



Proposed Timaru District Plan

Section 42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Natural Features and Landscapes

Report on submissions and further submissions

Author: Liz White

Date: 9 October 2024

Contents

List of Submitters and Further Submitters Addressed in this Report:.....	9
Original Submitters	9
Further Submitters.....	10
Abbreviations Used in this Report:	10
1. Introduction	12
1.1 Experience and Qualifications.....	12
1.2 Purpose and Scope of this Report.....	12
1.3 Procedural Matters	13
2. Topic Overview	14
2.1 Summary of Relevant Provisions of the PDP	14
Operative Plan.....	14
PDP - ECO Chapter, APP5 and SCHED7	15
PDP - NATC Chapter	15
PDP - NFL Chapter and Schedules 8-10.....	16
2.2 Background to Relevant Provisions	16
3. Overview of Submission and Further Submissions.....	17
4. Relevant Statutory Provisions.....	19
5. Statutory Instruments.....	20
5.2 Matters of National Importance – Section 6 of the RMA	20
5.3 National Policy Statement for Indigenous Biodiversity (NPSIB)	20
5.4 Canterbury Regional Policy Statement (CRPS).....	21
6. Analysis and Evaluation of Submissions	22
6.1 Approach to Analysis.....	22
6.2 Provisions where no Change Sought	24
6.3 Matters to be Considered in Other Hearings.....	24
7. Ecosystems and Indigenous Biodiversity Provisions.....	25
7.1 Broad Submissions	25
Submissions.....	25
Analysis	28
Conclusions and Recommendations	31
7.2 Mapping / Scheduling of Sites and Areas	35
Submissions.....	35
Analysis	37
Conclusions and Recommendations	39
7.3 Introduction	40
Submissions.....	40

Analysis	41
Conclusions and Recommendations	41
7.4 Objectives.....	42
Submissions.....	42
Analysis	43
Conclusions and Recommendations	44
7.5 Policies – General.....	44
Submissions.....	44
Analysis	44
Conclusions and Recommendations	45
7.6 Assessment and Identification (ECO-P1 and APP5)	45
Submissions.....	46
Analysis	47
Conclusions and Recommendations	47
7.7 Appropriate Clearance in SNAs (ECO-P2).....	48
Submissions.....	48
Analysis	49
Conclusions and Recommendations	52
7.8 Protection of SNAs (ECO-P5).....	52
Submissions.....	53
Analysis	55
Conclusions and Recommendations	56
7.9 Protection in Sensitive Areas (ECO-P3).....	57
Submissions.....	58
Analysis	59
Conclusions and Recommendations	59
7.10 Protection for Long-Tailed Bats (Bat Protection Area Overlay, ECO-P4 and ECO-R4).....	59
Submissions.....	60
Analysis	61
Conclusions and Recommendations	63
7.11 New Policies	65
Submissions.....	65
Analysis	65
Conclusions and Recommendations	65
7.12 Rules – General	66
Submissions.....	66
Analysis	66

Conclusions and Recommendations	67
7.13 ECO-R1	67
Submissions.....	68
Analysis	71
Conclusions and Recommendations	75
7.14 Natural Hazard Mitigation Clearance - ECO-R2	78
Submissions.....	78
Analysis	79
Conclusions and Recommendations	80
7.15 National Grid – ECO-R3	81
Submissions.....	81
Analysis	82
Conclusions and Recommendations	82
7.16 Earthworks in SNAs – ECO-R5	83
Submissions.....	84
Analysis	85
Conclusions and Recommendations	87
7.17 Subdivision - ECO-R6.....	89
Submissions.....	89
Analysis	90
Conclusions and Recommendations	91
7.18 Planting of Potential Pests – ECO-R7	91
Submissions.....	91
Analysis	91
Conclusions and Recommendations	92
7.19 New Rules	93
Submissions.....	94
Analysis	94
Conclusions and Recommendations	94
7.20 Definitions relating to ECO Chapter.....	94
Submissions.....	95
Analysis	97
Conclusions and Recommendations	99
7.21 Other Matters	99
Submissions.....	99
Analysis	99
Conclusions and Recommendations	100

8.	Natural Character Provisions	101
8.1	Broad Submissions	101
	Submissions.....	101
	Analysis	102
	Conclusions and Recommendations	103
8.2	Objective – NATC-O1	103
	Submissions.....	103
	Analysis	103
	Conclusions and Recommendations	104
8.3	Policies – General.....	104
	Submissions.....	104
	Analysis	104
	Conclusions and Recommendations	105
8.4	Natural Character Values and Incentives (NATC-P1 and NATC-P3).....	105
	Submissions.....	105
	Analysis	106
	Conclusions and Recommendations	107
8.5	Preservation of Natural Character (NATC-P4)	107
	Submissions.....	108
	Analysis	109
	Conclusions and Recommendations	110
8.6	Anticipated Activities, Building and Structures (NATC-P5 and NATC-P6).....	111
	Submissions.....	111
	Analysis	112
	Conclusions and Recommendations	115
8.7	New Policies	116
	Submissions.....	117
	Analysis	117
	Conclusions and Recommendations	117
8.8	Rules – General	117
	Submissions.....	117
	Analysis	118
	Conclusions and Recommendations	118
8.9	NATC-R1 – Vegetation Clearance.....	118
	Submissions.....	119
	Analysis	120
	Conclusions and Recommendations	121

8.10	Vegetation Planting - NATC-R2	122
	Submissions.....	123
	Analysis	123
	Conclusions and Recommendations	123
8.11	Earthworks – NATC-R3	123
	Submissions.....	124
	Analysis	126
	Conclusions and Recommendations	127
8.12	Fences, Buildings and other Structures – NATC-R4 and NATC-R5	129
	Submissions.....	129
	Analysis	130
	Conclusions and Recommendations	130
8.13	Subdivision - NATC-R6.....	131
	Submissions.....	131
	Analysis	132
	Conclusions and Recommendations	132
8.14	Definitions relating to NATC Chapter.....	132
	Submissions.....	133
	Analysis	133
	Conclusions and Recommendations	134
9.	Landscape Provisions	135
9.1	NFL Chapter – Broad Submissions	135
	Submissions.....	135
	Analysis	137
	Conclusions and Recommendations	138
9.2	NFL Chapter – Mapping / Scheduling	138
	Submissions.....	139
	Analysis	141
	Conclusions and Recommendations	144
9.3	NFL Chapter – Objectives.....	147
	Submissions.....	147
	Analysis	147
	Conclusions and Recommendations	147
9.4	NFL Chapter – Appropriate Use and Development (NFL-P2).....	147
	Submissions.....	148
	Analysis	148
	Conclusions and Recommendations	149

9.5	NFL Chapter – Visual Amenity Landscapes (NFL-P3)	150
	Submissions	150
	Analysis	151
	Conclusions and Recommendations	151
9.6	NFL Chapter – Protecting ONFs and ONLs (NFL-P4)	151
	Submissions	152
	Analysis	153
	Conclusions and Recommendations	154
9.7	NFL Chapter – New Policies	154
	Submissions	154
	Analysis	155
	Conclusions and Recommendations	155
9.8	NFL Chapter – Rules - General	155
	Submissions	155
	Analysis	156
	Conclusions and Recommendations	156
9.9	NFL Chapter – NFL-R1	156
	Submissions	156
	Analysis	157
	Conclusions and Recommendations	157
9.10	NFL Chapter – NFL-R2	158
	Submissions	158
	Analysis	159
	Conclusions and Recommendations	159
9.11	NFL Chapter – Network utilities – NFL-R3	160
	Submissions	160
	Analysis	161
	Conclusions and Recommendations	162
9.12	NFL Chapter – Fences, Plantings and Primary Production (NFL-R4 and NFL-R5 and NFL-R6)	163
	Submissions	163
	Analysis	164
	Conclusions and Recommendations	165
9.13	NFL Chapter – Afforestation and New Roads and Tracks (NFL-R7 and NFL-R8)	168
	Submissions	168
	Analysis	169
	Conclusions and Recommendations	170

9.14	NFL Chapter Subdivision – NFL-R9	170
	Submissions.....	171
	Analysis	171
	Conclusions and Recommendations	172
9.15	NFL Chapter – New Rules.....	172
	Submissions.....	172
	Analysis	172
	Conclusions and Recommendations	173
9.16	NFL Chapter – Standards.....	173
	Submissions.....	173
	Analysis	174
	Conclusions and Recommendations	175
9.17	Definitions relating to NFL Chapter	176
	Submissions.....	177
	Analysis	177
	Conclusions and Recommendations	177
10.	Conclusion.....	177

Appendices

Appendix 1 – Changes Recommended to Provisions

Appendix 2 – Recommended Responses to Submissions

Appendix 3 – Ecological Report from Mike Harding

Appendix 4 – Landscape Report from Yvonne Pfluger

List of Submitters and Further Submitters Addressed in this Report:**Original Submitters**

Submitter Ref	Submitter Name	Abbreviation
35	Pye Group Ltd, Dialan Dairy Ltd, Grantlea Dairy Ltd, South Park Farm Ltd, South Stream Dairy Ltd	Pye Group
36	Peter Bonifacio	Bonifacio, P
41	Maze Pastures Limited	Maze Pastures
42	Timaru District Council	TDC
44	Rangitata Dairies Limited Partnership	Rangitata Dairies
53	Helicopters South Canterbury 2015 Ltd	Helicopters Sth Cant.
55	Alpine Energy Limited	Alpine Energy
60	Milward Finlay Lobb	MFL
62	Graeme and Margaret King	King, G and M
66	Bruce William Speirs	Speirs, B
90	Hermann Frank	Frank, H
94	Port Blakely Limited	Port Blakely
100	David and Judith Moore	Moore, D and J
105	Peel Forest Estate	Peel Forest
113	Kerry and James McArthur	McArthur, K and J
115	Te Kotare Trust	Te Kotare
129	Cassandra Roa Jamieson and Hamish Allan Jamieson	Jamieson, C R and H A
132	NZ Agricultural Aviation Association	NZAAA
136	Simon Connolly	Connolly, S
137	Peter and Stephanie McCullough	McCullough, P and S
143	Waka Kotahi NZ Transport Agency	Waka Kotahi
149	James Reese Hart	Hart, J R
156	Royal Forest and Bird Protection Society of New Zealand Inc.	Forest and Bird
158	Kenneth James and Rose Esther Tarrant	Tarrant, K and R
159	Transpower New Zealand Limited	Transpower
164	Zolve Environmental Ltd	Zolve
166	Director-General of Conservation Tumuaki Ahurei	Dir. General Conservation
169	Road Metals Company Limited	Road Metals
170	Fulton Hogan Limited	Fulton Hogan
171	Fenlea Farms Limited	Fenlea Farms
172	Silver Fern Farms Limited	Silver Fern Farms
173	Alliance Group Ltd	Alliance Group
174	Rooney Holdings Ltd	Rooney Holdings
176	Connexa Ltd	Connexa
177		Rooney, A J
181	Opuha Water Limited	OWL
182	Federated Farmers of New Zealand	Federated Farmers
183	Canterbury Regional Council (Environment Canterbury)	ECan
185	Te Rūnanga o Ngāi Tahu	
187	KiwiRail Holdings Limited	KiwiRail
189	Waipopo Huts Trust	Waipopo Huts
191	Gary James Herbert Rooney	Rooney, GJH
197	K J Rooney Ltd	
208	Spark New Zealand Trading Limited	Spark
209	Chorus New Zealand Limited	Chorus
210	Vodafone New Zealand Limited	Vodafone

213	Southern Wide Helicopters	
234	Rangitata Diversion Race Management Limited	RDRML
245	Horticulture NZ	Hort NZ
249	Rooney Group Ltd	Rooney Group
250	Rooney Farms Ltd	Rooney Farms
251	Rooney Earthmoving Limited	Rooney Earthmoving
252	Timaru Developments Ltd	TDL
253	Roselyne Yeandle	Yeandle, R

Further Submitters

Submitter Ref	Further Submitter Name	Abbreviation
60	Milward Finlay Lobb	MFL
89	Dairy Holdings Limited	Dairy Holdings
90	Hermann Frank	Frank, H
94	Port Blakely Limited	Port Blakely
132	New Zealand Agricultural Aviation Association	NZAAA
143	Waka Kotahi	Waka Kotahi
156	Royal Forest & Bird Protection Society fo New Zealand Inc. (Forest & Bird)	Forest and Bird
159	Transpower New Zealand Limited	Transpower
166	Penny Nelson, Director-General of Conservation Tumuaki Ahurei	Dir. General Conservation
172	Silver Fern Farms Limited	Silver Fern Farms
173	Alliance Group Limited	Alliance Group
181	Opuha Water Limited	OWL
182	Federated Farmers	Federated Farmers
185	Te Rūnanga o Ngāi Tahu	Te Rūnanga o Ngāi Tahu
189	Waipopo Huts Trust	Waipopo Huts
245	Horticulture New Zealand	Hort NZ
252	Timaru Developments Limited	TDL
265	New Zealand Helicopter Association	NZHA
269	Westgarth, Chapman, Blackler, et al.	Westgarth, Chapman et al
274	South Pacific Sera Limited	South Pacific Sera
278	Rooney Group Limited, Rooney Holdings Limited, Rooney Earthmoving Limited and Rooney Farms Limited	Rooney Group et al

Abbreviations Used in this Report:

Abbreviation	Full Text
Council	Timaru District Council
CRPS	Canterbury Regional Policy Statement
ECO	Ecosystems and Indigenous Biodiversity Chapter
NATC Chapter	Natural Character Chapter
NESCF / NESPF	Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017
NESF	Resource Management (National Environmental Standards for Freshwater) Regulations 2020
NFL Chapter	Natural Features and Landscapes Chapter
NPSET	National Policy Statement on Electricity Transmission 2008
NPSFM	National Policy Statement for Freshwater Management 2020
NPSIB	National Policy Statement on Indigenous Biodiversity 2023
NP Standards	National Planning Standards

ODP	Operative Timaru District Plan
PDP	Proposed Timaru District Plan
RSI	Regionally Significant Infrastructure
RMA	Resource Management Act 1991
SNA	Significant Natural Areas

1. Introduction

1.1 Experience and Qualifications

1.1.1 My full name is Elizabeth (Liz) Jane White. I am an independent planning consultant, having been self-employed (Liz White Planning) for the last three years. I hold a Master of Resource and Environmental Planning with First Class Honours from Massey University and a Bachelor of Arts with Honours from Canterbury University. I am a full member of the New Zealand Planning Institute.

1.1.2 I have 18 years of planning experience working in both local government and the private sector. My experience includes both regional and district plan development, including the preparation of plan provisions and accompanying s32 evaluation reports, and preparing and presenting s42A reports, as well as providing planning input in Environment Court processes. I also have experience undertaking policy analysis and preparing submissions for clients on various RMA documents.

1.1.3 I have been assisting Timaru District Council with their District Plan Review process since 2019. In relation to this topic, I did not prepare the draft plan change provisions and s32 report for any of the chapters covered in this topic; but I was engaged to prepare changes to the draft provisions and s32 report for the chapters (ECO, NATC and NFL) following consultation on the draft version of the PDP.

1.1.4 Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I have complied with it when preparing this report. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. Having reviewed the submitters and further submitters relevant to this topic I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearings Panel.

1.2 Purpose and Scope of this Report

1.2.1 The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on this topic and to make recommendations in response to those submissions, to assist the Hearing Panel in evaluating and deciding on the submissions.

1.2.2 This report is prepared under s42A of the RMA in relation to the Natural Environment Values Section¹ of the PDP. It covers the following matters:

- Ecosystems and Indigenous Biodiversity Chapter (ECO)
- Natural Character Chapter (NATC)

¹ But not including the Public Access Chapter.

- Natural Features and Landscapes Chapter (NFL)
- APP5 – Criteria for Identifying Significant Natural Areas
- SCHED7 - Schedule of Significant Natural Areas
- SCHED8 - Schedule of Outstanding Natural Landscapes
- SCHED9 - Schedule of Outstanding Natural Features
- SCHED10 - Schedule of Visual Amenity Landscapes
- Definitions relating to the above provisions, including: ‘amenity planting’, ‘biodiversity management plan’, ‘biodiversity/biological diversity’, ‘clearance of indigenous vegetation’, ‘improved pasture’, ‘indigenous vegetation’, ‘significant natural area’, ‘riparian margin’ and ‘riparian zone [in relation to a river or lake]’, as well as additional definitions sought by submitters which are relevant to this topic.

1.2.3 This report considers the submissions and further submissions that were received in relation to the ECO, NATC and NFL Chapters, APP5, SCHED7, SCHED8, SCHED9 and SCHED10 and related definitions. It includes recommendations to either retain provisions without amendment, delete, add to or amend the provisions, in response to these submissions. All recommended amendments are shown by way of ~~strikeout~~ and underlining in **Appendix 1** to this Report, or, in relation to mapping, through recommended spatial amendments to the mapping. Footnoted references to the relevant submitter(s) identify the scope for each recommended change.

1.2.4 The analysis and recommendations have been informed by technical advice / evidence received from:

- Mr Mike Harding, an ecologist - which is attached at Appendix 3.
- Ms Yvonne Pfluger, a landscape architect - which is attached at Appendix 4.

1.2.5 The conclusions reached and recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

1.3 Procedural Matters

1.3.1 There have been no pre-hearing meetings or expert witness conferencing in relation to submissions on this topic.

1.3.2 In order to better understand matters raised in their submissions, I have had informal discussions with the following submitters:

- Connexa [173], Spark [208], Chorus [209] and Vodafone [210]
- ECan [183]

- RDRML [234]

2. Topic Overview

2.1 Summary of Relevant Provisions of the PDP

2.1.1 This report relates to provisions associated with the ECO, NATC and NFL provisions. This section of the report provides a brief summary of the provisions relevant to this topic.

Operative Plan

2.1.2 The ODP does not list or map sites of significant indigenous vegetation. It instead relies on a definition of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna, which includes broad areas such as coastal wetlands, shrublands as well as individual shrubs across large areas of the district i.e., the plains, soft rock hills and downs and intermontane and mountain ranges. The rules relating to indigenous vegetation clearance therefore rely on site-by-site identification of indigenous vegetation when any clearance is proposed, and only apply in the Rural Zones. The assessment criteria listed in the ODP for determining significance also pre-date those set out in the CRPS.

2.1.3 In terms of Natural Character, Part B – 2 of the ODP, Natural Environment covers the high-level direction for the management of the natural character and functioning of rivers, wetlands and coastal systems. Specifically, Objective 2 seeks to *“Protect and enhance the natural character and functioning and habitat values of the coastal environment and wetlands, streams, rivers and their margins”*. Policy 1 directs that the natural character of the landscape is protected and enhanced from inappropriate subdivision and the adverse effects of any use or development of land; and Policy 14 seeks to control tree planting, vegetation clearance, structures and earthworks within or adjacent to significant wetlands and rivers. Rules that relate to activities in riparian areas are set out as performance standards in the Rural 1, 2, and 5 zones, but there are no such standards in the Rural 4A and 4B zones, nor in the residential, commercial, industrial or recreation zones. The standards manage:

- Tree planting, with specific provisions depending on the type of tree planting (e.g., shelter belt, woodlot, forestry, or timber trees)
- Harvesting of trees
- Clearance of vegetation
- Clearance of indigenous vegetation
- Helicopter landing sites proximate to wetlands (but not to rivers and streams)
- Buildings and structures
- Earthworks
- Cultivation

- Grazing of stock

2.1.4 The ODP identifies outstanding landscape areas (OLAs) and significant amenity landscapes (SALs) on the planning maps. There are no specific outstanding natural features or other landscapes currently identified in the District Plan. Part B – 2 Natural Environment covers the high-level direction for the management of OLAs and SALs, with Objective 3 seeking to “*identify, protect, and enhance outstanding landscape values of the District, and those natural processes, features and areas of significant natural value which contribute to its overall character and amenity.*” Land within OLAs is located within the Rural 1, Rural 4B, Rural 5 and Recreation 1 Zones.

2.1.5 Land within SALs is located in the Rural 1, Rural 2 and Rural 5 zones, but there is no specific approach in the Rural Zone rule framework specifically targeted to managing effects on landscape values within these SALs.

PDP - ECO Chapter, APP5 and SCHED7

2.1.6 The ECO Chapter seeks to protect the values of SNAs (ECO-O1) and generally maintain indigenous biodiversity (ECO-O2). APP5 of the PDP contains the criteria for identifying SNAs, which is taken from the CRPS and has been applied to identified SNAs, which in turn are included in SCHED7.

2.1.7 The policies and rules in the ECO Chapter set out the approach to assessment and management of biodiversity values. This includes managing the clearance of indigenous vegetations within SNAs, as well as managing the clearance of indigenous vegetations in other identified areas which are considered to be more sensitive – namely within specified setbacks of waterbodies, above 900m in altitude, and on land with an average slope of 30° or greater. Broadly speaking, the direction in the PDP seeks to provide for clearance in SNAs in very defined circumstances which relate to health and wellbeing or customary reasons (ECO-P2) and otherwise generally avoid clearance in SNAs, unless identified ecological values will still be protected or the clearance relates to RSI (ECO-P5). Outside SNAs, the policy intent is to manage clearance in the identified sensitive areas to protect indigenous biodiversity (ECO-P3).

2.1.8 The PDP Planning Maps also include a “*Long-tailed Bat Protection Area*”, with rules included in the ECO Chapter restricting the clearance of trees (which are habitat for bats) and policy direction seeking to protect the bats through maintaining this habitat (ECO-P4).

2.1.9 Finally, the planting of species that are likely to adversely affect indigenous biodiversity values is to be avoided (ECO-P6), with a non-complying status (through ECO-R7) applying to planting of listed species.

PDP - NATC Chapter

2.1.10 The NATC Chapter is focussed on preserving and protecting (and where possible, enhancing) the natural character of the District’s wetlands and rivers and their margins from

inappropriate subdivision, use and development (NATC-O1). The policies set out what natural character is derived from (NATC-P1) and how activities are to be managed so that natural character values are preserved (NATC-P4 and NATC-P6); instances where restoration and/or enhancement of the natural character is to be provided for and encouraged (NATC-P2) or incentivised (NATC-P3); and what activities are provided for riparian margins (NATC-P5).

- 2.1.11 The rules relate to defined riparian areas, and manage vegetation clearance; vegetation planting; earthworks; fences; other buildings and structures; and subdivision. The extent of where these rules apply varies according to the nature of the waterbody, and a more stringent approach applies in relation to identified High Naturalness Water Bodies (HNWB), which apply to those areas identified as such within the CLWRP and the Water Conservation (Rangitata River) Order 2006.

PDP - NFL Chapter and Schedules 8-10

- 2.1.12 The NFL Chapter manages activities within three areas: Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Visual Amenity Landscapes (VALs). In ONLs and ONFs, the values of these areas are to be protected from inappropriate subdivision, use and development (NFL-O1). In VALs, their landscape character and visual amenity values are sought to be maintained or enhanced (NFL-O2). The provisions within the chapter set out how these areas have been identified (NFL-P1) with the specific areas listed in Schedules 8 – 10. The management approach taken to these areas is to protect the identified values and characteristics of ONFs and ONLs (NFL-P2.1 and NFL-P4) and maintain or enhance the identified values and characteristics of VALs (NFL-P2.2 and NFL-P3). At a rule level, specific activities are enabled, where they are considered to meet this direction, with a consent framework applying to consider the effects of other activities on a case-by-case basis. The rules relating to these landscape areas manage a range of buildings and other structures (including their location, design and scale); earthworks (including tracks); tree planting; primary production; afforestation; subdivision; and mining and quarrying.

2.2 Background to Relevant Provisions

- 2.2.1 Sections 6(a), (b) and (c) of the RMA requires the Council, in managing the use, development and protection of natural and physical resources through its District Plan, to recognise and provide for:
- the preservation of the natural character of wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;
 - the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development; and
 - the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

- 2.2.2 The provisions in each of the ECO, NATC and NFL chapters respond directly to these matters of national importance.
- 2.2.3 Section 31(1)(b)(iii) also provides the Council with the function of controlling any actual or potential effects of the use, development, or protection of land for the purpose of maintaining indigenous biodiversity. The provisions in the ECO chapter which do not relate to SNAs relate to this broader function.
- 2.2.4 As with other chapters of the PDP, the review of provisions relating to the ECO, NATC and NFL topics involved identification of key issues for each, and community consultation was undertaken on these via a discussion document. Feedback on the draft Plan, released in 2020, also informed the final drafting of the PDP provisions.
- 2.2.5 With regards to the ECO Chapter, prior to the PDP review, a District-wide survey of SNAs was conducted by Mike Harding, which began in 2005 and was largely completed by 2016. Some additional areas, including roadside SNAs were then identified between 2016 - 2022. Following the consultation on the discussion document, the Council also established an Ecosystems and Indigenous Biodiversity Stakeholder Group² which met during 2017 and 2018. This Group considered, and made recommendations to the Council's Environmental Services Committee, on both the details of the approach to be taken within the Plan provisions, as well as non-regulatory actions that might assist the Council in meeting its statutory obligations concerning indigenous biodiversity. The Group also provided informal advice to staff regarding communication/consultation with landowners who have SNAs on their properties. The Group was also assisted with specialist planning and ecological advice.
- 2.2.6 The NFL Chapter was informed by 'Timaru District Landscape and Coastal Study' (the Landscape Study) undertaken between 2017 and 2020. As well identification of proposed ONFs and ONLs, the Landscape Study identified potential pressures and threats, which may adversely affect these landscapes and their values.

3. Overview of Submission and Further Submissions

- 3.1.1 The full list of submission points addressed in this report are set out in **Appendix 2**. The following table provides a brief summary of the key issues raised in submissions, which are discussed in more detail in the 'Analysis and Evaluation of Submissions' section of this report.

ISSUE NAME	SUMMARY OF ISSUE	POSITION OF SUBMITTERS
General Matters		
Relationship with the NESPF/CF	The extent to which the controls in the NESPF/CF should prevail over the PDP rules	The provisions in the NESPF/CF should be relied upon to manage effects on indigenous biodiversity, and there is a lack of justification

² With representatives from Te Rūnanga o Arowhenua, Federated Farmers, Forest and Bird, Environment Canterbury, Department of Conservation, Fish and Game and independent landowners.

ISSUE NAME	SUMMARY OF ISSUE	POSITION OF SUBMITTERS
		for imposing more stringent controls in the PDP.
Relationship with the Energy and Infrastructure Chapter	How the Energy and Infrastructure Chapter and overlay policies relate to each other	Changes are required to the provisions in the Overlay Chapter to provide clarity on how the provisions in the overlay and Energy and Infrastructure Chapter are to be interpreted and to avoid conflict.
Subdivision in Overlay Areas	Whether the rules relating to subdivision should sit in the Overlay chapters or in the Subdivision Chapter	All subdivision rules should be included in one place in the PDP (the Subdivision Chapter).
Ecosystems and Indigenous Biodiversity Provisions		
Maintenance of Indigenous Biodiversity	How the PDP manages indigenous biodiversity outside of identified SNAs	The PDP does not contain sufficient provisions to maintain indigenous biodiversity outside of identified SNAs
Protecting areas which are not identified as SNAs but which may meet criteria	How the PDP manages the identification and protection of areas which are not yet identified as SNAs, but which may meet the specified criteria	<ul style="list-style-type: none"> - Provisions should acknowledge that there may be additional areas meeting the criteria for being SNAs - The provisions should allow for new areas to be added to the PDP as they are identified - The policy and rule framework should apply to any areas meeting the criteria, whether currently mapped/scheduled or not
Protecting other areas	How the PDP manages other sensitive areas.	Additional areas should also be protected, such as identified at risk and threatened species; threatened land environments; naturally rare ecosystems; and threatened ecosystems.
Application of the (draft) NPSIB	Alignment of the PDP provisions with the draft NPSIB	<p>The PDP should be amended to align with the provisions contained in what was then the draft NPSIB, including:</p> <ul style="list-style-type: none"> - directing the avoidance of certain effects - aligning the significance criteria with it (rather than with the CRPS) - applying an effects management hierarchy - exempting quarrying
Identification of specific SNAs	Opposition to SNAs	<ul style="list-style-type: none"> - Opposition to lack of consultation regarding SNAs - Opposition to the identification of SNAs on submitters' land; or in road reserve areas

ISSUE NAME	SUMMARY OF ISSUE	POSITION OF SUBMITTERS
		- Opposition to SNAs being identified in the beds of lakes and rivers
Extending exemptions	Whether the permitted activity rules should provide for a greater range of activities	The policies and rules should extend the exemptions for vegetation clearance to apply to a greater range of activities, including clearance relating to a wider range of infrastructure.
Bat Protection Area Overlay	The extent of the Bat Protection Area Overlay	The mapped area should align with include all known colonies and surrounding areas, or with the Canterbury Maps bat habitat map.
Natural Character Provisions		
Extending exemptions	Whether the permitted activity rules should provide for a greater range of activities	The policies and rules should extend the range of activities provided for in riparian margins to apply to a greater range of activities, including: <ul style="list-style-type: none"> - A wider range of infrastructure - Activities relating to an upgrade or replacement of an existing building of the same or similar footprint
Extent of Riparian Areas	Whether the defined riparian margins are appropriate	The riparian margins to which the NATC provisions apply should be reduced.
Landscape Provisions		
Roads in ONFs/ONLs/VALs	Whether roads should be excluded from ONFs/ONLs/VALs	Roads are a modified environment and therefore should not be included within these overlays.
Extending exemptions	Whether the permitted activity rules should provide for a greater range of activities	The policies and rules should extend the range of activities provided for in landscape overlays to apply to a greater range of activities, including a wider range of infrastructure.

4. Relevant Statutory Provisions

4.1.1 The assessment for the PDP includes the matters identified in sections 74-76 of the RMA. This includes whether:

- it is in accordance with the Council's functions (s74(1)(a));
- it is in accordance with Part 2 of the RMA (s74(1)(b));
- it will give effect to any national policy statement or operative regional policy statement (s75(3)(a) and (c));
- the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (s32(1)(a));

- the provisions within the plan change are the most appropriate way to achieve the objectives of the District Plan (s32(1)(b)).

4.1.2 In addition, assessment of the PDP must also have regard to:

- any proposed regional policy statement, and management plans and strategies prepared under any other Acts (s74(2));
- the extent to which the plan is consistent with the plans of adjacent territorial authorities (s74 (2)(c)); and
- in terms of any proposed rules, the actual or potential effect on the environment of activities including, in particular, any adverse effect.

5. Statutory Instruments

5.1.1 The s32 reports for Ecosystems and Indigenous Biodiversity, Natural Character and Outstanding Natural Landscapes and Features each set out the statutory requirements and relevant planning context for this topic in more detail. The section below sets out, in summary, the provisions in planning documents that are considered to be particularly relevant.

5.2 Matters of National Importance – Section 6 of the RMA

5.2.1 Section 6 of the RMA sets out matters of national importance, which persons exercising functions and powers under the RMA in relation to managing the use, development and protection of natural and physical resources, must recognise and provide for. Of relevance to this topic, this includes:

- the preservation of the natural character of wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development (s6(a));
- the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development (s6(b)); and
- the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (s6(c)).

5.3 National Policy Statement for Indigenous Biodiversity (NPSIB)

5.3.1 The NPSIB was not identified in the Ecosystems and Indigenous Biodiversity s32 Report, because at the time the PDP was notified, it had not been gazetted. The s32 Report therefore acknowledged the draft version of the NPSIB that was proposed at that time.

5.3.2 The Council is required to give effect to the NPSIB, but within the timeframes specified therein. However, where changes are sought to the PDP through submissions which relate

to the direction in the NPSIB, there is an opportunity to align the PDP provisions with the NPSIB.

5.3.3 The overarching aim of the NPSIB is to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date, and to achieve this:

- through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and
- by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and
- by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and
- while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

5.3.4 Policies 1 and 2 relate to managing indigenous biodiversity in a way that gives effect to the principles of the Treaty of Waitangi, and outlining how tangata whenua are able to exercise kaitiakitanga for indigenous biodiversity in their rohe. Indigenous biodiversity is to be managed using a precautionary approach (Policy 3); to promote resilience to the effects of climate change (Policy 4); and in an integrated way across administrative boundaries (Policy 5). More specific direction on each of these is then set out in clauses 3.1-3.7.

5.3.5 SNAs are to be identified using a consistent approach (Policy 6, clause 3.8 and Appendix 1) and protected, by avoiding or managing adverse effects from new subdivision, use and development (Policy 7 and Clause 3.10). District Plans must include areas qualifying as SNAs (Clause 3.9).

5.3.6 Outside SNAs, the importance of maintaining indigenous biodiversity is to be recognised and provided for (Policy 8); and significant adverse effects of any new subdivision, use, or development on indigenous biodiversity are to be managed by applying the effects management hierarchy specified in the NPSIS (Clause 3.16).

5.3.7 Within and outside SNAs, certain established activities are provided for (Policy 9, Clause 3.11 and Clause 3.17). Restoration of indigenous biodiversity is to be promoted and provided for (Policy 13), with specified areas prioritised (Clause 3.21).

5.3.8 The NPSIB also contains other policies that relate to specific activities or areas.

5.4 Canterbury Regional Policy Statement (CRPS)

5.4.1 Chapter 9 of the CRPS is particularly relevant to the ECO Chapter. It seeks a halt in the decline of Canterbury's ecosystems and indigenous biodiversity (Objective 9.2.1); restoration or enhancement of ecosystem functioning and indigenous biodiversity (Objective 9.2.2); and

protection of the values and ecosystem functions of SNAs (Objective 9.2.3). The CRPS also includes criteria for determining significance and requires District Plans to include objectives and policies to identify and protect SNAs and include appropriate rule(s) to manage the clearance of indigenous vegetation, and also notes that District Plans may include methods to identify and protect SNAs.

- 5.4.2 Chapters 7 and 10 of the CRPS are of particular relevance to the NATC Chapter. These seek to ensure that the natural character values of wetlands, lakes and rivers and their margins are preserved, and these areas are protected from inappropriate subdivision, use and development (Objective 7.2.1(2)); that subdivision, use and development of the riparian zones of river and lake beds are enabled, while protecting all significant values of those areas, and enhancing those values in appropriate locations (Objective 10.2.1). The methods set out in the CRPS include that methods are included in District Plans to identify and protect sites and areas with wetlands and lakes and to manage land uses and vegetation removal within riparian margins.
- 5.4.3 Chapter 12 of the CRPS is particularly relevant to the NFL provisions. It seeks that ONFs and ONLs within the Region are identified and protected from inappropriate subdivision, use and development (Objective 12.2.1) using a consistent assessment and consistency of management (Objective 12.2.1); and the identification and management of other important landscapes are encouraged (Objective 12.2.2). The methods set out in the CRPS include District Plan's including objectives, policies and methods, including maps, to identify ONF and ONLs and to avoid, remedy or mitigate adverse effects of subdivision, use and development of land on the values of ONFs and ONLs and protect them from inappropriate subdivision, use and development.

6. Analysis and Evaluation of Submissions

6.1 Approach to Analysis

- 6.1.1 The analysis undertaken in this report is separated into the 3 topics – ECO, NATC and NFL.
- 6.1.2 The approach taken in this report is to assess submissions that relate broadly to a topic first, followed by those relating to mapping or scheduling of specific areas. The assessment is then largely undertaken on a provision-by-provision basis, by groups of provisions (e.g. objectives, policies, rules, standards and related definitions). Generally, policies and related rules are discussed together, or sequentially in this report.
- 6.1.3 The assessment of submissions generally follows the following format:
- A brief summary of the relevant submission points.
 - An analysis of those submission points.
 - Recommendations, including any amendments to plan provisions and the related assessment under s32AA.

- 6.1.4 Clause 10(2)(b), Schedule 1 of the RMA provides for consequential changes arising from the submissions to be made where necessary, as well as any other matter relevant to the PDP arising from submissions. Consequential changes recommended under clause 10(2)(b) are footnoted as such.
- 6.1.5 Clause 16(2), Schedule 1 of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. Any changes recommended under clause 16(2) are footnoted as such.
- 6.1.6 Further submissions have been considered in the preparation of this report, but in general, they are not specifically mentioned because they are limited to the matters raised in original submissions and therefore the subject matter is canvassed in the analysis of the original submission. Further submissions may however be mentioned where they raise a valid matter not addressed in an original submission. Further submissions are not listed within Appendix 2. Instead, recommendations on the primary submissions indicate whether a further submission is accepted or rejected as follows:
- Where a further submission supports a primary submission and the primary submission is recommended to be accepted, or where a further submission opposes a primary submission and the primary submission is recommended to be rejected, the further submission is recommended to be accepted.
 - Where a further submission supports a primary submission and the primary submission is recommended to be rejected, or where a further submission opposes a primary submission and the primary submission recommended to be accepted, the further submission is recommended to be rejected.
 - Where a further submission supports or opposes a primary submission and the primary submission is recommended to be accepted in part, then the further submission is recommended to be accepted in part.
- 6.1.7 Helicopters Sth Cant. [53.1] and Southern Wide Helicopters [213.1], in a primary submission, support the submission of NZAAA and seek the same relief as sought in that submission. Discussion of the NZAAA submission points and recommendations made in relation to these therefore applies to that of Helicopters Sth Cant. [53.1] and Southern Wide Helicopters [213.1].
- 6.1.8 Moore, D and J [100.2], Peel Forest [105.1] and McArthur, K and J [113.1], in a primary submission, support the submission of Federated Farmers and seek the same relief as sought in that submission. Discussion of the Federated Farmers submission points and recommendations made in relation to these therefore applies to that of Moore, D and J [100.2], Peel Forest [105.1] and McArthur, K and J [113.1].

6.1.9 Zolve [164.1], in a primary submission, supports the submission of Port Blakely and seeks the same relief as sought in that submission. Discussion of the Port Blakely submission points and recommendations made in relation to these therefore applies to that of Zolve [164.1].

6.2 Provisions where no Change Sought

6.2.1 The following provisions included within the ECO, NATC and NFL Chapters were either not submitted on, or any submissions received sought their retention. As such, they are not assessed further in this report, and I recommend that the provisions are retained as notified (unless a cl 10(2)(b) or cl 16(2) change is recommended):

- ECO-O3³
- ECO-P6⁴
- NATC-P2⁵
- NFL-P1⁶
- NFL-R10⁷

6.3 Matters to be Considered in Other Hearings

6.3.1 ECan [183.5] seek changes across the PDP in relation to how hazard mitigation works are managed. More specifically, the submitter seeks that a permitted activity is provided for all earthworks and vegetation clearance associated with existing public flood and erosion protection works operation, maintenance, repair, replacement and upgrading. Aligning with this change, consequential changes to vegetation clearance and earthworks provisions (including those contained in the ECO, NATC and NFL Chapters) are sought⁸ so that the rules in these chapters do not apply to existing public flood and erosion protection works.

6.3.2 I note that the request predominately relates to the Natural Hazards topic. As such, I have not considered the consequential changes sought by ECan, as I consider that these are best considered in combination with the main submission points. The summary of submissions and analysis set out in this report therefore does not consider ECan's requested changes to the ECO, NATC and NFL Chapters with respect to how hazard mitigation works are managed. These will instead be considered as part of the Natural Hazards topic (scheduled for Hearing F).

³ Supported by Forest and Bird [156.100], Federated Farmers [182.101], ECan [183.70]

⁴ Supported by Frank, H [90.8] and Dir. General Conservation [166.39]

⁵ Supported by Dir. General Conservation [166.52] Silver Fern Farms [172.57], Alliance Group [173.61], Federated Farmers [182.115], ECan [183.83]

⁶ Supported by Dir. General Conservation [166.58], Federated Farmers [182.123], ECan [183.89], Te Rūnanga o Ngāi Tahu [185.82],

⁷ Supported by Dir. General Conservation [166.70], Federated Farmers [182.128]

⁸ ECan [183.5, 183.76 (part), 183.77 (part), 183.84, 183.85, 183.86, 183.87, 183.90, 183.91]

7. Ecosystems and Indigenous Biodiversity Provisions

7.1 Broad Submissions

7.1.1 This section of the report addresses submission points that relate to the ECO provisions at a broad level, rather than commenting on specific provisions.

7.1.2 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Frank, H	90.1, 90.23,
Port Blakely	94.1
Moore, D and J	100.1
McArthur, K and J	113.9
Forest and Bird	156.3, 156.5, 156.6, 156.21, 156.57, 156.96, 156.106, 156.107, 156.108, 156.116
Dir. General Conservation	166.29
Rooney Holdings	174.2
Rooney, GJH	191.2
Rooney Group	249.2
Rooney Farms	250.2
Rooney Earthmoving	251.2
TDL	252.2

Submissions

7.1.3 Frank, H [90.1] supports the rationale for maintaining indigenous biodiversity and also generally supports the objectives, policies and rules of the chapter, subject to amendments sought in the submission.

7.1.4 Frank, H [90.23] considers that while the chapter contains appropriate provisions to protect mapped SNAs, there is no protection for indigenous vegetation outside these areas, and seeks that policies and rules are added to protect such vegetation, and to give effect to the statement *“In addition, there are likely to be a range of other areas not yet assessed but containing significant values.”*

7.1.5 Port Blakely [94.1] is opposed to some rules in the PDP being stricter than the NESPF, stating that they do not meet the jurisdiction, nor the justification test in the RMA, nor has the requirement of s32(4) of the RMA been satisfied with respect to some provisions. It seeks broadly, that the PDP is amended to either incorporate the equivalent regulations from the NESPF, or the PDP rules be deleted so that the NESPF regulations apply instead of the PDP

rules. The submitter further seeks that the relevant PDP objectives and policies are amended as required to support and implement this relief.

- 7.1.6 Moore, D and J [100.1] raise concerns that in roadside areas which are identified as SNAs, the height of grass is becoming a potential fire risk. McArthur, K and J [113.9] also consider that there is uncertainty regarding who manages SNAs with respect to hazards such as fire risk and overhead power cables. By way of example, they note that in roadside locations, they are unsure of whether to continue mowing these areas as a fire safety precaution, given the potential risk of damaging the SNA, while noting the implications of fire risk. McArthur, K and J [113.9] express concerns that the SNAs “*will expand and encroach on farming operations*” and where they encroach on productive farm land they will restrict the landowner’s ability to run their business.
- 7.1.7 Forest and Bird [156.96] considers that the PDP should take the proposed NPSIB into consideration, in anticipation of it being gazetted. It seeks that where the PDP does not give effect to the NPSIB (if it is gazetted) then it should be amended through the plan review process to do so.
- 7.1.8 Forest and Bird [156.3] is concerned that the vegetation clearance rules are not adequate to maintain indigenous biodiversity and seeks that provisions are included to maintain biodiversity, such as through general clearance rules and mapping improved pasture.
- 7.1.9 Forest and Bird [156.106] state that there is no policy direction for clearance of indigenous vegetation outside of SNAs, sensitive areas, or the BPA and consider that it is important to maintain indigenous vegetation / biodiversity across the district to meet objective ECO-O2. The submitter considers that this should be accompanied with mapping of improved pasture. Forest and Bird [156.107] also considers another policy is also required to address other fauna that requires protection. The following new policies are sought:

Outside of SNAs and sensitive areas provide for low impact activities that may have less than minor adverse effects on indigenous biodiversity values, where these are of wider environmental or community benefit, or enable existing activities.

Identify Areas of improved pasture and map these areas.

Protect threatened and at-risk species and their habitats by avoiding significant adverse effects and managing other adverse effects of activities on those species and their habitats.

- 7.1.10 Related to this, Forest and Bird [156.3, 156.116] seeks that a new rule is added to the Chapter, applying to general indigenous vegetation clearance outside of sensitive areas and SNAs, in order to maintain indigenous biodiversity outside these areas. It seeks that the development of the rule utilises and includes maps of improved pasture / fully converted farmland in the PDP and permits vegetation clearance in those areas, but includes controls on indigenous vegetation clearance everywhere else. The submitter seeks that as these maps are ground-

trothed they should be implemented into the PDP either through the plan review process or through a variation. Forest and Bird [156.21] also specifically seeks that Improved Pasture is mapped and added to the Planning Maps.

