

**Masterton, Carterton and South Wairarapa
District Councils**

Proposed Wairarapa Combined District Plan

Decisions of the Hearings Panel

Decision Report 10

**Hearing Stream 10: General District Wide
Matters: Activities on the Surface of Water,
Light, Noise, Signs, and Temporary Activities**

8 October 2025

This report contains the Panel's decisions on submissions addressed as part of **Hearing Stream 10**, namely those submissions on the following chapters in **Part 2** of the Proposed Plan:

- **Activities on the Surface of Water**
- **Light**
- **Noise**
- **Signs**
- **Temporary Activities**

This report should be read in conjunction with the **Index Report** and **Decision Report 1**.

This report contains the following appendices:

Appendix 1: Schedule of attendances

Appendix 2: Summary table of decisions on each submitter point

Appendix 3: Amendments to the Proposed Plan – Tracked from notified version (provisions not subsequently renumbered)

Appendix 4: Amendments to the Proposed Plan provision wording – Accepted (provisions renumbered as they will appear in the Decisions Version of the Plan)

The Hearings Panel for the purposes of **Hearing Stream 10** comprised Commissioners, Robyn Cherry-Campbell (Chair), Jo Hayes, Craig Bowyer, Brian Deller, David McMahon and Alistair Plimmer.

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1 Introduction

Report outline and approach

- 1.1 This is **Decision Report 10** of twelve Decision Reports prepared by the Hearings Panel appointed to hear and make decisions on submissions to the Proposed Wairarapa Combined District Plan (PDP).
- 1.2 This report contains the Panel's decisions on submissions addressed as part of Hearing Stream 10, namely those submissions on the following chapters in Part 2, 'General District Wide Matters' of the Proposed Plan:
 - a. Activities on the Surface of Water
 - b. Light
 - c. Noise
 - d. Signs
 - e. Temporary Activities
- 1.3 Based on the above, we have structured our discussion for these chapters as follows:
 - a. **Section 2** addresses those submissions on the Activities on the Surface of Water Chapter provisions and associated definitions.
 - b. **Section 3** addresses those submissions on the Light provisions and associated definitions.
 - c. **Section 4** addresses those submissions on the Noise chapter and definitions.
 - d. **Section 5** addresses those submissions on the Signs chapter provisions and associated definitions.
 - e. **Section 6** addresses those submissions on the Temporary Activities chapter provisions and associated definitions.
- 1.4 In each case, **Sections 2 to 4**:
 - a. Outlines the relevant higher order direction;
 - b. provides a summary of the relevant provisions;
 - c. provides a brief overview of submissions received on the topic;
 - d. sets out the uncontested amendments the Panel adopts; and
 - e. evaluates the key issues remaining in contention and sets out our decisions.
- 1.5 Section 7 provides an overall set of conclusions on matters addressed as part of Hearing Stream 10.
- 1.6 This Decision Report contains the following appendices:

- a. **Appendix 1: Schedule of attendances** at the hearing on the relevant topics. We refer to the parties concerned and the evidence they presented throughout this Decision Report, where relevant.
- b. **Appendix 2: Summary table of decisions on each submission point.** For each submission point and further submission point we provide a decision as to whether it should be accepted or rejected.
- c. **Appendix 3: Amendments to the Proposed Plan – Tracked from notified version.** This sets out the final amendments we have determined to be made to the PDP provisions relating to the relevant topics. The amendments show the specific wording of the amendments we have determined and are shown in a 'tracked change' format showing changes from the notified version of the PDP for ease of reference.

Where whole provisions have been deleted or added, we have not shown any consequential renumbering, as this method maintains the integrity of how the submitters and s42A Report authors¹ have referred to specific provisions, and our analysis of these in the Decision Reports. New whole provisions are prefaced with the term 'new' and deleted provisions are shown as struck out, with no subsequent renumbering in either case. The colour coding used for the different rule status has not been changed. In this version where a list is included within a particular whole provision, and items have been added or deleted from a list the numbering does, however, run as sequential.

- d. **Appendix 4: Amendments to the Proposed Plan provision wording - Accepted.** This accepts all the changes we have determined to the provision wording from the notified version of the PDP as shown in **Appendix 3** and includes consequential renumbering of provisions to take account of those provisions that have been deleted and new provisions we have added. **Appendix 4** does not include updates to the mapping layer, which can be found in the Decisions Version of the Plan Map Viewer.

1.7 The requirements in clause 10 of the First Schedule and section 32AA of the Act are relevant to our considerations of the submissions to the PDP provisions. These are outlined in full in the **Index Report**. In summary, these provisions require among other things:

- a. our evaluation to be focused on changes to the proposed provisions arising since the notification of the PDP and its s32 reports;
- b. the provisions to be examined as to whether they are the most appropriate way to achieve the objectives;
- c. as part of that examination, that:
 - i. reasonable alternatives within the scope afforded by submissions on the provisions and corresponding evidence are considered;
 - ii. the efficiency and effectiveness of the provisions is assessed;

¹ For the purposes of Hearing 10, these were Ms Adams for the topics of Light and Activities on the Surface of Water, Ms Treadaway for Noise, Mr Gorman for Signs, and Mr Gulson for Temporary Activities.

- iii. the reasons for our decisions are summarised; and
 - iv. our report contains a level of detail commensurate with the scale and significance of the changes decided.
- 1.8 We have not produced a separate evaluation report under s32AA. Where we have adopted the recommendations of the Reporting Officers, we have adopted their reasoning, unless expressly stated otherwise. This includes the s32AA assessments contained within the relevant s42A Reports, Summary Statements and/or Reply Statements and may also include the s32 or s32AA assessments provided by submitters where Reporting Officers rely on those. Those reports are part of the public record and are available on the webpage relating to the PDP hearings: <https://www.wairarapaplan.co.nz/hearings>
- 1.9 Where our decisions differ from the recommendations of Reporting Officers, we have incorporated our s32/s32AA evaluation into the body of our report as part of our reasons for the decided amendments, as opposed to including this in a separate table or appendix.
- 1.10 A fuller discussion of our approach in this respect is set out in the **Index Report**.

2 Activities on the Surface of Water

Application of the higher order policy framework

2.1 There are a number of higher order policy documents which are relevant to the Activities on the Surface of Water chapter of the proposed Plan, contained in detail in Section 2 of the s32 report². These include:

- The National Planning Standards
- National Environmental Standards for Freshwater 2020
- National Policy Statement for Freshwater Management

2.2 The National Planning Standards require that:

"If provisions for managing activities on the surface of water are addressed, they must be located in the Activities on the surface of water chapter."

2.3 There is therefore a requirement for a stand-alone chapter for activities on the surface of water to be provided within the 'General District Wide Matters' section of district plans.

2.4 The National Environmental Standards for Freshwater 2020 (NESFW) sets requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems. Anyone carrying out these activities will need to comply with the standards.

2.5 The National Policy Statement for Freshwater Management (NPSFM) came into effect on 1 July 2011. The National Policy Statement for Freshwater Management 2020 (NPS-FM) sets out the objectives and policies for freshwater management under the Resource Management Act 1991. The objective of NPS-FM is to ensure natural and physical resources are managed in a way that prioritises the health of waterbodies, the health of people, and social, economic, and cultural well-being. The NPS-FM sets out the effects management hierarchy for managing potential adverse effects on waterbodies.

Summary of the relevant notified provisions

2.6 The Proposed District Plan contains an Activities on the Surface of Water chapter in Part 2: District Wide Matters. According to the s42A reporting officer, Ms Becca Adams, the chapter largely rolled over the existing provisions into a single chapter and further clarifies the intent of the rules.

2.7 The Proposed District Plan contains one objective, five policies and a rule framework that manages activities and structures on the surface of water and motorised commercial recreation on the surface of freshwater. The proposed rule framework manages activities and structures as follows:

- Activities on or above the surface of water in rivers, lakes, and wetlands (excluding motorised commercial recreation and structures).

² Section 32 Report Activities on the Surface of Water, October 2023, paras 2.2 – 2.3

- Structures on or above the surface of water in rivers, lakes, and wetlands.
- Any motorised commercial recreation on the surface of freshwater.

Overview of submissions

- 2.8 A total of 9 original submissions (29 submission points) and 2 further submissions (3 further submission points) were received on the Activities on the Surface of Water topic.
- 2.9 According to Ms Adams, the majority of submissions were in full support of the provisions of the chapter with one partial support, subject to clarification, and one submission from New Zealand Defence Force in opposition to ASW-R2.

Recommended amendments that the Panel adopts

- 2.10 As set out in her s42A report³, Ms Adams accepted the majority of submissions in support of the Activities on the Surface of Water chapter. Only one issue was raised in the submissions which was addressed by Ms Adams in her s42A report and reiterated in her summary statement at section 5⁴, which meant there was no residual disagreements or contest by the time of the hearing.
- 2.11 The above issue derived from a submission by New Zealand Defence Force (NZDF)⁵, seeking deletion of ASW-R2 due to its perceived limitation for temporary structures relating to temporary military training activities. We adopt Ms Adams' recommendation for amending ASW-R2 to include an exemption clause relating to temporary military training activities. We also adopt her accompanying s32AA evaluation, together with the majority of situations where she considered no amendments were warranted due to the supportive nature of submissions.

Key issues remaining in contention

- 2.12 As set out in Ms Adam's summary statement, there were no matters of contention by the time of the hearing, and no further evidence was received in relation to the Activities on the Surface of Water topic. The Hearing Panel had no further questions on the topic during or following the hearing.
- 2.13 The only recommended amendment to the notified version of the chapter relates to the exemption clause in ASW-R2, in response of the submission from NZDF, as discussed above. The Panel is satisfied with the relief sought from the amended exemption clause, for the reasons set out in Ms Adam's s42A report⁶.

