ROTORUA DISTRICT PLAN

SECTION 42A REPORT FOR PROPOSED PLAN CHANGE 10 (DEFINITIONS AND RULE REFINEMENTS)

ADDENDUM 1 – Response to Circulated Submitter Evidence

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Introduction

1. This addendum to the Section 42A Report for Plan Change 10 (Definitions and Rule Refinements) ("**PC 10**") to the Rotorua District Plan has been prepared to address matters raised by submitters in expert evidence circulated prior to the hearing. The addendum is organised by theme, consistent with the analysis of submissions in the Section 42A Report and should be read in conjunction with that report.
2. This addendum was prepared by Craig Batchelar and Jason Ward.
3. Updated recommended changes to the annotated text of the District Plan and recommended decisions on submissions are provided in Appendix 1 and Appendix 2 respectively.

Legislative Changes Since Preparation of the Section 42A Report

1. The evidence of Ms Beneke (planning witness for Kainga Ora) and Ms Stevenson (planning witness for MCERT) raise the implications of the Planning Act 2026, which received Royal assent on 30 September 2026, following preparation of the original Section 42A Report.

2. The Act provides for transitional amendments to the Resource Management Act 1991 (RMA), including a new section 104(1A), which are scheduled to commence one month after Royal assent. This provision requires consent authorities, when considering the effects of district land-use activities, to disregard specified matters.

3. As identified in Ms Stevenson's evidence, the excluded matters include:
   a. Residential design matters, including glazing, balconies, outdoor living space, internal layout, residential unit size and landscaped area size, subject to specified exceptions relating to historic heritage and permeability.
   b. Negative effects on trade competition and effects on retail distribution.
   c. A lack of demand for a project or the fact that a project is not financially viable.
   d. The type of residents to be housed in a new development.
   e. Views from private property.

4. While section 104(1A) applies to resource consents and is not yet in force, I have reconsidered the relevant recommendations in my original Section 42A Report in light of these legislative changes. Their specific implications for individual provisions, including any consequential amendments, are addressed in the sections that follow.

5. These changes obviously will have far wider implications for the implementation of the District Plan, extending beyond the provisions addressed by PC 10. My assessment is confined to the implications of the amendments for the provisions and recommendations addressed through PC 10 and raised in evidence.

Visitor Accommodation

1. Ms Stevenson agrees with the recommendation to adopt the National Planning Standards definition of Visitor Accommodation without modification.

2. The remaining area of disagreement mainly concerns whether the Visitor Accommodation definition encompasses accommodation provided to Emergency Housing Grants (EHG) recipients. The Visitor Accommodation definition does not expressly address this question. Therefore its application depends on its interpretation and the factual circumstances of the particular activity.

3. Ms Stevenson and Mr Fraser raise concerns about whether existing motels can continue to accommodate recipients of EHGs as Visitor Accommodation without requiring resource consent for a change to residential use.

4. In my view, PC 10 is not the appropriate mechanism for resolving the wider question of whether accommodation provided to EHG recipients falls within the definition of Visitor Accommodation, particularly where it is provided more frequently, on a larger scale, or under more formalised arrangements. PC 10 intends to provide clear, consistent definitions and rules which will assist with interpretation of the rules in specific fact situations.

Scope and effect of PC 10

5. I do not agree with Mr Fraser's (witness for MCERT) contention at paragraphs 9.5–9.6 that PC 10 will make the operation of emergency housing more difficult by requiring housing providers to undertake lengthy and costly resource consent processes. PC 10 does not introduce additional resource consent requirements specifically for EHG-funded accommodation. It adopts the National Planning Standards definition of Visitor Accommodation without modification. The interpretation of this definition, including its application to existing motel operations, is a separate matter. The concerns raised in his evidence relate principally to the interpretation and application of the existing District Plan rather than the amendments proposed through PC 10.

Alternative pathway for residential conversion

6. There is an established resource consent pathway for converting existing Visitor Accommodation to Residential Units where consent is required as a restricted discretionary activity to enable assessment against the performance standards relating to residential activity and specified matters of discretion..

