Statement of Rebuttal Evidence

Hearing 5: Chapter 13 Definitions

Statement of evidence of: Anita Copplestone and Megan Yardley, Perception Planning Limited

Date: 3 December 2019

Waikato DISTRICT COUNCIL

Te Kaunihera aa Takiwaa o Waikato

Contents

1. INTRODUCTION

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

1.1. Background

2. Our full names are Anita Renie Copplestone and Megan Elizabeth Yardley. Anita is a Senior Planner with Perception Planning Limited, a resource management planning consultancy. Megan is a resource management advisor with the same company.

3. We were contracted by the Waikato District Council (Council) in 2019 to provide recommendations in the form of a Section 42A report. We wrote the original s42A report for Hearing 5: Chapter 13 Definitions.

4. Our qualifications and experience are contained in section 1.1 to 1.4 of the s42A report for Hearing 5: Chapter 13 Definitions.

2. PURPOSE OF THE EVIDENCE

5. Paragraph 18 in the directions of the Hearings Panel dated 26 June 2019, states:

> *If the Council wishes to present rebuttal evidence it is to provide it to the Hearings Administrator, in writing, at least 5 working days prior to the commencement of the hearing of that topic.*

6. The purpose of this evidence is to consider the primary evidence and rebuttal evidence filed by submitters and provide rebuttal evidence to the Hearing Panel.

7. Evidence was filed by the following submitters within the timeframes outlined in the directions from the Hearings Panel[1]:

   a. Firstgas Ltd [945 and FS1211]
   b. Combined Poultry Group [821]
   c. Rangitahi Limited [343]
   d. Tata Valley Limited [574, FS1340]
   e. Heritage New Zealand Pouhere Taonga [559, FS1323]
   f. New Zealand Steel Holdings Limited (NZ Steel) [827, FS1319]
   g. Department of Corrections [496, FS1210]

[1] Hearings Panel Directions 21 May 2019

h. Kāinga Ora (formerly Housing New Zealand) [749, FS1269]
i. Greig Metcalfe [602]
j. Hynds Foundation [FS1306]
k. Horticulture New Zealand [419, FS168]
l. Ministry of Education [781, FS113]
m. Ports of Auckland Limited [578, FS1087]
n. KiwiRail [986]
o. Whaingaroa Raglan Affordable Housing Project [310]
p. T&G Global Limited [676, FS171]
q. WEL Network Limited [692]
r. Fire and Emergency New Zealand [378, FS4]
s. Federated Farmers of New Zealand [680, FS1342]
t. Counties Power [405]
u. Powerco Limited [836]
v. The Oil Companies [785, FS1089]
w. Perry Group [464]
x. Transpower [576 and FS1350]
y. New Zealand Transport Agency (NZTA) [742, FS1202]
z. Waikato Regional Council [81]

8. Late evidence was filed by the following submitters:
   a. Middlemiss Farm Holdings Limited [794 and FS1330]
   b. Auckland/Waikato Fish and Game Council [433].

9. The submitters listed in paragraph 8 above sought leave for the filing of late evidence which we understand was accepted by the Hearings Panel.

10. No submitter rebuttal evidence was filed.

3. CONSIDERATION OF EVIDENCE RECEIVED

3.1. Matters addressed by this report

11. The main topics raised in evidence from submitters included:

- Corrections to the s42A report
- Evidence in support of s42A recommendations
- Evidence on s42A recommendations to defer consideration of certain definitions to future hearings

- Evidence disagreeing with s42A recommendations
- Evidence on other submission points not covered in the s42A report but pertaining to definitions.

12. The planning witnesses have generally focused on discrete definitions, with a few witnesses addressing broader matters. For this reason, we have structured the report to firstly address submitter evidence relating to chapter-wide matters, followed by our analysis of the submitter evidence on specific definitions in the order that the definitions appear in the s42A report.

13. In order to distinguish between the recommendations made in the s42A report and the recommendations that arise from this rebuttal evidence:

- s42A recommendations are shown in red text (with underline and ~~strike-out~~ as appropriate); and
- recommendations from this rebuttal evidence are shown in blue text (with underline and ~~strike-out~~ as appropriate).

3.2. Rebuttal evidence on chapter-wide matters

3.2.1. Evidence on the inclusion of the National Planning Standards definitions

14. A number of submitters lodged evidence with respect to our approach to adoption of the Planning Standards. The majority of the evidence supports the approach we have taken (to adopt the Planning Standards definitions where possible) but a number of planning witnesses felt that we should have gone further than addressing only those definitions which have been submitted on.

15. Matthew Lindenberg for Kāinga Ora (Housing New Zealand) [749] and Ailsa Fisher for TaTa Valley Ltd [574], both consider that the current District Plan Review process is the most opportune and efficient time and process for amending the definitions and plan provisions to be consistent with the Definitions Standard. That is consistent with our s42A report recommendation. Mr Lindenberg considers that this matter could be progressed through expert conferencing, should the Commissioners consider that appropriate. We agree that conferencing of planning experts would be helpful as part of an efficient way to address the integration of the remaining definitions.

16. Ms Fisher on behalf of TaTa Valley Ltd considers that the application and use of the definitions should be rechecked at relevant Zone hearings to identify unintended outcomes and whether consequential amendments are needed. She notes that objectives, policies and rules may need to be amended to take into account changes to the definitions.

17. We concur with these recommendations, which are consistent with our s42A report recommendations.

18. Ms Fisher for TaTa Valley Ltd has compiled a list (Attachment A to her evidence) of those definitions within the Standards which are not discussed in the s42A Report, nor recommended for deferral to other hearings (Appendix 3 of the s42A Report). She has compared those definitions with the Proposed Plan definitions. Ms Fisher considers that the changes appear fairly straight forward and does not consider time and capacity constraints to be an issue in this regard, in the context of the full Proposed Plan process.

19. There are a number of additional definitions in the Planning Standards which are missed from Ms Fisher's Attachment A. Some of these definitions could be complex to incorporate, in the context of the Proposed Plan and submissions received. For example:

- 'intensive indoor primary production' (Planning Standards), and 'intensive farming' (Proposed Plan) and relationship with 'rural industry'
- Land disturbance (Planning Standards) compared with 'soil disturbance' (Proposed Plan) and the need to consider 'cultivation' and 'earthworks'
- 'Home business '(Planning Standards) compared with 'home occupation' (Proposed Plan)
- Green infrastructure (Planning Standards) compared with green buffers, green links (Proposed Plan).

20. There are a number of other Planning Standards definitions used in the Plan but not defined in Chapter 13, which Ms Fisher does not list. In addition there may be terms that are used in the Plan that are potentially synonymous with definitions from the Planning Standards Definitions List. For example:

- Drain
- Dust
- Fertiliser

- Groundwater
- Official sign
- Noise rating level
- Quarry
- Quarrying activities
- Sewerage
- Stormwater
- Wastewater

21. We agree that the District Plan review process is the appropriate time to undertake the exercise of integrating the Planning Standards definitions. The Council has advised us that they intend for this work to be undertaken in time to report to the Integration Hearing, towards the end of the hearing process. This will provide an opportunity to exchange evidence, having the advantage of a collective understanding of the range of issues and definitions explored during the topic and zone hearings. Notwithstanding Ms Fisher's estimation, this will be a complex exercise.

22. Finally, Ms Fisher considers it would be helpful to distinguish between 'mandatory' Planning Standards definitions (and consequential amendments) in the Decisions Version of the Proposed Plan by using a different colour (for example). We consider the Planning Standards requirements (10. Format Standard) to use text highlighting, italicising or similar (e.g. asterisk) for terms which are defined in the Definitions Chapter would be sufficient and no additional demarcation is necessary.

23. We maintain our recommendations to adopt the Planning Standards definitions as part of this District Plan review process[2].

3.2.1.1. Amendment to our original recommendation

24. None.

[2] See s42A report: Definitions, paras 55-58.

3.3. Rebuttal evidence on specific definitions

3.3.1. Evidence in agreement received on specific definitions

25. The following table records where there is no disagreement by planning witnesses for submitters on the respective recommendations on Chapter 13 terms our s42A report. The terms are presented in the order they appear in the s42A report.

Table 1: Evidence in agreement on specific definitions

Term	Expert	Submitter Number	Submitter
utility allotment	Bridget Murdoch	405	Counties Power
	Karleen Broughton	692	WEL Networks Limited
	Natalie Webb	945	Firstgas Ltd
boundary	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
boundary adjustment	Bevan Houlbrooke	602	Greig Metcalfe
notional boundary	Ailsa Fisher	574	TaTa Valley Ltd
	Vance Hodgson	419	Horticulture New Zealand
	Mark Arbuthnot	578	Ports of Auckland Ltd
contiguous	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
site	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
net site area	Mark Arbuthnot	578	Ports of Auckland Limited
	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
structure	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
	Vance Hodgson	419	Horticulture New Zealand
	Ailsa Fisher	574	Tata Valley Limited
building	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
	Mark Arbuthnot	578	Ports of Auckland Limited
	Pauline Whitney	576	Transpower
	Nick Roberts	676	T&G Global Limited
	Vance Hodgson	419	Horticulture New Zealand
	Bridget Murdoch	405	Counties Power
	Ailsa Fisher	574	Tata Valley
	Adam Du Fall	836	Powerco
	Karleen Broughton	692	WEL Networks Limited

building coverage	Vance Hodgson	419	Horticulture New Zealand
	Mark Arbuthnot	578	Ports of Auckland Limited
	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
building platform	Mark Arbuthnot	578	Ports of Auckland Limited
	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
gross floor area	Mark Arbuthnot	578	Ports of Auckland Limited
	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
residential activity and living accommodation	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
	Sean Grace	496	Department of Corrections
dwelling and residential unit	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
	Sean Grace	496	Department of Corrections
household	Sean Grace	496	Department of Corrections
minor dwelling and minor residential unit	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
accessory building	Vance Hodgson	419	Horticulture New Zealand
	Mark Arbuthnot	578	Ports of Auckland Limited
	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
	Ailsa Fisher	574	Tata Valley
apartment	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
multi – unit development	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
workers accommodation	Mark Arbuthnot	578	Ports of Auckland Limited
	Nick Roberts	676	T&G Global Limited
	Sarah McCarter	827	New Zealand Steel Holdings Limited
	Ailsa Fisher	574	Tata Valley
	Vance Hodgson	419	Horticulture New Zealand
boarding house	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
noise sensitive activity	Keith Frentz	781	Ministry of Education
	Pam Butler	986	KiwiRail Holdings Limited
	Vance Hodgson	419	Horticulture New Zealand
sensitive land use	Pauline Whitney	576	Transpower

