. I propose that this element is retained.

3.100.3 Recommendations

1226. I recommend that the definition of ‘overland flow path’ is amended to include the wording proposed by Waikato Regional Council [81.238], and that the submission is accepted in part.

3.100.4 Recommended amendments

1227. The following amendments are recommended:

overland flow path	Means <u>a route taken by stormwater runoff not captured in a reticulated or natural stormwater system. It includes either</u> a primary or secondary stormwater flow path.
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3.100.5 Consequential Amendments

1228. No consequential amendments are required.

3.101 ‘Stormwater management plan’ and ‘Catchment Management Plan’

1229. The terms ‘stormwater management plan’ and ‘Catchment Management Plan’ are not defined in the Proposed Plan. These terms do not appear in the Planning Standards either. A definition of ‘Catchment Management Plan’ is included in the Operative District Plan (Waikato Section) as follows:

Catchment Management Plan	Means a document prepared by Council which defines areas where stormwater is to be specially managed (due to urban growth, resource consent requirements or hazards) and describes how stormwater and other natural and physical resources are to be managed in that area.
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(Operative District Plan, Waikato Section)	
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3.101.1 Submissions

I230. Two submission points were received, one from Waikato Regional Council and another from Waikato District Council, seeking that definitions of ‘stormwater management plan’ and ‘Catchment Management Plan,’ be inserted. There is one further submission.

I231. The following submissions were made:

Submission point	Submitter	Summary of submission
697.504	Waikato District Council	The district plan would benefit from a definition for ‘stormwater management plan’. Wording is proposed as follows: “ Means a tool for managing stormwater quality and quantity to protect ecological, social, cultural and economic values. A stormwater management plan is used as a tool to ensure that decisions in relation to new and existing developments are made with an understanding of the implications of stormwater impacts and to ensure appropriate, cost-effective and integrated mitigation can be effectively implemented”.
FS1387.587	Mercury	<i>Opposed 697.504: It is not clear, from a land management perspective, how effects from a flooding event would be managed.</i>
81.240	Waikato Regional Council	Provide a definition for Catchment Management Plan to ensure there is delineation between stormwater management plans and Waikato Regional Council led Catchment Management Plans or Healthy Rivers Wai Ora Sub catchment plans.

3.101.2 Analysis

I232. The Proposed Plan does not currently use the term ‘Stormwater Management Plan’, although I am aware that there are a number of ‘Stormwater Catchment Management Plans’ which have been prepared for various catchments within the district. Policy 6.4.7 – Stormwater, refers to provision of a “stormwater catchment management plan”. The wording proposed by Waikato District Council [697.504] does not clarify whether the definition is intended to provide for the strategic level plans prepared by Waikato Regional Council (see below), or the district-level plans, or both. It would be helpful for the Council to provide further explanation as to the intended coverage of the definition, either in evidence or at the hearing.

1233. The submission from Waikato Regional Council [81.240] requests that a definition of ‘Catchment Management Plan’ is included in the Plan, to ensure that there is delineation between ‘stormwater catchment plans’ and Regional Council-led ‘Catchment Management Plans’ or Healthy Rivers Wai Ora sub catchment plans. The terms ‘stormwater catchment plans’, ‘Catchment Management Plan’ and ‘sub catchment Plan’ are not used in the Proposed Plan currently, although I note that ‘Catchment Management Plan’ was defined in the Operative District Plan (Waikato Section). It would be helpful for the submitter to provide a definition that would meet the relief sought, and expand on the need for such definitions in their evidence.

3.101.3 Recommendations

1234. My provisional recommendation is that a definition for a ‘stormwater catchment management plan’ or a similar term be included in the plan, but that further clarification is needed from Waikato District Council [697.504] to explain the extent of coverage of such plans. The submission is accepted in part.
1235. It is not currently clear to me why a definition of ‘Catchment Management Plan’ is needed, as the term is not used in the Proposed Plan. My provisional recommendation is that the submission from Waikato Regional Council [81.240] is rejected.

3.101.4 Consequential Amendments

1236. Consequential amendments may be needed, depending on the final recommendation.

3.102 ‘Wastewater treatment plant’

1237. The term ‘wastewater treatment plant’ is not defined in the Proposed Plan. It is not a term that appears in the Planning Standards either.

