
OFFICER'S RESPONSE TO QUESTIONS FROM THE HEARINGS PANEL AND OTHER PRE-HEARING MATTERS

DATE: 9 March 2022

HEARING: GRUZ

HEARING DATE: 14 March 2022

PREPARED BY: Jon Trewin

Introduction

The purpose of this report is to provide a written response to the questions posed by the Hearings Panel on the respective section 42A report for the GRUZ Chapter, including indicating any resultant recommended changes to PDP text. It also addresses a point raised by Counsel acting for Christchurch International Airport Ltd in memo form on 17 February 2022.

1. Question and Answers

| Paragraph or Plan reference | Question from the Hearings Panel |
|-----------------------------|---|
| 7.34 | What is the difference between a typical farming activity and an extensive farming activity? What is it that makes a typical farming activity, extensive? |
| <i>Officer response:</i> | <i>An extensive farming activity is one which, in the context of the Proposed District Plan (PDP), maintains pasture or ground cover (as opposed to intensive outdoor primary production where pasture or ground cover cannot be maintained due to high stocking rates). A typical farming activity (that makes up much of the character and amenity of the rural area of the district) is usually an extensive farming activity, with lower stocking rates, paddock grazing and low overall building density where the effects are considered to be less than an intensive farming activity.</i> |
| 7.56 | Are the effects the same when breeding thoroughbred horses to that of breeding farm livestock? |
| <i>Officer response:</i> | <i>I am not aware of there being any real difference between the effects of breeding of horses and any other livestock on farms. Whilst not managing the breeding of animals, the Operative District Plan contains setbacks for the boarding of animals, where they did not permanently reside on site. The PDP recognises that whilst the boarding of dogs has the potential to create a noise nuisance the boarding of horses (for training) does not, hence the permitted activity rule to enable it.</i> |
| 8.3.2 | and to protect them from reverse sensitivity effects from sensitive activities. Rather than protect them from sensitive activities could it be to protect them from incompatible activities? Because the activity is incompatible do you consider it implicit that the activity is sensitive? |

| Paragraph or Plan reference | Question from the Hearings Panel |
|-----------------------------|---|
| Officer response: | <i>I agree that incompatible activities may include activities that are not sensitive activities but still give rise to reverse sensitivity effects. I recommended including reference to 'incompatible activities' in GRUZ-O1 (3) in response to HortNZ's submission point (0353:238).</i> |
| 8.5 | <i>... include reference to incompatible activities alongside reverse sensitivity effects. Do you think it enough that they sit alongside each other, or should incompatible activities come first? The action of establishing incompatible activities near each other causes the reverse sensitivity effect.</i> |
| Officer response: | <i>I agree that reverse sensitivity effects would arise from incompatible activities. It may make more sense to say (in the wording of GRUZ-O1) 'to operate without being compromised by reverse sensitivity effects from incompatible activities' (see 3 below).</i> |
| 9.19 | Are the words "a grandfather clause" sufficiently clear and certain such that readers of the Plan would know what that means? Can the author think of other words that might be more appropriate? |
| Officer response: | <i>The use of the word 'grandfather clause' does precisely capture what is trying to be achieved through GRUZ-P2 and GRUZ-R4 and it would be difficult to think of another term that so neatly captures this. Similar language was used in the Operative District Plan ('grandfather provisions'). I am not sure that scope exists, but a definition or note could be inserted that outlines what is meant by the term.</i> |
| 9.24 | GRUZ- P3.2 – the words "exceed the 1:1 ratio with residential units." <ul style="list-style-type: none"> ▪ Is there another way of expressing this? ▪ Would this mean if there was a large rural property with 3 (or more) houses on it would it receive policy support for 3 (or more) minor residential units too? |
| Officer response: | <i>This is possibly the most succinct way of expressing what the policy is trying to achieve. If the wording was changed, it could be expressed in a longer form, for example 'Avoid the creation of a minor residential unit that....exceeds a ratio of one minor residential unit per residential unit on any site'.</i> <i>Yes this would be allowed as each principal residential unit could also have a minor residential unit attached. Note however that the relevant rural density standard must be met to establish the principle residential unit.</i> |
| 9.30.1 9.31 | Given the author's discussion, and given the drafting convention that clauses are conjunctive if the second to last clause ends with "and", would be it be clearer if GRUZ-P4 read (or similar wording): Provide for the economic development potential of the rural area by enabling a range of activities that: <ol style="list-style-type: none"> 1. have a direct relationship with, or are dependent on, primary production; or 2. have a functional need, or operational need to locate in the rural area; and in either case: 3. represent an efficient use of natural and physical resources; and 4. maintain or enhance the character and amenity values of the surrounding area. |
| Officer response: | <i>I realise that I could have expanded on this further in the S42a report. The intent in GRUZ-P4 is that all clauses apply as GRUZ-P4 is the most enabling policy for economic activity, hence the requirement to meet all of the individual clauses. GRUZ-P5 provides the basis for commercial/industrial activities that do not have a link with primary production, but have an operational or functional need to locate in GRUZ. Therefore adding 'or' between GRUZ-P4 (1) and (2) may inadvertently 'nullify' the purpose of GRUZ-P5.</i> |