	Pam Butler	986	KiwiRail Holdings Limited
	Ailsa Fisher	574	TaTa Valley Ltd
reverse sensitivity	Aaron Collier	464	The Perry Group
	Karen Blair	785	The Oil Companies
	Vance Hodgson	419	Horticulture New Zealand
	Mark Arbuthnot	578	Ports of Auckland Limited
	Ailsa Fisher	574	TaTa Valley Limited
	Sarah McCarter	827	New Zealand Steel Holdings Limited
living court and outdoor living space	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
community service court	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
service court	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
height	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
	Mark Arbuthnot	578	Ports of Auckland Limited
height control plane and height in relation to boundary	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
	Mark Arbuthnot	578	Ports of Auckland Limited
earthworks	Pauline Whitney	576	Transpower
	Adam Du Fall	836	Powerco Limited
	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
	Bridget Murdoch	405	Counties Power
	Karen Blair	785	The Oil Companies
	Carolyn McAlley	559	Heritage New Zealand
	Vance Hodgson	419	Horticulture NZ
industrial activity	Mark Arbuthnot	578	Ports of Auckland Limited
	Anna McLellan	FS1306	The Hynds Foundation
mineral	Sarah McCarter	827	New Zealand Steel Holdings Limited
clean fill and fill material	Miffy Foley	81	Waikato Regional Council
rural industry	Vance Hodgson	419	Horticulture New Zealand
rural activities and productive rural activities	Vance Hodgson	419	Horticulture New Zealand
high class soils	Vance Hodgson	419	Horticulture New Zealand
boarding, breeding or animal training establishment	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
	Karen Blair	785	The Oil Companies

commercial activity, commercial services and retail activity	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
community facility, community activity, and place of assembly	Alec Duncan	378	Fire and Emergency New Zealand
	Michael Briggs	343	Rangitahi Ltd
	Matthew Lindenberg	749	Kāinga Ora (Housing New Zealand)
	Ailsa Fisher	574	TaTa Valley Limited
education facility and childcare facility	Vance Hodgson	419	Horticulture New Zealand
	Michael Briggs	343	Rangitahi Ltd
community corrections activity	Sean Grace	496	The Department of Corrections
correctional facility	Sean Grace	496	The Department of Corrections
emergency services	Alec Duncan	378	Fire and Emergency New Zealand
emergency services training and management activities	Alec Duncan	378	Fire and Emergency New Zealand
functional and operational need	Pauline Whitney	576	Transpower
	Natalie Webb	945	First Gas
	Adam Du Fall	836	Powerco Limited
temporary event	Ailsa Fisher	574	Tata Valley Limited
airfield	Vance Hodgson	419	Horticulture New Zealand
real estate sign	Bevan Houlbrooke	602	Greig Metcalfe
heavy vehicle	Mark Arbuthnot	578	Ports of Auckland Limited
identified area	Bevan Houlbrooke	602	Greig Metcalfe
	Pauline Whitney	576	Transpower
	Mark Arbuthnot	578	Ports of Auckland Limited
	Miffy Foley	81	Waikato Regional Council
	Carolyn McAlley	559	Heritage New Zealand Pouhere Taonga
impervious surface	Mark Arbuthnot	578	Ports of Auckland Limited
low impact design, floodplain and flood risk area	Miffy Foley	81	Waikato Regional Council
overland flow path	Miffy Foley	81	Waikato Regional Council

community scale wastewater system	Bevan Houlbrooke	602	Greig Metcalfe
reservoir	Vance Hodgson	419	Horticulture New Zealand
lake	Benjamin Wilson	433	Fish and Game
river	Benjamin Wilson	433	Fish and Game
water	Benjamin Wilson	433	Fish and Game
waterbody	Benjamin Wilson	433	Fish and Game

4. EVIDENCE IN REBUTTAL ON DEFINITIONS

26. In this section we respond to evidence received on definitions where the expert witness disagrees with our recommendation.

4.1.1. 'allotment' and 'Lot'

27. At paragraph 79 of the section 42A report we recommend the term 'Lot' be amended to mean the same as the term 'allotment'. The term 'allotment' is defined in the National Planning Standards Definitions List.

28. We agree with the arguments in the evidence of Ms Fisher (Tata Valley Limited)[3], that this approach is confusing and inconsistent with guidance and it would be more straightforward if only one term is used.

29. We therefore recommend deleting the term and associated definition of 'Lot' from Chapter 13. The term 'lot' should be replaced with the term 'allotment' throughout the Proposed Plan.

4.1.1.1. Amendment to our original recommendation

30. We recommend the definition of 'lot' is deleted as follows:

~~Lot~~	~~Means a parcel of land held, or proposed to be held, under a Record of Title.~~

[3] Statement of Evidence of Ailsa Fisher, on behalf of Tata Valley Limited, paragraph 22.2

4.1.2. 'boundary'

31. Kāinga Ora (Housing New Zealand) lodged a submission [749.31] on the definition of boundary asking for that term to be retained as notified. In relation to 'cross-leases' the notified version of the Proposed Plan defined 'boundary' as:

Cross-lease titles – the boundary of any restrictive covenant area

32. In response to a submission from Waikato District Council [697.368] we recommended amending the definition of boundary in relation to cross-leases to refer to the exclusive use area instead of the restrictive covenant area[4] as follows:

"*Cross-lease titles – the boundary of any ~~restrictive covenant~~ exclusive use area*

33. We note Mr Lindenberg[5] for Kāinga Ora (Housing New Zealand) supports our recommendation[6] to amend the definition of 'boundary' to reflect the appropriate terminology when referring to the internal boundaries of cross-leases.

34. Since the section 42A report was published, we have sought updated legal advice to confirm that the definition of 'boundary' in relation to unit titles was fit for purpose, in particular given the definition of 'site' in the Planning Standards. We were concerned about the referencing to the 'principal unit' in the definition.

35. We have been advised by the Council's legal adviser that the definition of 'boundary' in relation to unit titles needs to be amended to include reference to both the 'principal unit' and any 'accessory unit'. Further, that advice identified that there can be more than one accessory unit associated with a unit title, and they are not always contiguous with either the principle unit or other accessory units. For example, in an apartment unit title development, the principal unit may be in level 3 and the accessory carpark in the basement.

36. On review of the Proposed Plan, we note the term 'boundary' is used in different contexts: for example it may be used in the context of a road boundary[7] or zone boundary[8]. It is also used as a measuring point for setbacks for earthworks[9]. It is consistently used to manage building setbacks and daylight admission. The purpose of those rules (building setbacks and

[4] Section 42A report: Definitions, paragraph 128.
[5] Statement of Evidence of Matthew Lindenberg on behalf of Kāinga Ora (Housing New Zealand), paragraph 7.4
[6] Section 42A report: Definitions
[7] Proposed Plan Rule 23.4.7 – RD1
[8] Proposed Plan Rule 16.3.4 – P1
[9] Proposed Plan, Rule 23.2.3.1 – P1

daylight admission) is to ensure privacy and light for habitable buildings. To ensure the definition of boundary is fit for purpose for those rules, in that it provides an appropriate measuring point, we recommend the definition for the term 'boundary' is amended as follows:

> *(c) unit titles - the boundary of the principal unit and any associated accessory units that are contiguous with the principal unit.*

37. This will, in most cases, capture the principal unit and any attached accessory units such as an adjoining garage. It will not capture a detached accessory unit (i.e. a shed) some distance away. However, this type of accessory building is unlikely to fall within the definition of a habitable building.

38. We identified that a similar issue may also arise in relation to cross-leases. The boundary definition for cross lease titles refers to the 'exclusive area', not the flats. In most cases, but not always, the flat and exclusive area is contiguous. We recommend the boundary definition for 'cross-lease titles' should be aligned with the amended unit title boundary definition as follows:

> *(b) cross lease titles - the boundary of a flat and any ~~restrictive covenant~~ exclusive use area that is contiguous with a flat; and […]*

In making this recommendation, as identified above, we note that the term 'boundary' is used in other contexts, and other rules. Therefore, we recommend that use of the term is carefully considered by other section 42A report writers to ensure the 'boundary' is the most suitable measuring point, or whether an alternative such as 'site', may be better suited for any relevant control.

4.1.2.1. Amendment to our original recommendation

39. We recommend the definition of boundary is amended as follows:

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

4.1.3. 'minor dwelling' and 'minor residential unit'

40. Whaingaroa Raglan Affordable Housing Project (WRAP) submitted evidence on its submission point [310.15].

41. This submission point sought to amend the definition of 'minor dwelling' to allow more than one dwelling per site, and to amend rule 16.3.1 to allow more than one primary dwelling and minor dwelling per site. We discuss this submission point at section 3.24, (paragraph 421) of the s42A report. In summary, we recommended the adoption of the National Planning Standards definition of 'minor residential unit', noting this definition does not limit the number of units on a particular site. The number of minor residential units on a particular site should be managed via the rules relevant to each zone, rather than via the definition of the term. Therefore the evidence has not caused us to change our original recommendation on this point. The part of the submission point that asked for an amendment to Rule 16.3.1 to allow for more than one primary dwelling and more than one minor dwelling per site will need to be considered in the section 42A Report covering Chapter 16.

4.1.3.1. Amendment to our original recommendation

42. None.

4.1.4. 'travellers' accommodation' and 'visitor accommodation'

43. Ms Fisher (for Tata Valley Ltd) [574.14] supports replacing the term 'traveller's accomodation' with the Planning Standards definition of 'visitor accomodation'.[10]

44. Ms Fisher also says that in her view different types of visitor accommodation have different effects, and therefore should be managed differently in the Proposed Plan.[11] She suggests one option (of two)[12] to manage the effects of different types of vistor accommodation is to create sub-types of visitor accommodation, which can be used to differentiate activity status in the zone rules. This option may give rise to the need to include definitions of those sub-types of visitor accomodation in the Proposed Plan to provide clarity for plan users.

45. We note that the Proposed Plan does not currently include any other definitions for types of visitor accommodation. We are not aware of any submissions seeking the inclusion of a definition for a specific type of visitor accomodation. We accept that the Proposed Plan

[10] Statement of evidence, Ailsa Fisher, Paragraph 9.4
[11] Statement of Evidence, Ailsa Fisher, Paragraph 9.5
[12] The second option was to include different standards for building bulk, location and effects, matters to be considered in more detail at relevant Zone hearings. This option was her preferred approach.

may need to manage different types of visitor accomodation, depending on the outcomes of future hearings. However, in our view, it is premature for us to provide potential definitions at this stage of the hearings process. We simply comment that any potential definition of a sub-category of visitor accommodation must be consistent with the higher Planning Standards definition of visitor accommodation[13].

4.1.4.1. Amendment to our original recommendation

46. None.

4.1.5. 'workers accommodation'

47. Ms Fisher (for Tata Valley Ltd), [574.22] disagrees with our recommendation that consideration of a potential definition of 'worker's accommodation' should be deferred until the hearings for the Industrial and Industrial Heavy Zone, the Rural and Country Living Zone and the Tata Valley Resort Zone.[14] Ms Fisher maintains a definition should be considered in the Definitions hearing, and consequential changes can be considered at future hearings. She states this is consistent with our approach to the definitions of 'site', 'building', and 'net site area'.

48. We consider the definitions of 'site', 'net site area' and 'building' are all quite different to a potential definition for 'worker's accommodation', as they are definitions from the Planning Standards. It is therefore not permissible to craft a bespoke definition for those terms. There is scope for different types or elements of worker's accommodation to be incorporated into the definition and/or rules. Therefore, the appropriate time to consider those matters is when both the rules and the definitions are within the scope of the particular hearing topic.

49. Mr Hodgson,[15] (for Horticulture New Zealand) [FS1168.133] and Nick Roberts[16] (for T&G) [FS1171.61 and FS1171.117] support our recommendation to consider the definition at future relevant hearings. Mr Arbuthnot,[17] on behalf of Ports of Auckland Ltd [578.80], comments that in his view a definition of 'worker's accommodation' is needed and that the section 42A recommendation is to consider the definition at a future relevant hearing (we assume Mr Arbuthnot agrees with our recommendation).

[13] Mandatory Direction 1.a. Planning Standards
[14] Statement of Evidence, Ailsa Fisher, Paragraph 15.4
[15] Statement of Evidence, Vance Hodgson, Paragraph 70
[16] Statement of Evidence, Nick Roberts for T&G Global, pg 2
[17] Statement of Evidence, Mark Arbuthnot, on behalf of Ports of Auckland Ltd, Paragraph 12.2

50. We note Ms Macartney, the section 42A report writer for the Industrial and Heavy Industrial Zone hearing, recommended rejecting a submission seeking inclusion of 'worker accommodation' in the Industrial Zone rules[18]. Rather, she preferred to limit the activity permitted in that Zone to 'caretaker accommodation'.

51. It remains our view that a definition of 'worker's accommodation' is best considered during the hearings in which rules regulating different types of worker's accommodation are also considered.