Submissions

1238. One original submission point was received from Greig Metcalfe (and a further submission in opposition to this submission point). The following submissions were made:

Submission point	Submitter	Summary of submission
602.33	Greig Metcalfe	Include a definition for ‘wastewater treatment plant’. This term is not defined in the Plan, which leads to ambiguity and uncertainty. (No wording is proposed).
FS1339.73	NZTE Operations	Oppose 602.33
FS1388.1041	Mercury NZ Limited	Oppose 602.33

3.102.1

Analysis

1239. The term ‘wastewater treatment plant’ or ‘wastewater treatment facility’ appears in a number of rules in the Proposed Plan. For that reason, I agree with the submitter that it would be helpful to include a definition. However, I see a definition as potentially problematic, on the basis that I am not clear on which components of such a facility should fall within or outside this definition. For example, does a ‘treatment plant’ include the various other parts which form a wastewater system – e.g. pumping stations, storage tanks, pipes, outfalls and other structures?
1240. A definition for this term is not included in the RITS, the Waikato Regional Plan or the neighbouring Hamilton Operative District Plan. I am reluctant to propose a definition, firstly as this is a technical matter outside my expertise as a planner, and secondly, because I consider that any such definition would need to capture a range of scales and technologies, which may be difficult to summarise in a clear and unambiguous manner. The submitter is welcome to further their case as to why a definition is needed and provide any appropriate form of wording.

Recommendations

1241. I recommend that a definition for ‘wastewater treatment plant’ is not included in the Plan, as requested in part by Greig Metcalfe [602.33], and that submission is rejected.

3.103 ‘Community scale wastewater system’

1242. The term ‘community-scale wastewater system’ is not defined in the Proposed Plan. It is not a term that appears in the Planning Standards.

Submissions

1243. One original submission point was received from Greig Metcalfe (and a further submission in opposition to this submission point). The following submissions were made:

Submission point	Submitter	Summary of submission
602.33	Greig Metcalfe	Include a definition for ‘community-scale wastewater system’. This term is not defined in the Plan, which leads to ambiguity and uncertainty. (No wording is proposed).
FS1339.73	NZTE Operations	Oppose 602.33
FS1388.1041	Mercury NZ Limited	Oppose 602.33

Analysis

1244. The term ‘community-scale wastewater system’ appears in one place in the Proposed Plan, in Rule 14.11.1 Permitted Activities – water, wastewater and stormwater – P3. This rule applies across all zones in the district. The rule requires new development or subdivisions to have a wastewater system that is either connected to a public reticulated wastewater network, or a ‘community-scale wastewater system’, or is provided with a site-contained, alternative method of wastewater disposal that complies with AS/NZS 1547:2012. Although I consider that, in the context of the Rule, this term is self-explanatory, a definition for this term could be included in the Proposed Plan.

1245. A similar term - “community-scale electricity generation” - is defined in Chapter 13. This term could be used as the basis for a definition, as follows:

“community-scale wastewater system: means a wastewater treatment system for the purpose of treating wastewater from an immediate community (more than one site). It does not include a wastewater system which is connected to a public, reticulated wastewater network”.

Recommendations

1246. I recommended that a definition for ‘community-scale wastewater system’ is included in the Plan, as requested by Greig Metcalfe [602.33], and that the submission is accepted.

Recommended amendments

1247. The following insertion is recommended:

<u>Community-scale wastewater system</u>	<u>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.</u>
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Consequential Amendments

1248. No consequential amendments are required.

3.104 ‘Watercourse’

1249. The term ‘watercourse’ is not defined in the Proposed Plan. The term is not defined in the Planning Standards either, although it appears in a number of other definitions.

Submissions

1250. One original submission point was received from New Zealand Transport Agency (and two further submissions - one in support of this point and one in opposition). The following submissions were made:

Submission point	Submitter	Summary of submission
742.84	New Zealand Transport Agency	Add a definition for ‘watercourse’ to Chapter 13 that excludes artificial waterways such as

		stormwater swales. Refer to the submitters submission on Rule 14.3.1.3(1)(c).
FS1287.38	Blue Wallace Surveyors Ltd	Support 742.84
FS1387.878	Mercury	Oppose 742.84: It is not clear, from a land management perspective, how effects from a flooding event would be managed.

Analysis

1251. The term ‘watercourse’ appears in five rules in the Proposed Plan⁹⁶. The submitter refers in particular to Rule 14.3.1.3 (P4) Earthworks activities associated with infrastructure, which appears in the Infrastructure and Energy Zone. NZTA’s submission on this rule seeks to exclude artificial watercourses including roadside swales and other stormwater devices from the maximum permitted earthworks volume provisions, or alternatively, to add a definition of ‘watercourse’ that excludes artificial watercourses.
1252. My understanding is that the relief sought by the submitter would be a more restrictive use of this term than is used in other contexts. For example, the Soil Conservation and Rivers Control Act 1941 defines water course as: “includes every river, stream, passage, and channel on or under the ground, whether natural or not, through which water flows, whether continuously or intermittently”. Because such a definition is closely tied to the interpretation of this rule and others, I consider that this is a matter which is more appropriately dealt with by the s42A author for the Infrastructure hearing. It may also need to be given consideration in relation to the rules in the Industrial, Industrial Heavy and Rural Zones.