³ Officer's Section 42A Report Activities on the Surface of Water, 10 March 2025, para 58

⁴ Officer's Summary Statement, Activities on the Surface of Water, 7 April 2025, para 14

⁵ Submitter S225 New Zealand Defence Force

⁶ Officer's Section 42A Report Activities on the Surface of Water, 10 March 2025, paras 115 - 116

3 Light

Application of the higher order policy framework

3.1 There are several higher order policy documents which are relevant to the Light chapter of the proposed Plan, contained in detail in Section 2.2 of the s32 report⁷. These include:

- The National Planning Standards
- The New Zealand Coastal Policy Statement (NZCPS 2010)
- National guidance documents - Australian/New Zealand Standard 4282:2019 and
- National Guidelines for Crime Prevention Through Environmental Design (CPTED).

3.2 The National Planning Standards require that:

"If provisions for managing light are addressed, they must be located in the Light chapter. These provisions may include:

- a. provisions for light spill and glare (including light spill limits) for different zones, receiving environments or other spatially defined area District-wide Matters Standard*
- b. specific requirements for common significant light generating activities".*

3.3 Objective 2 of the New Zealand Coastal Policy Statement (2010) (NZCPS) seeks to preserve the natural character of the coastal environment through recognising the characteristics and qualities that contribute to natural character. Policy 13: Preservation of Natural Character seeks to preserve the natural character of the coastal environment and to protect it from inappropriate use and development. Notably, Policy 13(2)(e) recognises that natural character is not the same as natural features and landscape or amenity values; and may include matters such as the natural darkness of the night sky.

3.4 Australian/New Zealand Standard 4282:2019 controls the obtrusive effects of outdoor lighting and provides a common basis for assessment of effects of developments involving outdoor lighting. The standard includes effects of lighting of vertical planes including internally and externally illuminated signs, façades or objects.

3.5 The National Guidelines for Crime Prevention Through Environmental Design (CPTED) in New Zealand Parts 1 and 2 outline how urban planning, design, and place management strategies can reduce the likelihood of crime, and deliver numerous social and economic benefits. The guidelines address good lighting as a component of 'surveillance and sightlines', a quality of CPTED.

Summary of the relevant notified provisions

3.6 The Proposed District Plan contains a new Light chapter in line with the National Planning Standards. The Proposed District Plan provides for artificial lighting which allows activities to occur outside of daylight hours and increases safety and security,

⁷ Section 32 Report Light, October 2023, paras 2.2 – 2.3

while minimising potential adverse effects beyond the site boundary. The provisions do not apply to specific types of activities or lighting which have a functional need or operational need, such as navigational aids and vehicle lights.

3.7 In summary, the proposed provisions include:

- a. Three objectives that address:
 - i. The role of artificial light and effects on amenity values
 - ii. Brightness and clarity of the night sky
 - iii. Provision for security and safety
- b. Four policies that address:
 - i. Avoidance of light spill and glare on adjoining sites and roads
 - ii. Protection of the clarity and brightness of the night sky
 - iii. Effects of artificial light on amenity values
 - iv. Role of artificial lighting
- c. A rule framework that manages outdoor artificial light and glare effects standards that address:
 - i. Standards for outdoor artificial light and glare
 - ii. Outdoor sports lighting
 - iii. Road lighting

3.8 The rules and standards apply to all three Districts in the Wairarapa, meaning the rules and standards for lighting in the earlier Dark Sky Plan Change to the Operative District Plan for the Carterton and South Wairarapa Districts now also apply to the Masterton District.

Overview of submissions

- 3.9 A total of 7 original submissions (23 submission points) and 2 further submissions (4 further submission points) were received on the Light chapter, as set out in detail in Section 6.2 of the 42A Report⁸.
- 3.10 According to the Reporting Officer, Ms Adams, the majority of submissions were supportive of the chapter as notified, with six requests for amendments and one request for an out-right deletion⁹. The amendments requested expanding policy and rules to specifically include specific activities, largely for clarification purposes.

Recommended amendments that the Panel adopts

- 3.11 On the basis of the Panel's review of Ms Adam's s42A Report and Summary Statement, we adopt the Reporting Officer's recommendations for amendment and her accompanying reasoning and s32AA evaluations as follows:

⁸ Officer's Section 42A Report Light, 10 March 2025, Section 6

⁹ Officer's Summary Statement Light, 7 April 2025, para 8

- a. Amend LIGHT-S1 exception clause and matters of discretion to include reference to rail network and associated features, in response to a submission from KiwiRail¹⁰.

Key issues remaining in contention

- 3.12 Having considered the reporting officer's summary statement¹¹ at the Hearing, the Panel posed two questions for officer consideration following the Hearing, contained in Minute 26¹². The questions relate to the following, and are evaluated below:
 - a. Key Issue 1: Mobile Machinery
 - b. Key Issue 2: Consistency of Light Standards

Evaluation of key issues remaining in contention

Key Issue 1: Mobile Machinery

- 3.13 The Hearing Panel asked Ms Adams, to reconsider New Zealand Pork Industry Board's request¹³ to amend the exception clause of LIGHT-S1 to include 'mobile machinery associated with primary production', noting that the current wording could be narrowly interpreted and could be argued to exclude farm vehicles, such as combine harvesters, balers, mowers and spreaders.
- 3.14 In her reply statement¹⁴, Ms Adams confirmed her belief that 'mobile machinery associated with primary production' is adequately captured by the exception clause, as she considers mobile machinery as 'vehicles'. However, she acknowledged that amending the clause, to specify that mobile machinery is included within the exception clause, may benefit plan-users in clarifying that such machinery is exempt from such standards. She concluded that the inclusion is relatively minor and is not anticipated to reduce the effectiveness or efficiency of the plan.
- 3.15 The Panel agrees that that recommended amendment to the exclusion clause of LIGHT-S1 will provide greater clarity to plan-users on what is exempt from light standards and supports Ms Adams' 32AA Assessment¹⁵.
- 3.16 The Panel adopts the recommended amendment to include mobile machinery associated with primary production as an exception to LIGHT-S1, for the reasons explained above.

Key Issue 2: Consistency of Light Standards

- 3.17 In Minute 26, the Hearing Panel also queried the alignment of performance standards, with particular interest on how LIGHT-S1 is consistent with, and does not undermine, LIGHT-S2 and LIGHT-S3.
- 3.18 Ms Adams provided a detailed response to the Panel's question in her reply

¹⁰ Submitter S79.067 KiwiRail

¹¹ Officer's Summary Statement Light, 7 April 2025

¹² Refer Minute 26, Appendix 1, p7

¹³ Submitter S229 New Zealand Pork Industry Board

¹⁴ Officer's Reply Statement Light 7 April 2025

¹⁵ Officer's Reply Statement Light 7 April 2025, paras 14-17

statement¹⁶. To summarise, she provided context on the application of the rule, explaining that under LIGHT-R1, compliance with all standards (S1-S3) is required for an activity to be permitted. The cumulative requirement is a result of the standards being linked by the word 'and', rather than 'or', and, as a consequence, Ms Adams acknowledged that the effectiveness of LIGHT-S1 is potentially compromised by the concurrent need to meet the requirements of LIGHT-S2 and LIGHT-S3, and vice versa.

- 3.19 Ms Adams also explained that the standards do not align in all respects, as each is designed to manage a specific lighting context: LIGHT-S1 applies to all general outdoor lighting, LIGHT-S2 to outdoor sports lighting, and LIGHT-S3 to road lighting. She explained, and we accept, that the intention of the rule framework and its associated standards is to provide a clear permitted activity pathway for each of these lighting activities, and therefore she recommended a revised amendment to the Rule to replace 'and' with 'or', to ensure LIGHT-S1 can be achieved without being undermined.
- 3.20 Although no submissions were received on this matter, and therefore there is no scope within the hearing process to make amendments, Clause 16 of Schedule 1 of the RMA does enable local authorities to make amendments without using the Schedule 1 process, so long as any effect is neutral. Ms Adams considered that the amendment can be reconciled under Clause 16 of Schedule 1 of the RMA¹⁷, as replacing 'and' with 'or' will achieve the intended application of the Light rule and standards, avoiding the need for unnecessary consenting, resulting in a neutral effect.
- 3.21 Having considered Ms Adams' response to the issue around the consistency of lighting standards and her consequential amendments, the Panel is satisfied that the rule, as amended, better reflects the application of the standards to achieve application of the rule, as intended.

¹⁶ Officer's Reply Statement Light 7 April 2025, paras 22-24

¹⁷ Officer's Reply Statement Light 7 April 2025, paras 25-26

4 Noise

Application of the higher order policy framework

- 4.1 There are several higher order policy documents which are relevant to the Noise chapter of the proposed Plan, contained in detail in Section 2.2 of the s32 report¹⁸. These include:
- National Environment Standards (NES)
 - National Planning Standards
 - National guidance documents
- 4.2 The NES relevant to the Noise topic are:
- National Environmental Standards for Telecommunication Facilities 2016: Section 24 Noise limits for cabinet in road reserve & Section 25 Noise limits for cabinet not in road reserve
 - National Environmental Standards for Electricity Transmission Activities 2009 Noise and vibration from construction activity Section 37 & Section 38
 - National Environmental Standards for Plantation Forestry 2017 - Noise and vibration, Section 98 & 99 Section 99
- 4.3 The National Planning Standards require that where the following matters are addressed, they must be included in the Noise chapter in Part 2 – District-Wide Matters of the District Plan:
- Noise provisions (including noise limits) for zones, receiving environments or other spatially defined area.
 - Requirements for common significant noise-generating activities.
 - Sound insulation requirements for sensitive activities and limits to the location of those activities relative to noise-generating activities.
 - Any noise-related metrics and noise measurement methods must be consistent with the *15. Noise and vibrations* metrics Standard.
 - The Noise chapter must include cross-references to any relevant noise provisions under the Energy, Infrastructure, and Transport heading.
- 4.4 We record also that, to the extent that noise generation from renewable electricity generation facilities is a relevant resource management issue for the Wairarapa, the NPS-REG is relevant and must be given effect to.
- 4.5 A suite of national guidance documents is also relevant to the noise topic, detailed in Section 2.2.4 of the s32 report.
- 4.6 Relevant objectives in the Strategic Direction chapter include the following:

CCR-OX | Renewable electricity

Recognise the role of renewable electricity generation activities in meeting the New

¹⁸ Section 32 Report Noise, October 2023, Section 2

Zealand Government's national target for emissions reduction and generation of electricity from renewable resources to contribute to the transition to a low-carbon future.