4.1.5.1. Amendment to our original recommendation

52. None.

4.1.6. 'Noise sensitive activity'

53. Ms Fisher (for TaTa Valley Ltd)[19] identifies an error in their further submission [FS1340.200] and that TaTa Valley Ltd actually opposes the inclusion of 'place of assembly' in the definition of 'noise sensitive activity'. Ms Fisher does not consider it appropriate to include 'places of assembly' within the 'noise sensitive activity' definition as, in her opinion, this definition generally applies to healthcare, education and residential uses, where sensitive receivers occupy buildings on a more permanent basis. She argues that 'places of assembly', because they are occupied intermittently, do not need increased protection from noise generating activities on the basis that people are less likely to be annoyed and suffer health effects if exposed to high levels of noise for short periods of time. Ms Fisher points to the approach taken in the Auckland Unitary Plan, Hamilton City District Plan and the Tauranga City Plan (where similar definitions do not include 'places of assembly').

54. We note that the district plans she refers to are all for large cities which generally have a denser level of development and are likely to be subject to greater levels of background noise. In contrast, smaller and more rural districts have included 'places of assembly' in their definitions, for example in the Wairarapa Combined Plan:

> *'noise sensitive activities – means activities which involve habitation, or which require concentration of people and includes residential activities, residential units, residential institutions, visitor accommodation, papakainga, marae, wharenui, places of assembly,*

[18] Paragraph 226, Industrial Zone section 42a Report B Industrial Zone Rules
[19] Statement of Evidence of Ailsa Fisher on behalf of TaTa Valley Ltd, paragraphs 16.1-16.5

hospitals, health care facilities and education facilities (other than airport staff and aviation training facilities)"[20].

55. We were persuaded by submissions to include 'places of assembly' in the definition on our understanding that the purpose of such facilities is to provide a place for people to gather and interact, whether that be for recreation, cultural or entertainment purposes. Those activities will have various amenity requirements, with some being more sensitive to noise than others. Such activities should be able to occur without undue impact from noise-generating activities. We do not agree with Ms Fisher that health and safety effects are the only relevant considerations.

56. We recognise that some recreation uses of places of assembly may be less sensitive to noise than cultural or entertainment activities (although not always – for example a cricket pitch, tennis courts or a bingo game would all be noise sensitive in our opinion). We note that community centres and halls are typically multi-use facilities and not all activities held within such facilities are noise-sensitive – in the same way that not all land and buildings in an educational facility are noise-sensitive.

57. Mr Arbuthnot (for Ports of Auckland Limited)[21] [578.76] recommends an amendment to the definition to exclude 'worker's accommodation'. We recommended deferral of the Ports of Auckland submission point for consideration to the Industrial Zone hearing, on the basis that it is first necessary to determine the need for, and regulatory framework for, such accommodation. We disagree with Mr Arbuthnot's assessment that, whilst workers are familiar with the noise effects of the activity that their work is associated with, they are not sensitive to it. Even those who are familiar with a noise environment require a certain level of protection from noise during sleeping hours.

58. The s42A report for the Industrial Zone was published during preparation of this rebuttal evidence. Ms Macartney (the author) deals with 'worker's accommodation' at paragraphs 225 to 229 of the s42A Report B Industrial Zone Rules and is not persuaded to provide for such accommodation as a permitted activity. Instead, Ms Macartney recommends a new restricted discretionary rule to provide for a single residential unit for live-in accommodation for a caretaker or security personnel.

[20] Places of assembly are defined in that plan as: Place of Assembly - any facility or land and buildings for the general assembly of people engaged in deliberation, education, worship or entertainment and includes, but is not exclusive to indoor recreation facilities, theatre, cinemas, halls, conference facilities, churches and education facilities.
[21] Statement of Evidence of Mark Arbuthnot on behalf of Ports of Auckland Limted, paragraphs 10.1-10.3

59. Pending a direction from the Panel on 'worker's accommodation', we maintain our recommendations as set out in the s42A report. We are not persuaded by Ms Fisher's arguments to remove 'places of assembly' from the definition of 'noise sensitive activity'.

4.1.6.1. Amendment to our original recommendation

None.

4.1.7. 'Sensitive land use' and 'reverse sensitivity'

4.1.7.1. Sensitive land use

60. As with 'noise sensitive activity', Mr Arbuthnot (for Ports of Auckland)[22] [578.79] recommends an exclusion for 'worker's accommodation' from the definition of 'sensitive land use'. We maintain that adopting the exclusion would be premature, and must be subject to the outcome of the Industrial Zone hearing and the Panel's conclusions on the need to provide for workers accommodation in the rule framework.

61. As stated above, the recommendation from Ms Macartney, the s42A reporting officer on the Industrial Zone, is to reject provision for workers accommodation as a permitted activity. This is on the basis there is no managed limit, and other zones provide for residential use by workers employed in industry where reverse sensitivity is less likely to be experienced between incompatible activities. Ms Macartney instead recommends a new restricted discretionary rule to provide for a single residential unit for live-in accommodation for a caretaker or security personnel.

62. T&G Global made a further submission [FS1171.116] in support of the submission from Ports of Auckland to exclude workers accommodation from the definition. Mr Roberts (for T&G Global) continues to support this exclusion[23].

63. Mr Collier (for The Perry Group)[24] [FS1313.29] considers that it is unnecessary and repetitive to incorporate 'visitor accommodation' and 'student accommodation' in the definition of 'sensitive land use', as they already fall to be considered as 'accommodation'. Mr Collier also considers the requested exclusion for 'workers accommodation' in relation to zone boundaries irrelevant, on the basis that the Proposed Plan already recognises the location of sensitive activities relative to activities which generate adverse effects, and which need to be managed.

[22] Statement of evidence of Mark Nicholas Arbuthnot on behalf of Ports of Auckland Limited, paragraphs 10.1-10.3
[23] Tabled Hearing Statement of Nick Roberts, on behalf of T&G Global Limted, pg 2-3.
[24] Statement of Evidence of Aaron Collier, on behalf of The Perry Group, paragraph 4.7.

64. Mr Collier disagrees with our recommendation to add 'places of assembly' to the definition, on the basis that those activities are generators of noise and general activity and are different to permanent accommodation and residential activities. Mr Collier considers the onus should be on the generator of the adverse effect, rather than imposing requirements on the 'sensitive' activity in the surrounding zone and unnecessarily restricting those activities. In his opinion, many of the activities included in the definition of 'place of assembly' are not sensitive, for example a shooting club, a water park, a speedway track, a sports park, or an outdoor recreation facility.

65. We agree with Mr Collier that there is a degree of repetition in the definition and that clauses (a) and (b) of the definition could be rationalised, as we state at paragraph 566 of the s42A report. However we do not see any harm in providing examples of the range of activities which are covered under these definitions, given that 'residential activity' and 'educational facility' as defined in the Planning Standards are broad, high level definitions, which do not have the specificity of the Proposed Plan definitions that they replace. We also note that these lists of activities are not exhaustive and, as discussed above, can include activities that are sensitive to external noise. We note also that the setback rules for sensitive land uses relate to buildings, not to land.

4.1.7.2. Amendment to our original recommendation

66. None.

4.1.7.3. 'reverse sensitivity'

67. We received evidence from a number of witnesses on our recommendation not to include a definition of 'reverse sensitivity' in the Proposed Plan.

68. Ms Whitney (for Transpower)[25] [FS1350.47] notes in her Hearing Statement that she understands the challenges outlined in our s42A report, but nevertheless still considers that a definition of the term 'reverse sensitivity' (reflecting that in the Waikato RPS) would be beneficial to Plan users and would support the Plan's interpretation and application.

69. NZTA requested in their submission [742.77] that a definition of the term 'reverse sensitivity' be included in the Proposed Plan, as defined in the Waikato Regional Policy Statement (WRPS). Ms Running (for NZTA)[26] disagrees with our recommendation, on the

[25] Hearing Statement of Pauline Whitney on behalf of Transpower, pg 4..
[26] Statement of Evidence of Tanya Running for the NZTA, paragraphs 5.1-5.2.

basis that the term is well established in case law and planning documents, including the RPS, and appears frequently in the Proposed Plan.

70. Ms Butler (for KiwiRail Holdings Limited)[27] [986.46] disagrees with our recommendation on the basis that it is important that the concept is properly understood and to make the Plan easier to interpret. By way of example, Ms Butler states a number of policies in the notified Plan did not appropriately capture the nature of reverse sensitivity, referring to effects "from" existing uses (such as infrastructure). KiwiRail's submission sought amendments to these policies to ensure that they accurately reflect the concept of reverse sensitivity, which relates to adverse effects on established uses from the establishment of new sensitive activities.

71. Whilst we appreciate that changes may be needed to the policy framework in the Proposed Plan to improve the accuracy in the way it articulates this concept, we do not consider that of itself, this requires a definition of reverse sensitivity.

72. Having considered the evidence, we stand by our recommendation not to include a definition of 'reverse sensitivity' in the Proposed Plan.

4.1.7.4. Amendment to our original recommendation

73. None.

4.1.8. 'industrial activity'

74. Mr Kaur on behalf of Combined Poultry Industry Representatives (CPI) submitted legal submissions in support of their submission [821.4] on the definition of 'industrial activity'. CPI's original submission sought an amendment to the definition of 'industrial activity' to include a reference to poultry hatcheries.

75. We maintain our position, as set out in section 3.44.3 of the s42A report, that the Planning Standards definition does not provide for such specificity and that poultry hatcheries are an activity which is best considered in the Rural, Industrial or Heavy Industrial Zones hearings, so that the effects of providing for such an activity can be considered and addressed in the rule framework. We agree that, if it is found that such an activity should be provided for through rules in these zones, then a definition of 'poultry hatcheries' would be appropriate to include in Chapter 13.

[27] Statement of evidence of Pam Butler, for KiwRail Holdings Ltd, paragraphs 4-7.

76. The principle behind the Council's allocation of submission points to hearing topics is that terms which are used throughout the Proposed Plan and apply to more than one zone were scheduled to be dealt with in the Definitions 42A report. Where definitions are specific to a zone or particular environment and have limited wider application, they are allocated to the relevant topic hearing. Given that 'poultry hatcheries' are not currently provided for in the Proposed Plan and are only likely to be present in a rural or industrial zone, we consider they are best dealt with in the Rural and Industrial hearings.

77. Our recommendation on this definition stands.

4.1.8.1. Amendment to our original recommendation

78. None.

4.1.9. 'Mineral extraction and processing', 'aggregate extraction activities' and 'extractive industry'

79. Ms McCarter for NZ Steel Holdings Ltd[28] [827.50, FS1319.22, FS1319.30, FS1319.38] supports the changes we recommended to streamline the terms in the Proposed Plan which relate to mining and extraction. A number of these changes were proposed by NZ Steel. Several further amendments that they requested were not supported in our s42A report, which Ms McCarter addresses in her evidence. NZ Steel intend to also present evidence in Hearings 21 and 23 to address this definition.

80. NZ Steel requested retention of the words 'at or near the site where the minerals have been taken, won or extracted' to be added to the end of clause (a). Ms McCarter considers that this effectively restricts the location of the extractive activity (i.e. it confines the location-specific effects by requiring the associated activities to be located 'at or near' the mining site) rather than increasing the level of effects anticipated in the extractive process.

81. We are persuaded that it is appropriate to confine the location of the activities in this way. The associated activities (such as processing and stockpiling) must, by nature of the definition, form part of 'taking, winning or extracting' which, by their nature, are limited to the particular site where the minerals exist. However, we consider that this locational restriction should apply to all of the activities in the definition, not just the processing

[28] Statement of Evidence of Sarah McCarter, on behalf of New Zealand Steel Holdings Limited,.

element. We therefore recommend that this wording is inserted in the second sentence of the definition, as shown in 4.1.9.1 below.

82. Ms McCarter considers that 'ancillary earthworks' are indistinguishable from the activity of mineral or aggregate extraction, and include for example, the removal and stockpiling of overburden. She notes that this is generally consistent with the Planning Standards definition of 'quarrying activities', which includes ancillary earthworks in the form of overburden activities, rehabilitation, landscaping and cleanfilling. Our recommended definition provides for these types of earthworks activities. We agree with Ms McCarter's evidence that it could create unnecessary duplication of regulation if ancillary earthworks were excluded from the definition. This evidence aligns with our interim recommendation to include 'ancillary earthworks' in the definition.