Recommendations

1253. I recommend that a definition for ‘watercourse’ and the submission by New Zealand Transport Agency [742.84] is given further consideration in the Infrastructure hearing.

3.105 ‘Reservoir’

1254. The following term is relevant to my analysis:

Reservoir (Proposed Plan)	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.
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1255. The term is not defined in the Planning Standards.

⁹⁶ Rule 14.3.1.3 Earthworks activities associated with infrastructure (P4), Rule 14.1.1.1 Permitted activities - Water, wastewater and stormwater – P1, Rule 20.2.2 Landscape planting Rule 21.2.2 – Landscape Planting and Rule 22.7.1.6 Building setback within a Development Area.

3.105.1 Submissions

1256. One original submission point was received from Horticulture New Zealand, and two further submission in support of that original submission. The following submissions were made:

Submission point	Submitter	Summary of submission
419.132	Horticulture New Zealand	Amend the definition of 'reservoir' to include water storage for irrigation.
FS1342.96	Federated Farmers	Support 419.132
FS1171.57	T&G Global	Support 419.132: This submission is supported to the extent that considering the storage of water for irrigation as a reservoir will assist with the storage of water onsite for rural production uses.

Analysis

1257. The term 'reservoir' is used in the Proposed Plan a total of 7 times, including where defined in Chapter 13. The submitter Horticulture New Zealand [419.132] seeks the inclusion of water storage for irrigation within the definition of 'reservoir'. The damming and diversion of water for irrigation purposes is an issue which is regulated by Waikato Regional Council, through the Regional Plan (see for example Rule 3.6.4.4 and 3.6.4.5 in the Regional Plan). I am not aware of a reason to duplicate that regulation through the District Plan. The submitter is welcome to provide further evidence as to why such an amendment is needed.

Recommendations

1258. I recommend that the definition for 'reservoir' is retained as notified, and that the submission from Horticulture New Zealand [419.132] is rejected.

3.106 'Lake'

Introduction

1259. The following terms are relevant to my analysis:

Lake (Planning Standards)	Has the same meaning as in section 2 of the RMA (as set out in the box below) <div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: fit-content;"> <p>– means a body of fresh water which is entirely or nearly surrounded by land.</p> </div>
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1260. The term 'lake' appears in the Proposed Plan, but is not defined in Chapter 13.

Submissions

1261. One original submission was received from Auckland Waikato Fish and Game Council and one further submission was received in support from Mercury NZ Limited.

1262. The following submissions were made:

Submission point	Submitter	Summary of submission
433.15	Auckland Waikato Fish and Game Council	The term 'lake' is used in the Proposed Plan but there is no definition. Add a definition as follows: "Lake means a body of fresh water which is entirely or nearly surrounded by land".
FS1223.73	Mercury NZ Limited	Support 433.15

Analysis

1263. The term 'lake' is used 170 times in the Proposed Plan. I agree with the submitter that it would be useful to define this term.

1264. The definition requested by Auckland Waikato Fish and Game Council [433.15] is almost identical to the Planning Standards defined term, with the only difference being that the Planning Standards definition references Section 2 of the RMA Act.

1265. As the Planning Standards state that a Council must use a term defined in the Planning Standards where that term is used in the same context in a Plan⁹⁷, I recommend that the definition, as set out in the Planning Standards, is adopted.

Recommendations

1266. I recommend that the definition of 'lake' in the Planning Standards is included in the Plan, and that the submission by Auckland Waikato Fish and Game [433.15] is accepted in part.

Recommended amendments

1267. The following amendment is recommended:

<u>lake</u>	<u>has the same meaning as in section 2 of the RMA (as set out in the box below) –</u> <div style="border: 1px solid black; padding: 10px; margin: 10px auto; width: fit-content;"> <u>Means a body of fresh water which is entirely or nearly surrounded by land.</u> </div>
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Consequential amendments

⁹⁷ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

I268. No consequential amendments are required.

3.107 'River'

3.107.1 Introduction

I269. The following term is relevant to my analysis:

River (Planning Standards)	Has the same meaning as in section 2 of the RMA (as set out in the box below) <div data-bbox="557 589 1265 887" style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 80%;"> <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>
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I270. The term 'river' appears in the Proposed Plan, however there is no definition in Chapter 13.

3.107.2 Submissions

I271. One original submission was received from Auckland Waikato Fish and Game Council and two further submissions. Mercury NZ Limited submitted in support and TaTa Valley Limited in opposition.