NE-O4 | Coastal environment

The special qualities of the Wairarapa *coastal environment* are recognised and protected from inappropriate subdivision, use, and development.

RE-O2 | Productive capacity

The land and resources of the General Rural Zone are used predominantly for *primary production* activities and the productive capacity of land is protected from inappropriate subdivision, use and development.

RE-O4 | Character and amenity values of the rural environment

The character and amenity values of the rural environment is maintained and enhanced

UFD-O2 | Urban Growth

The Wairarapa's urban areas grow in a planned, efficient, and structured way to meet current and future needs in a manner that:

1. provides for a variety of housing types that respond to a range of community needs;
2. enables greater densities of development in areas with sufficient infrastructure capacity and located close to centres, services, open spaces and/or public transport;
3. is compatible with the character and amenity of the urban areas recognising that amenity values can change over time;
4. improves housing affordability;
5. protects the productive capacity of rural land; and
6. supports reductions in greenhouse gas emissions.

INF-O1 | Infrastructure

The benefits of infrastructure (including additional infrastructure) are recognised and provided for, while ensuring its adverse effects are avoided, remedied, or mitigated, and infrastructure (including additional infrastructure) is protected from incompatible land use, subdivision and development, including reverse sensitivity effects.

Summary of the relevant notified provisions

- 4.7 The proposed provisions are contained in the Noise chapter in Part 2: District Wide Matters and include:
- a. A definition for "noise sensitive activities"
 - b. Two objectives that address:
 - The benefits of activities that generate noise while managing adverse effects; and
 - Reverse sensitivity
 - c. Eight policies that:
 - Enable noise-generating activities in appropriate areas;
 - Ensure noise effects from activities are compatible with the existing

- environment;
 - Minimise noise effect from construction activities;
 - Manage the location and construction of noise sensitive activities near the State Highways;
 - Protect the operation of Hood Aerodrome from reverse sensitivity effects;
 - Minimise the impact on noise sensitive activities located within the Commercial and Mixed Use Zones and General Industrial Zone;
 - Provide for noise of a limited duration and frequency;
 - Allow noisy activities to take place in the rural environment.
- d. A rule framework that provides for permitted activities for the following types of noise generating activities, subject to standards generally relating to matters such as duration, operating hours, and level of noise:
- Emission of noise from construction, maintenance, and demolition activities;
 - Emission of noise from airblasts;
 - Emission of noise from bird scaring devices;
 - Emission of noise from frost protection devices;
 - Emission of noise from domestic wind turbines;
 - Emission of noise from large scale renewable electricity generation activities (wind);
 - Emission of noise from helicopter operations;
 - Emission of noise from temporary activities and temporary military training activities;
 - Noise insulation requirements for new buildings, change of use of existing buildings, and additions to existing buildings to be occupied by a noise sensitive activity in Commercial and Mixed Use Zones and General Industrial Zones;
 - Noise insulation requirements for new buildings or additions to existing buildings to be occupied by a noise sensitive activity located within the State Highway Noise Boundary;
 - Noise sensitive activities within Hood Aerodrome Air Noise Boundaries; and
 - Noise sensitive activities within the Chester Road Air Noise Boundary;
- e. Effects standards that address:
- Maximum noise levels in Zones;
 - Maximum noise levels for specified activities;
 - Noise insulation standards for noise sensitive activities in Zones; and
 - Noise insulation standards for noise sensitive activities in specified areas.

Overview of submissions

- 4.8 A total of 32 original submissions (120 submission points) and 8 further submissions (34 further submission points) were received on the noise topic. Submissions were generally in support or sought further clarification or new provisions. Submissions were made on the following themes:

- a. Noise introduction
 - b. Noise objectives
 - c. Noise policies
 - d. Noise rules
 - e. Noise standards
 - f. Noise definitions
 - g. Maps and Appendices
- 4.9 These submissions are indexed in section 6.1 of the section 42A report authored by Ms Huesser and included private individuals, NZTA, telecommunications companies, the Ministry of Education, the NZ Defence Force, KiwiRail, FENZ, GWRC, and various interest groups.

Recommended amendments that the Panel adopts

- 4.10 Ms Huesser recommended several changes in her section 42A report and/or in Section 5 of her summary statement in response to evidence called by various submitters¹⁹. The upshot of the recommendations in these respects is that they were subject to little residual disagreement or active contest by the time of the hearing commencement.
- 4.11 We have carefully considered these recommendations from Ms Huesser and – where relevant – the evidence of others they have relied upon. We are satisfied that their recommendations are appropriate for the reasons they have expressed. In summary, these amendments include the following, except where further modified as discussed in the key issues section below:
- a. changes to noise **Policy NOISE-P8** recommended at the outset of section 6.5 of the s42A Report²⁰;
 - b. changes to various noise **rules** recommended at the outset of section 6.6 of the s42A Report²¹;
 - c. amendments to noise **Standards NOISE-S2 and NOISE-S3** recommended at the outset of section 6.7 of the s42A Report²²;
 - d. amendments to the **definition of 'noise sensitive activity'** and addition of new **definition for 'special audible characteristic'** recommended at the outset of section 6.8 of the s42A Report²³;
 - e. amendments to **map notations** recommended at the outset of section 6.9 of the s42A Report²⁴;

¹⁹ Indexed in section 5 of the summary statement.

²⁰ Including the reasons set out at paras 114-120 and the s32AA evaluation at paras 126-130.

²¹ Including the reasons set out at paras 133-205 and the s32AA evaluation at paras 206-210.

²² Including the reasons set out at paras 213-241 and the s32AA evaluation at paras 249-253.

²³ Including the reasons set out at paras 256-270 and the s32AA evaluation at paras 271-275.

²⁴ Including the reasons set out at paras 277-290 and the s32AA evaluation at paras 291-295.

- f. changes to the **rule exceptions to apply also to conservation activities** (inclusive of agricultural aviation activities and helicopter landing areas) for a limited duration in the Natural Open Space Zone in response to the evidence from Mr Michelle²⁵ for NZ Agricultural Aviation Association, and supported by Mr Arden²⁶;
 - g. amending the **definition of 'noise sensitive activity'** to include hospitals in response to the evidence of Ms Heppelthwaite²⁷ for KiwiRail;
 - h. amending **Rule NOISE-R13** to apply to all zones and to address alterations to existing buildings that create habitable rooms (in addition to new buildings or additions to existing buildings as notified) in response to the evidence of Mr Talbot²⁸ and Dr Chiles²⁹ for NZTA.
- 4.12 In her summary statements, Ms Huesser also noted a minor typographical error in her s42 Report to be corrected. In recommending amendments to the definition of 'noise sensitive activity' Ms Huesser inadvertently added an extraneous 'any' which she confirmed should be deleted.
- 4.13 We record also a change that was recommended by Ms Huesser in her reply statement in response to a question we put to her during the hearing. Namely, she considered that a note should be added to Standards NOISE-S3 to clarify that a design report would be required to confirm that future activities comply with the performance requirements of the standard³⁰. The Panel adopts her view that such clarification will be to the benefit of the clear, effective administration of the PDP in the future.
- 4.14 We also record that we have adopted two minor changes identified by Ms Huesser as corrections at the conclusion of her reply statement. Namely:
- a. Standards NOISE-S3 and NOISE-S4 should not be referenced under rule NOISE-R1 as the focus of the rule is on noise generation, whereas the standards relate to noise attenuation requirements for noise sensitive receivers; and
 - b. The minor change in wording from 'models' of helicopters referenced in NOISE-S2.6 to 'types' enhances clarity, and we adopt it accordingly.

Evaluation of key issues remaining in contention

- 4.15 Here we discuss the key issues remaining in contention at the conclusion of the hearing. Our discussion is organised to address each of the following matters in turn:
- a. Key Issue 1: Policy NOISE-P1;
 - b. Key Issue 2: Rail noise controls and vibration alert layer;
 - c. Key Issue 3: Temporary commercial helicopter operations;

²⁵ Evidence of Tony Michelle (24 March 2025), para 3.3

²⁶ Statement of Stephen Arden (7 April 2025), para 10-12

²⁷ Evidence of Catherine Heppelthwaite (24 March 2025), para 7.15-7.20

²⁸ Evidence of Jeremy Talbot (24 March 2025), para 4.2-4.5

²⁹ Evidence of Stephen Chiles for NZTA (24 March 2025), para 5.2-5.4

³⁰ Officer's Reply Statement Noise Topic, para 35

- d. Key Issue 4: Frost protection and bird scaring devices;
- e. Key Issue 5: Sensitive activities near quarries; and
- f. Key Issue 6: Seasonal worker accommodation and definition of 'noise sensitive activity'.