7. The amendments proposed in the s42A report provide a more permissive pathway where conversion from Visitor Accommodation to Residential Units occurs. The amendments would permit the conversion of up to three existing Visitor Accommodation units per site, subject to compliance with the applicable performance standards. There is no presumption that accommodating EHG recipients constitutes such a conversion.

8. The upcoming legislative amendments to section 104 of the RMA, discussed earlier in this report are of relevance to this issue. These amendments will exclude consideration of specified residential design matters, including glazing, balconies, outdoor living space, internal layout, residential unit size and landscaped area size, subject to the statutory exceptions relating to historic heritage and permeability.

9. These are some of the design requirements that can present compliance issues when converting existing motel units to residential accommodation. Their exclusion from future resource consent assessments is therefore likely to materially simplify the future consenting pathway for such conversions.

10. Consequently, the principal regulatory considerations for conversions are likely to shift more towards compliance with the Building Act 2004 and Building Code, particularly the requirements triggered by a change of use from visitor accommodation to residential accommodation. These requirements provide a separate regulatory framework addressing matters such as fire safety, sanitary facilities and other relevant building performance requirements.

Proposed additional performance standards

11. Ms Stevenson proposes (at paragraph 12.4) additional performance standards applying generally to Visitor Accommodation, including requirements for a 24-hour contact person, a complaints register, screening of outdoor waste storage areas and restrictions on waste collection and servicing hours.

12. These provisions are more specific than those previously considered during engagement with central government agencies. However, the evidence does not establish a need to introduce additional regulatory requirements across all Visitor Accommodation activities.

13. The proposed performance standards would not apply retrospectively to lawfully established Visitor Accommodation activities. They would therefore have limited relevance to the existing motel stock that is the focus of MCERT's evidence.

14. The proposed standards would also not assist in determining whether EHG-funded accommodation comes within the definition of Visitor Accommodation.

Section 32AA Evaluation

15. I have prepared a s32AA assessment of the two options in the table below.

Description of option	**Option 1** **Retain Section 42A recommendations: National Planning Standards definition and RESZ-R8 conversion amendments.**	**Option 2** **Option 1 plus introduce additional Visitor Accommodation performance standards proposed by MCERT.**
Efficiency and effectiveness in achieving objectives **Relevant objectives** **Residential: RESZ-O1, RESZ-O3, RESZ-O4, RESZ-O5, RESZ-O7, RESZ-O8, RESZ-O10, RESZ-O11, RESZ-O12, RESZ-O14, RESZ-O17.**	Retaining the National Planning Standards definition provides a consistent basis for classifying Visitor Accommodation, while the existing activity rules and performance standards continue to manage its environmental effects.	The additional standards would provide more explicit controls over complaints management, waste storage and servicing. They could assist in managing identifiable operational effects and thereby contribute to achieving the objectives

Description of option	Option 1 **Retain Section 42A recommendations: National Planning Standards definition and RESZ-R8 conversion amendments.**	Option 2 **Option 1 plus introduce additional Visitor Accommodation performance standards proposed by MCERT.**
Commercial: COMZ-O1, COMZ-O2, COMZ-O3, COMZ-O3A, COMZ-O4. **City Centre: CCZ-O1, CCZ-O5, CCZ-O6.** **Rural: RURZ-O3, RURZ-O4, RURZ-O5 and RURZ-O6**	The amendments to RESZ-R8 enable the conversion of up to three existing Visitor Accommodation units to residential use without resource consent, provided the applicable residential performance standards are met. This supports the objectives relating to housing supply and choice while maintaining appropriate residential amenity outcomes. The approach distinguishes the classification of an activity from the management of its effects. It does not resolve every factual question concerning the use of existing motels, but those questions are appropriately addressed through interpretation and administration of the District Plan.	relating to residential character and amenity. However, the existing District Plan framework already regulates relevant environmental effects. The additional standards would apply principally to new activities and would have limited effectiveness in addressing concerns associated with existing motel operations. They would also not resolve the underlying question of whether particular accommodation arrangements constitute Visitor Accommodation or residential use. Their additional contribution to achieving the relevant objectives is therefore limited.
Costs and benefits	Application of national definition promotes consistency. Easier compliance pathway for small scale conversions.	Potential minor amenity benefits but additional compliance costs; Does not apply to existing lawful activities and few anticipated new motels.
Risks	Interpretation of the definition for particular EHG-funded arrangements remains a separate issue.	Risk of unnecessary regulation without resolving the principal issue raised in evidence. Interpretation of the definition for particular EHG-funded arrangements remains a separate issue.