I272. The following submissions were made:

Submission point	Submitter	Summary of submission
433.16	Auckland Waikato Fish and Game Council	The term 'river' is used in the Proposed Plan but there is no definition. Add a definition as follows: "River 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)".
FS1233.74	<i>Mercury NZ Limited</i>	<i>Support 433.16</i>
FS1340.60	<i>TaTa Valley Limited</i>	<i>Oppose 433.16</i> <i>Oppose on the basis that including modified watercourses in the definition for a 'river' seems overly restrictive, for such features as rivers tend to contain more restrictive rules and are more natural water bodies.</i>

3.107.3 Analysis

1273. The term ‘river’ is used 214 times in the Proposed Plan. I agree with the submitter that it would be useful to define this term.
1274. The definition as requested by Auckland Waikato Fish and Game Council [433.16] is almost identical to the Planning Standards-defined term, with the only difference being that the Planning Standards definition references Section 2 of the Act.
1275. As the Planning Standards state that a Council must use a term defined in the Planning Standards where that term is used in the same context in a Plan⁹⁸, I recommend that the definition, as set out in the Planning Standards, is adopted.

3.107.4 Recommendations

1276. I recommend that the definition of ‘river’ in the Planning Standards is included in the Plan, and that the submission by Auckland Waikato Fish and Game [433.16] is accepted in part.

3.107.5 Recommended amendments

1277. The following amendments are recommended:

river	<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="480 1151 1329 1332"> <p><u>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).</u></p> </div>
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3.107.6 Consequential amendments

1278. No consequential amendments are required.

⁹⁸ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

3.108 'Water'

3.108.1 Introduction

I279. The following term is relevant to my analysis:

Water (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>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> </div> <p>c. does not include water in any form while in any pipe, tank, or cistern.</p>
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I280. The term 'water' appears in the Proposed Plan, however there is no definition in Chapter 13.

3.108.2 Submissions

I281. One original submission was received from Auckland Waikato Fish and Game Council and one further submission in support from Mercury NZ Limited.

I282. The following submissions were made:

Submission point	Submitter	Summary of submission
433.17	Auckland Waikato Fish and Game Council	<p>The term 'water' is used in the Proposed Plan but there is no definition. Add a definition as follows:</p> <p>"Water –</p> <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 and pipe, tank, or cistern".</p>
FS1233.75	Mercury NZ Limited	Support 433.17

3.108.3 Analysis

1283. The term 'water' is used 43 times in the Proposed Plan. I agree with the submitter that it would be useful to define this term.
1284. The definition as requested by Auckland Waikato Fish and Game Council [433.17] is almost identical to the Planning Standards-defined term, with the only difference being that the Planning Standards definition references Section 2 of the Act.
1285. As the Planning Standards state that a Council must use a term defined in the Planning Standards where that term is used in the same context in a Plan⁹⁹, I recommend that the definition, as set out in the Planning Standards, is adopted.

3.108.4 Recommendations

1286. For the reasons outlined above, I recommend that the definition of 'water' in the NPS is included in the Plan. The submission by Auckland Waikato Fish and Game [433.17] is accepted in part.

3.108.5 Recommended amendments

1287. The following amendment is recommended:

<u>water</u>	<u>has the same meaning as in section 2 of the RMA (as set out in the box below) –</u> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <u>means water in all its physical forms whether flowing or not and whether over or under the ground:</u> <u>includes fresh water, coastal water, and geothermal water:</u> <u>does not include water in any form while in any pipe, tank, or cistern.</u> </div>
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3.108.6 Consequential amendments

1288. No consequential amendments are required.

3.109 'Waterbody'

3.109.1 Introduction

1289. The following term is relevant to my analysis:

⁹⁹ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

Waterbody (Planning Standards)	Has the same meaning as in section 2 of the RMA (as set out in the box below)
	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.

I290. The term ‘waterbody’ appears in the Proposed Plan, however it is not defined in Chapter 13.

3.109.2 Submissions

I291. One original submission was received from Auckland Waikato Fish and Game Council and one further submission in support from Mercury NZ Limited.

I292. The following submissions were made:

Submission point	Submitter	Summary of submission
433.18	Auckland Waikato Fish and Game Council	The term ‘water body’ is used in the Proposed Plan but there is no definition. Add a definition as follows: “Water body 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.”
FS1233.76	Mercury NZ Limited	Support 433.18

3.109.3 Analysis

I293. The term ‘water body’ is used 15 times in the Proposed Plan (as one conjoined word, as well as two separate words). I agree with the submitter that it would be useful to define this term.

I294. The definition as requested by Auckland Waikato Fish and Game Council [433.18] is almost identical to the Planning Standards-defined term, with the only material difference being that the Planning Standards definition references Section 2 of the Act.

I295. As the Planning Standards state that a Council must use a term defined in the Planning Standards where that term is used in the same context in a Plan¹⁰⁰, I recommend that the definition, as set out in the Planning Standards, is adopted.

