

Appendix 3

Submission Summary and Recommendations for PC60

SUBMISSION SUMMARY AND RECOMMENDATIONS

The following is the assessment of submissions with recommendations by the Planning Officer.

Submitter Name: Rainer & Katharina Schmidt
Submission No: 01
Address: 19 Turere Place, Otamatea, Whanganui
Plan Provisions: Zoning

Summary:

Opposes the proposed Plan Change. States the proposed zone change of their property to Rural Lifestyle would not allow subdivision in order to build an additional dwelling in the future. Neighbouring Rural Lifestyle properties have been rezoned residential and increased in value. Expresses concern that similar rezoning (to residential) has not been applied to their property.

Decision Sought:

That the current split zoning (General Residential and Rural Lifestyle) remains.

Officer Comments:

1. The submitter's point relates to their private property at 19 Turere Place. The Residential Zone bisects their dwelling on the property, leaving the largest portion of the property zoned Rural Lifestyle. The Rural Lifestyle zone is contiguous with neighbouring properties.
2. The submitters have future plans to subdivide and build a dwelling for family members. They note the changes to a residential zone in the neighbouring areas with associated rules to allow for subdivision into smaller lots, and that this plan has not been extended to their property. Retaining a Residential Zone on part of their property aligns with proposed development of the area.

Officer Recommendation:

That submission 1 from Rainer and Katharina Schmidt be **accepted** and the proposed zone change at 19 Turere Place, Whanganui not proceed as a result of this submission.

Submitter Name: Horticulture New Zealand Ahumara Kai Aotearoa

Submission No: 02

Address: PO Box 10-232, Wellington (Attn: Emily Levenson)

Plan Provisions: Rural Zones – Highly Productive Land

Summary:

Supportive in part of the intention to strengthen the protection from loss of highly productive land. The submission seeks to further define the references of productive land, clarifying the connection and alignment with the National Policy Statement – Highly Productive Land. Also, consideration be given to highly productive land in the Rural Lifestyle and Settlement Zones as reverse sensitivity effects could hinder neighbouring primary production activities. Supports the addition of LUC Class III land to the objectives and policies of the Rural Production zone.

Decision Sought:

1. Replace all references to ‘productive land’ to ‘highly productive land’ in the subdivision rules of the Rural Lifestyle and General Rural zones.
2. Add an additional matter of discretion to the subdivision rules in the Rural Lifestyle and General Rural zones that avoids potential reverse sensitivity effects on primary production.
3. Add the ‘loss of highly productive land’ and ‘reverse sensitivity’ matters of discretion to the subdivision rules of the Settlement Zone.

Officer Comments:

1. The submitter’s general support for proposed Plan Change 60 is noted.
2. The Rural Lifestyle Zone and Rural Settlement Zone have been established with smaller lots, where the predominant purpose for the site is rural residential rather than rural production activities. It actively encourages lifestyle development close to the urban fringe and seeks to protect rural productive capacity of the Rural Production Zone. This also reduces the likelihood of reverse sensitivity in the Rural Lifestyle Zone.
3. The NPS-HPL provisions came into force on 17 October 2022. Before nationwide mapping of HPL is notified, the transitional definition of HPL will apply. This defines highly productive land as that zoned General Rural or Rural Production Zone, therefore Rural Lifestyle and Rural Settlement zones are not encapsulated in this.
4. The intention of PC60 in relation to highly productive land, was to use the term ‘productive’ to capture that land which is currently used for primary production, such as horticulture which can be on Class IV land. While the submission supports this, it is submitted that this has also created some perceived ambiguity to the NPS-HPL and its transitional definition.
5. The submitter requests that ‘productive land’ be replaced by ‘highly productive land’ for clarification. This is supported to achieve a clear definition of the land which is sought for protection.

Officer Recommendation:

That submission 2 from Horticulture New Zealand be **accepted in part** and the following minor amendments be made as a result of this submission:

- Loss of highly productive land in Rural Production (RPROZ-R2) and General Rural Zones (GRUZ-R2).

Submitter Name: Powerco Ltd

Submission No: **03**

Address: PO Box 13075, Tauranga 3141 (Attn: G Schofield)

Plan Provisions: Protected Trees; Height in relation to boundary exceptions.

Summary:

Supports/Opposes the proposed Plan Change. This submission opposes limits on branch sizes for pruning of protected trees from existing network utilities and the inclusion of the Powerco's activities in the proposed discretionary activities. The submission also opposes the proposed standard to supply photographic evidence to Council prior to any works being carried out on a protected tree, but supports the standards that specifies compliance with Minimum Industry Standards. The inclusion of a pohutukawa tree at 12 Helmore Street into the Protected Trees Schedule is opposed. The submitter also identifies an administrative error in the exceptions to 'height in relation to boundary' and requests amendment be made by way of reinstating the exception of 'network utility masts, poles and antennas'.