Description of option	Option 1 Retain Section 42A recommendations: National Planning Standards definition and RESZ-R8 conversion amendments.	Option 2 Option 1 plus introduce additional Visitor Accommodation performance standards proposed by MCERT.
Summary	Option 1 is the preferred approach.	

Conclusions and recommendations

16. I acknowledge MCERT's interest in obtaining greater certainty about the application of the Visitor Accommodation definition to EHG-funded accommodation. However, I do not consider it necessary or appropriate to resolve this issue through PC 10. The interpretation issue should be addressed separately through Council's compliance processes, an application for a certificate of compliance or, if necessary, an Environment Court declaration.

17. PC 10 does not introduce additional consenting requirements for EHG-funded accommodation.

18. The recommended amendments to RESZ-R8 would provide a more permissive pathway for residential conversion, while the recent legislative reforms are likely to further simplify the performance standards which apply to conversions that require consent.

19. Accordingly, I retain my original Section 42A recommendations concerning Visitor Accommodation and do not recommend any further amendments in response to the evidence of Ms Stevenson and Mr Fraser.

Community Housing Assessment Criteria

1. In her evidence, Ms Beneke supports most of the recommendations concerning Community Housing. The remaining area of disagreement concerns the additional Community Housing-specific matters of discretion proposed in my original Section 42A Report, namely RESZ-MD4, COMZ-MD7, CCZ-MD4 and RURZ-MD5.

2. The suggested specific matters of discretion are worded as follows:

   > *"The extent to which the location and interface of the activity with nearby sensitive activities or places may give rise to adverse effects, having regard to matters such as site layout, access, lighting, fencing, security measures, supervision arrangements and other operational characteristics of the Community Housing activity."*

3. Ms Beneke considers that these additional matters are unnecessary because the District Plan's existing assessment framework adequately addresses the relevant environmental effects. She also raises concerns that references to security measures, supervision arrangements and other operational characteristics could invite consideration of matters relating to the characteristics and management of residents rather than environmental effects of the activity.

4. The proposed rules provide for Community Housing accommodating up to eight persons, including staff, as a permitted activity, subject to compliance with the applicable performance standards. Where those standards are not met, restricted discretionary activity consent is generally required. The proposed rules also establish a restricted discretionary activity pathway for Community Housing accommodating more than eight persons, subject to compliance with the applicable performance standards.

5. The question raised by Ms Beneke's evidence is whether the existing matters of discretion provide sufficient scope to assess the environmental effects of larger Community Housing activities, or whether additional matters are necessary. In considering this, I have distinguished between the effects arising from the scale and intensity of an activity and matters relating to the characteristics or management of its residents.

6. My assessment is summarised in the following table. My assessment is summarised in the following table. It identifies the matters of discretion that would remain applicable to larger-scale Community Housing if the proposed Community Housing-specific matters were deleted and assesses whether any additional discretion is required.

Zone	Existing general matters of discretion for Community Housing	Assessment
Residential	RESZ-MDB – Four or more residential or rest home units; RESZ-MD1 – Natural hazards; RESZ-MD2 – Financial contributions.	RESZ-MDB provides substantial scope to assess the physical design and environmental effects of larger Community Housing activities: 1. Design, layout and appearance of the development. 2. Safety, amenity and attractiveness of streets and public open spaces. 3. Quality of on-site living environments, insofar as effects are not otherwise managed by performance standards. 4. Effects on adjoining sites, insofar as they are not otherwise managed by performance standards. An additional Community Housing-specific matter of discretion is unnecessary for Residential Zones.
Commercial	COMZ-MD1 – Building design and site layout; COMZ-MD4 – Natural hazards; COMZ-MD6 – Financial contributions.	COMZ-MD1 provides scope to assess some of the environmental effects of larger Community Housing developments:

Zone	Existing general matters of discretion for Community Housing	Assessment
		1. The design, layout, and appearance of development. 2. Effects on the safety, amenity and attractiveness of the street and public open spaces. 3. The location and design of parking, access, and servicing. 4. The design and layout of residential units and rest homes The matters of discretion do not expressly address effects on adjoining sites. An additional Community Housing-specific matter of discretion would be necessary to address effects on adjoining sites, insofar as they are not otherwise managed by performance standards.
City Centre	CCZ-MDA – Building design and site layout; CCZ-MDB – Parking, access and turning; CCZ-MDC – Noise; CCZ-MD1 – Natural hazards; CCZ-MD3 – Financial contributions.	CCZ-MDA provides scope to assess some of the environmental effects of larger Community Housing developments: 1. The design, layout, and appearance of development 2. Effects on the safety, amenity and attractiveness of the street and public open spaces. 3. For buildings greater than 25m in height: wind effects on streets and public open spaces. 4. The location and design of parking, access and servicing 5. The design and layout of residential units and rest homes An additional Community Housing-specific matter of discretion would be necessary to address effects on adjoining sites, insofar as they are not otherwise managed by performance standards.
Rural	RURZ-MD1 – Natural hazards; RURZ-MD3 – Financial contributions;	The existing matters do not provide an equivalent framework for assessing the effects of larger Community Housing activities on

Zone	Existing general matters of discretion for Community Housing	Assessment
		rural character and amenity and adjoining land uses. An additional Community Housing-specific matter of discretion would be necessary to address rural character and amenity, and effects on adjoining sites insofar as they are not otherwise managed by performance standards.

7. I agree with Ms Beneke that the additional Community Housing-specific matters of discretion are unnecessary in their proposed form.

8. In the Residential Zones, RESZ-MDB provides sufficient scope to assess the relevant environmental effects of larger Community Housing activities.

9. In the Commercial and City Centre Zones, the existing matters of discretion provide substantial scope to assess building design, site layout, access and the relationship of development with streets and public spaces. However, they do not expressly provide for assessing effects on adjoining sites where those effects are not otherwise managed by performance standards. I therefore recommend incorporating an additional, generally expressed matter of discretion for these effects, as follows:

   "Effects on adjoining sites, insofar as they are not otherwise managed by performance standards".

10. In the Rural Zones, the existing matters incorporated into the larger-scale Community Housing rule are insufficient because they are limited principally to natural hazards and financial contributions. Rather than retaining a Community Housing-specific matter of discretion, I recommend incorporating the relevant general matters already provided for Community Housing under RURZ-R17, adapted to apply to activities accommodating more than eight persons. These would address rural character and amenity and effects on adjoining land uses as follows:

    a. The extent to which the activity adversely affects the character and amenity values of the zone.
    b. Effects on adjoining sites, insofar as they are not otherwise managed by performance standards.

11. These amendments would provide sufficient scope to assess the relevant environmental effects of larger Community Housing activities without introducing criteria directed at security, supervision or the characteristics of residents.