- 7.1.11 Forest and Bird [156.5] considers broadly that the PDP does not give effect to the directive requirements in Policies 11, 13 and 15 of the NZCPS, stating that the provision for activities in the ECO chapter conflict with the avoid requirements of the NZCPS. The submitter states that amendments are required to the NATC, NFL and ECO to include policies 11, 13 and 15 of the NZCPS and explain the approach to giving effect to the NZCPS between these chapters (and the CE chapter) in the chapter overviews/introductions. As such, it seeks that all chapters of the PDP are reviewed to remove any conflict with the directive requirements of the NZCPS policies 11, 13 and 15. Related to this, Forest and Bird [156.108] seeks that all rules in the ECO chapter are amended to give effect to the submitter's relief sought in regard to the spatial area of the Coastal Environment, stating that it opposes all rules that only apply within 20m of the MHWS, as the NZCPS applies to all aspects of the Coastal Environment, not just 20m from the MHWS.
- 7.1.12 Forest and Bird [156.6] also considers that the PDP approach to plantation forestry is uncertain with respect to the protection of SNAs and ONF/ONLs and that dealing with the effects of exotic carbon forestry is not clear in the PDP. The submitter seeks that the PDP is amended to ensure SNA, ONF and ONL are protected from plantation forestry and exotic carbon forests, and to have regard to the Climate Change Response (Zero Carbon) Amendment Act 2019 and any amendments to the NESPF regarding plantation forestry and exotic carbon forests.
- 7.1.13 Dir. General Conservation [166.29] states that they generally oppose the provisions in the ECO Chapter as they consider the provisions do not provide certainty that indigenous biodiversity will be protected, maintained, enhanced, and restored. The reasons for this include that the SNA survey is incomplete, and existing areas may need to be reassessed against the criteria in the draft NPSIB; there are other areas of indigenous biodiversity not identified in the Chapter that should be maintained and enhanced; and there is a need for the PDP to direct the avoidance of certain effects as set out the draft NPSIB. While more specific relief is set out in submission points detailed below, at a general level the submitter encourages the Council to align its provisions with the draft NPSIB as much as possible, recognising that the draft "*represents the current national best-practice on managing indigenous biodiversity in the RMA context*".
- 7.1.14 Six submitters⁹ express concerns that the PDP contains confusing and unnecessary overlap with consenting for Regional Council activities within the beds of rivers, and seek that the PDP is amended to avoid this overlap.

⁹ Rooney Holdings [174.2], Rooney, GJH [191.2], Rooney Group [249.2], Rooney Farms [250.2], Rooney Earthmoving [251.2], TDL [252.2]

Analysis

7.1.15 One matter raised by several submitters is how indigenous vegetation outside SNAs is to be managed. I note in this respect that the Council has the function of controlling any actual or potential effects of the use, development, or protection of land for the purpose of maintaining indigenous biodiversity (s31(1)(b)(iii)). This is reflected in ECO-O2 which seeks that the indigenous biodiversity of the District is maintained or enhanced. The approach taken in the PDP is to manage indigenous vegetation clearance outside SNAs in some specific locations – being within specified distance of different waterbodies, at an altitude of 900m or higher, and on land with an average slope of 30° or greater. The BPA and related provisions also seek to manage habitat of particular indigenous fauna. Advice was sought from Mr Harding (an ecologist) as to the extent to which additional provisions in the PDP would assist in maintaining indigenous biodiversity outside SNAs. Mr Harding’s view (as set out in Appendix 3) is that a rule controlling clearance of other indigenous biodiversity would assist with the maintenance of indigenous biodiversity outside SNAs. His reasons for this include:

- Due to time and costs, surveys of habitats of indigenous fauna are necessarily limited to observations of fauna (principally birds) and obvious habitats.
- Parts of Timaru District surveyed prior to 2013 are likely to support areas of indigenous vegetation/habitat that meet the CRPS criteria, but which did not meet the TDP criteria originally established.
- It is likely that the method used to survey SNAs will have missed some smaller or more cryptic areas of indigenous vegetation and other less-visible areas of indigenous vegetation.
- An important component for assessment of SNAs is the presence of ‘at risk’ or ‘threatened’ species, and these change over time. As such, some species which were not considered ‘at risk’ or ‘threatened’ at the time of the early SNA surveys are now listed as ‘at risk’ or ‘threatened’ species. Conversely, some species that were previously listed as ‘at risk’ or ‘threatened’ no longer have that status.
- Habitats that are used only occasionally or periodically by fauna (notably birds) – mobile fauna habitats - are difficult to assess, but the NPSIB requires the recording of mobile fauna habitats that lie outside SNAs.

7.1.16 Controlling other indigenous vegetation will, by default, increase protection of habitats of indigenous fauna and better allow consideration of the matters identified above. In addition, having greater controls on indigenous vegetation clearance outside identified SNAs will assist in protecting areas that may otherwise meet the significance criteria, but due to the above reasons, have not yet been identified in the PDP. Having controls on indigenous vegetation clearance more broadly will also limit the removal of indigenous vegetation outside SNAs, which in my view will better assist in the overall maintenance of indigenous biodiversity throughout the District. I also note that broader controls are included in other

district plans, including the Partially Operative Selwyn District Plan (ECO-RC.3) and proposed Waimakariri District Plan (ECO-R2).

- 7.1.17 Based on the above, I consider that additional controls are required in the PDP to control indigenous vegetation clearance outside identified SNA areas, in order to achieve ECO-O2 and meet the Council's function under s31(1)(b)(iii). I recommend that an additional policy and rule be added relating to this. The drafting of the rule is based on similar rules contained in the Partially Operative Selwyn District Plan and proposed Waimakariri District Plan, and refined through input from Mr Harding. I consider that this addresses the matter raised by Frank, H [90.23], Forest and Bird [156.3, 156.106, 156.107, 156.116] and Dir. General Conservation [166.29]. For completeness, I consider that this approach is more efficient than the alternate suggested by Forest and Bird [156.21], in terms of mapping Improved Pasture and only permitting vegetation clearance in those areas. I consider that this would go beyond what is necessary to achieve the objectives of the chapter.
- 7.1.18 With respect to roadside SNAs expanding and encroaching on farming operations, Mr Harding states that it is very unlikely that the vegetation assessed as roadside SNAs on Earl Road will expand to the extent that it encroaches on existing farmland. I note that any re-mapping of the boundary would need to be considered through a plan change process, allowing for input from the landowner. I also note that farming activities undertaken in proximity to these SNAs have not compromised their significance, indicating that farming activities and protection of the values which make these areas significant are not mutually exclusive.
- 7.1.19 With respect to continued mowing of roadside locations to manage fire risk, Mr Harding states that continued mowing of roadside vegetation would not damage or compromise those roadside SNAs, provided mowing machinery avoided the cabbage trees and the small patch of flax. I concur with this, noting that the rules in the ECO Chapter relate to the *clearance* of indigenous vegetation. Therefore, provided the mowing was undertaken in a manner that does not result in the removal of the indigenous vegetation, there would be no restrictions imposed on mowing through the inclusion of any roadside SNAs within the PDP. With respect to overhead power cables, I note that the definition of clearance only relates to clearing or removal of vegetation and therefore in my view it does not restrict trimming, provided the trimming does not result in removal (e.g. it is so severe the vegetation subsequently dies). Complete removal is also provided for where it is causing an imminent danger to the powerline (utilities) and subject to the clearance being undertaken in accordance with advice from a suitably qualified arborist. For completeness I note that later in this report I recommend that this is extended to include clearance which is affecting the safe operation of utilities (which would include powerlines).
- 7.1.20 With respect to the NPSIB, I note that Forest and Bird [156.96] refer to the version of the NPSIB that was proposed at the time submissions were made. This has since been superseded by the gazettal of the NPSIB that is now in force. Where the NPSIB aligns with

the direction in the previously proposed version, I consider that there is scope to amend the provisions in the PDP, but note that this is addressed more specifically in the consideration of the provisions set out in the following sections this report.

- 7.1.21 In terms of the NZCPS, I note that Policy 11 directs how indigenous biodiversity in the coastal environment is to be protected, including through the avoidance of adverse effects on specifically listed taxa/ecosystems/habitats/areas. Within the CE Chapter, there are no policies or rules relating to indigenous biodiversity. Within the ECO chapter, the only rule relating to the coastal environment is a limitation on vegetation clearance within 20m of the mean high water springs within the coastal environment. The related policy direction (ECO-P3.2) refers to managing the clearance of indigenous vegetation within “*coastal areas*” but is therefore not specific to the “*coastal environment*”. There are however a number of SNAs identified within the coastal environment. Mr Harding has advised that the identification of SNAs within the coastal environment included terrestrial and wetland habitats adjacent to the coast, but did not include areas below MHWS and adjacent coastal cliffs. He further notes that it was assumed at that time that SNAs in the coastal environment would be protected by other District Plan rules.
- 7.1.22 I consider that the identification of SNAs within the coastal environment aligns, to a large degree with Policy 11(a) of the NZCPS, by identifying areas where adverse effects of activities are to be avoided. The policy direction in the ECO Chapter also generally aligns with this by directing that clearance of indigenous vegetation and earthworks within SNAs are avoided, except in specifically identified circumstances (i.e. where ECO-P2 applies, as well as the clauses in ECO-P5). However, given Mr Harding’s comments, I consider that in order to fully align the chapter with the NZCPS, there is a need to control the clearance of indigenous vegetation on a case-by-case basis (except where ECO-P2 applies) within the coastal environment, and to include policy direction that aligns with Policy 11. I consider that this can be achieved by essentially replicating Policy 11 within the PDP. Because of the directive nature of the NZCPS Policy 11(a), I consider that the first exemption in ECO-P5.1 should not apply to the coastal environment. At a rule level, I consider that to fully give effect to the NZCPS, the reference in ECO-R1.2 and ECO-R3 to “*In the Coastal Environment, within 20m of mean high water springs*” should be amended to refer to the Coastal Environment in its entirety, so that it applies to the entirety of the area.
- 7.1.23 As a consequence of the above, I recommend that ECO-P3 is amended to remove reference to “*coastal areas*”. I also recommend that an additional matter of discretion is added to ECO-R1.2 which refers to the matters in the recommended policy.
- 7.1.24 With respect to plantation forestry, I note that the NESCF controls commercial forestry, which now includes exotic carbon forestry. Under Regulation 6(2)(b)), the rules in the PDP can be more stringent in the District Plan, where they recognise and provide for the protection of SNAs. Under s32(4) of the RMA, there is however a requirement for any s32 Report to examine whether a further restriction “*is justified in the circumstances of each*

region or district". Under the NESCF itself, indigenous vegetation clearance is not permitted within an SNA (except in some specifically defined circumstances) and a resource consent is required for such clearance under Regulation 94. I am not clear what changes are sought to the ECO Chapter by Forest and Bird [156.6] with respect to the management of plantation forestry, nor what the particular circumstances of the Timaru District warrant a different approach being taken to that otherwise set out in the NESCF. With respect to Port Blakley's submission [94.1], this is considered below in terms of specific policies and rules.

- 7.1.25 In relation to the concern about the PDP overlapping with consenting for Regional Council activities within the beds of rivers, I note that the more specific concern raised by these submitters¹⁰ in relation to SNAs which are located in riverbeds is addressed below, in relation to their submission on ECO-P1. However, the submitters may wish to identify if there are other specific rules or provisions about which they have concerns.

Conclusions and Recommendations

- 7.1.26 I recommend that the following policy is added to the ECO Chapter:

ECO-PX Maintaining Indigenous Biodiversity

Limit the clearance of indigenous vegetation outside areas identified in ECO-P1, ECO-P3 and ECO-PY, in order to maintain indigenous biodiversity, taking into account the value of such biodiversity.

- 7.1.27 I recommend that the following rule is added to the ECO Chapter (as part of ECO-R1):

ECO-R1	Clearance of Indigenous Vegetation (except as provided for in ECO-R2 for flood protection works or ECO-R3 for National Grid activities)	
...
4. All areas not specified in 1. – 3. above	<p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p><u>The clearance is for the purpose of:</u></p> <ol style="list-style-type: none"> 1. <u>the maintenance, repair or replacement of:</u> <ol style="list-style-type: none"> a. <u>existing fences, vehicle tracks, roads, walkways, firebreaks, dams, drains, man-made ponds, waterway crossings, or network utilities, and is limited to the area within 2m of these.</u> b. <u>any existing flood, erosion or drainage works administered by a Regional or Territorial Authority.</u> 	<p>Activity status where compliance is not achieved:</p> <p>Restricted discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. <u>whether the indigenous vegetation is significant (when assessed against the APP5 – Criteria for Identifying Significant Natural Areas) and the ability to retain any significant vegetation; and</u> 2. <u>the condition and character of the indigenous vegetation; and</u>

¹⁰ Rooney Holdings [174.2], Rooney, GJH [191.2], Rooney Group [249.2], Rooney Farms [250.2], Rooney Earthmoving [251.2], TDL [252.2]

	<p><u>limited to the area within the existing footprint of the works.</u></p> <p>c. <u>existing buildings, and is limited to within 2m from any existing exterior wall.</u></p> <p>2. <u>clearing vegetation that is causing an imminent danger to human life, structures, infrastructure, or important infrastructure.</u></p> <p>3. <u>mahinga kai or other customary uses, where the clearance is by Ngāi Tahu whānui and in accordance with tikanqa protocols.</u></p> <p>4. <u>clearing vegetation that has been managed as part of a domestic or public garden, for amenity purposes, or as a shelterbelt;</u></p> <p>5. <u>protecting, maintaining, restoring, and accessing ecological values, and is carried out in accordance with:</u></p> <p>a. <u>a Reserve Management Plan approved under the Reserves Act 1977;</u></p> <p>b. <u>a registered protective covenant under the Reserves Act 1977, Conservation Act 1987 or Queen Elizabeth the Second National Trust Act 1977,</u></p> <p>c. <u>a national park management plan or conservation management plan or strategy prepared under the Conservation Act 1987.</u></p> <p>6. <u>maintaining cultivated land.</u></p> <p>7. <u>grazing, that is not over-grazing/trampling, within an area of improved pasture.</u></p> <p>8. <u>maintaining improved pasture by way of oversowing and/or topdressing, outside any depositional landforms within the upper Rangitata.</u></p> <p>9. <u>biosecurity, and is necessary in the course of removing pest plants and pest animals in accordance with any regional pest management plan or the Biosecurity Act 1993, including the clearance of material infected by unwanted organisms.</u></p>	<p>3. <u>whether the indigenous vegetation provides habitat for threatened, at risk or locally uncommon species or is more than 25 years old; and</u></p> <p>4. <u>any adverse effects on indigenous vegetation and habitats of indigenous fauna due to the clearance; and</u></p> <p>5. <u>any adverse effects on the mauri of the site, mahika kai, wāhi tapu or wāhi tāoka values; and</u></p> <p>6. <u>whether species diversity would be adversely impacted by the proposal; and</u></p> <p>7. <u>the role the indigenous vegetation plays in providing a buffer to effects or an ecological corridor; and</u></p> <p>8. <u>any potential for mitigation or compensation of adverse effects on biodiversity values; and</u></p> <p>9. <u>the economic effects on the landholder of the retention of the vegetation; and</u></p> <p>10. <u>any site specific management factors to promote the restoration and enhancement of indigenous vegetation and habitats; and</u></p> <p>11. <u>the potential for use of other mechanisms that assist with the protection or enhancement of significant indigenous vegetation such as QE II covenants and the use of Biodiversity Management Plans; and</u></p> <p>12. <u>any benefits that the activity provides to the local community and beyond.</u></p>
--	---	--

7.1.28 I recommend that the following definition for 'overgrazing/trampling' is added to the Definitions Chapter:

The practice of confining farm stock to an area of land resulting in the depletion or destruction of indigenous vegetation by intensive grazing and/or trampling.

- 7.1.29 In terms of s32AA, I consider that the additional general policy and rule are necessary to achieve ECO-O2, as in absence of these controls, the ability to clear indigenous vegetation outside of those areas currently mapped as SNAs, or other identified areas, in any circumstances, would not be effective at maintaining the indigenous biodiversity of the District. Mr Harding also notes examples of areas which have not been identified in SCHED7 of the PDP as SNAs for various reasons, but which may well meet the criteria to be identified as such. Inclusion of the additional rule, which will limit clearance in these areas, will also better assist in protecting the values of significance, in line with ECO-O1. I also consider that broader management of indigenous biodiversity will better recognise and provide for the relationship of Ngāi Tahu whanui with that biodiversity, in line with ECO-O3.
- 7.1.30 I consider that there are increased economic costs associated with the additional provisions, as indigenous vegetation clearance outside the specifically permitted circumstances would incur costs associated with resource consent, and may limit the ability to undertake activities that involve clearance of indigenous vegetation. However, there are increased environmental benefits arising from limiting clearance of indigenous biodiversity beyond those included in the notified PDP. I note that the proposed rule has been drafted to still permit clearance in a range of circumstances, which in my view ensure the rule is appropriately targeted to balance its effectiveness and efficiency. Overall, I consider the benefits of introducing the provisions outweigh the costs and are the most appropriate way to achieve the objectives of the ECO chapter.
- 7.1.31 I recommend that the following policy is added to the ECO Chapter:

ECO-PY Indigenous Biodiversity in the Coastal Environment

In the coastal environment, except as provided for in ECO-P2, avoid adverse effects of activities on:

- 1. indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;*
- 2. taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;*
- 3. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;*
- 4. habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;*
- 5. areas containing nationally significant examples of indigenous community types; and*
- 6. areas set aside for full or partial protection of indigenous biological diversity under other legislation; and*

avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:

7. areas of predominantly indigenous vegetation in the coastal environment;
8. habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;
9. indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;
10. habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
11. habitats, including areas and routes, important to migratory species; and
12. ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

7.1.32 I recommend that ECO-P3 is amended as follows:

Protect indigenous biodiversity by managing the clearance of indigenous vegetation in the following sensitive areas:

1. *riparian areas, wetlands and springs; and*
2. *coastal areas; and*

...

7.1.33 I recommend that ECO-P5.1 is amended as follows:

Avoid the clearance of indigenous vegetation and earthworks within SNAs, unless these activities:

1. *are outside the coastal environment and can be undertaken in a way that protects the identified ecological values); and*
2. *are for regionally significant infrastructure and it can be demonstrated that adverse effects are managed in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure.*

7.1.34 I recommend that ECO-R1.2, ECO-R2 and ECO-R3 are amended to delete “within 20m of mean high water springs” from the lefthand column.

7.1.35 I recommend that the following matter of discretion is added to ECO-R1.2:

Within the coastal environment, the management of effects in accordance with ECO-PY

7.1.36 I consider that the additional Coastal Environment policy, and changes to ECO-P3, ECO-P5 and ECO-R1.2, ECO-R2 and ECO-R3 are necessary to fully give effect to the NZCPS and therefore the costs and benefits associated with this approach are as already anticipated under the NZCPS. No further s32AA assessment is therefore required.

7.2 Mapping / Scheduling of Sites and Areas

7.2.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Pye Group	35.3
King, G and M	62.3
Frank, H	90.17
McArthur, K and J	113.9
Jamieson, C R and H A	129.2
McCullough, P and S	137.2
Forest and Bird	156.3, 156.181
Tarrant, K and R	158.2
Dir. General Conservation	166.12, 166.49
Fenlea Farms	171.6, 171.32
Silver Fern Farms	172.50
Alliance Group	173.53
Rooney Holdings	174.101
Rooney, A J	177.14
ECan	183.169
Te Rūnanga o Ngāi Tahu	185.38
KiwiRail	187.89
Rooney, GJH	191.101
K J Rooney Ltd	197.7
Rooney Group	249.101
Rooney Farms	250.101
Rooney Earthmoving	251.101
TDL	252.101
Yeandle, R	253.2

Submissions

7.2.2 Several submitters¹¹ note that there is no “ECO-SCHED2” in the PDP, and consider that it is unclear whether references to it should be understood as being to SCHED7 – Schedule of Significant Natural Areas. Submitters seek that reference is corrected to the latter if this is an error, or if it differs, that ECO-SCHED2 is made available. Dir. General Conservation

¹¹ Fenlea Farms [171.6, 171.32], Rooney, A J [177.14], K J Rooney Ltd [197.7]

- [166.12] similarly seeks that the definition of ‘Significant Natural Area or SNA’ is amended to refer to the correct schedule number, being SCHED7.
- 7.2.3 KiwiRail [187.89] supports the identification of SNAs within the rail corridor, namely SNA-116b (Rangitata Island); SNA-823 (Penguin habitat); SNA-851 (Ōpihi River); SNA-852 (Ōrāri River); and SNA-853 (Rangitata River). Silver Fern Farms [172.50] and Alliance Group [173.53] support mapping and scheduling of SNAs in the PDP. Dir. General Conservation [166.49] supports all SNAs listed within SCHED7.
- 7.2.4 Pye Group [35.3] seeks that an additional area identified in their submission is identified as an SNA as it contains lizard habitat and kanuka. The submitter notes that the site is covered by a Stakeholder Site Rehabilitation Agreement, but that future landowners would not be bound by the Agreement and consider it should therefore be identified as an SNA to ensure biodiversity values are protected long-term.
- 7.2.5 McArthur, K and J [113.9] raise concerns with cabbage trees being identified as SNAs and seek that the “*new SNAs*” are reviewed, particularly those on roadsides.
- 7.2.6 Several submitters oppose the identification of SNAs on their property, including:
- King, G and M [62.3] and Tarrant, K and R [158.2] state that they do not give their consent to the process of identifying SNAs (the submissions do not identify which SNA(s) this applies to).
 - McArthur, K and J [113.9] raise concerns that some SNAs identified on their property are new, and that they have not been consulted regarding them.
 - Jamieson, C R and H A [129.2] state that they never consented to the SNA proposed on their property at 278 Pareora Ford Road, stating that it is not an SNA as it is an operating sheep and beef farm.
 - McCullough, P and S [137.2] seek deletion of SNAs and any protected wetlands from 94 John Talbot Road, and raise concerns regarding the consultation process and lack of lawful process to inform and involve private property owners.
 - Fenlea Farms [171.32] opposes any provisions applying to SNAs on their properties at 158 Prattley Road and 94 Milford Clandeboye Road.
 - Rooney, A J [177.14 part] opposes any provisions applying to SNAs on their properties at 0 Domain Avenue, 32 and 48 Milford-Clandeboye Road, Temuka
 - K J Rooney Ltd [197.7 part] opposes any provisions applying to SNAs on their property at 0 Boiling Down Road, Temuka
- 7.2.7 Yeandle, R [253.2] seeks that all SNAs throughout the District are deleted, stating that the rule changes are unfair and that there was a lack of consultation on them. The submitter states that there is lack of explanation by Runanga and the blanket coverage of the wider Temuka area is unacceptable.

- 7.2.8 Frank, H [90.17], Forest and Bird [156.181] and Dir. General Conservation [166.49] support all SNAs listed within SCHED7 and seek their retention. Forest and Bird [156.181] also seeks that the schedule is updated as new SNAs become known. ECan [183.169] seeks that a sentence is added to make it clear that the schedule is not a definitive list and that if an area meets the criteria in APP5, it should be treated as a SNA, with more sites added as they are identified. Similarly, Frank, H [90.17] seeks further consideration is given to the statement in the ECO Chapter that *“In addition, there are likely to be a range of other areas not yet assessed but containing significant values.”* The submitter does not identify specific changes sought to SCHED7 to address this.
- 7.2.9 Forest and Bird [156.3] while supporting the identification of SNAs, considers that the current list is incomplete, and notes that some SNAs have been identified by desktop only and still need to be ground trothed. The submitter supports continuing with a district wide survey to ensure that all the District’s SNAs are included; and considers that the policy and rule framework should provide mechanism to continue to identify, map and protect SNAs. It seeks that the PDP contain provisions to identify further SNAs, and to ensure that all chapters in the PDP give the appropriate level of protection to SNAs, whether they are included in SCHED7¹² or not. Additionally, the submitter seeks that all chapters are subject to compliance with the ECO chapter objectives, policies, and rules.
- 7.2.10 Te Rūnanga o Ngāi Tahu [185.38] also supports SCHED7, but seeks that it is amended so that the attributes/ values of these areas cross reference the SASM references to ensure that the cultural values are fully recognised and protected as required by case law for landscape assessments. This is sought to improve clarity and ensure that all cultural values are given the appropriate weight.
- 7.2.11 With respect to the layout of the Schedule, six submitters¹³ consider that it should refer to the names of landowners under the column *“Survey Reference”*, so as to protect privacy, as well as reflecting that properties may change ownership over time and the name reference will be incorrect.

Analysis

- 7.2.12 I agree with submitters that there is a referencing error, whereby there are references made to *“ECO-SCHED2”* within the definition of ‘Significant Natural Area or SNA’, but no such schedule exists. This reflects that in the PDP, all schedules are contained in Part 4 – Appendices and Schedules – and not contained within individual chapters. The reference to ECO-SCHED2 should be to SCHED7 – Schedule of Significant Natural Areas and I agree that this should be corrected.

¹² The submission refers to Schedule 4 but it is assumed that this is an error and reference is intended to be to SCHED7.

¹³ Rooney Holdings [174.101], Rooney, GJH [191.101], Rooney Group [249.101], Rooney Farms [250.101], Rooney Earthmoving [251.101], TDL [252.101]

- 7.2.13 The support for the proposed SNAs is noted. With respect to the additional SNA requested by Pye Group [35.3], Mr Harding notes the history associated with this area, and his preliminary view was that the ecological values of the site are likely to be significant, as habitat of southern grass skink and as a rare example of undeveloped land in the Low Plains Ecological District. However, for consistency with the identification of other SNAs, he recommended that the site be formally assessed to confirm its ecological significance, with a report completed which describes the ecological values of the site and assesses those values against significance criteria. In light of this, a further assessment was undertaken by Mr Harding, which is attached to his evidence, which confirms that the area is significant when assessed against the CRPS criteria. I therefore recommend that the site is included in SCHED7.
- 7.2.14 With respect to cabbage trees having been identified, Mr Harding addresses this in his evidence, noting that roadside SNA surveys were undertaken in response to an instruction from Council and occurred much later than those undertaken on private property. He also confirms that the reason these cabbage trees have been identified as significant is that it is indigenous vegetation located in an ecological district (Low Plains) and Land Environment (N3.1b) within which indigenous vegetation is reduced to less than 20% of its former extent. Mr Harding is of the opinion that this vegetation meets the threshold for identification as an SNA when assessed against the criteria in the CRPS (which is replicated in APP5 of the PDP). I therefore consider it appropriate to retain these SNAs within SCHED7.
- 7.2.15 With respect to the other SNAs which are objected to, I note that:
- There is no requirement under the RMA for a property owner to “consent to” an SNA being applied.
 - Mr Harding confirms that all SNA surveys of privately-owned (fee simple) land were undertaken with the consent of the landowner/landholder, except 10 properties for which permission for access was denied. I consider that this provided opportunity for landowners to be involved in the process, and where landowners chose not to be involved, this does not negate the Council’s obligations regarding SNAs under the RMA.
 - Mr Harding has confirmed why the areas were assessed as being significant. With respect to those areas where access was denied, the desktop assessments undertaken were still sufficient to draw this conclusion.
 - In some cases, it is not clear what SNAs the submitters are referring to, as they do not appear to have SNAs identified on their properties.¹⁴
- 7.2.16 Overall, based on Mr Harding’s evidence and the previous assessment undertaken, I do not consider that it is appropriate to remove any of the SNAs opposed by submitters.

¹⁴ Fenlea Farms [171.32], Rooney, A J [177.14], K J Rooney Ltd [197.7]

- 7.2.17 With respect to Yeandle, R [253.2], I note that the comment appears to relate to SASMs rather than SNAs. The process undertaken to identify SNAs (which was not undertaken by Runanga) is summarised above. Given the direction in s6(c) of the RMA, I do not consider that the SNAs can simply be deleted, unless they were replaced with a fulsome set of provisions that otherwise appropriately manage significant areas.
- 7.2.18 With respect to those submitters seeking that SCHED7 is amended to allow for sites not currently in the Schedule, but assessed in future as meeting the criteria to be an SNA to be “captured” in the Schedule, I do not consider this to be appropriate. I consider that a Schedule 1 process is required to add additional sites in future, to allow for the evidence for their inclusion to be tested, and submissions to be made. I note that the Introduction to the Chapter already acknowledges that “*there are likely to be a range of other areas not yet assessed, but containing significant values.*” I also note that the rules relating to clearance outside SNAs (including the additional rule I have recommended) include matters of discretion which allow for assessment of any indigenous vegetation against the criteria in APP5. As such, where a resource consent requirement for clearance is triggered, consideration can be made to the significance of any indigenous vegetation regardless of whether it is included in SCHED7.
- 7.2.19 I have also considered whether any additional provisions are required to provide a mechanism to continue to identify, map and protect SNAs. However, I note that ECO-P1 already refers to identifying SNAs by assessing them against APP5 and then including them in SCHED7. I do not consider that further provisions are needed. With respect to ensuring that all chapters in the PDP give the appropriate level of protection to SNAs (whether scheduled or not), I am not clear what changes are sought, nor why they are necessary.
- 7.2.20 With respect to Te Rūnanga o Ngāi Tahu’s request [185.38] to cross reference the schedule to SASM references, to ensure that the cultural values are fully recognised and protected, I note that the Planning Maps also show where an area is located in both an SASM and an SNA. Therefore I do not see the benefit in cross-referencing to the SASM Chapter within SCHED7, and note that this is not done in other instances (e.g. where an SNA is also located in an ONL).
- 7.2.21 With respect to the layout of the Schedule, I have assumed that the submitters are requesting that it should **not** refer to the names of landowners under the column “*Survey Reference*”. Having discussed this with Mr Harding, we do not consider that there is a need to include the “*Survey Reference*” column in the Schedule, as the “*Unique Identifier*” column is sufficient, along with the related “*Document Number*” which details each SNA more fully.

Conclusions and Recommendations

- 7.2.22 I recommend that the additional area identified in the Pye Group submission [35.3] is included in SCHED7.

- 7.2.23 In terms of s32AA, the inclusion of the site in SCHED7 implements ECO-P1, which in turn better achieves protection of significant indigenous vegetation and significant habitats of indigenous fauna in accordance with ECO-O1.
- 7.2.24 I recommend that the definition of 'Significant Natural Area or SNA' is amended as follows:
means identified areas of significant indigenous vegetation and significant habitats of indigenous fauna, as set out in ~~ECO-SCHED7~~ and shown on the Planning Maps.
- 7.2.25 In terms of s32AA, it is my view that the change is minor and provides clarification for plan users. Therefore, the original s32 assessment still applies.
- 7.2.26 I recommend that the "Survey Reference" column in the SCHED7 is deleted. I consider that this change is minor and does not alter the effect of the provisions which relate to the schedule. Therefore, the original s32 assessment still applies.

7.3 Introduction

- 7.3.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.97
Dir. General Conservation	166.30

Submissions

- 7.3.2 Forest and Bird [156.97] seeks various additions to the ECO Chapter Introduction, which are set out below. These are sought on the basis that the District contains some unique and representative examples of indigenous vegetation and habitat for indigenous fauna, and a more thorough description of these should be included. The changes sought are:

The district contains a diverse range of habitats that support indigenous plants and animals, including at-risk, threatened, and endangered indigenous species, including the nationally critical pekapeka/Long Tailed Bat and the at-risk and declining kororā /Little Penguin. Many of these habitats are endemic, comprising forests, shrub lands, herb fields, tussock grasslands, and waterbody margins, including coastal areas. Some contain exotic species.

The amount and type of indigenous vegetation remaining in the District varies over the rural area, due to many factors. Some areas have been actively conserved by landholders, and some simply left alone.

The Council has a responsibility In, addition, there are likely to be a range of other areas not yet assessed, ~~but containing significant values, that meet the APP5 Criteria for identifying Significant Natural Areas, and will be progressively assessed, listed, and mapped in the Plan.~~

- 7.3.3 Dir. General Conservation [166.30] seeks that the first paragraph in the Introduction also refers to “drylands” and considers that it should be made clear within the introduction that there are unmapped areas of remnant indigenous vegetation within Timaru that the Council is also required to protect, seeking reference to these in the second paragraph, as follows:

In addition, there are likely to be a range of other areas including remnant, recovering or restored biodiversity not yet assessed, but containing ~~significant~~ indigenous biodiversity values that council is also required to protect, maintain and enhance.

Analysis

- 7.3.4 I agree with both submitters that further detail could be usefully included in the Introduction. However, I do not think this should extend to referencing specific species, given Mr Harding’s comments that what are ‘at risk’ or ‘threatened’ can change over time. I also do not think it necessary to include an additional paragraph about the amount and type of indigenous vegetation, nor the manner in which it has been kept as I do not consider this is relevant to what the Chapter relates to – being how indigenous vegetation is to be managed moving forwards. I also agree with amending the final paragraph slightly but do not agree with this explicitly stating that further areas “*will be progressively assessed, listed, and mapped in the Plan*” as this is not something that I consider the District Plan itself should state, with this being a matter to be determined as part of the Council’s work programmes and funding, as well as taking into account relevant direction (and changes to that direction) from the Government.

Conclusions and Recommendations

- 7.3.5 I recommend that the Introduction to the ECO Chapter is amended as follows:

The district contains a diverse range of habitats that support indigenous plants and animals, including at-risk, threatened, and endangered indigenous species. Many of these habitats are endemic, comprising forests, shrub lands, herb fields, drylands, tussock grasslands, and waterbody margins, including coastal areas. Some contain exotic species.

The Council has a responsibility to maintain ‘indigenous biodiversity’ generally and in particular to recognise and provide for the protection of ‘significant indigenous vegetation’ and ‘significant habitats of indigenous fauna’. The identified significant indigenous vegetation and habitats are collectively referred to as Significant Natural Areas (SNA’s) having been assessed and listed in the Plan. In, addition, there are likely to be a range of other areas not yet assessed, ~~but containing significant values, that meet the APP5 Criteria for identifying Significant Natural Areas.~~

- 7.3.6 I consider that these changes are minor and as they do not alter the effect of the provisions, the original s32 analysis still applies.

7.4 Objectives

- 7.4.1 As notified, the ECO chapter contained three objectives. This section of the report discusses submission points made specifically on these objectives.
- 7.4.2 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Alpine Energy	55.2, 55.3
Frank, H	90.2
NZAAA	132.14
Forest and Bird	156.98, 156.99, 156.100
Dir. General Conservation	166.31, 166.32
Silver Fern Farms	172.47, 172.48
Alliance Group	173.50, 173.51
Federated Farmers	182.100, 182.101
ECan	183.68, 183.69, 183.70

Submissions

- 7.4.3 Federated Farmers [182.100, 182.101] supports the objectives in the ECO Chapter and seek their retention, or the preservation of their intent. While noting the tension between landowners, iwi and Council around the preservation of indigenous ecosystems and biodiversity, the submitter considers that the approach taken should be one where landowners view biodiversity as a valuable asset rather than a hindrance, but that as part of this, the PDP needs to permit farming activities such as lambing, calving, shelter, water supply and takes, fencing, access and works for access and fire breaks.
- 7.4.4 Alpine Energy [55.2, 55.3] opposes ECO-O1 but supports ECO-O2, stating in both cases that it recognises the importance of protecting, maintaining, and enhancing indigenous biodiversity within the District and look forward to engaging with the Council to support these objectives through its work. No specific changes to the objective are identified within the submission.
- 7.4.5 Frank, H [90.2] seeks that ECO-O1 is extended to add "*and where possible enhanced*", as there is otherwise no provision in the PDP aiming for the enhancement of natural values. Forest and Bird [156.98] seek that the objective is amended to remove reference to the values, on the basis that section 6(c) of the RMA requires protection of SNAs, not just their

values. Silver Fern Farms [172.47] and Alliance Group [173.50] seek that the objective is amended to refer to “*mapped*” areas, to avoid uncertainty about where the requirement to protect these values applies. ECan [183.68] supports the intent of the objective and consider that it is consistent with Objective 9.2.3 in the CRPS, seeking a minor change to refer to the “*values of areas of*” SNAs.

7.4.6 Several submitters¹⁵ support ECO-O2 and seek its retention, for reasons including that they support the maintenance and enhancement of indigenous biodiversity or because it is consistent with Objective 9.2.1 in the CRPS.

7.4.7 Dir. General Conservation [166.31] acknowledges that ECO-O1 is consistent with section 6(c) of the RMA, but seeks that both ECO-O1 and ECO-O2 are replaced with an objective that sets an overall target for indigenous biodiversity across the District to be increased, and sets out how this will be achieved by the PDP provisions. The submitter considers that this will better align with Objectives 9.2.1, 9.2.2 and 9.2.3 in the CRPS. The replacement objective wording sought is:

Overall, there is an increase in indigenous biodiversity throughout the District, comprising:

- 1. protected and restored SNAs; and*
- 2. other areas of indigenous biodiversity that are maintained and enhanced, and*
- 3. the restoration and enhancement of areas of indigenous biodiversity is encouraged and supported.*

Analysis

7.4.8 I consider that at an outcome level, what is sought in ECO-O1, is the protection of areas of significance. I do not consider it appropriate to limit this to only those areas which are currently mapped, which in my view would not be consistent with s6(c) of the RMA, and therefore would not achieve the purpose of the RMA. The manner in which this outcome is achieved through the provisions involves mapping and provisions directed towards identified SNAs, but as noted earlier includes provisions relating to other indigenous biodiversity, where its significance is also able to be assessed.

7.4.9 Having considered the changes sought by Frank, H [90.2], Forest and Bird [156.98] and ECan [183.68] I tend to agree with aligning the wording with what is used in s6(c) of the RMA. This does not extend to enhancement, nor does it relate to values of areas. I note that ECO-P5.1 does refer to protection of values, but I consider that it is appropriate at the policy level to do so (i.e. the action of protecting values will assist in achieving the protection of these areas), but tend to agree that the outcome sought should be the overall protection of the vegetation and fauna.

¹⁵ NZAAA [132.14], Forest and Bird [156.99], Silver Fern Farms [172.48], Alliance Group [173.51], ECan [183.69].

- 7.4.10 I do not agree with the alternate wording sought by Dir. General Conservation [166.31] as I consider that the outcomes it seeks extends beyond s6(c) and s31(1)(b)(iii) and the outcomes sought and policy direction included in the CRPS. Grammatically, the wording of clause 3 does not work with the stem of the objective. With respect to restoration, I consider that this is more related to an action undertaken to achieve the overall maintenance or enhancement of indigenous biodiversity – being the outcome that is already set out in ECO-O2.

Conclusions and Recommendations

- 7.4.11 I recommend that ECO-O1 be amended as follows:

The values of Significant indigenous vegetation and significant habitats of indigenous fauna across the District are protected.

- 7.4.12 I recommend that ECO-O2 be retained as notified.

- 7.4.13 Under s32AA, I consider that the change to ECO-O1 is minor and does not fundamentally alter the intent. However, I consider that aligning it with the wording of s6(c) of the RMA is more appropriate.

7.5 Policies – General

- 7.5.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
OWL	181.61

Submissions

- 7.5.2 OWL [181.61] considers that it would be appropriate for the policies and rules in this chapter to include similar provisions to NFL-P4.7.d and NFL-R3 relating to regionally significant infrastructure/network utilities.

Analysis

- 7.5.3 NFL-P4 directs that subdivision, use and development within ONFs and ONLs is avoided, unless it meets the criteria set out in clauses 1-4 of that policy, and allows for other matters to be taken into account, including (at clause 7.d) the direction in EI-P2. EI-P2, in turn, directs that RSI is provided for, subject to adverse effects being appropriately managed in the manner set out in that policy's sub-clauses. This includes (at EI-P2.1.a) "*seeking to avoid adverse effects on the identified values and qualities of... Significant Natural Areas...*". I note that ECO-P5 also contains a similar cross-reference to EI-P2, directing that clearance of indigenous vegetation and earthworks within SNAs are avoided, unless these activities are

for RSI and it is demonstrated that adverse effects are managed in accordance with EI-P2. I therefore do not consider that further changes to the ECO Chapter are required.

- 7.5.4 NFL-R3 PER-1 provides a permitted activity status for the maintenance, upgrading or removal of existing network utilities, including associated earthworks. NFL-R3 PER-2 provides a permitted activity status for new underground network utilities or their upgrading, subject to limits on earthworks volumes, and importantly, expressly requires that the installation does not require the clearance of any indigenous vegetation.
- 7.5.5 Because the rules in the ECO chapter relate to indigenous vegetation clearance, and NFL-R3 PER-2.3 expressly excludes clearance of any indigenous vegetation, it is not clear to me exactly what provision is sought in the ECO Chapter, as in essence, the NFL Chapter does not permit new network utilities where such utilities involved the clearance of indigenous vegetation. Both chapters therefore require resource consent to be obtained for indigenous vegetation clearance, with similar policy direction referring back to EI-P2. For completeness, I note that later in this report I recommend the deletion of NFL-R3 PER-2.3 to avoid duplication across both chapters. This does not affect my assessment of this submission point, as it retains the restriction on the clearance of indigenous vegetation associated with network utilities.

Conclusions and Recommendations

- 7.5.6 I do not recommend any changes to the ECO Chapter in response to this submission.

7.6 Assessment and Identification (ECO-P1 and APP5)

- 7.6.1 ECO-P1 directs the identification of SNAs, by assessing areas of indigenous vegetation and habitats of indigenous fauna according to the criteria set out in APP5, and including SNAs on the Planning Maps and within SCHED7. This section of the report addresses submissions on both ECO-P1 and the related criteria set out in APP5.
- 7.6.2 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Frank, H	90.3, 90.22
NZAAA	132.15
Forest and Bird	156.101, 156.176
Dir. General Conservation	166.33, 166.48
Road Metals	169.48
Fulton Hogan	170.50
Silver Fern Farms	172.49, 172.159

Alliance Group	173.52, 173.151
Rooney Holdings	174.30
ECan	183.71, 183.167
Rooney, GJH	191.30
Rooney Group	249.30
Rooney Farms	250.30
Rooney Earthmoving	251.30
TDL	252.30

Submissions

- 7.6.3 Several submitters¹⁶ support ECO-P1 and seek its retention, or the preservation of its intent. Reasons include that the approach set out is consistent with the methodology set out in the CRPS and that it provides for the management of pest plants and pest animals to enhance biodiversity values.
- 7.6.4 Several submitters¹⁷ oppose the policy to the extent that it applies to SNAs that are located within the beds of lakes and rivers, which they refer to as section 13 RMA land, and seek that the policy is amended to exclude the identification of SNAs on such land. The submitters state that the CRPS does not require district councils to identify SNA on Section 13 land, and that many Canterbury district councils do not. They further note that the regional council is the lead authority for managing activities within the beds of rivers and lakes, and consider that unnecessary duplication, overregulation, misalignment, and confusion should be avoided.
- 7.6.5 Dir. General Conservation [166.33] supports the intent of this policy but seeks to make it clear that there is a process provided in the PDP for identifying new areas of significant vegetation and habitats of indigenous fauna, noting that this is anticipated in provisions such as the matters of discretion in ECO-R1.2. The submitter seeks that the policy is amended to read:

Identify Significant Natural Areas by:

1. *assessing **and continuing to identify new** areas of indigenous vegetation and habitats of indigenous fauna according to the criteria set out in APP5-Criteria for Identifying Significant Natural Areas; and ...*

¹⁶ Frank, H [90.3], NZAAA [132.15], Forest and Bird [156.101], Silver Fern Farms [172.49], Alliance Group [173.52], ECan [183.71]

¹⁷ Rooney Holdings [174.30], Rooney, GJH [191.30], Rooney Group [249.30], Rooney Farms [250.30], Rooney Earthmoving [251.30], TDL [252.30]

- 7.6.6 Five submitters¹⁸ support APP5 as it is consistent with the CRPS; or it reflects criteria widely recognised and used by scientists and institutions. Dir. General Conservation [166.48], Road Metals [169.48] and Fulton Hogan [170.50] seek that the criteria are amended to be consistent with the draft NPSIB.