| Paragraph or Plan reference | Question from the Hearings Panel |
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| 9.47.3 | <p>Why have the effects of research activity that focuses on rural production been described as ‘tolerable’ in the rural zone, when given its definition one might think the effects would be encouraged rather than tolerated?</p> <p>Did the s42A author mean to use the words ‘strays away’ as it could imply the activity once focussed on rural production but now it doesn’t?</p> |
| Officer response: | <p><i>I used the word ‘tolerable’ because the policy as notified requires research activities associated with rural production activities to not generate adverse effects on the character and amenity values of GRUZ that cannot be mitigated. However the activity in GRUZ-R13 is permitted, which appears to suggest that any effects can be absorbed into (tolerated within) existing rural character and amenity.</i></p> <p><i>I use the word ‘strays away’ because the definition of ‘research activity’ is broad and there is a possibility that the activity takes on characteristics that go beyond what is permitted in GRUZ-R13.1. This might include activities of a more commercial nature.</i></p> |
| 9.83 | <p>Enable aircraft and helicopter movements within the rural area for purposes ancillary to rural production on <u>an intermittent or seasonal and short-term basis</u>. How does the word ‘intermittent’ add to policy 11?</p> |
| Officer response: | <p><i>There may be a need for movements to occur on an ad hoc or irregular/unplanned basis. This is not really captured by the words ‘seasonal’ and ‘short term’, hence the recommendation to include ‘intermittent’.</i></p> |
| 9.93.2 | <p>Recommended new GRUZ-P5. The word “manage” provides no guidance to decision-makers regarding a desired outcome. What outcome did the author have in mind:</p> <ul style="list-style-type: none"> ▪ Enabling new community facilities? ▪ Enabling the repair and maintenance of existing community facilities? ▪ Enabling the alteration or expansion of existing community facilities? |
| Officer response: | <p><i>The use of the word ‘manage’ was intended to recognise that the activity is a discretionary activity under GRUZ-R33. A discretionary activity is considered appropriate due to the wide sub-set of activities defined under the PDP as a ‘community facility’ and the possible effects that could be generated. However I understand the term is ambiguous and less preferred.</i></p> <p><i>I note that the suggested policy in the S42a report is ambiguous as to whether the policy applies to the expansion of existing or newly established community facilities. I believe it would be better to be explicit that it applies to both in the policy (this is also consistent with the wording of existing policy GRUZ-P5).</i></p> <p><i>Repair and maintenance would likely be covered by existing use rights under s10 RMA.</i></p> <p><i>Using another term such as ‘enable’ on its own implies a relatively permissive rule structure for a community facility which does not exist. However the use of the word ‘provide’ for the establishment of community facilities could be appropriate if coupled with ‘functional or operational need’ and the need to maintain character and amenity. This would provide more direction, whilst underpinning the rationale for a discretionary activity status.</i></p> <p><i>The suggested wording for the proposed policy would read ‘<u>Provide for the establishment or expansion of community facilities that have a functional, or operational need to locate in the rural zone, whilst maintaining the character and amenity values of the surrounding area.</u></i></p> <p><i>(see 3 below).</i></p> |