Section 32AA Evaluation

12. I have prepared a s32AA assessment of the three options in the table below.

Description of option	Option 1 Community Housing-specific matters of discretion recommended in the original Section 42A Report.	Option 2 Delete all additional Community Housing-specific matters of discretion and rely on existing general matters.	Option 3 Delete additional specific matter in Residential, Commercial and City Centre and Rural Zones. Include an additional discretion for effects on adjoining sites, in Commercial and City Centre and Rural Zones.
Efficiency and effectiveness in achieving objectives **Relevant objectives** **Residential: RESZ-O1, RESZ-O3, RESZ-O4, RESZ-O5, RESZ-O7, RESZ-O8, RESZ-O10, RESZ-O11, RESZ-O12, RESZ-O14, RESZ-O17.** **Commercial: COMZ-O1, COMZ-O2, COMZ-O3, COMZ-O3A, COMZ-O4.** **City Centre: CCZ-O1, CCZ-O5, CCZ-O6.** **Rural: RURZ-O3, RURZ-O4, RURZ-O5 and RURZ-O6**	The additional Community Housing-specific matters of discretion provide an explicit framework for assessing potential effects associated with larger Community Housing activities. They could assist in achieving objectives relating to residential character, amenity and the management of non-residential activities. However, the existing matters of discretion in the Residential, Commercial and City Centre Zones already provide for the assessment of relevant environmental effects. The additional provisions would largely duplicate this framework. References to security measures and supervision arrangements may also extend assessment beyond the environmental effects of land use. The additional provisions would therefore provide limited improvement in effectiveness while introducing unnecessary complexity.	Relying on the existing matters of discretion would simplify the regulatory framework and avoid duplication. In the Residential, Commercial and City Centre Zones, the existing assessment provisions provide an appropriate basis for considering the environmental effects of larger Community Housing activities. This option would therefore improve regulatory efficiency but potentially reduce effectiveness in achieving the Commercial and City Centre and Rural Zone objectives.	This option retains the existing assessment framework in the Residential, Commercial and City Centre Zones and Rural Zones, where many of the relevant environmental effects of larger Community Housing activities can already be assessed. Removing the additional matters avoids duplication and focuses assessment on effects relevant to achieving the applicable zone objectives. The revised provision addresses gap in the discretion over effects on adjoining sites in the Commercial and City Centre and Rural Zones. This option provides an efficient regulatory framework without reducing the ability to assess relevant environmental effects. It also maintains an appropriate distinction between the management of land-use effects and matters relating to the characteristics of residents.

Costs and benefits	Explicit criteria but increased complexity and potentially duplicated information requirements. Addresses some matters that are excluded under legislative reform.	Lower assessment costs but potential gap for relevant rural effects under restricted discretion.	Reduces unnecessary requirements and maintains ability to assess relevant effects; clearer scope of discretion.
Risks	Duplication, inconsistent interpretation and consideration of matters insufficiently connected to environmental effects.	Potentially inadequate assessment framework for offsite effects of larger Community Housing in the Commercial and City Centre and Rural Zones.	There is limited information uncertainty because the amendments concern the scope of assessment rather than introducing a new activity or predicting new environmental effects.
Summary	Option 3 is preferred.		

Conclusion and Recommendation

12. Having considered Ms Beneke's evidence and undertaken the Section 32AA evaluation, I recommend:

a. Deleting RESZ-MD4 and relying on RESZ-MDB and the other existing matters of discretion.

b. Deleting COMZ-MD7 and CCZ-MD4 and adding the following matter of discretion to the respective larger-scale Community Housing rules:

"Effects on adjoining sites, insofar as they are not otherwise managed by performance standards".

c. Deleting RURZ-MD5 and incorporating matters of discretion based on RURZ-R17:

"a. The extent to which the activity adversely affects the character and amenity values of the zone.

b. Effects on adjoining sites, insofar as they are not otherwise managed by performance standards."

Boundary Adjustment Definition and Performance Standard SUB-S11

1. Expert planning evidence has been received by Mr Darren Clark of Mckenzie & Co Consultants Limited (MCCL).

2. Mr Clark's expert evidence addresses the following matters:

   a. Definition for boundary adjustment and removal of duplication between the performance standards and the definition; and

b. The boundary adjustment performance standards when an activity does not comply with the standards.

3. The section of the s42A report relating to boundary adjustments was informed by the implementation experience of the Council's Manager of Consenting, Mrs Lorelle Barry, and was supported by a brief statement of evidence from Mrs Barry.

Definition of Boundary Adjustment

4. Mrs Barry, Mr Clark and I agree with the inclusion of a definition to provide clarity.

5. Further, in Mr Clark's opinion, the following performance standard is no longer required, as this requirement is now contained within the definition.

a. No additional lots or lease areas for which a Computer Register (Certificate of Title) can be issued shall be created; and

6. I agree with Mr Clark. Therefore, I recommend that the following is now struck out of the performance standards:

SUB-S11 Boundary adjustments

1. The subdivision standards for the zone shall not apply to subdivision undertaken for the adjustment of boundaries between adjoining lots except that the subdivision standards shall apply when compliance is not achieved with SUB-S11(1)(d). Subdivision undertaken for the purposes of a boundary adjustment shall comply with the following:
   a. ~~No additional lots or lease areas for which a Computer Register (Certificate of Title) can be issued shall be created;~~ and
   b. The adjustment ~~or relocation~~ of boundaries shall leave the resulting record of title ~~Computer Register (Certificate of Title)~~ with similar areas to that existing prior to subdivision; and
   c. The adjustment o~~r relocation~~ of boundaries shall not increase the degree of non-compliance of any existing record of title ~~Computer Register (Certificate of Title)~~ or lease area, with the site design performance standards contained in this part for the zone.
   d. In rural zones, the adjustment ~~or relocation~~ of boundaries shall not result in lifestyle-sized lots (less than 4 hectares) for which there was not an allocation.