Analysis

- 7.6.7 With respect to “*section 13 RMA land*”, I do not consider it appropriate to amend the policy itself in relation to this, noting that what the policy directs is that areas are assessed in accordance with APP5, and then included in SCHED7. In terms of what areas should be included in SCHED 7, Policy 10.3.1 of the CRPS directs that activities in river and lake beds and their riparian zones, including the planting and removal of vegetation and the removal of bed material is provided for, subject to the criteria set out in the policy. The methods relating to this policy allow for territorial authorities to control the use of land within lakes and river beds for maintenance of indigenous biological diversity where they have identified (in a district plan) an area of significant indigenous vegetation or a significant habitat of indigenous fauna, that includes a bed of a lake or river. While I accept that the CRPS does not “require” this, I consider that it is appropriate to identify and protect these areas in order to achieve ECO-O1. In not doing so, areas of important habitat or vegetation within the bed of a river are treated the same as other areas which meet the significance criteria.
- 7.6.8 With respect to the change sought by Dir. General Conservation [166.33], I do not consider this to be appropriate. The direction is that areas are assessed according to the criteria. When new areas are identified, the process for adding these to the District Plan is via a Plan Change, which would be assessed under ECO-P1, i.e. whether new areas proposed met the criteria in APP5.
- 7.6.9 I do not consider it to be appropriate to amend the criteria in APP5 to align with the NPSIB at this time. This is because the currently identified sites have been assessed against the criteria set out in the PDP, and if the criteria are amended, then the sites would need to be reassessed against the new criteria. While I accept that this is something that the Council must do in order to give effect to the NPSIB, I consider that the appropriate time to do so is when the Council undertakes a plan change to align the District Plan with the NPSIB, in accordance with the timeframes set out within it. At this point in time, including the NPSIB criteria would result in an internal inconsistency within the Plan which I do not consider to be appropriate.

Conclusions and Recommendations

- 7.6.10 I recommend that ECO-P1 and APP5 are retained as notified.

¹⁸ Frank, H [90.22], Forest and Bird [156.176], Silver Fern Farms [172.159] Alliance Group [173.151], ECan [183.167]

7.7 Appropriate Clearance in SNAs (ECO-P2)

7.7.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Alpine Energy	55.4
Frank, H	90.4
Port Blakely	94.5
Waka Kotahi	143.82
Forest and Bird	156.102
Transpower	159.70
Dir. General Conservation	166.34
Silver Fern Farms	172.51
Alliance Group	173.54
Connexa	176.70
ECan	183.72
KiwiRail	187.54
Spark	208.70
Chorus	209.70
Vodafone	210.70

Submissions

7.7.2 Seven submitters¹⁹ support ECO-P2 and seek its retention, as they consider it appropriate for exemptions to be provided for indigenous vegetation clearance in SNAs for the identified activities.

7.7.3 Alpine Energy [55.4] seeks that clause 5 of the policy is extended to also refer to maintenance and repair of the electricity distribution network. It notes that 69 poles and 44 overhead conductors, along with associated vehicle tracks are located within SNAs and that from time to time, the maintenance, repair and upgrading of these existing poles and lines requires vegetation to be cleared in the immediate vicinity of poles. The submitter notes that the policy provides this with respect to the National Grid and public roads and considers that adverse effects from clearance for their activities will be the same as for those. KiwiRail [187.54] similarly seeks that the clause is extended to refer to the rail network, on the basis that SNAs extend into the rail corridor and vegetation clearance is often required to ensure

¹⁹ Waka Kotahi [143.82], Silver Fern Farms [172.51], Alliance Group [173.54], Connexa [176.70], Spark [208.70], Chorus [209.70], Vodafone [210.70]

the rail network can operate safely and efficiently. It considers that the clause should apply to all RSI, not just the National Grid and public roads.

- 7.7.4 Frank, H [90.4] seeks the addition of “*and this cannot be avoided by other measures*” to ECO-P2.
- 7.7.5 Port Blakely [94.5] seeks that ECO-P2 is amended to allow for the appropriate clearance of indigenous vegetation in SNAs for the maintenance of forestry tracks and roads that have been used in the last 50 years and vegetation clearance in an SNA where it is incidental damage and the damage meets the restrictions in regulation 93(5)(c) of the NESPF. The submitter also seeks that text be included in the policy to clarify that the NESPF regulations will prevail over the proposed district plan regarding indigenous vegetation clearance in SNAs. The submitter considers that while the NESPF allows for stricter standards to be included in a district plan in relation to SNAs, the s32 report does not provide justification for taking a more stringent approach.
- 7.7.6 Forest and Bird [156.102] considers that the policy contain provisions that sit better as rules, and that the use of the word “*appropriate*” in the heading makes the purpose of the policy uncertain. The submitter seeks changes to the policy that it considers will simplify it, and direct consideration of allowing clearance in specified circumstances. The changes sought are:
- ECO-P2 Appropriate indigenous vegetation clearance in significant natural areas***
Consider allowing Provide for the clearance of indigenous vegetation in Significant Natural Areas where it is appropriate for health, safety, and wellbeing or customary reasons, by enabling clearance:
- ... 5. *for the operation, maintenance or repair of the National Grid and public roads.*
- 7.7.7 Transpower [159.70], in relation to clause 5, seeks that it also applies to the “*upgrade*” of the National Grid, consistent with the NESETA and to give effect to the NSPET.
- 7.7.8 Dir. General Conservation [166.34] considers that those activities that have a functional need to be located within SNAs are already provided for in other chapters of the Plan (e.g. Infrastructure) and states that clauses 4 and 5 are a repeat of the reasons set out in clause 2. The submitter therefore seeks deletion of clauses 4 and 5 in the policy. The submitter also states that there is no definition for “*unwanted organisms*” in the PDP and therefore consider that this should be removed from clause 3 of the policy, or a definition included.
- 7.7.9 ECan [183.72] supports the practical approach to protecting SNAs, but considers that ECO-P2 could be interpreted as being inconsistent with ECO-P5 which directs the avoidance of clearance of indigenous vegetation in SNAs. The submitter therefore seeks that these policies are reviewed to ensure their consistency and avoid confusion.

Analysis

- 7.7.10 With respect to electricity distribution and the rail network, in absence of being included in ECO-P2, I note that these activities are subject to ECO-P5, which directs that the clearance

of indigenous vegetation and earthworks within SNAs is avoided, unless the activities are for RSI and effects are managed in accordance with EI-P2 (which in turn refers to SNAs). I consider that this is appropriate with respect to new RSI (including electricity distribution and railways). I accept that the adverse effects of the maintenance, repair and upgrading of existing electricity distribution poles and lines is likely to be similar with that associated with the National Grid. However, I consider the approach taken to the National Grid can be distinguished by the National Policy Statement on Electricity Transmission, which does not apply to the electricity distribution network. This includes direction (Policy 5) to enable the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets, when considering the environmental effects of transmission activities. With respect to roads, I note that how the policy is implemented is limited (under ECO-R1.1 PER-2) to installing road safety assets for the purpose of reducing traffic risk within the road corridor; to no more than 5m² of clearance; or to maintain existing roadside drainage.

- 7.7.11 However, I tend to agree with Alpine Energy [55.4] and KiwiRail [187.54] that it is consistent with the stem of ECO-P2 to enable the clearance of indigenous vegetation within SNAs, where it is limited to operation or maintenance purposes. This is because the clearance in these instances relate to health and wellbeing reasons, being the ongoing safe, efficient and effective operation of existing infrastructure that is important to the District's well-being. I also note that clause 2 of the policy allows for clearance "*where it is causing imminent danger to ... utilities*". I consider that there is a risk that if vegetation clearance for operation or maintenance purposes is not enabled, that such vegetation may be left until it is causing "*imminent danger*", and I do not consider that this is the most efficient nor effective way to achieve EI-O1. I note that amendments to the rules will be required to align them with the change I am recommending to this policy, noting that the detail of this is addressed in the discussion relating to the rules below.
- 7.7.12 With respect to Frank, H [90.4] I do not consider the addition to be appropriate. I consider that the policy already limits the circumstances in which clearance is enabled, and note that it is implemented through permitted activity rules. I do not consider it possible to implement the additional wording through such rules, as determining if there might be other measures which can be undertaken which avoid clearance would require an evaluative judgement. Given the nature of the activities enabled under the policy, I do not consider this additional judgement is required.
- 7.7.13 In terms of Port Blakely's [94.5] submission, I do not consider it appropriate to include text in the policy regarding the NESCF regulations overriding the District Plan, as I do not consider that this sits within a policy. With respect to amending the policy to allow for clearance in SNAs for the maintenance of forestry tracks and roads; and vegetation clearance in an SNA where it is incidental damage and meets regulation 93(5)(c) of the NESCF, I again do not consider this to be a policy matter, as the regulations themselves have the effect of rules. I also do not consider that there is a need to duplicate the requirements of the NESCF as this

would be contrary to s44A. I consider that the broader question which is validly raised by the submitter is whether or not it is appropriate to rely on the NESCF to manage clearance of indigenous vegetation associated with SNAs relating to forestry activities, or whether there is justification to take a more stringent approach.

- 7.7.14 Regulation 93 permits indigenous vegetation clearance in certain circumstances. With respect to SNAs, clearance is only permitted where it is overgrowing a forestry track, if the track has been used within the last 50 years, or it is incidental damage which does not significantly affect the values of that SNA and allows the ecosystem to recover within 36 months to a state where it will be predominantly of the composition previously found at that location. I do not consider that in the Timaru District context there is a need to impose more stringent requirements on these particular forestry-related activities. I note that removal of indigenous vegetation in SNAs beyond the circumstances set out in Regulation 93 is a restricted discretionary activity under Regulation 94, with matters of discretion including ecological effects (including the significance of the vegetation), mitigation measures and alternates to clearance. Again, I do not consider there to be a particular reason to impose more stringent requirements.
- 7.7.15 I do not agree with changing the direction in the policy to “*considering allowing for*”, or removing reference to enabling, as I consider that this would not provide clear guidance for what is then implemented through the rule framework. I consider that the policy is necessary to support the proposed permitted activity rules, and that permitting clearance in these circumstances is appropriate (including in relation to public roads) and does not compromise the overall protection of SNAs sought in ECO-O1. I do agree with adding explicit reference to safety (but retaining reference to well-being) as I consider that this better aligns with the intent of the provision, as reflected in the rule framework.
- 7.7.16 With respect to upgrades, I note that Policy 5 of the NPSET refers to enabling the reasonable operational, maintenance and **minor upgrade** requirements of established electricity transmission activities. I therefore do not agree that it is appropriate to enable all upgrades, as those which are beyond minor may have adverse effects that require consideration through a consent pathway. However, if the submitter is able to suggest a way in which the policy could be limited to only capture ‘minor upgrades’, perhaps by way of a definition, then I consider expansion of the policy would likely be appropriate.
- 7.7.17 I do not agree with Dir. General Conservation [166.34] that those matters covered in Clauses 4 & 5 relate to the same matters as set out in 2. Clause 2 relates to things causing “*imminent danger to utilities*” which in my view is different to normal maintenance activities that are undertaken to maintain efficiency of operation (for example). While there is a link between the ECO Chapter and the EI Chapter, I consider that the direction in this policy is needed to be clear as to how the two chapters relate. In particular, the policies in the EI Chapter do not directly flow through to the rules in the ECO Chapter, and therefore I consider a policy link within the ECO Chapter is still needed.

- 7.7.18 I do not consider it necessary to provide a definition for unwanted organisms, as the way the policy is implemented is through ECO-R1.1 PER-4, which is clear that these are those organisms declared as such by the Minister for Primary Industries Chief Technical Officer, or an emergency declared under the Biosecurity Act 1993. I do not consider there to be a need to include this level of detail at the policy level through a definition, when this is clear in the rule that implements the policy.
- 7.7.19 With respect to ECan's concern that ECO-P2 could be interpreted as being inconsistent with ECO-P5, I consider that this can be addressed by amending ECO-P5 to refer to ECO-P2. This is addressed further in the analysis relating to ECO-P5.

Conclusions and Recommendations

- 7.7.20 I recommend that ECO-P2 is amended as follows (noting this does not incorporate changes recommended elsewhere in this report):

Provide for the clearance of indigenous vegetation in Significant Natural Areas where it is appropriate for health and safety, wellbeing or customary reasons, by enabling clearance:

1. *for mahika kai and other customary uses, where this is undertaken in accordance with tikaka protocols; or*
2. *where it is causing imminent danger to human life, structures, or utilities; or*
3. *where necessary to manage plant or animal pests or unwanted organisms; or*
4. *for flood protection works by appropriate authorities where those works are required to protect people and communities from the effects of flooding; or*
5. *for the operation, maintenance or repair of the National Grid; or*
6. *for the operation or maintenance of the electricity distribution network, rail network and public roads.*

- 7.7.21 In terms of s32AA of the RMA, I consider that reference to safety is better aligned with the wording use in s5 of the RMA. I consider that this expansion does not affect the achievement of ECO-O1. I consider that the addition of a new clause better reflects the intent of the policy, to provide for clearance where it is appropriate for health and safety or wellbeing reasons, as the ongoing efficient and safe operation of the electricity distribution and rail networks contribute to the health and safety and well-being of the community.

7.8 Protection of SNAs (ECO-P5)

- 7.8.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Frank, H	90.7
Port Blakely	94.6
Waka Kotahi	143.83

Forest and Bird	156.105
Transpower	159.71
Dir. General Conservation	166.38
Road Metals	169.19
Fulton Hogan	170.20
Silver Fern Farms	172.53
Alliance Group	173.56
Connexa	176.71
ECan	183.75
KiwiRail	187.55
Spark	208.71
Chorus	209.71
Vodafone	210.71

Submissions

- 7.8.2 Five submitters²⁰ support ECO-P5 and seek its retention, as they consider it appropriate for the PDP to provide for indigenous vegetation clearance in SNAs when it is for RSI.
- 7.8.3 Frank, H [90.7] considers that the direction to avoid is weak, and seeks that “*avoid*” is replaced with “*prohibit*”.
- 7.8.4 Port Blakely [94.6] considers that the NESPF should prevail over the PDP, stating that the s32 report does not provide justification for taking a more stringent approach. The submitter seeks that ECO-P5 is amended as set out above in relation to ECO-P2.
- 7.8.5 Waka Kotahi [143.83] seeks that an additional clause is added to the policy, providing an additional exemption for “*transport related regionally significant infrastructure*” where it can be demonstrated that adverse effects are managed. It states that the policy should be amended to include a provision for RSI as the provisions in EI do not apply to transport.
- 7.8.6 Forest and Bird [156.105] seeks removal of the exemptions from the policy so that it directs avoidance in all instances. It states that the definition of RSI is wide ranging and will result in the loss of SNAs.
- 7.8.7 Transpower [159.71] supports explicit cross-reference to EI-P2, stating that providing direction in respect of RSI and SNAs in one place avoids duplication and the potential for conflict. However, it seeks that clause 2 is amended to also refer to an additional policy that is sought by the submitter in the EI Chapter, relating to managing adverse effects of the National Grid.

²⁰ Connexa [176.71], KiwiRail [187.55], Spark [208.71], Chorus [209.71], Vodafone [210.71]

7.8.8 Dir. General Conservation [166.38] considers that the policy needs to align with the draft NPSIB, and direct that specific adverse effects on SNAs must be avoided. The submitter also considers it necessary to direct protection and restoration of other areas of significant indigenous biodiversity to align with Section 6(c) of the RMA, Policy 9.3.1 of the CRS and Clause 3.21 of the draft NPSIB, with the policy setting out the measures in the PDP which seek to protect and restore SNAs and align with the amendments sought to ECO-O1 and ECO-O2. The submitter seeks that the policy is deleted and replaced with the following policy, which is to be included after ECO-P1:

Protect and restore SNAs and those other areas that meet the criteria set out in APP5 by:

1. *avoiding adverse effects on SNAs including:*
 - a. *loss of ecosystem representation and extent;*
 - b. *disruption to sequences, mosaics, or ecosystems within an SNA;*
 - c. *fragmentation of SNAs or the loss of buffers or connection to other important habitats or ecosystems;*
 - d. *a reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems;*
 - e. *a reduction in the population size or occupancy of Threatened, At Risk (Declining) species that use an SNA for any part of their life cycle.*
2. *avoiding the clearance of indigenous vegetation and earthworks within SNAs unless these activities:*
 - a. *can be undertaken in a way that protects identified ecological values; and*
 - b. *are for regionally significant infrastructure and it can be demonstrated that adverse effects are managed in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure in accordance with the effects management hierarchy*
3. *promoting the restoration and enhancement of significant indigenous vegetation and habitats; and*
4. *supporting and promoting the use of covenants, reserves, management plans and community initiatives.*

7.8.9 Road Metals [169.19] and Fulton Hogan [170.20] state that ECO-P5 does not provide for quarrying activities in SNAs consistent with the draft NPSIB, which recognises that quarrying activities must be undertaken where the aggregate resources exist and provides for these activities in certain circumstances. As such, they seek that the policy is extended to also provide for quarries which provide significant national or regional public benefit that could not otherwise be achieved domestically.

7.8.10 Silver Fern Farms [172.53] and Alliance Group [173.56] consider that the policy should align with the activities in ECO-R1, which allow limited vegetation clearance in SNAs for reasons other than infrastructure development. The submitters seek that ECO-P5 is amended to ensure it does not foreclose the range of exemptions for clearance set out in ECO-R1.

- 7.8.11 As noted above, ECan [183.75] seeks that ECO-P2 and ECO-P5 are reviewed to ensure their consistency and avoid confusion.

Analysis

- 7.8.12 As noted above in relation to ECO-P2, I consider that it is appropriate to amend ECO-P5 to reference ECO-P2. This is because I consider that the drafting intent is that clearance in SNAs is either subject to ECO-P2 or ECO-P5, but not both; i.e. if the clearance is managed under ECO-P2 then ECO-P5 is not intended to apply (and conversely, if the direction in ECO-P2 does not apply to any particular clearance, the direction in ECO-P5 then applies to that activity). However, I do not consider that the current drafting makes this sufficiently clear.
- 7.8.13 I do not consider it appropriate to expressly prohibit all clearance or earthworks within SNAs beyond what is provided for in ECO-P2, or where the clauses in ECO-P5 are satisfied. In particular, I do not consider that an absolute prohibition on clearance or earthworks is required in order to ensure overall protection of these areas (being the outcome sought in ECO-O1). I also do not consider it appropriate to remove the exemptions from the policy. These ensure that the policy is aligned with EI-P2, which, as noted earlier, already includes direction relating to SNAs. Deletion of the clauses in ECO-P5 would therefore result in an inconsistency across the PDP.
- 7.8.14 In terms of Port Blakely's [94.6] submission, for the reasons set out above in relation to ECO-P2, I do not consider it appropriate to include text in the policy regarding the NESCF regulations overriding the District Plan, as I do not consider that this sits within a policy.
- 7.8.15 With respect to Waka Kotahi's request, my understanding of the way the EI and Transport chapters work is that while the Transport Chapter contains provisions specific to transport-related infrastructure, the strategic land transport network and arterial roads still fall within the definition of RSI and therefore EI-P2 applies equally to these types of roads. Therefore, I do not consider there to be a need to refer to "*transport related regionally significant infrastructure*" in ECO-P5.
- 7.8.16 With respect to Transpower's request [159.71], I note that this is dependent on the acceptance of their request in relation to the EI Chapter. Should that request be accepted, then I agree it would be appropriate to cross-reference to the requested policy in the ECO Chapter; conversely, if that request is not accepted then ECO-P5 need not be amended.
- 7.8.17 I agree with the Dir. General Conservation [166.38] that the ECO Chapter as notified did not provide for restoration of indigenous biodiversity. I consider that it is appropriate to include policy direction in the PDP relating to this, in order to help achieve the enhancement sought in ECO-O2. However, I note the NPSIB direction (3.21) applies broadly to indigenous biodiversity, and not just to SNAs, whereas ECO-P5, and the amended policy sought by the submitter applies only to SNAs. I also consider that it would be clearer if the direction relating to restoration is separated out from direction applying to protection. I therefore recommend

a new, separate policy be included in relation to restoration, and that this not be limited to SNAs.

- 7.8.18 In relation to the request to align the policy with the draft NPSIB to avoid certain adverse effects on SNAs, that direction has been carried over into clause 3.10(2) of NPSIB. That clause directs that any new subdivision, use, or development must avoid the adverse effects set out in that clause on any SNA. However, this requirement is subject to a range of exemptions (which are set out in Clause 3.11), with further direction requiring that where an exemption applies, effects must be managed by applying the effects management hierarchy (which is then separately defined in the NPSIB). I therefore do not consider that the specific adverse effects identified in 3.10(2) can be included in the PDP, in absence of the exemptions also being included. In my view, the exemptions in Clause 3.11 require evaluative judgements to be made (e.g. as to the scale of public benefit) which would require further consideration in terms of how they might apply in this district. It is also likely that this in turn would require further changes to the proposed rules to implement such policy direction. The effects management hierarchy also applies in relation to other direction in the NPSIB, not just in relation to the Clause 3.11 exemptions. Because of the above, I consider that working through this is better undertaken in an integrated manner when the Council notifies a plan change to give effect to the NPSIB in full.
- 7.8.19 With respect to quarrying activities, I note that aggregate extraction (where it provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand) is exempted from the requirement in clause 3.10(2) of the NPSIB to otherwise avoid specifically identified adverse effects. However, this is subject to there being a functional need or operational need for the activity to be in that particular location; and there being no practicable alternative locations for it. As such, I consider that if the policy was extended to also provide for quarries which provide significant national or regional public benefit that could not otherwise be achieved domestically, as sought by the submitter, it would not give effect to the NPSIB which includes these other stipulations. As above, I consider that that working through this exemption is better undertaken in an integrated manner when the Council notifies a plan change to give effect to the NPSIB in full.
- 7.8.20 I disagree with Silver Fern Farms [172.53] and Alliance Group [173.56] that the policy should be amended to align with ECO-R1. This is because ECO-R1 is implementing the policy direction in ECO-P2, not ECO-P5. However, I consider that clarifying the relationship between ECO-P2 and ECO-P5 will go some way to addressing the submitter's concerns.

Conclusions and Recommendations

- 7.8.21 I recommend that ECO-P5 is amended as follows (incorporating those changes recommended earlier in the report):

Except as provided for in ECO-P2, Avoid the clearance of indigenous vegetation and earthworks within SNAs, unless these activities:

1. *are outside the coastal environment and can be undertaken in a way that protects the identified ecological values; and*
2. *are for regionally significant infrastructure and it can be demonstrated that adverse effects are managed in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure.*

7.8.22 I recommend that a new policy is included in the ECO Chapter, as follows:

ECO-PZ Restoration of Indigenous Biodiversity

Promote the restoration of indigenous biodiversity through a range of methods, including consent conditions, covenants, reserves, management plans and other initiatives, with prioritisation given to:

1. Significant Natural Areas whose ecological integrity is degraded;
2. threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems;
3. areas that provide important connectivity or buffering functions;
4. natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna; and
5. areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners; and
6. any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity restoration.

7.8.23 I recommend that the definition of 'specified Māori land', as per the NPSIB, be included in the Definitions Chapter, to provide clarity as to what clause 5 covers.

7.8.24 In terms of s32AA of the RMA, I consider that the change to ECO-P5 is minor, and better clarifies that drafting intent, avoiding confusion. I therefore consider it to be more efficient, while still being effective at achieving the ECO-O2.

7.8.25 I consider that the new policy is appropriate to align with the direction in the NPSIB in relation to restoration, and that it will better assist in achieving the enhancement of indigenous biodiversity sought in ECO-O2. I do not consider that the policy will introduce additional costs, but that there will be environmental benefits from promoting restoration.

7.9 Protection in Sensitive Areas (ECO-P3)

7.9.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Helicopters Sth Cant.	53.13
Frank, H	90.5

NZAAA	132.16
Forest and Bird	156.103
Dir. General Conservation	166.35
Silver Fern Farms	172.52
Alliance Group	173.55
ECan	183.73

Submissions

- 7.9.2 Silver Fern Farms [172.52], and Alliance Group [173.55] support ECO-P3 and seek its retention, because it contemplates the management of indigenous vegetation clearance, rather than applying a mandatory requirement to avoid clearance. ECan [183.73] also supports the policy and seek its retention, because is it consistent with Objective 9.2.1 and Policy 9.3.5 of the CRPS.
- 7.9.3 Helicopters Sth Cant. [53.13] and NZAAA [132.16] seek that the policy is amended to also provide for weed and pest control to maintain and enhance biodiversity.
- 7.9.4 Frank, H [90.4] seeks that ECO-P3 is amended so that the direction is to protect “*and enhance*” indigenous biodiversity.
- 7.9.5 Forest and Bird [156.103] seeks that two additional clauses are added to the policy, as set out below. The submitter considers that sensitive areas should also include areas that are predominantly covered in indigenous vegetation but not identified as SNAs, as they consider that there is not sufficient protection over such vegetation nation-wide. Forest and Bird also considers that the policy should cover areas where threatened indigenous species are found, noting that cultivation on some farms has resulted in the loss of threatened species, and in their view, these sorts of activities should require consent. The clauses sought are:
- X. Areas dominated by native vegetation; and*
- X. Areas with a community of threatened indigenous vegetation species.*
- 7.9.6 Dir. General Conservation [166.35] seeks that the policy is deleted and replaced with a new policy which addresses the maintenance and enhancement of indigenous vegetation and habitats of indigenous fauna that do not meet the significance criteria in SCHED7. The submitter suggests the matters to be addressed in such a policy could be as per the proposed Waimakariri District Plan and include the ongoing assessment of the current state of indigenous biodiversity within the District; limiting vegetation clearance in not only sensitive areas but also areas of indigenous vegetation that contain threatened, at risk or reach their national or regional distribution limits in the District or are naturally uncommon ecosystems; and providing support and enabling non-regulatory mechanisms.

Analysis

- 7.9.7 With respect to Forest and Bird's [156.103] and Dir. General Conservation's [166.35] submissions, I have outlined earlier in this report why I agree that there is a gap in terms of how indigenous biodiversity outside SNAs (including those areas that may not be currently identified as such but which may meet the criteria) are managed in the PDP. ECO-P3 currently applies direction in terms of those areas that have been identified as being more sensitive, and therefore requiring greater control. While both submitters seek that these areas are essentially extended, I consider that their underlying concern is addressed through the recommended additional policy (and related rule) applying to other indigenous vegetation. Because of this, I do not consider that there is a need to amend ECO-P3 relating to this.
- 7.9.8 I do not consider that the policy should be extended to provide for weed and pest control to maintain and enhance biodiversity. The direction in the policy is about *managing* clearance to protect indigenous biodiversity, and weed and pest control falls within this broader level of control without, in my view, needing to be explicitly mentioned.
- 7.9.9 I also do not consider it appropriate to extend the policy to refer to enhancement, as I note that the policy is related to *managing clearance* to protect indigenous biodiversity. In my view, clearance is not generally managed to enhance biodiversity, so the additional wording does not fit here. However, I note that the additional policy relating to restoration that I have recommended may go some way to addressing the submission of Frank, H [90.4].

Conclusions and Recommendations

- 7.9.10 I do not recommend any changes to ECO-P3 in response to these submissions. For completeness I note that I have recommended changes to the policy as a consequence of other submission points which are explained elsewhere in this report.

7.10 Protection for Long-Tailed Bats (Bat Protection Area Overlay, ECO-P4 and ECO-R4)

- 7.10.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Maze Pastures	41.4
Frank, H	90.6
Port Blakely	94.8
Forest and Bird	156.104, 156.112
Zolve	164.2, 164.3
Dir. General Conservation	166.36, 166.37, 166.44
Rooney Holdings	174.33, 174.102

Federated Farmers	182.108
ECan	183.74, 183.79
Rooney, GJH	191.33, 191.102
Rooney Group	249.33, 249.102
Rooney Farms	250.33, 250.102
Rooney Earthmoving	251.33, 251.102
TDL	252.33, 252.102

Submissions

- 7.10.2 Zolve [164.3] considers that the BPA Overlay does not include some newly found colonies or allow for the discovery of new colonies. The submitter considers that the provisions needed to protect Pekapeka at their most vulnerable maternal roosting period, and seeks that the Overlay is extended to include all known colonies and surrounding areas and to include a more extensive buffer to trigger ECO-R4 during maternal roosting timeframes. Dir. General Conservation [166.37] seeks that the Overlay is extended to match the Canterbury maps bat habitat map.
- 7.10.3 Six submitters²¹ oppose the BPA Overlay, and consider that if it remains, it should be labelled as an SNA because it is for the protection of the habitat of significant indigenous fauna. While the submitters support the identification of bat habitat and landowners being encouraged to protect bat habitat, they oppose a regulatory approach being taken. They seek that the BPA Overlay is renamed the “*Bat Habitat Identification Area*”.
- 7.10.4 Frank, H [90.6], Dir. General Conservation [166.36] and ECan [183.74] support ECO-P4 and seek its retention, for reasons including that it is consistent with Objective 9.2.3 and Policy 9.3.1 of the CRPS and acknowledges that South Canterbury supports the only known long-tailed bat population on the east coast of the South Island.
- 7.10.5 Forest and Bird [156.104] supports protection for Long Tailed Bats, but considers that the high mobility of bats means the BPA should not be limited to the current mapped BPA overlay, nor should the policy be limited to Long Tailed Bats, and should instead extend to important habitat of other native fauna, including lizards, invertebrates, and birds. The submitter seeks that the policy is amended to include the ability to increase the Overlay as more information is understood about Long Tailed Bats and their extent in the district; and to add a new policy that provides protection for all other native fauna species.
- 7.10.6 Maze Pastures [41.4], Forest and Bird [156.112], DOC [166.44], Federated Farmers [182.108] support ECO-R4 as notified and seek its retention, or retention of its intent. Maze Pastures

²¹ Rooney Holdings [174.34], Rooney, GJH [191.34], Rooney Group [249.34], Rooney Farms [250.34], Rooney Earthmoving [251.34], TDL [252.34]

state that they support there being no restriction on rural land use or rural industry in the BPA Overlay.

- 7.10.7 Port Blakely [94.8] considers that the criteria do not align with expert advice and known long-tailed bat behaviours and bat habitat. The submitter considers that the requirement for a ‘*Specialist assessment by a suitably qualified ecologist which may only be carried out during October to April when bats are not hibernating*’ to be extremely restrictive in their view will have an adverse effect on public engagement. The submitter is also concerned that the rule does not align with what was agreed between DoC and the protection group. It seeks that the matters of discretion to include the possibility of: using an Automatic Bat Monitor instead of an ecological assessment; and a person being deemed competent by the Department of Conservation to carry out an assessment. Zolve [164.2] similarly seeks that the matters of discretion are amended to allow for a person deemed competent by DOC, as it considers that the requirement for an ecological assessment does not align with the current Department of Conservation Protocols and processes.
- 7.10.8 Six submitters²² oppose the rule as it does not permit the “*minor clearance of some trees*”. It considers that landowners should be encouraged to work with the Department of Conservation to protect existing bat habitat without the need for the additional regulatory requirement of needing a resource consent. The submitters seek that the rule is amended to permit vegetation clearance where consultation with DOC has been undertaken in advance of the clearance.
- 7.10.9 ECan [183.79] supports the need to have a suitably qualified ecologist make this assessment but consider that this should be possible through a permitted activity rule that requires a written statement to confirm the ecologist's findings. The submitter also considers that trees within the BPA Overlay may impact on the effective operation of a public flood or erosion protection scheme, and where such trees are not roosting habitat for bats, removal should be permitted. As such, it seeks that an additional permission is added in PER-1 as follows:

are impacting the effective operation of a public flood or erosion protection scheme administered by the Regional Council or Timaru District Council, AND agreement has been provided by a suitably qualified ecologist that the tree(s) are not currently utilised by roosting bats.

Analysis

- 7.10.10 I consider that to be effective at maintaining indigenous biodiversity, the BPA Overlay needs to be adequate to protect habitat. I understand from Mr Harding, that the BPA Overlay is based on material that was provided to him from the Department of Conservation in 2017. He has advised me that it is apparent that bat colonies/locations have since been observed/recorded outside that BPA area. His view is that it is appropriate that the BPA be

²² Rooney Holdings [174.33], Rooney, GJH [191.33], Rooney Group [249.33], Rooney Farms [250.33], Rooney Earthmoving [251.33], TDL [252.33]

extended to reflect the present known extent of bat habitat, in order to protect roosting/nesting habitat. I therefore agree with the Dir. General Conservation [166.37] that the Overlay should be extended to match the Canterbury maps bat habitat map.

- 7.10.11 I do not consider that the BPA needs to be labelled as an SNA, because if it was, the policies and rules applying to these areas would then apply. In relation to the BPA, what is being protected is the habitat of long-tailed bats, rather than all indigenous vegetation within the BPA. Labelling it as an SNA would therefore result in an extremely inefficient approach being applied to achieve the outcome sought – being protection of bat habitat. I also do not agree with calling the area a “*Bat Habitat Identification Area*” as I consider reference to “*Protection*” is important. However, I tend to agree that referencing “*Habitat*” in the title is also appropriate, so I recommend it is re-labelled as “*Bat Habitat Protection Area*” overlay.
- 7.10.12 With respect to Forest and Bird’s request to extend the policy to other important habitats of other native fauna, I note that the BPA and related framework has arisen due to the identification of a specific area. Mr Harding’s evidence notes that the district-wide SNA survey was principally a survey of indigenous vegetation at terrestrial habitats. Known habitats of significant indigenous fauna – notably whio/blue duck and long-tailed bat – were surveyed and advice on lizard habitat considered. Otherwise, assessment of fauna habitat was limited to observations of fauna (principally birds) and obvious habitats (notably lizard habitat) during the relatively brief vegetation surveys. Mr Harding states that this survey method is typical and appropriate, and that comprehensive surveys of indigenous fauna require significant resources, and can be difficult and costly. This is one of the reasons why Mr Harding supports the addition of another rule for indigenous vegetation clearance outside currently identified SNAs. I consider this to be a more appropriate approach than amending this policy to refer to other habitats.
- 7.10.13 I do not agree with amending the policy itself to include the ability to increase the Overlay as more information is understood about Long Tailed Bats and their extent in the district. I consider that the extension of the Overlay needs to be considered through a future Schedule 1 process.
- 7.10.14 With respect to the rule framework, I am not clear what Port Blakely [94.8] is referring to with respect to a specialist assessment being required to be undertaken during certain months. This wording does not appear in ECO-R4. As the matters of discretion outline what things the Council may consider in a resource consent process, I agree with submitters that it is appropriate to extend what can be considered to include using an Automatic Bat Monitor. This still allows for the Council to request an ecological assessment if it considers one is warranted in the circumstances, but does not preclude the use of monitor instead. I am also broadly comfortable with the matters of discretion being amended to allow for input from any person who is appropriately qualified and experienced (such as someone deemed to be competent by DOC), on the basis that it provides a wider ambit for discretion. I do not consider that this should be limited to someone deemed as such by DOC, as I consider the

consent pathway allows for the applicant to demonstrate the qualification/experience of the expert and for the Council to confirm this (which may or may not require input from DOC).

- 7.10.15 With respect to amending the rule to permit vegetation clearance where consultation with DOC has been undertaken in advance of the clearance, I do not consider this to be appropriate. Firstly, the threshold would appear to be simply that DOC has been consulted. Under this approach, DOC could be approached and not support the clearance, or only support it subject to various limitations, but this would not have any bearing on the permitted status. Even if this were amended to require approval from DOC, I do not consider that it is appropriate to require approval from a third party to qualify as a permitted activity as the activity status would be reliant on the exercise of that party's discretion.
- 7.10.16 With respect to ECan's request, I have some concerns with providing for this through a permitted activity framework, as it does not, for example, allow for peer review of the ecological assessment. There is also, in my view, an element of subjective judgement as to whether a tree is "impacting the effective operation" of the protection schemes, which through a permitted activity status cannot be scrutinised or evaluated. In my view, to align with the policy direction, it is more appropriate for this to be considered through a consenting pathway.

Conclusions and Recommendations

- 7.10.17 I recommend that the "Long-tailed Bat Protection Area Overlay" is renamed the "Long-tailed Bat Habitat Protection Area Overlay"
- 7.10.18 I recommend that extent of Overlay is amended to match the Canterbury maps bat habitat map.
- 7.10.19 I recommend that ECO-P4 is amended as follows:
- Protect long-tailed bats by:*
1. *Identifying important habitat for long-tailed bats as a Long-Tailed Bat Habitat Protection Area overlay on the Planning Maps; and*
 2. *maintaining the habitat for long-tailed bats within this overlay.*
- 7.10.20 I recommend that ECO-R4 is amended as follows:

ECO-R4	Clearance of trees in the Long-Tailed Bat <u>Habitat</u> Protection Area	
Long-tailed Bat <u>Habitat</u> Protection Area Overlay	Activity Status: Permitted Where: PER-1 <i>The trees being cleared:</i> <ol style="list-style-type: none"> 1. <i>were planted for timber production (plantation forest and woodlots); or</i> 2. <i>are within a domestic garden; or</i> 	Activity status where compliance not achieved: Restricted discretionary Matters of discretion are restricted to: <ol style="list-style-type: none"> 1. <i>whether, upon specialist assessment by a</i>

	<p>3. <i>are causing an imminent danger to human life, structures, or utilities and the clearance is undertaken in accordance with advice from a suitably qualified arborist; or</i></p> <p>PER-2 <i>The tree is:</i></p> <ol style="list-style-type: none"> 1. <i>a native tree with a trunk circumference of less than 31.5cm, when measured at 1.5m above ground level; or</i> 2. <i>an exotic tree, excluding willow, with a trunk circumference of less than 70cm, when measured at 1.5m above ground level greater; or</i> 3. <i>any willow tree with a trunk circumference of less than 120cm, when measured at 1.5m above ground level.</i> 	<p><i>suitably qualified <u>and</u> experienced <u>expert</u>, ecologist <u>or</u> <u>demonstrated through use of an automatic bat monitor</u>, the tree/s proposed to be removed is habitat for long-tailed bats; and</i></p> <ol style="list-style-type: none"> 2. <i>the extent to which the removal of tree/s would impact on the ability of the long-tailed bat <u>habitat protection area</u> to provide for the habitat needs of the bats; and</i> 3. <i>the extent to which the long-tailed bat <u>habitat protection area</u> has been <u>previously modified</u> by the removal of bat habitat;</i> 4. <i>the reasons for removal of the tree and any alternatives considered; and</i> 5. <i>any measures to avoid or mitigate the adverse effects.</i>
--	--	--

7.10.21 In terms of s32AA of the RMA, I consider that the changes to the rule are relatively minor, but will be more efficient in allowing for wider consideration and input into the matters of discretion.

7.10.22 I consider that aligning the overlay with the Canterbury maps bat habitat map will better align the mapping (and therefore where the rules apply) with ECO-P4 through ensuring all known habitat is subject to the PDP controls. I accept that extending the area where the controls apply will introduce greater costs, but I consider this to be outweighed by the environmental benefits of protecting roosting/nesting habitat effective. Overall, I consider the amendment will be more effective at achieving ECO-O2.

7.11 New Policies

7.11.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Frank, H	90.26
Federated Farmers	182.104

Submissions

7.11.2 Frank, H [90.26] seeks that additional policies are added to the ECO chapter, similar to those in the NATC Chapter in regards to wetlands.

7.11.3 Federated Farmers [182.104] supports the priority given the SNAs in ECO-P1, ECO-P2 and ECO-P5 and to the suggested non-regulatory tools, but is concerned that the policies do not provide for existing activities to continue. The submitter seeks that the following new policy is added to the ECO Chapter to address this gap:

Provide recognition for grazing and farming existing activities that have not increased in their scale or intensity of effects from commencement date of the plan.

Analysis

7.11.4 I do not consider it appropriate to duplicate the direction relating to wetlands that is contained in the NATC Chapter and replicate it within the ECO Chapter. It is my view that this is inefficient and not necessary to achieve the objectives sought within the PDP.

7.11.5 With respect to providing recognition for existing activities to continue, I note that the chapter is concerned with managing the effects of activities on indigenous biodiversity. I do not consider the role of this chapter is to *provide for* particular activities more broadly. I note, in any case, that the policy wording sought by Federated Farmers [182.104] essentially seeks to provide for 'existing use rights', which I do not consider to be necessary as these already apply. For completeness, I do however note that I have recommended changes to ECO-P2 later in this report to better provide for some ongoing farming activities (grazing) within SNAs, and I consider that this will go some way to addressing the concern of the submitter.

Conclusions and Recommendations

7.11.6 I do not recommend that any additional policies are included in the PDP in response to these submissions.

7.12 Rules – General

- 7.12.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Hart, J R	149.2

Submissions

- 7.12.2 Hart, J R [149.2] states that their farm contains a number of proposed SNAs and BPAs, which have been well looked after by the current and previous owners without restrictions being imposed. They consider that the restrictions in the PDP may significantly impact their farming operations and questions who will pay compensation or maintain the areas if the landowners are shut out. The submitter seeks that the ECO chapter is amended to avoid *“putting a ban on livestock grazing in restricted areas”*. The submitter further notes that if the controls result in areas of the farm being shut off, this will result in weed and pest control no longer being undertaken, without which these areas may become overrun.

Analysis

- 7.12.3 I acknowledge that areas identified as SNAs and BPAs have retained their significance, in part, due to the actions of landowners. What the PDP seeks to ensure is that these areas are protected on an ongoing basis. I note that the rules in the ECO Chapter are relatively narrow, in that they relate to managing clearance of indigenous vegetation and earthworks, within SNAs. They do not manage other aspects of farming activities beyond this, and in my view do not “shut out” landowners from these areas. With respect to weed and pest control, I note that ECO-R1.1 PER-5 also provides for clearance to occur where it is unavoidable in the course of removing pest plants and pest animals (under a regional pest management plan or the Biosecurity Act 1993). In my view, this allows for continued weed and pest control, as long as it is undertaken in a manner that avoids clearing indigenous vegetation as far as possible.
- 7.12.4 I acknowledge that grazing is a method of vegetation clearance or removal listed in the definition of vegetation clearance. This does not mean that grazing will always constitute vegetation clearance, but recognises that grazing could result in the removal of indigenous vegetation. Where the effects of any grazing are temporary (e.g. damage from browsing stock, but not complete removal of vegetation) then the activity would not be captured by the definition and therefore related rules. In addition, if the grazing within an SNA has been previously undertaken on a regular basis, then continued grazing with the same or similar level of effects (character, intensity and scale) will have existing use rights. Therefore, the rules in the ECO chapter relating to vegetation clearance will apply where there is a change

in the nature (e.g. sheep to deer or cattle) or intensity (e.g. mob-stocking) of grazing which would result in the removal of vegetation. I generally consider that this is appropriate.

- 7.12.5 However, I accept that existing use rights can be difficult to prove (or enforce) and have asked Mr Harding to consider whether it is appropriate to provide for clearance by way of grazing in SNAs. He notes that there are situations where proposed SNAs includes areas of grassland or pasture dominated by naturalised or planted exotic pasture species. While he considers that continued grazing of these areas at a similar frequency, intensity and scale would not be likely to result in clearance/removal of indigenous vegetation, he has recommended that grazing that is not over-grazing/trampling is permitted in SNAs, but only within areas of 'improved pasture'. I agree that this would provide greater certainty to provide for grazing in SNAs in limited circumstances, while still being effective at protecting the vegetation that is significant. I consider that this activity should be provided for at both the policy (ECO-P2) and rule level.

Conclusions and Recommendations

- 7.12.6 I recommend that ECO-P2 is amended as follows (noting that this incorporates other changes to the stem of the policy recommended elsewhere in this report):

Provide for the clearance of indigenous vegetation in Significant Natural Areas where it is appropriate for health and safety, wellbeing or customary reasons, or to allow for ongoing farming practises, by enabling clearance:

....

arising from grazing within areas of improved pasture which form part of Significant Natural Areas.

- 7.12.7 I recommend that ECO-R1.1 is amended to include the following permitted activity condition:

X. The clearance occurs due as part of grazing, (but not over-grazing/trampling), within an area of improved pasture.

- 7.12.8 In terms of s32AA, I consider that there are economic benefits with providing greater certainty around grazing activities, and from an effectiveness perspective, this change will not undermine the achievement of ECO-O1 or ECO-O2.