Decision Sought:

1. Amend NFL-PT-R1(a) to delete 'no great than 50mm in diameter'.
2. Permitted and controlled activities to include network utility activities.
3. Delete standard NFL-PT-S2 or relocate it to another section of the plan (eg. supporting information for resource consents).
4. Reinstate the exemption for network utility masts, poles and antennas in GRZ-S4-2; CRZ-S5-2; SETZ-S4-3; COMZ-OC-S6-3; OSZ-S3-1.
5. Delete the tree at 12 Helmore Street from Appendix C.

Officer Comments:

1. Appendix C of the District Plan schedules 460 protected trees (individually and in groups), which have had their significance assessed and evaluated through using the Standard Tree Evaluation Method (STEM). The trees are located on private properties, public spaces and street corridors.
2. Any works done on protected trees are required to meet The New Zealand Arboricultural Association's Minimum Industry Standards.
3. In relation to Powerco infrastructure, many of the protected trees in Whanganui are in public spaces and road corridors, where Council undertake inspections, pruning and maintenance. Council has good working relationships with Powerco which contributes to

effective tree management and compliance with the Electricity (Hazards from Trees) Regulations 2003.

4. The Council Arborist has advised that following a 1-3 year maintenance programme, the green growth would be expected to be less than 50mm diameter.
5. The removal or modification of protected trees may result in a reduction in amenity and quality of Whanganui's environment. Having limitations on permitted activities reduces the risks of larger branches being arbitrarily trimmed and causing damage to the trees, or altering their shape and form.
6. Permitting the removal of branches less than 50mm diameter at the point of severance is consistent with the permitted activities for protected trees in other territorial authorities.
7. It is proposed to require photographic evidence of the tree before any works are commenced, to provide a visual history of the protected tree and will be used to amend the schedule appropriately. If a tree is to be removed or modified in an emergency, this photographic evidence will be submitted to the Council after the emergency works are completed.
8. Proposed Plan Change 60 seeks to amend the number of exceptions to the 'height in relation to boundary' standard. The submitter has identified an administrative error in the proposed text, which omits the 'network utility masts, poles and antennas' from the proposed list, and therefore requires renumbering also.

Officer Recommendation:

That submission 3 from PowerCo Ltd be **accepted in part** and the following amendments be made as a result of this submission:

- Reinstatement of the exemption for network utility masts, poles and antennas into GRZ-S4-2, CRZ-S5-2, SETZ-S4-3, COMZ-OC-S6-3 and OSZ-S301.

NFL-PT-R1

- 1a. Pruning and clearance of foliage or branches no greater than 50mm at the point of severance from existing utility networks, which have the potential to compromise the operation of the network utility (or access to), street lights or land boundary encroachments that does not alter the shape or health of the tree;
- Reinstatement of emergency works as a permitted activity with the following wording:
 2. Destruction of pruning of any protected tree that meets NFL-PT standards (except NFL-PTS3a), that is:
 - a. An emergency work to maintain or restore existing network utilities; or
 - b. To safeguard life.

- Further clarification of Discretionary activities with the following amendments:

NFL-PT-R2

1. Any activity that does not meet the NFL-PT standards.
3. Destruction or removal of a dead or diseased protected tree.
5. Works required for a new or altered vehicle access.
6. The destruction, removal, pruning or maintenance of any protected tree unless otherwise stated.

- Addition of a standards as follows:

NFL-PT-S2

Works to be undertaken by a suitably qualified Arborist.

NFL-PT-S3

Photographic evidence of any protected tree works shall be submitted to Council as follows:

- a. Intended works, a minimum of 10 days prior to any works commencing; and
- b. Completed works, within 10 days of completion.

Submitter Name: McDonald's Restaurant (New Zealand) Ltd

Submission No: 04

Address: c/- Barker Associates Ltd, PO Box 457, Wellington 6140
(Attn: O Edwards or H Hoogeveen)

Plan Provisions: Protected Trees; and Zoning

Summary:

Supports/Opposes the proposed District Plan change. Supports the change of zone for 314 Victoria Avenue, Whanganui as notified. Opposes the emergency tree removal as a discretionary activity NFL-PT-R2(3).

Decision Sought:

1. Retain emergency tree removal as a permitted activity.

Officer Comments:

1. Council agrees that requiring a resource consent in times of emergency would be impractical. The intent of the amendment of the provisions was to increase the control of the removal of dead or diseased whole trees and remove it from a permitted activity, however, the rule included the emergency works. An administrative error resulted in changing the status of the whole rule to discretionary.