Boundary Adjustment performance standards

7. The matters that remain in contention are:

- Whether the inclusion of "*except that the subdivision standards shall apply when compliance is not achieved with SUB-S11(1)(d)"* within the rule framework of SUB S11(1) either adds certainty and clarity (purpose of the plan change) and is an appropriate response to an existing implementation issue.

- Mr Clark maintains his position that a boundary adjustment should not be subject to the same standards as a straight subdivision that is creating a lifestyle lot.

- Mr Clark is of the opinion that the existing provisions, with the added definition, are clear and intended. He considers that the proposed amendments undermine the purpose of a boundary adjustment and do not provide sufficient weight to 'adjusting' the boundaries between two existing titles.

8. The outstanding issue that needs to be resolved through this process is:

    - Whether there is currently uncertainty within the Boundary Adjustment standards; and if there is, what is the appropriate policy resource management response.

9. A boundary adjustment that complies with the performance standards is a Controlled Activity (SUB-R26(1). The issue arises when a rural boundary adjustment is a significant adjustment between two adjoining (rural) lots and the boundary adjustment introduces a lifestyle sized lot.

10. Where a boundary adjustment does not comply with the boundary adjustment standards it is then a Discretionary Activity. As a Discretionary Activity, Council has the full discretion to assess the proposal against the objectives and policies of the District Plan and assess the effects of the activity. Then, in terms of section 104 (decision making), to make an assessment of environmental effects and the degree of those effects, including whether there are any positive effects proffered and whether there needs to be any environmental off-setting.

11. While on the face of it a Discretionary Activity provides Council with the ability to assess all 'adverse effects' of an application, without direct linkage to SUB-S6, the question arises as to whether an allocation is needed to be created or whether simply starting with two titles and ending (post boundary adjustment) with two titles is sufficient, without any requirement to consider the creation of an additional lifestyle lot in the environment.

12. SUB-AC1 – General Assessment Criteria applies to a Discretionary Boundary Adjustment. These assessment criteria contain matters on which Council may impose conditions including protection of vegetation, retirement of pasture, and whether opportunities for re-vegetation have been taken. (Refer Sub-R26(2).

13. A boundary adjustment that creates a lifestyle lot, where there is no allocation and where a lifestyle lot was not present pre-boundary adjustment, may create land fragmentation that is beyond what the District Plan anticipates. (Objectives SUB – 01, 02 and Policies SUB P33, 35A and 38).

14. Mrs Barry, therefore, seeks clarification that the District Plan provides for lifestyle lots through either an existing allocation (title date and size) or through environmental enhancement. Mrs Barry's concern is that creating a lifestyle lot through a boundary adjustment may undermine the objectives

and policies of the District Plan. Therefore, clarification is required. That is the purpose of the plan change in relation to boundary adjustment as addressed in the Section 32 Report.

15. I understand that there has been a lot of debate between applicants and Council and this is leading to the inefficient processing of some resource consents (subdivision) for boundary adjustments.

16. Mr Clark's opinion, through his experience as a Consents Planner and Consultant Planner, is that the provisions are currently certain in terms of what needs to be assessed, and that no further clarification is required. His planning opinion remains that the rules and standards specifically do not require the lifestyle lot allocation rules to be assessed as part of a Discretionary Activity application.

17. Having considered the evidence of Mr Clark and Mrs Barry I understand that:
    - Mr Clark's opinion is that the current Operative District Plan is clear and not ambiguous. This opinion I believe is due to Mr Clark maintaining the opinion that a boundary adjustment should not need to have a lifestyle lot allocation – i.e. it defeats the purpose of a boundary adjustment if you also need to create an allocation.
    - Mrs Barry's opinion is that in certain circumstances, Council needs the ability to assess the proposal against the allocation standards – i.e. a boundary adjustment provides for an enduring fragmentation of land creating smaller lots than the District Plan anticipates in the rural zone. The District Plan provides a framework for this that, in Mrs Barry's opinion, may be circumvented through a large scale boundary adjustment.