Key Issue 1: Policy NOISE-P1

- 4.16 The first of the key issues for the noise topic is derived from the HortNZ submission seeking the replacement of the term 'receiving environment' in the policy with the phrase the 'zone in which the activity is occurring'.
- 4.17 In her evidence for HortNZ, Ms Wharfe noted the term 'receiving environment' is not defined or described in the PDP so it is unclear how the term would be applied in practice. She also observed that NOISE-O1, which the policy implements, focusses on noise being compatible with the anticipated purpose, character and amenity values of the relevant zone. In Ms Wharfe's view, it would be clearer and more certain for the policy to adopt similar language.³¹
- 4.18 In both her s42A Report and summary statement, Ms Huesser expressed an alternative view to Ms Wharfe. She noted that the term 'receiving environment' is a well understood planning term despite not being defined in the PDP. Ms Huesser also expressed concern that granting the relief sought by HortNZ would essentially enable higher levels of noise in noise sensitive areas.
- 4.19 Following the hearing and subsequent joint witness conferencing with Ms Wharfe, Ms Huesser expressed her agreement with Ms Wharfe that the term 'receiving environment' is not defined in the PDP and that compatibility with the phrasing of Objective NOISE-O1 is desirable. However, Ms Huesser considered it would be more appropriate for the policy to focus on the character and amenity values of the zones within which noise is *received* rather than, as preferred by Ms Wharfe, the zone within which a noise-generating activity is located. Ms Huesser noted that noise can be generated in one zone and received in another. Ms Wharfe did not support reference to 'receiving zones' as the term is unclear in her view.³²
- 4.20 We ultimately adopt the shared view of Ms Wharfe and Ms Huesser that the notified provisions lack clarity and should be amended to better align with the aims of Objective NOISE-O1 and the approach applied in the corresponding noise rules. There remains a need to resolve the remaining matter in contention between the planning experts, however, as to the precise wording we should adopt.
- 4.21 To that end, we are aligned with Ms Huesser's preferred drafting to refer to the 'receiving zone(s)'. Objective NOISE-O1 references the purpose, character and amenity of 'relevant zone(s)'. We do not read that term to mean the zone (or zones) within which a noise-generating activity is located as interpreted by Ms Wharfe; and neither do we find any lack of clarity with the term 'receiving zones' as expressed by Ms Wharfe.
- 4.22 As illustrated in the example cited by Ms Huesser, noise might be generated by an activity in the Industrial Zone and received by activities in an adjoining residential zone. In our reading, the 'relevant zones' in such an instance would comprise both the Industrial and Residential zones, being the zones within which noise is received. Given the character and amenity values of those respective zones, there may be greater tolerance for higher levels of noise in the Industrial Zone than in the Residential Zone. Indeed, this is borne out in the drafting of standard NOISE-S1,

³¹ Evidence of Lynette Wharfe for HortNZ (24 March 2025), para 5.2-5.8

³² Joint Witness Statement Noise (23 April 2025, for the District Councils and Horticulture NZ), page 2

which applies different permitted activity limits on noise-generating activities based on the zone within which the noise is received.

- 4.23 For that reason, it would be a perverse outcome to focus only on the character and amenity of the zone within which a noise-generating activity is located.
- 4.24 The submission from HortNZ is accepted in part accordingly, subject to the refinement recommended by Ms Huesser as described above.

Key Issue 2: Rail noise controls and vibration alert layer

- 4.25 This second key issue derives from the KiwiRail submission seeking new rail noise controls and a vibration alert layer to be applied in the PDP. The scope of the submission was summarised by Ms Grinlinton-Hancock in her evidence as including:
- a. the retention of objectives and policies relating to noise;
 - b. amendments to the definition of "noise sensitive activity";
 - c. the inclusion of a new policy relating to noise insulation for sensitive activities within the Rail Corridor Noise Control Overlay;
 - d. the inclusion of new definitions for "Rail Corridor Noise Control Overlay" and "Rail Vibration Alert Area Overlay";
 - e. the inclusion of a Rail Corridor Noise Control Overlay in the planning maps that applies within 100 metres of the rail corridor;
 - f. the inclusion of a new rule, standard and construction schedule requiring acoustic insulation and ventilation to be installed in new or altered sensitive uses that are located within the Rail Corridor Noise Control Overlay; and
 - g. the inclusion of a Rail Vibration Alert Area Overlay in the planning maps that applies within 60 metres of the rail corridor.
- 4.26 This was the issue given the most attention in evidence and at the hearing and can be said to have a moderate-to-high scale and significance relative to the notified PDP. Our analysis is commensurate with that relatively high scale and significance rating.
- 4.27 While there were aspects of the evidence underpinning KiwiRail's relief that were agreed at the expert level, there was considerable disagreement between the parties whether the proposed rail noise and vibration provisions are appropriate in the Wairarapa context. As we detail in the presentation summaries below, the key matter in contention was whether the provisions – and associated cost of implementation to third parties – are appropriate given the current and reasonably foreseeable operational characteristics of the Wairarapa Line ("the Line").
- 4.28 On the point of the likely future state of the Line, parties for KiwiRail and the Councils agreed there is considerable uncertainty. They agreed also that our consideration of this issue should accordingly take account of the risk of acting or not as required under RMA section 32AA.

- 4.29 It is appropriate in this context to begin our outline of substantive matters with Ms Grinlinton-Hancock's evidence, which included some discussion of the current and anticipated function of the Line. She noted that the Line currently accommodates three bulk freight trains per day between Wellington City and the Waingawa industrial area in the Carterton District³³, plus 10-12 passenger trains per day on weekdays and four daily passenger trains on weekends between Wellington City and Masterton³⁴. All of the freight and passenger trains are led by diesel locomotives currently, and Ms Grinlinton-Hancock noted at the hearing those are noisier than the electric trains that serve the Kāpiti Line and other parts of the Wellington regional rail network.
- 4.30 Ms Grinlinton-Hancock noted that the Line can carry up to 17 additional freight trains per day between Wellington and Palmerston North if the North Island Main Trunk Line is closed for any reason. She added that while the portion of the Wairarapa Line north of Masterton is closed for maintenance, it remains an essential part of KiwiRail's network³⁵. During the hearing, we asked Ms Grinlinton-Hancock when the most recent freight movement occurred on the Line north of Masterton. She did not know the answer to that question, nor did the KiwiRail colleagues she asked prior to the hearing. We infer that it has not been a recent or regular occurrence, though Ms Grinlinton-Hancock's point that the Line can, in theory, carry additional freight is not in contest.
- 4.31 Ms Grinlinton-Hancock told us 'there is also talk of' using the Line for running of logs, though this is not yet a reality³⁶. In response to questions at the hearing, Ms Grinlinton-Hancock advised that KiwiRail's next three-yearly budget is anticipated within 2-3 months of the hearing, but that there is no indication from available information that upgrades north of Masterton necessary to service such additional freight activity will be funded.
- 4.32 On the matter of budgets, we took the opportunity to ask Ms Grinlinton-Hancock why KiwiRail sought noise and vibration measures which require mitigation to be funded by third parties, rather than funding mitigation works within the rail corridor. She told us that KiwiRail is dealing with 30 years of deferred maintenance and the need to prioritise available funds across the network as a whole. Ms Grinlinton-Hancock added that she would happily implement noise barriers along the length of the Line if Government would provide the funding for such works (which it currently does not).
- 4.33 Ms Grinlinton-Hancock also advised us that GWRC has identified a desire to increase passenger services on the line in its Draft Regional Public Transport Plan. The matter was being consulted on at the time of the hearing, and was subsequently adopted by GWRC in June 2025. Of relevance here, the Transport Plan proposes an increase in peak passenger service on the Line between Wellington and Masterton from three to six by early 2030, with some (unspecified) increase in interpeak and weekend service frequency³⁷. We interpolate to note that date would coincide with the 'mid-life' stage of the PDP before another review is required.

³³ In her written evidence, Ms Grinlinton-Hancock stated that the 3 freight movements are between Wellington and Masterton, but acknowledged in questioning at the hearing that freight movements currently do not extend north of Carterton.

³⁴ Evidence of Michelle Grinlinton-Hancock (24 March 2025), para 4.2-4.4

³⁵ Evidence of Michelle Grinlinton-Hancock (24 March 2025), para 4.2-4.3

³⁶ Evidence of Michelle Grinlinton-Hancock (24 March 2025), para 4.3

³⁷ *Te Mahere Waka Whenua Tūmatanui o te Rohe Te Upoko o te Ika a Maui 2025-2035*, at page 120

- 4.34 Dr Chiles' evidence for KiwiRail focussed on noise and vibration effects from rail infrastructure (including public health effects) and the methods proposed by KiwiRail to address those effects. Dr Chiles noted that KiwiRail adopts several measures with trains and lines to manage and reduce sound and vibration where practicable; however, even with practicable improvements implemented, the operation of the network can result in adverse effects from noise and vibration which cannot be internalised within the rail corridor.³⁸
- 4.35 Given that inability to fully internalise effects, Dr Chiles opined that there must be appropriate land use controls in place to manage sensitive development near transport corridors. Such measures are 'critical' in his view to protect sensitive activities from noise and vibration effects, and in turn to protect the Line from potential reverse sensitivities. Dr Chiles expressed that setbacks are effective tools, but where such tools are not practicable, it is relatively straightforward to control internal sound and vibration through building insulation and mechanical ventilation.³⁹
- 4.36 In Dr Chiles' view, the 100m buffer and associated noise controls proposed by KiwiRail are a proportionate measure to adopt given the current and potential future characteristics of the Line⁴⁰. He added:
- Any costs only arise when development/building actually occurs on each site (because the provisions are only triggered where new sensitive activities are established, or existing sensitive activities are altered) and are directly proportional to the benefits. Therefore, it is my opinion, that the same controls are appropriate regardless of the number of properties affected.*⁴¹
- 4.37 Dr Chiles attached a report to his evidence that he prepared for KiwiRail in 2023 to provide a 'standardised' evidential base for its approach to land use controls for noise and vibration. Among other detail, the report addresses the most recent guidelines produced by the World Health Organization in 2018 based on a review of collated evidence at that time. The report outlines the following detail in this regard, which was not challenged by any party to the hearing:

2.2. From preceding studies, the 2018 WHO Guidelines found moderate quality evidence that railway sound causes adverse health effects in that it increases the risk of annoyance and sleep disturbance in the population. Various other potential health effects were examined but evidence was not available to determine a relationship for them with railway sound. Based on the information available the 2018 WHO Guidelines made "strong" recommendations that external railway sound levels should be reduced below 54 dB Lden and 44 dB Lnight. The 2018 WHO Guidelines found there was insufficient evidence to recommend one type of intervention over another to reduce levels.