7.13 ECO-R1

- 7.13.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Alpine Energy	55.5

Frank, H	90.9
Port Blakely	94.7
NZAAA	132.17
Waka Kotahi	143.84
Forest and Bird	156.109
Dir. General Conservation	166.40, 166.41
Road Metals	169.20
Fulton Hogan	170.21
Silver Fern Farms	172.54
Alliance Group	173.57
Rooney Holdings	174.32
Federated Farmers	182.105
ECan	183.76
KiwiRail	187.56
Rooney, GJH	191.32
Hort NZ	245.56
Rooney Group	249.32
Rooney Farms	250.32
Rooney Earthmoving	251.32
TDL	252.32

Submissions

- 7.13.2 NZAAA [132.17], Alliance Group [173.57], Hort NZ [245.56] support the rule as notified.
- 7.13.3 Forest and Bird [156.109] also supports the rule, but in relation to ECO-R1.2, states that if an area is assessed as significant, it should be treated as such under ECO-R1. The submitter also seeks that non-compliance under this rule has a discretionary, rather than restricted discretionary activity status.
- 7.13.4 Silver Fern Farms [172.54] support the rule, but seeks an additional matter of discretion is added to consider whether the indigenous vegetation was planted as landscaping for amenity or aesthetic purposes, so as to distinguish such planting from remnant vegetation.
- 7.13.5 Alpine Energy [55.5] seeks that the rule is extended to also apply to the operation, maintenance or upgrading of the electricity distribution network, including maintenance of existing vehicle access tracks to electricity distribution support structures, subject to following advice from a suitably qualified arborist. This is because they consider that as clearance is permitted for road requiring authorities and Transpower, it should similarly be permitted for the electricity distribution network, as it is also an infrastructure provider, and has various assets located within identified SNAs, and adverse effects arising from the

- clearance would be the same as for road requiring authorities and Transpower's activities. The submitter further states that the ability to operate, maintain, and repair the electricity distribution network across the Timaru District is essential for the health and wellbeing of the community.
- 7.13.6 Frank, H [90.9] requests a minor amendment to refer to suitably qualified ecologist as well as arborists in both instances of PER-1. The submitter also considers that PER-3 is too general and clearer conditions are needed.
- 7.13.7 Port Blakely [94.7] seeks that the rule is amended to state that it does not apply to plantation forestry activities, with indigenous vegetation clearance within a SNA associated with plantation forestry activity being regulated instead under Regulations 93(2)(d), (4) and (5)(c), and Regulation 94 of the NESPF (in relation to ECO-R1.1) and Regulation 94 of the NESPF (in relation to ECO-R1.2). The submitter considers that the NESPF provisions should prevail over the District Plan rules as there is no justification in the s32 Report for the more stringent rules. Port Blakely also seeks that the following clause of ECO-R1.2 PER-4 is deleted: "*has grown up under an area of lawfully established plantation forestry*".
- 7.13.8 Waka Kotahi [143.84] seeks that the rule is extended (or a new rule provided) to permit the clearance of indigenous vegetation within SNAs for works associated with the operation, maintenance and repairs of regionally significant transport infrastructure. KiwiRail [187.56] seeks that ECO-R1.1 is extended to permit vegetation clearance which is carried out to maintain the safe and efficient operation of the rail network. The submitter specifically supports the provision in ECO-R1.2 PER-2 for vegetation clearance within 2m, and for the purpose of, maintenance, repair or replacement of existing lawfully established utilities, including the rail corridor.
- 7.13.9 Dir. General Conservation [166.40] is concerned that ECO-R1.1 does not provide certainty that the values within an SNA will be protected, as while understanding that some small-scale clearance may be required, notes that the rule does not include any thresholds. The submitter considers that to align with the draft NPSIB, permitted activities within an SNA should occur within a much tighter threshold than outside of an SNA. As such, it seeks that additional permitted activity conditions are added to apply appropriate area thresholds; exclude the application of the rule to the threatened species list; and exclude clearance within sensitive ecosystems. In addition, the submitter seeks that the term "*unwanted organisms*" used in PER-4 is clarified and PER-5 is made more specific in terms of what pest plants and pest animals' removal the condition relates to.
- 7.13.10 With respect to ECO-R1.2, Dir. General Conservation [166.41] considers that the rule should also apply protection to indigenous vegetation remaining on: threatened land environments; naturally rare ecosystems; and threatened ecosystems. While supporting the restricted discretionary activity status where compliance with the conditions in the rule is not achieved, changes to the matters of discretion are sought so as to apply the effects management hierarchy in line with the draft NPSIB, including reference to the principles for biodiversity

offsetting and compensation provided within Appendix 3 and 4 of the draft NPSIB. The submitter also considers that it should be clarified that if an area outside an already- mapped SNA is assessed as significant in accordance with the SNA assessment criteria, the adverse effects on indigenous biodiversity should be managed as if the area were an SNA. As above, the submitter also seeks that PER-5 is made more specific in terms of what pest plants and pest animals' removal the condition relates to. The specific changes sought are:

- The inclusion of new rules to maintain and enhance indigenous biodiversity inside any ecosystems or land environments considered to be rare or threatened;
- Listing the threatened species and ecosystems for Timaru District in an attached Appendix;
- Providing some exclusions for permitted vegetation clearance rules applying to a threatened species and ecosystem list; and excluding clearance within sensitive ecosystems (these could be listed within a schedule or determined by using a suitably qualified ecologist);
- Amending PER-5 to make the rule more specific to what is an allowable vegetation clearance within an SNA relating to the removal of pests; and
- Amending the matters of discretion 1. and 8. as follows:

1. whether the indigenous vegetation is significant (when assessed against the APP5 - Criteria for Identifying Significant Natural Areas) ~~and the ability to retain any significant vegetation then the adverse effects on the indigenous biodiversity in the area shall be assessed as if the area is an SNA~~; and
x. the extent to which any adverse effect can be avoided, remedied or mitigated by applying the effects management hierarchy

8. any potential for mitigation or biodiversity offsetting or compensation of more than minor residual adverse effects on biodiversity values in accordance with the principles set out in Appendix 3 & 4 of the NPSIB; and

7.13.11 Road Metals [169.20] and Fulton Hogan [170.21] seek that key activities relating to maintaining public safety and existing infrastructure are provided for; and amendments made to make it clear that agents of the Road Requiring Authority are also able to work under this rule. The changes sought are to amend PER-1 to extend it to vegetation that "is affecting the safe operation of" structures or utilities; and to add "or their agent" to PER-2, and extend it to refer to the "repair, maintain or upgrade" of road safety assets, not just their installation.

7.13.12 Six submitters²³ seek that ECO-R1 should be amended to provide for the clearance for indigenous vegetation within the SNA overlay where the clearance is supported by QEII National Trust or the Department of Conservation.

²³ Rooney Holdings [174.32], Rooney, GJH [191.32], Rooney Group [249.32], Rooney Farms [250.32], Rooney Earthmoving [251.32], TDL [252.32]

- 7.13.13 Federated Farmers [182.105] opposes the 50m setback from any wetland for permitted clearance, noting that the NESF only requires 10m. It seeks that ECO-R1.2 is amended to remove the 50m setback from any wetland.
- 7.13.14 ECan [183.76] seeks that ECO-R1 is applied to not only mapped SNAs which are set out in ECO-SCHED2, but to all areas that meet one or more of the criteria in Appendix 5. The submitter suggests that this could be done by using the same reference as used in ECO-R6: Sites containing a Significant Natural Area. This reflects their view that not all areas meeting the criteria in Appendix 5 have yet been mapped.

Analysis

- 7.13.15 As discussed earlier, it is my view that it is appropriate for areas which are considered to be significant but not yet identified in SCHED7, to be added to that schedule through a plan change process. At that time, ECO-R1 would apply to them. As also noted, I have recommended a general indigenous vegetation clearance rule that will better manage clearance outside identified areas, with the consent process for this providing for consideration of significance. I therefore do not agree with amending the rule as sought by Forest and Bird [156.109] to apply the rule to areas not yet scheduled as significant. With respect to the activity status, in my view a fully discretionary status would be appropriate if there was likely to be a wide range of effects, some of which might not be known at this time. I do not consider that to be the case here, as I consider that the potential effects of clearance are well known and are comprehensively addressed in the matters of discretion.
- 7.13.16 With respect to Silver Fern Farms request [172.54], I do not consider that the reason for the planting is relevant to the consideration, as while planting may have been established for amenity or aesthetic purposes, this may have no bearing on the adverse effects of its removal.
- 7.13.17 With respect to the electricity distribution network, I have recommended earlier in this report that ECO-P2 be amended to also cover indigenous vegetation clearance associated with the operation, maintenance or repair of this network. As a consequence of this, I agree that the clearance activities associated with these network activities should be enabled through the rule framework on the same basis as the National Grid, i.e. through an extension to ECO-R3, because of the similarity in their nature. I therefore do not recommend changes to ECO-R1, noting that the changes recommended below to ECO-R3 will achieve the outcomes sought by Alpine Energy [55.5].
- 7.13.18 With respect to the request to refer to a suitably qualified ecologist in PER-1, I do not consider this to be appropriate. This is because the condition relates to clearance that is causing an imminent danger to human life, structures, or utilities. The advice relating to this clearance is therefore in my view related to how to undertake the clearance to address the danger, and is therefore an assessment for an arborist, not an ecologist to undertake.

- 7.13.19 In terms of plantation forestry activities, I note that the NESCF (under Regulation 6(2)(b)) allows for a rule in a plan to be more stringent than the NESCF where the rule recognises and provides for the protection of SNAs. Under s32(4) of the RMA, there is a requirement for any s32 Report to examine whether a further restriction “*is justified in the circumstances of each region or district*”. I also note that s44A of the RMA requires that rules in a district plan do not duplicate provisions in an NES. Regulation 93(2) of the NESCF permits indigenous vegetation clearance within an area of plantation forest if the indigenous vegetation is not an SNA, and:
- has grown up under (or may have overtopped) plantation forestry; or
 - is within an area of a failed plantation forest that failed in the last rotation period (afforestation to replanting) of the plantation forestry; or
 - is within an area of plantation forest that has been harvested within the previous 5 years; or
 - is overgrowing a forestry track, if the track has been used within the last 50 years.
- 7.13.20 In addition, under Regulation 93(3), indigenous vegetation clearance within or adjacent to an area of plantation forest is permitted where the area of vegetation and the plantation forest are held in the same ownership; and the cumulative clearance does not exceed 1 ha or 1.5% (whichever is the greater) of the total area of indigenous vegetation within or adjacent to the plantation forest in which the clearance is proposed.
- 7.13.21 With respect to SNAs, I note that if ECO-R1.1 were applied to clearance associated with plantation forestry activities, the activity status would be non-complying. Under the NESCF, it would be restricted discretionary. With respect to ECO-R1.2, I note that clearance under the NESCF is only permitted in some circumstances (as set out above), and would otherwise require a restricted discretionary consent. I note that the s32 Report did not evaluate the application of these rules to plantation forestry activities, and therefore assume that the intent was not for the rule to prevail over the NESCF. In absence of a reason for applying a more stringent activity status in the Timaru District, I agree with the rule being amended to explicitly state that it does not apply to clearance of indigenous vegetation associated with a commercial forestry activity. However I consider this should be done as an advice note, rather than as a permitted activity condition, to avoid duplicating the NESCF and therefore conflicting with s44A of the RMA. As a consequence of this, I consider that ECO-R1.2 PER-4 should be amended so that it does not refer to plantation forestry, i.e. PER-4 a. and b. should be deleted.
- 7.13.22 With respect to Waka Kotahi, I note that the rule permits clearance: to install road safety assets for the purpose of reducing traffic risk within the road corridor, where the clearance is less than 5m² within a single SNA; or where it is to maintain existing roadside drainage. The submitter may wish to clarify what other operation, maintenance or repair works might

also include indigenous vegetation clearance in an SNA, which necessitates an expansion of the condition.

- 7.13.23 In terms of the rail network, I have recommended earlier in this report that ECO-P2 be amended to also enable indigenous vegetation clearance associated with the operation or maintenance of this network. As a consequence of this, I agree that the clearance activities associated with these network activities should be enabled through the rule framework on a similar basis as the road network, being limited to 5m² within a single SNA.
- 7.13.24 It is my view, with respect to the changes sought by Dir. General Conservation [166.40], that it is not appropriate to include thresholds applying to clearance within SNAs beyond those already proposed, nor to effectively nullify the rule where it relates to threatened or sensitive ecosystems. This is because clearance is permitted in specific, limited circumstances, where the clearance will, in my view, have a range of benefits (e.g. to avoid danger, remove unwanted organisms or remove pests that may be compromising the SNAs). In such circumstances, I consider including a threshold/requiring consent in all instances for specified species/ecosystems would reduce the benefits associated with these rules and may not be any more effective at protecting SNAs. For clearance associated with roading, this is limited to maintenance of roadside drainage, or where it relates to installing road safety assets, a threshold of 5m² is already included. For clearance which is for the purpose of mahika kai or other customary uses, I consider that this is necessary to appropriately recognise and provide for matters identified in s6(e) of the RMA and should not be further limited.
- 7.13.25 I also do not consider there to be a need to clarify reference to ‘unwanted organisms’ in the permitted activity condition, because this is already achieved by reference to these being declared as such by the Minister for Primary Industries Chief Technical Officer, or an emergency declared under the Biosecurity Act 1993. Similarly, I consider it is already clear what pest plants and pest animals are referred to in PER-5 – i.e. those identified as such in any regional pest management plan or the Biosecurity Act 1993.
- 7.13.26 With respect to the additions sought to ECO-R1.2, I consider that this has largely been addressed through the recommended new rule. With respect to the application of effects management hierarchy, I note that Clause 3.16 of the NPSIB directs that for any new subdivision, use, or development is outside an SNA (or specified Māori land) and **significant** adverse effects on indigenous biodiversity are to be managed by applying the effects management hierarchy (which is in turn defined in the NPSIB). In my view, the change sought by Dir. General Conservation [166.41] is not the same as the direction in the NPSIB. I also note that the effects management hierarchy is to be applied (under Clause 3.10(3)) to adverse effects on an SNA which are either: not those effects directed to be avoided in clause 3.10(2); or in relation to those effects but where an exception identified in clause 3.11 applies. As noted earlier, I consider that working through the direction in the NPSIB needs to be undertaken in an integrated manner, when the Council notifies a plan change to give

- effect to the NPSIB in full. I do not consider that adding in reference to the effects management hierarchy, but only in part, is appropriate at this time, given the broader direction in the NPSIB relating to this.
- 7.13.27 For the reasons set out earlier, I consider that areas not currently mapped as SNAs in the PDP should only be added to the PDP through a Schedule 1 process, providing the opportunity to verify their status and allow for consultation on their inclusion. I therefore do not agree with managing areas not yet identified as an SNA under the rule framework applying to SNAs. I do however note, that if a consent requirement is triggered under ECO-R1.2, the matters of discretion do allow for consideration of whether the vegetation is significant in accordance with the APP5 criteria. Where this is the case – and noting that the consent process provides the opportunity to test any finding of significance – I consider that there is a need to ensure the consideration is given to protection of such areas. I therefore consider that the wording of the first matter of discretion should be more aligned with ECO-O1 in terms of protecting such vegetation. In this regard, I do not agree with the specific wording sought by Dir. General Conservation [166.41] because it is not worded as a matter of discretion but instead as a direction.
- 7.13.28 I agree with broadening out PER-1 to extend it to vegetation that “*is affecting the safe operation of*” structures or utilities. I have taken into account the risks that this could potentially be used to undertake clearance that might not be necessary, but I consider that this is mitigated by the requirement for it to be supported by an arborist. I also consider that there is greater risk in not allowing clearance affecting the safe operation of utilities, and thereby risking that clearance is left until it has reached the “*imminent danger*” threshold, which is a less efficient approach. I consider that this extension should be made to both the rule, and the related policy (ECO-P2.2) As a consequential change, to ensure consistency, I recommend this change is made to all similar conditions in the ECO chapter.
- 7.13.29 I consider it appropriate for PER-2 to clarify that works may be undertaken by, or on behalf of Road Requiring Authorities, similar to the drafting used in relation to natural hazard mitigation works (in ECO-R2). I also consider it appropriate to extend the clearance to include the “*repair or maintenance*” of road safety assets, not just their installation, noting the thresholds limit would still apply. I do not consider that this should extend to upgrades, because depending on the scale and nature of an upgrade it could have much greater effects.
- 7.13.30 With respect to permitting clearance “*supported by*” QEII National Trust or the Department of Conservation, I do not consider that this should be included as a permitted activity standard, because it requires the approval of a third party and relies upon the discretion of those parties for the Council or a plan user to identify the activity status of the clearance. However, such support can be included in a consent application for indigenous vegetation clearance. I also note that where vegetation clearance is proposed as part of a restoration project, I have recommended changes to the rule framework, which are discussed below in relation to ECO-R5.

- 7.13.31 With respect to the setbacks from wetlands, I note that the purpose of the NESF is different to the outcomes sought for indigenous biodiversity through the PDP. I therefore do not agree with reducing the setback.
- 7.13.32 With respect to ECan's [183.76] request, consistent with my earlier comments, I consider that it is appropriate for a plan change process to be undertaken to add new areas to SCHED7, to allow for scrutiny of their inclusion and the opportunity for public consultation to be undertaken in relation to them. I note that the reference in ECO-R6 to "*Sites containing a Significant Natural Area*", is in reference to the subdivision of a site within which a scheduled SNA is contained, not any site that might otherwise meet the APP5 criteria.
- 7.13.33 For completeness I note that later in this report I recommend additional changes to ECO-R1.2 which arise from submissions made on the NATC Chapter. These are explained further below, and the recommended changes to ECO-R1.2 set out below do not incorporate these additional changes.

Conclusions and Recommendations

- 7.13.34 I recommend that ECO-P2.2 is amended as follows:

2. *where it is causing imminent danger to human life, structures, or utilities, or affecting the safe operation of utilities; or ...*

- 7.13.35 I recommend that ECO-R1 is amended as follows (noting this does not incorporate changes recommended elsewhere in this report):

ECO-R1	Clearance of Indigenous Vegetation (except as provided for in ECO-R2 for flood protection works or ECO-R3 for National Grid activities)	
1. Significant Natural Areas Overlay	<p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p><i>The vegetation to be cleared is to be cleared is causing an imminent danger to human life, structures, or utilities, <u>or affecting the safe operation of utilities</u>, and the clearance is undertaken in accordance with advice from a suitably qualified arborist; or</i></p> <p>PER-2</p> <p><i>The clearance is carried out by the relevant Road Requiring Authority <u>or an agent authorised by them</u>:</i></p> <ol style="list-style-type: none"> 1. <i>to install, <u>maintain or repair</u> road safety assets for the purpose of reducing traffic risk within the road corridor, and the clearance is less than 5m² within a single SNA; or</i> 	<p>Activity status where compliance is not achieved: Non-complying</p>

	<p>2. to maintain existing roadside drainage; or</p> <p><u>PER-2A</u> <u>The clearance is for the purpose of maintaining the rail network and the clearance is less than 5m² within a single SNA.</u></p> <p>...</p> <p><u>Advice Note</u> <u>This rule does not apply to the clearance of indigenous vegetation associated with a commercial forestry activity which is regulated under the National Environmental Standard for Commercial Forestry.</u></p>	
--	--	--

<p>2</p> <p>Within 50m of any wetland</p> <p>In the Coastal Environment, within 20m of mean high water springs</p> <p>Within 20m of the bank of any waterbody</p> <p>Within 20m of any waipuna (spring)</p> <p>At an altitude of 900m or higher</p> <p>Land with an average slope of 30° or greater</p>	<p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p><i>The vegetation to be cleared is to be cleared is causing an imminent danger to human life, structures, or utilities, <u>or affecting the safe operation of utilities</u>, and the clearance is undertaken in accordance with advice from a suitably qualified arborist; or</i></p> <p>...</p> <p>PER-4</p> <p><i>The clearance is of indigenous vegetation that:</i></p> <p><i>a. has been planted and managed specifically for the purpose of harvesting, or</i></p> <p><i>b. has grown up under an area of lawfully established plantation forestry, or</i></p> <p><i>c. has been planted and/or managed as part of a domestic or public garden or has been planted for amenity purposes as a shelterbelt, or</i></p> <p><i>d. is within an area of improved pasture; or</i></p> <p>...</p> <p><u>Advice Note</u></p> <p><i><u>This rule does not apply to the clearance of indigenous vegetation associated with a commercial forestry activity which is regulated under the National Environmental Standard for Commercial Forestry.</u></i></p>	<p>Activity status where compliance is not achieved: Restricted discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. <i>whether the indigenous vegetation is significant (when assessed against the APP5 – Criteria for Identifying Significant Natural Areas) and the ability to <u>retain protect</u> any significant vegetation; and</i> 2. ...
--	--	---

7.13.36 In terms of s32AA, I consider that the additions to the rule will provide greater economic and social benefits by allowing activities that are essential to the well-being of people and communities. The expansion to allow for vegetation clearance affecting the safe operation of utilities is, in my view, for efficient than risking that clearance is left until it has reached the “*imminent danger*” threshold. I note that there are some environmental costs of allowing additional clearance but I consider that the benefits outweigh these costs and will not compromise the overall protection of SNAs as sought in ECO-O1. The amendments also better align with the policy direction recommended in ECO-P2 by providing for the clearance of indigenous vegetation in SNAs where it is appropriate for health and safety or wellbeing.

7.13.37 With respect to exempting plantation forestry activities, I consider that this change provides greater clarity that the Plan provisions are not applying greater stringency than the NESCF,

and does not result in a different approach being taken in this district. I consider that the costs and benefits of this approach are as per those associated with the NESCF and therefore anticipated when the NES was introduced.

7.14 Natural Hazard Mitigation Clearance - ECO-R2

7.14.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.110
Dir. General Conservation	166.42
Alliance Group	173.58
OWL	181.62
Federated Farmers	182.106
ECan	183.77

Submissions

- 7.14.2 Federated Farmers [182.106] supports the rule as notified and seeks its retention, or retention of its intent. Forest and Bird [156.110] states that it is neutral in respect to ECO-R2.
- 7.14.3 Dir. General Conservation [166.42] seeks that the rule is deleted on the basis that it is already covered under ECO-R1.2.
- 7.14.4 Alliance Group [173.58] considers that it is unclear why clearance of indigenous vegetation for natural hazard mitigation work is permitted when undertaken by either of the Regional Council or TDC, but *“the most restrictive consenting pathway possible applies when undertaken by others”*. The submitter seeks that the rule is amended so that non-compliance with PER-2 is also a controlled activity.
- 7.14.5 OWL [181.62] also considers that clearance of indigenous vegetation should be permitted for works undertaken by network utility operators of RSI, which are in accordance with a rule in the CLWRP, resource consent or other approval (e.g., under the Flood Protection and Drainage Bylaw 2013) from ECan. As such, it seeks an additional permitted activity condition is added to the rule to provide this.
- 7.14.6 For the same reasons as set out above in relation to ECO-R1, ECan [183.77] seeks that ECO-R2 is applied to not only mapped SNAs which are set out in ECO-SCHED2, but to all areas that meet one or more of the criteria in Appendix 5.

Analysis

- 7.14.7 As noted earlier in this report, ECan has sought that all earthworks and vegetation clearance associated with the operation, maintenance, repair, replacement and upgrading of existing public flood and erosion protection works are managed in the Natural Hazards chapter, which consequentially would mean ECO-R2 will be deleted. This request will be considered in the Natural Hazards topic. My assessment of submissions on this rule should therefore be seen as an interim view (i.e. it assumes the rule would be retained).
- 7.14.8 I do not agree with Dir. General Conservation [166.42] that the rule is already covered in ECO-R1.2, as nothing in that rule applies specifically to natural hazard mitigation works.
- 7.14.9 I consider that the application of a controlled activity where the works are undertaken by the district or regional council is appropriate, as it reflects that where these authorities undertake such works, they relate to works undertaken to provide a wider community benefit. When works are undertaken by individual landowners or groups, there are likely to be much narrower benefits, primarily to those landowners. I therefore consider that such works, where they affect SNAs or other indigenous biodiversity, should be managed in the same way as any other activities. However, I do agree that a non-complying activity status is overly stringent for this activity, when it is undertaken outside an SNA, as vegetation clearance with the identified sensitive areas (i.e. riparian setbacks, higher altitudes and steep slopes) undertaken for the purpose of other activities does not attract this activity status. I therefore recommend a restricted discretionary status is applied in these areas, with the non-complying status retained for clearance within SNAs.
- 7.14.10 With respect to amending the rule to provide a permitted activity status for works undertaken by network utility operators of RSI, which are in accordance with a rule in the CLWRP, resource consent or other approval, I do not consider this would be appropriate. Firstly, I note that the activities managed in the CLWRP relate to the functions of regional councils and not to those of territorial authorities. As such, these rules do not manage the effects on indigenous biodiversity that the PDP is seeking to manage. This is the same for the Flood Protection and Drainage Bylaw, which does not relate to managing the effects of indigenous biodiversity to achieve the purpose of the RMA. Secondly, I note that for all other permitted activities, the clearance that is provided for is limited through the nature of the clearance that is permitted. The clearance associated with natural hazard mitigation works has the potential to be much greater, and under a permitted status, there would be no control over such effects. I consider that this would risk the protection of SNAs (in accordance with ECO-O1) and the maintenance of other indigenous biodiversity (ECO-O2).
- 7.14.11 For the reasons set out earlier I do not agree with amending the rule to apply it to areas that have not been included in SCHED7 at this time.

Conclusions and Recommendations

7.14.12 I recommend that ECO-R2 is amended as follows (noting this does not incorporate changes recommended elsewhere in this report):

ECO-R2	Clearance of Indigenous Vegetation for natural hazard mitigation works	
...	<p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p>...</p>	<p>Activity status where compliance not achieved with PER-1: Controlled</p> <p>Matters of control are restricted to:</p> <p>1. ...</p> <hr/> <p>Activity status where compliance is not achieved with PER-2 and the clearance is outside a Significant Natural Area: Restricted discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. <u>whether the indigenous vegetation is significant (when assessed against the APP5 – Criteria for Identifying Significant Natural Areas) and the ability to protect any significant vegetation; and</u> 2. <u>the condition and character of the indigenous vegetation; and</u> 3. <u>whether the indigenous vegetation provides habitat for threatened, at risk or locally uncommon species; and</u> 4. <u>any adverse effects on indigenous vegetation and habitats of indigenous fauna due to the clearance; and</u> 5. <u>any adverse effects on the mauri of the site, mahika kai, wāhi tapu or wāhi tāoka values; and</u> 6. <u>whether species diversity would be adversely impacted by the proposal; and</u> 7. <u>the role the indigenous vegetation plays in providing a buffer to effects or an ecological corridor; and</u> 8. <u>any potential for mitigation or compensation of adverse effects on biodiversity values; and</u> 9. <u>the economic effects on the landholder of the retention of the vegetation; and</u> 10. <u>any site specific management factors to promote the restoration and enhancement of indigenous vegetation and habitats; and</u> 11. <u>the potential for use of other mechanisms that assist with the protection or enhancement of significant indigenous vegetation such as QE II covenants and the use of Biodiversity Management Plans; and</u>

		<p><u>12. any benefits that the activity provides to the local community and beyond.</u></p> <p><u>Activity status where compliance is not achieved with PER-2 and the clearance is within a Significant Natural Area: Non-complying</u></p>
--	--	---

7.14.13 With respect to s32AA, I consider that the change to the activity status is minor, and ensures that clearance of indigenous vegetation within the identified sensitive areas is treated on the same basis, regardless of the purpose of the clearance. As such, I consider that the change results in a more consistent (and overall a more efficient) framework for achieving the objectives.

7.15 National Grid – ECO-R3

7.15.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.111
Transpower	159.72
Dir. General Conservation	166.43
Federated Farmers	182.107
ECan	183.78

Submissions

7.15.2 Federated Farmers [182.107] supports the rule as notified and seek its retention, or retention of its intent. Transpower [159.72] also supports the rule, but seeks that it is extended to refer to the “*upgrade*” of the National Grid, which it considers is consistent with the NESETA and gives effect to the NPSET.

7.15.3 Forest and Bird [156.111] considers that there should be some constraints on the proximity of the clearance to the National Grid, and seek that PER-1 is amended to require that the clearance is within 2 metres.

7.15.4 Dir. General Conservation [166.43] seeks an amendment to PER-1 to make it explicit that the condition does not apply to the extension of the National Grid. The submitter also seeks that the first matter of discretion is amended to refer to the effects management hierarchy.

7.15.5 For the same reasons as set out above in relation to ECO-R1, ECan [183.78] seeks that ECO-R3 is applied to not only mapped SNAs which are set out in ECO-SCHED2, but to all areas that meet one or more of the criteria in Appendix 5.

Analysis

- 7.15.6 With respect to upgrades, I note that Policy 5 of the NPSET refers to enabling the reasonable operational, maintenance and **minor upgrade** requirements of established electricity transmission activities. I therefore do not agree that it is appropriate to enable all upgrades, as those which are beyond minor may have adverse effects that require consideration through a consent pathway. However, if the submitter is able to suggest a way in which the rule could be limited to only capture ‘minor upgrades’, perhaps by way of a definition, then I consider expansion of the rule would likely be appropriate. With respect to limiting clearance within 2 metres of the National Grid, I note that the National Grid is subject to the NPSET. In particular, Policy 5 directs that when considering environmental effects, decision-makers must enable the **reasonable** operational, maintenance and minor upgrade requirements of established electricity transmission assets. In my view ensuring that any restrictions are reasonable is about making sure that they do not effectively result in these activities not being enabled. I would therefore only support this limitation if Transpower were to confirm that such a limitation would still enable reasonable operational, maintenance and minor upgrades.
- 7.15.7 I do not consider it necessary to amend PER-1 to exclude expansions, as it is clear that the condition only applies to operation, maintenance or repair. I do not consider it helpful or necessary to add reference to what it does not apply to. With respect to the effects management hierarchy, I note that the NPSIB does not apply to electricity transmission network assets and activities (Clause 1.3(3)). I therefore do not consider it appropriate to apply the direction in the NPSIB to this rule, because it would be applying the direction to an activity to which it is expressly not intended to apply.
- 7.15.8 For the reasons set out earlier I do not agree with amending the rule to apply it to areas that have not been included in SCHED7 at this time.
- 7.15.9 As noted earlier, I recommend that the rule is extended so that it also applies to the electricity distribution network.

Conclusions and Recommendations

- 7.15.10 I recommend that ECO-R3 is amended as follows (noting this does not incorporate changes recommended elsewhere in this report):

ECO-R3	<i>Clearance of Indigenous Vegetation associated with the National Grid <u>or</u> electricity distribution network</i>
---------------	---

Significant Natural Areas Overlay Within 50m of any wetland In the Coastal Environment, within 20m of Mean High Water springs Within 20m of the bank of any waterbody Within 20m of any waipuna (spring) At an altitude of 900m or higher Land with an average slope of 30° or greater	Activity Status: Permitted Where: PER-1 <i>The vegetation clearance is to provide for the operation, maintenance or repair of the National Grid or electricity distribution network, including maintenance of existing access to National Grid support structures; and</i> PER-2 <i>The vegetation clearance is carried out by or on behalf of Transpower New Zealand Limited or Alpine Energy Limited.</i>	Activity status where compliance not achieved with PER-1: Restricted discretionary Matters of discretion are restricted to: 1. ...
		Activity status where compliance is not achieved with PER-2: Non-complying

7.15.11 In terms of s32AA of the RMA, I consider that applying the rule to the electricity distribution network aligns with the recommended change to ECO-P2, and that collectively these changes do not affect the achievement of ECO-O1.

7.16 Earthworks in SNAs – ECO-R5

7.16.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.113
Transpower	159.73
Dir. General Conservation	166.45

Silver Fern Farms	172.55
Alliance Group	173.59
Rooney Holdings	174.34
Federated Farmers	182.107, 182.109
ECan	183.78, 183.80
KiwiRail	187.57
Rooney, GJH	191.34
Rooney Group	249.34
Rooney Farms	250.34
Rooney Earthmoving	251.34
TDL	252.34

Submissions

- 7.16.2 KiwiRail [187.57] supports the rule and seek that it is retained as notified.
- 7.16.3 Forest and Bird [156.113] is concerned that the rule is restricted discretionary, but where compliance is not achieved with the specified conditions, it remains restricted discretionary. It seeks clarification if there should be reference to two different sets of restricted discretionary rules in the two columns or whether there should be two sets of rules. It considers that the default for all rules under ECO-R5 should be non-complying.
- 7.16.4 Transpower [159.73] considers that a permitted activity status should apply in situations where land is likely to have been disturbed and cleared in the past (being within 2m of the listed existing activities), and to provide for upgrading of the National Grid. It therefore seeks that the activity status is changed to a permitted activity, and RDIS-1 (which would become PER-1) is extended to include “*upgrade*”.
- 7.16.5 Dir. General Conservation [166.43] seeks an amendment to RDIS-1 to make it explicit that the condition does not apply to the extension of the structures listed. The submitter also seeks that the first matter of discretion is amended to refer to the effects management hierarchy, and that the activity status for non-compliance is changed from restricted discretionary to discretionary.
- 7.16.6 Silver Fern Farms [172.55] and Alliance Group [173.59] seek that ECO-P5 is amended to provide a permitted activity status for earthworks within an SNA, where such earthworks are required as part of restoration of the SNA. It considers that otherwise the activity status (permitted) for SNA rehabilitation will contradict with the non-complying status applying to earthworks undertaken in the course of such restoration.

- 7.16.7 Six submitters²⁴ seek that the rule is amended to provide a permitted activity status for earthworks within an SNA which are supported by the QEII National Trust or the Department of Conservation.
- 7.16.8 Federated Farmers [182.109] seeks that ECO-R5 is deleted, as it considers that routine maintenance, repair and replacement for all existing lawful activities should be permitted, not restricted discretionary. The submitter also considers that the rule contains a typo, because non-compliance with the conditions is also stated as being restricted discretionary and the submitter assumes this should be discretionary to align with the two activities stated in the rule.
- 7.16.9 For the same reasons as set out above in relation to ECO-R1, ECan [183.80] seeks that ECO-R5 is applied to not only mapped SNAs which are set out in ECO-SCHED2, but to all areas that meet one or more of the criteria in Appendix 5.

Analysis

- 7.16.10 I agree with various submitters that there is an error in the drafting of this rule, as non-compliance with the condition (RDIS-1) is stated as being restricted discretionary, but no matters of discretion are listed, and the conditions included use the term 'DIS', which is associated with a discretionary activity. I therefore recommend this error is corrected by stating that non-compliance with RDIS-1 is a discretionary activity where DIS-1 or DIS-2 are met.
- 7.16.11 I do not agree with making non-compliance with the standard non-complying in all instances. The discretionary status applies in two limited circumstances, being where the earthworks are associated with the National Grid; and for flood protection works carried out by the regional or local authority. The former is subject to the NPSET and I do not consider a non-complying status would align with the direction in that policy statement, i.e. it would not sufficiently recognise and provide for the electricity transmission network in accordance with Policy 2. The latter stems from ECO-P2.4, which directs that flood protection works are to be enabled where they are required to protect people and communities from the effects of flooding.
- 7.16.12 With respect to the activity status for this rule, I tend to agree with Transpower and Federated Farmers that a permitted activity status is more appropriate for the narrow list of earthworks specified in RDIS-1. This is because I agree that these areas will have been disturbed when these structures/facilities were originally installed. In addition to ECO-R5, the vegetation clearance rules will also apply, so the rule will only cover earthworks (as a standalone activity) where these earthworks do not actually result in clearing or removal of indigenous vegetation, but where such earthworks might otherwise adversely affect the values of the indigenous vegetation or habitats in some way. I consider that the limitation to

²⁴ Rooney Holdings [174.34], Rooney, GJH [191.34], Rooney Group [249.34], Rooney Farms [250.34], Rooney Earthmoving [251.34], TDL [252.34]

these being within 2m of the existing structures/facilities, and for the purpose of their maintenance, repair or replacement only, is sufficiently limited to ensure that the overall outcome of protecting these areas will still be achieved.

- 7.16.13 With respect to extending the condition to upgrades, I do not consider this to be appropriate, as the effects of upgrading (even within a 2m area) may be greater, and I consider it more appropriate that this is considered through a consent pathway.
- 7.16.14 For the reasons set out above in relation to ECO-R3, I do not agree with amending RDIS-1 to state that extensions are not included. Because I have recommended that RDIS-1 is amended to become a permitted activity, I have not further considered the matters of discretion.
- 7.16.15 With respect to earthworks that are required as part of the restoration of an SNA, I do not consider that it is appropriate to permit these. This is because while they might be intended to assist in the restoration of an SNA, as a permitted activity, there is no opportunity for ecological input into how such earthworks are undertaken, to ensure that they are able to be undertaken in a manner that actually enhances the SNA and does not unintentionally harm ecological values. I do however agree with Silver Fern Farms [172.55] and Alliance Group [173.59] that it is not appropriate for such works to be non-complying, given that if managed properly, they will assist in the protection of these areas in accordance with ECO-O1 (and help implement the new policy recommended earlier). I therefore consider that a restricted discretionary status should be applied to earthworks which are proposed as part of the restoration or enhancement of an SNA.
- 7.16.16 With respect to permitting earthworks “supported by” QEII National Trust or the Department of Conservation, I do not consider that this should be included as a permitted activity standard, because it requires the approval of a third party and relies upon the discretion of those parties for the Council or a plan user to identify the activity status of the clearance. However, such support can be included in a consent application for indigenous vegetation clearance, noting as per above, that a restricted discretionary activity status is recommended for where earthworks are related to a restoration process. Also taking into account the submitters’ request²⁵ to permit indigenous vegetation within the SNA overlay where the clearance is supported by QEII National Trust or the Department of Conservation, I recommend that the revised rule apply to both earthworks and indigenous vegetation clearance that are proposed as part of the restoration or enhancement of an SNA. I have therefore recommended the inclusion of a rule separate from ECO-R5, and as a consequence of this, recommend that ECO-R1 and ECO-R5 are amended to explicitly exclude their application where the recommended new rule applies.
- 7.16.17 For the reasons set out earlier I do not agree with amending the rule to apply it to areas that have not been included in SCHED7 at this time.

²⁵ Rooney Holdings [174.32], Rooney, GJH [191.32], Rooney Group [249.32], Rooney Farms [250.32], Rooney Earthmoving [251.32], TDL [252.32]

Conclusions and Recommendations

7.16.18 I recommend that the title of ECO-R1 is amended as follows:

ECO-R1	<i>Clearance of indigenous vegetation (except as provided for in ECO-R2 for flood protection works, or ECO-R3 for National Grid activities or ECO-RX for restoration or enhancement of a Significant Natural Area)</i>
---------------	--

7.16.19 I recommend that ECO-R5 is amended as follows:

ECO-R5	<i>Earthworks in a Significant Natural Area (except as provided for ECO-RX for restoration or enhancement of a Significant Natural Area)</i>	
	<p>Activity Status: Restricted discretionary Permitted</p> <p>Where:</p> <p><u>RDIS-1-PER-1</u></p> <p><i>earthworks are within 2m, and for the purpose, of the maintenance, repair or replacement of existing lawfully established vehicle tracks, roads, walkways, firebreaks, drains, ponds, dams, waterlines, waterway crossings, or utilities.</i></p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. any adverse effects on indigenous vegetation and habitats of indigenous fauna and 2. the necessity for the earthworks and any alternate options that have been considered 3. the mitigation measures proposed to ensure that the values of the SNA are maintained; and 4. any adverse effects on the mauri of the site, mahika kai, wāhi tapu or wāhi taoka; and 5. opportunities for enhancement of indigenous vegetation or habitats of indigenous species; and 6. methods proposed to monitor or inspect the works undertaken; and 7. the ability to apply a management plan approach to the works and the content of any management plan; and 8. the timing of works to minimise adverse effects on significant indigenous species. 	<p>Activity status where compliance not achieved: Restricted Discretionary</p> <p>Where:</p> <p>DIS-1</p> <p><i>The earthworks are to provide for activities associated with the National Grid and are carried out by or on behalf of Transpower New Zealand Limited; or</i></p> <p>DIS-1</p> <p><i>The earthworks are for or flood protection works and are carried out solely by the Regional Council, Timaru District Council, or an agent authorised by one of these parties.</i></p>
		<p>Activity status where compliance not achieved: Non-complying</p>

7.16.20 I recommend that a new rule relating to earthworks and indigenous vegetation clearance that are proposed as part of the restoration or enhancement of an SNA is inserted as follows:

ECO-RX	<i>Clearance of indigenous vegetation and earthworks in a Significant Natural Area associated with the restoration or enhancement of the Significant Natural Area</i>
---------------	--

<u>Significant Natural Areas Overlay</u>	<u>Activity Status: Restricted discretionary</u>	<u>Activity status where compliance not achieved: Not Applicable</u>
	<p><u>Matters of discretion are restricted to:</u></p> <ol style="list-style-type: none"> 1. <u>the extent to which the values of the Significant Natural Area will be restored or enhanced as part of the overall project; and</u> 2. <u>the necessity for the clearance or earthworks and any alternate options that have been considered; and</u> 3. <u>the mitigation measures proposed to ensure that the values of the SNA are protected; and</u> 4. <u>any adverse effects on the mauri of the site, mahika kai, wāhi tapu or wāhi taoka; and</u> 5. <u>methods proposed to monitor or inspect the works undertaken; and</u> 6. <u>the ability to apply a management plan approach to the works and the content of any management plan; and</u> 7. <u>the timing of works to minimise adverse effects on significant indigenous species.</u> 	

7.16.21 In terms of s32AA of the RMA, I consider that the changes to ECO-R5 will have economic benefits, through permitting the maintenance, repair and replacement of existing structures/facilities in which investment has been made. I consider that there are limited environmental costs associated with the changes, because they only allow for earthworks in areas where the ground has already been disturbed. I consider that the approach is therefore still effective at achieving ECO-O1, while being more efficient.

7.16.22 I consider that the new rule recommended (and consequential changes to other rules) is an efficient and effective way of implementing the recommended restoration policy, and that it is a more efficient way to assist in the achievement of ECO-O1. In my view, a restricted discretionary pathway allows for consideration of how restoration / enhancement works are to be undertaken so as to protect SNAs, but better incentivises such works being undertaken. I therefore consider that environmental costs will be minimised through the consenting process, but there will be greater environmental and social benefits from providing a greater incentive for restoration or enhancement projects.

7.17 Subdivision - ECO-R6

7.17.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
MFL	60.25
Speirs, B	66.49
Forest and Bird	156.114
Dir. General Conservation	166.46
Rooney Holdings	174.35
Federated Farmers	182.110
ECan	183.81
Rooney, GJH	191.35
Rooney Group	249.35
Rooney Farms	250.35
Rooney Earthmoving	251.35
TDL	252.35

Submissions

- 7.17.2 DOC [166.46] and Federated Farmers [182.110] support the rule as notified and seek its retention, or retention of its intent.
- 7.17.3 MFL [60.25] considers that the rule is “*too broad with no measurable parameters*” and seeks that the activity status is changed to restricted discretionary “*with some measurable rules established.*” No specific measures are identified, nor are any matters of discretion proposed in the submission.
- 7.17.4 Speirs, B [66.49] considers that it would make more sense to include all subdivision rules in one place in the PDP and seeks that ECO-R7 is deleted, and, if necessary, “*appropriate objectives, policies, rules, standards, activity status, matters of control and discretion, for subdivision of land containing a significant natural area*” are included in the Subdivision Chapter.
- 7.17.5 Forest and Bird [156.114] seeks that the rule is amended to have a non-complying activity status, on the basis that unless the subdivision is to make an allotment specifically for the SNA, the activity should be non-complying.

- 7.17.6 Six submitters²⁶ consider that subdivision should not be a discretionary activity simply because the site has a SNA within it, as they consider that the SNA is unlikely to be affected by the subdivision unless the boundary change dissects the SNA. As such, they seek that the rule is amended to apply to subdivision of land containing a SNA “*where a new boundary intersects a Significant Natural Area*”, with a new policy being included to support the rule change. No particular policy wording is specified in the submission.
- 7.17.7 For the same reasons as set out above in relation to ECO-R1, ECan [183.81] seeks that ECO-R6 is applied to not only mapped SNAs which are set out in ECO-SCHED2, but to all areas that meet one or more of the criteria in Appendix 5.