2. Council agrees that destruction or removal of a protected tree should be a permitted activity as part of emergency work to maintain or restore existing power or telecommunication links, or to safeguard life.
3. The submitter's support for the zone change to their property is noted.

Officer Recommendation:

That submission 4 from McDonalds Restaurant (New Zealand) Ltd be **accepted in part** and the following minor amendment be made as a result of this submission:

- Reinstatement of emergency works as a permitted activity with the following wording:
NFL-PR-R1
 2. Destruction or pruning of any protected tree that meets NFL-PT standards (except NFL-PTS3a), that is:
 - a. An emergency work to maintain or restore existing network utilities; or
 - b. To safeguard life.

Submitter Name: Steven Archer

Submission No: **05**

Address: 57 Liverpool Street, Whanganui 4500

Plan Provisions: Rural Zones – Highly Productive Land

Summary:

Opposes the proposed Plan Change regarding the highly productive land. The submission deems that the addition of a matter of discretion would not achieve the mapping requirements of productive land, is confusing, and interpretation is subjective.

Decision Sought:

The proposed changes be considered as part of a full review of the Rural General Zone and not be included in this plan change.

Officer Comments:

1. The submitter recognises that mapping of highly productive land is required to meet the requirements of the National Policy Statement – Highly Productive Land. This is a function of the Regional Council and has a timeframe of three years from the implementation of the NPS-HPL. Initial work has commenced by Horizons, and once completed, each territorial authority incorporates the information into their respective plans.
2. The operative District Plan complies with the NPS-HPL in that the objectives and policies in the General Rural Zone and Rural Production Zone seek to safeguard the versatility and life supporting capacity of soils, and are not compromised by the establishment of non-primary production activities.
3. The proposed Plan Change adds an additional matter of discretion to the Restricted Discretionary activities considerations to in the General Rural and Rural Production Zones to allow highly productive land to be considered in the context of NPS-HPL.

Officer Recommendation:

That submission 5 from Steven Archer be **rejected** and no amendments are recommended as a result of this submission.

Submitter Name: Michael O’Sullivan

Submission No: 06

Address: 13 Church Place, Whanganui 4500

Plan Provisions: Rural Zones – Highly Productive Land

Summary:

Opposes the proposed Plan Changes regarding highly productive land due to the National Policy Statement – Highly Productive Land already being operative. The submission also cites that this plan change is non-compliant with NPS-HPL in that the District Plan must be changed after, and consistent with the Regional Council mapping of highly productive land.

Decision Sought:

The Plan Change with respect to Highly Productive Land be withdrawn.

Officer Comments:

1. The submitter offers that the Plan Change is unnecessary due to the National Policy Statement – Highly Productive Land being in force since October 2022.
2. The NPS-HPL requires regional councils and territorial authorities to identify highly productive land, and manage the effects of subdivision, use, and development of highly productive land, in an integrated way. Horizons has commenced work on this, and once completed, territorial authorities will incorporate it into their District Plan. The regional mapping is to be done within three years of the NPS-HPL coming into force.
3. The mapping of highly productive land will include any land that:
 - a. is in a general rural zone or rural production zone; and
 - b. is predominantly LUC 1, 2, or 3 land; and
 - c. forms a large and geographically cohesive area (however, the transitional definition which is applied until the mapping is complete, does not include c)). Productivity capacity in relation to land in this context means the ability of the land to support land-based primary production over the long term.
4. The NPS-HPL states that the extent to which the NPS-HPL can influence the outcome of resource consent processes depends on the operative land use and subdivision rules in the plan. Plan changes that involve general rural or rural productive zone provisions for land use and subdivision after NPS-HPL took effect will be required to give effect to the NPS-HPL.
5. Under section 104(1)(b)(iii) of the RMA, the matters to which Council may consider when approving, declining, or imposing conditions is restrict to the matters over which Council has reserved its discretion.

6. The proposed plan change adds to the matters of discretion for subdivision activities within the Rural Production and Rural General zones which fall into the Restricted Discretionary activity status.
7. If a Restricted Discretionary activity does not have any matters of discretion relating to matters covered by NPS-HPL, then the NPS-HPL must be recognised in the assessment under s104 but is given less weight and it cannot be a reason to decline the application. The District Plan does not consider the loss of productive land as a matter of discretion, therefore is not meeting the NPS-HPL. This could also increase the likelihood of inappropriate subdivision and reduction of land available for land-based primary production.

Officer Recommendation:

That submission 6 from Michael O'Sullivan be **rejected** and no amendments are recommended as a result of this submission.

Submitter Name: Bernadine Bourke

Submission No: **07**

Address: 9 Glenn Street, Castlecliff, Whanganui 4501

Plan Provisions: Zoning

Summary:

Supports in principle the proposed Plan Change regarding the rezoning of 50 Carson Street to General Rural or Open Space. Clarification sought of an administrative error of text relating to 5 Carson Street.