83. NZ Steel submitted to include 'residential accommodation necessary for security purposes' in the definition. We recommended rejecting this, on the basis it was not sufficiently precise, and premature to include in advance of discussion on related submissions to provide for such accommodation in the Industrial Zone hearing. Ms McCarter considers that 'workers accommodation' or similar could be used instead, to clarify that the intent is to allow for a dwelling for people associated with the activity and whose duties require them to live on-site. Having reviewed the s42A report for the Industrial Zone, we note that Ms Macartney (the author of that report) recommends a rule to provide for live-in accommodation for a caretaker or security personnel, as a restricted discretionary activity. We maintain that it would be premature to include such wording in the definition at this point in time and consider that Ms Macartney's recommendation may resolve the issue Ms McCarter identifies.

84. NZ Steel also requested inclusion of 'storage, management and disposal of tailings'. Ms McCarter considers this is a fundamental component of extractive activities and its exclusion would lead to an incomplete description of the activity. She also notes that any discharges associated with tailings would be addressed by regional planning rules, rather than through the district plan.

85. We note that the definition we propose combines both mining and quarrying activities. Having reviewed the evidence again, we are persuaded by her argument that such activities are a fundamental component of mining activities (although not quarrying) and recommend inclusion of the requested wording in the definition.

4.1.9.1. Amendment to our original recommendation

86. Having reviewed the evidence referred to above, we recommend the following additional amendments be made to the definition:

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

4.1.10. 'Rural industry'

87. Mr Kaur, on behalf of Combined Poultry Industry Representatives [821.4], has made legal submissions on the definition of 'rural industry' (alongside submissions on 'farming' 'intensive farming', 'poultry hatchery' and 'industrial activity'). While he agrees with deferral until later hearing topics to assess the definitions in relation to the effects, he also considers it is important these definitions are considered now, through this hearing[29]. Mr Kaur states

[29] Legal submission from P Kaur, on behalf of the Combined Poultry Industry Group

that the amendments sought are in line with other district plans; Matamata Piako and Waipa are stated as examples.

88. We maintain our recommendation that careful thought is needed in relation to the Proposed Plan definition of 'farming', including in the context of our recommendation to adopt the Planning Standards definitions of 'rural industry', 'primary production' and 'industrial activity'.

89. Submission points on 'farming', 'intensive farming' and 'poultry hatcheries' were allocated by the Council to the Rural Zone hearing. We maintain that this is the most appropriate time at which to evaluate these definitions, including whether there is the need for a definition of 'poultry hatcheries'. In particular, in light of the submissions, we draw to the Panel's attention the need to consider the definition of 'intensive farming' in the context of the National Planning Standards definition of 'intensive indoor primary production' during the Rural Zone hearing. The Planning Standards definition has a narrower remit than the Proposed Plan definition of 'intensive farming', which encompasses both indoor and outdoor activities. We set out these definitions below:

Intensive farming (Proposed Plan)	Means farming which is not dependent on the fertility of the soils on which it is located and which may be under cover or within an outdoor enclosure, and be dependent on supplies of food produced on and/or off the land where the operation is located. It includes: (a) intensive pig farming undertaken wholly or principally in sheds or other shelters or buildings; (b) free-range pig farming; (c) poultry or game bird farming undertaken wholly or principally within sheds or other shelters or buildings; (d) free-range poultry or game bird farming; (e) mushroom farming; and (f) intensive goat farming. It excludes the following, provided the building is used for the purpose for which it was built: (a) woolsheds;

	(b) dairy sheds; (c) calf pens or wintering accommodation for less than 30 stock (except where stock are being reared for the replacement of breeding stock to be used on the same property); and (d) glasshouse production or nurseries.
intensive indoor primary production (National Planning Standards)	means primary production activities that principally occur within buildings and involve growing fungi, or keeping or rearing livestock (excluding calf-rearing for a specified time period) or poultry.

90. We recommend that any discussion in the Rural Zone hearing in relation to the definition of 'intensive farming' should consider the merits of adopting the Planning Standards definition of 'intensive indoor primary production'.

4.1.10.1. Amendment to our original recommendation

91. None.

4.1.11. 'Rural activities' and 'productive rural activities'

92. Ms McCarter on behalf of NZ Steel [FS1319.36] submits that, if a definition of 'productive rural activities' is considered necessary, this should be consistent with clause 1.4.3.(a) in the notified Plan[30]. We note that Ms Donaldson[31] has subsequently recommended rationalisation of Chapter 1, such that this clause no longer makes reference to the term 'productive rural activities'.

93. Mr Hartley submitted late evidence on behalf of Middlemiss Farm Holdings Limited[32] on the definition of 'productive rural activities'. We are not aware that the submitter made a submission on that definition and therefore consider that Mr Hartley's evidence on this matter is not within scope.

94. Ms Fisher (on behalf of TaTa Valley Limited) [797.20] considers that the terms 'primary production' and 'productive rural activities' are not interchangeable, as we suggest. She considers that 'productive rural activities' as notified (that is as described in Chapter 1.4.3.1(a) but undefined in Chapter 13 - Definitions) enables a wider range of activities and it would be inappropriate to replace it with 'primary production'. Ms Fisher, at paragraph

[30] Statement of Evidence of Ms Sarah McCarter on behalf of New Zealand Steel Holdings Ltd, paragraphs 31-32.
[31] Chapter 1: Introduction. S42A recommended amendments version, including rebuttal evidence and right of reply.
[32] Statement of Evidence of Shane Alexander Hartley on behalf of Middlemiss Farm Holdings Ltd, paragraphs 4.7-4.9.

8.2 of her evidence, sets out what she considers are the key differences, including in relation to location and use of rural resources for economic gain.

95. As stated above, we note that Ms Donaldson has recommended rationalisation of Chapter 1, and section 1.4.3.1 no longer makes reference to 'productive rural activities'. The amended text makes reference to 'tourism opportunities to showcase the districts rural character and activities' as requested by TaTa Valley. In this respect, the relief sought may be partially met.

96. We agree that, should the term be replaced, careful consideration is needed of potential impacts on Objective 5.1.1. We maintain our position that 'primary production' can replace the term 'productive rural activities' in the Proposed Plan without altering the scope of what was intended by the Plan for 'productive rural activities'.

97. Ms Fisher also states that it would help the administration of the Proposed Plan to include groupings of different rural activities, rather than sole reliance on one definition or another (i.e. primary production or rural productive activities). We agree that reliance on a high level definition such as 'primary production' is unlikely to be sufficient for the purposes of defining and regulating the broad range of activities which it covers, and there is likely to be a need for more specific and narrower terms. We agree with her that Hearing 21A: Rural is the appropriate forum to consider these issues and this is consistent with our analysis and recommendation at section 3.57 of the s42A report.

4.1.11.1. Amendment to our original recommendation

98. None.

4.1.12. 'high class soils'

99. Late evidence was lodged by Mr Hartley for Middlemiss Farm Holdings Limited, in support of the further submission [FS330.36] which opposed the original submission of Horticulture New Zealand. Mr Hartley seeks an amendment to the definition of 'high class soils' to exclude 'flood plain' soils and acknowledges that this may make the Proposed Plan slightly inconsistent with the WRPS, which could be addressed through later hearings.

100. We maintain our recommendation that submissions on this definition should be deferred for consideration to the Other Matters hearing.

4.1.12.1. Amendment to our original recommendation

101. None.

4.1.13. 'lifestyle uses'

102. Horticulture NZ[33] [FS1168.83] supported a submission from Fonterra [797.19] seeking a definition of 'lifestyle uses'. Mr Hodgson (for Horticulture NZ) agrees with our conclusion that it is not necessary to define the term, however he considers that the Proposed Plan would be improved with use of a consistent term and alignment with the National Planning Standards and Proposed National Policy Statement for Highly Productive Land. Mr Hodgson recommends addition of the word 'rural', so that the Proposed Plan refers to 'rural lifestyle uses', 'rural lifestyle activities' or 'rural lifestyle options'.

103. We note that Ms Donaldson (the s42A reporting officer) has recommended rationalisation of Chapter 1[34] and if adopted, the relief sought will not be necessary because this wording will be deleted from the Plan. However we agree and recommend that a minor amendment is made Policy 5.2.3 to increase alignment and consistency.

4.1.13.1. Amendment to our original recommendation

104. We recommend the following minor amendment to policy 5.2.3, if the policy is retained as currently drafted:

5.2.3 Policy - Effects of subdivision and development on soils

Subdivision, use and development minimises the fragmentation of productive rural land, particularly where high class soils are located.

Subdivision which provides a range of rural lifestyle options is directed away from high class soils and/ or where indigenous biodiversity is being protected.

4.1.14. 'Commercial activity', 'commercial services' and 'retail activity'

105. Ms Fisher (for TaTa Valley) [FS1340.123] does not agree with our recommendation at section 3.62.4 of the s42A report to rationalise these terms. Her evidence[35] indicates that she wishes to reverse the submitter's original support (as a further submitter) to rationalise the terms 'commercial services', 'commercial activity' into 'commercial activities', and she further disagrees with the rationalisation of 'commercial activity' and 'retail activity', as sought by the Oil Companies.

[33] Evidence from Vance Andrew Hodgson on behalf of Horticulture New Zealand, dated 18 November 2019, paragraph 49-51
[34] See Chapter 1: Introduction – S42A recommended amendments version, including rebuttal evidence and right of reply, Appendix 2
[35] Statement of Evidence of Ailsa Jean Fisher on behalf of TaTa Valley Ltd, paragraphs 11.1-11.11.

106. Ms Fisher submits that the separate terms for 'commercial services' and 'retail activity' should be retained and incorporated into a nesting table as sub-categories of 'commercial activity' (as provided for by the National Planning Standards), on the basis that these activities have different characteristics that may generate different effects.

107. We have considered the list of differentiating effects set out at paragraph 11.4 of her evidence.

108. With respect to parking requirements (Table 14.12.5.7) and traffic generation rates (Table 14.12.5.3) the Proposed Plan does not currently identify any standards for 'commercial services' or 'commercial activities'. There are standards for specific types of retail activities, as well as a standard for 'retail activity' generally.

109. With respect to potential distinction by choice of transport mode, there is no specific provision or distinction in the Proposed Plan rules between these activities with respect to access and road reserve provisions, access to public transport, cycle parking spaces or accessible parking.

110. There is also no differentiation in the rules to address density and urban form, i.e. small scale versus large format bulk retail (other than for parking and traffic generation purposes), or to restrict certain uses to different levels within a hierarchy of town centres. We note that, in this respect, the rules in the Proposed Plan are inconsistent with, and do not give effect to, the policies in Chapter 4.5 Urban Environment: Business and Business Town Centre zones. This issue is highlighted in the submission from the Waikato Regional Council on this definition [81.155][36].

111. There are no rules in the Plan to manage differing amenity effects associated with design of the public interface (streetscape frontages, landscaping, location of parking) for commercial services versus commercial activities or retail activities.

112. There are no rules in the Plan to manage 'viability' issues associated with retail activities and town centres.

113. Having reviewed the rules in the Proposed Plan, we note that 'retail activities', 'commercial services' and 'commercial activities' are all permitted land use activities with no performance standards to differentiate between the activities in the Business and Business Town Centre zones.

[36] The Waikato Regional Council but did not address this submission point in their letter to the Panel (dated 18 November).

114. In the industrial zones, a 'retail activity' is a discretionary activity, and the Plan is silent on 'commercial services' and 'commercial activities', resulting in a default status of 'non-complying'. (As an aside, we note that, as a result of this, a bulk distribution centre (i.e. a commercial activity under the Proposed Plan definition) would be non-complying, whereas a warehouse selling goods directly to the public would be a discretionary activity. We are not certain that this was the outcome intended by the plan writers). In this respect, our recommendation to adopt the Planning Standards definition of 'commercial activity' would not assist either, as it is not clear whether 'trading' includes distribution, particularly in the case where this is the primary activity, and not ancillary to a retail function. Therefore amendments may be needed to the rules, if the intention was to provide for distribution and warehousing uses in the industrial zones.