¹⁰⁰ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

1296. The Proposed Plan is currently inconsistent in its spelling of this term, containing multiple references to both ‘water body’ and ‘waterbody’. Consequential amendments are required for consistency.

3.109.4 Recommendations

1297. I recommend that the definition of ‘waterbody’ in the Planning Standards is included in the Plan, and that the submission by Auckland Waikato Fish and Game [433.18] is accepted in part.

3.109.5 Recommended amendments

1298. The following amendment is recommended:

<u>waterbody</u>	<u>has the same meaning as in section 2 of the RMA (as set out in the box below) –</u> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <u>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.</u> </div>
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3.109.6 Consequential amendments

1299. Consequential amendments are required throughout the Plan to replace all references to ‘water body’ with ‘waterbody’.

3.110 ‘Wetland’

3.110.1 Introduction

1300. The following terms are relevant to my analysis:

Wetland (Proposed Plan)	Has the meaning in the Resource Management Act 1991.
Wetland (Planning Standards)	Has the same meaning as in section 2 of the RMA (as set out in the box below) <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> 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. </div>

3.110.2 Submissions

1301. One original submission was received from Federated Farmers of New Zealand and one further submission was received from Mercury in opposition.

I302. The following submissions were made:

Submission point	Submitter	Summary of submission
680.273	Federated Farmers of New Zealand	In support of keeping the same meaning of 'wetland' as is defined in the RMA.
FSI387.235	Mercury	<i>Oppose 680.273.</i> <i>The submitter considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i>

3.110.3 Analysis

- I303. The term 'wetland' is used 30 times in the Proposed Plan. I agree with the submitter that, for the most part, this term should be retained in Chapter 13.
- I304. The definition in the Proposed Plan is very similar to that of the Planning Standards, the only difference being that the Definitions Standard definition encompasses the RMA definition.
- I305. As the Definitions Standard state that a Council must use a term defined in the Planning Standards where that term is used in the same context in a Plan¹⁰¹, I recommend that the definition, as set out in the Definitions Standard, is adopted.

3.110.4 Recommendations

- I306. I recommend that the definition of 'wetland' in the Definitions Standard is included in the Plan, and that the submission by Federated Farmers New Zealand [680.273] is accepted in part.

3.110.5 Recommended amendments

- I307. The following amendment is recommended:

Wetland	Has the meaning in the Resource Management Act 1991.
wetland	has the same meaning as in section 2 of the RMA (as set out in the box below) – 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.

¹⁰¹ Ministry for the Environment. 2019. *National Planning Standards 14. Definitions Standard*. Wellington: Ministry for the Environment. Mandatory Direction 1.

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3.110.6 Consequential amendments

I308. No consequential amendments are required.

3.111 Miscellaneous

3.111.1 Introduction

I309. The following section deals with other submission points received that request more general changes to Chapter 13: Definitions, rather than amendments to individual defined terms.

3.111.2 Submissions

I310. The following submissions were made:

Submission point	Submitter	Summary of submission
749.26	Housing New Zealand Corporation	There is a draft National Planning Standard proposed for definitions. Any proposed definitions introduced in the Proposed WDP should align to the final set of National Planning Standards, when gazetted in 2019. In the absence of these standards, further amendments are sought to a number of proposed definitions introduced in the Proposed WDP. Amend Chapter 13: Definitions to align with the final set of New Zealand Planning Standards, when gazetted in 2019. AND Amend the Proposed District Plan as consequential or additional relief as necessary.
FS1387.1004	Mercury NZ	<i>Oppose 749.25</i> <i>Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i>
FS1350.52	Transpower New Zealand Limited	<i>Support 749.25</i> <i>The submission point seeking alignment with the definitions within the National Planning Standards is</i>

		supported. However, given the potential implications of some of the consequential changes, careful consideration would be required regarding their introduction (particularly any that may extend beyond the scope of the National Planning Standards and require a Schedule 1 process) so as to enable all parties to review and provide comment.
FS1168.112	Horticulture New Zealand	Support 749.25 <i>The submitter seeks alignment of the definitions with the National Planning Standards. HortNZ supports the submission to ensure consistency across the country.</i>
182.4	Kirriemuir Trustee Limited	No specific decision sought, but submission states general support for Chapter 13 Definitions, except as otherwise noted in supplementary points in the submission.
FS1386.165	Mercury NZ	Oppose 182.4 <i>Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i>
695.63	Sharp Planning Solutions Ltd	No specific decision sought but submission supports the absence of “Growth Areas” as a defined term. This is supported in principle, to provide Council flexibility in forward planning.
FS1387.318	Mercury NZ	Oppose 695.63 <i>The submitter considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i>
697.481	Waikato District Council	It would be helpful if the singular and plural terms could be used interchangeably depending on the context. Amend Chapter 13: Definitions by adding the following text underneath the heading “Definitions”: <u>For the purposes of the defined terms, the singular term means the same as the plural term.</u>