| Paragraph or Plan reference | Question from the Hearings Panel |
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| 10.33 | Minor Residential Units GRUZ R6 – Do we need a clarification given the definition in the CRPS for Greater Christchurch for Rural Activities; Rural Residential Activities and Urban Activities which mentions a density of more than one household unit per 4ha of site area is an Urban Activity? |
| Officer response: | <i>Minor residential units appear to be a bit of a 'grey area' in terms of how they are handled in the CRPS. I have argued that they could be considered to be part of a rural activity as part of a single residential activity on lots of 4ha or more, align with the density requirements of the CRPS and fit with being an activity of a 'size, function, intensity or character' typical of those in rural areas. On the other hand, the PDP needs to carefully limit the extent to which they take on characteristics that are of an independent residential unit, as opposed to being clearly ancillary to the principal residential unit. A clarification in the PDP may be useful (I note that the status of a minor residential unit may be raised in evidence at the Hearing).</i> |
| 10.38 | Does a minor residential unit need to be smaller than the principal unit? For example, could a two storey minor residential unit up to 180sq m (excluding the garaging) have 90sq m living on the ground floor and upstairs more than the 2 bedrooms as anticipated for in S.42A Clause 10.41 Report? |
| Officer response: | <i>The recommendation is to amend GRUZ-R6 to reference gross floor area rather than building coverage. This would limit the size of a minor residential unit and in a two storey dwelling, both floors would need to total 90m² gross floor space (excluding garaging, as per the recommendation).</i> |
| 10.49 | Should and or could Matters for Discretion include the number of bedrooms? |
| Officer response: | <i>This could, however living space could be converted into a bedroom at a later date and any condition on a resource consent restricting the number of bedrooms would be hard to enforce.</i> |
| 10.57 | Should recommended GRUZ-R7.1.b be underlined? |
| Officer response: | <i>Yes, this is an error and this should be underlined as an insertion. (see 3 below).</i> |
| 10.71 | In terms of your explanation, would a new roadside stall selling a range of goods produced on 100m ² of a larger site using an existing direct access to a State Highway be permitted? |
| Officer response: | <i>If the roadside stall is within the State Highway road boundary I understand that permission from WK (NZTA) is required. If the roadside stall is on private land, it would be permitted to use an existing vehicle crossing to access the State Highway provided the area of land (including buildings) on site used for vending produce is no greater than 100m².</i> <i>I also note that in the notified PDP, Rule TRAN-R7 restricts vehicle movements onto a State Highway to 30 ecm/d per site however I have recommended (through the S42a report authored by me on the Transport Hearing Stream) that this particular provision as it relates to State Highways be deleted on the basis that this is linked to amenity rather than any traffic or safety concerns. In the context of GRUZ, the small scale of a permitted rural selling place/commercial activity, being 100m² is likely to be the primary method of limiting traffic generation.</i> <i>A new vehicle crossing would however require resource consent where it connects to a State Highway under rules in the Transport Chapter.</i> |
| 10.98 | Should there be any restrictions on the research activity "buildings" and if so, what should they be? For example: Would any of GRUZ-REQ1:Building Coverage, GRUZ-REQ2 Height or GRUZ-REQ4 Structure Setbacks, GRUZ-REQ10 Sensitive |