115. In conclusion, whilst there may be valid effects-based reasons to differentiate between commercial services and retail/commercial activities, at present the rules in the Proposed Plan do not do this. It is therefore unnecessary to provide separate definition terms.

116. If it is found, through subsequent hearings, that amendments are needed to the rules to manage the sub-categories of commercial services differently from retail activities, or to regulate large format retail differently from small scale, we consider the definitions of 'commercial services' and 'retail activity' as notified can be revisited, including the need for a nesting table of subcategories of the definition. As currently worded, there is considerable overlap between the notified definitions of 'retail activity' and 'commercial activity', which has prompted other submissions seeking rationalisation.

117. The creation of sub-definitions would be consistent with the findings of the authors of the Report on Submissions on the draft National Planning Standards, who explored this issue in coming to a recommendation on a broad definition of 'commercial activity'[37].

4.1.14.1. Amendment to our original recommendation

118. We confirm our recommendation to adopt the Planning Standards definition of 'commercial activity'. We recommend that retention/inclusion of sub-definitions for 'commercial services' and 'retail activity' be revisited following the Business and Business Town Centre zone hearings.

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[37] Ministry for the Environment. 2019. *21 Definitions Standard – Recommendations on Submissions Report for the first set of National Planning Standards.* Wellington: Ministry for the Environment, see section 3.22.3, pg. 68.

4.1.15. 'Service station'

119. The Oil Companies[38] [785.34] requested the inclusion of a separate definition of 'service station' to avoid ambiguity as to whether a service station is a 'commercial activity' or a 'retail activity' or both. Ms Blair (for the Oil Companies) accepts this issue is resolved by adopting a single definition of 'commercial activity', consistent with the Planning Standards definition. She considers an issue remains with respect to the proposed rules to control hazardous substances. Ms Blair requests that submission point be given further consideration in Hearing 8 – Hazardous substances and that Appendix 3 to the s42A report be updated to include reference to 'service station', to avoid this submission point being overlooked.

120. No further analysis is required and our recommendation in the s42A report stands. We have updated Appendix 3 as requested and this is appended to our evidence.

4.1.15.1. Amendment to our original recommendation

121. None.

4.1.16. 'Community facility', 'community activity', and 'place of assembly'

122. The Department of Corrections[39] [496.2 and FS1210.3, FS1210.4] made a submission to requesting that 'community corrections activities' become a subset of 'community activity', to enable provision for these activities where appropriate. Mr Grace (for Department of Corrections) agrees with our assessment that 'community corrections activities' *could* be encompassed as a subset of the Planning Standards definition of 'community facility', but he is concerned that this is not plainly apparent, and could lead to interpretation issues. To rectify this, he explores a number of options, but concludes that the most appropriate option is to insert explicit references to 'community corrections activities' within the relevant zone, to identify the applicable activity status and development standards.

123. We concur with this conclusion and support this approach being taken, subject to the Panel's agreement to the proposed activity status and standards for these activities for each relevant zone.

[38] Hearing Statement from Karen Blair on behalf of the Oil Companies, paragraphs 2.7-2.12.
[39] Letter to be tabled from Sean Grace on behalf of the Department of Corrections, dated 19 November 2019

124. No further analysis is required and our recommendation stands.

4.1.16.1. Amendment to our original recommendation

125. None.

4.1.17. 'Education facility' and 'childcare facility'

126. Ms Running (for NZTA) notes in her evidence that the further submission [FS1202.135] was wrongly allocated and should have been assigned to the Ministry of Education primary submission point [781.1], which relates to matters of discretion when assessing education facilities. She requests that the further submission is reassigned accordingly for the hearing addressing this matter (Hearing 10).

127. Mr Frenz (for The Ministry of Education[40]) [781.2] disagrees with our recommendation to retain the definition of 'childcare facility' on the basis that this does not cover the full range of activities that may be provided. We note that the list of inclusions is not exhaustive.

128. Mr Frenz notes that Table 14.12.5.7 – Required parking spaces and loading bays does not use the term 'childcare facility', but instead refers to 'early childhood education', 'school' and 'tertiary education', none of which are defined in the Proposed Plan. We have reviewed this table and cannot see the reference to 'early childhood education'.

129. The Ministry is concerned that the Proposed Plan is overly restrictive with respect to educational facilities in many zones. Mr Frenz points out that if the definition of 'childcare facility' is retained, this will default to a non-complying activity in many of the District's zones, which is overly limiting and will have a detrimental effect on enabling the community to meet its educational needs. He also considers that retaining the two definitions has potential for misinterpretation as to which activity applies.

130. We consider that the potential implications of any potential misinterpretation is overstated as, by and large, the two types of facilities have the same activity status, with the exception of the Rural Zone and Country Living Zone. Even in the Rural Zone, as childcare facilities fall under 'educational facility', in effect these activities have the same status.

131. We consider childcare facilities are a sub-definition of 'educational facility', and that if it is the Council's intention to manage this sub-category of education facilities differently, the Planning Standards allows for this approach. Having considered this further, we consider

[40] Statement of Evidence of Keith Frentz on behalf of Ministry of Education, 6.1-6.13.

that the term should be re-labelled 'childcare services', rather than 'childcare facility', to ensure consistency with the higher level definition. One way in which the effects of a childcare facility may differ from other educational facilities is in relation to the traffic generation and parking effects of a childcare facility. Such uses typically have a relatively high parking demand relative to the site area.

132. We note that the Ministry for Environment intended the definition of 'educational facility' to have a focus on facilities exclusively used for teaching or training. The authors of the Planning Standards definitions agree that 'different types of education facilities have different effects and different ancillary activities', and that it is appropriate, if Councils wish, to include locally-derived subcategories of the definition[41].

133. We appreciate the wider argument raised by Mr Frenz in relation to the activity status of childcare facilities and education facilities, but that is an issue which cannot be resolved at this Definitions hearing and will no doubt be debated at future hearings.

134. Mr Frenz has proposed amendments to the definition of 'childcare facility', if the Panel is minded to retain the definition. These amendments would simplify the definition, but we do not consider they would assist plan users. We consider the inclusions and exclusions proposed in our recommendation provide a level of guidance locally as to what is intended to be included in this definition, given the diversity of early childhood facilities that exist. This also reflects the relief sought by other submitters.

4.1.17.1. Amendment to our original recommendation

135. Having reviewed the evidence we stand by our original recommendations. We further recommend that the definition of 'childcare facility' be renamed 'childcare services' to ensure consistency with the Planning Standard definition of 'educational facility'.

136. We recommend the following amendment:

Childcare ~~facility~~ services	Means any land or buildings used for the care of training of predominantly preschool children and includes a ~~P~~play centre, kindergarten or daycare. It excludes (a) children residing overnight on the property; and (b) a school.

[41] Ministry for the Environment. 2019. 21 Definitions Standard. Recommendations on Submissions Report for the first set of National Planning Standards, section 3.35.pg 88.

4.1.18. 'Maimai'

137. Mr Wilson (for Auckland/Waikato Fish and Game) (Fish and Game))[42] [433.19] has brought to our attention the recommendation from the Hearing 2 s42A reporting officer[43] to amend the building setback rules 22.3.7.5 and 24.3.6.3 to exclude 'maimai'. If the Panel are minded to adopt that recommendation, we agree with Mr Wilson that it may assist plan users to include a definition of 'maimai' in the Proposed Plan. Mr Wilson requests a definition of 'maimai' that is consistent with the Building Act and notes that both temporary and permanent structures are used for this purpose. The following definition was proposed in the original submission:

Maimai – game bird shooting shelter structures.

138. We note that there is no definition of 'maimai' in the Waikato Regional Plan. Having considered the proposed definition we recommend the following minor amendments:

Maimai – means a shelter or structure used for game bird shooting

139. If this wording is adopted, it will be caught by the Planning Standards definition of 'structure' (if fixed to land) or as a 'shelter' by the definition of 'building' (if not fixed to land and partially or fully roofed). This wording is deliberate and allows for the variety of built forms which a maimai might take.

4.1.18.1. Amendment to our original recommendation

140. We recommend that the following definition for maimai is inserted into Chapter 13, if the s42A officers recommendation to amend rules 22.3.7.5 and 24.3.6.3 is accepted.

Maimai – means a shelter or structure used for game bird shooting.

4.1.19. 'Circuit training' and 'flight training school'

141. Greig Metcalfe made a submission [602.33] requesting that 'flight training school' and 'circuit training' be added as non-complying activities in the Te Kowhai Airpark Zone, and if accepted, sought definitions of these terms.

[42] Statement of Evidence of Benjamin Wilson on behalf of the Auckland/Waikato Fish and Game Council
[43] S42A report for Hearing 2, at section 8.1.4, paragraph 258.

142. We agree with Mr Houlbrooke's evidence (for Greig Metcalfe)[44] that a more appropriate time to consider the need to include the definitions of 'flight training school' and 'circuit training' is during the Te Kowhai Airpark Zone hearing. We note the further submission for NZTE that its noise evidence may render the need for those definitions redundant.

4.1.19.1. Amendment to our original recommendation

143. We recommend that the definitions of 'flight training school' and 'circuit training' be considered at Hearing 14: Te Kowhai Airpark.

4.1.20. 'General aviation' and 'recreational flying'

144. Greig Metcalfe [602.33] also sought definitions for the terms 'general aviation' and 'recreational flying' on the basis that they are permitted activities in the Te Kowhai Airpark Zone. Mr Houlbrooke's evidence[45] identifies Greig Metcalfe is a neighbour to the Te Kowhai Airpark, and he sought these definitions to ensure there was no ambiguity or uncertainty as to what those terms meant.

145. We agree with Mr Houlbrooke's evidence that it is premature to reject this/these submission points at this time, and that the need for definitions of 'general aviation and 'recreational flying' should be considered during the Te Kowhai Airpark Zone Hearing.

4.1.20.1. Amendment to our original recommendation

146. We recommend that the definitions of 'general aviation' and 'recreational flying' be considered at Hearing 14: Te Kowhai Airpark.

4.1.21. 'Comprehensive land development consent'

147. Mr Lindenberg (for Kāinga Ora (Housing New Zealand)) [749.40] submitted evidence[46] maintaining that the notified definition should be amended to remove the specific references to 'Te Kauwhata Lakeside Precinct Plan Area', to enable such a comprehensive consent mechanism to potentially be used in other locations across the district.

148. We agree that such a concept could be useful in other locations. Having revisited the rules in light of this evidence, it is apparent that this definition was carefully crafted in the context

[44] Statement of Evidence of Bevan Ronald Houlbrooke on behalf of Greig Metcalf, paragraphs 20-22.
[45] Statement of Evidence of Bevan Ronald Houlbrooke on behalf of Greig Metcalf, paragraphs 16-19.
[46] Statement of Evidence of Matthew Armin Lindenberg on behalf of Kāinga Ora (Housing New Zealand), paragraphs 9.10-9.12.

of those rules. It is not readily obvious as to how to unpick that, and Mr Lindenberg has not put forward any arguments to demonstrate the necessity for this.

149. If at some point in the future, an applicant wishes to use the same mechanism, this opportunity is open to them, through the private plan change process. We note that similar definitions exist in the Proposed Plan, for example, the proposed definition of 'Rangitahi Integrated Development'.

150. We maintain our recommendation not to amend the notified definition at this time.

4.1.21.1. Amendment to our original recommendation

151. None.

4.1.22. 'Comprehensive subdivision consent'

152. Mr Lindenberg (for Kāinga Ora (Housing New Zealand)) [749.41] sought the same relief for this notified definition as for 'comprehensive land development consent'. As set out above at section 4.1.21 we have reviewed the rules in relation to this definition, and conclude that this definition has been crafted for a particular purpose, and it is difficult to separate this from the accompanying rule provisions.