Analysis

- 7.17.8 With respect to the location of the subdivision rule, I note that the drafting approach taken in the PDP is to include rules applying to subdivision within overlay areas within each respective overlay chapter, rather than the Subdivision Chapter. I consider that the NP Standards provide for either approach, because they direct that management of SNAs is located in the Ecosystems and Indigenous Biodiversity Chapter and managing subdivision in these areas relates to this;²⁷ but also direct that subdivision provisions be located within a Subdivision chapter(s).²⁸ In my view, the Hearing Panel should consider the overall approach, and only shift the provisions relating to subdivision in SNAs into the Subdivision Chapter, if all subdivision provisions (i.e. including in other Overlay areas) are similarly shifted. As this affects a number of other chapters, I consider that this matter is best considered again when the Subdivision Chapter is considered. I therefore recommend that Speirs, B [66.49] submission point is considered again through Hearing E.
- 7.17.9 With respect to changing the activity status to restricted discretionary, my concern with this is that there are a range of matters that will need to be considered in relation to any subdivision, which extend beyond particular effects in relation to the SNA. I consider that for a restricted discretionary activity, there would need to be cross-referencing to a range of other matters addressed in the subdivision chapter, as well as those particularly relating to SNAs. Because of the broad range of matters that would need to be considered, my preference is to retain a fully discretionary status.
- 7.17.10 I disagree with making the activity status non-complying, noting that the rule applies simply to land which contains an SNA. The subdivision of a large site containing a small SNA area may have no adverse effects on the SNA, and I consider it unreasonable to discourage such subdivision through a non-complying activity status. I consider such an approach would be highly inefficient and beyond what is necessary to achieve the objective of protecting the SNA.

²⁶ Rooney Holdings [174.35], Rooney, GJH [191.35], Rooney Group [249.35], Rooney Farms [250.35], Rooney Earthmoving [251.35], TDL [252.35]

²⁷ District-wide Matters Standard, clause 19.a.

²⁸ District-wide Matters Standard, clause 24

7.17.11 While I agree with submitters that subdivisions which dissect an SNA have greater likelihood of affecting the SNA, I consider that other subdivisions may also impact on the SNA. For example, subdivision fencing or additional roading/accessways arising from a subdivision may affect vegetation that buffers or links an SNA. I therefore support the rule applying to any land containing an SNA to allow for consideration on a case-by-case basis.

7.17.12 For the reasons set out earlier I do not agree with amending the rule to apply it to areas that have not been included in SCHED7 at this time.

Conclusions and Recommendations

7.17.13 I recommend that ECO-R6 is retained as notified, but that the location of the rule is reconsidered in Hearing E.

7.18 Planting of Potential Pests – ECO-R7

7.18.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Frank, H	90.10, 90.11
Forest and Bird	156.115
Dir. General Conservation	166.47
Federated Farmers	182.111

Submissions

7.18.2 Forest and Bird [156.115] and Federated Farmers [182.111] support the rule as notified and seek its retention, or retention of its intent.

7.18.3 Frank, H [90.10] seeks that ECO-R7 NC1 is amended to include all cotoneaster species, including *Cotoneaster glaucophyllus*, *C. franchetii*, *C. simonsii*, *C. lacteus*, *C. harrovianus*, and *C. parneyi*. The submitter [90.11] also considers it unclear why ECO-R7 NC2 is needed as it relates to planting these species, and seeks that the list should be included in NC1, or at least *Lupinus polyphyllus* (Russell lupin) and *Sorbus aucuparia* (rowan).

7.18.4 Dir. General Conservation [166.47] generally supports the proposed plant list contained in the rule, but considers that wilding conifers should also be included given their potential for wilding spread, supported by a definition for wilding conifers which aligns with the CRPMP in clarifying the difference between planting by natural means and use for forest plantation.

Analysis

7.18.5 ECO-R7 seeks to implement ECO-P6, which directs that the planting of species “likely to adversely affect indigenous biodiversity values” is avoided. In my view, the list should

therefore include species to which this applies – i.e. species which due to their nature have a high likelihood of affecting indigenous vegetation or habitats. Mr Harding considers it appropriate to include other cotoneaster species in NC-1, namely cotoneaster franchetii, glaucophyllus, lacteus and microphylla (noting that cotoneaster harrovianus and parneyi do not appear to be present in New Zealand). With respect to rowan, he recommends that this is included in NC-1 and consequentially removed from NC-2.

- 7.18.6 With respect to the rule applying above 300m above sea level in NC-2, Mr Harding has advised that that the species in that list pose a threat to inland ecosystems, notably braided riverbeds, but do not pose a significant threat to indigenous biodiversity at lowland locations at which they are commonly planted. Given Mr Harding’s support for the rule as notified (except in relation to rowan) I do not recommend any further changes.
- 7.18.7 With respect to the Dir. General Conservation [166.47], I note that the rule controls planting of identified pests. I do not see how this can encompass wilding conifers, which by their nature are not “planted”. I also note that risks associated with wilding spread from commercial forestry are managed under the NESCF. I therefore do not support these being added to the rule.

Conclusions and Recommendations

- 7.18.8 I recommend that ECO-R7 is amended as follows:

ECO-R7	Planting of potential pest species	
All Zones	<p>Activity Status: Non-complying</p> <p>Where:</p> <p>NC-1</p> <p>The planting involves any of the following species:</p> <ul style="list-style-type: none"> a. <i>Acer pseudoplatanus</i> (sycamore) b. <i>Ammophila arenaria</i> (marram) c. <i>Berberis glaucocarpa</i> (barberry) d. <i>Buddleja davidii</i> (buddleia) e. <i>Cotoneaster simonsii</i> (Khasia berry) f. <i>Crataegus monoqyna</i> (hawthorn) g. <i>Erica lusitanica</i> (Spanish heath) h. <i>Fraxinus excelsior</i> (Ash) i. <i>Glechoma hederacea</i> (ground ivy) j. <i>Ilex aquifolium</i> (holly) k. <i>Salix cinerea</i> (grey willow) l. <i>Betula pendula</i> (Silver birch) m. <i>Ribes sanguineum</i> (Red-flowering currant) n. <i>Dryopteris filix-mas</i> (Male fern) o. <i>Populus alba</i> (White poplar) p. <u><i>Sorbus aucuparia</i> (rowan)</u> q. <u><i>Cotoneaster franchetii</i></u> r. <u><i>Cotoneaster glaucophyllus</i></u> s. <u><i>Cotoneaster lacteus</i></u> t. <u><i>Cotoneaster microphylla</i></u> <p>NC-2</p> <p>The planting is undertaken above 300m asl and involves any of the following species:</p> <ul style="list-style-type: none"> a. <i>Lupinus arboreus</i> (tree lupin) b. <i>Lupinus polyphyllus</i> (Russell lupin) <u>or</u> c. <i>Salix fragilis</i> (crack willow) d. <i>Sorbus aucuparia</i> (rowan). 	<p>Activity status where compliance not achieved:</p> <p>Not Applicable</p>

7.18.9 In terms of S32AA, I consider that the changes will better implement ECO-P6, in terms of avoiding the planting of species likely to adversely affect indigenous biodiversity values. I consider that expanding the list to include more cotoneaster species and apply to rowan in all instances is an efficient and effective approach to maintaining indigenous biodiversity.

7.19 New Rules

7.19.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.3 [part], 156.116

Road Metals	169.21
Fulton Hogan	170.22

Submissions

- 7.19.2 Road Metals [169.21] and Fulton Hogan [170.22] seek that a new rule is added to provide for the clearance of indigenous vegetation that is for a quarrying activity as a restricted discretionary activity. This is sought to align with the policy direction in the draft NPSIB, which recognises the importance of aggregate extraction, which is locationally based.

Analysis

- 7.19.3 As noted earlier, aggregate extraction is exempted from the requirement in clause 3.10(2) of the NPSIB to otherwise avoid specifically identified adverse effects, but only where it provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand. This is further subject to there being a functional need or operational need for the activity to be in that particular location; and there being no practicable alternative locations for it. I consider that this does not support any quarrying activity being distinguished, noting that the exemption only applies to the direction to avoid specific adverse effects; not to other direction in the NPSIB. As noted earlier, I consider that there is a need to work through all direction in the NPSIB in an integrated manner, which is better undertaken when the Council notifies a plan change to give effect to the NPSIB in full.

Conclusions and Recommendations

- 7.19.4 I do not recommend the addition of a rule for the clearance of indigenous vegetation that is for a quarrying activity.

7.20 Definitions relating to ECO Chapter

- 7.20.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Helicopters Sth Cant.	53.10
NZAAA	132.6
Forest and Bird	156.9, 156.10, 156.11, 156.20, 156.22, 156.32
Transpower	159.6
Dir. General Conservation	166.4, 166.5, 166.7, 166.14, 166.15, 166.16
Federated Farmers	182.8
ECan	183.8, 183.14C, 183.14D

Submissions

- 7.20.2 Dir. General Conservation [166.4] supports the definition of ‘Biodiversity Management Plan’. Forest and Bird [156.10] also support the definition, where it is used as a matter of discretion in ECO-R1.2.
- 7.20.3 Forest and Bird [156.9] considers, with respect to the definition of ‘Biodiversity/Biological Diversity’, that the wording is slightly different to that contained in section 2 of the RMA and seeks a minor amendment to align the definition.
- 7.20.4 Forest and Bird [156.11] seeks that the definition of ‘Clearance of Indigenous Vegetation’ is amended so that it reads ‘Vegetation clearance’ and reference to “*indigenous*” vegetation is removed. In addition, they seek that the definition is amended to include felling and disturbance in addition to clearing or removal. The submitter considers that a definition of vegetation clearance is required whether the vegetation is indigenous or not, with distinction between whether clearance is of exotic or indigenous vegetation addressed instead in the rules, noting that the NESF and NESCF definitions apply to all clearance. The addition of reference to felling and disturbance is sought because the submitter considers that the definition only applies to complete destruction or removal of vegetation and they consider it should apply to clearance that does not involve complete removal, and consider that this aligns with the definitions in the NESF and NESCF.
- 7.20.5 Dir. General Conservation [166.5] similarly seeks changes to the definition to make it explicit that it also includes any activity that destroys or removes indigenous vegetation, with specific reference to clearing as a means of destruction/removal.
- 7.20.6 Federated Farmers [182.8] opposes the definition, stating that it is taken out of context from the ‘National Policy Statement for Improved Pastures’ and its partial use could create confusion among farmers. It seeks that the definition is amended or deleted, but no specific amendments are identified.
- 7.20.7 Helicopters Sth Cant. [53.10] and NZAAA [132.6] support the definition of ‘Improved pasture’ as it aligns with that of the NPSFM. ECan [183.14C] also supports the definition as it reflects the draft NPSIB, noting that while the definition may change before the NPSIB becomes operative, it provides helpful guidance in lieu of a definition being included in the CRPS. Forest and Bird [156.20] considers that the definition is problematic because much of the agricultural landscape has been deliberately modified in some way with exotic pasture species. The submitter considers that the definition should relate to fully converted pasture where indigenous vegetation has been fully removed and that this is mapped, therefore seeking deletion of the definition and replacement with the following:

means an area where indigenous vegetation has been fully removed and the vegetation converted to exotic pasture or crops at the time this plan was written, and that has been mapped.

- 7.20.8 Dir. General Conservation [166.7] and ECan [183.14D] support the definition of ‘indigenous vegetation’, on the basis that it is consistent with that contained in the draft NPSIB. Transpower [159.6] is neutral with respect to the definition but that it is vital that the definition is sufficiently clear and appropriate so that the provisions in the PDP that relate to indigenous vegetation give effect to higher order planning documents, and are appropriate for where NES’ defer to provisions in the PDP. The submitter states concerns that the proposed definition would capture a single indigenous plant and as a result mean that clearance of indigenous vegetation would also apply to single plants. No specific relief is identified. Forest and Bird [156.22] states that it would be useful to include a reference in the definition to the presence of exotic species given that they are ubiquitous in almost all native plant communities throughout New Zealand. The following change is sought:

means a community of vascular and nonvascular plants, mosses and/or lichens or fungi that, in relation to a particular area, includes species are native to the ecological district, in which that area is located. The community may include exotic species.

- 7.20.9 Dir. General Conservation [166.14, 166.15 and 166.16] seeks that three new definitions are included in the PDP. The first [166.14] is for ‘Effects Management Hierarchy’, seeking that this is defined so as to ensure that there is an appropriate cascade of effects management approaches, to manage adverse effects on significant values. No specific drafting is proposed, but a definition sought that aligns with the draft NPSIB, and giving effect to Clause 1.5(4) therein. The second [166.15] is for ‘Compensation’, on the basis that this term is used within the ECO Chapter and it is therefore considered necessary to define the term so that the meaning is clear. The definition sought is taken from the draft NPSIB. The third definition sought [166.16] is for ‘Biodiversity Offset’, also taken from the draft NPSIB, to provide for the use of a biodiversity offset to address residual adverse effects that cannot be avoided, remedied or mitigated.
- 7.20.10 Forest and Bird [156.63] and Dir. General Conservation [166.12] seek that the definition of ‘Significant Natural Area’ is extended to also refer to any area that meets the criteria set out in APP5 - Criteria for identifying Significant Natural Areas, as in their views, other areas that have not been identified, assessed, and mapped may also meet the criteria and they consider that the definition should not be limited to the mapped areas only. ECan [183.8] raises similar concerns, stating that the definition would only be consistent with the CRPS if all SNAs across the District had been mapped and listed in ECO-SCHED2, but the submitter considers that this is not the case. As such, it seeks similar amendments to that sought by Forest and Bird and Dir. General Conservation, or the deletion of the definition and its replacement with the following:

Means areas of significant indigenous vegetation and significant habitats of indigenous fauna that meet the criteria for a SNA as described in APP5-Criteria for Identifying Significant Natural Areas. (While areas meeting one or more of the SNA criteria have not been

comprehensively identified across the entire district, SNAs that have already been identified are shown on the Planning Maps and set out in ECO-SCHED2).

Analysis

- 7.20.11 I agree with amending the definition of 'Biodiversity/Biological Diversity' to align with that used in the RMA, to ensure consistency.
- 7.20.12 With respect to removing reference to "*indigenous*" in the definition of 'clearance of indigenous vegetation' I consider that the definition needs to be considered within the context it is used within, rather than how it is used in other contexts (i.e. the NESF and NESCF). In this instance, I note that there are some provisions in the PDP that manage or refer to vegetation clearance, and this is not limited to indigenous vegetation. Most notably, this includes NATC-R1, which manages vegetation clearance in defined riparian areas. However, later in this report I have recommended that this rule be deleted. 'Vegetation clearance' is also used in the definitions of 'afforestation', 'flood protection works' and 'large scale renewable electricity generation activity', but I consider the use of the term in these definitions does not create issues. Because I have recommended NATC-R1 be deleted, I do not consider that the definition needs to be amended to refer to 'Clearance of Vegetation' only.
- 7.20.13 I do not consider that it is necessary to add "*felling*" to the definition, because this is already covered by reference to "*clearing or removal*" and inclusion of reference to "*cutting*" as a method. I do not agree with adding reference to "*disturbance*" as I consider would capture a much broader range of activities than necessary to achieve the protection of SNAs and maintenance of other indigenous biodiversity. I do not consider the definitions used in the NESF and NESCF to be relevant, as they are seeking to manage activities within those NES' different purposes than the rules in the District Plan. However, I do agree that adding reference to "*destruction*" is appropriate, as this may cover situations where vegetation is not completely cleared or removed, but it is damaged to the extent that its value is compromised. I do not consider that there is a need to refer to clearing as a means of destruction/removal, because clearing is already referred to at the start of the definition.
- 7.20.14 With respect to Federated Farmers [182.8], I am not clear what NPS is being referred to, but I do not agree with removing the definition as this would not assist with the administration of the PDP, as it would not be clear what activities the rules which rely on the definition do or do not encompass.
- 7.20.15 I consider that replacing the definition of 'Improved Pasture' to refer only to fully converted pasture, and mapping such pasture is a highly inefficient approach, given the definition is only relied on in ECO-R1.2 PER-4. This provides a permitted status for clearance of indigenous vegetation which are within improved pasture, but only within specified areas (riparian margins, higher altitudes and steep slopes), but notably does not apply within SNAs. In my view, applying this to only fully converted areas is beyond what is necessary to protect

indigenous biodiversity in these areas (in accordance with ECO-P3). The term is also recommended to be used in a new condition applying in ECO-R1.1 (discussed earlier), which is supported by Mr Harding, and for the reasons set out earlier this approach is still considered to achieve ECO-O1. Similarly, I have recommended the use of the term in the new rule recommended to maintain indigenous biodiversity outside specially identified areas, and the wording of this rule is supported by Mr Harding. I consider that in all instances, the use of the term appropriate, and that to amend it to relate only to fully converted pasture would require a complex mapping and consultation process to identify such areas that is not necessary to achieve the outcomes sought in the ECO Chapter objectives.

- 7.20.16 I consider the definition of 'indigenous vegetation' to be appropriate because it aligns with that used in the NPSIB. While noting my comments earlier that the Council will need to give effect to the NPSIB as a whole through a future plan change process, I do not consider it efficient to potentially move further away from aligning with the NPSIB at this time by having slightly different definitions.
- 7.20.17 As I have not recommended inclusion of reference to an 'Effects Management Hierarchy', I do not consider that there is a need to define this.
- 7.20.18 With respect to defining 'compensation', I note that this term is used in the PDP provisions in the matters of discretion relating to ECO-R1.2. This term is not defined in NPSIB, but "*biodiversity compensation*" is. However, the definition is tied to Appendix 4 of the NPSIB, which sets out principles of such compensation, so in adopting the definition the PDP would also have to also adopt Appendix 4. Given its limited use in the PDP provisions, I think this is better dealt with when the Council reviews the plan to give full effect to the NPSIB. I also consider that the term need not be defined in the PDP in order for the limited provisions in which it is used to be understood.
- 7.20.19 As the PDP does not use the term 'Biodiversity Offset', I do not consider that a definition is needed. As with biodiversity compensation, I note that the definition of this in the NPSIB is tied to Appendix 3 of the NPSIB, which sets out principles of such offsetting, so in adopting the definition the PDP would also have to also adopt Appendix 3. Again, I think this is better dealt with when the Council reviews the plan to give full effect to the NPSIB.
- 7.20.20 I do not agree with extending the definition of 'Significant Natural Area' to include areas that meet the criteria in APP5. I consider that this would require an evaluative judgement of vegetation against the criteria, which is not appropriate for a definition which is relied upon to determine (in some cases) a permitted activity status. I consider that it is more appropriate for additional sites to be added to the PDP through a Schedule 1 process, allowing for scrutiny of their inclusion and the opportunity for public consultation to be undertaken in relation to them. I also note that I have recommended that an additional rule be included to limit the clearance of indigenous vegetation outside SNAs (and other identified areas), which in my view will provide greater protection of area that may meet the

APP5 criteria, but not yet be mapped in the PDP. I consider that my recommended approach is overall far more efficient than changing the definition (and effect of the related rule framework), while still being effective at achieving the ECO objectives.

Conclusions and Recommendations

7.20.21 I recommend that the definition of 'Biodiversity/Biological Diversity' is amended as follows:

has the same meaning as in section 2 of the RMA (as set out in box below)

means the variability ~~of~~ among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species and of ecosystems

7.20.22 I recommend that the definition of 'clearance of indigenous vegetation' is amended as follows:

CLEARANCE OF INDIGENOUS VEGETATION	<i>means the <u>destruction</u>, clearing or removal of 'indigenous vegetation' by any means, including grazing, cutting, crushing, cultivation, spraying, irrigation, chemical application, artificial drainage, overplanting, over sowing, or burning.</i>
---	--

7.20.23 It is my view that these changes are minor and do not change the overall intent of these definition, or the provisions which rely on them. As such, the original s32 evaluation still applies.

7.21 Other Matters

7.21.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Frank, H	90.24, 90.25

Submissions

7.21.2 Frank, H [90.24] states that there is no provision in the PDP for Council to make funding available on a yearly basis for the protection, maintenance and enhancement of SNAs. The submitter seeks that provision, possibly under the rules, is made for this. Frank, H [90.25] also considers that the provisions are missing the responsibility for the Council to educate the public about natural values and diversity and seek that a provision is added regarding this.

Analysis

7.21.3 It is my view that these are matters which sit outside the District Plan. Funding is a matter to be determined by the Council through its long-term and annual planning processes, and

similarly, education activities which may be undertaken by the Council are activities that are separate to the District Plan and must be considered in the context of the Council's wider work program.

Conclusions and Recommendations

7.21.4 I do not recommend any changes in response to this submission.

8. Natural Character Provisions

8.1 Broad Submissions

8.1.1 This section of the report addresses submission points that relate to the NATC provisions at a broad level, rather than comments on specific provisions.

8.1.2 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Frank, H	90.12
Port Blakely	94.1
Forest and Bird	156.5, 156.117, 156.118
Dir. General Conservation	166.50
Federated Farmers	182.112

Submissions

8.1.3 Frank, H [90.12] supports the rationale behind the NATC chapter and also generally supports the objectives, policies and rules of the chapter, subject to amendments sought in the submission. Similarly, Dir. General Conservation [166.50] support the provisions in the NATC Chapter where they have not requested any changes.

8.1.4 Port Blakely [94.1] are opposed to some rules in the PDP being stricter than the NESPF, stating that they do not meet the jurisdiction, nor the justification test in the RMA, nor has the requirement of s32(4) of the RMA been satisfied with respect to some provisions. It seeks broadly, that the PDP is amended to either incorporate the equivalent regulations from the NESPF, or the PDP rules deleted so that the NESPF regulations apply instead of the PDP rules. The submitter further seeks that the relevant PDP objectives and policies are amended as required to support and implement this relief.

8.1.5 Forest and Bird [156.117, 156.118] considers that lake margins should be addressed in this chapter, if there are lakes located in the District and they are not otherwise covered elsewhere in the PDP. The submitter also considers that the Coastal Environment should be mentioned in this Introduction to be clear that coastal environment issues are not covered in the NATC Chapter. Forest and Bird therefore seeks that the Introduction section is amended to explain that natural character of coastal environment is dealt with in the Coastal Environment Chapter; and that if applicable, the chapter be amended to apply to lake margins.

8.1.6 Forest and Bird [156.5] considers broadly that the PDP does not give effect to the directive requirements in Policies 11, 13 and 15 of the NZCPS. The submitter states that amendments

are required to the NATC, NFL and ECO to include policies 11, 13 and 15 of the NZCPS and explain the approach to giving effect to the NZCPS between these chapters (and the CE chapter) in the chapter overviews/introductions. As such, it seeks that all chapters of the PDP are amended to remove any conflict with the directive requirements of the NZCPS policies 11, 13 and 15.

- 8.1.7 Federated Farmers [182.112] seeks that a sentence is added to the Introduction to recognise that some activities will have a functional need to be located within an area of natural character. The submitter considers it important that the PDP recognise and provide for such activities. The submitter considers that farmland is intrinsically part of the natural character and will assist in its preservation and protection from inappropriate subdivision, use and development. It expresses further concerns that the approach taken by the Council is that all existing activities will adversely impact on areas of natural character, without considering that these areas may be located on private property and have existing activities occurring in them.

Analysis

- 8.1.8 With respect to Port Blakley's submission [94.1], this is considered below in terms of specific policies and rules.
- 8.1.9 There are no lakes identified within the District in the "ECan Lakes" mapping layer on Canterbury Maps. I acknowledge that the RMA definition of a lake is broad, encompassing any body of freshwater which is entirely or nearly surrounded by land, and therefore may capture small manmade freshwater bodies such as irrigation ponds. However, Section 6(a) relates to preserving the natural character of lakes and their margins, and their protection from inappropriate subdivision, use and development. As such, even if there are some small waterbodies within the District which fall within the RMA definition of a 'lake', these would not have natural character values in terms of those matters set out in NATC-P1. On that basis, I consider it appropriate that the NATC Chapter does not mention lakes.
- 8.1.10 In terms of the NZCPS, I note that areas identified as having High Natural Character in the Coastal environment are identified and managed in the Coastal Environment (CE) Chapter of the PDP, not within the NATC Chapter. The Introduction to the NATC Chapter says: "*Provisions related to the preservation of the natural character of the coastal environment are included in the Coastal Environment Chapter.*" I therefore do not consider that amendments are required to the NATC Chapter in order to give effect to Policy 13 of the NZCPS and as it is already clear that coastal environment issues are not covered in the NATC Chapter, no further changes to the Introduction section are required in relation to this.
- 8.1.11 I do not agree with Federated Farmers [182.112] that "*farmland is intrinsically part of the natural character*". Rather, I consider that those things which form part of the natural character values are those set out in NATC-P1. While I accept that some activities will have a functional need to be located within an area of natural character, I consider that this is a

matter to be managed through the detail of the provisions, but as it is not the focus of the chapter, I do not agree with it being mentioned in the Introduction. With respect the existing activities, I consider that these are already provided with existing use rights under section 10 of the RMA and again, do not consider there to be a need to mention this specifically in the Introduction to the NATC Chapter.

Conclusions and Recommendations

8.1.12 I do not recommend any changes to the NATC Introduction in response to these submissions.

8.2 Objective – NATC-O1

8.2.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.119
Dir. General Conservation	166.51
Silver Fern Farms	172.56
Alliance Group	173.60
Waka Kotahi	143.85
Federated Farmers	182.113
ECan	183.82

Submissions

8.2.2 Dir. General Conservation [166.51], Waka Kotahi [143.85], Federated Farmers [182.113] and ECan [183.82] support the objective (NATC-O1) and seek its retention, or the preservation of its intent.

8.2.3 Silver Fern Farms [172.56] and Alliance Group [173.60] seek that NATC-O1 is amended to read “...and the enhancement of natural character is encouraged” rather than “where possible enhanced”.

8.2.4 Forest and Bird [156.119] seeks that a new objective is added to the chapter as follows:

Restoration of the natural character of wetlands, rivers, lakes, and their margins where degradation has occurred.

Analysis

8.2.5 It is my view that the notified version of the NATC-O1 is more appropriate than the change sought by Silver Fern Farms [172.56] and Alliance Group [173.60]. This is because I consider that the wording currently expresses the outcome sought – being preservation, protection, and where possible enhancement. It is my view that “encouragement” is an action

undertaken to achieve an outcome (such as enhancement) rather than being an outcome in and of itself.

- 8.2.6 With respect to the additional objective sought by Forest and Bird, I do not consider a completely separate objective to be necessary. This is because I consider that restoration is treated in the provisions in the same manner as enhancement (NATC-P2, NATC-P3, NATC-P4.3 and NATC-P5.4) I therefore consider it more appropriate to add reference to restoration in NATC-O1.

Conclusions and Recommendations

- 8.2.7 I recommend that NATC-O1 is amended as follows:

The natural character of the Timaru District’s wetlands and rivers and their margins is preserved and protected from inappropriate subdivision, use and development, and where possible restored and/or enhanced.

- 8.2.8 I consider that the change is minor and does not alter the intent of the provisions, and as such the original s32 evaluation still applies. However, the change provides a clearer “line of sight” between the objective and the policies. I therefore consider it an improvement on the notified provision.

8.3 Policies – General

- 8.3.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
TDC	42.35
OWL	181.75

Submissions

- 8.3.2 TDC [42.35] and OWL [181.75] consider that it would be appropriate for the policies and rules in the NATC chapter to include similar provisions to NFL-P4.7.d and NFL-R3 relating to regionally significant infrastructure/network utilities.

Analysis

- 8.3.3 NFL-P4 directs that subdivision, use and development within ONFs and ONLs is avoided, unless it meets the criteria set out in clauses 1-4 of that policy, and allows for other matters to be taken into account, including (at clause 7.d) the direction in EI-P2. EI-P2, in turn, directs that RSI is provided for, subject to adverse effects being appropriately managed in the manner set out in that policy’s sub-clauses. This includes (at EI-P2.1.a) “*seeking to avoid adverse effects on the identified values and qualities of ... High Naturalness*

Waterbodies,...[and] riparian margins...” I note that despite the reference to waterbodies / riparian margins in EI-P2, there is no cross-reference to EI-P2 in the NATC Chapter. I consider that in absence of a similar cross-reference to that used in NFL-P4.7.d, there will be a lack of clarity about how the policy direction in both the EI and NATC chapters works together. I consider it appropriate for this to be included in NATC-P4, which sets out the limited circumstances in which subdivision, use and development is allowed for. The specific drafting recommended is set out below in the analysis of NATC-P4.

- 8.3.4 NFL-R3 provides a permitted activity status for network utilities, including associated earthworks, where they relate to the maintenance, upgrading or removal of existing network utilities, or for new network utilities or their upgrading, includes limits on earthworks volumes. However, I note that this rule is related to managing the effects of utilities on landscape values (and relates to policy direction set out in the NFL Chapter). I note that the policy direction relating to riparian margins is set out in the NATC Chapter and differs from the NFL Chapter. In particular, I note that NATC-P5 sets out activities that are anticipated in riparian margins, and these are very limited. This in turn is reflected in NATC-R1 and NATC-R3 which, respectively, provide for vegetation clearance and earthworks in these margins on a limited basis. I do not consider that permitting new network utilities aligns with the policy direction, nor is it consistent with how other activities in these areas are managed. I therefore do not consider a rule similar to NFL-P3 to be appropriate in the NATC Chapter.

Conclusions and Recommendations

- 8.3.5 I recommend that NATC-P4 is amended to refer to EI-P2. The specific drafting is set out below where NATC-P4 is discussed in more detail.

8.4 Natural Character Values and Incentives (NATC-P1 and NATC-P3)

- 8.4.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.120
Dir. General Conservation	166.52
Federated Farmers	182.114, 182.116
Silver Fern Farms	172.58
Alliance Group	173.62

Submissions

- 8.4.2 Dir. General Conservation [166.52] supports both policies, in relation to recognising the riparian and aquatic ecology and biodiversity of riparian margins and encouraging the restoration of indigenous biodiversity within the riparian margins of a river.

- 8.4.3 Federated Farmers supports NATC-P1 and seeks its retention, or the preservation of its intent. The submitter considers it important that natural character values are protected and recognised, stating that many farmers around the district recognise this through land management on their properties.
- 8.4.4 Silver Fern Farms [172.58] and Alliance Group [173.62] both support NATC-P3 and seek that it is retained as notified. They consider that the use of incentives for ecological restoration is an appropriate method to achieve NATC-O1.
- 8.4.5 Forest and Bird [156.120] considers that the NATC-P1 is inappropriate, as it refers to a natural state criterion and sets a high level of consideration which in its view, is inappropriate for natural character assessments. It seeks deletion of the policy and its replacement with the following:

Recognise the following natural elements, patterns, processes, and experiential qualities which contribute to the natural character values of wetlands, rivers, lakes, and their margins:

- 1. Is in their natural state or close to their natural state;*
- 2. landforms and landscapes, biophysical, geologic, and morphological aspects;*
- 3. hydrological and fluvial processes, including erosion and sedimentation;*
- 4. indigenous biodiversity, habitats, and ecosystems;*
- 5. water flow and levels, colour and clarity, and water quality;*
- 6. the cultural values of the water body to Kāti Huirapa, including values associated with traditional and contemporary uses and the continuing ability of the waterbody to support taoka species and mahika kai activities.*
- 7. the experience of the above elements, patterns, and processes.*

Analysis

- 8.4.6 Ms Pfluger, a landscape architect, has considered the alternate wording proposed by Forest and Bird [156.120] for Policy NATC-P1 and generally considers it to be appropriate, as the submitter's wording takes into account a wider range of aspects that contribute to the natural character of water bodies than the notified version of Policy NATC-P1. However, she has recommended alternate drafting for the submitter's clause 1 which takes into account the presence/ absence of man-made modifications, as well as changes to the land cover and land use in the vicinity of a water body, noting that water bodies where the natural elements, patterns and processes have not been substantially modified means that they are in, or close to, their natural state. I support Ms Pfluger's recommended change to this clause (which is numbered as clause 6 below) because the submitter's drafting does not grammatically align with the stem of the policy.
- 8.4.7 I have also recommended alternative drafting for the stem, because I consider that the matters listed within the policy need not be recognised in their own right. Rather, it is about recognising the contribution of these matters to the natural character which is sought in

NATC-O1 to be preserved, protected from inappropriate uses, and enhanced. I have also recommended retention of reference to “people’s” in clause 7, to make it clearer what experience relates to. For the reasons set out earlier, I have also excluded references to ‘lakes’ in the recommended policy wording.

Conclusions and Recommendations

8.4.8 I recommend that NATC-P1 is deleted and replaced as follows:

Recognise the contribution of the following natural elements, patterns, processes and experiential qualities to the natural character values of wetlands, rivers, and their margins:

1. landforms and landscapes, biophysical, geologic, and morphological aspects;
2. hydrological and fluvial processes, including erosion and sedimentation;
3. indigenous biodiversity, habitats, and ecosystems;
4. water flow and levels, colour and clarity, and water quality;
5. the cultural values of the water body to Kāti Huirapa, including values associated with traditional and contemporary uses and the continuing ability of the waterbody to support taoka species and mahika kai activities.
6. absence of man-made modification to their natural state; and
7. people's experience of the above elements, patterns, and processes.

8.4.9 In terms of s32AA, I consider that the policy better articulates those matters which contribute to natural character, and which are therefore sought to be preserved, protected from inappropriate activities, and enhanced, as per NATC-O1. While I consider the intent of the recommended drafting to be similar to that notified, I consider that it is clearer and will therefore better assist with the application of the NATC provisions.

8.5 Preservation of Natural Character (NATC-P4)

8.5.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Rangitata Dairies	44.7
Waka Kotahi	143.86
Forest and Bird	156.122
Transpower	159.74
Dir. General Conservation	166.52
Silver Fern Farms	172.59
Alliance Group	173.63
Federated Farmers	182.116

Submissions

- 8.5.2 Dir. General Conservation [166.52] supports NATC-P4 and seeks its retention.
- 8.5.3 Rangitata Dairies [44.7] seeks that NATC-P4 is amended to recognise there is farmed land within the riparian margin of the river as defined, noting that by definition, the extent includes area within 100m from the bank edges of the Rangitata River, which includes farmed land.
- 8.5.4 Federated Farmers [182.116] considers it important that the Council recognises the role private landowners have had in the management of these areas of natural character, stating that incentives do not go far enough and rates relief would be more beneficial than having expert advice. As such, it seeks that an additional clause is added to the policy to refer to “providing significant rates relief”.
- 8.5.5 Forest and Bird [156.122] considers that the policy conflicts with the requirement of s6 of the RMA, and seeks the following changes:
- Preserves the natural character values of wetlands, lakes, rivers, and their margins riparian margins by only allowing subdivision, use and development that and protect those values by:*
1. *avoids, ~~or if avoidance is not possible, minimises~~ any adverse effects on the elements, patterns, processes and experiential qualities outlined in NATC-P1;*
 2. *Ensure that the location, intensity, scale, and form of subdivision, use and development of land takes into account the natural character values;*
 3. *Require setbacks of activities, including buildings, structures, impervious surfaces, plantation forestry, woodlots, and shelterbelts;*
-
- 8.5.6 Waka Kotahi [143.86] seeks that addition of the following clause to the policy, to provide for works associated with RSI, where there is an operational or functional need:
- is for the operation, maintenance and repair of regionally significant infrastructure where there is an operational or functional need.*
- 8.5.7 Transpower [159.74] considers the policy fails to recognise that the National Grid must traverse riparian margins in order to transmit electricity and is concerned that as it is not always practicable for the submitter to minimise effects, the policies together (NATC-P4 and NATC-P5) may prevent or significantly constrain the ability of the National Grid to cross waterbodies. The submitter seeks that the wording directing avoidance is amended to replace “not possible” in clauses 1 and 4 with “not practicable”; and the addition of a new clause reading: “is regionally significant infrastructure that has an operational need or functional need for its location”.

- 8.5.8 Silver Fern Farms [172.59] and Alliance Group [173.63] considers that the “*only allow*” direction for activities that restore riparian margins departs from the direction in NATC-P2 to provide for and encourage restoration. The submitters are also concerned that due to the size of riparian margins, the policy may place a burden on these areas which they consider could be out of step with the effects if a proposal. The submitters seek that “*only*” is deleted so that the policy directs that these activities are allowed.

Analysis

- 8.5.9 It is my view that it is not necessary to amend NATC-P4 to explicitly recognise that there is farmed land within the riparian margin of the river as defined. This is because the policy direction is related to achieving the outcomes sought, and whether there is farmed land or not does not relate to NATC-O1. I note that existing activities within riparian areas will continue to have existing rights under s10 of the RMA, provided their effects remain the same or similar in character, intensity, and scale. The direction in NATC-P4 will however apply to new activities in these areas, or changes to existing activities which result in a change in character, intensity, and scale in effects.
- 8.5.10 With respect to rates relief, I consider that this is a matter that sits outside the District Plan. Rating is a matter which is determined by the Council through its long-term and annual planning processes. I therefore do not consider it appropriate for the District Plan to commit to funding matters that are not implemented within the District Plan and which would potentially pre-determine or undermine long-term and annual planning processes.
- 8.5.11 It is not clear to me how the policy conflicts with s6 of the RMA, which requires recognition of, and provision for the preservation of the natural character of wetlands, and rivers and their margins, and their protection from inappropriate, subdivision, use and development. I consider that the policy (in addition to NATC-P5) provides clear direction on what activities are considered to be appropriate in these areas. I also do not consider it appropriate that the policy directs avoidance of any adverse effects on the elements, patterns, processes and experiential qualities outlined in NATC-P1. I consider that there may be adverse effects on these matters which overall do not compromise the preservation of natural character. I therefore consider requiring avoidance of all adverse effects to be highly inefficient at achieving NATC-O1. With respect to the additional clauses sought, I consider that the location, intensity, scale, and form of activities is relevant insofar as it relates to the other matters set out in the existing clauses, i.e. these are factors that would be considered when establishing whether the adverse effects on the matters outlined in NATC-P1 had been avoided as far as possible and otherwise minimised. I therefore do not consider the additional clause to be necessary, and its inclusion might make the relationship between “*taking into account the natural character values*” and the direction in clause 1 unclear. With respect to amending the policy to direct that setbacks are required, I do not consider these fit in the policy. These are instead measures used to implement the policy direction. Where such setbacks are not met, the policy provides direction to assess whether the activity is still appropriate.

- 8.5.12 As noted above, I agree with amending this policy to integrate with the direction in EI-P2, which relates to Regionally Significant Infrastructure (as well as other infrastructure). I consider this more appropriate than amending NATC-P4 to simply allow for RSI where there is an operational or functional need for its location, as this would not appropriately manage its effects as directed in EI-P2, and in doing so could compromise the achievement of NATC-O1. I am however comfortable with amending the direction in clauses 1 and 4 to replace “possible” with “practicable”. This reflects that in some cases avoidance may strictly be “possible”, but is not necessarily appropriate from a practical perspective. With respect to minimising effects not always being practicable, I consider that reference to EI-P2 assists with this, as that policy in turn allows for consideration of the functional or operational needs of infrastructure.
- 8.5.13 I do not agree with amending the policy so that it directs that these activities are allowed for. This would not be consistent with the drafting approach taken across the PDP, whereby policies using the phrasing “only allow... where”, are applied to activities which are not expected to be appropriate in all instances, but may be in some cases. Within these policies, the clauses set out those matters that must be satisfied in order for such an activity to be allowed. This is then generally implemented through restricted discretionary and discretionary activity status for such activities, with the policy providing clear guidance as to what must be met in order for consent to be granted. I consider that amending the direction to “allow”, rather than “only allow” would change the emphasis of the policy.

Conclusions and Recommendations

- 8.5.14 I recommend that NATC-P4 is amended as follows:

Preserves the natural character values of riparian margins by only allowing subdivision, use and development that:

1. *avoids, or if avoidance is not practical possible, minimises any adverse effects on the elements, patterns, processes and experiential qualities outlined in NATC-P1;*
2. *maintains natural character values which have been modified but are highly valued;*
3. *restores or enhances natural character values in circumstances identified in NATC-P2; and*
4. *avoids or, where that is not practical possible, does not exacerbate bank erosion; or*
5. *is regionally significant infrastructure, and it is demonstrated that adverse effects are managed in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure.*

- 8.5.15 In terms of s32AA, I consider that replacing “possible” with “practicable” is more appropriate because it does not require that some actions which may be possible, but which are not appropriate for practical reasons to be undertaken. I consider that requiring all possible avoidance measures would result in economic costs that would not be outweighed by the environment benefits of undertaking all possible measures, and that requiring that all practical steps are undertaken is still effective at achieving NATC-O1.

- 8.5.16 With respect to referring to EI-P2, I consider that this provides clarity about how the policy direction in both the EI and NATC chapters works together and is therefore a more efficient approach and better takes into account the objectives of both chapters.

8.6 Anticipated Activities, Building and Structures (NATC-P5 and NATC-P6)

- 8.6.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Rangitata Dairies	44.8, 44.9
Waka Kotahi	143.87
Forest and Bird	156.123
Transpower	159.75
Dir. General Conservation	166.52
Road Metals	169.22
Fulton Hogan	170.23
Federated Farmers	182.117
KiwiRail	187.58

Submissions

- 8.6.2 Dir. General Conservation [166.52] supports NATC-P5 and seeks its retention.
- 8.6.3 Rangitata Dairies [44.8], while noting that the policy refers to enabling earthworks that are for the purpose of maintenance and repair of existing fences, tracks, roads, or for limited new fencing and tracks, seeks that NATC-P5 is amended to better recognise there is farmed land within the riparian margin of the river as defined.
- 8.6.4 Forest and Bird [156.123] considers that it is not appropriate for the Council to provide for activities, and seeks that the direction is amended to read “*Consider allowing Provide for*” instead.
- 8.6.5 Transpower [159.75] considers the policy fails to recognise that the National Grid must traverse riparian margins in order to transmit electricity and is concerned that as it is not always practicable for the submitter to minimise effects, the policies together (NATC-P4 and NATC-P5) may prevent or significantly constrain the ability of the National Grid to cross waterbodies. The submitter seeks the addition of a new clause reading: “*regionally significant infrastructure that has an operational need or functional need for its location*”. Similarly, Waka Kotahi [143.87] seek an amendment to recognise that there may be an operational or functional need to undertake works within riparian margins, and seeks the

addition of a new clause reading: “*is for the operation, maintenance and repair of regionally significant infrastructure where there is an operational or functional need*”.

- 8.6.6 Road Metals [169.22] and Fulton Hogan [170.23] oppose the policy, as it does not provide for activities such as extraction of aggregate from riverbeds, which is necessary to support the construction and maintenance of housing and infrastructure. The submitters note that such activities, by their nature, must be located where the aggregate naturally occurs. The submitters seek the addition of a new clause reading: “*quarrying activities, which must be located where aggregate is located and support the construction and maintenance of homes and infrastructure*”.
- 8.6.7 Federated Farmers [182.117] is concerned that the policy only provides for earthworks when vegetation clearance is an anticipated process in relation to the maintenance and repair of fences, tracks etc. The submitter seeks a wider scope for the policy, to allow for the grazing/mowing of grasses to reduce the fire risk and other exotic species which suppress biodiversity, providing cover for predators. The changes sought are to amend clauses 2 and 5 as follows:
2. *vegetation clearance to remove pest and/or exotic species; [...]*
5. *Vegetation clearance and earthworks that are for the purpose of maintenance and repair of existing fences, tracks [...]*
- 8.6.8 KiwiRail [187.58] notes that the rail network located within the District includes bridges over waterways, and considers that recognition of bridge works as an anticipated activity in riparian margins is necessary. As such, the submitter seeks that clause 5, pertaining to earthworks for the purpose of maintenance and repair are extended to also refer to the rail network.
- 8.6.9 Rangitata Dairies [44.9] seeks that NATC-P6 is amended to recognise there are existing structures within the riparian margin of the river and states that the policy could refer to new buildings and structures.

Analysis

- 8.6.10 I do not agree with amending NATC-P5 to better recognise there is farmed land within the riparian margin, for the same reasons as set out above in relation to NATC-P4. I also do not consider that the policy needs to recognise existing structures in these areas, as the policy relates to how new activities are to be managed.
- 8.6.11 I do not agree with changing the direction in the policy to “*considering allowing for*”. I consider that it is entirely appropriate for the PDP to provide for activities where such activities are not considered to be “inappropriate” with respect to achieving protection of riparian areas and the preservation of their natural character. I also consider that this change would not provide clear guidance for what is then implemented through the rule framework,

which I consider necessary to support the proposed permitted activity rules. In combination, I consider the policy and implementing rules are appropriate to achieve the protection and preservation sought in NATC-O1.