2.3. The above 2018 WHO Guidelines recommendations are in terms of long-term (annual) average sound levels. One of the metrics relates just to the night period (Lnight) and the other (Lden) is for a 24-hour average including

³⁸ Evidence of Stephen Chiles for KiwiRail (24 March 2025), para 5.1-5.2

³⁹ Evidence of Stephen Chiles for KiwiRail (24 March 2025), para 5.3-5.4

⁴⁰ Evidence of Stephen Chiles for KiwiRail (24 March 2025), para 7.5

⁴¹ Evidence of Stephen Chiles for KiwiRail (24 March 2025), para 7.7

penalties for sound occurring in the evening (+5dB) and at night (+10dB). By necessity, this use of long-term averages is a pragmatic approach given that potential health effects generally relate to exposure over extended periods and are determined from consideration of the community/population rather than specific individuals. Other research into health effects, such as relating to awakenings from sleep, has previously referenced maximum sound levels, but sleep disturbance as a health effect is only assessed in terms of average levels in the 2018 WHO Guidelines.

...

- 2.6. *In New Zealand, railway sound criteria have commonly been defined in terms of one-hour average levels (see section 4). Values of 35 dB LAeq(1h) inside bedrooms and 40 dB LAeq(1h) inside other habitable spaces have previously been applied for protection from health effects. Accounting for the different metrics, these values are slightly higher (more lenient) than the 2018 WHO Guidelines for regular sound events but would be more stringent for infrequent events. This comparison relates only to average sound levels, but corresponding relationships with health effects for different frequencies of railway events are uncertain/unknown. Therefore, currently there is no evidence base available that would support significantly more or less stringent railway sound criteria than 35 dB LAeq(1h) inside bedrooms and 40 dB LAeq(1h) inside other habitable spaces for protection of health.*

- 4.38 In his hearing presentation and response to our questions, Dr Chiles noted his understanding that rail activities in New Zealand can change dramatically in a reasonably short time based on various external factors. He noted that the efficacy in implementing KiwiRail's proposed noise controls would be optimised at the construction phase for new dwellings, with relative costs being higher for additions and alterations proposals and/or retrofitting. He opined that deferring the implementation of controls now would amount to an opportunity cost in this respect.
- 4.39 Dr Chiles also spoke to the question we put to Ms Grinlinton-Hancock regarding the alternative of noise barriers within the rail corridor. He told us there are major technical issues arising with such an approach including the physical and visual impacts of a continuous concrete wall over long distances with a minimum height of 5m to provide clearance above locomotive exhaust heights. Dr Chiles noted that noise barriers might be effective and appropriate in certain localised applications, but not as a district-wide or nation-wide solution.
- 4.40 Ms Heppelthwaite's evidence addressed relevant statutory planning instruments and the efficacy of the measures proposed by KiwiRail in implementing relevant policy direction. In the former respect, Ms Heppelthwaite highlighted the relevance of operative RPS Policy 8, which directs the PDP to include policies and rules that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over or adjacent to the infrastructure. She relied upon the evidence of Ms Grinlinton-Hancock and Dr Chiles in opining that the noise control and vibration provisions proposed by KiwiRail are appropriate in this regard.⁴²

⁴² Evidence of Catherine Heppelthwaite (24 March 2025), para 7.8

4.41 Like Dr Chiles, Ms Heppelthwaite noted that the introduction of the proposed controls has no effect on existing sensitive activities within 100m of the Line unless they propose building additions or alterations involving habitable rooms. Though a desktop review of mapping data, she estimated that 70-85% of sites within the 100m buffer already contain a building or dwelling. By correlation, we interpolate that some 15-30% would be free of buildings currently.

4.42 Comparing her data to Ms Huesser's own spatial analysis, Ms Heppelthwaite said:

7.11 Overall, I consider that the effect of the proposed controls is better assessed by identifying areas where new sensitive activities could be established (i.e.. vacant site/sites with additional development potential). A 'secondary' impact is the proportion (unknown but less than 100%) of existing sensitive activities that may, at some point, have alterations which trigger the noise insulation provisions. The impact of the noise provisions is therefore much less significant and more confined than that suggested by Ms Treadaway's Table.

4.43 In response to questions from the Panel on this matter, Ms Heppelthwaite confirmed her understanding that new or altered buildings within the 100m buffer would necessitate physical insulation and mechanical ventilation in order to meet the permitted activity controls proposed.

4.44 Mr Arden's view was that the 100m buffer proposed by KiwiRail is not justified based on the level of activity experienced on the Line. He did not oppose a noise insulation rule, but considered that should one be imposed, a 40m buffer would be more appropriate.⁴³

4.45 We asked Mr Arden his view on the level of increased activity on the Line that could justify application of the 100m buffer distance. His response addressed daytime and night-time levels separately, and did not distinguish between freight movements from passenger movements led by diesel locomotive. In summary, Mr Arden gave the view that the 100m buffer would be justified by:

a. six movements in any one hour period during the daytime; and

b. four or more movements across all night-time hours.⁴⁴

4.46 Ms Huesser acknowledged that the operation of the Line can adversely affect the health and amenity of people in proximity to the Line, and that the KiwiRail provisions would provide certainty and a level of protection for those people where within new or modified buildings.⁴⁵

4.47 However, Ms Huesser was also concerned about the number of properties potentially affected by the proposed provisions, and the associated costs that would fall to parties developing, or redeveloping buildings on those properties.

4.48 In the former respect, Ms Huesser identified 780 properties in the General Residential Zone, three in the Future Urban Zone and 466 in the General Rural Zone

⁴³ Statement of Stephen Arden (7 April 2025), para 22-24

⁴⁴ Appendix 6 to Right of Reply, Memo from Steve Arden to Katie Huesser *Response to Panel Questions – Noise* (23 April 2025), page 1-2

⁴⁵ Officer's Reply Statement Noise Topic, para 51

affected by the 100m buffer, collectively accounting for more than 1,100ha of land overall.⁴⁶ More than 90% of that land, we observe, is in the General Rural Zone.

4.49 On the matter of costs, Ms Huesser gave the view that:

*...the costs of the plan provisions sought outweigh the benefits. The costs of the plan provisions are the imposition of costs on property owners and developers in meeting the noise insulation requirements and an acoustic certificate (and mechanical ventilation is required). Given the current low number of train movements, the noise levels are not significant. Therefore, these costs would have limited benefits in terms of mitigating the effects on noise receivers. However, it is recognised that train movements may change (increase) over time and that imposing these costs now would 'future proof' the railway corridor and these benefits would be realised in the future. While this may be the case, I consider it would be more effective and efficient for that determination to be made as part of a future district plan review process rather than imposing these costs now.*⁴⁷

4.50 Exploring potential economic effects further, we asked Ms Huesser to consider the cost estimate presented in the section 32 analysis attached as Appendix B to Ms Heppelthwaite's evidence. The latter estimates that the individual costs to affected third parties would entail \$3000 for an acoustic assessment plus 3% of the building value to achieve acoustic compliance.

4.51 In consultation with the Councils' building consents teams, Ms Huesser considered that the above costs were under-estimated. She noted that the cost of interior wall linings typically used to comply would be triple the cost of standard linings, and that a standalone mechanical ventilation system for a 200m² single storey house with good roof access would cost \$8,000. The latter would be increased with two storey buildings and/or buildings with mono-pitched roofs.⁴⁸

4.52 We interpolate to note that failure to provide these mitigation measures would result in increased compliance costs for affected parties and associated regulatory uncertainty.

4.53 Overall, Ms Huesser's view was that KiwiRail's evidence did not demonstrate that there is a resource management issue in the Wairarapa to justify the regulatory methods proposed. Equally, she did not consider that the proposed methods are required to implement RPS Policy 8 or the related direction in the PDP.⁴⁹ In the latter respect, Ms Huesser drew our attention to the explanation accompanying RPS Policy 8, which reads:

Protecting regionally significant infrastructure does not mean that all land uses or activities under, over, or adjacent are prevented. The Wellington Regional Council and city and district councils will need to ensure that activities provided for in a district or regional plan are compatible with the efficient operation, maintenance, and upgrading (where effects are the same or similar in character, intensity, and scale) of the infrastructure and any effects that may be associated

⁴⁶ Officer's Section 42A Report Noise (10 March 2025), para 201

⁴⁷ Officer's Reply Statement Noise Topic, para 52

⁴⁸ Officer's Reply Statement Noise Topic, para 38-40

⁴⁹ Officer's Reply Statement Noise Topic, para 41-48

with that infrastructure. Competing considerations need to be weighed on a case by case basis to determine what is appropriate in the circumstances.

- 4.54 Ms Huesser also did not support the inclusion of the vibration alert overlay, noting that the vibration effects from current low train movements are not significant and the low relative efficacy in the non-regulatory nature of the method.⁵⁰
- 4.55 We start our discussion by addressing the vibration alert overlay. We are ultimately aligned with Ms Huesser for the reasons she has expressed. We were not presented with compelling evidence from KiwiRail to conclude that a non-regulatory advisory method would be the most appropriate method to avoid compromising the function and operation of the Line due to reverse sensitivity effects from vibration. Nor did the submitter's evidence indicate how such a method might effectively address the annoyance, sleep disruption or building damage effects from vibration as identified in the appendix report tabled by Dr Chiles. We accordingly have not accepted KiwiRail's relief regarding the proposed vibration alert overlay.
- 4.56 We are also aligned with Ms Huesser that KiwiRail's proposed noise controls are not sufficiently justified in evidence. In particular, we emphasise the following:
- a. Mr Arden's analysis suggests that *substantial* increases to freight or diesel-led passenger movements would be required to justify a 100m buffer as sought by KiwiRail;
 - b. KiwiRail has been unable to demonstrate any financial commitment to complete necessary upgrades to the network to materially increase freight capacity, nor any evidence to suggest any material increase in freight traffic is likely over the life of the PDP that would justify the proposed noise controls;
 - c. While GWRC has signalled its intention to increase passenger services on the Line and secured funding to do so, those increases are not in of themselves sufficient to warrant the buffer and controls based on the evidence of Mr Arden – and they are also at least five years away according to GWRC's strategy;
 - d. these factors point toward a low probability of effects reaching a level that could justify KiwiRail's relief;
 - e. the above, in turn, points to the proposed provisions resulting in an unreasonable cost being imposed on third parties in the specific context of the Wairarapa based on the current and reasonably foreseeable characteristics of the Line over the life of the PDP based on the evidence before us.
- 4.57 We also adopt Ms Huesser's assessment that the noise control measures proposed by KiwiRail are not necessary to implement RPS Policy 8 or related direction in the PDP. We echo her reference to the explanation to the former which clearly points to the need for careful consideration of context.
- 4.58 These points are not to ignore or downplay Dr Chiles' evidence that noise and vibration from the operation of the Line may have adverse health and amenity effects or that the proposed noise control measures would result in potential benefits

⁵⁰ Officer's Summary Statement Noise (7 April 2025), para 25

through mitigation of those effects; however, we consider that KiwiRail's evidence is based on a generic standard of operation that is ignorant of the specific context in the Wairarapa.