153. We maintain our recommendation to reject this submission point.

4.1.22.1. Amendment to our original recommendation

154. None.

4.1.23. 'sign'

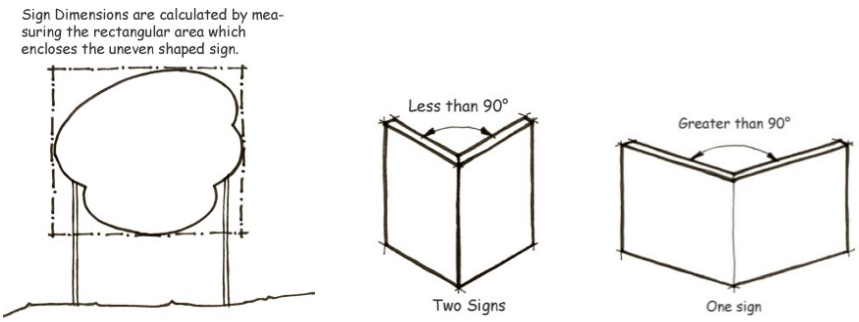
155. Karen Blair (for the Oil Companies) [785.37] has expressed concern that our recommendation to replace the definition of 'sign' in the Proposed Plan with the term 'sign' from the Definitions List did not address any potential consequential amendments, or the Oil Companies concerns about the breadth of the definition in the Proposed Plan.[47]

156. We agree with Ms Blair's concern, and agree that adopting the Planning Standards definition of 'sign', requires consequential amendments that we did not address in the section 42A

[47] Statement of Evidence of Karen Blair, on behalf of the Oil Companies, paragraph 4.9

report. We address the differences between the definitions, before turning to the submission points of the Oil Companies.

157. The following terms are relevant:

Sign (Proposed Plan)	Means any device, graphic or display of whatever nature that is visible from a public place, for the purposes of: (a) providing information to the general public; (b) identifying and providing information about any activity, site or building; (c) providing directions; or (d) promoting goods, services or forthcoming events 
sign (Planning Standards)	means any device, character, graphic or electronic display, whether temporary or permanent; which a. is for the purposes of— i. identification of or provision of information about any activity, property or structure or an aspect of public safety; ii. providing directions; or iii. promoting goods, services or events; and b. is projected onto, or fixed or attached to, any, structure or natural object; and c. includes the frame, supporting device and any ancillary equipment whose function is to support the message or notice.

158. There are a number of differences in the definitions that we discuss below.

159. Firstly, as identified by Ms Blair, the scope of the definition in the Proposed Plan is limited to signs that are visible from a public place. There is no such limitation in the Planning Standards definition. Small signs within a premises would fall within the definition of a 'sign' under the Planning Standards definition.

160. Secondly, the Planning Standards definition of a sign requires that a sign be attached or fixed to a structure or natural object. There is no equivalent requirement in the Proposed Plan definition. The definition of 'sign' in the Planning Standards therefore does not capture 'signs' that are not fixed to 'structures' (which by definition must be fixed to land) or natural objects. This means the definition excludes signs attached to objects that are held down by their own weight, like sandwich boards or signs attached to a shipping container. Vehicles that are used to display signs are also excluded from the Planning Standards definition, whereas they would be captured within the definition of sign in the Proposed Plan.

161. We note that a 'sign' under the Planning Standards definition specifically includes the equipment to which it is attached. The Proposed Plan does not explicitly include equipment supporting a sign within the definition of 'sign'. However, the diagrams accompanying the definition, and the definition of 'sign height', indicate the equipment supporting the sign is included within the definition. In our view, it is implicit that the definition of sign in the Proposed Plan also includes the equipment which supports it.

162. The rules for signs in the Proposed Plan will need to pick up the differences in the scope of these definitions. In particular, as identified by the Oil Companies, a rule is needed to limit the application of the controls for signs to signs that are visible from a public place.

163. Second, the rules will need to be reviewed to ensure that the controls relating to 'signs' are updated to include signs on objects that are supported by their own weight and on vehicles that are used to display signs. For example, if there is a limit of one 'sign' per site, as there is under Rule 16.2.7.1 in the Proposed Plan, this means one sign including a sign that is not attached or fixed to a structure or natural object.

164. We turn now to the concerns raised by Ms Blair. She maintains the breadth of the definition of 'sign' is too wide and includes signs that are not directed to, or legible to, people outside of the site. These include instructional signs on petrol pumps, accessibility parking signs, carwash instructional signs and signs within buildings.[48]

[48] Statement of Evidence of Karen Blair, paragraph 4.9 .

165. We do not agree that the rules applying to signs should be limited to signs directed to, and legible for people outside a site. The purpose of the rules for signs in the Proposed Plan includes to manage the adverse effects from signs.[49] Those effects include compromising the visual amenity of an area, and safety. In our view a sign that is visible, but not legible from a public place, can still detract from the visual amenity of the surrounding area. From a compliance perspective, a legibility test raises questions as to what is legible, from what distance and by whom. This is subjective. We note this may be an issue that is considered in future hearings relating to signs however. One way of addressing the concerns raised by Ms Blair may be to allow internal directional signs as a permitted activity with appropriate controls on those signs.

166. Second, Ms Blair remains concerned that a building or structure painted in corporate colours may be considered a 'sign' under the Planning Standards definition.

167. Our view remains that a building (such as a service station) or a structure (such as a petrol pump) that is painted in corporate colours does not, of itself, fall within the definition of the term 'sign' under the Planning Standards. More specifically, we do not consider a building or a petrol pump painted in corporate colours, of itself, would fall within the definition of 'device, character, graphic or electronic display'. Nor do we consider a building or petrol pump to which a sign may be attached would fall within the definition of a 'frame', 'supporting device' or 'ancillary equipment'. It is possible that a 'structure', such as a frame attached to land, painted in corporate colours would be deemed to be part of a sign under the Planning Standards definition.

168. That said, we accept this issue has the potential to create discussion and dispute, if an alternative view is taken. To ensure clarity and ease in the administration of the Plan, we accept it would be helpful for the rules for signs to confirm that a building or structure that is painted in whole or in part in corporate colours is not of itself a sign.

4.1.23.1. Amendment to our original recommendation

169. Our recommendation to adopt the Planning Standards definition of 'sign' at paragraph 1127 of the s42A report stands.

170. We recommend that, as consequential amendments of adopting this definition, the rules for signs are updated to:

[49] See Objectives and policies 4.4.6, 4.4.7, 4.5.36, 4.5.3.7, 5.3.14, 5.6.14, 9.1.1.3, 9.4.2.4, and 9.4.2.5

- Limit the application of the controls for signs to signs that are visible from a public place.
- Include signs attached to objects that are supported by their own weight, and vehicles used to display signs.
- Provide a building or structure that is painted in whole or in part in corporate colours is not of itself a sign.

4.1.24. 'real estate sign' and 'real estate header sign'

171. Mr Houlbrooke[50] (for Greig Metcalfe) supports our recommendation in the section 42A report[51] accepting his submission [602.27] to adopt a definition of 'Real Estate Sign'.

172. However, he disagrees with our recommendation[52] to reject his submission [602.33] to include a definition of 'real estate header sign' on the basis that the term is not used in the Proposed Plan. His evidence says that it is premature to reject this definition before any hearings on the rules for signs have happened.

173. On review of Mr Metcalfe's submission, we accept that whether or not a definition of 'real estate header sign' is necessary will depend on the outcome of the hearings that consider the rules for signs, in particular real estate signs, and their permitted locations. We agree with Mr Houlbrooke that any potential definition of 'real estate header sign' should be considered alongside any rules that may regulate real estate signs.

4.1.24.1. Amendment to our original recommendation

174. We recommend that the need for a definition of 'real estate header sign' is considered in all future hearings that consider real estate signs.

4.1.25. Impervious surface

175. Horticulture New Zealand [FS1168.105] submitted in support of a submission from NZ Pork [197.34] to exclude farm tracks from the definition of 'impervious surfaces'. In his evidence,[53] Mr Hodgson (for Horticulture New Zealand) notes that, as there are no controls on impervious surfaces in the Rural Zone, its further submission supporting the

[50] Statement of Evidence of Bevan Houlbrooke dated November 2019, paragraphs 10 and 11
[51] Section 42A report: Definitions paragraph 1140
[52] Section 42A report: Definitions paragraph 1139
[53] Statement of Evidence of Vance Hodgson on behalf of Horticulture New Zealand, paragraphs 46-48

exclusion of farm tracks is redundant. If this interpretation is incorrect or controls are introduced, the submission stands that farm tracks should be excluded from controls on impervious surfaces.

176. Mr Lindenberg (for Kāinga Ora, (Housing New Zealand))[54] [749.52] disagrees with our recommendation[55] to retain the definition of 'impervious surface' as notified. Kāinga Ora sought an alternative definition [749.52] and Mr Lindenberg does not agree with our conclusion that the relief they seek would make the definition more complex. Instead, he considers this would give clear guidance to plan users as to what would and would not be captured by the definition.

177. We maintain our view that the definition as notified is clear that an impervious surface is a surface that is not vegetated and does not infiltrate runoff. The definition provides a list of examples of types of impervious surfaces which provides guidance to Plan users about the types of surfaces that may be considered impervious.

178. We maintain our recommendation to retain the definition as notified.

4.1.25.1. Amendment to our original recommendation

179. None.

4.1.26. Wastewater treatment plant

180. Mr Houlbrooke (for Greig Metcalfe) notes that we agreed with Mr Metcalfe's submission [602.33] that a definition for 'Wastewater Treatment Plant' would be helpful.[56] However, we were unsure what components of a wastewater treatment system should fall within the definition. Mr Houlbrooke suggested Waikato District Council engineers could be well placed to provide input for such a definition.

181. We have not been able to source a defined term from Waikato District Council in time for the preparation of this evidence. We reviewed the definition proposed by Mr Houlbrooke and agree it provides a useful starting point.[57] We consider a definition of 'wastewater treatment plant' should refer to a 'facility' that treats wastewater, rather than a 'system'. In our view the term system may denote a inclusion of a wider reticulated wastewater network of devices, pumps and pipes that may be used to transport wastewater to a facility

[54] Statement of Evidence of Matthew Lindenberg on behalf of Kāinga Ora (Housing New Zealand), paragraph 9.16
[55] Section 42A report – Definitions, paragraph 1200
[56] Statement of Evidence of Bevan Houlbrooke, on behalf of Greig Metcalfe, paragraph 14
[57] Ibid, paragraph 15

for treatment. It is the treatment facility, not the wastewater network, that is the wastewater treatment plant. We propose a wastewater treatment plant may be defined as:

> *'a facility, that receives wastewater to process and treat before disposal. It includes on-site wastewater treatment plants, community scale wastewater treatment plants, and wastewater treatment plants that are connected to a public, reticulated wastewater network.'*

182. Our review of the Proposed Plan indicates that there may be benefit in confirming the type of wastewater treatment plant (or 'facility' as the terms are used in different part of the plan) that may be anticipated by particular rules before settling on a definition. While a definition of wastewater treatment plant may provide some assistance, greater clarity may be provided by confirming the scale of the wastewater treatment plant anticipated by the rules i.e. do the activity tables in Rules 14.11.1-4 contemplate on-site wastewater treatment plants, and community scale wastewater treatment plants as a type of wastewater treatment plant?

4.1.26.1. Amendment to our original recommendation

183. We recommend the following definition for wastewater treatment plant is considered for inclusion into Chapter 13 at the Infrastructure Hearing:

Wastewater treatment plant: means a facility, that receives wastewater to process and treat before disposal. It includes on-site wastewater treatment plants, community scale wastewater treatment plants, and wastewater treatment plants that are connected to a public, reticulated wastewater network.

4.1.27. 'watercourse'

184. The NZTA made a submission [742.84] requesting that a definition of the term 'watercourse' be included in the Definitions chapter, that excludes artificial waterways such as stormwater swales. In her evidence, Ms Running[58] reconsiders this position and submits that a definition of 'watercourse' is not required, and for consistency reasons (with the Planning Standards, RMA and WRPS), the Planning Standards definition of 'waterbody' should be adopted (with a corresponding consequential amendment to Rule 14.3.1.3).