18. Both Mrs Barry and Mr Clark have indicated that they are open to further engagement on developing a suite of Restricted Discretionary Activity criteria. If there is scope to introduce, through this plan change, a restricted discretionary activity status this does have merit. This could be explored further by the relevant parties.

19. However, if the development of Restricted Discretionary Activity criteria is out of scope then I would recommend retention of the notified provisions.

20. The retention of the notified provisions provides for an "allocation" to be assessed as part of a Discretionary Activity where a lifestyle sized lot is now being created. Council may or may not require environmental enhancement. This will depend on site specific characteristics and the level of effects. While, SUB-AC1 of the Operative District Plan provides Council the discretion to impose conditions for environmental enhancements, this has led to difference in planning opinions.

21. This in my opinion, on balance, provides the ability to clearly articulate the direction (through the objectives and policies) of the District Plan to assess all the effects, including positive effects, of creating a lifestyle sized lot through either a full subdivision process or through a boundary adjustment. There is, of course, discretion for Council to not require positive effects / environmental enhancement, where the degree of adverse effects is of a scale that does not warrant the further mitigation measures.

Section 32AA Evaluation

Boundary Adjustment, Definition and Performance Standards

22. I have prepared a Section 32AA assessment of the three options in the table below.

Description of option	**Option 1** Retain Section 42A recommendations: National Planning Standards definition and amendment to rural standards in SUB-S11.	**Option 2** Retain the National Planning Standards Definition and revert back to the Operative District Plan's standards of SUB-S11 and rely on Discretionary Activity status for rural boundary adjustments that do not comply with all of the performance standards.	**Option 3** Retain Section 42A recommendation for insertion of National Policy Statement definition. Create a Restricted Discretionary Activity status and assessment criteria for subdivisions that do not comply with the boundary adjustment performance standards.
Efficiency and effectiveness in achieving objectives Relevant objectives Subdivision: Rural Objectives, SUB 01, 02, 08, 10. Rural Policies, P1, P3, P4, P30, P32, P33, P34, P35, P35A, P38 and P39.	Retaining the National Planning Standards definition provides a consistent basis for defining a Boundary Adjustment, while the existing (notified) activity rules and performance standards continue to manage its environmental effects.	The addition of the National Planning Standard's definition provides for efficiency in achieving the objectives. However, there is confusion as to whether the application for a boundary adjustment that results in a lifestyle sized lot is required to be assessed against the lifestyle lot allocation standards and where the boundary adjustment results in additional effects, whether the environmental enhancement standards are applicable. This option therefore does not add any clarification or certainty to plan users. The objectives and policies are not met by this option. This option does not resolve the underlying question of the relevant assessment requirements for a rural boundary adjustment not complying with SUB 11 (1d)	A clear definition along with specific assessment criteria for a Restricted Discretionary Activity provides the greatest efficiency and effectiveness in achieving the objectives and policies. This provides a clear consenting pathway for rural subdivisions that do not comply with all of the performance standards – in particular where the boundary adjustment results in a lifestyle lot where there was no allocation pre-boundary adjustment.
Costs and benefits	Application of national definition promotes consistency.	Discretionary Activity standard is clear, however, this still does not resolve the	Benefits are a clear assessment criteria and activity status for

		plan interpretation issue of the weight of two existing titles compared with environmental enhancement.	lifestyle sized lots created through a boundary adjustment (where a lifestyle lot did not exist previously).
Risks		Continued debate at the time of processing rural boundary adjustments as to whether the creation of a lifestyle lot through a boundary adjustment also needs to consider the enhancement standards. Leading to inefficiency and lack of confidence in the plan.	Whether there is scope to introduced a Restricted Discretionary Activity classification.
Summary	Option 3 is preferred approach, if it is considered within scope, if not Option 1 remains the preferred option.		