FS1387.574	Mercury NZ	<p><i>Oppose 697.481</i></p> <p><i>The submitter considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i></p>
827.51	New Zealand Steel Holdings Ltd	<p>Overlays are contained in the maps and their purpose should be described in the body of the plan. The definitions are self-explanatory and do not need to be included in definitions.</p> <p>Delete the definition of the overlays from Chapter 13 Definitions.</p>
742.64	New Zealand Transport Agency	<p>Move Chapter 13 Definitions elsewhere in the Proposed District Plan. AND Request any consequential changes necessary to give effect to the relief sought in the submission.</p>
FS1168.111	Horticulture New Zealand	<p><i>Oppose 746.24</i></p> <p><i>The submitter seeks that the definition of sensitive activities and noise sensitive activities be combined. The terms are used in different contexts in the Plan and HortNZ seeks that the differentiation is retained.</i></p>
FS1387.867	Mercury NZ	<p><i>Oppose 746.24</i></p> <p><i>The submitter considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i></p>
749.27	Housing New Zealand Corporation	<p>Certain abbreviations and acronyms should be with the principal term (not stand-alone in the definitions list). All abbreviations and acronyms should be included in a separate table list as part of Chapter 13: Definitions.</p> <p>Amend Chapter 13: Definitions to create a list containing all acronyms and abbreviations AND Amend the definitions in Chapter 13: Definitions to add all acronyms and abbreviations with the principal term, rather than stand alone in the definitions list. AND Amend the Proposed District Plan as consequential or additional relief as necessary.</p>
FS1387.1005	Mercury NZ	<p><i>Oppose 749.27</i></p>

		<i>Mercury considers it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework. This is because the policy framework is intended to include management controls to avoid, remedy and mitigate significant flood risk in an appropriate manner to ensure the level of risk exposure for all land use and development in the Waikato River Catchment is appropriate.</i>
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3.111.3 Analysis

1311. Housing New Zealand Corporation [749.26] have requested that the definitions in the Proposed Plan be aligned with the definitions in the Planning Standards, as gazetted. I agree that there is an opportunity to do this now, as part of the plan review process, as we set out in detail in section 2.5.1 of this report.
1312. The general support from Kirriemuir Trustee Limited [182.4] for Chapter 13 is noted, as is the support from Sharp Planning Solutions [695.63] that no definition is provided for 'Growth Areas'.
1313. Waikato District Council [697.481] requests additional wording under the title of the Chapter, to state that: "For the purposes of the defined terms, the singular term means the same as the plural term". This would align with Section 33 of the Interpretation Act 1999, namely that "words in the singular include the plural and words in the plural include the singular". If such wording needs to be stated in the Proposed Plan, I would recommend that the wording from s33 of the Interpretation Act is used.
1314. New Zealand Steel Holdings Ltd [827.51] submits that overlays are contained in the maps and their purpose should be described in the body of the Proposed Plan. They consider that the definitions are self-explanatory and should be deleted from the Definitions chapter. I agree that it is not necessary to include such overlay definitions in Chapter 13, but I do not see any harm in retaining them if they assist users who are unfamiliar with the Proposed Plan.
1315. The New Zealand Transport Agency [742.64] requests that Chapter 13 is moved elsewhere in the Proposed Plan. The Agency does not provide an indication of where it would like this chapter to be moved.
1316. Standard 4: District Plan Structure Standard of the Planning Standards sets out the required structure for district plans. Table 4 of that Standard shows the order in which elements of district plans must appear. The 'Interpretation' section, which includes 'Definitions', should sit in Part 1: Introduction and General Provisions. As Standard 4 is a mandatory Standard¹⁰², the appropriate place to move Chapter 13 to, is to the front section of the Plan.

¹⁰² See Mandatory Direction 4, which states that Standard 4 must be complied with through either a) or b) which ever is sooner: a. Amendments to the district plan made by five years from when the planning