[58] Statement of Evidence of Tanya Running for the NZTA, paragraphs 6.1-6.2.

4.1.27.1. Amendment to our original recommendation

185. We support the relief sought and recommend that a definition of 'watercourse' is not included in the Proposed Plan. The issue of amendment to Rule 14.3.1.3 to exclude artificial 'waterbodies' remains a topic for consideration at the Infrastructure Hearing.

4.1.28. 'Reservoir'

186. Mr Hodgson (for Horticulture NZ)[59] [419.132] agrees in his evidence with our assessment that the damming and diversion of water for irrigation purposes is an activity managed by the Waikato Regional Council and that there are no obvious land use related matters that require the definition change sought in their original submission.

187. No further analysis is required and our recommendation on this submission point stands.

4.1.28.1. Amendment to our original recommendation

188. None.

4.1.29. 'Wetland'

189. Mr Hartley submitted late evidence on behalf of Middlemiss Farm Holdings Ltd[60] on the definition of 'wetland', preferring a definition of 'natural wetland', sourced from the draft National Policy Statement for Freshwater Management, with further proposed amendments. The definition of 'wetland' in the Proposed Plan is consistent with the definition in the National Planning Standards, which relies on the definition in the RMA.

190. We note that Middlemiss Farms did not make a submission on this definition and Mr Hartley relies on relief via consequential or additional amendments to give effect to the submission.

191. If a definition of 'natural wetland' is considered necessary as a result of a subsequent hearing, we consider that it would be appropriate to adopt either the final definition adopted in the National Policy Statement for Freshwater Management, or the definition in the Waikato Regional Plan, Plan Change 1 when decisions are made on that, to avoid conflict with higher level policy documents.

[59] Statement of Evidence from Vance Hodgson, on behalf of Horticulture New Zealand, paragraph 67.
[60] Statement of Evidence from Shane Hartley, on behalf of Middlemiss Farm Holdings Ltd, paragraphs 4.10-4.14.

4.1.29.1. Amendment to our original recommendation

192. None.

4.1.30. 'Overlays'

193. New Zealand Steel Holdings Limited made a submission [827.51] to delete the definition of overlays. Our recommendation at para 1325 of the s42A report was to reject the submission, as the overlays assist users who are unfamiliar with the Proposed Plan. Ms McCarter[61] maintains that it is not necessary to define these, but concedes that "its inclusion in the definitions is unlikely to create problems with the implementation of the Plan".

194. No further analysis needed. Our recommendation to retain the definition stands.

4.1.30.1. Amendment to our original recommendation

195. None.

5. EVIDENCE ON OTHER MATTERS

196. The following definitions were not allocated to be considered in the Definitions s42A report, but have been addressed in evidence or hearing statements for the purposes of Hearing 5. Where substantive evidence has been submitted, we have reviewed and responded to this.

Definition	Evidence/Organisation	Hearing	Submission Point
animal feed lot	John Manning for Planman Consultants	Rural Zone Hearing	281.15
conservation planting	Shane Hartley for Middlemiss Farm Holdings Limited	Natural Environments Hearing	794.9
cumulative risk	Karen Blair for The Oil Companies	Hazardous substances and contaminated land	785.35
duplex	Matthew Lindenberg for Kāinga Ora (Housing New Zealand)	Residential Zone	749.44
ecosystem services	Shane Hartley for Middlemiss Farm Holdings Limited	Rural Zone hearing	794.15

[61] Statement of Evidence of Sarah McCarter, on behalf of New Zealand Steel Holdings Limited, paragraph 27.

entertainment facility	Ailsa Fisher for TaTa Valley Ltd	TaTa Resort Zone	574.25
farming	John Manning for Planman Consultants	Rural Zone Hearing	821.1
hazardous facility	Mark Arbuthnot for Ports of Auckland Limited	Hazardous substances and contaminated land	578.48
hazardous substances	Mark Arbuthnot for Ports of Auckland Limited	Hazardous substances and contaminated land	578.49
health and safety sign	Karen Blair for The Oil Companies	Hazardous substances and contaminated land	785.55
intensive farming	John Manning for Planman Consultants	Rural Zone Hearing	281.19
landscape restoration area	Matthew Lindenberg for Kāinga Ora (Housing New Zealand)	Rangitahi Peninsular Zone	749.53
Rangitahi Commercial activity	Michael Briggs for Rangitahi Limited	Rangitahi Peninsular Zone	343.10
Rangitahi Integrated Development	Michael Briggs for Rangitahi Limited	Rangitahi Peninsular Zone	343.12
recreation facility and outdoor recreation	Ailsa Fisher for TaTa Valley Ltd	TaTa Resort Zone hearing	574.24
road network activities	Matthew Lindenberg for Kāinga Ora (Housing New Zealand)	Infrastructure hearing	749.6
rural contractors depot/yard	John Manning for Planman Consultants	Rural Zone Hearing	
transferable development right	Shane Hartley for Middlemiss Farm Holdings Limited	Natural Environment, Rural and Country Living Zone hearings	794.27
use	Matthew Lindenberg for Kāinga Ora (Housing New Zealand)	Hazardous substances and contaminated land	749.63
Vehicle movement	Tanya Running for NZTA	Infrastructure hearing	742.83
visually permeable	Matthew Lindenberg for Kāinga Ora (Housing New Zealand)	Residential Zone hearing	749.65

5.1.1. 'Conservation planting'

197. Evidence was lodged by Mr Hartley on behalf of Middlemiss Farm Holdings Limited[62] seeking a definition of 'conservation planting'. Having reviewed the original submission [794], we are not clear where in that submission such a definition was sought, and no submission points on this matter were allocated to us for consideration in our s42A report. These submissions are being primarily considered at the Natural Environments Hearing (Hearing 22A).

5.1.1.1. Recommendation

198. As the term is not currently used in the Proposed Plan, we recommend that this is a definition which is given further consideration at the Natural Environments hearing. In principle, if a definition is required, we consider that the definition put forward by Mr Hartley, which is sourced from the Auckland Unitary Plan, could provide a starting point for discussion.

5.1.2. 'Ecosystem services'

199. Evidence was lodged by Mr Hartley[63] on behalf of Middlemiss Farm Holdings Ltd seeking a definition of 'ecosystem services'. This submission point [794.15] was allocated by the Council to the Rural Zone hearings (21A) and was not considered in our s42A report.

200. The term 'ecosystem services' appears in just two places in the Proposed Plan, in rules 22.2.8 and 23.2.9, which relate to indigenous vegetation clearance outside a Significant Natural Area, in the Rural Zone and Country Living Zones respectively.

5.1.2.1. Recommendation

201. Given this, and the broad relief sought by Mr Hartley (Middlemiss Farm Holdings Ltd did not specifically request a definition of ecosystem services in their original submission, but instead generally sought 'any consequential additional amendments necessary to give effect' to their wider submission point on conservation and subdivision), we maintain that the need for such a definition for this term should be considered at the Rural Zone and Country Living Zones hearings, rather than now.

202. In principle, we do not have a problem with a definition that replicates the definition in the WRPS, if that definition is considered fit for purpose.

[62] Statement of Evidence from Shane Hartley, on behalf of Middlemiss Farm Holdings Ltd, paragraphs 4.1-4.2
[63] Statement of Evidence from Shane Hartley, on behalf of Middlemiss Farm Holdings Ltd, paragraph 4.3.

5.1.3. 'Entertainment facility'

203. Ms Fisher (for TaTa Valley Ltd) [574.25] does not agree that 'entertainment facilities' should be considered at Hearing 25 because this term is not intended to be used exclusively for the TaTa Valley Resort Zone.

204. The term 'entertainment facility' is not currently used in the Proposed Plan, although there are references to 'entertainment activities' (in the proposed definition of 'place of assembly'[64]) and 'entertainment events' in the proposed definition of 'temporary event'. On this basis, we consider that a wider application of a definition of 'entertainment facility' would need to use terminology consistent with those other definitions, i.e. 'entertainment event' or 'entertainment activity' and be consistent with the proposed definition of 'places of assembly'. If a definition was to be adopted, consideration would need to be made by other s42A authors as to whether rules are needed to govern 'entertainment facilities' differently from the rules on 'places of assembly' or 'temporary events'.

205. 'Places of assembly' are permitted activities (no performance standards) in the Business Zone, discretionary in the Rural Zone, Te Kauwhata Precinct and Country Living Zones. They are currently non-complying activities in the Residential and Village zones.

206. Ms Fisher proposes a definition of entertainment facility as follows:

> *A facility used for entertainment, including: cinema, showground, performance/cultural venue.*

207. We consider that this definition as worded is potentially problematic. It includes cultural and sporting activities, which results in a potential overlap with components of 'place of assembly' and thus the Planning Standards definition of 'community facility' (which we recommend should replace the notified definition in the Proposed Plan of 'community activity'). We note that the Planning Standards definition of 'community facility' does not encompass entertainment facilities, and the Proposed Plan definition of 'community activity' does not either. Although 'places of assembly' can also be 'community facilities' in some situations, in some zones they are regulated differently. We consider it is important to retain the distinction.

208. The Operative Christchurch District Plan has a definition of 'entertainment activity' which could form the basis for a definition in the Proposed Plan:

[64] Place of assembly - Means land and/or buildings used principally for the public or private assembly of people for recreation activities, cultural activities or entertainment activities. It includes community centres and halls.

> *means the use of land and/or buildings principally for leisure and amusement activities other than sports, regardless of whether a charge is made for admission or not. It includes public performances, exhibitions, movie and live theatres, and ancillary workshops, storage, offices and retail activity.*

209. We note the list of inclusions in this definition is not exhaustive and would provide for a 'performance/cultural venue', as requested by Ms Fisher.

5.1.3.1. Recommendation

210. We recommend that this draft definition is given further consideration by the s42A report authors for all zone hearings.

5.1.4. Health and safety sign'

211. Ms Blair (for the Oil Companies) identifies the section 42A report does not cover a definition for 'health and safety sign'.[65] Our understanding is that the Oil Companies submission [785.55] sought a new permitted activity rule for health and safety signs in all zones, and if accepted, a definition of health and safety signs as follows:

> *Health and safety sign means any sign necessary to meet other legislative requirements (e.g. HSNO/worksafe)*

212. This submission point was allocated to and addressed in Hearing 2: All of Plan. We note the submission point was rejected by the section 42A author on the basis it would be appropriate to apply for resource consent when any health and safety signage cannot meet the permitted activity conditions, so that adverse effects on traffic safety, character and amenity are appropriately managed.[66] We are unsure what discussions took place in Hearing 2 on this point.

213. We simply note that the Planning Standards includes a definition of 'official sign' as follows:

> *Official sign means all signs required or provided for under any statute or regulation, or are otherwise related to aspects of public safety.*

214. In our view, the Planning Standards definition of 'official sign' appropriately covers the types of signs that the Oil Companies are trying to regulate. This definition should be used in place of the definition of 'health and safety sign' they suggested, if a rule regulating such signage is introduced.

[65] Evidence of Karen Blair, on behalf of the Oil Companies paragraph 4.14
[66] Section 42A report, Hearing 2, All of Plan, Grant Eccles, paragraphs 391 and 392.

5.1.4.1. Recommendation

215. If a rule regulating signs required by legislation, regulation, or for public safety, is included in the Plan, then our view is that the definition of 'official sign' from the Definitions List should be considered as a potential definition.

5.1.5. 'Landscape Restoration Area'

216. The term 'landscape restoration area' has been allocated for consideration to Hearing 15 - Rangitahi Peninsular Zone. This term is used to define an area for landscape restoration purposes on the Planning Maps. Mr Lindenberg for Kāinga Ora (Housing NZ) [749.53] notes in his evidence[67] that he does not support the retention of the term as notified being solely limited to that area. He proposes amendments to this definition, which will be considered at Hearing 15.