Recommended Changes to Notified Annotated Text

Rule RESZ-R8

Issue

1. The drafting of the changes to Rule RESZ-R8 recommended in the Section 42A Report repeats the 'where' statement from RESZ-R8(1) in Rule RESZ-R8(2). However, the style of the Rotorua District Plan is not to repeat such where statements where a rule cascades from the left-hand column to the right-hand column due to non-compliance with performance standards. Drafting the rule inconsistently with this style could create confusion. The same issue exists in the drafting of Rule RESZ-R8(4), which repeats the 'where' statement from Rule RESZ-R8(3) inconsistently with the style of the District Plan.

Recommendation

2. The recommended track changes to Rule RESZ-R8 are updated as shown with yellow highlighting:

Applicable Spatial Layers Residential 1, 2, 3 and 4 Zones	1. **Activity Status**: Permitted Where: a. There are no more than 3 residential units per site. b. Prior to commencement of the residential use, the	2. **Activity Status**: Restricted Discretionary **Where:** a. There are no more than 3 residential units per site. [Delete]

	owner or occupier has provided the Council with information demonstrating compliance with the applicable performance standards. Performance Standards: a. Height RESZ-S1; b. Yards RESZ-S2; c. Site coverage RESZ-S3; d. Residential unit density RESZ-S4; e. Parking, access and turning RESZ-S5; f. Design and Landscaping RESZ-S6A. g. Residential 4 Zone: Reflectivity RESZ-S6.	b. Compliance is not achieved with the performance standards for RESZ-R8(1). **Matters of Discretion:** a. The reason for the non-compliance with performance standards and the extent to which the activity will avoid, remedy or mitigate the effects of the non-compliance in achieving the purpose of the relevant performance standard and the objectives and policies relevant to the matter of discretion; b. The extent to which the activity adversely affects the character and amenity values of the zone; c. Natural hazards RESZ-MD1; and d. Financial contributions RESZ-MD2.
Applicable Spatial Layers Residential 1, 2, 3 and 4 Zones	3. **Activity Status:** Restricted Discretionary Where: There are four or more residential units per site. **Performance Standards:** a. Height RESZ-S1; b. Yards RESZ-S2; c. Site coverage RESZ-S3; d. Residential unit density RESZ-S4; e. Parking, access and turning RESZ-S5; and f. Design and landscaping RESZ-S6A; and g. Residential 4 Zone: Reflectivity RESZ-S6. **Matters of Discretion:** a. As for Four or more residential or rest home units RESZ-MDB; b. Natural hazards RESZ-MC5; and c. Financial contributions RESZ-MC6.	4. **Activity Status:** Restricted Discretionary **Where:** a. There are four or more residential units per site [Delete] b. Compliance is not achieved with the performance standards for RESZ-R8(3). **Matters of Discretion:** a. The reason for the non-compliance with performance standards and the extent to which the activity will avoid, remedy or mitigate the effects of the non-compliance in achieving the purpose of the relevant performance standard and the objectives and policies relevant to the matter of discretion; b. Residential units and rest homes – specific non-compliance matters RESZ-MDA; c. As for Four or more residential or rest home units RESZ-MDB; d. Natural hazards RESZ-MD1; and e. Financial contributions RESZ-MD2.

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Rule CCZ-R16B

Issue

1. The drafting of Rule CCZ-R16B recommended in the Section 42A Report leaves the status of shared residential accommodation in the City Centre 1 Zone with less than 8 persons but located on the ground floor where the unit has frontage to a street or public open space unclear, as this situation is not consistent with any of the 'where' statements outlining the application of each part of the rule.

Recommendation

2. The recommended changes to address this issue and clarify that shared residential accommodation on the ground floor where a unit has frontage to a street or public open space is discretionary, regardless of the number of residents, is shown below with yellow highlighting.

Applicable Spatial Layers City Centre 1 Zone	**4.** **Activity Status:** Discretionary **Where** a. More than 8 persons (including resident staff) reside on site, and, [Delete] b. The activity is located on the ground floor where the unit has frontage to a street or public open space. **Assessment Criteria** COMZ-AC1 General

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APPENDICES

Appendix 1: Updated Recommended Changes to the District Plan Text.
Appendix 2: Updated recommended decisions on submissions.

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