- 4.59 We accordingly find that the risk of not acting outweighs the risk of acting in the manner sought by KiwiRail, and do not accept the submitter's relief sought as a result.
- 4.60 As a final point, we note that, although not a key determinative factor in the decision we have arrived at, the absence in the publicly notified plan of noise control measures associated with rail activity, and the endeavour to retrofit such through the relief sought by KiwiRail in their submissions, did not give us confidence that the full extent of impact of such provisions on building development was appreciated by the wider public. The absence of many further submissions in opposition compared to the number of properties affected (some 1250 properties) underpins that concern.
- 4.61 Further to the above, we were advised by the s42A author that several endeavours were made by Council staff before the production of the proposed District Plan to understand the evidential basis for the 100m rail corridor setback but that little substance was received from KiwiRail. This can be contrasted with the response to the draft plan by NZTA who provided bespoke noise modelling contours and these were included in the notified version of the Proposed District Plan and were therefore able to be scrutinised by would be submitters.
- 4.62 For us, the above two points raises a natural justice and fairness issue similar to say the firefighting water supply issue raised by the submission by FENZ and canvassed in Decision Report 2. We believe we have decided consistently in both instances.

Key Issue 3: Temporary commercial helicopter operations

- 4.63 The residual issues for us to address here stemmed from the submission from the NZ Helicopter Association seeking various amendments to better enable commercial helicopter operations for temporary uses. The changes sought included:
- a. a new definition for 'temporary commercial helicopter landing area';
 - b. inclusion of commercial aviation in Policy NOISE-P7;
 - c. inclusion of commercial helicopter aviation activities to the exclusions in the introduction to the Noise rules;
 - d. exclusion from Rule NOISE-R2 of aircraft noise from temporary and infrequent take-offs and landings for construction activities; and
 - e. a new permitted activity in rule NOISE-R8 or NOISE-S2 for commercial aviation limited to no more than 315 hours or 30 days of helicopter operations on the same site.
- 4.64 Ms Wharfe presented evidence for the submitter, inclusive of a description of the benefits to be derived from temporary commercial helicopter activities and analysis of the provisions proposed in the submission. She also noted that – under the

Operative District Plan – such activities are permitted.

- 4.65 Ms Huesser's initial view was that the submission should be rejected and that resource consents should be obtained for temporary commercial helicopter operations. However, she ultimately changed her view in this regard, following conferencing with Ms Wharf.
- 4.66 Ultimately, the planners agreed that changes are necessary to better enable temporary commercial helicopter use, though they were not entirely aligned as to the most appropriate methods to adopt in this regard.
- 4.67 Ms Wharfe preferred an exclusion for temporary operations from the definition of 'helicopter landing area' along with a new defined term for 'temporary commercial helicopter activities', inclusive of an itemised index of various uses under that definition.⁵¹
- 4.68 Ms Huesser agreed that the exclusion to the 'helicopter landing area' definition should be adopted, but proposed the indexing of included examples of temporary activities under that definition, rather than a new standalone definition.⁵²
- 4.69 Ms Wharfe and Ms Huesser also agreed that the submission point seeking an exemption from the noise rules for the temporary helicopter operations should be accepted.⁵³
- 4.70 In considering the joint witness statement from Ms Wharfe and Ms Huesser, we adopt their shared analysis that the definitions and rules exceptions should be amended for the reasons they expressed. We find also there is little to separate the two as to whether a new definition is needed for 'temporary commercial helicopter activities' or whether the substance of that definition can clearly be subsumed within the definition of 'helicopter landing area' by express exception.
- 4.71 Ultimately, we consider the two options are neutral as to comparative effectiveness, but that the latter option as preferred by Ms Huesser, will be more efficient. We accordingly adopt her recommended amendments to the definition of 'helicopter landing area', along with the shared recommendation to cite temporary uses within the list of exceptions to the noise rules.

Key Issue 4: Frost protection and bird scaring devices

- 4.72 Here we consider the submissions from HortNZ seeking amendments to the PDP noise provisions relating to frost protection and bird scaring devices. The relief sought by the submitter on these points can be summarised as follows:
- a. HortNZ supported the frost protection device provisions under rule NOISE-R5 and standard NOISE-S3, but sought that a new rule and standard be included to require noise insulation for any new residential activities proposed within 300m of an existing frost protection device; and
 - b. HortNZ supported the provision of bird scaring devices as permitted activities

⁵¹ Joint Witness Statement Noise (23 April 2025, for the District Councils and New Zealand Helicopter Association), page 2

⁵² Joint Witness Statement Noise (23 April 2025, for the District Councils and New Zealand Helicopter Association), page 3

⁵³ Joint Witness Statement Noise (23 April 2025, for the District Councils and New Zealand Helicopter Association), page 3

under rule NOISE-R4, but sought for the limitations on their hours of use under standard NOISE-S2 to be lengthened.

- 4.73 Ms Wharfe addressed both submission points in her evidence. She noted that other jurisdictions in New Zealand include requirements for noise insulation for new sensitive activities near frost protection devices, though the separation distances and other rule particularities differ between them. In contrast to those other plans, Ms Wharfe noted that HortNZ only seeks for the insulation to be provided in residential buildings in rooms dedicated to sleeping.⁵⁴
- 4.74 Regarding bird scaring devices, Ms Wharfe emphasised the direction from objective NOISE-O2 and policy NOISE-P8 as being relevant. The latter, we observe, enables bird scaring devices and other noise equipment provided that it is of a limited duration. Ms Wharfe noted that bird scaring devices are only used for a limited time each year, and the effects of their use can be fairly said to be temporary. She noted also that the additional 30 minutes either side of sunrise and sunset sought by HortNZ to the permitted activity standard can make a significant difference to crop impact from bird activity, whereas the additional increase in time to enable this is modest. She added that the rules only permit up to six audible events within a 60-minute period, which is lower than other plans she is aware of.⁵⁵
- 4.75 Mr Arden and Ms Huesser ultimately supported an increase in the permitted hours for bird scaring devices as sought by the submitter, but did not support the imposition of noise insulation requirements on residential activities near frost fans.
- 4.76 Regarding frost fans, Mr Arden considered that the inclusion of a 300m noise insulation buffer lacked fairness and balance in the absence of a corresponding rule to require new frost fan activities within 300m of existing dwellings to meet the cost of insulating those dwellings or otherwise meeting appropriate noise limits where received at the dwelling. Such an approach would add regulatory complexity and cost both to frost protection activities and sensitive uses. Mr Arden accordingly preferred the retention of the notified approach to managing frost fan noise through performance standards as set out in NOISE-S2.⁵⁶
- 4.77 Though Ms Wharfe and Ms Huesser conferred on this matter after the hearing, they were unable to narrow the matters in contention between the submitter and Councils on this matter. Ultimately, Ms Huesser relied on Mr Arden's evidence in recommending that the relief sought by HortNZ for noise insulation controls within proximity to frost fans not be accepted.⁵⁷
- 4.78 In contrast, Ms Wharfe and Ms Huesser ultimately agreed that extending the permitted activity hours for bird scaring devices half an hour either side of sunrise and sunset would be appropriate. They agreed this would better recognise potential bird activity and increase crop protection while not resulting in significant noise effects.⁵⁸
- 4.79 Ms Huesser relied on Mr Arden's supplementary analysis, which included responses to questions put to him by the Panel. Mr Arden's supplementary advice can be

⁵⁴ Evidence of Lynette Wharfe for HortNZ (24 March 2025), para 7.4-7.14

⁵⁵ Evidence of Lynette Wharfe for HortNZ (24 March 2025), para 6.5-6.27

⁵⁶ Marshall Day Acoustics, *Wairarapa Combined District Plan Review Response to Submissions* (04 March 2025), section 2.6

⁵⁷ Joint Witness Statement Noise (23 April 2025, for the District Councils and Horticulture NZ), page 5

⁵⁸ Joint Witness Statement Noise (23 April 2025, for the District Councils and Horticulture NZ), page 3-5

summarised as follows:

- a. having compared the PDP approach to 13 other plans, Mr Arden observed:
 - i. 10 of the other plans have comparable noise limits for bird scaring devices to the PDP, with two being more stringent and one less stringent;
 - ii. seven of the plans contain no limits on devices, two share the same restrictions as the PDP, one is more stringent in the number of permitted devices per hectare and three have less stringent setback requirements from sensitive activities;
 - iii. four of the plans have the same timing restrictions as the notified PDP, seven adopt the half hour either side of sunrise and sunset approach promoted by HortNZ, and the other two have more bespoke limits;
- b. retaining a limit on the number of devices is important to avoid cumulative noise effects arising from multiple audible events occurring per device and in turn the number of potential disturbances; and
- c. extending the hours as sought by HortNZ would be unlikely to significantly change noise effects relative to the PDP and would be reasonable provided there is justification that the change would also enhance crop protection.⁵⁹

4.80 In considering this matter, we start with the latter focus on bird scaring devices. We find no reason not to adopt the uncontested view before us that amending standard NOISE-S2 to increase use of bird scaring devices by 30 minutes either side of sunrise and sunset is appropriate. We are grateful to Mr Arden's further analysis in this respect, which we rely on in reaching this finding for the reasons he outlined.