5.1.5.1. Recommendation

217. We recommend that this term is considered at Hearing 15 – Rangitahi Peninsular Zone.

5.1.6. 'Recreation facility' and 'outdoor recreation'

218. 'Recreation facility' and 'recreation activities' are both terms used in the Proposed Plan. In the Lakeside Te Kauwhata Precinct and Reserve Zone, the land use activity tables use the terms 'informal recreation' and 'active recreation'. 'Informal recreation' is defined in Chapter 13, but 'active recreation' is not.

219. Ms Fisher does not agree that the submission from TaTa Valley Ltd [574.23] to define 'outdoor recreation' should be deferred for consideration at the Resort Zone hearing (Hearing 25) because the term is referenced in their submission point to define 'recreation facility' (which is allocated to the definitions hearing). Ms Fisher also states that the submitter did not intend this term to be used exclusively for the TaTa Valley Resort Zone (and could be applied in other zones such as the Reserves Zone).

220. Our reading of the TaTa Valley Ltd submission as a whole, is that it is very much focused on enabling the proposed resort, in particular through a 'site specific Resort Zone'. The list of activities proposed to be included in 'outdoor recreation' is very specific, and does not seem exhaustive in the context of the Waikato district as a whole.

221. If the definition put forward by TaTa Valley Ltd for 'outdoor recreation' was to be appropriate for use in other zones, we consider that the proposed wording should be given

[67] Statement of Evidence of Matthew Lindenberg on behalf of Kāinga Ora (Housing New Zealand), paragraph 9.17.

further thought in relation to the potential relationship with other proposed definitions, including 'place of assembly', 'informal recreation' and 'active recreation'. At this point in time, we are not convinced that a district-wide definition is needed, as the term is widely understood.

222. We maintain that it is reasonable to defer consideration of this definition until the hearing on the TaTa Resort zone.

223. The submission point from TaTa Valley [574.24] on 'recreation facility' was originally coded to this Hearing, but was subsequently reallocated to Hearing 25 on the basis that it is closely related to the requested definition of 'outdoor recreation'.

224. In her evidence, Ms Fisher considers the definition for 'recreation facility', proposed by them, is no longer necessary and can be replaced by the Planning Standards definition of 'accessory building'. No further analysis of this definition is therefore necessary.

5.1.6.1. Recommendation

225. The term 'outdoor recreation' should be deferred for consideration at the TaTa Resort Zone hearing.

226. The term 'recreation facility' should not be defined in Chapter 13.

5.1.7. 'Transferable Development Right'

227. Late evidence was lodged by Mr Hartley (for Middlemiss Farm Holding Ltd)[68], [794.27] seeking a definition of 'transferable development right'. The term is not used in the Proposed Plan.

5.1.7.1. Recommendation

228. We recommend this request should be considered at the Natural Environment, Rural and Country Living zone hearings, along with the wider relief sought by the submitter.

5.1.8. 'vehicle movement'

229. Tanya Running (for the NZTA)[69] records that the submission point from the Transport Agency [742.83] in relation to the definition of 'vehicle movement' has not been addressed in the s42A report, and in her view, should have been.

[68] Statement of Evidence of Shane Hartley on behalf of Middlemiss Farm Holdings Ltd, paragraphs 4.14-4.15.
[69] Letter from Tanya Running, on behalf of NZTA to Waikato Distict Council paragraph 7.1.

230. The submission point has been allocated to Hearing 23A Infrastructure, but relates to a definition in Chapter 13. We maintain that this submission point is more appropriately addressed in that hearing as that is where traffic provisions sit

6. CORRECTIONS TO THE S42A REPORT

6.1. Omitted submission points

231. Evidence has been received that the following submission points were omitted from the s42A report on Chapter 13 Definitions, that ought to be have been included.

6.1.1. Missing Submissions from Fulton Hogan Limited and Winstone Aggregates

232. An email was received from Julia Masters of Kinetic Environmental[70], stating that the submission point from Fulton Hogan Limited [575.1] and Winstone Aggregates [723.7] and further submission made by McPherson Limited in support of submission point [575.1] have not been addressed in the s42A report, and in her view, should have been.

233. These submission points relate to the definitions of 'mineral extraction and processing', 'aggregate extraction activities' and 'extractive industry'. These submission points were not addressed in the s42A report as the submissions and further submission point were allocated to be heard in the Rural Zone hearing (Hearing 21). However, we agree with Ms Masters that these submission points are very similar in content and relief sought to the submission point raised by McPherson Limited. We therefore set out our response to those submission points below:

Submission Point	Summary of submission	S42A Officer Recommendation on Submission
575.1 (Fulton Hogan Limited)	The submitter considers that having three separate definitions adds unnecessary confusion and therefore requested the deletion of the definitions for 'aggregate extraction activities', 'extractive	Within our s42A report (section 3.46.3, para 725) we recommend the submission by McPherson Resources Limited [691.1] is accepted in part. Fulton Hogan Limited seeks very similar relief in its submission point [575.1]. We

[70] Email from Julia Masters, Kinetic Environmental to Waikato Distict Council dated 12 November 2019

	industry' and 'mineral and extraction processing'. The submitter requests the addition of a new definition for 'mineral and aggregate extraction activities' as follows: *Means those activities associated with mineral and aggregate extraction, including:* *Excavation, blasting, processing (crushing, screening, washing and blending);* *The storage, distribution and sale of minerals or aggregates by wholesale to industry or by retail;* *Ancillary earthworks;* *The removal and deposition of overburden;* *Treatment of stormwater and wastewater;* *Landscaping and rehabilitation work, including cleanfilling;* *Ancillary buildings and structures; and* *Residential accommodation necessary for security purposes.*	recommend the submission by Fulton Hogan Limited [575.1] is accepted in part.
FS1292.11 (McPherson Limited)	*In support of the intent of 575.1. The further submitter noted that there is confusion created by the overlap in the definitions for 'aggregate extraction activities', 'extractive industry' and 'mineral and extraction and processing'. The submitter requests that all related definitions are deleted and that the definition of 'extractive industry' is amended as follows:* *Means taking, winning or extracting by whatever means, the naturally-occurring minerals (including but not limited to coal, rock, sand and gravel) and peat from under or on the land surface and includes:* *excavation, blasting, processing (crushing, screening, chemical separation, washing and blending);* *the storage, distribution and sale of minerals or aggregates by wholesale to industry or by retail;* *ancillary earthworks;* *the removal and deposition of overburden;* *treatment of storm water and waste water;*	Accept in part.

	storage, management and disposal of tailings; *landscaping and rehabilitation work, including clean filling;* *ancillary activities and ancillary buildings and structures;* *residential accommodation necessary for security purposes;* *recycling and reusing aggregate from demolition waste such as concrete, masonry or asphalt; and* *internal roads and access tracks.* *This new definition of 'extractive industry' should replace 'aggregate extraction activities' and 'mineral extraction and processing' throughout the rules of the Proposed District Plan.*	
723.7 (Winstone Aggregates)	The submitter requests that the definition of 'extractive industry' is amended as follows: *Means taking, winning or extracting by whatever means, the naturally-occurring minerals (including but not limited to coal, rock, sand, and gravel) and peat from under or on the land surface. The term includes the processing by such means as minerals at or near the site, where the minerals have been taken, won or excavated. The term also includes the removal, stockpiling and filling of overburden sourced from the same site <u>and the following activities:</u>* • *<u>Blasting;</u>* • *<u>Storing, distributing and selling mineral products;</u>* • *<u>Accessory earthworks;</u>* • *<u>Treating stormwater and waste water;</u>* • *<u>Landscaping and rehabilitation of quarries;</u>* • *<u>Clean fills and managed fills;</u>*	Within our s42A report (section 3.46.3, para 725) we recommend that the submission by Stevenson Waikato Ltd [591.7] is accepted in part. Winstone Aggregates seeks similar relief in its submission point [723.7]. We do not agree with the submitter that it is necessary to amend the terms 'aggregate extraction activities' and 'mineral extraction and processing' to mean the same as 'extractive industry'. We consider a simpler solution is to delete these two definitions and replace these with the term 'extractive activity'. We recommend that the submission from Winstone Aggregates [723.7] in accepted part.

	• *Recycling or reusing aggregate from demolition waste such as concrete, masonry, or asphalt;* • *Accessory activities and accessory buildings and structures such as weighbridges, laboratories and site offices.* *It includes all activities and structures associated with underground coal gasification, including pilot and commercial plants and distribution of gas. It excludes prospecting and exploration activities.* The submitter also requested that the definition of 'aggregate extraction activities' and 'mineral extraction and processing' are amended to mean the same as 'extractive industry'.	

6.2. Corrections in relation to Further Submissions

234. Following the publication of the s42A report, some errors were identified in relation to further submissions, including further submissions which were omitted or erroneously allocated. These further submissions are addressed below.

6.2.1. The New Zealand Transport Agency

235. Ms Running (for NZTA)[71] noted that further submission point [FS1202.35] was assigned to the Ministry of Education submission point 781.1 on the definition of 'education facility'. That further submission point should have been assigned to the Ministry of Education primary submission point [781.10] which relates to matters of discretion when assessing education facilities. Ms Running requests that the further submission is reassigned accordingly to Hearing 10.

[71] Letter from Tanya Running, on behalf of NZTA to Waikato Distict Council, paragraph 8.1.

236. We recommend that this further submission point is deleted from the s4A report at section 3.68.2, from Appendix 1 and from the list of further submitters at the front of the s42A report.

6.2.2. Further Submission from Powerco Limited

237. A tabled statement was received from Adam Du Fall on behalf of Powerco Limited, highlighting that a further submission point[72] was omitted from the s42A report. We agree that this as an error of omission, and the following table contains our recommendations on that point:

Further Submission Number	Original Submission Point	Support /Oppose	S42A Officer Recommendation on Further Submission
FS	405.8 (Counties Power)	Support 405.8	We recommend at paragraph 295 of the s42A report (that the submission [405.8] is accepted. We maintain our recommendation and subsequently recommend the further submission of Powerco is accepted.

6.2.3. Strikethrough error in the section 42A Report

238. Ms Whitney for Transpower noted the recommended amendments to the definition of 'building' in the section 42A report did not show the notified text as struck through. This was an error and paragraph 301 should read:

"The following amendments are recommended:

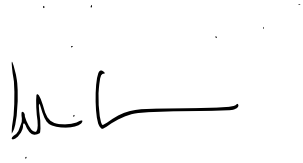
~~Building~~	~~Has the meaning in the Building Act 2004, excluding:~~ ~~239. a pergola, not roofed or enclosed, less than 3 metres in height; or~~ ~~a swimming pool, ornamental pool, deck; or~~ ~~(a) other structure not roofed or enclosed, less than 1.5 metre in height; or a fence, or a wall other than a retaining wall, less than 2 metres in height; or public or cultural art in a public place less than 3 metres in height; or~~ ~~(b) a retaining wall or retaining structure less than 1.5 metres in height, provided that where a fence or non-retaining wall is placed~~

[72] Awaiting confirmation of further submission point number from Powerco and Waikato District Council

building	~~at the top of the retaining wall, the combined height is less than 2 metres; or~~ ~~(c) a tank with a total capacity of no more than 35,000 litres, provided that no part of the tank protrudes more than 1 metre above natural ground level; or~~ ~~(d) a structure that is permeable and less than 4 metres in height to protect crops for agricultural use.~~ means a temporary or permanent movable or immovable physical construction that is: a. partially or fully roofed, and b. is fixed or located on or in land, but c. excludes any motorised vehicle or other mode of transport that could be moved under its own power.
Motorised vehicle and vehicle	means any motorised vehicle or vehicle (including a vehicle or motor vehicle as defined in section 2 of the Land Transport Act 1998). It excludes an immovable vehicle that is occupied by people on a permanent or long-term basis.

7. S32AA ANALYSIS

240. We do not think additional s32AA analysis is needed for the changes recommended in this rebuttal evidence. The recommended changes do not, in our opinion, signficantly change or alter the implications of the recommended changes made in our s42A report and therefore further evaluation pursuant to s32AA is not necessary.



Anita Copplestone
Consultant Planner – Perception Planning Limited

Megan Yardley
Consultant – Perception Planning Limited

3 December 2019