- 8.6.12 With respect to amending this policy to “enable” RSI, I do not consider this to be appropriate, nor aligned with the direction in EI-P2. This is because the ‘enabling’ directed in this policy is implemented through a permitted activity status, and in enabling/permitted such infrastructure, there would be no mechanism to assess how a proposal has sought to avoid adverse effects on riparian areas. Similarly, I do not agree that it is appropriate to enable quarrying activities, as then there would be no mechanism to address the adverse effects of quarrying activities on natural character values and therefore the achievement of NATC-O1 could be compromised. By contrast, I note that the other activities listed in this policy are very limited in their nature and scale, and as such, are not expected to have adverse effects that would compromise natural character values.
- 8.6.13 I note that Waka Kotahi’s submission in relation to RSI is more specifically focussed on the operation, maintenance and repair of existing infrastructure. Similar to this, Federated Farmers seeks that with respect to the maintenance and repair of existing fences, tracks, roads, both earthworks and vegetation clearance is enabled. KiwiRail seeks that the provision for earthworks is extended to apply to that which is for the purpose of maintenance and repair of the rail network.
- 8.6.14 I agree with these submitters that it is appropriate to enable a slightly broader range of activities, where such activities relate to the operation, maintenance and repair of assets which are already located in the identified riparian areas. Ms Pfluger’s view is that if an activity is existing in these areas, it has already impacted the natural character of the waterbody and its margin. In her view, allowing it to continue and to be maintained, is appropriate. Taking into account her view, I consider that providing for ongoing maintenance and repair of such assets is reasonable given the existing investment in them, and with respect to infrastructure, the wider social and economic benefits derived from this infrastructure. I therefore recommend that clause 5 is extended to include railways and RSI. As a consequence of my recommendation to extend NATC-R3 to also permit earthworks related to the maintenance and repair of stock water systems and irrigation systems (discussed further below), I also recommend that NATC-P5.5 is amended to include these systems.
- 8.6.15 With respect to Federated Farmers’ [182.117] request to enable clearance of exotic species, Ms Pfluger considers this to be appropriate, because the removal of both pest and other exotic species can, in her view, contribute towards the improvement of the natural character of a water body. In particular, it enables the natural process of regeneration of native vegetation to occur in areas that are naturally vegetated, while maintaining open parts of river beds, such as gravel banks. Based on Ms Pfluger’s advice, I support the change sought

by the submitter – to enable the clearance of exotic species. However, rather than simply changing NATC-P5.2, I have given some thought to the wider implementation of this.

- 8.6.16 In essence, NATC-P5 provides the framework for the permitted activity rules. With respect to NATC-P5.2 and P5.3, this includes vegetation clearance activities. This is reflected in NATC-R1, which controls all vegetation clearance in riparian margins. As Ms Pfluger supports removal of exotic vegetation, as better preserving the natural character of these margins, I consider that there is no need for the rules to limit/control removal of exotic vegetation. The practical consequence of this, is that in my view, NATC-R1 should be amended to apply only to indigenous vegetation clearance. I do not consider that the policy framework in NATC-P5 need refer to enabling clearance of exotic species, but instead should be amended to refer to the indigenous vegetation clearance activities that are enabled. However, if NATC-R1 is amended to only apply to indigenous vegetation, then I am concerned that this results in an element of duplication with the ECO Chapter, whereby indigenous vegetation clearance is restricted in riparian areas (ECO-R1.2), but the way these are defined are slightly different, as set out below:

Area	ECO Chapter	NATC Chapter
Wetland	Within 50m	Within 50m
Waterbody	Within 20m of the bank	Within 10m of the bank of a river < 3m wide Within 20m of the bank of a river > 3m wide Within 100m of the bank of the Rangitata; Ōpihi; and Ōrāri Rivers.
Waipuna (spring)	Within 20m	<i>Not included</i>

- 8.6.17 I note that under ECO-R1.2, similar exemptions are provided for vegetation clearance to those included in NATC-R1. Overall, to provide for a more integrated planning framework, I consider it more appropriate to remove NATC-R1 from the NATC Chapter (as a consequence of accepting Federated Farmers' submission that exotic vegetation removal should be permitted within riparian areas), and instead ECO-R1.2 should be the only rule applying to indigenous vegetation clearance within riparian margins. I consider it more appropriate to amend ECO-R1.2 (and the related policy direction in ECO-P3.1) to apply within the defined 'riparian margins' (and therefore replace the current references to "*Within 50m of any wetland*" and "*Within 20m of the bank of any waterbody*"), and to include the relevant matters of discretion from the NATC Chapter. The only change in effect from this approach (noting that while ECO-R1.2 will now apply in some cases in a larger area, this would have been captured under NATC-R1 in any case) is that the rule would no longer apply between 10-20m of the banks of rivers less than 3m wide. I consider that this has a minor effect and that overall the combined approach will be much more efficient, avoiding two rules applying to the same activity and applying in slightly different areas, with similar (but not exactly the same) exceptions. I also note that I have recommended an additional rule for indigenous

vegetation clearance more broadly which would cover vegetation in this 10m area in any case. Because of the higher sensitivity of HNWB, I recommend that this aspect of NATC-R1 (i.e. the fully discretionary status) is retained/shifted into ECO-R1. The suite of change recommended as a result of accepting Federated Farmers' [182.117] request is set out below. As a consequence of these changes, I do not consider it necessary to refer to vegetation clearance in NATC-P5 and therefore recommend that clauses 2 and 3 are deleted.

- 8.6.18 I do not agree with amending NATC-P6 to better recognise there is farmed land within the riparian margin, for the same reasons as set out above in relation to NATC-P4. I also do not consider that the policy needs to recognise existing structures in these areas, as the policy relates to how new activities are to be managed. I do not agree with amending the policy to enable new buildings and structures because these could have adverse effects on natural character values and simply enabling them would not allow for management of these effects on the natural character values.

Conclusions and Recommendations

- 8.6.19 I recommend that NATC-P6 be retained as notified.

- 8.6.20 I recommend that the Introduction to the NATC Chapter is amended as follows:

... A range of landuse and subdivision activities can have adverse effects on the natural character of rivers and wetlands. These include, but are not limited to subdivision; the construction of buildings and structures; earthworks and cultivation; ~~and the planting and removal~~ of vegetation and the removal of indigenous vegetation. The provisions of this chapter seek to manage those activities within the riparian margins of rivers and wetlands to ensure that the elements, patterns, processes and experiential qualities that contribute to the natural character values of the District's rivers and wetlands are preserved. These riparian margins are defined, and the provisions in this chapter apply within these defined riparian areas. There are also provisions in the Ecosystems and Indigenous Biodiversity Chapter which apply to the clearance of indigenous vegetation within riparian areas.

- 8.6.21 I recommend that NATC-P5 is amended as follows:

Provide for activities in riparian margins which are appropriate for safety, enhancement, wellbeing or customary reasons, by enabling:

- 1. activities which are undertaken by a local authority for the purpose of natural hazard mitigation works, and where possible, any adverse effects on natural character are minimised;*
- 2. ~~vegetation clearance to remove;~~*
- 3. ~~vegetation clearance for mahika kai purposes;~~*
- 4. planting of indigenous species that is for the purpose of restoration and enhancement activities; and*
- 5. earthworks that are for the purpose of maintenance and repair of existing fences, tracks, roads, railways, stock water systems, irrigation systems or regionally significant infrastructure, or for limited new fencing and tracks.*

- 8.6.22 I recommend that ECO-P3.1 is amended to refer to “*riparian margins and springs*” rather than to “*riparian areas, wetlands and springs*”.
- 8.6.23 I recommend that NATC-R1 is deleted.
- 8.6.24 I recommend that ECO-R1.2 (and ECO-R2 and ECO-R3) are amended to:
- replace “*Within 50m of any wetland*” and “*Within 20m of the bank of any waterbody*”, with “*Riparian margins of a river that is not an HNWB*”;
 - apply a discretionary status to indigenous vegetation clearance within “*Riparian margins of an HNWB*”;
 - include the matters of discretion from NATC-R1 where the clearance is within a riparian margin; and
 - shift aspects of NATC-R1 into this rule (including changes recommended in relation to submission made on NATC-R1 – set out further below).
- 8.6.25 Under s32AA of the RMA, I consider that the changes to NATC-P5.5 will have economic benefits, through enabling the maintenance or repair of existing assets in which investment has been made. I consider that there are limited environmental costs associated with the changes, because they only allow for earthworks and vegetation in circumstances where these assets already exist and are therefore unlikely to compromise natural character values. I consider that the approach is therefore still effective at achieving NATC-O1, while being more efficient.
- 8.6.26 I consider that the suite of changes to the NATC provisions and consequential changes to the ECO Chapter better recognises that removing exotic species can contribute towards the preservation of natural character. Through removing the controls on clearance of non-indigenous vegetation, and effectively combining the provisions relating to clearance of indigenous vegetation into one rule, I consider that the overall framework within the PDP will be much more efficient, by removing duplication and overlap, and in some cases, slight inconsistencies. I consider that through including matters of discretion relating to natural character in ECO-R1, the approach will still be effective at achieving NATC-O1.

8.7 New Policies

- 8.7.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.121

Submissions

- 8.7.2 Forest and Bird [156.121] opposes the lack of policy direction for the identification of further High Naturalness Water Bodies, noting that while the CRPS has identified some, the Council should endeavour to locate more and look at the values of other rivers. The following new policy is sought:

NATCP-X Identify, map and schedule significant freshwater bodies

Continue the identification, mapping, and scheduling of wetlands, rivers, lakes, and their margins with one or more recognised natural character attributes, where the following apply:

1. the wetland, river, lake, and their margins have high indigenous species and habitat values, where they support threatened, at risk, or regionally distinct indigenous species;
2. the presence of distinctive geological features, such as fault traces, fossil localities, geoscience and geohistoric values, or represents a unique geomorphic process;
3. cultural, spiritual or heritage associations of Ngāi Tūāhuriri to the freshwater body, including the ability to undertake customary practices; and
4. importance of the freshwater body to provide access and connections to areas of recreational use.

Analysis

- 8.7.3 It is my view that the inclusion of this policy is not appropriate, because it would not be implemented in any way through the proposed provisions, and therefore is reliant on a future plan change process. I consider that it should be through such a future process that the criteria for identifying, mapping and scheduling additional significant freshwater bodies should be determined.

Conclusions and Recommendations

- 8.7.4 I do not recommend any changes in response to this submission.

8.8 Rules – General

- 8.8.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Dir. General Conservation	166.53
Transpower	159.78

Submissions

- 8.8.2 Dir. General Conservation [166.53] considers that within the rules section, a note should be included to highlights to plan users that there are indigenous vegetation clearance rules that also apply within riparian margins, as follows:

Activities not listed in the rules of this chapter are classified as a permitted under this chapter. For certain activities, consent may be required by rules in more than one chapter in the Plan. For example, rules for indigenous vegetation clearance within the river margin are found in the Ecosystems and Indigenous Biodiversity chapter (insert hyperlink), Unless expressly stated otherwise by a rule, consent is required under each of those rules...

- 8.8.3 Transpower [159.78] supports the matters of discretion but considers the benefits of network utilities and operational need should be included to give effect to the NPSET. As such, the submitter seeks the following change:

the local, regional or national benefits of the activity and whether there is a functional need or operational need for the activity to locate in a riparian margin.

Analysis

- 8.8.4 I do not support the additional note sought by Dir. General Conservation [166.53], because in my view the note is appropriately broad to highlight that a range of other chapters may be applicable to a particular activity. I do not consider it appropriate to highlight a particular activity, nor a particular chapter, as there are many activities and other chapters that are applicable.
- 8.8.5 I consider it appropriate to refer to operational needs within the matters of discretion, to align with EI-P2.2, but as this policy only relates to infrastructure, I similarly consider the discretion should be limited to infrastructure. I do not consider that there is the same policy support for referring to the benefits of an activity.

Conclusions and Recommendations

- 8.8.6 I recommend that the matter of discretion in NATC-R1, NATC-R2, NATC-R3 and NATC-R5 relating to functional needs, is amended as follows:

whether there is a functional need for the activity, or in relation to infrastructure an operational need, to locate in a riparian margin.

- 8.8.7 In terms of s32AA I consider that the change is minor and therefore the original section 32 evaluation still applies. However, I consider that the change will better align the matter of discretion with EI-P2.

8.9 NATC-R1 – Vegetation Clearance

- 8.9.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Port Blakely	94.1, 94.9

Te Kotare	115.29
Waka Kotahi	143.88
Forest and Bird	156.124
Transpower	159.76
Road Metals	169.23
Fulton Hogan	170.24
Silver Fern Farms	172.60
Alliance Group	173.64
Federated Farmers	182.118
ECan	183.85
KiwiRail	187.59
Waipopo Huts	189.41
Hort NZ	245.59

Submissions

- 8.9.2 Silver Fern Farms [172.60], Alliance Group [173.64], Federated Farmers [182.118] and Hort NZ [245.59] support the rule as notified and seeks its retention. Reasons include support for the ability to undertake vegetation clearance to remove material infected by unwanted organisms; and that the rule provides a balance between conservation and current land uses working alongside one another.
- 8.9.3 Forest and Bird [156.124] considers that PER-3 and PER-4 are too far reaching and should have spatial limits associated with them if they relate to indigenous vegetation clearance. It seeks that NATC-R1 is amended to explicitly exclude clearance of indigenous vegetation, or to affix a spatial limit to any clearance.
- 8.9.4 Transpower [159.76] seek that PER-3 is extended to also provide for the upgrade of the National Grid consistent with the NESETA and gives effect to the NPSET.
- 8.9.5 Road Metals [169.23] and Fulton Hogan [170.24] are concerned that the rule only provides for a very narrow range of activities and constrains day-to-day activities which are for purposes which are supported in NATC-P5. While recognising that the NPS-FM provides stronger direction for protection of rivers, the submitter considers that providing for necessary maintenance activities of existing infrastructure will not undermine this purpose, as their effects are likely to be similar to those activities already provided for. As such, they seek that PER-4 is expanded as follows:
- The vegetation clearance is for the maintenance, repair, ~~or~~ upgrade ~~in seal cover~~, of existing roads, including their associated bridges, stormwater infrastructure and signage;
or*

- 8.9.6 Port Blakely [94.1, 94.9] seeks that the rule is amended to allow for clearance along riparian margins that is related to plantation forestry activities, and provided the clearance complies with the setbacks in the NESPF. The submitter also seeks that PER-4 is amended to allow vegetation clearance for the maintenance, repair or upgrade of forestry tracks and river crossings. The submitter is concerned that NATC-R1 imposes stricter standards than the NESPF in relation to clearance of vegetation in riparian margins, noting that the setbacks in the latter are *“deliberately comprehensive and robust to ensure they do not permit an activity with significant adverse effects”*. The submitter is also concerned that the rule would result in unwarranted variation across regions and districts in how plantation forestry is managed. While the submitter accepts that the PDP can have stricter rules than the NESPF, is it concerned that the s32 Report does not provide any justification for doing so, and therefore broadly seeks that the PDP is amended to incorporate the equivalent regulations from the NESPF, or the PDP rules deleted and the regulations relied on.
- 8.9.7 Te Kotare [115.29] and Waipopo Huts [189.41] consider that the rule needs to provide for the recognition of mana whenua interests in the occupation of ancestral land and formation of a thriving, sustainable and self-sufficient Māori community on Māori Trust land. The submitters seek the amendment of the rule to allow vegetation clearance outside of the footprint of the building as a permitted activity, if the vegetation clearance is required to upgrade and/or replace an existing building of the same or similar footprint.
- 8.9.8 Waka Kotahi [143.84] seek that the rule is extended to provide for vegetation clearance associated with the operation, maintenance or repairs of RSI.
- 8.9.9 KiwiRail [187.59] seek that an additional clause is added to permit vegetation that is for the operation, maintenance or repair of the rail network.

Analysis

- 8.9.10 I note that earlier in this report, I have recommended that NATC-R1 be deleted. This reflects the advice of Ms Pfluger that it is not necessary to control removal of exotic vegetation in riparian margins to preserve natural character, and that as the rules in the ECO Chapter also apply to indigenous vegetation clearance in such areas, it is more efficient to manage this clearance under one rule (ECO-R1.2). As a consequence of this, I have not further considered some the following submissions made on NATC-R1:
- Forest and Bird’s concerns [156.124] are addressed through the changes which clarify that the controls only apply to indigenous biodiversity;
 - Transpower [159.76] have made a similar submission on ECO-R3;
 - ECO-R1.2 PER-2 provides for clearance within 2m, and for the purpose, of maintenance, repair or replacement of existing lawfully established roads. I note that the definition of road includes the vested area, and would therefore include bridges, stormwater infrastructure and signage located within the road reserve. I therefore do

not consider the specific additions sought by Road Metals [169.23] and Fulton Hogan [170.24] to be necessary.

- I have recommended, in relation to ECO-R1.2 that an advice note be included that the rule does not apply to the clearance of indigenous vegetation associated with a commercial forestry activity regulated under the NESCF. I consider this addresses Port Blakely's [94.1, 94.9] submission

8.9.11 I broadly agree with Te Kotare [115.29] and Waipopo Huts [189.41] that it is appropriate to provide for some vegetation clearance outside of the footprint of the building as a permitted activity, where it relates to replacing an existing building. This reflects Ms Pfluger's advice that where there is an existing building within the riparian margins, replacement of that building, with the same or similar footprint, or a small expansion, would not create additional adverse effects that would compromise natural character values. I also consider this approach would align with the direction in NATC-P6 because it is related to managing the scale and location of buildings in riparian margins in a manner that still preserves natural character values. However, I consider that for a permitted activity condition, greater certainty would need to be provided in relation to "upgrading", or what is meant by a "similar" footprint. Ms Pfluger also considers that a limit should be placed on the scale of any expansions beyond the existing footprint, recommending the lesser of either a 25% or 50m² increase. I recommend that the vegetation clearance provided for as a permitted activity therefore aligns with the changes recommended below in relation to NATC-R5 (relating to buildings and structures). This is recommended to be included as a new permitted condition within ECO-R1.2.

8.9.12 With respect to RSI and the rail network, I recommend that additions are made to ECO-R1.2 to allow for these, as from both an indigenous biodiversity and natural character perspective I consider it appropriate to enable indigenous vegetation clearance related to the operation, maintenance and repair of these assets, which are already located in the identified riparian areas. I note that for similar reasons, I have recommended that the maintenance or repair of existing fences, tracks, stock water and irrigation systems changes be added to NATC-P5.5 (with respect to earthworks associated with these), and I consider the same should apply to vegetation clearance for these purposes via ECO-R1.2.

8.9.13 I have also recommended additional minor changes to the ECO-R1.2 to incorporate aspects of NATC-R1.

Conclusions and Recommendations

8.9.14 I recommend that ECO-R1.2 PER-2 is amended as follows:

The clearance is within 2m, and for the purpose, of maintenance, repair or replacement of existing lawfully established fences, vehicle tracks, roads, the rail network, stock water or irrigation systems, walkways, firebreaks, drains, ponds, dams, waterlines, waterway crossings, ~~or~~ utilities, or regionally significant infrastructure, or for an upgrade in seal cover of an existing road; or

8.9.15 I recommend that ECO-R1.2 PER-5 is split into two parts, and amended as follows:

PER-5

The clearance is unavoidable in the course of removing pest plants and pest animals in accordance with any regional pest management plan or the Biosecurity Act 1993; or

PER-6

The clearance ~~where this~~ occurs as part of indigenous biodiversity restoration or enhancement, including vegetation clearance which is to restore or enhance the natural character or ecological values of the riparian margin.

8.9.16 I recommend that the following condition is added to ECO-R1.2:

PER-7

The vegetation clearance is within a riparian margin and is associated with the replacement of, or expansion to, an existing building or structure, permitted under NATC-R5.

8.9.17 Under s32AA of the RMA, I consider that the changes to ECO-R1.2 PER-2 will have economic benefits, through enabling the maintenance or repair of existing assets in which investment has been made. I consider that there are limited environmental costs associated with the changes, because they only allow for vegetation clearance in circumstances where these assets already exist and are therefore unlikely to compromise ecological or natural character values. I consider that the approach is therefore still effective at achieving ECO-O2 and NATC-O1, while being more efficient.

8.9.18 In terms of the addition of PER-7, I consider this will have economic benefits, through allowing for the replacement and slight expansion of existing buildings and structures in which investment has been made. I consider that there are limited environmental costs associated with the changes, beyond those which form part of the existing environment. I consider that the recommended limit on the scale of any expansion aligns with NATC-P6 and is an efficient and effective way to preserve natural character. Overall, I consider the changes are therefore still effective at achieving ECO-O2 and NATC-O1, while being more efficient.

8.9.19 I consider that the changes to PER-5 and PER-6 are minor and do not alter the effect of the rule.

8.10 Vegetation Planting - NATC-R2

8.10.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Dir. General Conservation	166.54

Submissions

- 8.10.2 Dir. General Conservation [166.86] supports the rule as notified, as it encourages indigenous vegetation planting to restore the ecological values of the riparian margin.

Analysis

- 8.10.3 I note the support for this rule. As noted earlier, those aspects of the rule which relate to the management of natural hazard mitigation works (CON-1) will be considered further in the Natural Hazards topic.

Conclusions and Recommendations

- 8.10.4 I recommend that NATC-R2 is retained as notified (noting that elsewhere in this report I have recommended a change to a matter of discretion).

8.11 Earthworks – NATC-R3

- 8.11.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Rangitata Dairies	44.10
Frank, H	90.13
Port Blakely	94.10
Te Kotare	115.30
Connolly, S	136.2
Waka Kotahi	143.89
Forest and Bird	156.125
Transpower	159.77
Dir. General Conservation	166.55
Road Metals	169.24
Fulton Hogan	170.25
Silver Fern Farms	172.61
Alliance Group	173.65
KiwiRail	187.60
Waipopo Huts	189.42
HortNZ	245.60

Submissions

- 8.11.2 Federated Farmers [182.118] and Hort NZ [245.60] support the rule as notified and seek its retention. Reasons include support for the ability to undertake vegetation clearance to remove material infected by unwanted organisms; and that the rule provides a balance between conservation and current land uses working alongside one another.
- 8.11.3 Rangitata Dairies [44.10] seeks that the rule is amended to permit: the maintenance, repair and re-instatement of existing stock water and irrigation systems (including associated structures); and remedial works to reinstate on a like for like basis farmland and infrastructure following a flood event, within the riparian margin. The submitter notes that there are existing farming activities within parts of the riparian margin, including existing infrastructure for irrigation and stock water systems which can periodically require earthworks for maintenance and repair, or re-instatement. These areas are also subject to flood risk, and farmland with the riparian margin can at times require remedial work for reinstatement. The submitter further notes that earthworks for the maintenance and repair of existing fences, tracks, roads or natural hazard mitigations works, as well as for constructing new fences or tracks of a limited width are already a permitted activity.
- 8.11.4 Frank, H [90.13] considers that no new tracks should be built in river margins, and seeks that PER-3 is deleted, and PER-2 amended as follows:
- The earthworks are required to construct a new fence which is erected for the protection of the river margin; or*
- 8.11.5 Port Blakely [94.10] seeks that the rule is amended to permit earthworks associated with plantation forestry activities, provided they comply with the conditions in the NESPF. The submitter also seeks that earthworks for the maintenance and repair of existing river crossings are permitted. The submitter is concerned that NATC-R3 imposes stricter standards than the NESPF in relation to earthworks in riparian margins, noting that the latter contains setbacks for such earthworks and states that these are deliberately targeted towards plantation forestry activities to ensure activities do not have a significantly adverse effect on the environment. While the submitter accepts that the PDP can have stricter rules than the NESPF, is it concerned that the s32 Report does not provide any justification for doing so.
- 8.11.6 Te Kotare [115.30] and Waipopo Huts [189.42] consider that the rule needs to provide for the recognition of mana whenua interests in the occupation of ancestral land and formation of a thriving, sustainable and self-sufficient Māori community on Māori Trust land. The submitters seek the amendment of the rule to allow vegetation clearance outside of the footprint of the building as a permitted activity, if the vegetation clearance is required to upgrade and/or replace an existing building of the same or similar footprint.
- 8.11.7 Connolly, S [136.2] is concerned about the costs associated with consenting processes and the effect of this on their ability to maintain their established farming operation. The

- submitter seeks that the rule is amended to exempt “*digging up ground that has already been excavated*” and to exempt emergency work required to repair the irrigation mainline.
- 8.11.8 Waka Kotahi [143.89] seek that earthworks which are required for the maintenance, repair or operation of RSI outside of the HNWB are permitted, through the addition of a clause to NATC-R3.1.
- 8.11.9 Forest and Bird [156.125] considers that PER-1 and PER-2 (in NATC-R3.1) and NATC-R3.3 require spatial limits, and that PER-3 is too wide, as there would be instances where 3 metres would incorporate the entire margin. The submitter seeks that PER-3 (in NATC-R3.1) is deleted and spatial limits are added to PER-1 and PER-2 (in NATC-R3.1) which relate to the width of the margin within which the activity is to occur. Finally, it seeks that NATC-R3.3 is amended to apply spatial limits to the activities.
- 8.11.10 Transpower [159.77] seek that PER-3 (in NATC-R3.1) and PER-2 (in NATC-R3.2) is extended to also provide for the upgrade of the National Grid consistent with the NESETA and to give effect to the NPSET.
- 8.11.11 Dir. General Conservation [166.55] considers that PER-2 is too lenient and is not consistent with NATC-P5.5 which refers to ‘limited new fencing and tracks’. The submitter seeks that a limit is be applied to earthworks associated with new fencing along a river margin.
- 8.11.12 Road Metals [169.24] and Fulton Hogan [170.25] consider that other activities should be provided for in NATC-R3, stating that expanding the activities covered by the rule would reduce the consenting burden but have similar effects. The change sought to PER-1 is:
The earthworks are required for the maintenance, upgrade, and/or repair of existing fences, tracks, roads, bridges, pipelines, drainage or sewerage and other critical infrastructure, or natural hazard mitigation works; or
- 8.11.13 The submitters also explicitly support matter of discretion #6 for activities which do not comply with the permitted or controlled activity standards.
- 8.11.14 Silver Fern Farms [172.61] and Alliance Group [173.65] seeks an amendment to the rule to facilitate earthworks associated riparian restoration activities, through inclusion of the following clause:
The earthworks are to restore or enhance the natural character or ecological values of the riparian margin.
- 8.11.15 KiwiRail [187.60] seek that the rule is amended to provide for earthworks which are required for the operation, maintenance or repair of the rail network, as a permitted activity, through the addition of a clause to each of NATC-R3.1 and NATC-R3.2.

Analysis

- 8.11.16 I generally agree with Rangitata Dairies [44.10] that the effects of allowing for maintenance, repair and replacement of existing systems and structures in riparian margins will be relatively minor, as a result of the systems/structures already being located in these areas. As noted by Ms Pfluger, once an activity is existing, it has already impacted the natural character of the waterbody and its margin. I consider that extending PER-1 to include existing stock water and irrigation systems (and making a similar change to the policy direction in NATC-P5.5) and therefore allowing for earthworks associated with the repair of these will also address the concerns of Connolly, S [136.2].
- 8.11.17 With respect to new tracks, I note that these are limited in width (to 3m) so that they do not generate a level of effects that undermines preservation of the natural character.
- 8.11.18 With respect to fences, I do not consider that the reason for the fence alters its adverse effects and therefore do not agree with limiting PER-2 to only apply to fences established for a particular (and limited) purpose. However, I note that earthworks, by definition, do not include “*disturbance of land for the installation of fence posts*” and therefore do not consider that the condition (PER-2) is not needed. I have recommended a clause 16(2) amendment to delete this.
- 8.11.19 With respect to forestry activities, as noted earlier I consider that the rule should not prevail over the NESCF and therefore recommend that this is clarified through an advice note.
- 8.11.20 I note that Te Kotare [115.30] and Waipopo Huts [189.42] refer to vegetation clearance, but NATC-R3 relates to earthworks. However, I consider my assessment of their submission relating to vegetation clearance is the same in relation to earthworks and therefore agree with providing for earthworks which are associated with the replacement of an existing building, or slight expansions (the lesser of either a 25% or 50m² increase) beyond the existing footprint, aligning with the changes recommended below in relation to NATC-R5 (relating to buildings and structures).
- 8.11.21 With respect to RSI, I have considered the direction relating to this in the EI Chapter. I note that EI-P1.1 directs that the operation, maintenance, repair, upgrade and development of RSI and lifeline utilities are enabled, with EI-P2 then providing direction on how adverse effects of this infrastructure is to be managed, including that adverse effects on the identified values of HNWB and other riparian margins are sought to be avoided. I consider that the potential adverse effects arising from operation, maintenance and repair activities are unlikely to affect the values of these riparian margins (which are not HNWB), given the infrastructure already exists in the environment. I consider that it would be consistent with EI-P1.1 and EI-P2.1.a to permit earthworks in riparian margins where the earthworks are required for the operation, maintenance and repair of existing RSI. This is also consistent with the changes I have recommended to NATC-P5.5.

- 8.11.22 I consider that the extent of effects of earthworks on natural character values is limited, in relation to the activities specified in PER-1 by their nature, being that the earthworks are for limited purposes and relate to areas with existing infrastructure. I therefore do not consider that spatial (or other) limits are required. With respect to PER-3, the earthworks again are limited to 3m. In my view this aligns with the direction in NATC-P5.5 to enable earthworks for “limited” new tracks. With respect to upgrades to the National Grid, this is addressed above.
- 8.11.23 I consider that the combination of changes recommended in response to other submitters also addresses the concerns of Road Metals [169.24] and Fulton Hogan [170.25].
- 8.11.24 With respect to facilitating earthworks associated with riparian restoration activities, I consider that it is appropriate for such earthworks to be assessed through a consent process. This is because I consider that an evaluative judgement is required to understand if the earthworks will restore or enhance natural character or ecological values, and that such an evaluative judgement is not appropriate for determination of a permitted activity. I also note that the matters of discretion already include consideration of “*the extent to which any restoration or rehabilitation of the natural character of the area is proposed.*”
- 8.11.25 Consistent with the amendments recommended to NATC-P5, I agree with KiwiRail that PER-1 in both parts of the rule should also extend to the rail network.

Conclusions and Recommendations

- 8.11.26 I recommend that NATC-R3 is amended as follows (noting this does not incorporate changes recommended elsewhere in this report):

NATC-R3	Earthworks	
<u>1. Riparian margins of a river that is not an HNWB</u>	<p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1 <i>The earthworks are required for the maintenance and repair of existing fences, tracks, roads, railways, stock water systems, irrigation systems or natural hazard mitigation works; or</i></p> <p>PER-2 <i>The earthworks are required to construct a new fence; or</i></p> <p>PER-3 <i>The earthworks are required to construct a new track up to 3m in width; or</i></p> <p>PER-4</p>	<p>Activity status where compliance not achieved: Controlled</p> <p>Where:</p> <p>CON-1 <i>The earthworks are for the purposes of natural hazard mitigation works, and are undertaken by (or on behalf of) a local authority.</i></p> <p>Matters of control are restricted to:</p> <ol style="list-style-type: none"> 1. <i>measures to manage adverse effects on the overall natural character of an area by reference to the values listed in NATC-P1; and</i> 2. <i>any measures to restore or rehabilitate the natural character of the area; and</i> 3. <i>erosion and sediment control measures.</i>

	<p><i>The earthworks are required for the operation, maintenance or repair of <u>regionally significant infrastructure</u> the National Grid.</i></p> <p>PER-5 <i>The earthworks are associated with the replacement of, or expansion to, an existing building or structure, permitted under NATC-R5.</i></p> <p>Advice Note <i>This rule does not apply to earthworks associated with a commercial forestry activity which is regulated under the National Environmental Standard for Commercial Forestry.</i></p>	<p>Activity status where compliance not achieved with CON-1: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <p>1. ...</p>
<p>2</p> <p>Riparian margins of an HNWB</p>	<p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1 <i>The earthworks are required for the maintenance and repair of existing fences, tracks, roads, <u>railways, stock water systems, irrigation systems,</u> or natural hazard mitigation works; or</i></p> <p>PER-2 <i>The earthworks are required for the operation, maintenance or repair of <u>regionally significant infrastructure</u> the National Grid.</i></p> <p>Advice Note <i>This rule does not apply to earthworks associated with a commercial forestry activity which is regulated under the National Environmental Standard for Commercial Forestry.</i></p>	<p>Activity status where compliance not achieved: Controlled</p> <p>Where:</p> <p>CON-1 <i>The earthworks are for the purposes of natural hazard mitigation works, and are undertaken by (or on behalf of) a local authority.</i></p> <p>Matters of control are restricted to:</p> <p>1. measures to manage adverse effects on the overall natural character of an area by reference to the values listed in NATC-P1; and</p> <p>2. any measures to restore or rehabilitate the natural character of the area; and</p> <p>3. erosion and sediment control measures.</p> <p>Activity status where compliance not achieved with CON-1: Discretionary</p>

8.11.27 In terms of s32AA, I consider that the changes will have economic benefits, through permitting the maintenance, repair and replacement of existing structures/facilities in which investment has been made. I consider that there are limited environmental costs associated with the changes, because they only allow for earthworks in areas where the ground has already been disturbed, and on a limited basis. I consider that the approach is therefore still effective at achieving NATC-O1, while being more efficient.

8.11.28 With respect to exempting plantation forestry activities, I consider that this change provides greater clarity that the Plan provisions are not applying greater stringency than the NESCF,

and does not result in a different approach being taken in this district. I consider that the costs and benefits of this approach are as per those associated with the NESCF and therefore anticipated when the NES was introduced.

8.12 Fences, Buildings and other Structures – NATC-R4 and NATC-R5

8.12.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Bonifacio, P	36.3
Speirs, B	66.24
Te Kotare	115.31
Zolve	164.4
Silver Fern Farms	172.62, 172.63
Alliance Group	173.66, 173.67
Federated Farmers	182.119
Waipopo Huts	189.43
HortNZ	245.61

Submissions

- 8.12.2 Silver Fern Farms [172.62, 172.63], Alliance Group [173.66, 173.67], support both NATC-R4 and NATC-R5 and seek their retention. HortNZ [245.61] also support NATC-R4.
- 8.12.3 Bonifacio, P [36.3] opposes NATC-R4 as it would require a resource consent for fencing, despite the construction of fences helping support the preservation of these high value areas through excluding stock. The submitter seeks justification for how the restrictions listed in NATC-R4 have been determined.
- 8.12.4 Speirs, B [66.24] seeks that NATC-R4 is amended to also provide for a post and netting fence, stating that such as fence will be more appropriate in many situations. Federated Farmers [182.119] seeks that greater clarity is provided in the rule as to what a post and wire fence includes, such as whether it includes rabbit-proof netting.
- 8.12.5 Te Kotare [115.31] and Waipopo Huts [189.43] consider that NATC-R5 needs to provide for the recognition of mana whenua interests in the occupation of ancestral land and formation of a thriving, sustainable and self-sufficient Māori community on Māori Trust land. The submitters seek the amendment of the rule to allow for construction of buildings outside of the footprint of the previous building as a permitted activity, if the construction of the building is required to upgrade and/or replace an existing building of the same or similar footprint.

- 8.12.6 Zolve [164.4] is concerned that the rule does not allow for predator fencing for conservation purposes, and considers that as these areas have significant biodiversity values, it is likely that they are areas where conservation projects requiring predator fencing may occur. The submitter seeks that the rule is extended to provide for fencing required for conservation purposes.

Analysis

- 8.12.7 With respect to Bonifacio, P [36.3], I note that NATC-R4 proposes to permit construction of new fences in riparian margins (outside HNWB), subject to these being post and wire fencing only. I consider that this limitation is related to the visual effects of other designs of fences resulting in a more obvious level of human modification. As post and wire fences exclude stock, permitting them would provide for this. With respect to HNWB, I accept that the rule would require consent for new fences. However, I consider that as the values of HNWB are greater, further scrutiny through a consent process would be appropriate in those areas. I consider that “*post and wire*” fencing would allow for wire netting and therefore do not consider that changes are needed to the rule to allow for netting.
- 8.12.8 With respect to Te Kotare [115.31] and Waipopo Huts [189.43], I consider that where there is an existing building within the riparian margins, replacement of that building, with the same or similar footprint, or a small expansion, would not create additional adverse effects that would compromise natural character values. However, to provide certainty for a permitted activity framework, I consider that a limit should be placed on the scale (beyond the existing footprint). Ms Pfluger has recommended that this is limited to the lesser of either a 25% or 50m² increase beyond the existing footprint.

Conclusions and Recommendations

- 8.12.9 I recommend that NATC-R4 is retained as notified.
- 8.12.10 I recommend that NATC-R5 is amended as follows:

NATC-R5	Buildings and structures excluding fences	
Riparian margins of a river that is not an HNWB	<p>Activity status: Restricted—Discretionary Permitted</p> <p>Where:</p> <p>PER-1 <i>The building or structure is a replacement of, or expansion to, an existing building or structure, and the footprint of the building or structure does not increase by more than more than 50m² or 25% (whichever is the lesser) from that existing at [date rule becomes operative].</i></p> <p>Matters of discretion are restricted to:</p> <p>1. the extent of any adverse effects on the overall natural character of an area by</p>	<p>Activity status where compliance is not achieved:Not applicable. Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <p><u>1. the extent of any adverse effects on the overall natural character of an area by reference to the values listed in Policy NATC-P1; and</u></p> <p><u>2. whether the location, scale and design of the proposal will assist in reducing the</u></p>

	<p>reference to the values listed in Policy NATC-P1; and</p> <p>2. whether the location, scale and design of the proposal will assist in reducing the adverse effects on natural character values; and</p> <p>3. the nature of any proposed mitigation measures that contribute to the preservation, maintenance or enhancement of the natural character values of the area; and</p> <p>4. the extent to which alternative practicable options have been considered and their feasibility; and</p> <p>5. the extent to which any restoration or rehabilitation of the natural character of the area is proposed; and</p> <p>6. whether there is a functional need for the activity to locate in a riparian margin.</p>	<p><u>adverse effects on natural character values; and</u></p> <p><u>3. the nature of any proposed mitigation measures that contribute to the preservation, maintenance or enhancement of the natural character values of the area; and</u></p> <p><u>4. the extent to which alternative practicable options have been considered and their feasibility; and</u></p> <p><u>5. the extent to which any restoration or rehabilitation of the natural character of the area is proposed; and</u></p> <p><u>6. whether there is a functional need, or in relation to infrastructure, an operational need, for the activity to locate in a riparian margin.</u></p>
--	--	--

8.12.11 In terms of S32AA, I consider that the changes will have economic benefits, through allowing for the replacement and slight expansion of existing buildings and structures in which investment has been made. I consider that there are limited environmental costs associated with the changes, beyond those which form part of the existing environment. I consider that the recommended limit on the scale of any expansion aligns with NATC-P6 and is an efficient and effective way to preserve natural character. Overall, I consider the changes are therefore still effective at achieving NATC-O1, while being more efficient.

8.13 Subdivision - NATC-R6

8.13.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Speirs, B	66.50

Submissions

8.13.2 Speirs, B [66.50] considers that it would make more sense to include all subdivision rules in one place in the PDP and seeks that NATC-R6 is deleted, and, if necessary, “appropriate objectives, policies, rules, standards, activity status, matters of control and discretion, for subdivision of land containing a riparian margin” are included in the Subdivision Chapter.

Analysis

8.13.3 I note that the drafting approach taken in the PDP is to include rules applying to subdivision within overlay areas within each respective overlay chapter, rather than the Subdivision Chapter. I consider that the NP Standards provide for either approach, because they direct that provisions to protect the natural character of wetlands, lakes and rivers and their margins are located in the Natural Character Chapter, and managing subdivision in these areas relates to this;²⁹ but also direct that subdivision provisions be located within a Subdivision chapter(s).³⁰ In my view, the Hearing Panel should consider the overall approach, and only shift the provisions relating to subdivision in riparian margins into the Subdivision Chapter, if all subdivision provisions (i.e. including in other Overlay areas) are similarly shifted. As this affects a number of other chapters, I consider that this matter is best considered again when the Subdivision Chapter is considered. I therefore recommend that Speirs, B [66.50] submission point is considered again through Hearing E.

Conclusions and Recommendations

8.13.4 I recommend that NATC-R6 is retained as notified, but that the location of the rule is reconsidered in Hearing E.

8.14 Definitions relating to NATC Chapter

8.14.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Speirs, B.	66.6
Forest and Bird	156.29, 156.30
Dir. General Conservation	166.9, 166.10
Rooney Holdings	174.12
Federated Farmers	182.6, 182.25, 182.26
Rooney, GJH	191.12
Rooney Group	249.12
Rooney Farms	250.12
Rooney Earthmoving	251.12
TDL	252.12

²⁹ District-wide Matters Standard, clause 20

³⁰ District-wide Matters Standard, clause 24

Submissions

- 8.14.2 Forest and Bird [156.29] and Dir. General Conservation [166.9] support the definition of 'Riparian Margin'.
- 8.14.3 Speirs, B [66.6] considers that in many cases a river is deeply incised in the landscape and there may be no distinct bank and no flood plain present. The submitter seeks that the definition is amended to include an additional diagram of a river without a flood plain (and consequently change the term 'figure' to 'figures').
- 8.14.4 Six submitters³¹ seek that the definition is amended by reducing the 10-100m distance with a lesser distance such as 5 metres, or the Riparian Zone, whichever is greater. They consider that defining the riparian margin based on the width of the riverbed is too generic and, in many situations, will be well outside the transitional zone.
- 8.14.5 Federated Farmers [182.25] seek that the distances are reduced from the banks of the Rangitata; Ōpihi; and Ōrāri Rivers from 100m to 20m, and the distance from wetlands are reduced from 50m to 20m. The submitter considers that the definition is too prescriptive and prefers the approach taken in a report provided to the Tasman District Council. The submitter notes that the direction in NATC-P2(6) relates to providing a buffer from activities that may adversely affect the natural character values of the river or wetland, and states that they are unsure why a 100m buffer is required.
- 8.14.6 Forest and Bird [156.30] and Dir. General Conservation [166.10] support the definition of 'Riparian Zone [in relation to a river or lake]'. Federated Farmers [182.26] seek that it is deleted on the basis that it is not used within the PDP.

Analysis

- 8.14.7 The definition of 'riparian margin' is critical to the application of the NATC Chapter, because the definition determines the areas where the provisions in the NATC apply. The definition is nuanced, in that rather than a single setback from all waterbodies applying, the distance varies between 10m and 100m from the bank of a river, depending on the river; and 50m from wetlands.
- 8.14.8 With respect to Speirs, B [66.6], I consider that the diagram is not reliant on a floodplain being present in order to apply the definition (the floodplain is used as an illustration on one side of the diagram only, but not the other).
- 8.14.9 With respect to those submitters seeking a reduction in the widths applying, I note that the purpose of the definition is to manage effects on natural character values, and that while there are other rules in the PDP and in other planning documents (like the regional plan and NESCF) which include controls or setbacks within fixed areas of waterbodies, these other

³¹ Rooney Holdings [174.12], Rooney, GJH [191.12], Rooney Group [249.12], Rooney Farms [250.12], Rooney Earthmoving [251.12], TDL [252.12]

rules serve a different purpose. The riparian zone, for example, is related to where there is direct interaction between aquatic and terrestrial ecosystems, which is much narrower than those matters set out in NATC-P1 from which natural character values are derived. I have been unable to find the report referred to by Federated Farmers [182.25], and therefore am unable to assess whether the report related to setbacks applied in relation to natural character, or whether they related to other controls for a different purpose. I note that the larger setback of 100m is applied to large, braided rivers (Rangitata; Ōpihi; and Ōrāri) reflecting that this is the area within which natural character values are found. Overall, I am not persuaded that the reasons given by submitters to reduce the widths applied in the definition relate to the area within which natural character values are derived.

- 8.14.10 I agree with Federated Farmers that the term 'Riparian Zone' does not appear to be used in the PDP and therefore agree with its deletion.

Conclusions and Recommendations

- 8.14.11 I recommend that the definition of 'riparian margin' is retained as notified.
- 8.14.12 I recommend that the definition of 'riparian zone [in relation to a river or lake]' is deleted from the Definitions Chapter.
- 8.14.13 This change has no practical effect given the term is not used in the PDP. Further assessment under s32AA is therefore not required.