4.81 Turning to the frost fan noise insulation requirements, we are ultimately aligned with Mr Arden and Ms Huesser that HortNZ's relief should not be accepted for the reasons they have given.

4.82 We have had regard to the two Environment Court decisions tabled by Ms Wharfe where such provisions were adopted. In our reading, those decisions can be distinguished from the PDP context, particularly as relates to:

- a. the evidential basis underpinning the decisions; and
- b. the factual matrix for each as to the demand for, and proliferation of, frost protection devices in the relevant jurisdictions, the potential for conflict in those areas with activities sensitive to the noise from those devices and the associated costs and benefits.

4.83 Neither HortNZ nor the Councils provided any evidence to suggest the matter is a resource management issue of comparable significance for the Wairarapa relative to those other jurisdictions, or that a common regulatory response is warranted.

4.84 For the above reasons, we have not accepted HortNZ's submission seeking noise

⁵⁹ Appendix 6 to Right of Reply, Memo from Steve Arden to Katie Huesser *Response to Panel Questions – Noise* (23 April 2025), page 2-3

insulation requirements for residential activities near existing frost protection devices.

Key Issue 5: Sensitive activities near quarries

- 4.85 This matter is derived from the submission by Fulton Hogan seeking setback-based rules for new sensitive activities, or additions or alterations to existing sensitive activities, near existing quarries. Such activities would need to be setback 200m from any excavation area, 500m from any processing area, and 500m from any activity including blasting.
- 4.86 Fulton Hogan did not call evidence in support of its submission but did table a statement from Ms Caley. The substance of Ms Caley's statement can be summarised as follows:
- a. Policy GRUZ-P6, which directs the avoidance or mitigation of reverse sensitivity effects by avoiding new sensitive activities near existing quarries and other primary production activities, and using setbacks and separation distances, is relevant;
 - b. the proposed setbacks are consistent with other contemporary district plans, including in Selwyn District and Christchurch City;
 - c. on the understanding that the PDP anticipates quarries to largely internalise their effects, reverse sensitivity is a significant issue for quarries; and
 - d. it is not Fulton Hogan's intent that the rule would apply to farm quarries, which are permitted by the PDP and are at a different scale to commercial quarries and the statement included a revision to the proposed rule to reflect that exemption.
- 4.87 Mr Arden did not support the proposed setbacks. In his view, it is not good practice to apply setbacks to quarry activities given the wide variety in the size, scale, character and intensity of quarries and the inability to take account of relevant factors that affect noise propagation (including terrain).⁶⁰
- 4.88 Ms Huesser relied on Mr Arden in recommending that Fulton Hogan's relief not be accepted. She added that it is unclear from the information presented by the submitter how the specific buffer distances have been derived, noting also that as a fixed control it would not take into account variation in scale of quarry activities. Ms Huesser noted that there are many quarries across the Wairarapa, and imposing the large setbacks requested would affect a significant area of land. She also expressed the view that quarrying activities should generally seek to internalise their effects before restrictions are imposed on third party land.⁶¹
- 4.89 In the absence of any detailed evidence to justify the specific setback distances sought by Fulton Hogan, or to clearly illustrate why such distances are appropriate in the context of all existing quarries in the Wairarapa, we adopt Ms Huesser and Mr Arden's view that the proposed setback is not appropriate for the reasons they have expressed.
- 4.90 We share the Council witnesses' view that the setback tool is too blunt in this respect, and there has been no analysis by Fulton Hogan to quantify the level of constraint

⁶⁰ Statement of Stephen Arden (7 April 2025), para 37

⁶¹ Officer's Section 42A Report Noise (10 March 2025), para 203

that would be introduced by the proposed rule, or the associated costs and benefits.

4.91 The submission from Fulton Hogan is accordingly not accepted on this matter.

Key Issue 6: Seasonal worker accommodation and definition of 'noise sensitive activity'

4.92 Lastly, we discuss the further submission from HortNZ opposing the submission from NZTA that seasonal worker accommodation be considered a 'noise sensitive activity' under the PDP.

4.93 In her evidence for the submitter, Ms Wharfe opined that the NZTA submission is inconsistent with the approach of enabling primary production activities in the PDP, owing to seasonal worker accommodation being part and parcel of primary production. Drawing on the evidence of Ms Wright for Hort NZ who outlined employer obligations for seasonal worker accommodation, Ms Wharfe expressed the view that imposing noise insulation requirements for the accommodation as noise-sensitive activities – being the practical implication of the NZTA submission – is unnecessary and would add significant cost to persons responsible for providing the accommodation.⁶²

4.94 Mr Arden⁶³ and Ms Huesser⁶⁴ did not support the further submission from HortNZ as seasonal worker accommodation includes habitable spaces requiring acoustic protection.

4.95 Following joint witness conferencing between Ms Huesser and Ms Wharfe, both planners indicated a small shift in their respective position as:

- a. Ms Wharfe proposed an alternative whereby the exception to the noise sensitive activity definition applies in all cases except for any habitable room in any new seasonal worker accommodation where within the State Highway Noise Boundary; and
- b. Ms Huesser recommended that seasonal worker accommodation be excluded from Rule NOISE-R15 relating to noise sensitive activities in the Chester Road Air Noise Boundary, but otherwise be subject to relevant rules controlling noise sensitive activities in all other respects.⁶⁵

4.96 The Panel is ultimately aligned with Mr Arden and Ms Huesser that the definition of noise sensitive activities should not exclude seasonal worker accommodation for the reasons they have expressed.

4.97 Moreover, we note the lack of any evidence from HortNZ to quantify the extent to which the definition would amount to a constraint on new seasonal worker accommodation in the Wairarapa based on its specific characteristics and taking account of the application of proposed noise rules controlling such activities. For example:

⁶² Evidence of Lynette Wharfe for HortNZ (24 March 2025), para 8.4-8.11

⁶³ Statement of Stephen Arden (7 April 2025), para 34

⁶⁴ Officer's Summary Statement Noise (7 April 2025), para 37

⁶⁵ Joint Witness Statement Noise (23 April 2025, for the District Councils and Horticulture NZ), page 5-6

- a. no spatial analysis was undertaken to illustrate the proposed regulatory approach would affect a significant area;
- b. no evidence was presented regarding any critical shortfalls in seasonal worker accommodation which may be exacerbated by the proposed approach; and
- c. no cost benefit analysis was provided to convincingly support a finding that the seasonal worker accommodation exemption should be provided in priority to the benefits that would otherwise be realised without the exemption.

4.98 We find no reason not to adopt the exception to Rule NOISE-R15 as recommended by Ms Huesser and note this will go some way towards the relief sought by HortNZ – albeit not to the degree they would prefer.

5. Signs

Application of the higher order policy framework

- 5.1 The higher order policy framework relevant to the Signs chapter of the PDP is set out in detail in Section 2 of the Section 32 Report⁶⁶. The National Planning Standards and the following National Environmental Standard are relevant to this topic:
- NES for Electricity Transmission Activities 2009 - Regulations 24 and 25 of the NESETA relate to signs on transmission line support structures of transmission lines existing at 14 January 2010.
- 5.2 The National Planning Standards require that where provisions for managing signs are addressed, they must be included in the Signs chapter in Part 2 – District-Wide Matters of the District Plan. The National Planning Standards include definitions for “sign” and “official sign”.

Summary of the relevant notified provisions

- 5.3 The Proposed District Plan contains a Signs chapter which sets out an objective, policies, rules and standards. The objective recognises the benefits of signage and identifies matters which may be adversely affected by signs. The policies provide guidance on different types of signs and the effects they may have. The rules are similar to the Operative District Plan, according to Reporting Officer⁶⁷, Mr Chris Gorman, and have been reformatted to fit the National Planning Standards framework and amended to provide greater clarity and to address inconsistencies.

Overview of submissions

- 5.4 A total of 7 original submissions (25 submission points) and no further submissions were received on the Signs Chapter. According to Reporting Officer, Mr Gorman, 13 submissions points gave their support to various provisions of the Signs Chapter. One submission sought relief that is more of an operational matter than a planning matter. The remaining 11 submissions requested amendments in stating their support or opposition to the relevant provisions.

Recommended amendments that the Panel adopts

- 5.5 On the basis of the Panel’s careful review of Mr Gorman’s s42A Report and Summary Statement, we generally adopt the reporting officer’s recommendations for amendment and their accompanying reasoning and s32AA evaluations as follows:
- a. Amend SIGN-P4 to manage signs in Historic Heritage Precincts in response to a submission from Greytown Heritage Trust⁶⁸
 - b. Amend SIGN-R1 to add scheduled heritage buildings and items to the exceptions from the application of the rule, in response to a submission from

⁶⁶ Section 32 Report Signs October 2023, section 2

⁶⁷ Officer s42A report, 10 March 2025, para 45-46

⁶⁸ Submitter S135.054 Greytown Heritage Trust

Heritage New Zealand Pouhere Taonga⁶⁹

- c. Amend SIGN-R2 to reduce the maximum height limit of signs within heritage precincts, in response to a submission from Greytown Heritage Trust⁷⁰
- d. Amend SIGN-R8 to correct a cross-reference to SIGN-R8(1) instead of SIGN-R7(1)⁷¹.

- 5.6 However, for the recommended exceptions to SIGN-R1 in response to the submissions from the Greytown Heritage Trust and Heritage New Zealand Pouhere Taonga, we observed an inconsistency in the recommended wording and the notified wording in SIGN-R9 relating to signs 'affixed' to scheduled heritage buildings and items. We have amended the wording of SIGN-R1 to be consistent with SIGN-R9, as well as applying consistent wording relating to the reference to historic heritage precincts in both rules. The s32AA evaluation in the s42A Report continues to apply to this amended wording as the intent of the rules are unchanged.