Decision Sought:

Rezone 50 Carson Street to General Rural or Open Space.

Officer Comments:

1. The submitter's support for the zone change is noted.

Officer Recommendation:

That submission 7 from Bernadine Bourke be **accepted** and no amendments are recommended as a result of this submission.

Submitter Name: Platinum Homes Whanganui/Manawatu

Submission No: 08

Address: PO Box 7082, Whanganui

Plan Provisions: Zoning

Summary:

Supports the proposed plan changes and requests consideration of an additional site for rezoning. As there has been residential development on land that is currently zoned Open Space, this submission suggests that the change of use justifies a zone change to General Residential.

Decision Sought:

1. Rezone to developed land to General Residential.

Officer Comments:

1. The submitter's support for the Plan Change is noted.
2. This property had been identified by Officers as having a zone reconsideration but was set aside due to the progressing of a subdivision development. Subsequently, residential development has occurred and the land no longer meets the criteria of Open Space Zone.
3. The development area meets the criteria of consideration for changed zoning through:
 - a. Change of use:
 - i. land has had a change of use, zone to reflect current use.
 - b. Reserves and Open Space:
 - i. It is preferable that Reserves and Open Spaces Zone is not in private ownership;
 - ii. Reserves / Open Spaces to be verified before any amendment;
 - iii. Legal road which is currently zoned Open Space.

Officer Recommendations:

That submission 8 from Platinum Homes be **accepted** and the Hereford Street/Chester Road development be zoned General Residential as a result of this submission.

Submitter Name: James Lees & Shirley Bennett

Submission No: **09**

Address: 141A No 3 Line, Whanganui 4500

Plan Provisions: Zoning

Summary:

Supports the proposed District Plan change in relation to the rezoning of their property to General Residential. The current zone is incongruent with the surrounding environment and does not allow for subdivision or connection with reticulated services. Prior requests by the landowners have been made to Council for a rezoning of this land to General Residential.

Decision Sought:

1. Rezone to General Residential as notified.

Officer Comments:

1. The submitter's support Plan Change 60 is noted.
2. Although this property had not been identified as having more than one zone across it, adjacent properties show precedent for this property to be zoned General Residential, and prior request has been made to Council for a zone change.
3. The current zone is incongruent with the surrounding environment.

Officer Recommendation:

That submission 9 from James Lees & Shirley Bennett be **accepted** and the zone change proceed as notified as a result of this submission.

Submitter Name: Horizons Regional Council

Submission No: **10**

Address: Private Bag 11025, Palmerston North 4412 (Attn: E Shokri)

Plan Provisions:

Summary:

Supportive in part of the proposed District Plan change. The submitter notes the absence of a definition for 'productive land' and seeks clarification or an amendment to this term to 'highly productive land' as defined by the National Policy Statement – Highly Productive Land.

This submission also supports the proposed rules for protected trees but seeks a strengthening of Rules 1 & 2, requiring a 10-day notification timeframe prior to the commencement of work to supply evidence, and specifying that a qualified arborist is to undertake works with accompanying verification of qualification.

Decision Sought:

1. Amend Rule NFL-PT-R2 to require evidence to be supplied within 10 working days prior to works commencing.
2. Specifying in the standards that a qualified arborist undertake the works, and for confirmation of that arborist and their qualification level be supplied to Council.

Officer Comments:

1. The submitter's general support for Plan Change 60 is noted.
2. As the National Planning Standards do not have a definition for 'productive land', and to avoid confusion, Council accepts that this be replaced with 'highly productive land' and the NPS definition.
3. Any works done on protected trees should be done by a suitably qualified Arborist and meet The New Zealand Arboricultural Association's Minimum Industry Standards.
4. It is proposed to require photographic evidence of the tree before any works are commenced, to provide a visual history of the protected tree. If a tree is to be removed or modified in an emergency, this photographic evidence will be used to amend the schedule appropriately.
5. On review, a consequential amendment to NFL-PT-S2 would remove the reference to an application. The submitter's proposal of requiring evidence to be supplied to Council 10 working days prior to works commencing is accepted.

Officer Recommendations:

That submission 10 from Horizons Regional Council be **accepted** and the following minor amendments be made as a result of this submission:

- Loss of highly productive land in Rural Production (RPROZ-R2) and General Rural (GRUZ-R2) Zones.
- Remove the reference to an application in NFL-PR-S2. Renumber NFL-PT-S2 as NFL-PT-S3 and amend as follows:

NFL-PT-S3 - Photographic evidence of any protected tree works shall be submitted to Council as follows:

- a. Intended works, a minimum of 10 days prior to any works commencing; and
- b. Completed works, within 10 days of completion.