| Paragraph or Plan reference | Question from the Hearings Panel |
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| | Activity Setback from Intensive Primary Production, or GRUZ-REQ11 Sensitive Activity Setback from Mineral Extraction be appropriate? |
| Officer response: | <i>This would be captured by GRUZ-R2, which applies to non-residential structures. I consider these standard restrictions are appropriate and there does not need to be a specific restriction (e.g. limit building size to 100sqm).</i> |
| 10.150.2 | <p>Would it be clearer if GRUZ-R21 <u>20.1</u> (second a) read (or similar wording):</p> <p>The activity is setback from the notional boundary of any lawfully established residential activity or visitor accommodation, or the site boundary of any lawfully established community or educational facility, <u>except where those sensitive activities are located on the same site</u></p> |
| Officer response: | <i>Yes, I agree that this would be clearer. (see 3 below).</i> |
| 10.246 | <p><i>Whilst desirable to use natives, there are occasions when exotic species have to be used to fulfil a particular purpose – for example poplars for slope stability on erosion prone land.</i></p> <p>Do you think that this statement is accurate as both kanuka and manuka are grown to prevent slope erosion?</p> <p>While poplars do a great job of preventing slope erosion, kanuka and manuka also do a great job and perhaps they're more appropriate examples, in light of the NZ Policy Statement for Indigenous Biodiversity and Council's biodiversity strategy noted in paragraph 9.12 of the s42A report. While the policy statement and strategy are not operational yet do you think it wise to anticipate they will be operational at least before the next plan review?</p> |
| Officer response: | <i>Whilst kanuka and manuka do a great job at slope stability they take time to grown and become established. Poplars (and willows) grow rapidly and can provide slope and stream bank stability much faster. The poplars and willows can allow initial stabilisation as a cover crop for the natives. After the natives have established, the poplars and willows can be removed allowing the natives to perform erosion control functions.</i> |
| 11.5.7.1 | <p>Would it be clearer if recommended GRUZ-REQ8.1 read (so as to avoid the interpretation that it is only the wastewater treatment system that is to be associated with intensive primary production):</p> <ol style="list-style-type: none"> All paddocks, hard stand areas, structures, buildings and areas of paved or otherwise impervious material used to house stock, and <u>any</u> wastewater treatment systems <p>associated with intensive primary production, shall be located a minimum distance of 300m from the notional boundary of any lawfully established existing sensitive activity on another site, and 1km from any residential zone</p> <p>Should GRUZ-REQ8.3.b, c and d mirror precisely the recommended list of activities in GRUZ-REQ8.1?</p> |
| Officer response: | <p><i>Yes, I agree that would read more clearly as all of the other items are associated with intensive primary production and should be subject to the setback.</i></p> <p><i>I agree that the language in the list in GRUZ-REQ8.3 b, c and d should mirror that of GRUZ-REQ8.1 where possible and where scope allows. For example 'b' should read 'the location of the paddock, building, yard, paddock, building, structure or impervious area housing stock' and 'd' should read 'the location and design of the effluent storage area wastewater treatment system'. These changes could be made under Clause 16</i></p> |

| Paragraph or Plan reference | Question from the Hearings Panel |
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| | <i>(2) RMA as they are amending the language for consistency. In terms of clause 'c', this relates only to the design of 'building' and I am unsure there is scope to insert other activities listed in GRUZ-REQ8.1 (nor is there likely a need as the effects from paddocks and impervious surfaces are more about their location than design).</i> <i>(see 3 below).</i> |
| 11.28.1 | Do we need to consider the size of the pump-stations where they are used for example in conjunction with a farm implement shed? |
| <i>Officer response:</i> | <i>It could be made clear in the rule requirements that this relates to sheds only used to house pumping equipment and not to house other equipment. Another option would be to restrict pump sheds to a size limit of 10m² within the setbacks listed for structures in GRUZ-TABLE1.</i> |
| 11.64 | Can you please also consider the issue raised in the question on GRUZ-REQ8.1 in relation to GRUZ-REQ9.1? |
| <i>Officer response:</i> | <i>Yes, I agree that a similar change here would improve clarity as to what is associated with intensive primary production.</i> <i>(see 3 below).</i> |
| 14.2.1 | As the underlying split rural density was a drafting error – does the land that was SCA-RDA1 adjoin a residential zoning (Lincoln)? |
| <i>Officer response:</i> | <i>The land that is currently shown as SCA-RD1, west of Ellesmere Road and mostly north of Moirs Lane (apart from a small portion immediately south of Moirs Lane) adjoins Lincoln Township and land that is zoned for residential use. This is a drafting error and should be mapped as SCA-RD2. The Operative District Plan shows Ellesmere Road as the boundary between the Inner and Outer Plains and the intent is to maintain this approach in the PDP.</i> |
| 14.5.3 | Could the the 60m contour be amended to the CRC standard as a consequential amendment if we were to accept your recommendation for DPR-0182:001 Joshua Thomas? |
| <i>Officer response:</i> | <i>Yes this could be amended as a consequential amendment. This would ensure a consistent approach to measuring the 60m contour.</i> |
| 14.8 14.9 14.10 14.11 | When are the respective rezoning hearings scheduled for? |
| <i>Officer response:</i> | <i>While no hearing dates have been set, it is expected that these will take place in mid-2023 following the Variation ISSP hearing process.</i> |
| 15.2 | Could using the name 'celebration trees' include any celebration such as, commemorating a life, birth, death, marriage, engagement etc? |
| <i>Officer response:</i> | <i>Yes, the intent was not to limit it to one particular occasion although Christmas is likely to be the primary reason that trees are grown for celebration. Another term that could be used might be 'festive' trees.</i> |
| 15.24 | Ellesmere Motor Racing Club – its acknowledged that more information has been requested of the submitter about their existing and planned use of the race track site, can it be presumed that a landscape plan might be included in the additional information to demonstrate how landscaping can mitigate noise and dust? |
| <i>Officer response:</i> | <i>A landscape plan could be provided depending on EMRC's plans for the racetrack. Given the proposal for reverse sensitivity buffers, the Club may also wish to look at ways of mitigating their own effects at the boundary.</i> |
| | Instead of using terms such as "rural area" or "rural zone" in the provisions would it be clearer to consistently use the term "General Rural Zone". |