1317. My understanding is that a number of submissions have been received requesting that the district plan be amended to adopt the format and requirements of the National Planning Standards before decisions on the Proposed Plan are made. These submission points were considered in the s42A report for Hearing 2 – Whole of Plan. My understanding is that the s42A author of that report (Mr Eccles) came to a view¹⁰³ (as did Council staff) that it would be very inefficient and difficult to reformat the Proposed Plan to align with the Planning Standards at this stage of the process, and that the complexity of rearranging the Proposed Plan should not be underestimated. In his view, this work was better left until the Proposed Plan was substantially operative, so it could be undertaken without the constraints and implications of s42A reporting deadlines and hearing timetables.
1318. I agree with Mr Eccles that it would be a complex task to fully align the Proposed Plan with all the mandatory standards, including reorganising several sections of the Proposed Plan. However, in the case of definitions, I have come to the view that the Definitions Standard can, to a large degree, be adopted now. As the definitions chapter is essentially a standalone chapter, it is my opinion that it would be relatively straightforward to move Chapter 13 to the front of the Proposed Plan. This could either be done now, through the Hearing process, or at a later date, when the Council undertakes the work to fully align the Proposed Plan with the Planning Standards.
1319. Care would need to be taken to ensure that plan section numbering does not become confused, but this could be done by calling the relocated definitions chapter ‘Chapter 1A’, and placing it immediately after the current Chapter 1. That way, the numbering of the rest of the Proposed Plan could be retained. Chapter 13 could be left in the Proposed Plan, but shown with strikethrough text, and a note that this now sits at Chapter 1A.
1320. Housing New Zealand [749.27] have requested that abbreviations and acronyms sit with the principal term (not stand-alone in the definitions list), and that all abbreviations and acronyms be included in a separate table list as part of Chapter 13: Definitions. I agree that abbreviations and acronyms should sit with the principal term. I also agree that a separate table list of abbreviations and acronyms should be included in the Proposed Plan and sit in an Abbreviations Chapter, as required by the Planning Standards District Plan Structure Standard: 4 and the Introduction and General Provisions Standard 6, Direction 12¹⁰⁴. An Abbreviations chapter could become Chapter 1B.

3.111.4 Recommendations

1321. I recommend that the definitions in Chapter 13 that are subject to submissions are amended to align with the definitions in the Definitions Standard, as part of this Plan review process.. The submission from Housing New Zealand Corporation [749.26] is accepted.

standards come into effect. b. Notification of a proposed district plan (but not a proposed change or variation) for submissions under clause 5, Schedule 1 RMA after the planning standards come into effect.

¹⁰³ See para 34 of Hearing 2: s42A report - Plan Structure and all of Plan.

¹⁰⁴ Ministry for the Environment. 2019. *National Planning Standards*. Wellington: Ministry for the Environment.

- I322. The support for Chapter 13 is noted and the submission from Kirriemuir Trustee Limited [182.4] is accepted.
- I323. The support for not including a definition of 'Growth Area's is noted and the submission from Sharp Planning Solutions [695.63] is accepted.
- I324. I recommend that the wording in s33 of the Interpretation Act 1999 is added under the Heading for Chapter 13, and that the submission from Waikato District Council [697.481] is accepted.
- I325. I recommend that the overlay definitions are retained in Chapter 13, as they assist users who are unfamiliar with the Proposed Plan. The submission from New Zealand Steel Holdings Ltd [827.51] is rejected.
- I326. I recommend that if the Hearing Panel wishes to take on some of the mandatory restructuring directions in the Planning Standards now, Chapter 13 in the Proposed Plan should be relocated to sit immediately after Chapter 1: Introduction in the Proposed Plan, and be titled 'Chapter 1A: Definitions'. I recommend that the submission by the New Zealand Transport Agency [742.64] is accepted.
- I327. I recommend that any abbreviations and acronyms should sit with the principal term in the Definitions Chapter, and that an Abbreviations chapter is included in the Proposed Plan, which follows immediately after the Definitions Chapter (as Chapter 1B). I recommend that the submission from Housing New Zealand Corporation [749.27] is accepted.

3.111.5 Recommended amendments

- I328. The following amendments are recommended:
- I329. That Chapter 13 is relocated to become Chapter 1A in the Proposed Plan, and that Chapter 13 is shown as strikethrough text, in order to retain the numbering of the rest of the Plan.
- I330. Any abbreviations and acronyms in Chapter 13 should be moved to sit with the principal term in the Definitions Chapter.
- I331. A new abbreviations and acronyms chapter (Chapter 1B) should be created, that includes a list of all abbreviations and acronyms used in the Proposed Plan, with their corresponding full text.
- I332. The following wording should be added beneath the title of the Chapter: "For the purposes of the defined terms, words in the singular include the plural and words in the plural include the singular".

3.111.6 Consequential amendments

1333. Consequential amendments will be required where there are references in the Proposed Plan to Chapter 13 – Definitions (to refer to Chapter 1A), for example in Chapter 12: How to use and interpret the rules (at 12.1(d)).