Evaluation of key issues remaining in contention

- 5.7 In this section, we turn our attention to two key issues remaining in contention by the time of the hearing:
- a. Temporary 'infrastructure' signage
 - b. Signage in heritage precincts

Key Issue 1 – Temporary Infrastructure Signage

- 5.8 Tom Anderson, on behalf of network utility operators including Chorus and Spark, lodged a submission on SIGN-R4 requesting that infrastructure rollout signs be included in the permitted temporary signs⁷². Mr Gorman accepted this submission in his s42A report⁷³ and consequently proposed amending SIGN-R4 to include a new clause (f) providing for temporary signage advertising new infrastructure provided by network utility operators.
- 5.9 In response to this amendment, Mr Anderson provided pre-circulated evidence⁷⁴ seeking a further amendment to Mr Gorman's proposed clause f of SIGN-R4, as he did not think a sufficient length of time for infrastructure rollout signs was provided for; referencing examples where rollout construction involving signage went for more than 9 weeks.
- 5.10 Mr Gorman considered the further evidence of Mr Anderson and addressed the matter in his Reply Statement⁷⁵. He concluded that the timeframes proposed by Mr Anderson, which directly relate to the period of construction with a four-week period after the infrastructure being made operational for the removal of the signs, are more appropriate for the reasons he set out in his evidence and accompanying s32AA

⁶⁹ Submitter S249.055 Heritage New Zealand Pouhere Taonga

⁷⁰ Submitter S135.059 Greytown Heritage Trust

⁷¹ Officer's s42A report Signs, 10 March 2025, paras 133 - 137

⁷² Submitter S189 Tom Anderson on behalf of Chorus New Zealand Limited, Connexa Limited, Fortysouth Group LP, One New Zealand Group Limited and Spark New Zealand Trading Limited

⁷³ Officer's s42A report Signs, 10 March 2025, para 124

⁷⁴ Statement of Evidence, Mr Anderson, 18 March 2025, paras 7-9

⁷⁵ Officer's Reply Statement Signs, 8 May 2025

assessment. Mr Anderson was satisfied with Mr Gorman's consequential amendment to SIGN-R4, which reflected his requested amendment provided in his pre-circulated evidence.

- 5.11 The Panel is satisfied that the relief sought by Mr Anderson and consequently by Mr Gorman in his reply statement, is appropriate, and therefore recommends that the amendment to clause f be adopted, for the reasons set out above.

Key Issue 2 – Signs in Heritage Precincts

- 5.12 Key Issue 2 relates to a submission from Greytown Heritage Trust. For purpose of this analysis, the issue has been broken down into two parts: notification of signs and affected person status (relating to SIGN-R2) and digital signs within heritage precincts (relating to SIGN-R8).
- 5.13 In relation to the first part of the issue, Greytown Heritage Trust sought that the plan provisions record the Trust as an affected person for all signage proposals within heritage precincts⁷⁶. While the Trust was present at the hearing, the hearing notes do not specifically record discussion on this matter⁷⁷. However, there was general verbal discussion, and, as captured in Mr Gorman's s42A report, s95 of the RMA sets out a robust and clear framework for determining affected persons on a case-by-case basis⁷⁸. The Panel supports this reasoning provided by Mr Gorman in his s42A analysis and s32AA evaluation⁷⁹, and accordingly, accept this recommendation that no amendment be made to SIGN-R2 to include the Trust as an affected party.
- 5.14 At the hearing on 7 April 2025, a representative of the Greytown Heritage Trust raised another concern about the appropriateness of digital signs in heritage precincts, captured in their speaking notes⁸⁰. As addressed by Mr Gorman in his s42A analysis, he concluded that including a prohibited activity status for digital signs within heritage precincts could result in potentially acceptable signs not being established. He therefore rejected the recommendation and maintained his position that no amendment was necessary following the hearing in his reply statement⁸¹.
- 5.15 Furthermore, the Panel notes that all digital signs in the district require resource consent, and for signs within heritage precincts, applications will be assessed against SIGN-P4, which references heritage values and relevant matters of discretion under SIGN-R8, including character and amenity. The Panel is therefore satisfied that the policy does adequately address the issue raised by Greytown Heritage Trust without the need for amending the rule to prohibit digital signs in heritage precincts, and therefore accepts Mr Gorman's s32AA assessment⁸² to make no additional amendments to SIGN-R8, for the reasons set out above.

⁷⁶ Officer's s42A Report Signs, 10 March 2025, para 54

⁷⁷ Refer S135 Greytown Heritage Trust – Speaking Notes, 7 March 2025

⁷⁸ Officer's s42A Report Signs, 10 March 2025, para 58

⁷⁹ Officer's s42A report Signs, 10 March, paras 60 - 63

⁸⁰ Refer S135 Greytown Heritage Trust – Speaking Notes, 7 March 2025

⁸¹ Officer's Reply Statement Signs, 8 May 2025, para 5

⁸² Officer's s42A Report Signs, 10 March 2025, paras 134 - 137

6. Temporary Activities

Application of the higher order policy framework

- 6.1 The National Planning Standards require that if provisions to manage temporary activities, buildings and events are addressed, they must be located in a Temporary activities chapter in Part 2 – District-Wide Matters of the District Plan.

Summary of the relevant notified provisions

- 6.2 The Proposed District Plan contains a Temporary Activities Chapter which sets out an objective, policy, and rules. A new objective specific to temporary activities is proposed to more clearly articulate the outcomes sought and recognise the positive contribution of temporary activities, according to the Reporting Officer, Mr Matthew Gulson⁸³. The proposed policy and rules are substantially similar to the Operative District Plan, although reformatted to fit the National Planning Standards framework and with amendments to provide greater clarity and certainty, particularly regarding the duration of activities.

Overview of submissions

- 6.3 A total of 5 original submissions (15 submission points) were received on the Temporary Activities topic. Submissions were generally supportive of the provisions as notified, with some requests for amended wording of rules and a request for a new provision, as explained by Mr Gulson in his s42A report⁸⁴.

Recommended amendments that the Panel adopts

- 6.4 Mr Gulson recommended several changes in his S42A report and in Section 5 of his summary statement⁸⁵ in response to submissions received on the topic of Temporary Activities. The upshot of Mr Gulson's recommendations in these respects meant that there was no residual disagreement or active contest by the time of the hearing commencement.
- 6.5 The Panel has carefully considered these recommendations from Mr Gulson, and where relevant, the evidence of others he has relied upon. We are satisfied that his recommendations are appropriate for the reasons he has expressed within his 32AA assessment⁸⁶. In summary, these amendments include the following, except where further modified as discussed in the key issues section below:
- a. amendment to TEMP-R3 to apply to outdoor storage, in response to a submission raised by Fulton Hogan⁸⁷.
 - b. Amendment to TEMP-R6 to better align with New Zealand Defence Force procedures, in response to a submission from the New Zealand Defence Force⁸⁸.
 - c. Insertion of a new rule and definition for emergency services training activities,

⁸³ S42A Report Temporary Activities, 10 March 2025, para 44

⁸⁴ S42A Report Temporary Activities, 10 March 2025, paras 45 - 48

⁸⁵ Officer Summary Statement Temporary Activities, 7 April 2025, para 9

⁸⁶ S42A Report Temporary Activities, 10 March 2025, paras 57 – 59, paras 64-65 and paras 71 - 73

⁸⁷ Submitter S122.050 Fulton Hogan

⁸⁸ Submitter S225.030 New Zealand Defence Force

in response to a submission by Fire and Emergency New Zealand⁸⁹.

Evaluation of key issues remaining in contention

- 6.6 Following the hearing, the Panel asked for further clarification on the scope of TEMP-R3 via Minute 26⁹⁰. Mr Gulson responded to the panel's questions in his reply statement⁹¹, and an evaluation of this is discussed below.

Key Issue 1: TEMP-R3

- 6.7 The Panel sought clarification in Minute 26 that TEMP-R3 sufficiently captures all materials that Fulton Hogan would likely require to store outdoors, and also whether the term 'goods and materials' is necessary, given that 'outdoor storage' is a defined term in the PDP.
- 6.8 In his reply statement, Mr Gulson confirmed his view that the rule, as recommended, does appropriately capture all materials that Fulton Hogan would likely require to store outdoors, such as storage of aggregate, road construction materials and ancillary machinery or equipment⁹².
- 6.9 Furthermore, Mr Gulson acknowledged that the term 'outdoor storage' is broad and somewhat subjective, as suggested by the Panel in Minute 26, particularly as it is not defined in the PDP. He recommended that the rule be amended to remove reference to 'goods and materials' and just refer to 'outdoor storage', as this is a term that is defined in the PDP⁹³. The Panel is satisfied that this revised wording to TEMP-R3 will provide greater clarity of what items are covered as 'outdoor storage' and will therefore increase the overall effectiveness and efficiency of the Plan, as concluded in Mr Gulson's 32AA assessment of the rule in his Reply Statement⁹⁴.

⁸⁹ Submitter S172.053 & S172.012 Fire and Emergency New Zealand

⁹⁰ Refer to Minute 26, 11 April 2025

⁹¹ Officer Reply Statement Temporary Activities 8 May 2025

⁹² Officer Reply Statement Temporary Activities 8 May 2025 paras 5

⁹³ Officer Reply Statement Temporary Activities 8 May 2025 paras 6-9

⁹⁴ Officer Reply Statement Temporary Activities 8 May 2025 paras 10 - 13

7. Overall Conclusions

- 7.1 For the reasons set out in the previous sections, we have determined the adoption of specific changes to the aforementioned chapters and provisions in the PDP.
- 7.2 Our amendments are shown in track change in the 'tracked' version of the provisions in **Appendix 3** and in 'clean' form in the 'accepted' version of the provisions in **Appendix 4**.
- 7.3 Overall, we find that these changes will ensure the PDP better achieves the statutory requirements and national policy directions and will improve its useability.