| Paragraph or Plan reference | Question from the Hearings Panel |
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| <i>Officer response:</i> | <i>I agree that this would have been preferable and will ensure there is consistent language in the right of reply report.</i> |
| Provision numbering | The S42A officer has not followed the accepted convention for provision numbering when adding or omitting provisions. The key requirement of that convention is to <u>not</u> alter the notified numbering as that can confuse participants. For example, inserting a new provision after Policy 4 would see the new provision labelled “Policy 4A” and all other numbering would remain as notified. Can the author please adopt this approach in the Reply Report, particularly as in the S42A Report the contents of rules do not appear to have been updated to reflect the author’s renumbering of those rules. |
| <i>Officer response:</i> | <i>Thank you, I will ensure that I adopt this approach in the right of reply report.</i> |

2. Discussion on Christchurch International Airport Limited (CIAL) memorandum from Counsel dated 17 February 2022.

1. I note that Counsel acting for CIAL have, in their memo to the Hearings Panel, highlighted the fact that the 55db Airport Noise Control Overlay exists over the top and in addition to the 50db Airport Noise Control Overlay. CIAL in their primary relief for the GRUZ Chapter are seeking that noise sensitive activities are avoided within the 50db overlay through amendments to policy and the activity based rules.
2. In the S42a report for GRUZ I comment at para 9.23.5 that *'Avoiding outright minor residential units within the 50db Airport Noise Control Overlay would also make this a more onerous test than for the same activity within the 55db Airport Noise Control Overlay where it is provided for, subject to noise mitigation standards being met'*. This implies that the 50 and 55db overlays exist in isolation to each other.
3. I accept, based on the memo, that the 50db overlay applies to the area that is also covered by the 55db overlay and therefore retract the point made at para 9.23.5 in the S42a report and any other implication made in the report that they do not overlap. I do not believe at this stage that this changes any of the overall recommendations made in the S42a report.
4. However, I note that CIAL have provided further evidence on the application of specific rules and policy to protect the 50db overlay from noise sensitive activities in the GRUZ Chapter. I will address this comprehensively in the right of reply report after the Hearing.

3. Recommended changes to GRUZ Chapter as a result of questions from the Hearing Panel

Note – this only includes instances where there are clearly recommended changes resulting from questions from the Hearing Panel.

Double strikethrough and underline indicate changes since publication of S42a report.

| GRUZ-01 |
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| Subdivision, use, and development in rural areas that: <ol style="list-style-type: none">1. supports, maintains, or enhances the function and form, character, and amenity value of rural areas;2. prioritises primary production, over other activities to recognise its importance to the economy and wellbeing of the district;3. allows primary production, <u>and those activities that directly support primary production and have a functional or operational need to locate with the rural zone</u>¹, to operate without being compromised by reverse sensitivity and effects from incompatible activities²; and4. retains a contrast in character to urban areas. |

| GRUZ-P5 |
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| Manage the location of community facilities that have a functional need, or operational need to locate in the rural area. ³ <u>‘Provide for the establishment or expansion of community facilities that have a functional, or operational need to locate in the rural zone, whilst maintaining the character and amenity values of the surrounding area’.</u> |

| GRUZ-R7 | Relocated Residential Unit | Activity status when compliance not achieved: |
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| | Activity Status: PER 1. The placement of a relocated building onto land to be used as a residential unit _that complies with <u>GRUZ-SCHED2 Residential Density</u> . Where: 1. The building is <u>either</u> : | |