9. Landscape Provisions

9.1 NFL Chapter – Broad Submissions

9.1.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Frank, H	90.14
Port Blakely	94.1
Forest and Bird	156.5, 156.6, 156.126
Dir. General Conservation	166.56
Rooney Holdings	174.2
Connexa	176.72
Federated Farmers	182.120
ECan	183.1, 183.4
Rooney, GJH	191.2
Spark	208.72
Chorus	209.72
Vodafone	210.72
Rooney Group	249.2
Rooney Farms	250.2
Rooney Earthmoving	251.2
TDL	252.2

Submissions

9.1.2 Port Blakley [94.1] are opposed to some rules in the PDP being stricter than the NESPF, stating that they do not meet the jurisdiction, nor the justification test in the RMA, nor has the requirement of s32(4) of the RMA been satisfied with respect to some provisions. It seeks broadly, that the PDP is amended to either incorporate the equivalent regulations from the NESPF, or the PDP rules are deleted so that the NESPF regulations apply instead of the PDP rules. The submitter further seeks that the relevant PDP objectives and policies are amended as required to support and implement this relief.

9.1.3 Forest and Bird [156.126] broadly seek that the NFL chapter is amended to give effect to the CRPS. No specific changes or provisions within the chapter are identified.

9.1.4 Forest and Bird [156.5] considers broadly that the PDP does not give effect to the directive requirements in Policies 11, 13 and 15 of the NZCPS. The submitter states that amendments

are required to the NATC, NFL and ECO chapters to include policies 11, 13 and 15 of the NZCPS and explain the approach to giving effect to the NZCPS between these chapters (and the CE chapter) in the chapter overviews/introductions. As such, it seeks that all chapters of the PDP are amended to remove any conflict with the directive requirements of the NZCPS policies 11, 13 and 15.

- 9.1.5 Forest and Bird [156.6] also considers that the PDP approach to plantation forestry is uncertain with respect to the protection of SNAs and ONF/ONLs and that dealing with the effects of exotic carbon forestry is not clear in the PDP. The submitter seeks that the PDP is amended to ensure SNA, ONF and ONL are protected from plantation forestry and exotic carbon forests, and to have regard to the Climate Change Response (Zero Carbon) Amendment Act 2019 and any amendments to the NESPF regarding plantation forestry and exotic carbon forests.
- 9.1.6 Frank, H. [90.14] supports the rationale behind the chapter and also generally supports the Objectives, Policies and Rules of the chapter, subject to amendments sought in the submission.
- 9.1.7 Five submitters³² also explicitly support the introduction, including because it provides a clear description of ONLs and ONFs and because it is clear that the objectives and policies of the Energy and Infrastructure Chapter are applicable to any resource consent application sought for infrastructure in an ONL, ONF or VAL.
- 9.1.8 Federated Farmers [182.120] while supporting the protection of ONFs and ONLs, states that this must be done through appropriately identifying these, and in consultation with the affected landowners. The submitter also opposes placing restrictions on farming activities within these areas, stating that these are appropriate land use activities which still preserve the character and amenity values of these areas of significance. The submitter seeks that the NFL Chapter overview is amended to recognise and acknowledge the role that landowners have played and still play in the preservation of outstanding natural landscapes and features.
- 9.1.9 ECan [183.1] is concerned that various rules in the PDP use variable terminology to define floor areas of buildings, often with the term undefined, so that it is not clear what is being measured. The submitter considers that it is necessary to review all references to size of buildings and consider whether a clear definition is required linking development to either the "*building footprint*" or "*gross floor area*", which are defined National Planning Standard terms, and then create exclusions from those terms within the rules if necessary.
- 9.1.10 ECan [183.4] is also concerned that within the PDP, references to "*height*" of buildings or structures do not make reference to where height is measured from, and seek that all references to the height of buildings across the PDP is reviewed to ensure that height is measured from ground level, with consistent expression of height rules.

³² Dir. General Conservation [166.56], Connexa [176.72], Spark [208.72], Chorus [209.72], Vodafone [210.72]

- 9.1.11 Six submitters³³ express concerns that the PDP contains confusing and unnecessary overlap with consenting for Regional Council activities within the beds of rivers, and seek that the PDP is amended to avoid this overlap.

Analysis

- 9.1.12 In terms of the NZCPS, I note that Policy 15 of the NZCPS refers to natural features and landscapes within the coastal environment. The evaluation undertaken as part of the Landscape Study, which led to the identification of the ONFs and ONLs proposed in the PDP was carried out across the entire district, including the coastal environment. In absence of any specific conflict being identified by the submitters, I do not recommend any changes in relation to Forest and Bird's submission [156.5]. Similarly, the relevant provisions in the CRPS are identified in the s32 Report, and as the submitter has not identified specific conflicts with the CRPS direction, I am unable to identify what, if any, changes that might be required to the PDP to align with the CRPS.
- 9.1.13 With respect to plantation forestry, I note that the NESCF controls commercial forestry, which now includes exotic carbon forestry. The rules in the PDP can be more stringent in the District Plan, where they recognise and provide for the protection of ONFs and ONLs from inappropriate use and development. The NFL Chapter already applies such stringency by affording a non-complying activity status to forestry within an ONF or ONL (NFL-R7). I am therefore not clear what changes are sought to the NFL Chapter by Forest and Bird [156.6] with respect to the management of plantation forestry. With respect to Port Blakley's submission [94.1], this is considered below in terms of specific policies and rules.
- 9.1.14 I do not consider it appropriate to amend the Introduction to the NFL Chapter to recognise and acknowledge the role that landowners have played and still play in the preservation of outstanding natural landscapes and features. This is because the Introduction is intended to provide a summary of general content of the provisions contained in the Chapter, and the RMA context within which they sit. In my view, past actions are not related to this.
- 9.1.15 With respect to the size of buildings, I note that NFL-S4 imposes limits on footprints of buildings and structures. These use the phrase "*The maximum footprint of any building or structure shall be...*" While "footprint" is not defined, I consider it is commonly understood as being the area of ground covered by a building. While I note that 'building footprint' is a defined term, it is linked to the definition of 'building coverage', and as this is not related to what NFL-S4 controls, I do not consider that using the term in NFL-S4 would work particularly well. I also note that the definition of 'building footprint' is from the National Planning Standards and therefore cannot be amended (for example to remove the reference which links it to building coverage). Overall, I am not persuaded that the standard is unclear, such that it requires amendment to address the concern raised by ECan.

³³ Rooney Holdings [174.2], Rooney, GJH [191.2], Rooney Group [249.2], Rooney Farms [250.2], Rooney Earthmoving [251.2], TDL [252.2]

9.1.16 With respect to height, I note that NFL-S1 imposes height limits for buildings and structures. These are explicitly stated as being measures from ground level. I therefore do not consider that the concern raised by ECan arises in relation to the NFL provisions.

9.1.17 In relation to the concern about the PDP overlapping with consenting for Regional Council activities within the beds of rivers, I note that the more specific concern raised by these submitters³⁴ in relation to SNAs which are located in riverbeds is addressed above, in relation to their submission on ECO-P1. However, the submitters may wish to identify if there are other specific rules or provisions within the NFL Chapter about which they have concerns, noting that the NFL and VAL overlays in some cases includes riverbeds.

Conclusions and Recommendations

9.1.18 I do not recommend any changes in response to these submissions.

9.2 NFL Chapter – Mapping / Scheduling

9.2.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Frank, H	90.18, 90.19, 90.20, 90.21
Hart, J R	149.1
Dir. General Conservation	166.71, 166.72, 166.73
Forest and Bird	156.141, 156.182, 156.183, 156.184
Rooney Holdings	174.36
Connexa	176.73, 176.74, 176.75
ECan	183.170, 183.171
Te Rūnanga o Ngāi Tahu	185.39, 185.40
Spark	208.73, 208.74, 208.75
Chorus	209.73, 209.74, 209.75
Vodafone	210.73, 210.74, 210.75
Rooney, GJH	191.36
RDRML	234.1
Rooney Group	249.36
Rooney Farms	250.36
Rooney Earthmoving	251.36
TDL	252.36

³⁴ Rooney Holdings [174.2], Rooney, GJH [191.2], Rooney Group [249.2], Rooney Farms [250.2], Rooney Earthmoving [251.2], TDL [252.2]

Submissions

- 9.2.2 Dir. General Conservation [166.71] and ECan [183.170] support proposed SCHED8 stating that it is consistent with Policy 12.3.1 of the CRPS.
- 9.2.3 Dir. General Conservation [166.73] states that a small area off Dr Sinclairs in Upper Rangitata has been missed on the planning maps (ONL-1) and seeks that the planning maps are amended to include this area.
- 9.2.4 Forest and Bird [156.183] supports the inclusion of existing ONLs in SCHED8, but in relation to ONL-2 considers that it should be called “*Mt Peel and the Four Peaks Range*” rather than “*Peel Forest*”. Frank, H [90.18] seeks amendments to the ‘Landscape values and characteristics’ description of ONL-2, including the addition of new points under the Biophysical and Sensory descriptions. These are set out in full in the submission and for brevity are not repeated here, but I note that they largely relate to including further detail on indigenous biodiversity present in the ONL.
- 9.2.5 Forest and Bird [156.184] consider that SCHED8 should include the Two Thumb, Hall, and Gammack Range ONL that straddles the boundary between the Timaru and Mackenzie Districts, as set out in APP 4 to the CRPS, to give better give effect to the CRPS.
- 9.2.6 Dir. General Conservation [166.72] supports SCHED9, stating that it is consistent with Policy 12.3.1 of the CRPS. Forest and Bird [156.182] support and seek the retention of SCHED9, but seek the inclusion of more ONFs to the schedule as they become known. ECan [183.171] supports SCHED9 as being consistent with Objective 12.2.1 and Policy 12.3.1 in the CRPS, and seek that outstanding natural features of international, national and regional significance listed in the geopreservation inventory are included in the schedule. Frank, H [90.19] supports the inclusion of limestone escarpments in SCHED9, as the submitter considers that they are an important and distinct landscape feature in the District and provide habitat for long-tailed bats and for endangered plant species.
- 9.2.7 Frank, H [90.20, 90.21] seeks the addition of reference to Mt Donald in ONF-2e, with the addition of reference to “*Native vegetation remnants, with specialised limestone species of high ecological value, are present*” under the biophysical list in relation to ONF-2a to ONF-2q; and the addition of reference to “*High diversity of ground beetles, some of them endemic to South Canterbury*” under the biophysical list in relation to ONF-6 (Claremont Bush).
- 9.2.8 Hart, J R [149.1] seeks, in relation to ONF-2c, that the provisions do not impose a restriction on the grazing of the property (located at 318 Mathew Road, Temuka)³⁵. The submitter considers that the restrictions in the PDP may reduce productivity and reduce property values,

³⁵ I note that there is an error in the Summary of Decisions Requested, which refers to amending the NATC chapter, whereas the submission refers to ONF-2c.

- and questions who will pay compensation or maintain the areas if the landowners are shut out.
- 9.2.9 Forest and Bird [156.141] considers that it is not clear if the PDP mapped ONLs and ONFs in accordance with the NZCPS, stating that there is no reference to any ONCs in the Timaru District and that it is not clear if this exercise was undertaken, and none were found. It seeks that the mapping of ONFs, ONLs and ONCs is reconsidered, in accordance with the NZCPS.
- 9.2.10 Connexa [176.73, 176.74, 176.75], Spark [208.73, 208.74, 208.75], Chorus [209.73, 209.74, 209.75] and Vodafone [210.73, 210.74, 210.75] consider that roads should be excluded from the provisions relating to the ONF, ONL and VAL overlays, as they are a modified environment and therefore seek that these overlays are amended so that it is clear that roads are not included within the overlays. In addition, these submitters consider that rural residential areas should be excluded from VALs as they are defined as rural areas under the NESTF, and therefore seek that the extent of the VAL is amended to exclude areas zoned for rural residential land use.
- 9.2.11 With respect to SCHED10, six submitters³⁶ oppose the requirement for a resource consent for afforestation within VAL-4, stating that the VAL layer contains a significant area of land that is already subject to multiple SNAs. They seek either the deletion of NFL-R7 or the deletion of VAL-4.
- 9.2.12 Te Rūnanga o Ngāi Tahu [185.39, 185.40] supports SCHED-8 and SCHED10, but request minor changes to improve clarity and ensure that all cultural values are given the appropriate weight. The submitter seeks to achieve this through amending the schedules so that the attributes/ values of these areas cross reference the SASM references, to ensure that the cultural values are fully recognised and protected as required by case law for landscape assessments.
- 9.2.13 RDRML [234.1] seeks that all district plan layers are removed from the Rangitata River, including ONLs and VALs. The submitter is concerned that this overlay covers the bed of the Rangitata River near the Klondyke intake, where it undertakes authorised works to maintain the diversion of water into the Rangitata Diversion Race. The submitter expresses concerns about whether is lawful for the Council to create district plan provisions in respect of the bed of the Rangitata River, as it considers that this appears to be outside the functions of a territorial authority under s31 of the RMA. Even if lawful, the submitter questions whether it is appropriate, given its concerns about how the District Plan applies, confusion about whether the Plan provisions apply to its activities where within the Rangitata River, and the role of ECan, whose function and jurisdiction cover activities within the river. From informal discussions with the submitter, I understand that the principal concern is that the VAL and ONL overlays include an area within the Rangitata River within which a rock weir is located,

³⁶ Rooney Holdings [174.36], Rooney, GJH [191.36], Rooney Group [249.36], Rooney Farms [250.36], Rooney Earthmoving [251.36], TDL [252.36]

for which a land use consent has been obtained from Environment Canterbury to maintain the weir, which allows for disturbance of the riverbed up to 1km both up and down stream of the weir. The submitter considers that the maintenance, repair and replacement of the rock weir would also be captured in the definition of 'earthworks' in the PDP.

Analysis

- 9.2.14 Ms Pfluger has confirmed that the Sinclair Range in the Upper Rangitata Catchment was identified as part of ONL-1 in the Landscape Study. The mapping of ONL-1 already aligns with that identified in the Landscape Study and therefore I do not consider that any changes are required to the map in response to the Dir. General Conservation's submission [166.73].
- 9.2.15 I agree with the request by Forest and Bird [156.183] to rename ONL-2 to "*Mt Peel and Four Peaks Range*" as this is consistent with the naming used in the Landscape Study and better encompasses the area covered by this ONL.
- 9.2.16 With respect to Two Thumb, Hall, and Gammack Range, Ms Pfluger has confirmed that the mountain ranges to the south of the Upper Rangitata River have all been identified as part of ONL-1 in the Landscape Study, noting that the boundary with the Mackenzie District forms the boundary of the ONL. As such, those areas which are located in the Timaru District are already identified in the PDP and no changes are required in response to Forest and Bird's submission [156.184].
- 9.2.17 With respect to including additional references in SCHED8 and SCHED9 to plant/ invertebrate species, Ms Pfluger considers that this is appropriate as the additional detail is comparable with other ONLs. She notes that while some of these additions are focussed on ecological values (including rarity of these species), they form part of the physical values associated with these ONF/ONLs and are relevant to the landscape values and characteristics. She also notes that they align with publicly available information on these values. In terms of ONL-2, she has recommended a slight amendment to the wording sought by the submitter to focus on the recreational opportunities available in relation to the ONF which fall under its sensory values. With respect to adding reference to Mt Donald in ONF-2e, Ms Pfluger states that she has not been able to locate this mountain and therefore considers that further evidence/ information would be required from the submitter in order to recommend this addition. I accept Ms Pfluger's advice and recommend that the changes sought by Frank, H [90.18, 90.20, 90.21] are made to ONL-2, ONF-2a to ONF-2q, and ONF-6, subject to the recommended amendment to ONL-2 recommended by Ms Pfluger.
- 9.2.18 I acknowledge Forest and Bird's [156.182] support for SCHED9, but consider that the inclusion of additional ONFs to the schedule, as they become known, is a matter for a future plan change process. With respect to ECan's [183.171] submission on outstanding natural features of international, national and regional significance listed in the geopreservation inventory, Ms Pfluger has confirmed that she has considered all geopreservation sites within Timaru District (noting these are listed in Table 8 of the Landscape Study). However, not all

geopreservation sites have been identified in the PDP as ONFs, because the reasons for their identification as a geopreservation site are different to those for ONFs. In particular, they often only relate to geological values.

- 9.2.19 With respect to Hart, J R [149.1], I note that the rules proposed in the NFL Chapter do not restrict grazing. NFL-R6 does restrict new areas of irrigation and cultivation, but this would be able to continue in existing areas, and therefore would not affect the ability to continue grazing such areas. Having considered this, along with the other rules in the NFL Chapter, I do not consider that application of an ONF would result in landowners being “shut out” of any ONF area.
- 9.2.20 In relation to Forest and Bird’s [156.141] mapping query, I note that the process for mapping the ONLs and ONFs is set out further in Ms Pfluger’s memo. In summary, the landscape evaluation that led to the identification of ONF/Ls was carried out across the entire district, including the coastal environment. One ONF was identified within the coastal environment (Dashing Rock ONF). The Timaru Coastal Study identified the extent of the coastal environment, and having established this, a further assessment of natural character within the coastal environment was carried out. This included identifying any areas of high and outstanding natural character, as required under the NZCPS, with the methodology applied for this assessment outlined in detail in the coastal study. The natural character assessment led to the identification of areas of high natural character in the coastal environment, but no areas of outstanding natural character were identified due to the level of modification to the natural elements, patterns and processes.
- 9.2.21 With respect to the inclusion of roads within ONFs, ONLs and VALs, Ms Pfluger notes that roads, as well as other man-made modifications form part of the wider landscape. She states that the assessment of landscape involves firstly defining the extent of the landscape and then subsequently carrying out a value assessment. If the landscape meets the threshold for ONL (or a lower threshold for VAL), the landscape or feature is included as such. Ms Pfluger does not consider it best practice to exclude these discrete man-made elements from the wider identified areas. However Ms Pfluger does note that road corridors contain a higher level of man-made modification and may have a greater ability to absorb change than in the more natural surroundings that provide more notable landscape values. As such, she considers that a more permissive management regime could be considered within road corridors.
- 9.2.22 Based on Ms Pfluger’s advice, I do not support the removal of roads from these overlay areas. However, I understand the main concern of the submitters relates to the management of telecommunications facilities within road corridors. I note that in the Queenstown District Plan, new aerial telecommunication lines and supporting structures within formed road reserve are permitted³⁷, subject to a maximum height, which within ONLs is 8m³⁸ and subject

³⁷ Rule 30.5.6.2

³⁸ Rule 30.5.6.6.i.

to being finished in colours with a light reflectance value of less than 16%³⁹. Having discussed this with Ms Pfluger, I consider it appropriate to amend NFL-R3 to provide for telecommunications activities within formed road reserve on a similar basis in the Timaru District. The specific changes recommended are set out below in relation to NFL-R3.

- 9.2.23 With respect to excluding rural residential areas from VALs, I do not consider that these areas being defined as rural areas under the NESTF has any bearing on their identification as VALs under the PDP. Ms Pfluger notes that the VAL at Geraldine Downs also includes some land zoned Rural Lifestyle, and the presence of human development does not preclude an area to be identified as part of a VAL. She further notes that the landscape study already identified that rural settlement has occurred along some of the roads throughout the area, and that the attractiveness for living in this area reflects its high amenity value and distinguishes it from other rural areas that are predominantly used for agricultural production. I therefore do not agree that the extent of the VAL should be amended to exclude areas zoned for rural residential land use.
- 9.2.24 In terms of VAL-4, I note that the methodology for identifying VAL areas is set out in the Landscape Study. These are areas containing high amenity, environmental or scenic values, but do not reach the threshold of being an ONF or ONL. I do not consider that the identification of areas of SNAs within an area proposed to be a VAL is a sufficient reason for not identifying an area which otherwise meets the threshold for being identified as a VAL. I therefore consider that VAL-4 should be retained. The management of afforestation within VALs is considered further below in relation to NFL-R7.
- 9.2.25 With respect to Te Rūnanga o Ngāi Tahu's request [185.39, 185.40] to cross reference SCHED-8 and SCHED-10 to SASM references, to ensure that the cultural values are fully recognised and protected, I note that the planning maps already show where an area is located in both an SASM and an ONL/ONF. Therefore, I do not see the benefit in cross-referencing to the SASM Chapter within SCHED8 or SCHED10.
- 9.2.26 In relation to RDRML's submission [234.1] regarding the lawfulness of mapping of ONLs and VALs in the Rangitata River, and creating district plan provisions in respect of the bed of the Rangitata River, I note that counsel will address the question of the lawfulness more fully. I do however note that the boundary of ONL-1, ONL-2 and VAL-1 follows the boundary of the Timaru District, and therefore includes parts of the bed of the Rangitata River. The same approach is taken in the Selwyn District, whereby the Waimakariri River ONL covers that part of the waterbody that is located within the Selwyn District. I have also reviewed the provisions relating to ONLs in the partially operative Selwyn District Plan and note that they are similar to those included in the PDP. With respect to whether the approach taken to managing activities within the bed of the Rangitata River is appropriate, I broadly consider that the approach taken is appropriate to ensure that activities in these high value areas are managed to, in respect of ONLs, protect them from inappropriate subdivision, use and

³⁹ Rule 30.5.6.8

development; and in respect of VALs, maintain or enhance their landscape character and visual amenity values. The rules in the NFL chapter will apply to those land use activities specified in the NFL Chapter where such activities are undertaken within the Rangitata River. Having reviewed these, I do not consider that these relate to functions of the regional council. To the extent that the regional plan and district plan provisions may overlap (i.e. both control the same activity) I note that this is common, where the effects of an activity relate to both a territorial and regional council function. As such, I consider the general approach to include the Rangitata River within an ONL and VAL area is valid, and generally appropriate.

9.2.27 However, I agree with the submitter that earthworks associated with the maintenance and repair of the existing rock weir should be treated the same way as other existing items located within an ONL, ONF or VAL overlay, and therefore added to NFL-R2. The specific wording is set out below in relation to that rule.

Conclusions and Recommendations

9.2.28 I recommend that ONL-2 in SCHED8 is amended as follows:

Unique Identifier	Site Identifier	Landscape values and characteristics
ONL-2	Mt Peel Forest and Four Peaks Range	<p>Biophysical – Very High</p> <ul style="list-style-type: none"> • Peel Forest has a range of vegetation from mature low-land forest to exposed tussock and herb-field communities. • Significant areas of indigenous podocarp, broadleaf rain forest and hardwood forest can be found on the slopes of Tarahaoa/Mt Peel due to its diversity and size. • Dennistoun Bush contains 40 hectares of magnificent ancient forest with huge kahikatea, lowland totara and matai and expresses a very high level of naturalness. The Scotsburn and Kowhai Stream catchments on the southern flanks of Tarahaoa/Mt Peel, as well as Peel Forest itself provides native forests of particularly high quality. • The peaks, ridgelines and spurs of the Four Peaks Range form a coherent mountain landscape with rock, some scree, tussocks, alpine shrublands, and herbfield vegetation cover prevalent. Low producing grassland dominates on the lower spurs with native vegetation in the gullies. More extensive areas can be found in the Station Stream/ Mc Lead Stream catchment, along the Waihi River north bank and in the Hae Hae Te Moana River catchment. • The Ōrāri Gorge is a distinctive feature within the wider ONL which has particularly high biophysical <u>and biodiversity</u> values with native vegetation along the steep banks and high legibility of the incised landform traversing the foothills.

		<ul style="list-style-type: none"> • Numerous species of ferns are found within Peel Forest. • At least ten species of native bird occur in Peel Forest and Orari Gorge including bellbird/korimako, silvereve/tauhou, tomtit/miromiro, rifleman/tititipounamu, grey warbler/riroriro, native wood pigeon/kererū, fantail/pīwakawaka, shining cuckoo/pipiwaharuroa and longtailed cuckoo/koekoea. • <u>The Orari River and tributaries provide habitat for the blue duck/whio. The New Zealand falcon/karearea and the New Zealand pipit/pīhoihoi occur in the surrounding area.</u> • <u>Four of the five extant lizard species in the District are present in this ONL.</u> • <u>Mt Peel edelweiss <i>Leucogenes tarahaoa</i> is endemic to the higher region of Middle/Big Mt Peel. The Orari Gorge is a stronghold for the rare stem-clasping hebe <i>Veronica amplexicaulis</i> which is endemic to South Canterbury. Other threatened species in the Gorge and the catchment are three native broom species (the Canterbury pink broom <i>Carmichelia torulosa</i>, the scrambling broom <i>C. kirkii</i>, the coral broom <i>C. crassicaule</i>) as well as at least seven other At Risk plant species.</u> <p>Sensory – High</p> <ul style="list-style-type: none"> • Peel Forest Scenic Reserve is a highly valued recreation area with numerous tracks where the mature forest can be experienced by a wide range of visitors. • The Ōrāri Gorge is a highly legible landscape feature with high aesthetic and recreational value. Its steep sides and the high naturalness of the Ōrāri River distinguish it from some of the other smaller gorges in the range, such as the Waihi Gorge. • A number of waterfalls are found within Peel Forest above Blandswood that provide very high sensory values. • The Four Peaks Range is an important landmark of the southern part of the region, where the front ranges meet the Eastern Mackenzie District. • The views enjoyed from Huatekerekere/ Little Mt Peel across the expanse of the Canterbury Plains and the braids of the Rangitata River are particularly impressive. • The Four Peaks and Tarahaoa/Mt Peel form the Front Ranges that are the backdrop to views from South Canterbury and the Timaru Plains. • <u>The Orari River has high water quality and is popular for swimming.</u> <p>Associative – High</p> <ul style="list-style-type: none"> • Peel Forest and the Four Peaks
--	--	---

9.2.29 I recommend that the 'Landscape values and characteristics' in SCHED9 relating to ONF-2a to ONF-2q and ONL-6 are amended as follows:

Unique Identifier	Name	Landscape values and characteristics	
...	
ONF-2a	Downlands limestone features - Ōpihi Cliffs/ Raincliff Road/ Taniwha Gully	<p>Biophysical –High</p> <ul style="list-style-type: none"> • A number of limestone escarpments and outcrops occur in the downlands between the Tengawai and Ōpihi Rivers that are typical for the area, clearly showing the underlying geology. • Native vegetation remnants, with specialised limestone species of high ecological value are present around various outcrops. • Limestone areas around support the only known habitat of the endangered pekapeka (long-tailed bat) population in the eastern South Island. • <u>Native vegetation remnants, with specialised limestone species of high ecological value, are present.</u> <p>Sensory – Moderate to High</p> <ul style="list-style-type: none"> • Limestone outcrops are legible landscape features that are highly expressive of their formation... 	
ONF-2b ONF-2c	Downlands limestone features - Upper Waitohi (Pigeon Rock and Coles/ Limestone Road)		
ONF-2d ONF-2e ONF-2f ONF-2g	Downlands limestone features – Raincliff/Rockpool/Mt Gay		
ONF-2h ONF-2i ONF-2j ONF-2k ONF-2l ONF-2m ONF-2m ONF-2n ONF-2o ONF-2p ONF-2q	Downlands limestone features – Totara Valley (Hazelburn, Braeburn, Glen Hays, Sterndale, Rockdale, Darvel, Brothers Road)		
...
ONF-6	Claremont Bush		<p>Biophysical –High</p> <ul style="list-style-type: none"> • Excellent regeneration of totara, matai, mahoe, hen and chicken ferns, coprosma, cabbage trees, matipo and kowhai can be found in the area. • Reserve with native vegetation and walking tracks located along the eastern extent of the Mt Horrible escarpment. • <u>High diversity of ground beetles, some of them endemic to South Canterbury.</u> <p>Sensory –High</p> <ul style="list-style-type: none"> • A public walking track leads through bush which includes kahikatea and kowhai, as well plentiful birdlife...

9.2.30 I consider that these changes are minor and better align the detail of the schedules with the Landscape Study. The additions also provide an appropriate level of additional detail on the landscape values and characteristics present in the identified ONFs which will assist in the application of the policies. No additional assessment in terms of s32AA is therefore required.

9.3 NFL Chapter – Objectives

9.3.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Dir. General Conservation	166.57
Federated Farmers	182.121, 182.22
ECan	183.88
Te Rūnanga o Ngāi Tahu	185.80, 185.81

Submissions

9.3.2 Dir. General Conservation [166.57], Federated Farmers [182.121] and ECan [183.88] support NFL-O1 and seek its retention, or the preservation of its intent, for reasons including that it gives effect to Objective 12.2.1 and 12.3.2 of the CRPS.

9.3.3 Te Rūnanga o Ngāi Tahu [185.80] seek that reference to “*landscape*” is removed, as the submitter considers that all values should be protected, not just landscape values.

9.3.4 Federated Farmers [182.122] supports NFL-O2 and seek its retention, or the preservation of its intent.

9.3.5 Te Rūnanga o Ngāi Tahu [185.81] seek that reference to “*visual*” amenity values is removed, as the submitter considers that all amenity values should be protected, not just visual amenity.

Analysis

9.3.6 I do not agree with Te Rūnanga o Ngāi Tahu [185.80] that reference to “*landscape*” values in NFL-O1 or “*visual*” amenity values in NFL-O2 should be removed. These objectives relate to areas which have been identified because of their landscape values or visual amenity values, and having identified them for this reason, I do not consider it appropriate that they are then managed to protect/maintain/enhance other values that these areas may have.

Conclusions and Recommendations

9.3.7 I recommend that NFL-O1 and NFL-O2 are retained as notified.

9.4 NFL Chapter – Appropriate Use and Development (NFL-P2)

9.4.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Waka Kotahi	143.90
Dir. General Conservation	166.59
Road Metals	169.26
Fulton Hogan	170.26
Federated Farmers	182.124
Te Rūnanga o Ngāi Tahu	185.83

Submissions

9.4.2 Dir. General Conservation [166.59], Road Metals [169.26] and Fulton Hogan [170.26] support NFL-P2 and seek its retention, for reasons including that it gives effect to Objective 12.2.1 and 12.3.2 of the CRPS; and that as it recognises and provides for the continuation of existing primary production activities, provided the recognised values are maintained.

9.4.3 Waka Kotahi [143.90] consider that the policy should provide for the upgrade, maintenance and operation of RSI within the areas identified in SCHED8 and SCHED9 and recognise that there are operational or functional needs for such infrastructure to be within these areas. The changes sought are:

*Enable certain activities in Visual Amenity Landscapes, Outstanding Natural Features and Outstanding Natural Landscapes, including existing non-intensive primary production, small scale earthworks, maintenance of existing tracks and fences, **upgrade, maintenance and the operation of regionally significant infrastructure** and underground utilities, that are consistent with:*

- protecting the identified values and characteristics of the Outstanding Natural Landscapes and Outstanding Natural Features described in SCHED8 - Schedule of Outstanding Natural Landscapes and SCHED9 - Schedule of Outstanding Natural Features **unless there is an operational or functional need**; and*

9.4.4 Federated Farmers [182.124] seeks deletion of the reference to “non-intensive” primary production in the policy, stating that the Council should not be able to stop intensive primary production in a VAL or outstanding natural features or landscape from continuing.

9.4.5 Te Rūnanga o Ngāi Tahu [185.83] seek that “existing non-intensive primary production” is deleted, due to concerns around definitions relating to primary production activities being confusing and open to interpretation. They consider that it is unclear how non-intensive primary production activities will not impact the values of these landscapes, and notes that if the intent is to apply to existing activities, then these have existing use rights.

Analysis

9.4.6 I agree with Waka Kotahi [143.90] that it is appropriate to enable the maintenance and operation of RSI within ONLs/ONFs/VALs. When considering the direction relating to RSI, I note that EI-P1.1 directs that the operation, maintenance, repair, upgrade and development of RSI and lifeline utilities are enabled, with EI-P2 then providing direction on how adverse

effects of this infrastructure is to be managed, including that adverse effects on the identified values and qualities of ONLs/ONFs/VALs are sought to be avoided. I consider that the potential adverse effects arising from operation and maintenance activities are unlikely to affect the values of these areas, given the infrastructure already exists in the environment.

9.4.7 I do not consider that this should extend to upgrading, because depending on the nature and scale of any upgrade, it could have effects on the landscape values that may not be appropriate to protect/maintain/enhance those values. I also do not consider it appropriate to amend clause 1 of the policy as sought by the submitter as I do not consider that, when read as a whole, the policy would fit together. More specifically, the policy directs that certain activities are *enabled* (i.e. through a permitted or controlled activity status) where they are consistent with protecting the identified values. Those activities which are then permitted through the rule framework are those which are considered to be consistent with protecting the identified values. Where an activity has not been identified as automatically aligning with the policy direction in NFL-P2, then NFL-P4 will apply, and it is against NFL-P4 that resource consents will be assessed. NFL-P4.7.d refers to EI-P2, which in turn directs recognition of the functional or operational need of RSI. I therefore do not consider it appropriate to add this consideration into NFL-P2, which provides the policy guidance to support the permitted activity rules.

9.4.8 With respect to “*non-intensive primary production*”, I note that the term is defined, so I do not agree with Te Rūnanga o Ngāi Tahu [185.83] that the use of this term in NFL-P2 is confusing or open to interpretation. I do think it is unusual that the policy refers to “*existing*” non-intensive primary production, because such activities have existing use rights. Having considered how the policies and rules fit together, I note that what is enabled in the rules is new farming buildings and structures associated with an existing non-intensive primary production activity (NFL-R1.1 PER-1). This does not align with the wording of the policy which relates to the activity. For the reasons set out below, I am recommending that NFL-R1.1 PER-1 is amended so that it does not relate only to “*non-intensive*” primary production. To better align the policy and rule framework, and taking into account the concern above about the policy referring to “*existing*” activities, I recommend that the policy is amended to refer to new buildings and structures associated with existing primary production activities.

Conclusions and Recommendations

9.4.9 I recommend that NFL-P2 is amended as follows:

Enable certain activities in Visual Amenity Landscapes, Outstanding Natural Features and Outstanding Natural Landscapes, including buildings and structures associated with existing non-intensive primary production, small scale earthworks, maintenance of existing tracks and fences, operation and maintenance of regionally significant infrastructure, and underground utilities, that are consistent with:

1. *protecting the identified values and characteristics of the Outstanding Natural Landscapes and Outstanding Natural Features described in SCHED8 – Schedule of*

Outstanding Natural Landscapes and SCHED9 – Schedule of Outstanding Natural Features; and

2. *maintaining or enhancing the identified values and characteristics of the Visual Amenity Landscapes described in SCHED10 – Schedule of Visual Amenity Landscapes.*

9.4.10 In terms of s32AA, I consider that the change relating to infrastructure will have economic benefits, through enabling the operation maintenance of significant infrastructure in which investment has been made. I consider that there are limited environmental costs associated with the changes, because they only allow for maintenance of assets which are already located within ONLs/ONFs. I consider that the approach is therefore still effective at achieving NFL-O1, while being more efficient. In terms of amending the reference to primary production activities, I consider that this better aligns the policy direction and rule framework, and avoids the potential for the policy direction to duplicate existing use rights. I consider that aligning the policy with the implementing rules is more efficient, and provides more consistent direction on how the landscape values of ONFs and ONLs are to be protected (NFL-O1).

9.5 NFL Chapter – Visual Amenity Landscapes (NFL-P3)

9.5.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Transpower	159.79
Federated Farmers	182.125

Submissions

9.5.2 Federated Farmers [182.125] support NFL-P3 and seek its retention, or the preservation of its intent.

9.5.3 Transpower [159.79] supports the explicit cross-reference in the policy to EI-P2, as it considers that providing the direction on RSI and visual amenity landscapes in one place avoids duplication and the potential for conflict. However, the submitter considers that such cross-referencing should be consistent across the PDP, and seeks the inclusion of a further cross-reference. The change sought is to delete clause 7, and include a new clause as follows:

Only allow subdivision, use and development within visual amenity landscapes, that is not provided in NFL-P2, where it can demonstrate:

...3. that the proposal can be visually integrated into the landscape and will not break the skyline or ridgelines;

x. that adverse effects of Regionally Significant Infrastructure are managed in accordance with EI- P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure and EI-Px Managing the effects of the National Grid.

while taking into account: ...

Analysis

- 9.5.4 I agree with Transpower that it is appropriate to update the way that EI-P2 is referenced in the policy, noting the wording sought is generally consistent with that set out in ECO-P5. In particular, I consider that it is appropriate for the policy to direct that RSI is allowed for where EI-P2 is met, rather than requiring RSI to meet clauses 1-3, with a separate consideration of EI-P2 which contains potentially conflicting direction.

Conclusions and Recommendations

- 9.5.5 I recommend that NFL-P3 is amended as follows (including changes recommended under clause 16(2) of the RMA):

Only allow subdivision, use and development within visual amenity landscapes, that is not provided for in NFL-P2, where it can be demonstrated:

...2. that the capacity of the landscape has the capacity to absorb the change; and

3. that the proposal can be visually integrated into the landscape and will not break the skyline or ridgelines; or

x. for Regionally Significant Infrastructure, that adverse effects are managed in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure;

while taking into account:

~~... 7. EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure.~~

- 9.5.6 In terms of s32AA of the RMA, I consider that the changes to the policy provide greater clarity in relation to how it works alongside EI-P2 and avoids any potential conflicts. I consider that the changes are more efficient and effective at achieving EI-O2 while still achieving NFL-O2.

9.6 NFL Chapter – Protecting ONFs and ONLs (NFL-P4)

- 9.6.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
----------------	----------------------------

Frank, H	90.15
Waka Kotahi	143.91
Transpower	159.80
Dir. General Conservation	166.60
OWL	181.63, 181.64
Federated Farmers	182.126

Submissions

9.6.2 Dir. General Conservation [166.60] supports NFL-P4 as they consider that it gives effect to Objectives 12.2.1 and 12.3.2 of the CRPS, but notes that there is a typo in the first line, which should read “are” not “area”. OWL [181.63, 181.64] support NFL-P4.7.d and seek its retention, stating that it is appropriate for the policies and rules of this chapter to include regionally significant infrastructure/network utility provisions and that the inclusion of this provision creates certainty for plan users.

9.6.3 Frank, H [90.15] considers that use of the word “avoid” in NFL-P4 is too weak, and seeks that it is deleted and replaced with “prohibit”. The submitters considers that when the conditions in the policy are not met, these activities should not be permitted.

9.6.4 Waka Kotahi [143.91] considers the policy should recognise that there is a functional or operational need for RSI to be within SCHED8 or SCHED9. The submitter states that there are instances where there are no suitable alternatives, and the infrastructure must be located within these areas, where they will likely have some impact on the landscapes or features. As such, it seeks the following additional clause:

Avoid subdivision, use and development within outstanding natural features and outstanding natural landscapes that area not provided in NFL-P2, unless it:

*... 4. will maintain natural landforms, natural processes and vegetation areas and patterns,
or*

x. is regionally significant infrastructure that has a functional or operational need to be located within outstanding natural landscapes and outstanding natural features described in SCHED8 - Schedule of outstanding natural landscapes and SCHED9 - Schedule of outstanding natural features.

while taking into account: ...

9.6.5 Transpower [159.80] supports the explicit cross-reference in the policy to EI-P2, as it considers that providing the direction on RSI and visual amenity landscapes in one place avoids duplication and the potential for conflict. However, the submitter considers that such cross-referencing should be consistent across the PDP, and seeks the inclusion of a further

cross-reference. The change sought is to delete clause 7.d, and include a new clause as follows:

Avoid subdivision, use and development within outstanding natural features and outstanding natural landscapes that area not provided in NFL-P2, unless it:

... 4. will maintain natural landforms, natural processes and vegetation areas and patterns,

x. is regionally significant infrastructure that can demonstrate that adverse effects are managed in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure and EI-Px Managing the effects of the National Grid.

while taking into account: ...

- 9.6.6 Federated Farmers [182.126] considers that the policy should focus on mitigating inappropriate subdivision, use and development, while recognising certain activities can occur, within reason, as long as they are appropriate for the areas. The changes sought are: *~~Avoid~~ Mitigate inappropriate subdivision, use and development within outstanding natural features and outstanding natural landscapes, within reason, not to stifle development that area not provided in NFL-P2, unless it: ...*

Analysis

- 9.6.7 I agree that there is a typo in the stem of the policy that requires correction.
- 9.6.8 I do not consider it appropriate to expressly prohibit all subdivision, use and development in ONFs and ONLs beyond what is provided for in NFL-P2, or where the clauses in NFL-P4 are not satisfied, as sought by Frank, H [90.15]. In particular, I do not consider that an absolute prohibition on activities which do not align with the direction is required in order to ensure overall protection of these areas from inappropriate subdivision, use and development (being the outcome sought in NFL-O1). I also note that the policy applies to activities for which the rule framework requires consent – therefore when the conditions in the policy are not met, an activity will not be permitted in any case.
- 9.6.9 With respect to RSI, for the same reasons set out above in relation to NFL-P3, I agree with amending where the cross-reference to EI-P2 sits within the policy as sought by Transpower [159.80] and consider that this addresses the concern raised by Waka Kotahi [143.91].
- 9.6.10 I do not consider it appropriate to change the policy to direct mitigation of inappropriate subdivision, use and development within ONFs and ONLs as this does not align with the outcome sought in NFL-O1 to *protect* these landscapes from inappropriate subdivision, use and development. It is my view that only requiring mitigation will not be sufficient to ensure such protection. I also consider the addition of “*within reason, not to stifle development*” does not relate to the outcome sought at the objective level, and the drafting is, in my experience, unusual for a district plan policy.

Conclusions and Recommendations

9.6.11 I recommend that NFL-P4 is amended as follows:

Avoid subdivision, use and development within outstanding natural features and outstanding natural landscapes that are not provided in NFL-P2, unless it:

*... 4. will maintain natural landforms, natural processes and vegetation areas and patterns,
or*

x. is regionally significant infrastructure and it is demonstrated that adverse effects are managed in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure,

while taking into account: ...

... 7. the measures proposed to mitigate the effects on the values and characteristics, including:

c. the finish of any buildings or structures, including materials, reflectivity and colour; and landscaping and fencing; ~~and~~

~~...d. EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure.~~

9.6.12 In terms of s32AA of the RMA, I consider that the changes to the policy provide greater clarity in relation to how it works alongside EI-P2 and avoids any potential conflicts. I consider that the changes are more efficient and effective at achieving EI-O2 while still achieving NFL-O1.

9.7 NFL Chapter – New Policies

9.7.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Te Rūnanga o Ngāi Tahu	185.84

Submissions

9.7.2 Te Rūnanga o Ngāi Tahu [185.84] considers that an additional policy is necessary to recognise and give guidance to cultural values, and natural features and landscape areas. The policy sought is:

Consider the incorporation of mātauranga Māori principles into the design, development and/or operation of activities in outstanding natural features and landscapes with cultural, spiritual and/or historic values, interests or associations of importance to Kāi Tahu and

opportunities for Kāi Tahu to exercise their customary responsibilities as mana whenua and kaitiaki in respect of the feature or landscape.

Analysis

9.7.3 It is my view that this policy is not required in order to achieve the outcomes sought with respect to NFL-O1 and NFL-O2. I note that in some cases, ONLs and ONFs overlap with Sites and Areas of Significance to Māori (SASM). In such areas, the provisions in the SASM Chapter apply and include direction relating to the exercise of rangitirataka by Kāti Huirapa in decisions made in relation to these sites and areas (SASM-P1). I do not consider it appropriate, or necessary to achieve the objectives in either the NFL or SASM Chapter to include a policy in the NFL Chapter that would have a broader application over all identified ONFs and ONLs.

9.7.4 However, I note that the approach to SASMs topic will be considered in the Hearing E and the interrelationship between the SASM and other chapters, such as the NFL Chapter may be considered further.

Conclusions and Recommendations

9.7.5 I do not recommend any changes to the NFL Chapter in response to this submission.

9.8 NFL Chapter – Rules - General

9.8.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Federated Farmers	182.128
Te Rūnanga o Ngāi Tahu	185.86

Submissions

9.8.2 Federated Farmers [182.128] supports NFL-R2 – NFL-10. However, I note that the submitter has separately sought changes to NFL-R2, NFL-R4, NFL-R5, NFL-R6 and NFL-R8 which are detailed below.

9.8.3 Te Rūnanga o Ngāi Tahu [185.86] consider that the extent of any impact on cultural values should be a matter of discretion for all the activities requiring consent in this overlay, seeking the following matter of discretion be included for all restricted discretionary activities within the chapter:

x. the extent of any adverse social, cultural and environmental effects, including on any sensitive environments;

x. the potential of any adverse effects on the spiritual and cultural values and beliefs of Kāti Huirapa, including measures to avoid, remedy or mitigate adverse effects.