4 Section 32AA evaluation

- I334. 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.
- I335. Chapter 13 contains definitions of terms which apply in the Proposed Plan. We understand that the Court in *Nigro v Far North District Council* [2012] NZEnvC 76 considered that in a very real sense, definitions are rules or contain elements of rules in that they determine the scope of rules within which the defined terms appear.¹⁰⁵ Nonetheless, where our recommended changes are to adopt a term as defined in the Definitions Standard (without using the Schedule 1 process), there is no requirement to undertake a s32AA further evaluation of these changes, nor any consequential changes that result. A section 32AA evaluation will, however, be included for the relevant chapters of the Proposed Plan where a change is required to a provision that goes beyond a consequential change.
- I336. Although the RMA does not require us to undertake a further evaluation for changes that can be made without using the Schedule 1 process, we have provided a brief s32AA analysis of our recommended changes in this report.
- I337. The recommended changes to the definitions in the Proposed Plan in this report generally fall into the following categories:
- I338. Changes to implement the mandatory definitions in the Planning Standards – Standard 14: Definitions, along with any sub-definitions needed to maintain the intent of the Proposed Plan provisions:
- I339. Changes to improve the accuracy and conciseness of the definitions, or to provide appropriate clarity for readers,
- I340. Changes to rationalise terms and delete unnecessary definitions.
- I341. This s32AA further evaluation summarises the recommended changes generally, rather than providing an assessment of each recommended change. This is appropriate because:
- I342. a s32AA further evaluation is not required for changes that are made without using the Schedule 1 planning process, and
- I343. many of these changes are mandatory (i.e. adopting definitions in the Definitions Standard), and not intended to result in substantive changes that go beyond consequential amendments.
- I344. The options available with respect to any definitions in the Planning Standards are very limited. Where a term that is defined in the Definitions List is used in a plan or policy in the same context, the definition must be adopted. Accordingly, the identification of other

¹⁰⁵ *Nigro v Far North District Council* [2012] NZEnvC 76 , Paragraph 16

reasonably-practicable options (s32(1)(b)(i)) does not apply. The Definitions Standard must be adopted within 7 years of April 2019.

- I345. We see the following benefits from adopting the Definitions Standards now:
- I346. Around 40% of all the definitions in the Proposed Plan have a corresponding definition in the Planning Standards that will need to be adopted. Not integrating the Planning Standards definitions now will mean that a large part of this Proposed Plan (definitions and other provisions affected by an amended definition) will need to be reconsidered by the Council within the next six and a half years.
- I347. Adopting the Planning Standards definitions often requires substantial re-drafting of other provisions. While the expectation is that these changes will not need public scrutiny, in reality there is a significant risk that the redrafting of provisions may have implications for the outcomes and scope originally intended for the provisions. Addressing the Planning Standards definitions through the current public process enables submitters to participate in refining the associated provisions.
- I348. Including the Planning Standards definitions now allows the Proposed Plan to align with neighbouring and overarching planning documents (such as regional plans, the RPS, and neighbouring district plans) if they are updated in the short term.
- I349. In short, it is more cost-effective and time-efficient to adopt the definitions in the Planning Standards now.
- I350. 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 amendments recommended will provide a greater level of conciseness, clarity and certainty for plan users, and after considering submissions, we consider that these 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.
- I351. 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, those recommendations are considered to be efficient and effective.
- I352. The benefits of the recommended changes are that Chapter 13 will provide a glossary of defined terms used in the Plan which are more accurate, concise, nationally-consistent and easier to interpret by plan users. There will be costs associated with adopting the Planning Standards definitions, but these costs are not able to be avoided, as the Definitions Standard is mandatory and must be implemented within 7 years of 5 April 2019. Adopting the Planning Standards definitions now as part of the current plan review process will likely result in lower plan development costs as compared with having to resolve submissions now, and then revisit a large number of the same provisions within a short space of time. There will also be cost savings for plan users that work across districts (which is an intended

benefit of the Planning Standards). Applying the necessary consequential amendments will be relatively complex, but we consider that there is sufficient information either within our report, or within the s42A reports, which will address individual zones or topics, to make the recommended changes.

1353. 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 section 3 of this report.

5 Conclusion

1354. This report provides an assessment of submissions received in relation to Chapter 13 – Definitions. As a result of this assessment, a number of changes have been recommended to:
- ensure that the definitions are accurate, concise and clear,
 - adopt those Planning Standards definitions which have been submitted on, or which must be brought into the Plan as a result of adopting a Planning Standard definition which has been submitted on;
 - remove any definitions that are unnecessary for the Plan.
1355. We consider that the submissions on Chapter 13 should be accepted, accepted in part or rejected, as set out in Appendix 1 below, for the reasons set out in 3.3 to 3.110 above.
1356. We recommend that provisions in Chapter 13 be amended, as set out in Appendix 2 below, for the reasons set out in 3.3 to 3.110 above.
1357. We consider that the amended definitions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this Plan and other statutory documents, for the reasons set out in the Section 32AA evaluation in Section 4 of this report.

6 APPENDIX I: Table of submission points

7 APPENDIX 2: Recommended amendments to Chapter 13: Definitions

8 APPENDIX 3: Table of definitions that will require further consideration in topic or zone specific hearings