¹ Lincoln University DPR-0205:001, Plant and Food and Landcare DPR-0213:001, AgResearch Ltd DPR-0342:007, Fonterra DPR-0370:078

² HortNZ DPR-0353:238

³ Waihora Clay Target Club DPR-0422:251

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| | <p>a. shifted within the same property <u>or</u>.</p> <p>b. <u>shifted from off-site and</u>:</p> <p>i. <u>Any relocated residential unit must have been previously designed and built as a residential unit.</u></p> <p>.....</p> | |
| GRUZ-R21-20 | Mineral Extraction | |
| | <p>Activity Status: RDIS</p> <p>....</p> <p>Where:</p> <p>a. The activity is setback from the notional boundary of any lawfully established residential activity or visitor accommodation, or the site boundary of any lawfully established community or educational facility, <u>except where those sensitive activities are located on the same site</u>⁴, by:</p> <p>....</p> <p>Matters for discretion:</p> <p>....</p> | <p>Activity status when compliance not achieved:</p> <p>3. Activity status when compliance with any of GRUZ-R21.1 is not achieved: DIS</p> |
| GRUZ-REQ8 | Intensive Primary Production Setback | |
| | <p><u>a.</u> All paddocks, hard stand areas, structures, buildings <u>and areas of paved or otherwise impervious material</u>⁵ used to house stock, and</p> <p><u>b.</u> <u>any</u> wastewater treatment systemss associated with intensive primary production,</p> <p>shall be located a minimum distance of 300m from the notional boundary of any lawfully established existing sensitive activity on another site, and 1km from any residential zone.</p> <p>N.B. the measurement shall be taken from the outside extent of the building or structure.</p> | <p>Activity status when compliance not achieved:</p> <p>2. When compliance with any of GRUZ-REQ8.1 is not achieved: RDIS</p> <p>Matters for discretion:</p> <p>3. The exercise of discretion in relation to GRUZ-REQ8.2 is restricted to the following matters:</p> |

⁴ Frews Quarries Ltd DPR-0122:020

⁵ NZ Pork DPR-0142:079

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| | | <ul style="list-style-type: none"> a. The effect on amenity from any discharge of odour or dust; b. The location of the building, yard, or paddock <u>paddock, building, structure or impervious area</u>⁶ housing stock; c. The design of the building housing stock; d. The location and design of the effluent storage area-wastewater treatment system;⁷ e. Any mitigation proposed to reduce the effect or dispersion of odour or dust; and <p>The effect on amenity values from traffic movements.⁸</p> <p>Notification:</p> <p>4. Any application arising from GRUZ-REQ8.2 shall not be subject to public notification</p> |
| GRUZ-REQ9 | Intensive Primary Production Location Plan | |
| | <p>Intensive primary production shall be undertaken in accordance with a detailed plan showing the location of all:</p> <p><u>a. paddocks, structures, or buildings</u> hard stand areas, and areas of paved or otherwise impervious material structures, or buildings⁹ used to house stock, and</p> <p><u>b. any</u> wastewater treatment systems associated with the intensive primary production.</p> <p>This plan shall be provided to the Selwyn District Council Planning Manager prior the activity establishing. An updated plan shall be provided to the Selwyn District Council if the activity changes or expands.</p> | <p>Activity status when compliance not achieved:</p> <p>2. When compliance with any of GRUZ-REQ9.1 is not achieved: NC</p> |

⁶ Clause 16 (2) RMA

⁷ Clause 16 (2) RMA

⁸ DPR-0368:042 AgResearch Ltd DPR-0342:018 Synlait Ltd DPR-0420:028

⁹ NZ Pork DPR-0142:079 Consequential