Analysis

- 9.8.4 It is my view that the rules in the NFL Chapter are related to the policy direction, and ultimately the objectives set out within the chapter. I do not consider that it is appropriate to broaden out the matters of discretion to allow for consideration of any and all adverse social, cultural and environmental effects, as this would in effect negate the restricted discretionary activity status, and allows for consideration of matters that extend beyond the outcomes sought in the NFL Chapter. With respect to effects on the spiritual and cultural values and beliefs of Kāti Huirapa, I note that SASM-O3 seeks that the values of identified areas and sites of significance to Kāti Huirapa are recognised and protected from inappropriate subdivision, use and development. These “*identified*” areas are those identified in SCHED6. It is through the rules in the SASM Chapter that activities are controlled to achieve SASM-O3. I consider that broadening out the matters of discretion for any restricted discretionary activity in the NFL Chapter is an inefficient approach because it allows for a much broader consideration than that needed to achieve SASM-O3.
- 9.8.5 However, I note that the approach to SASMs topic will be considered in the Hearing E and the interrelationship between the SASM and other chapters, such as the NFL Chapter may be considered further.

Conclusions and Recommendations

- 9.8.6 I do not recommend any change to the NFL Chapter in response to this submission point, but note that this may be considered further in Hearing E.

9.9 NFL Chapter – NFL-R1

- 9.9.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Dir. General Conservation	166.61
Federated Farmers	182.127

Submissions

- 9.9.2 Dir. General Conservation [166.61] supports NFL-R1, as they consider the thresholds for earthworks proposed are appropriate to manage effects and protect values.
- 9.9.3 Federated Farmers [182.127] seeks that PER-2 and PER-3 are deleted, and that reference to “*non-intensive*” primary production is removed from PER-1.1. The submitter considers that PER-2 creates unnecessary regulation for farmers, that farm plans already take into

consideration the natural features and landscapes when planning for stock, and that the addition of water management and allocation in their farm plans would be more beneficial. The submitter states that for some farms a blanket ban would affect a whole farm operation and its existing use.

Analysis

- 9.9.4 I support the deletion of NFL-R1.1 PER-3, which requires that the activity does not require the clearance of indigenous vegetation. This is because indigenous vegetation clearance is managed in the ECO Chapter, and I have recommended that an additional rule be included to manage indigenous vegetation clearance outside SNAs or other specified areas. It is because of this that I consider PER-3 duplicates that rule and that it is more appropriately managed in the ECO Chapter.
- 9.9.5 With respect to PER-1, I note that the condition permits, subject to meeting built form standards, farm buildings or structures associated with existing non-intensive primary production. Given the rule is limited to *existing* activities, and subject to controls on scale, location and design, I consider that the potential effects will not differ in relation to whether the building is related to an intensive or non-intensive primary production activity. I therefore agree with amending NFL-R1.1 PER-1.1 and NFL-R1.2 PER-1.1 as sought by Federated Farmers [182.127]. As noted earlier, I have recommended amendments to NFL-P2 to better align the policy with the rule framework, and because of my recommendation to amend PER1.1, I have similarly recommended that the policy direction be amended so that it is not limited to non-intensive primary production activities.
- 9.9.6 With respect to NFL-R1.1 PER-2, I do not agree that farm plans are related to managing effects of farming activity on the values of ONLs and ONFs, noting that farm plans relate to the function of regional councils and relate to matters such as the effects of farming on water quality. The control in PER-2 is related to managing the visual effects of irrigators, and in my view does not overlap with aspects of irrigation that are managed through farm plans. I therefore do not agree with its deletion.

Conclusions and Recommendations

- 9.9.7 I recommend that NFL-R1.1 is amended as follows:

PER-1

The building or structure is either:

1. *a farm building or structure associated with an existing ~~non-intensive~~ primary production activity, including residential units permitted in the applicable zones, and including earthworks associated with the building/structure; or*
2. *a public amenity building, including earthworks associated the building; or*

PER-2

The structure is an irrigator that is not a travelling, mobile or pivot irrigator; and

PER-3

The activity does not require the clearance of any indigenous vegetation.

PER-4

NFL-S1, NFL-S2, NFL-S3, NFL-S4 and NFL-S5 are complied with.

9.9.8 I recommend that NFL-R1.2 is amended as follows:

PER-1

The building or structure is either:

- 1. a farm building / structure / irrigator associated with an existing ~~non-intensive~~ primary production activity, including residential units, and including earthworks under the building/structure; or*
- 2. a public amenity building, including earthworks associated the building; and*

...

9.9.9 I consider that the deletion of PER-3 is more efficient, as it does not duplicate or conflict with the management of indigenous vegetation clearance in the ECO Chapter.

9.9.10 I consider that the change to PER-1 (in both parts of the rule) reflects that the adverse effects of buildings and structures associated with an existing primary production activity are managed through the built form standards and do not differ in relation to whether the building is related to an intensive or non-intensive primary production activity. I consider that there are no additional environmental costs from this amendment, but there are economic benefits for operators of existing intensive primary production activities.

9.10 NFL Chapter – NFL-R2

9.10.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Dir. General Conservation	166.62
Federated Farmers	182.129

Submissions

9.10.2 Dir. General Conservation [166.62] supports NFL-R2, as they consider the thresholds for earthworks proposed are appropriate to manage effects and protect values.

9.10.3 Federated Farmers [182.129] notes that VAL are a matter covered by s7(c) of the RMA, and are a matter to be had regard to, not a matter of national significance like ONFs and ONLs. The submitter considers that NFL-R2.2, relating to the VAL overlay, is very similar to that “*already outlined in the previous chapter*”, and that planting restrictions for these “*secondary landscapes*” should not be at the same level as those for ONLs and ONFs. The submitter seeks deletion of NFL-R2.2.

Analysis

- 9.10.4 With respect to deleting NFL-R2.2 I note that the reason given relates to “*planting restrictions*”. However, I note that this rule relates to earthworks.
- 9.10.5 I agree with Federated Farmers [182.129] that VAL are not a matter of national importance under s6 of the RMA, and are instead a matter to be had regard to by s7(c) of the RMA, with respect to the maintenance and enhancement of amenity values. In this regard, I note that these landscapes have been identified, through the Landscape Study, as areas containing high amenity, environmental or scenic values, but which do not reach the threshold of being an ONF or ONL. The Landscape Study also identified that because of these values, protection of these areas from the visual changes arising from certain activities is required. The need to limit shelterbelts and forestry due to their linear form and the interruption these may cause to important viewshafts was specifically identified as something that consideration should be given to, in order to retain visual amenity. I therefore do not agree with the submitter that planting should not be controlled simply because VALs are not as significant as ONLs and ONFs, nor would such an approach assist in maintaining the landscape character and visual amenity values of these areas as sought by NFL-O2. With respect to earthworks, the need to limit these to retain visual amenity was also noted in the Landscape Study, and therefore I do not agree with deleting NFL-R2.2 as this would not assist in achieving NFL-O2.
- 9.10.6 As noted earlier, I recommend that NFL-R2 PER-1 is amended to also include existing rock weirs.

Conclusions and Recommendations

- 9.10.7 I recommend that NFL-R2 PER-1 is amended as follows:
- The earthworks are for the purpose of maintenance and repair of any of the following:*
1. *existing fencing; or*
 2. *existing farm tracks; or*
 3. *existing walking/cycling tracks; or*
 4. *existing roads; or*
 5. *existing reticulated stock water systems including water troughs; or*
 6. *existing natural hazard mitigation works; or*
 7. *existing rock weirs; or*
- 9.10.8 Under s32AA I consider that this change is appropriate as the effects arising from earthworks associated with the maintenance and repair of existing rock weirs are likely to be similar to those arising from other permitted maintenance and repair activities. I also consider that the main adverse effects of these assets on the landscape values of the areas within which they are located will have occurred at the time of their establishment, and that adverse effects arising from earthworks relating to maintenance and repair will be minimal.

9.11 NFL Chapter – Network utilities – NFL-R3

- 9.11.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Alpine	55.18
Transpower	159.81
Dir. General Conservation	166.63
Connexa	176.76
OWL	181.63, 181.65
Spark	208.76
Chorus	209.76
Vodafone	210.76

Submissions

- 9.11.2 Transpower [159.81], Dir. General Conservation [166.63] and OWL [181.63, 181.65] support NFL-R3 for reasons including that the thresholds for earthworks proposed are appropriate to manage effects and protect values, and that the rule appropriately provides for activities relating to RSI / network utilities / the National Grid in protected landscapes.
- 9.11.3 Connexa [176.76], Spark [208.76], Chorus [209.76] and Vodafone [210.76] support the clarity that network utilities, including earthworks, are permitted in ONF, ONL and VAL overlays, but note that there are no permitted standards relating to the size of maintenance or upgrading. The submitter therefore assumes that the underlying zone provisions apply. No particular amendments to the rule are set out in the submission.
- 9.11.4 Alpine [55.18] seek that PER-2 is amended so that “*underground*” is deleted, in order to permit the installation of new overhead network utilities and structures noting that while aesthetically pleasing, undergrounding of lines imposes considerable additional cost on the operation, maintenance, and development of the electricity distribution network, which is borne by the end user. The submitter accept that the objectives of this chapter seek to protect VALs, but considers that the significant additional cost of undergrounding all new electricity lines within the Geraldine Downs Visual Amenity Landscape overlay, particularly as it relates to any significant network load increase, is an unintended consequence of this rule, and may be cost prohibitive to customers wishing to connect to the network or impose undue financial burden on the community through electricity lines changes.

Analysis

- 9.11.5 I note the comments of Connexa [176.76], Spark [208.76], Chorus [209.76] and Vodafone [210.76] and agree that in terms of NFL-R3, there are no additional requirements applying to maintenance, upgrading or removal of existing network utilities within ONFs/ONLs/VALs. However, I note that the underlying controls relating to network utilities sit in the Energy and Infrastructure Chapter, rather than the zone chapters. As noted earlier, I have recommended, in response to other submissions points made by these submitters, to amend NFL-R3 to permit telecommunications activities which are located within the formed road reserve.
- 9.11.6 With respect to permitting new overhead network utilities, I note Ms Pfluger's view is that undergrounding of local lines would not be required in *all instances* to maintain the existing landscape and visual amenity values of ONLs, or VALs; but that the introduction of high-voltage electricity lines would most likely lead to adverse effects on the landscape values identified in the landscape study for both ONLs and VALs. In ONFs, she considers that the placement of overhead lines and utility structures should generally be avoided because these are generally more confined areas and particularly sensitive to landform and other human modification. While accepting that there is a difference in landscape values and sensitivity between the ONLs and VALs, Ms Pfluger notes that some network utilities, such as larger-scale high-voltage transmission lines and sub-stations can have a higher level of adverse effect than local lines. She therefore considers that this is best assessed as a restricted discretionary activity in ONF, ONLs and VALs.
- 9.11.7 As noted by Ms Pfluger, the matters of discretion (under NFL-R3, which applies a restricted discretionary activity status to above ground network utilities,) already allow for the consideration of height, size and scale of overhead lines and structures. Ms Pfluger considers that this would allow for the consenting of local lines to be reasonably straight-forward in landscapes where they are in character with the existing modifications. I concur with this, noting that the matters of discretion in NFL-R3 includes the size and scale of any above ground utility line and support structure, impacts on qualities of the visual amenity landscape, and operational/functional needs or constraints. It is my view that a consent pathway is appropriate to assess effects on a case-by-case basis under these matters, given the notified rule relates to all overhead network utilities, and the matters of discretion allow for the consideration of the size and scale matters noted by Ms Pfluger.
- 9.11.8 To align with the recommendation I have made to delete NFL-R1.1 PER-3, I also recommend (as a clause 10(2)(b) change), the deletion of PER-2.3 in NFL-R3, which requires that the activity does not require the clearance of indigenous vegetation. This is because indigenous vegetation clearance is managed in the ECO Chapter, and I have recommended that an additional rule be included to manage indigenous vegetation clearance outside SNAs or other specified areas. It is because of this that I consider PER-2.3 duplicates that rule and that it is more appropriately managed in the ECO Chapter.

Conclusions and Recommendations

9.11.9 I recommend that NFL-R3 is amended as follows:

NFL-R3	Network utilities including associated earthworks	
ONF overlay ONL overlay VAL overlay	Activity Status: Permitted Where: PER-1 <i>The work involves the maintenance, upgrading or removal of existing network utilities; or</i> PER-2 <i>The installation of new or upgrading of underground network utilities where:</i> <ol style="list-style-type: none"> 1. <i>within the ONF and ONL overlays, the installation does not include more than 1,000m² of temporary trenching / earthworks; and</i> 2. <i>within the VAL overlay, the installation does not include more than 1,500m² of temporary trenching / earthworks in any 12-month period; and-or</i> 3. <i>the installation does not require the clearance of any indigenous vegetation.</i> PER-3 <u><i>Telecommunications activities which are located within formed road reserve, where:</i></u> <ol style="list-style-type: none"> 1. <u><i>the height of any pole does not exceed 8m; and</i></u> 2. <u><i>any panel antenna is no higher than 3.5m above the height of the pole; and</i></u> 3. <u><i>NFL-S5 is complied with.</i></u> 	Activity status where compliance not achieved: Restricted Discretionary Matters of discretion restricted to: <ol style="list-style-type: none"> 1. <i>the height, size, scale, external colour/finish, reflectivity and design of the network utility building, structure, or above ground utility line and support structure; and</i> 2. <i>the proposed location of the network utility building, structure or above ground network utility line and support structure and earthworks, specifically in relation to their impact on any landscape values; and</i> 3. <i>effects on landscape values, and qualities of the visual amenity landscape, outstanding natural feature or outstanding natural landscape as described in SCHED8 — Schedule of outstanding natural landscapes, SCHED9 — Schedule of outstanding natural features or SCHED10 — Schedule of visual amenity landscapes; and</i> 4. <i>alternative location and/or routes and designs available; and</i> 5. <i>any operational needs or functional needs or constraints; and</i> 6. <i>the benefits that the network utility provides to the local community and beyond; and</i> 7. <i>Mitigation measures.</i>

9.11.10 Under s32AA, I consider that the deletion of NFL-R3 PER-2.3 is more efficient, as it does not duplicate or conflict with the management of indigenous vegetation clearance in the ECO Chapter.

9.11.11 In terms of the addition of a permitted activity for telecommunications within formed road reserve areas, I consider that the rule is efficient and effective at achieving NFL-O1 and NFL-O2, by providing a targeted approach which reflects Ms Pfluger’s advice that road corridors contain a higher level of man-made modification and a greater ability to absorb change than in the more natural surroundings.

9.12 NFL Chapter – Fences, Plantings and Primary Production (NFL-R4 and NFL-R5 and NFL-R6)

9.12.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Zolve	164.5
Dir. General Conservation	166.64, 166.65, 166.66
Federated Farmers	182.130, 182.131, 182.132

Submissions

9.12.2 Dir. General Conservation [166.64, 166.65, 166.66] supports all three rules (NFL-R4 and NFL-R5 and NFL-R6).

9.12.3 Zolve [164.5] is concerned that NFL-R4 does not allow for predator fencing for conservation purposes, and considers that as these areas have significant biodiversity values, it is likely that they are areas where conservation projects requiring predator fencing may occur. The submitter seeks that NFL-R4 is extended to provide for fencing required for conservation purposes, and to allow for indigenous vegetation clearance if it is for the purpose of conservation outcomes such as erecting a predator fence.

9.12.4 Federated Farmers [182.130] seeks that greater clarity is provided in NFL-R4 as to what a post and wire fence includes, such as whether it includes netting such as that used for pest-proofing.

9.12.5 Federated Farmers [182.131] seeks that NFL-R5 is amended to allow shelterbelts as a permitted activity in the ONF/ONL overlay, given that the ONL overlays include the Rangitata catchment where there are strong Norwest winds, and noting that shelterbelts prevent soil erosion and are important for animal welfare purposes. The submitter considers that requiring a consent for planting of shelterbelts is inappropriate, given that existing primary production is enabled through Policy 2.

9.12.6 Federated Farmers [182.132] seeks that NFL-R6 PER-2 is deleted, stating that it does not allow primary production to adopt new technology or innovation or adapt to changing market patterns and customer preferences and stifles the ability of landowners to respond

to and become more resilient against other factors such as climate change. The submitter states that having either a permitted or non-complying status is disproportionate, and considers a restricted discretionary status would be more reasonable.

Analysis

- 9.12.7 I agree with Zolve that predator fencing for conservation purposes can assist in protecting biodiversity values. However, I consider that this also needs to be balanced with the impact that such fences may have on the landscape values of these areas, in order to achieve the outcomes sought in the NFL Chapter's objectives. I note that NFL-R4 PER-1 permits construction of new fences in ONFs/ONLs/VALs subject to these being post and wire fencing only. This limitation is related to the visual effects of other designs of fences and the greater impact that they would have on landscape values. I consider that "*post and wire*" fencing would allow for wire netting, and therefore allow for this type of predator proof fencing. In my view, this provides an appropriate balance between the benefits of such fencing for conservation purposes, and its potential effects on landscape values.
- 9.12.8 To align with the recommendation I have made to delete NFL-R1.1 PER-3, I also recommend the deletion of PER-2 in NFL-R4 and PER-1 in NFL-R6.1, which requires that the activity does not require the clearance of indigenous vegetation. This is because indigenous vegetation clearance is managed in the ECO Chapter, and I have recommended that an additional rule be included to manage indigenous vegetation clearance outside SNAs or other specified areas. It is because of this that I consider PER-2 in NFL-R4 and PER-1 in NFL-R6.1 duplicates that rule and that it is more appropriately managed in the ECO Chapter.
- 9.12.9 With regards to NFL-R5, Ms Pfluger considers that on the Upper Rangitata Valley floor between the gorge and Mesopotamia Station, shelterbelts would be largely in character with the existing environment, but on slopes within the ONL, she considers would generally appear out of character, in particular with linear shelterbelts having detrimental effects on the cohesiveness and naturalness of the landscape. As a result of this, Ms Pfluger states that she could support a controlled activity status for shelterbelts below 500m in ONL-1. With respect to the policy direction, I do not agree with the submitter that NFL-P2 "*enables existing primary production*" without further consideration. The policy directs that this is enabled where consistent with protecting the identified values and characteristics of ONFs/ONLs. In this case, the limitation on shelterbelts relates to the potential adverse effects of these on landscape values and in my view is appropriately aligned with the policy direction (noting that I have in any case recommended changes to the policy to better align it with the rule framework). Taking into account Ms Pfluger's views, I do however recommend a slight change to provide a controlled activity status for shelterbelts below 500m in ONL-1.
- 9.12.10 With respect to NFL-R6.1 PER-2, I note the comments of the submitter, but I do not consider that deleting the restrictions on land use change is appropriate, simply to allow for primary production to adopt new technology/ innovation/ adapt to markets and preferences. In my

view, this would not achieve the protection of ONFs and ONLs from inappropriate development, because cultivation and irrigation can adversely affect the values and characteristics of these landscapes. Ms Pfluger’s opinion is that cultivation may be acceptable in some areas of the identified ONLs, if limited in extent. With respect to irrigation, she considers that there should be no centre pivot irrigation in ONLs as it creates unnatural lines and impacts on the legibility of the landscape values, but considers that other types of irrigation may be appropriate on the Rangitata Valley floor. For ONFs Ms Pfluger considers that both cultivation and irrigation are generally inappropriate due to the vulnerability of the relatively confined features identified, including high biophysical values relating to the landform/vegetation and associative values for tāngata whenua.

- 9.12.11 In my experience, a non-complying activity status is generally suitable where an activity is considered unlikely to align (in most cases) with the policy direction (in this case NFL-P4), whereas a restricted discretionary (or fully discretionary) status is more suitable where a case-by-case assessment is required, but activities are expected in some circumstances to be able to meet the policy direction. Given Ms Pfluger’s advice indicates that there are some instances where cultivation and irrigation may be appropriate in ONLs, I consider that non-compliance with PER-2 should be amended to be restricted discretionary within ONLs, but with a non-complying status retained for ONFs.

Conclusions and Recommendations

- 9.12.12 I recommend that NFL-R4 PER-2 is deleted.

- 9.12.13 I recommend that NFL-R5 is amended as follows:

<i>NFL-R5</i>	<i>Tree planting, other than plantation forestry</i>
----------------------	---

<p>1. ONF overlay ONL overlay</p>	<p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1 The tree planting is for amenity planting and is located within 100m of an existing residential unit; or</p> <p>PER-2 The tree planting is of indigenous species and for restoration or conservation purposes.</p>	<p>Activity status where compliance not achieved: <u>Controlled</u></p> <p>Where:</p> <p><u>CON-1</u> <u>The tree planting is for a shelterbelt within ONL-1 (Upper Rangitata Catchment) and is located below 500m above sea level.</u></p> <p><u>Matters of control are restricted to:</u></p> <ol style="list-style-type: none"> <u>1. effects on landscape values, and qualities of the outstanding natural feature or outstanding natural landscape as described in SCHED8 – Schedule of outstanding natural landscapes, SCHED9 – Schedule of outstanding natural features; and</u> <u>2. measures proposed to control any potential wilding spread.</u> <p><u>Activity status where compliance not achieved with CON-1:</u> Restricted Discretionary</p> <p><u>Matters of discretion restricted to:</u></p> <ol style="list-style-type: none"> <u>1. effects on landscape values, and qualities of the outstanding natural feature or outstanding natural landscape as described in SCHED8 – Schedule of outstanding natural landscapes, SCHED9 – Schedule of outstanding natural features; and</u> <u>2. alternative planting options and locations available.</u>
--	---	---

9.12.14 I recommend that NFL-R6 is amended as follows:

<p>1. ONF overlay ONL overlay</p>	<p><i>Note: Associated buildings and structures are provided in NFL-R1.</i></p> <p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1 The activity does not require the clearance of any indigenous vegetation.</p> <p>PER-2 The activity does not introduce any:</p> <ol style="list-style-type: none"> 1. new areas of irrigation beyond those existing as of 22 September 2022, and/or 2. new areas of cultivation (by direct drilling, ploughing, discing, topdressing or oversowing or otherwise) beyond those existing as of 22 September 2022. 	<p>Activity status where compliance not achieved with PER-1: Restricted Discretionary</p> <p>Matters of discretion restricted to:</p> <ol style="list-style-type: none"> 1. The effects on landscape values, and qualities of the visual amenity landscape, outstanding natural feature or outstanding natural landscape as described in SCHED8 – Schedule of outstanding natural landscapes, SCHED9 – Schedule of outstanding natural features; and 2. alternative planting options and locations available. <p>Activity status where compliance not achieved with PER-2: Non-complying</p>
<p>2. ONF overlay</p>	<p><i>Note: Associated buildings and structures are provided in NFL-R1.</i></p> <p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1 <i>The activity does not introduce any:</i></p> <ol style="list-style-type: none"> 1. <u>new areas of irrigation beyond those existing as of 22 September 2022, and/or</u> 2. <u>new areas of cultivation (by direct drilling, ploughing, discing, topdressing or oversowing or otherwise) beyond those existing as of 22 September 2022.</u> 	<p>Activity status where compliance not achieved with PER-1: Non-complying</p>

9.12.15 In terms of s32AA, I consider that the deletion of NFL-R4 PER-2 is more efficient, as it does not duplicate or conflict with the management of indigenous vegetation clearance in the ECO Chapter.

9.12.16 I consider that amending the activity status in NFL-R6 in relation to ONLs better aligns the rule with NFL-P4, because it better reflects that new irrigation and cultivation may in some instances meet the policy direction in these areas. I consider a restricted discretionary status is more efficient, while still being effective at achieving NFL-O1.

9.13 NFL Chapter – Afforestation and New Roads and Tracks (NFL-R7 and NFL-R8)

9.13.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Port Blakely	94.11
Dir. General Conservation	166.67, 166.68
Rooney Holdings	174.37, 174.38
Federated Farmers	182.133
ECan	183.92
Rooney, GJH	191.37, 191.38
Rooney Group	249.37, 249.38
Rooney Farms	250.37, 250.38
Rooney Earthmoving	251.37, 251.38
TDL	252.37, 252.38

Submissions

9.13.2 Dir. General Conservation [166.67, 166.68] supports NFL-R7 and NFL-R8.

9.13.3 Port Blakely [94.11] seeks that the matters of control are deleted and replaced with “*the effects on the visual amenity values of the visual amenity landscape, including any future effects from plantation forestry activities.*” This is to align the matters of control with those in Regulation 15(4) of the NESPF, with the submitter stating the s32 analysis does not include any analysis or justification of why the rule should contain stricter standards than those matters of control set out in the NESPF.

9.13.4 ECan [183.92] supports the assessment of impacts on Landscape Values when considering afforestation and seeks that the plantation forestry provisions are consistent with the NESPF. No specific inconsistencies or changes are identified in the submission.

9.13.5 Six submitters⁴⁰ oppose the requirement for a resource consent for afforestation within VAL-4, stating that the VAL layer contains a significant area of land that is already subject to multiple SNAs. They seek either the deletion of NFL-R7 or the deletion of VAL-4.

⁴⁰ Rooney Holdings [174.37], Rooney, GJH [191.37], Rooney Group [249.37], Rooney Farms [250.37], Rooney Earthmoving [251.37], TDL [252.37]

- 9.13.6 These six submitters⁴¹ also oppose NFL-R8 applying to the VAL overlay as they consider its inclusion is unduly restrictive and unnecessary. As such, they seek deletion of the reference to the VAL Overlay from NFL-R8.
- 9.13.7 Federated Farmers [182.133] seeks deletion of the reference to farm tracks from NFL-R8, stating that these tracks have much less impact on the landscape than a new road, walking or cycle track. The submitter is also concerned that their retention in the rule means that VALs will receive the same protection as that for ONFs and ONLs, and consider farm tracks in VAL's should be permitted, or at the most, controlled.

Analysis

- 9.13.8 My understanding of the NESCF is that under Regulation 13, afforestation in VALs is permitted where there are no rules in a district plan restricting it within such landscapes. Where there are such rules in a District Plan, the activity status is controlled under Regulation 15(3) and control is reserved over *"effects on the visual amenity values of the visual amenity landscape, including any future effects from commercial forestry activities."* Under Regulation 6(4A), the rules in the PDP may be more stringent (or lenient) in respect to afforestation. Notwithstanding this, I tend to consider that it is broadly appropriate to amend the first matter control to align with the wording in the NESCF, but retain reference to SCHED10, as this provides greater clarity for plan users. I agree that matters 2 and 3 can be deleted as in my view they can be considered in relation to the first matter in any case.
- 9.13.9 In terms of VAL-4, I do not consider that the identification of areas of SNAs within an area proposed to be a VAL is a sufficient reason for removing controls on afforestation. I note that these landscapes have been identified, through the Landscape Study, as areas containing high amenity, environmental or scenic values, and that because of these values, protection of these areas from the visual changes arising from certain activities is required. The need to limit forestry due to its linear form and the interruption it may cause to important viewshafts was specifically identified as something that consideration should be given to, in order to retain visual amenity. I therefore do not agree with deleting NFL-R7, as I consider the rules would not then assist in maintaining the landscape character and visual amenity values of these areas as sought by NFL-O2.
- 9.13.10 With respect to NFL-R8, which applies a restricted discretionary status to new roads, farm tracks and walking and cycling tracks, my understanding of this from discussion with Ms Pfluger is that the control relates to the impact of the earthworks associated with these, and the effects of removing indigenous vegetation to install them. However, earthworks are managed under NFL-R2 and indigenous vegetation is managed under the ECO Chapter. Because of this, I do not consider that there is a need for a separate rule for new roads or

⁴¹ Rooney Holdings [174.38], Rooney, GJH [191.38], Rooney Group [249.38], Rooney Farms [250.38], Rooney Earthmoving [251.38], TDL [252.38]

tracks, because their main potential impact is addressed through a separate rule. I therefore recommend that NFL-R8 is deleted.

Conclusions and Recommendations

9.13.11 I recommend that the matters of control in NFL-R7.1 are amended as follows:

1. ~~the effects on the visual amenity landscape values, and qualities of the Visual Amenity Landscape described in SCHED10 – Schedule of visual amenity landscapes, including any future effects from plantation forestry activities; and~~
2. ~~the location and extent of the afforestation; and~~
3. ~~any mitigation measures.~~

9.13.12 I recommend that NFL-R8 is deleted.

9.13.13 I consider that the amendments to NFL-R7 are minor, and that the matters of control recommended to be deleted are already encompassed in first matter. I consider that these changes better align the PDP with the NESCF. With respect to the slight difference between the wording in Regulation 15(3) and the PDP, I consider that this is appropriate to provide greater clarity to plan users on what the values are.

9.13.14 I consider that the deletion of NFL-R8 is a more efficient approach because it acknowledges that the main adverse effects of new roads and tracks results from the earthworks and indigenous vegetation clearance associated with them. As these are managed under separate rules, I consider that deletion of the rule will not affect the effectiveness of the provisions at achieving the objectives, but will be more efficient.

9.14 NFL Chapter Subdivision – NFL-R9

9.14.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Speirs, B	66.51
Dir. General Conservation	166.69
Rooney Holdings	174.39
ECan	183.93
Rooney, GJH	191.39
Rooney Group	249.39
Rooney Farms	250.39
Rooney Earthmoving	251.39

TDL	252.39
-----	--------

Submissions

- 9.14.2 Dir. General Conservation [166.69] and ECan [183.93] supports NFL-R9.
- 9.14.3 Speirs, B [66.51] considers that it would make more sense to include all subdivision rules in one place in the PDP and seeks that NFL-R9 is deleted, and, if necessary, “*appropriate objectives, policies, rules, standards, activity status, matters of control and discretion, for subdivision in a ONF Overlay Area*” are included in the Subdivision Chapter.
- 9.14.4 Six submitters⁴² are opposed to all subdivision within an ONF, ONL or VAL overlay being discretionary, as they consider this is unnecessarily restrictive for subdivisions within VAL and for boundary adjustments and subdivisions for primary production in ONF and ONL. These submitters seek that NFL-R9 is amended to remove the VAL overlay; to exclude boundary adjustment subdivisions and subdivision of land used for primary production.

Analysis

- 9.14.5 With respect to the location of the subdivision rule, I note that the drafting approach taken in the PDP is to include rules applying to subdivision within overlay areas within each respective overlay chapter, rather than the Subdivision Chapter. In my view, the NP Standards provide for either approach, because they direct that provisions to protect and manage ONFs and ONLs, and to manage other valued landscapes are located in the Natural Features and Landscapes Chapter and managing subdivision in these areas relates to this;⁴³ but also direct that subdivision provisions be located within a Subdivision chapter(s).⁴⁴ In my view, the Hearing Panel should consider the overall approach, and only shift the provisions relating to subdivision in ONFs, ONLs and VALs into the Subdivision Chapter, if all subdivision provisions (i.e. including in other Overlay areas) are similarly shifted. As this affects a number of other chapters, I consider that this matter is best considered again when the Subdivision Chapter is considered. I therefore recommend that Speirs, B [66.51] submission point is considered again through Hearing E.
- 9.14.6 With respect to amending the rule to remove its application to the VAL Overlay, or to exclude boundary adjustment subdivisions and subdivision of land used for primary production, it is my view that this would not assist in the achievement of NFL-O1 or NFL-O2. This is because, as outlined in the Landscape Study, subdivision can lead to expectations of buildings and carving up of the land with “*visual divisions*” occurring, which can affect the visual amenity values of VALs and landscape values of ONFs/ONLs. In absence of a subdivision rule applying to these areas, the potential effects of subdivision on their values would not be able to be taken into account.

⁴² Rooney Holdings [174.39], Rooney, GJH [191.39], Rooney Group [249.39], Rooney Farms [250.39], Rooney Earthmoving [251.39], TDL [252.39]

⁴³ District-wide Matters Standard, clause 21

⁴⁴ District-wide Matters Standard, clause 24

Conclusions and Recommendations

9.14.7 I recommend that NFL-R9 is retained as notified, but that the location of the rule is reconsidered in Hearing E.

9.15 NFL Chapter – New Rules

9.15.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Te Rūnanga o Ngāi Tahu	185.85

Submissions

9.15.2 Te Rūnanga o Ngāi Tahu [185.85] notes that landscapes hold cultural value to Kāti Huirapa, and that as a Section 6 matter, the rules need to provide for the relationship of Māori with land. The submitter further states that mahika kai is a critical aspect of Kāti Huirapa values and erection of buildings and structures associated with mahika kai should be a permitted activity. The rule sought is:

NFL-RX Kāti Huirapa Activities Activity Status Permitted**Where this includes:**

1. the use of land and/or buildings for traditional Māori activities and includes making and/or creating cultural goods, textiles and art, medicinal and food gathering, waka ama, events, management and activities that recognise and provide for the special relationship between Kāti Huirapa and places of cultural importance or
2. activities associated with the protection and restoration of Kā tuhituhi o neherā; or
3. Cultural harvest (which may including the clearance of vegetation) for mahika kai .

Analysis

9.15.3 I agree that the PDP needs to recognise and provide for the relationship of Māori with sites and other taonga. However, the PDP also needs to recognise and provide for the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. I therefore do not agree that buildings and structures associated with mahika kai should be a permitted activity in areas identified as having significant landscape values. I also note that the rule is focused on the activities undertaken within a building, whereas the approach taken in the PDP is to manage built form separately to activities. Where the “Kāti Huirapa Activities” do not involve a building (or involve another activity managed in the chapter such as earthworks or tree planting) the activities themselves would not require a resource consent within an ONF/ONL/VAL.

Conclusions and Recommendations

9.15.4 I do not recommend any changes in response to this submission.

9.16 NFL Chapter – Standards

9.16.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
TDC	42.36
Frank, H	90.16
Rooney Holdings	174.40, 174.41, 174.42, 174.43
Federated Farmers	182.134
Rooney, GJH	191.40, 191.41, 191.42, 191.43
Rooney Group	249.40, 249.41, 249.42, 249.43
Rooney Farms	250.40, 250.41, 250.42, 250.43
Rooney Earthmoving	251.40, 251.41, 251.42, 251.43
TDL	252.40, 252.41, 252.42, 252.43

Submissions

9.16.2 Frank, H [90.16] is concerned that NFL-S2 does not align with NFL-P2 and considers that it *“generally does not make sense to allow new structures above this altitude considering the character and location of these natural features and landscapes in the Timaru District”*. The submitter seeks that NFL-S2.2 is amended to apply to 500m, rather than 900m above sea level.

9.16.3 Six submitters⁴⁵ oppose NFL-S3.2, NFL-S4.2, NFL-R5.2 and NFL-S6.2 on the basis that this level of control is unnecessary for a visual amenity landscape, and seek that all four standards are amended to delete the control applying within the VAL overlay.

9.16.4 Federated Farmers [182.134] considers that the Council should be managing the effects of buildings on landscapes, not confining them to one location, and also that the PDP should acknowledge farming. The submitter seeks that NFL-S3 is deleted, or that it is amended to follow the approach taken in the Queenstown Lakes District Plan (referencing Objective 21.2.1 and Policy 21.2.1.2.)

⁴⁵ Rooney Holdings [174.40, 174.41, 174.42, 174.43], Rooney, GJH [191.40, 191.41, 191.42, 191.43], Rooney Group [249.40, 249.41, 249.42, 249.43], Rooney Farms [250.40, 250.41, 250.42, 250.43], Rooney Earthmoving [251.40, 251.41, 251.42, 251.43], TDL [252.40, 252.41, 252.42, 252.43]

- 9.16.5 TDC [42.36] seeks that NFL-S6 is modified to allow for sufficient depth, through amending NFL-S6.1 to increase the permitted depth from 1m to 2m.

Analysis

- 9.16.6 Ms Pfluger has considered whether NFL-S2 should apply to 500m, rather than 900m above sea level (masl). Based on her evaluation of the areas between 500m and 900m, Ms Pfluger considers that the slopes located between the 500-900masl contours are visually sensitive to change and that applying the standard to the 500masl contour would help to protect the slopes and spurs of ONLs from landscape and visual effects associated with the placement of buildings, structures and irrigators. Her view is that it would be appropriate to require resource consent for buildings on these slopes. On this basis, I recommend that the standard applying to buildings within the ONF and ONLs overlays is reduced to 500masl. However, I note that the activity status applying to a breach of this standard is currently non-complying. Ms Pfluger notes that in relation to the Upper Rangitata ONL, buildings and structures are likely to be appropriate in some locations between 500-900masl. I therefore consider that it would be appropriate for a restricted discretionary activity status to apply for buildings between these contours.

- 9.16.7 Ms Pfluger has also considered the standards applying to VALs. Her advice is that:

- NFL-S3.2: This rule is appropriate to ensure that the buildings, as a permitted activity, are clustered around existing nodes of development, instead of a proliferation in the wider landscape that currently provides values associated with openness and a largely undeveloped character. While there may be other suitable locations within VALs for buildings, these are better assessed on a case-by-case basis.
- NFL-S4.2: Large-scale buildings and structures have the potential to compromise the landscape values associated with the identified VALs, such as openness, visual amenity and rural character. While there may be instances where larger buildings and structures can integrate with the landscape, it is appropriate to assess these on a case-by-case basis.
- For NFL-S5.2: Controls on colours and materials are a useful mechanism to avoid visual prominence of buildings in VALs which are visually more sensitive than other rural landscapes. However, for some types of farm buildings it may be appropriate to use corrugated iron (untreated) as it is in character with other existing rural buildings.
- For NFL-S6.2: Within VALs large-scale earthworks can lead to scarring and visually prominent disturbance of the land cover. It is therefore appropriate to limit the size of the area and overall volume of earthworks (noting that Ms Pfluger supports increasing the permitted depth for earthworks to 2m).

- 9.16.8 Taking into account Ms Pfluger's advice, I agree with amending NFL-S5.2 to exempt farm buildings and structures using unpainted corrugated iron.

9.16.9 With respect to NFL-S6.1, Ms Pfluger considers that increasing the permitted depth for earthworks to 2m is appropriate, in combination with the maximum volumes also set out in the standard. This is because she considers that landscape and visual effects are unlikely to be significant if this depth is excavated or filled over a small area. Ms Pfluger considers that it is appropriate to make this change in relation to VALs as well.

Conclusions and Recommendations

9.16.10 I recommend that NFL-R1 is amended as follows:

NFL-R1	<i>Buildings, structures (other than fences) and irrigators and associated earthworks</i>	
<p>1.</p> <p><i>ONF overlay</i></p> <p><i>ONL overlay</i></p>	<p>Activity</p> <p>Status:</p> <p><i>Permitted</i></p> <p>Where:</p> <p>...</p>	<p>Activity status when compliance not achieved with either of PER-1 or PER-2 or PER-3: Restricted Discretionary</p> <p>Where:</p> <p>RDIS-1 <i>The activity is located within a holiday huts precinct; or</i></p> <p>RDIS-2 <i>The structure is an irrigator; or.</i></p> <p>RDIS-3 <i>The building or structure does not comply with NFL-S2.1.3, but is not located at any point above 900m above sea level.</i></p> <p>For RDIS-1, matters of discretion are limited to:</p> <p>1.</p> <p>For RDIS-2, matters of discretion are limited to:</p> <p>1. ...</p> <p>For RDIS-3, matters of discretion are limited to:</p> <p>1. <i>the extent the proposal is consistent with maintaining the qualities of the outstanding natural feature or outstanding natural landscape as described in SCHED8 — Schedule of outstanding natural landscapes or SCHED9 — Schedule of outstanding natural features; and</i></p> <p>2. <i>whether the proposal will visually integrate into the landscape; and</i></p> <p>3. <i>the appropriateness of the scale, form, design and finish (materials and colours) proposed; and</i></p> <p>4. <i>any alternative options or locations available; and</i></p> <p>5. <i>the impact of the development on views from public places and roads (including unformed legal roads), ease of accessibility to that place, and the significance of the view point; and</i></p> <p>6. <i>the extent to which the proposal will result in potential for adverse cumulative effects; and</i></p> <p>7. <i>the extent to which the proposal has functional or operational needs for its location; and</i></p>

		8. <u>any mitigation measures proposed.</u> Activity status when compliance not achieved with PER-4, or neither RDIS-1, or RDIS-2 or RDIS-3: Non-complying
--	--	---

9.16.11 NFL-S2.1 is amended as follows:

Buildings and structures within ONF and ONL overlays shall not be located:

1. *within a 20m vertical or 100m horizontal distance of any ridgeline; or*
2. *for structures, at any point above 900m above sea level; or*
3. *for buildings, at any point above 500m above sea level.*

9.16.12 I recommend that NFL-S5.2 is amended as follows:

The exterior surfaces of buildings and structures shall be constructed of materials and/or finished in a manner which achieves a light reflectance value not greater than 30%, except that this standard shall not apply to any farm buildings and structures using unpainted corrugated iron.

9.16.13 I recommend that NFL-S6.1.1 and NFL-S6.2.1 are amended as follows:

1. *the depth of the earthworks shall not exceed ~~1m~~ 2m below the original surface of the ground; and*

9.16.14 In terms of s32AA, I note that the reduction to 500m above sea level would introduce additional costs associated with restricting the location of buildings, structures and irrigators above this elevation. The extent of the area to which this would apply is set out in Figure 1 to Ms Pfluger's memo. However, I consider that there are environmental benefits from imposing a control that better aligns with the values of these areas and which will therefore better assist in achieving NFL-O1. I consider that applying a tiered approach within 500 and 900masl, within which a restricted discretionary activity status applies, is an efficient approach which allows for a case-by-case assessment of the effects of the values of any ONL.

9.16.15 I consider that the exemption for farm buildings and structures using unpainted corrugated iron to meet the light reflectance value takes into account that this is in character with other existing rural buildings, and therefore does not compromise the achievement of NFL-O2, while being more efficient.

9.16.16 In terms of increasing the depth of the earthworks, based on Ms Pfluger's advice, I consider that the increase will still be effective (in combination with the maximum volumes) at achieving NFL-O1, but will be more efficient.

9.17 Definitions relating to NFL Chapter

9.17.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Federated Farmers	182.6

Submissions

9.17.2 Federated Farmers [182.6] generally supports the definition of ‘amenity planting’ as being clear concise and easy to understand. However, the submitter considers it would be appropriate to “*add further to the definition that appropriately includes farms as actively amenity planting within the definition*”. The specific changes sought are to amend the reference to “*residential unit*” to instead refer to “*residential or rural residential development*”.

Analysis

9.17.3 I do not agree with the changes sought to the definition of ‘amenity planting’, as the term ‘residential unit’ is defined and therefore clear to understand. Reference to “*residential or rural residential development*” which are not defined would instead be unclear as to what constitutes the “*development*” from which the planting is to be measured.

Conclusions and Recommendations

9.17.4 I recommend that the definition of ‘amenity planting’ is retained as notified.

10. Conclusion

10.1.1 This report has considered the framework for the management of ecosystems and indigenous biodiversity, natural character and landscapes within the PDP.

10.1.2 A number of recommendations have been made to improve the provisions, but which do not alter the intent and outcomes sought in relation to these matters. Rather, they are expected to result in a more efficient and effective framework to achieve these outcomes.

10.1.3 More substantive recommendations made in this report are to:

- add a new policy and rule to the ECO Chapter to restrict the clearance of indigenous vegetation outside identified areas (SNAs and other sensitive locations), in order to achieve ensure the maintenance of indigenous biodiversity (as sought in ECO-01) and to meet the Council’s function under s31(1)(b)(iii);
- add a new policy, and amend related rules in the ECO Chapter to better give effect to Policy 11 of the NZCPS with respect to the management of indigenous biodiversity in the coastal environment;
- include policy direction in the ECO Chapter that explicitly seeks to promote the restoration of indigenous biodiversity, to better assist in the achievement of ECO-01 and ECO-02;

- amend the policy and rule framework in the ECO and NATC Chapters to enable a wider range of operation and maintenance activities for existing activities, recognising that this will not compromise the achievement of the outcomes sought in these chapters but better takes into account existing investment and the existing environment; and
- rationalise the controls on indigenous vegetation clearance, and in particular, remove rules relating to this from the NATC and NFL Chapters, in recognition of the comprehensive management of this in the ECO Chapter (including through recommended changes to the latter) and to provide a more efficient and less complex approach for plan users.
- increase the area within ONLs within which a resource consent is required for buildings or structures, in order to better manage the effects of built development on the landscape values of these areas.

10.1.4 Overall, I consider that the recommended suite of provisions provides clear guidance on the outcomes sought in relation to the natural environment values addressed in these chapters, and ultimately how the purpose of the RMA is to be achieved in relation to each topic. I consider that the recommended approach to how these outcomes are to be achieved are the most appropriate way to achieve the stated objectives, taking into account their efficiency, effectiveness, costs and benefits.